

ARTICLE 7
SUBDIVISION PROCEDURES AND DESIGN STANDARDS

Table of Contents

| | |
|---|----|
| ARTICLE 7..... | 1 |
| SUBDIVISION PROCEDURES AND DESIGN STANDARDS..... | 1 |
| 7-1 PURPOSE AND INTENT..... | 1 |
| 7-2 REGULATION OF SUBDIVISIONS IN GENERAL | 1 |
| A. Exclusion Determination | 1 |
| B. Approval Required..... | 1 |
| C. Coordination with Other Procedures | 2 |
| D. Preliminary Plats Approved Prior to the Effective Date of this Ordinance | 2 |
| E. Penalties for Transferring Lots in Unapproved Subdivisions..... | 2 |
| 7-3 MINOR SUBDIVISION PLAT REVIEW PROCEDURES..... | 2 |
| 7-3.1 Applicability | 2 |
| 7-3.2 Minor Subdivision Review and Approval Procedures..... | 2 |
| 7-4 MAJOR SUBDIVISION PLAT REVIEW PROCEDURES | 4 |
| 7-4.1 Applicability | 4 |
| 7-4.2 Major Subdivision Sketch Design Plan..... | 4 |
| 7-4.3 Preliminary Major Subdivision Plat Review and Approval Procedures | 5 |
| A. Submission Requirements for Preliminary Major Subdivision Plats | 5 |
| B. Preliminary Major Subdivision Plat Contents..... | 6 |
| C. Review Process for Preliminary Major Subdivision Plats | 6 |
| D. Expiration of Preliminary Plat Approval | 7 |
| E. Modifications to Approved Preliminary Plats..... | 8 |
| 7-4.4 Final Major Subdivision Plat Review and Approval Procedures..... | 8 |
| A. Conformance with Preliminary Plat..... | 8 |
| B. Submission Requirements..... | 8 |
| C. Final Plat Contents..... | 8 |
| D. Review Process for Final Major Subdivision Plats | 9 |
| E. Required Improvements..... | 9 |
| 7-4.5 Recordation of Approved Final Major Subdivision Plats..... | 10 |
| A. Plat Approval Contingent upon Recordation..... | 10 |
| B. Dedication and Acceptance | 10 |
| C. Permits and Certificates of Occupancy | 10 |

- 7-5 PENALTIES FOR TRANSFERRING LOTS IN UNAPPROVED SUBDIVISIONS 11
- 7-6 SUBDIVISION DESIGN STANDARDS 12
 - 7-6.1 Subdivision Design Standards Purpose 12
 - 7-6.2 General Subdivision Standards..... 12
 - A. Design 13
 - B. Development Name 13
 - C. Reasonable Relationship 13
 - D. Establishment of Private Deed Restrictions 13
 - E. Subdivision Signs 13
 - 7-6.3 Suitability of the Land..... 13
 - 7-6.4 Lot Dimensions and Standards 14
 - A. Conformance to Other Regulations..... 14
 - B. Minimum Buildable Area..... 14
 - C. Lot Line Configuration 14
 - D. Lot Lines and Drainage 14
 - E. Lots on Streets with Capacity Deficiencies 15
 - F. Access Requirements 15
 - G. Water and Sewage Disposal 16
 - H. Additional Requirements for Small Lot Subdivisions..... 17
 - I. Design Standards for Nontraditional Subdivision Developments..... 18
 - 7-6.5 Streets 18
 - A. Conformance with Thoroughfare Plans and Traffic Impact Analyses 18
 - B. Conformance with Adjoining Street Systems..... 18
 - C. Street Access to Adjoining Property..... 18
 - D. Reserve Strips 19
 - E. Street Classification 19
 - F. Public Street Design Standards 19
 - G. Curb and Gutter..... 24
 - H. Private Street Design Criteria 26
 - I. Street Design Standards to Accommodate Certain Types of Nonmotorized Vehicles.... 26
 - J. Blocks..... 27
 - 7-6.6 Sidewalks 27
 - 7-6.7 Street and Utility Construction..... 28
 - A. Plans 28
 - B. No Construction without Plan Approval..... 28
 - C. Inspection 29

