

<p>ARTICLE 8. SUBDIVISION REQUIREMENTS</p>
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PART I SUBDIVISION AND LOT CREATION REQUIREMENTS

Section 8.1 Purpose 8-2

Section 8.2 Applicability 8-2

Section 8.3 Review Procedures 8-2

Section 8.4 No Service or Permits until Final Plat Approval 8-8

Section 8.5 As Built Drawings Required 8-8

Section 8.6 Creations of New Lots..... 8-8

Section 8.7 Required Improvements 8-11

Section 8.8 Stormwater Drainage & Sedimentation/Erosion Control 8-11

Section 8.9 Placement of Monuments..... 8-12

Section 8.10 Water and Sewer Systems..... 8-12

Section 8.11 Recreation and Open Space 8-12

Section 8.12 Reservation of School Sites 8-15

PART II TRANSPORTATION/STREET STANDARDS

Section 8.13 Purpose and Scope 8-16

Section 8.14 Applicability 8-16

Section 8.15 Consistency with Other Documents 8-16

Section 8.16 Conformance with the Comprehensive Transportation Plan (CTP) 8-16

Section 8.17 Street Standards – Public Streets 8-16

Section 8.18 Street Standards – Private Streets 8-19

Section 8.19 Sidewalks 8-19

Section 8.20 Street Name Signs and Mailboxes (Cluster Box Units) 8-20

Section 8.21 Traffic Control Devices..... 8-20

PART III STREET LIGHTING

Section 8.22 Purpose 8-21

Section 8.23 Applicability 8-21

Section 8.24 Street Lighting Standards..... 8-21

PART IV PLANNED RESIDENTIAL DEVELOPMENT (PRD)

Section 8.25 Purpose 8-24

Section 8.26 Applicability 8-24

Section 8.27 PRD Review..... 8-24

Section 8.28 Required Improvements 8-25

Section 8.29 PRD Design Standards 8-25

ARTICLE 8. SUBDIVISION REQUIREMENTS

PART I SUBDIVISION AND LOT CREATION REQUIREMENTS

Section 8.1 Purpose

The purpose of this section is to support and guide the proper subdivision and creation of land within the jurisdiction of the City – whether for non-residential or residential use – in order to promote the public health, safety and general welfare of the citizens of the city. This section is designed to promote the orderly development of the city; for the coordination of streets and highways within proposed subdivisions with existing or planned streets and highways and with other public facilities; for the dedication or reservation of rights-of-way or easements for street and utility purposes; and for the distribution of population and traffic, which shall avoid congestion and overcrowding and which will create conditions essential to public health, safety and the general welfare. This section is designed to further facilitate adequate provisions for water, sewerage, parks, schools, and also to facilitate the further resubdivision of larger tracts into smaller parcels of land.

Section 8.2 Applicability

No land within the City's planning jurisdiction shall be subdivided, or re-subdivided and offered for sale, gifted, exchanged, or in any other way conveyed until a plat thereof has been approved as herein provided. No plat shall be recorded by the Brunswick County Register of Deeds until this approval is entered in writing on the face of the plat as herein provided.

Section 8.3 Review Procedures

The review required is determined by the number of new lots to be created as follows.

- (A) Exempt Plat: UDO Administrator review, must meet standards in this section for an exempt plat. This review type includes the division of land or recombination for the creation of new lots in accordance with the provisions outlined herein.
- (B) Expedited Review – Minor Subdivision per NCGS 160A-376 (c): The entire area of the tract or parcel to be divided is greater than five acres, no part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division, and after division, no more than three lots result from the division. After division, all resultant lots comply with all of the following:
 - (1) Any lot dimension size requirements of the applicable land use regulations.
 - (2) The use of the lots is in conformity with the applicable zoning requirements.
 - (3) A permanent means of ingress and egress is recorded for each lot.
- (C) Minor Subdivisions: Creation of 4 or fewer lots where no new public streets, right-of-way dedications, or public utility extensions are involved (not including service lines to individual lots). UDO Administrator approval.

ARTICLE 8.
SUBDIVISION REQUIREMENTS

- (D) Major Subdivisions: Any subdivision not qualifying as an Exempt Plat or Minor Subdivision shall constitute a Major Subdivision. Planning Board approval.

8.3.1 Exempt Plat Review

- (A) The applicant shall submit the final plat so marked to the UDO Administrator for approval. The UDO Administrator shall determine if the application is complete prior to initiating review. The final plat shall be prepared by a Registered Land Surveyor currently licensed and registered in the State of North Carolina by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in NCGS 47-30 and the Standards of Practice for Land Surveying in North Carolina.
- (B) Property owners or their authorized agents must present a paper or recordable map to the UDO Administrator for determination of whether the action created by the recording of the map meets the Ordinance standards to be exempt.
- (C) If the proposal meets the exemptions listed in this Ordinance or in NCGS 160A-376, the UDO Administrator shall sign an exemption note on the face of the recordable map before it is recorded.
- (D) In addition to the divisions of land identified in NCGS 160A-376(a)(1) through (4), the following divisions of land shall not be included within the definition of the term "subdivision" and shall not be subject to this Ordinance: (1) the division of land for the purpose of creating a lot for use as a site for a utility pump station; (2) the creation of a lot to be conveyed to the City or to a non-profit entity for the purpose of creating public parks or public open space, provided that the plat and the deed creating such parcel shall specifically state that the parcel created may not be used for any other purpose, and (3) the division of land owned by a governmental entity to facilitate the conveyance of a portion of said land to another governmental entity for governmental or public use.
- (E) If the proposal does not meet the exemptions, the UDO Administrator shall return the unsigned map to the property owner or authorized agent with a written description of why the map does not qualify to be exempt.

8.3.2 Minor Subdivision Review

- (A) The applicant shall submit the final plat so marked to the UDO Administrator for approval. The UDO Administrator shall determine if the application is complete prior to initiating review. The final plat shall be prepared by a Registered Land Surveyor currently licensed and registered in the State of North Carolina by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in NCGS 47-30 and the Standards of Practice for Land Surveying in North Carolina.
- (B) Four (4) copies of the final plat shall be submitted; one (1) of these shall be on reproducible material; three (3) shall be black or blue line paper prints. Material and drawing medium for the original shall be in accordance with NCGS 47-30.