| | | |
|--------|---|----|
| D. | Street Construction Requirements..... | 29 |
| E. | Public Water Construction Requirements..... | 29 |
| F. | Public Sewer Construction Requirements..... | 30 |
| G. | Utility and Drainage Easements | 30 |
| H. | Stormwater Management..... | 31 |
| I. | Fire Hydrants | 31 |
| J. | Electrical Service and Underground Wiring | 31 |
| K. | Oversized Utility Improvements | 31 |
| L. | As-built Drawings | 32 |
| M. | Wet Detention Ponds and Soil Erosion and Sedimentation Control Devices Installation 32 | |
| N. | Streetscape Buffers | 32 |
| 7-6.8 | Design Standards for Small Lot Residential Subdivisions | 32 |
| 7-6.9 | Recreation and Open Space | 35 |
| 7-6.10 | Traffic Impact Analysis..... | 35 |
| A. | Applicability..... | 35 |
| B. | Study scope | 35 |
| C. | Traffic study elements..... | 36 |
| D. | Mitigation plan | 36 |
| E. | Consultants..... | 37 |
| 7-7 | OWNERS' ASSOCIATIONS..... | 37 |
| 7-7.1 | Establishment of Owners' Association..... | 37 |
| A. | Creation | 37 |
| B. | Conveyance | 37 |
| C. | Subdivision or Conveyance of Common Area | 37 |
| D. | Owners' Association Not Required..... | 38 |
| 7-7.2 | Submission of Owner's Association Declaration..... | 38 |
| A. | Existence before Any Conveyance | 38 |
| B. | Membership | 38 |
| C. | Owners' Association Declaration | 38 |
| D. | Nonresidential Condominiums..... | 39 |
| 7-8 | SURETIES OR IMPROVEMENT GUARANTEES..... | 40 |
| 7-8.1 | Agreement and Security..... | 40 |
| A. | Financial Guarantee in Lieu of Immediate Installation for Approval..... | 40 |
| B. | Duration of Financial Guarantees..... | 41 |

| | | |
|-----|---|----|
| C. | Default..... | 41 |
| 7-9 | WAIVERS..... | 41 |
| A. | Approval Authority..... | 42 |
| B. | Grounds for Waivers..... | 42 |
| 1. | Physical Hardship | 42 |
| 2. | Equal or Better Performance..... | 42 |
| 3. | Unintentional Error | 42 |
| C. | Conditions..... | 42 |
| D. | Waivers Affecting Subdivisions in Watershed Protection Overlay Districts..... | 42 |
| E. | Process for Review and Approval of Waivers | 43 |
| 1. | Submittal of a Written Request..... | 43 |
| 2. | Waiver Request Review by TRC and City Engineer | 43 |
| 3. | City Council Action on Waiver Request | 43 |

ARTICLE 7
SUBDIVISION PROCEDURES AND DESIGN STANDARDS

7-1 PURPOSE AND INTENT

The purpose of this Article is to establish procedures and standards for the development and subdivision of real estate within the corporate limits and extraterritorial jurisdiction of the City of Mebane in an effort to, among other things, insure proper legal description, identification, monumentation and recordation of real estate boundaries; further the orderly layout and appropriate use of the land; provide safe, convenient and economic circulation of vehicular traffic; provide adequate building sites which are readily accessible to emergency vehicles; assure the proper installation of streets and utilities; promote the eventual elimination of unsafe or unsanitary conditions because of undue concentration of population; and help conserve and protect the physical and economic resources of the City of Mebane and its environs.

7-2 REGULATION OF SUBDIVISIONS IN GENERAL

A. Exclusion Determination

If a proposed division of land meets one or more of the exclusions under the definition of 'Subdivision' in Article 12, Definitions, the owner may submit to the City of Mebane Planning and Zoning Department maps, deeds, or other materials in sufficient detail to permit a conclusive determination by the Planning Director or designee. An owner of land who wishes to record a plat of such a division of land shall obtain a Certificate of Exemption (see Appendix B) from the Planning Director.

B. Approval Required

1. Date of Compliance

After the effective date of this Ordinance and in accordance with NCGS § 160A-373, no plat for the subdivision of land within the Mebane Planning Jurisdiction shall be filed, accepted for recording, or recorded, nor shall the Clerk of the Superior Court order the recording of a plat until it has been submitted to and approved by the City.