ARTICLE 8. SUBDIVISION REQUIREMENTS

- (C) The final plat shall be of a size suitable for recording with the Brunswick County Register of Deeds and shall be at a scale of not less than one (1) inch equals two hundred (200) feet. Maps may be placed on more than one (1) sheet with appropriate match lines.
- (D) The final plat shall meet the specifications of this section and Appendix B.
- (E) The UDO Administrator shall review the final plat and shall proceed with approval, conditional approval with modifications to bring the plat into compliance, or disapproval of the final plat with reasons within thirty (30) days of initial receipt of a complete application for a minor subdivision plat.
 - (1) If the UDO Administrator approves the final plat, he/she shall secure all required City signatures and transmit the final plat to the applicant for recording with the Brunswick County Register of Deeds office.
 - (2) If the UDO Administrator recommends conditional approval of the final plat with modifications to bring the plat into compliance, he/ she return written recommendation to the applicant.
 - (3) If the Administrator disapproves the final plat, the reasons for such disapproval shall be stated in writing, specifying the provisions of this Ordinance with which the final plat does not comply.
- (F) The applicant shall file any approved final plat with the Register of Deeds of Brunswick County within thirty (30) days of approval; otherwise, such approval shall be null and void.

8.3.3 Major Subdivision Preliminary Plat Review

- (A) For every subdivision within the City's planning jurisdiction, which does not qualify for the minor subdivision procedure, the applicant shall submit a major subdivision application and preliminary plat which shall be reviewed by the Technical Review Committee and approved by the Planning Board before any construction or installation of improvements may begin. The UDO Administrator shall determine if the application is complete prior to initiating review. Three (3) hard copies of the preliminary plat one (1) digital copy shall be submitted to the UDO Administrator at least 30 days prior to the Planning Board Meeting at which the applicant desires the Planning Board to review the preliminary plat. Preliminary plats shall meet the specifications in Appendix B.
- (B) The UDO Administrator shall review the preliminary plat before the next regularly scheduled meeting of the Planning Board which follows at least 30 days after the UDO Administrator receives a complete application for a major subdivision preliminary plat.
- (C) The Technical Review Committee shall review the major subdivision preliminary plat and provide a written recommendation to the Planning Board prior to the Planning Board meeting at which the preliminary plat is to be reviewed.

ARTICLE 8. SUBDIVISION REQUIREMENTS

- (D) The UDO Administrator shall, in writing, provide a recommendation to the Planning Board within 60 days following receipt of the complete application for a major subdivision preliminary plat. Copies of said plat will be included with the UDO Administrator's recommendation.
- (E) Approval of the preliminary plat shall remain valid for 24 months. Final plats can continue to be submitted for subsequent sections of the preliminary plat beyond the 24 months provided the first phase receives final approval during the initial 24 month period. The Planning Board may grant a one (1) year extension of the preliminary plat approval.
- (F) Preliminary Plat Review Standards. A Preliminary Plat shall be approved only upon a finding that all of the following standards are met standards are met:
 - (1) The Preliminary Plat complies with all applicable standards in this Article;
 - (2) The Preliminary Plat complies with all other applicable standards in this ordinance;
 - (3) The Preliminary Plat complies with all requirements or conditions of any applicable development approvals; and
 - (4) The Preliminary Plat complies with all other applicable City regulations.

8.3.4 Major Subdivision Final Plat Review

- (A) Preparation of Final Plat and Installation of Improvements. Upon approval of the preliminary plat, the applicant may proceed with the preparation of the final plat, and the installation of or arrangement for required improvements (Section 8-8) in accordance with the approved preliminary plat. Prior to approval of a final plat, the applicant shall have installed the improvements specified in this Ordinance, or guaranteed their installation as provided in Section 8.3.5. No final plat will be accepted for review by UDO Administrator by written notice by the City Attorney and City Engineer (or consulting engineer) acknowledging compliance with required installation of improvements. The final plat shall constitute only that portion of the preliminary plat which the applicant proposes to record and develop at this time; such portion shall conform to all requirements of this Ordinance. All approvals of improvement guarantees are in the sole discretion of the Board of Commissioners (See Section 8.3.5). NOTE: Approval for Major Subdivision Final Plats subject to financial guarantees shall be the responsibility of the Board of Commissioners. An advisory recommendation of the Planning Board is not required.
- (B) The applicant shall submit the final plat for the first stage of the subdivision to the UDO Administrator not more than 24 months after the date on which the preliminary plat was approved; otherwise such approval shall be null and void. For subdivisions developed in stages, each successive final plat for a stage of the subdivision shall be submitted for approval within 24 months of the date of approval of the previous final plat for a stage of the subdivision. The UDO Administrator shall determine if the application is complete prior to initiating review.

ARTICLE 8.
SUBDIVISION REQUIREMENTS

- (C) The final plat shall be prepared by a Registered Land Surveyor currently licensed and registered in the State of North Carolina by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provision for plats, subdivisions, and mapping requirements set forth in NCGS 47-30 and the Standards of Practice for Land Surveying in North Carolina.
- (D) Three (3) hard copies one (1) digital copy of the final plat shall be submitted, one (1) of these shall be on reproducible material, two (2) shall be in accordance with NCGS 47-30, where applicable, and the requirements of the Brunswick County Register of Deeds.
- (E) The final plat shall meet the specifications in Appendix B of this Ordinance.
- (F) The Technical Review Committee shall review the final plat at least 30 days after the UDO Administrator receives a complete application for a major subdivision final plat and shall provide a written comments to the UDO Administrator.
- (G) The UDO Administrator shall approve or disapprove the major subdivision final plat within 60 days following receipt of the complete application. If the UDO Administrator approves the final plat, such approval shall be shown on each copy of the plat.
- (H) If the final plat is disapproved by the UDO Administrator, the reasons for such disapproval shall be stated in writing, specifying the provisions of this Ordinance with which the final plat does not comply. If the final plat is disapproved, the applicant may make such changes as will bring the final plat into compliance and resubmit the same for reconsideration by the Technical Review Committee and UDO Administrator.
- (I) The applicant shall file the approved final plat with the Register of Deeds of Brunswick County within 30 days of the UDO Administrator's approval; otherwise, such approval shall be null and void.
- (J) A Final Plat shall be approved only upon a finding that all of the following standards are met:
 - (1)) The Final Plat is in substantial conformity with the approved Preliminary Plat (if applicable);
 - (2)) The Final Plat complies with all applicable standards in this Article;
 - (3)) The Final Plat complies with all other relevant provisions of this ordinance;
 - (3)) The Performance Guarantee, where applicable, is approved by the City Attorney and City Engineer;
 - (4)) The Final Plat complies with all other relevant City regulations; and
 - (5)) The Final Plat includes all required certificates.

ARTICLE 8. SUBDIVISION REQUIREMENTS

8.3.5 Performance Guarantee Review

- (A) Agreement and Security Required. In lieu of requiring the completion, installation and dedication of all required improvements prior to final plat approval or approval, the City may enter into an agreement with the applicant whereby the applicant shall agree to complete all required improvements. The cost of completing the improvements should be estimated under seal by an engineer for the applicant and submitted to the City's Engineer for review and approval at least thirty (30) days before the final plat is reviewed by the Board of Commissioners. Once said agreement is signed by both parties, and the security required herein is provided, the final plat may be approved by the Board of Commissioners subject to review and recommendation by the Technical Review Committee and UDO Administrator, if all other requirements of this Ordinance are met. To secure this agreement, the applicant shall provide, subject to the approval of the Board of Commissioners, either one or a combination of the following guarantees equal to 1.25 times the entire cost as provided herein:
- (1) Surety Performance Bond(s). The applicant shall obtain a performance bond(s) from a surety bonding company authorized to do business in North Carolina. The bond(s) shall be payable to the City of Boiling Spring Lakes, and shall be in amount equal to 1.25 times the entire cost, as estimated by the applicant or applicant and approved by the Board of Commissioners, of installing all required improvements. The duration of the bond(s) shall be until such time as the improvements are accepted by the Board of Commissioners or appropriate agency.
 - (2) Cash or Equivalent Security. The applicant shall deposit cash or an irrevocable letter of credit, either with the City of Boiling Spring Lakes or in escrow with a financial institution designated as an official depository of the City. The use of any instrument other than cash shall be subject to the approval of the Board of Commissioners. The amount of deposit shall be equal to 1.25 times the cost, as estimated by the applicant and approved by the City's Engineer and Board of Commissioners, of installing all required improvements.
- (B) If cash or other instrument is deposited in escrow with a financial institution as provided above, then the applicant shall file with the Board of Commissioners an agreement between the financial institution and himself guaranteeing the following:
- (1) That such escrow account shall be held in trust until released by the Board of Commissioners, and may not be used or pledged by the applicant or applicant in any other matter during the term of the escrow; and
 - (2) That in the case of a failure on the part of the applicant to complete said improvements, the financial institution shall, upon notification by the Board of Commissioners, and submission by the Board of Commissioners to the financial institution of an engineer's estimate of the amount needed to complete the improvements, immediately either pay to the City the funds estimated to complete the improvement, up to the full balance of the escrow account, or deliver to the City any other instruments fully endorsed or otherwise made payable in full to the City.

ARTICLE 8. SUBDIVISION REQUIREMENTS

- (C) The developer/applicant for a project shall make a cash payment to the City for the costs of any and all off-site roadway improvements as a fee before a building permit will be issued for such project, unless the developer/applicant elects to make the improvements as part of the project's costs or other required bond and, in such case, developer/applicant shall bond the costs of such roadway improvements at 1.25 times the total off-site roadway costs in favor of the City.
- (D) Default. Upon default, meaning failure on the part of the applicant to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account, shall, if requested by the Board of Commissioners, pay all or any portion of the bond or escrow fund to the City of Boiling Spring Lakes, up to the amount needed to complete the improvements based on the City Engineer's estimate. Upon payment, the Board of Commissioners, in its discretion, may expend such portion of said funds as it deems necessary to complete all or any portion of the required improvements. The City shall return to the applicant any funds not spent in completing the improvements.
- (E) Release of Guarantee Security. The Board of Commissioners may release a portion of any security posted as the improvements are completed, not to exceed once per month. If the Board of Commissioners approves said improvements, then it shall immediately release any security posted.

Section 8.4 No Service or Permits until Final Plat Approval

No streets shall be accepted for maintenance by the City nor shall any permit be issued by any administrative agent of the City for the construction of any building or other improvement requiring a permit, upon any land concerning which a plat is required to be approved, unless and until the requirements set forth in this Ordinance have been complied with. No construction or installation of improvements shall commence in a proposed major subdivision until the preliminary plat has been approved, and all plans and specifications have been approved by the appropriate authorities.

Section 8.5 As-Built Drawings Required

Whenever a developer installs or causes to be installed any utility line in any public right-of-way, the developer shall, as soon as practicable after installation is complete, furnish the City with a copy of a drawing that shows the exact location of such utility lines, as well as a digital file of that drawing, compatible with AutoCAD software.

Section 8.6 Creation of New Lots

It is the intent of this section to protect and promote the public health, safety, and general welfare by regulating the creation of new building lots in order to protect and preserve the appearance, character, and value of adjacent properties.

ARTICLE 8. SUBDIVISION REQUIREMENTS

8.6.1 Applicability

All new residential and non-residential lots must meet the following requirements.

8.6.2 New Lot Requirements

- (A) New lots shall generally have four sides and generally not have more than eight (8) sides to facilitate the enforcement of setback requirements and ensure that each lot is generally usable for its intended building proposed, unless existing topographic or natural features such as a stream or ridgeline acts as a boundary. Lot width requirements apply to all lot lines.
- (B) All lots shall meet dimensional requirements specified in Section 5.6, Dimensional Standards.
- (C) Lots in residential zoning districts must have at least thirty (30) feet of frontage on a public or private street the lot uses for access.
- (D) Flag lots shall not be allowed except to provide access to a body of water, golf course, or similar recreational facility.

8.6.3 Usability of Lots

- (A) New lots created for building purposes must contain a buildable area at least 10 feet wide and at least 10 feet deep and/or must meet the minimum living area requirements after application of setbacks requirements.
- (B) No new lot shall be created for building purposes that contains an area wholly within the required setbacks of opposing lot sides.