2. No Subdivision without Approval

No real property, including property declared under the N.C. Condominium Act NCGS § 47C-1 et.seq., lying within the Mebane Planning Jurisdiction as now or hereafter fixed shall be subdivided except in conformance with all applicable provisions of this Article. Violation of this Section shall constitute a misdemeanor.

3. Decisions on Approval or Denial of Subdivision Plats

In accordance with the provisions of NCGS 160A-371, decisions on the approval or denial of preliminary and final subdivision plats may be made only on the basis of standards explicitly set forth in this Ordinance. Whenever this Ordinance includes criteria for a decision that requires the application of judgment on the part of the approval authority, those criteria must provide adequate guiding standards for the approval authority.

C. Coordination with Other Procedures

To lessen the time required to attain all necessary approvals and to facilitate the processing of applications, an applicant may start the subdivision approval process simultaneously with other applications for approvals required for the particular project.

D. Preliminary Plats Approved Prior to the Effective Date of this Ordinance

Preliminary plats approved by the City of Mebane prior to the effective date of this Ordinance shall be valid for 12 months from the date of approval of the plat unless a longer time period has been authorized through vested rights provisions.

E. Penalties for Transferring Lots in Unapproved Subdivisions

Penalties for transferring lots in unapproved subdivisions are delineated in Section 11-4, H.

7-3 MINOR SUBDIVISION PLAT REVIEW PROCEDURES

7-3.1 Applicability

The Planning Director shall approve or disapprove minor subdivision plats in accordance with the provisions of this Section. A minor subdivision, as defined in Article 12, is a residential subdivision of less than three acres and one not involving development or extension of a new public road and in which all lots have access to an existing publicly maintained road.

7-3.2 Minor Subdivision Review and Approval Procedures

The minor subdivision review process shall include the preparation of final minor subdivision plat which shall be reviewed and approved by the Planning Director.

- A. The applicant for minor subdivision plat approval shall submit to the Zoning Administrator a plat drawn in waterproof ink on a sheet made of material and of a size that will be acceptable to the applicable County Register of Deeds Office for recording purposes. When more than one sheet is required to include the entire subdivision, all sheets shall be made of the same size and shall show appropriate match marks on each sheet and appropriate references to other sheets of the subdivision. The scale of the plat shall be at one inch equals one hundred feet. The applicant shall also submit 12 prints of the plat as well as any required application form and required fee.

- B.** The final minor subdivision plat shall be prepared by a registered land surveyor or engineer licensed to render said service in the State of North Carolina and shall contain the following information:
1. The name of the subdivision, which name shall not duplicate the name of any existing subdivision as recorded in the applicable County Registry;
 2. The name of the subdivision owner or owners;
 3. The township, county and state where the subdivision is located;
 4. The name of the surveyor and his registration number and the date of survey;
 5. The scale according to which the plat is drawn in feet per inch or scale ratio in words or figures and bar graph;
 6. All of the additional information required by NCGS § 47-30, NCGS § 39-32.3, and Appendix A; and
 7. All of the applicable certificates required in Appendix B.
- C.** The Planning Director and the Technical Review Committee (TRC) shall review the minor subdivision plat.
- D.** The Planning Director shall take expeditious action on an application for minor subdivision plat approval. A decision shall be rendered by the Planning Director within 30 days after submission of the proposed minor subdivision plat to the Zoning Administrator. If no decision is rendered by the Planning Director within the required 30-day period, the applicant may appeal to the City Council for review of the application under the major subdivision preliminary plat approval process (Section 7-4.4). Either the Planning Director or the applicant may at any time refer the application to the major subdivision approval process.
- E.** Subject to subsection D above the Planning Director shall approve the proposed subdivision unless the subdivision is not a minor subdivision as defined in Section 7-3.1 or the application or the proposed subdivision fails to comply with any other applicable requirement of this Ordinance.
- F.** If the minor subdivision plat is approved, the approval shall be shown by a signed Certificate of Minor Plat Approval (see Appendix B)
- G.** If the subdivision is disapproved, the Planning Director shall promptly furnish the applicant with a written statement of the reasons for disapproval. The applicant may appeal the decision by requesting that the minor subdivision plat be scheduled for review by the City Council according to the same review and approval procedures set forth in Section 7-4 for final approval of major subdivision plats. Appeals shall be filed within 60 days of the date of the decision that the Planning Director disapproves the plat.