8.6.4 Easements

- (A) Easements for underground utilities shall be provided, where necessary, across lots or centered on rear or side lot lines and shall be at least twenty (20) feet minimum width for water and sanitary sewer lines and as required by the companies involved for telephone, gas, power lines, and cable TV. The Technical Review Committee (TRC) will determine whether one easement is sufficient or whether several easements are necessary to accommodate the various facilities, and the subdivider shall provide the required easements.
- (B) Where a subdivision is traversed by a stream or drainage way, an easement shall be provided conforming with the lines of the stream and of sufficient width as will be adequate for the purpose. All easements, including width, shall conform with all state and federal requirements. A professional engineer shall design all major drainage networks. A registered surveyor may design all incidental drainage.

<p style="text-align: center;">ARTICLE 8. SUBDIVISION REQUIREMENTS</p>
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8.6.5 Property Owners Association

- (A) No subdivision for which a property owners' association will exist shall be approved until all required legal instruments have been reviewed by the City Attorney as to legal form and effect and approved by the City.
- (B) If common open space is deeded to a property owners' association, the owner or developer shall file a declaration of covenants, conditions, and restrictions that will govern such association. The provisions of such declaration of covenants, conditions, and restrictions shall include, but not be limited to, the following:
 - (1) The property owners' association must be set up before any property is sold in the development.
 - (2) Membership must be mandatory and automatic when property is purchased in the development.
 - (3) The open space requirement must be permanent, not just for a period of years.
 - (4) The association must be responsible for liability insurance, local taxes, and maintenance of recreational and other common facilities including private streets.
 - (5) Property owners must pay their pro rata share of the cost; the assessment levied by the association can become a lien on the property.
 - (6) The association must be able to adjust the assessment to meet changed needs.
 - (7) Covenants for maintenance assessments shall run with the land.
 - (8) Provision insuring that control of such association will gradually be vested in the property owners' association.
 - (9) All lands so conveyed shall be subject to the right of the grantee or grantees to enforce maintenance and improvement of the common facilities.

8.6.6 Gated/Controlled Access Subdivisions

Gated communities/controlled access subdivisions are prohibited.

8.6.7 Public Access

All subdivisions adjoining a lake or similar water area shall provide for public access to the water, where size warrants, with the approval of the Planning Board.

8.6.8 Fill and Solid Waste Areas

Areas that have been used for the disposal of solid waste shall not be subdivided into commercial

ARTICLE 8. SUBDIVISION REQUIREMENTS

or residential building sites. This shall include those areas that have been used for the disposal of trash, demolition waste, and other waste materials.

Section 8.7 Required Improvements

- (A) Each subdivision of this Ordinance shall contain the following improvements, where applicable:
- (1) Underground electric service to serve all development within the subdivision.
 - (2) Adequate Drainage System, designed in accordance with state stormwater regulations and the Brunswick County Stormwater Ordinance as provided in Section 8.8.
 - (3) Monuments as required by the NCGS Chapter 39, Article 5 as provided in Section 8.10.
 - (4) Installation and/or connection to the County water and sewer distribution system in accordance with the City's Code of Ordinances as provided in Section 8.10 .
 - (5) For subdivisions greater than 50 acres, recreation and open space as provided in Section 8.11.
 - (6) Construction Entrances. Where applicable, it is recommended that construction vehicles shall be afforded entrances and exits separate from the developed portions of the subdivision to preserve the integrity of paving in such areas; entrances and exits to such developed areas shall exhibit a sign or signs bearing the legend "NO CONSTRUCTION VEHICLES" and directing such traffic to the appropriate entrance.
 - (7) Public or private streets as provided in Part II. Transportation/Street Standards.
 - (8) For subdivisions of 10 or more lots, sidewalks as provided in Section 8.18.
 - (9) Street Name Signs and Mailboxes (Luster Box units) as provided in Section 8.20.
 - (10) Traffic control devices as provided in Section 8.21
 - (11) Street lighting as provided in Part III. Street Lighting.

Section 8.8 Stormwater Drainage & Sedimentation/Erosion Control

The subdivider shall provide an adequate drainage system for the proper drainage of all surface water. The design of such a system shall be subject to the approval of the UDO Administrator and the Brunswick County Stormwater Administrator. In order to prevent soil erosion and sedimentation pollution of streams, springs, flat water bodies, or other drainage networks, the subdivider shall comply with all requirements of the North Carolina Sedimentation Pollution Control Act of 1973 and the Brunswick County Stormwater Ordinance.

ARTICLE 8. SUBDIVISION REQUIREMENTS

Section 8.9 Placement of Monuments

Unless otherwise specified by this Ordinance, the Manual of Practice for Land Surveying as adopted by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, under provisions of NCGS 89-16, shall apply when conducting surveys for subdivisions; to determine the accuracy for surveys and placement of monuments, control corners, markers and property corner ties; to determine the location, design and material of monuments, markers, control corners and property corner ties; and to determine other standards and procedures governing the practice of land surveying for subdivisions. The Suburban Land Survey (Class B) criteria shall apply to all subdivisions in the City jurisdiction area except for commercial and industrial surveys.

Section 8.10 Water and Sewer Systems

- (A) All applications for major or minor subdivisions must be accompanied by satisfactory evidence as to the proposed method and system of water supply and sanitary sewage collection and disposal. All proposed subdivisions must comply with the requirements set forth in the City's Code of Ordinances for connection to the Brunswick County Water and Sewer System.
- (B) Where the applicant proposes to connect to the County system, but is not to be constructed by the County, the subdivision application shall be accompanied by a complete set of construction plans for the proposed system, prepared by a registered engineer, and approved by the Brunswick County Public Utilities Department and the TRC.
- (C) Water supply systems should be approved by the fire department as to location of hydrants and size of mains.
- (D) Where public or community water supply and/or sewerage systems are not required to be provided, a written statement from the county health department or licensed soil scientist shall be submitted with all subdivision applications indicating that each lot has adequate land area and soil conditions suitable to accommodate the proposed methods of water supply and sewage disposal. The statement from the health department or licensed soil scientist shall be based upon a field investigation.

Section 8.11 Recreation and Open Space

8.11.1 Dedication of Land

Every person who subdivides land for residential purposes of fifty (50) acres or more shall, at the time of final approval of the subdivision plat, agree to dedicate a portion of land, as set forth in this section, for the purpose of providing recreation areas or parks to serve the future residents of the neighborhood within which the subdivision is located.

8.11.2 Exclusive Purpose of Land

The land dedicated under this division or any provisions made under this division shall be used

ARTICLE 8. SUBDIVISION REQUIREMENTS

only for the purpose of providing parks or recreation areas and the location of the land shall bear a reasonable relationship to the use of the area by the future inhabitants of the subdivision or residential development.

8.11.3 Private Ownership; Standards

Where land for private park and recreational purposes is provided in a proposed subdivision and such space is to be privately owned and maintained by all of the future residents of the subdivision, such areas may be credited towards the requirement of dedication for recreation purposes, as set forth in this division, provided that the following standards are met:

- (A) The private ownership and maintenance of the recreation areas is adequately provided for by written agreement.
- (B) The use of the private recreational areas is restricted for park and recreational purposes by recorded covenants which run with the land in favor of the future owners of property within the tract.
- (C) All land set aside for privately controlled park and recreational areas be made available to all residents of the residential development against which the site obligation was originally assumed.

8.11.4 Declaration of Covenants, Restrictions in Case of Association Ownership

Where park or recreation space is deeded to a homeowner's association or any nonprofit ownership in lieu of public dedication the subdivider or owner shall record a declaration of covenants and restrictions that will govern the open space of the association or nonprofit organization. This shall be submitted with the application for preliminary plat approval.

8.11.5 Effect on Privately-Owned Open Space

Nothing in this division shall be construed to limit the amount of privately controlled open space land which may be included under this agreement, over and above the recreation and open space obligation.

8.11.6 Criteria

All land dedicated for recreation and open space development shall substantially meet the following criteria:

- (A) *Unity.* The dedicated land shall form a single parcel of land except where the Planning Board determines that two parcels or more would be in the public interest and may also determine that a connecting corridor of open space is in the public interest, and in which case the path shall not be less than thirty (30) feet wide for the purpose of accommodating a path or trail.
- (B) *Shape.* The shape of the parcel of land dedicated for recreation and open space shall be sufficiently round or square to be usable for recreational activities such as softball, tennis,

ARTICLE 8. SUBDIVISION REQUIREMENTS

croquet, etc. Open space that is provided need not meet this requirement. Moreover, such lands should be linear in shape and so located as to provide for linkage between recreation and park areas, dwelling structures and other open space networks.

- (C) *Location.* The dedicated recreation or park land shall be located so as to reasonably serve the recreation needs of the subdivision for which the dedication was made.
- (D) *Access.* Public access to the dedicated land shall be provided either by adjoining street frontage or public easement at least twenty (20) feet in width.
- (E) *Usableness.* The dedicated land shall be usable for recreation or passive open space; lakes may not be included in computing dedicated land area.
- (F) *Plans.* Municipal and county plans shall be taken into consideration when evaluating land proposals for dedication.

8.11.7 Determination of Dedication

The procedures for determining whether the subdivider is to dedicate land shall be as follows:

- (A) At the time of filing a preliminary plat for approval, the owner of the property shall as a part of such filing, indicate whether he desires to dedicate property for park and recreational purposes or provide payment in lieu of dedication as provided herein. If he desires to dedicate land for this purpose he shall designate the area on the preliminary plat as submitted.
- (B) Where dedication is required, such dedication shall be shown upon the final plat submitted for approval. Open space covenants for private park or recreational facilities shall be submitted to the City prior to approval of the final plat and shall be recorded contemporaneously with the final plat.

8.11.8 Amount of Land Dedicated

The amount of land required to be dedicated shall be computed on the basis of the following formula:

- (A) Area to be dedicated (in acres) = (.01) x (number of dwelling units or lots – whichever is greater)

8.11.9 Payments in Lieu of Dedication

- (A) Any subdivider required to dedicate a recreation area pursuant to this Ordinance may, with the approval of the Board of Commissioners, make a payment in lieu of dedication or make a combination of land dedicated and payment.
- (B) The payment in lieu of dedication shall be equal to the appraised value of the required acreage of land within the subdivision based on an appraisal prepared by a licensed appraiser and submitted by the developer. If the city disagrees with the

ARTICLE 8. SUBDIVISION REQUIREMENTS

submitted appraisal, it may have a second appraisal prepared. If the appraisals are within 15% of each other, the developer's appraisal will be utilized to establish value. If the appraisals differ by more than 15%, the value will be based on the average of the two appraisals.

- (C) Where a combination of land dedication and payments in lieu are approved, the subdivider shall be given a credit equivalent to the appraised value per acre of land dedicated for recreation purposes. The credit amount shall be determined by multiplying the number of acres to be dedicated by the appraised value per acre.
- (D) If the total payment in lieu as determined above is larger than the credit amount, the subdivider shall pay the difference between the two amounts. If the credit amount is larger than the total payment in lieu as determined above, no additional payment in lieu is required. However, the subdivider may not transfer the excess credit from one subdivision to another.
- (E) Upon approval by the Board of Commissioners, payment in lieu of dedication shall be made at the time of final subdivision plat approval or within one (1) year of approval of the preliminary subdivision plat, whichever occurs first. All monies received by the City pursuant to these requirements shall be used only for the acquisition and development of recreation, park, and open space sites to serve the residents of the development and the residents of the immediate area within which the development is located.

Section 8.12 Reservation of School Sites

When a preliminary subdivision plat is submitted for approval, in which according to the Comprehensive Plan a school site should be reserved, the Planning Board shall notify the County board of education that the subdivision has been submitted for approval and that under the ordinance a school site may be reserved therein. In reviewing the subdivision and giving approval thereto, the Planning Board shall consult the board of education in determining the exact size and location of any school site to be reserved therein. Before the preliminary plat of the subdivision is approved, the board of education shall determine whether or not it wishes to have a school site reserved in the subdivision. If the board of education wishes to have a school site reserved in the subdivision, the subdivision as finally approved shall reserve a school site of a size and location agreeable to the board of education and the Planning Board. The board of education shall then have eighteen (18) months beginning on the date of final plat approval of the subdivision within which to acquire the site. If the board of education has not either purchased or begun proceeding to acquire the site within eighteen (18) months after the subdivision is finally approved, the subdivider shall be immediately notified that he may proceed with the disposition of the land in question in accordance with the subdivision procedures and provisions of this Ordinance.