- H. Approval of any plat is contingent upon the plat being recorded with the applicable County Register of Deeds within ninety days after the date the Certificate of Approval is signed by the Planning Director or designee. Failure to record the approved plat within the specified 90-day period shall render the plat null and void.

7-4 MAJOR SUBDIVISION PLAT REVIEW PROCEDURES

7-4.1 Applicability

- A. Major subdivisions, as defined in Article 12, are all subdivisions that are not classified as a minor subdivision (i.e., subdivisions containing a public street, a nonresidential subdivision, or a residential subdivision containing three or more acres). When a major subdivision is to be developed in stages, a preliminary plat shall be submitted for the entire development. A final plat may be submitted for each stage.
- B. The procedures for the review of a major subdivision plat generally involves:
 1. Optional sketch design plan review approval by the Planning Director and TRC,
 2. Preliminary plat review by the Planning Board and recommendation to the City Council,
 3. Preliminary plat review and approval by the City Council, and
 4. Final plat review and approval by the City Council.

7-4.2 Major Subdivision Sketch Design Plan

- A. Submission of the Sketch Plan. Before preliminary plat application, the subdivider may submit to the Planning Director two copies of a simple sketch plan of the proposed subdivision. The subdivider may at this time discuss the proposed development with the Planning Director and become familiar with the regulations affecting the land to be subdivided. This procedure does not require a formal application or fee.
- B. Information to be shown on the Sketch Plan. A simple freehand sketch plan drawn at an approximate scale of not more than 200 feet to one inch will be sufficient to show the tentative street layout, approximate street rights-of-way width, lot arrangement, drainage, floodplains or watersheds, utility easements, sites for schools, parks, churches, etc., existing structures, water courses, wooded areas, and total acreage.
- C. Planning Director Review. The Planning Director and TRC shall review the sketch plan for general compliance with the requirements of this Ordinance. The Planning Director shall advise the subdivider or authorized agent of the regulations pertaining to the proposed subdivision and the procedures to be followed in the preparation and submittal of the preliminary and final plats. The Planning Director shall also discuss with the subdivider any

problems found during the review of the sketch plan that need to be addressed prior to submittal of a preliminary major subdivision plat.

- D. One copy of the sketch plan shall be retained by the Planning Director and the other copy being returned to the subdivider or authorized agent.
- E. Voluntary submission of a sketch plan shall not constitute an application for subdivision approval. Accordingly, any review or discussion by the Planning Director and TRC regarding a voluntarily submitted sketch plan prior to the submission of a preliminary plat and application for subdivision approval shall not constitute any official government action nor establish any right or privilege.

7-4.3 Preliminary Major Subdivision Plat Review and Approval Procedures

An application for plat approval may be filed only by all of the owners of the property proposed to be subdivided or by an agent, lessee, or contract purchaser specifically authorized by all of the owners to file the application. A written copy of the authorization shall be provided to the City.

A. Submission Requirements for Preliminary Major Subdivision Plats

The process for applying for preliminary subdivision plat approval is as follows:

1. At least 15 days before the regularly scheduled meeting of the Planning Board, the subdivider shall submit to the Planning Director 21 copies of a preliminary plat prepared by a licensed surveyor, engineer, architect or landscape architect. The preliminary plat shall contain the information required in subsection B below. Supplemental information such as a contour map may be required and shall be submitted in sufficient quantities as requested by the Planning Director.
2. At the time of submission of the preliminary plat, the subdivider shall submit any required application forms and any required.
3. The applicant for preliminary subdivision plat approval shall also submit the following documentation:
 - (a) A letter of approval for proposed sanitary sewer and water distribution shall accompany the preliminary plat indicating that the preliminary layout plans for proposed public sewer and water systems have been reviewed and approved by the City Engineer, other applicable water and sewer provider, and the appropriate state agency.
 - (b) Where public water or public sewer is not available, a 'letter of provisional approval' from the applicable County Health Department shall be submitted with the preliminary plat indicating that each lot has adequate land area and soil conditions to accommodate the

proposed methods of water supply and sewage disposal.