ARTICLE 8. SUBDIVISION REQUIREMENTS

PART II. TRANSPORTATION/STREET STANDARDS

Section 8.13 Purpose and Scope

The purpose of this section is to support the creation of a highly connected transportation system within the City in order to provide choices for drivers, bicyclists, and pedestrians; promote walking and bicycling; connect neighborhoods to each other and to local destinations such as schools, parks, and shopping centers; reduce vehicle miles of travel and travel times; improve air quality; reduce emergency response times; increase effectiveness of municipal service delivery; and free up arterial capacity to better serve regional long distance travel needs.

Section 8.14 Applicability

New streets will generally be dedicated to the City or NC Department of Transportation. Private streets are generally only permitted in minor subdivisions or within attached dwelling developments and are also regulated by this section.

Section 8.15 Consistency with Other Documents

The design and evaluation of vehicular, bicycle, and pedestrian circulation systems built in conjunction with new residential and non-residential development shall adhere to City of Boiling Spring Lakes standards, in addition to meeting the requirements of this section.

Section 8.16 Conformance with the Comprehensive Transportation Plan (CTP)

The location and design of streets shall be in conformance with the adopted City of Boiling Spring Lakes Comprehensive Transportation Plan (Brunswick County CTP). Where conditions warrant, right-of-way width and pavement width in excess of the minimum street standards may be required.

Section 8.17 Street Standards – Public Streets

- (A) All streets within the proposed subdivision and any street upon which any lot within the proposed subdivision has its required frontage and which is not a City or state maintained street shall be graded and paved by the developer in accordance with NCDOT Subdivision Roads Minimum Construction Standards. The standards of construction shall be per NCDOT requirements. A certified letter from a registered professional engineer qualified in the work shall be submitted to the City prior to placement in stone base and prior to installation of asphalt. The letter shall certify the results of a NCDOT quality proof roll as witnessed by that professional engineer. Proof rolling identifies areas of poor compaction, high moisture content that is indicated by the truck tires “pumping” as it passes over the soil and areas where organic material may be present.
- (B) All streets must comply with applicable state and local fire codes or deviations approved by the North Carolina State Fire Marshall.
- (C) The proposed street layout within a subdivision shall be coordinated with the existing street system of the surrounding area, and where possible, existing principal streets shall be

**ARTICLE 8.
SUBDIVISION REQUIREMENTS**

extended. No street shall be created which does not provide continuous connection to the existing public street system.

- (D) Where, in the opinion of the Planning Board, it is necessary to provide for street access to an adjoining property, proposed streets shall be extended by dedication to the boundary of the property and a temporary turnaround shall be provided.
- (E) Any development of more than one-hundred (100) residential units or additions to existing developments such that the total number of units exceeds one-hundred (100) shall be required to provide vehicular access to at least two public streets unless such provision is deemed impractical by the UDO Administrator or City Engineer due to topography, natural features, or the configuration of adjacent developments.
- (F) Where new development is adjacent to vacant land likely to be divided in the future, all streets, bicycle paths, and access ways in the development's proposed street system shall continue through to the boundary lines of the area under the same ownership as the subdivision, as determined by the UDO Administrator or the City Engineer, to provide for the orderly subdivision of such adjacent land or the transportation and access needs of the community. In addition, all redevelopment and street improvement projects shall take advantage of opportunities for retrofitting existing streets to provide increased vehicular and pedestrian connectivity.
- (G) In general, permanent culs-de-sac and dead-end streets are discouraged in the design of street systems,. Where culs-de-sac or dead-end streets are used, a turnaround at the closed street end shall be provided which meets or exceeds Fire Code requirements.
- (H) Where a tract of land to be subdivided adjoins a major thoroughfare, the subdivider may be required to provide a marginal access street parallel to the major thoroughfare or reverse frontage on a local street for the lots to be developed adjacent to the major thoroughfare. Where reverse frontage is established, private driveways shall be prevented from having directing access to the major thoroughfare.
- (I) *Street Names.* Proposed streets which are obviously in alignment with existing streets shall be given the same name. 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, and the like. Street names shall be subject to the approval of the UDO Administrator after review by the Brunswick County GIS Department.
- (J) Minimum street right-of-way widths shall not be less than the following:

Street Type	Right-of-Way Width
Major Thoroughfares	120 feet
Minor Thoroughfares	80 feet
Collectors	50 feet
Local streets and cul-de-sacs	50 feet

ARTICLE 8. SUBDIVISION REQUIREMENTS

- (K) Pavement widths and grade standards shall be in accordance with the standards of the NCDOT Subdivision Roads Minimum Construction Standards for the street type.
- (L) Bicycle lanes and/or wide outside lanes shall be incorporated in the design of all minor collectors. On local streets low traffic speeds and volumes allow bicyclists and motorists to safely share the road. Sidewalks are not acceptable as substitutes for bike lanes. Bike lanes shall be a minimum of four feet in width (excluding adjacent curb and gutter, if applicable).
- (M) Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at an angle less than 60 degrees. Intersections which cannot be aligned should be separated by a minimum length of 200 feet between survey center lines.
- (N) Property lines at street intersections shall be round with a minimum radius of 20 feet. At an angle of intersection of less than 75 degrees, a greater radius may be required. Where a street intersects a highway, the design standards of the NCDOT, Division of Highways shall apply.
- (O) Alternative street designs may be approved by the UDO Administrator with plans and street specifications prepared by a licensed professional engineer and reviewed by the appropriate TRC member(s). In no case shall right-of-way widths be less than 26 feet and pavement widths less than 20 feet.

Section 8.18 Street Standards – Private Streets

- (A) Any private street within an attached dwelling or multi-family development must meet the design standards for public streets.
- (B) Any private street within a minor residential subdivision must have a minimum right of way width of twenty (20) feet which includes the travel way and associated drainage facilities. Any underground utilities may be located within the road right of way or a separate utility right of way. NOTE: A private street within a minor residential subdivision may be required to provide a right of way of fifty (50) feet if the land and lots are arranged to allow the potential conversion of the road to a public road. If the lot arrangement, surrounding development pattern, zoning, and existing City plans indicate conversion is unlikely, the UDO Administrator may allow a private road to reduce the right of way width to no less than twenty (20) feet. Future development will not be permitted to use the private street and will be required to upgrade such to the public street standards outlined herein. For this reason, it is encouraged that a minimum fifty (50) right of way be provided.
- (C) Lots for single family detached dwellings may be created with access to a private street provided that:
 - (1) No more than four (4) lots may have their sole access to the private street;
 - (2) A new private street shall not be an extension of any existing public or private street;
and
 - (3) A new private street shall not be aligned with an existing public road in such a way as

ARTICLE 8. SUBDIVISION REQUIREMENTS

may interfere with any planned extension of the public road.