- (c) Preliminary street layout plans for subdivisions that intend to utilize private streets shall have said street plans reviewed and approved by the City Engineer prior to preliminary plat approval.

B. Preliminary Major Subdivision Plat Contents

The preliminary plat shall contain the following information:

- 1. The name of the subdivision, which name shall not duplicate the name of any existing subdivision as recorded in the applicable County Registry;
- 2. The name of the subdivision owner or owners;
- 3. The township, city and state where the subdivision is located;
- 4. The name of the surveyor and the surveyor's registration number and the date of survey;
- 5. The scale according to which the plat is drawn in feet per inch or scale ratio in words or figures and bar graph; and
- 6. All of the additional information required by NCGS §47-30, NCGS § 39-32.3, and Appendix A.

C. Review Process for Preliminary Major Subdivision Plats

- 1. The preliminary plat and related information shall be reviewed by the Planning Director and TRC for completion and compliance with the requirements of this Ordinance before it is submitted to the Planning Board. The developer shall correct any omissions or noncomplying features before it is passed on to the Planning Board.
- 2. Following the completion of the review of the preliminary plat by the Planning Director and the TRC, the Planning Director shall forward a recommendation to the Planning Board.
- 3. Before acting on the preliminary plat, the Planning Board may request a report from any person or agency directly concerned with the proposed development, such as the City Engineer, the District Highway Engineer, and County Health Department. Such reports shall certify compliance with or note deviations from the requirements of this Ordinance, and include comments on other factors that bear upon the public interest.
- 4. The Planning Board shall review the preliminary plat and the findings and recommendations of the TRC and any other reports or recommendations pertaining to the plat and shall forward a recommendation to the City Council for approval, conditional approval, or disapproval of the preliminary plat. The Planning Board shall review and make its recommendation on each preliminary plat within 60 calendar days after submission

of the preliminary plat. Should the Planning Board fail to make its recommendation on the proposed subdivision within 60 days after submission of the preliminary plat, the subdivider may seek approval at the next regularly scheduled meeting of the City Council.

5. Following receipt of the Planning Board's recommendation, the City Council shall review the preliminary plat, the recommendation of the Planning Board, the recommendation of the TRC, and any other reports or recommendations pertaining to the plat. Following its review of the preliminary plat, the City Council shall approve, approve conditionally, or disapprove the plat.
6. If the City Council disapproves the preliminary plat, the reasons for such action shall be stated in writing and reference shall be made to the specific sections of the Ordinance with which the preliminary plat does not comply. The plat can be resubmitted for preliminary review upon compliance with ordinance requirements.
7. If preliminary plat approval is granted, written confirmation shall be made on two copies of the preliminary plat. One copy of the approved preliminary plat shall be returned to the applicant. Approval of the preliminary plat is authorization for the applicant to proceed with the construction of the necessary improvements or guarantee their installation, as provided in Section 7-8, in preparation for preparation and submission of the final plat.

D. Expiration of Preliminary Plat Approval

Preliminary plat approval shall be valid for a period of 12 months from the date of approval of the plat by the City Council unless an extension of time is applied for and granted by the City Council or unless a longer time period is established under applicable vested rights provisions or a city-approved development agreement. For subdivisions which have been approved to be developed in phases, preliminary plat approval shall be valid for a period of 24 months. An additional extension of time may be applied for and granted by the City Council where the developer demonstrates good cause and where there has been a substantial expenditure of resources directly related to the subdivision development. Examples of substantial expenditures include (i) consulting fees paid to land development professionals for land surveys, soil evaluations, erosion control plans; (ii) fees for engineering design for streets, water lines, sewer lines, and stormwater facilities; (iii) fees for land preparation activities such as clearing and grading; (iv) actual construction costs of streets, utilities, other infrastructure, and required site amenities.

Preliminary plats whose approval has elapsed shall be resubmitted in accordance with the provisions of this Section. Resubmitted plats shall conform to the Ordinance requirements in effect at the time of plat resubmittal.

E. Modifications to Approved Preliminary Plats

Modifications to approved preliminary plats shall be made in accordance with the provisions of Section 2-25.