- (D) The intent of this subsection is primarily to allow the creation of not more than four (4) lots with frontage on a private street for single-family development. Therefore, the City may not approve any project served by a private street authorized by this subsection in which one (1) or more of the lots thereby created is intended for:
- (1) Two-family or multi-family residential use, or
 - (2) Any other residential use or nonresidential use that would tend to generate more traffic than that customarily generated by four (4) single-family residences.
- (E) To ensure that the intent of this subsection is not subverted, the UDO Administrator may, among other possible options, require that the approved plans show the types and locations of buildings on each lot or that restrictive covenants limiting the use of the subdivided property in accordance with this section be recorded before final plat approval.
- (F) No final plat that shows lots served by private streets may be recorded unless the final plat contains the following notation: "Further subdivision of any lot shown on this plat as served by a private street may be prohibited by the City of Boiling Spring Lakes Unified Development Ordinance."
- (G) The recorded plat of any development that includes a private street shall clearly state that such road is a private street and must be accompanied by a private street maintenance agreement that is also recorded.

Section 8.19 Sidewalks

- (A) Sidewalks shall be required on one side of the street for all subdivisions that cumulatively propose the creation of ten (10) or more lots.
- (B) Sidewalks shall be required on both sides of the street for all subdivisions that cumulatively propose the creation of more than fifty (50) lots.
- (C) Where residential developments have cul-de-sac or dead-end streets, such streets shall be connected to the closest local or collector street or to cul-de-sac in adjoining subdivisions via a sidewalk or multi-use path, except where deemed impractical by the UDO Administrator.
- (D) Sidewalks required shall be constructed to a minimum width of five (5) feet, and shall consist of a minimum thickness of five (5) inches of concrete reinforced with steel concrete reinforcing wire. All sidewalks shall be placed in the right-of-way and shall meet ADA Standards. All proposed standards are subject to review and recommendation by the TRC.

ARTICLE 8. SUBDIVISION REQUIREMENTS

Section 8.20 Street Name Signs and Mailboxes (Cluster Box Units)

Street name signs shall be installed by the developer at each street intersection as appropriate to identify all street names. Approved mailboxes will be installed before any residence can be occupied. Street name signs, poles and brackets and mailboxes shall be subject to approval by the City in the subdivision review process. Where feasible and practical, street name signs and mailboxes shall be of a common design or theme throughout the subdivision or in individual phases of the subdivision. It is the policy of the U. S. Postal Service that mail delivery to all new developments is centralized delivery, most often using cluster box units (CBU). It is the responsibility of the developer to provide the necessary mail receptacle equipment in accordance with the Postal Operations Manual

Section 8.21 Traffic Control Devices

Traffic-control devices such as stop, yield, and speed limit signs, but not including electric or electronic traffic signals, shall be installed on public streets by the developer at the appropriate locations as determined by NCDOT. Installation standards and materials shall be in conformance with NCDOT standards for the devices.

ARTICLE 8. SUBDIVISION REQUIREMENTS

PART III. STREET LIGHTING

Section 8.22 Purpose

The purpose of this section is to establish an official policy for the City of Boiling Spring Lakes pertaining to the installation of street lights for the purposes of traffic safety and crime control.

Section 8.23 Applicability

The owner, developer, or subdivider of a subdivision shall be required to install street lighting via underground distribution unless specifically approved otherwise by the Board of Commissioners, along all proposed streets and along all adjoining existing streets and thoroughfares in accordance with this section.

Section 8.24 Street Lighting Standards

- (A) Through the subdivision approval process, the Board of Commissioners may approve street lighting which exceeds the standard City requirements for residential streets so as to reduce the length of sag vertical curves provided the street lights are operational prior to the issuance of any Certificates of Occupancy on such street. In any case, the minimum allowable length of sag vertical curves shall be as follows: residential streets - 20A; cul-de-sacs and loop roads - 15A.
- (B) All underground electrical distribution systems for street lighting shall be installed according to the following standards:
 - (1) Underground service for light fixtures shall be installed by the developer in conformance with the applicable energy utility company standards at the developer's expense.
 - (2) The placement of street lighting fixtures in residential areas shall be at 400 to 600 foot intervals unless:
 - (a) The roadway length is less than 400 feet but more than 200 feet in which case a street light will be provided at the end of the street; or
 - (b) Where the roadway length is less than 200 feet and a street light is placed at the intersection and no natural features create a problem, no street light will be placed at the end of the roadway; or
 - (c) The vertical and horizontal street alignment or natural features necessitate shorter spacing intervals.
 - (3) The placement of street lighting along thoroughfares, marginal access streets, and collector streets and in nonresidential areas shall be in accordance with the latest revision of the Illuminating Engineering Society's "American National

ARTICLE 8. SUBDIVISION REQUIREMENTS

Standards for Roadway Lighting.”

- (4) A street light shall be provided at all street intersections.
- (C) Street light fixtures shall conform to the following:
- (1) All fixtures in residential areas shall be either 5,800 or 9,500 lumen enclosed high pressure sodium lamps on standard poles 25 feet in height. The 5,800 lumen fixture shall be placed only at the “neck” of cul-de-sacs.
 - (2) All fixtures along thoroughfares shall be 28,500 lumen enclosed high pressure sodium lamps on standard fiberglass poles 30 feet in height or 50,000 lumen enclosed high pressure sodium lamps on standard fiberglass poles 35 feet in height. The 28,500 lumen fixtures shall be placed in residential areas when spillover from the 50,000 lumen fixtures would be excessive.
- (D) Authorization for street light installations shall occur at such time as:
- (1) A developer, through the City of Boiling Spring Lakes, requests the installation of street lights prior to the issuance of any Certificates of Occupancy. The developer shall incur a monthly electrical expense billed from the applicable energy utility company equal to the monthly electrical expense incurred by the City of Boiling Spring Lakes, for each street light installed. The developer will be billed by the company for the period beginning with installation of the street light and ending with notification to the City of Boiling Spring Lakes, by the Developer, of issuance of a Certificate of Occupancy in the immediate area of each street light location, or that the street segment for which the lights are located has an occupancy of twenty (20) percent or greater.
- (E) Street lighting facilities and street lights shall be installed by the developer on any roadway, portion of roadway, or widening prior to the City of Boiling Spring Lakes’ acceptance of that roadway for routine maintenance unless otherwise approved by the Public Works Director.
- (F) Residents along a street may request the relocation of a street light provided that the proposed street light location meets City standards and the relocation is approved by the Public Works Director. Residents living at the cul-de-sac end of a street may request the replacement of an existing 9,500 lumen semi-enclosed light fixture with a 5,800 lumen semi-enclosed light fixture. A petition, signed by all persons owning property fronting on the street within the boundaries of the next closest installed or proposed street lights, shall be required. Also, the relocation or replacement cost and all facilities abandonment costs must be paid in full to the applicable energy utility company in advance by the resident(s) requesting the relocation or replacement.
- (G) A developer may request to use decorative or “private” street lighting within a development provided:

ARTICLE 8.
SUBDIVISION REQUIREMENTS

- (1) Street light fixture types and locations must meet the minimum criteria set forth herein and must be approved by the UDO Administrator.
- (2) The developer and/or Homeowner's Association shall be responsible for all installation costs and monthly operating costs above what is accepted by policy of the Boiling Spring Lakes Board of Commissioners associated with the street lights.
- (3) The developer and/or Homeowner's Association shall be responsible for any costs associated with removal of the street lights and any costs associated with installing the City's standard street lights.
- (4) The developer shall include all responsibilities of the Homeowner's Association pertaining to the street lighting in the development covenants. The developer shall inform all purchasers of property in the development of these same responsibilities.

ARTICLE 8. SUBDIVISION REQUIREMENTS

PART IV PLANNED RESIDENTIAL DEVELOPMENT (PRD)

Section 8.25 Purpose

For purposes of this section, a Planned Residential Development (PRD), is planned and developed as an integral unit, in a single development operation or a definitely programmed series of development operations and according to an approved Master Development Plan. All PRDs require an amendment to the City's Official Zoning Map, Master Development Plan approval, followed by the Major Subdivision approval process as specified in this Ordinance.

Section 8.26 Applicability

The minimum amount of land (unified control to be planned and developed as a whole) required for a PRD district shall be at least ten (10) contiguous acres and shall include the creation of at least five (5) new lots.

Section 8.27 PRD Review

Planned residential development districts may hereafter be established by amendment to the City's Official Zoning Map in concurrence with approval of a Master Development Plan, according to the following procedures:

- (1) An application for a Planned Residential Development shall be accompanied by three (3) hard copies and one (1) digital copy of a Master Development Plan. The UDO Administrator shall receive a complete application for a Planned Residential Development, including a Master Development Plan, a minimum of thirty 30 calendar days prior to the meeting at which the PRD will be reviewed. The Planned Residential Development Master Development Plan shall include all items contained in Appendix B.
- (2) The Technical Review Committee shall review the Master Development Plan and provide a written recommendation to the Planning Board prior to the Planning Board meeting at which the Master Development Plan is to be reviewed.
- (3) The UDO Administrator shall, in writing, provide a recommendation to the Planning Board within 60 days following receipt of the complete application for a PRD and associated Master Development Plan. Copies of said Master Development Plan will be included with the UDO Administrator's recommendation.
- (4) Following receipt of recommendation from the Planning Board, the Board of Commissioners shall approve, conditionally approve, or deny the PRD Master Development Plan.
- (5) The application for a Planned Residential Development shall also be accompanied by an application to amend the Zoning Map (rezoning) to the Planned Residential Development Zoning District. The rezoning application shall be submitted concurrently with the PRD Master Development Plan. The procedure for such shall be followed as outlined in Article

ARTICLE 8. SUBDIVISION REQUIREMENTS

4. The approved Master Development Plan shall provide the framework for development in the Planned Residential Development.

- (6) Upon approval of the Zoning Map amendment and Master Development Plan, an applicant may submit an application for a Major Subdivision as provided in this ordinance. The Master Development Plan shall outline the dimensional standards and density for approval of the Major Subdivision.

Section 8.28 Required Improvements

All PRD development and subsequent subdivision shall comply with Section 8.7 Required Improvements. This shall include provisions for recreation and open space as outlined by Section 8.11.

Section 8.29 PRD Design Standards

- (A) All PRD development and subsequent subdivision shall substantially comply with Part II Transportation/Street Standards and Part III Street Lighting.
- (B) Density is the number of dwelling units per acre. Density shall be calculated based on net buildable area. Net buildable area is the total land area within the PRD project property boundary less Wetlands defined by the state coastal area management act and/or United States Army Corps of Engineers.
- (1) The maximum allowable density for any PRD project shall be 20 dwelling units per acre.
- (C) Dimensional Requirements. Design and layout of lots within a PRD is intended to allow for flexibility beyond the minimum dimensional requirements of the City's conventional zoning districts.
- (1) Yards forming the outer boundary of a Planned Residential Development shall be in conformance with the minimum requirements of the applicable residential district. The following dimensional requirements apply to all single-family developments located in a Planned Residential
- (2) Minimum Required Lot Width: 60 feet. Cul-de-sac lots located in the PRD district shall not have less than 40 feet of frontage on the cul-de-sac and the minimum lot width at the building setback line shall not be less than 60 feet. Flag lot configurations are discouraged, but shall be considered on a case by case basis.
- (3) Minimum Lot Frontage: 40 feet, except on the radius of a cul-de-sac where such distance may be reduced to 20 feet if the project uses zero lot line development.
- (4) Minimum Required Front Yard Setback: 20 feet.
- (5) Minimum Required Rear Yard Setback: 20 feet.

**ARTICLE 8.
SUBDIVISION REQUIREMENTS**

- (6) Side Yard Setback: Shall be a minimum of five (5) feet if not utilizing the zero lot line provision. Five (5) feet side yard setbacks are allowed only if the lot(s) are 8,000 square feet or less. No above ground utility units shall be placed inside five (5) foot side setback. Corner lot side yard setbacks shall be a minimum of 20 feet.
- (7) Maximum Height: 40 feet
- (8) Corner Visibility: In a corner lot, within the area formed by a triangle 25 feet from the intersection of right-of-way lines, there shall be no obstruction to vision between a height of two (2) feet and a height.