7-4.4 Final Major Subdivision Plat Review and Approval Procedures

Within one year after the date of approval of the preliminary plat, the applicant shall file an application for final plat approval for that portion of the approved preliminary plat which the applicant proposes to record.

No street shall be accepted and maintained by the City, nor shall any water or sewer be extended to or connected with any subdivision of land as defined herein unless and until the final plat has been approved as provided herein. No permit shall be issued by any administrative agent or department 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 final plat has been approved as provided herein.

A. Conformance with Preliminary Plat

The final plat shall conform substantially to the approved preliminary plat. If the submitted final plat deviates in its overall design from the approved preliminary plat the Planning Director shall schedule the final plat to be reviewed and approved by the TRC using the same review and approval procedures set forth in Section 7-4.4, C for preliminary plats. If the applicant requests a waiver from any of the design standards of Section 7-6 of this Ordinance, the Planning Director shall schedule the waiver request to be reviewed in accordance with the provisions of Section 7-9.

B. Submission Requirements

The applicant for final plat approval shall submit to the Planning Director a final plat made of material and of a size that will be acceptable to the applicable County Register of Deeds Office for recording purposes. When more than one page is required to include the entire subdivision, all pages shall be made of the same size and shall show appropriate match marks on each page and appropriate references to other pages of the subdivision. The scale of the plat shall be at one inch equals not more than one hundred feet. The applicant shall also submit six prints of the plat as well as any required application forms and any required fee.

C. Final Plat Contents

The final plat shall contain the following information:

1. The name of the subdivision, which name shall not duplicate the name of any existing subdivision as recorded in the applicable County Registry;
2. The name of the subdivision owner or owners;
3. The township, county and state where the subdivision is located;The name of the surveyor and the surveyor's registration number and the date of survey;

4. The scale according to which the plat is drawn in feet per inch or scale ratio in words or figures and bar graph;
5. All of the additional information required by NCGS § 47-30, NCGS § 39-32.3, and Appendix A; and
6. All of the applicable certificates required in Appendix B.

D. Review Process for Final Major Subdivision Plats

1. The final plat and related information shall be reviewed by the Planning Director and TRC for completion and compliance with the requirements of this Ordinance before it is submitted to the City Council. Provided the final plat is complete, and no further review is determined to be required, the designated staff shall act on the final plat of major subdivisions within thirty (30) days of receipt of the plat.
2. Following final plat approval, the applicant shall record the plat for the major subdivision in accordance with this subsection. No lots in a subdivision shall be sold prior to approval by the City and recording of a plat for the subdivision.
3. If final plat approval is granted, the approval shall be shown by a signed Certificate of Final Plat Approval (see Appendix B). One print and the original or mylar tracing of the final plat containing the signed certificate shall be returned to the applicant and one print shall be filed with the City.
4. If the final plat is disapproved, the Planning Director shall promptly furnish the applicant with a written statement of the reasons disapproval with reference to the specific sections of the Ordinance with which the plat does not comply. The applicant may make the recommended revisions and submit a revised final plat, which shall again be reviewed as before stated .

Should a revised plat be disapproved by the Planning Director and the TRC, the applicant may appeal the decision by requesting that the major subdivision plat be scheduled for review by the City Council according to the review and approval procedures set forth in Section 7-4 for final approval of major subdivision plats. Appeals shall be filed within 60 days of the date of the mailing of the decision that the Planning Director and/or TRC disapproves the plat.

(Amended September 11, 2017)

E. Required Improvements

No final plat shall be approved until all required improvements have been installed and approved or appropriate surety has been provided as set forth in Section 7-8.

7-4.5 Recordation of Approved Final Major Subdivision Plats

A. Plat Approval Contingent upon Recordation

Approval of a final plat is contingent upon the plat being recorded in the applicable Office of the Register of Deeds within 90 days after the approval date of the final plat. Failure to record the approved plat within the specified 90-day period shall render the plat null and void.

B. Dedication and Acceptance

1. Rights-of-Way and Easements

The approval and recordation of a final plat does constitute an offer to dedicate but does not constitute dedication to and acceptance for maintenance responsibility by the City of Mebane or the public of any public street, alley, or utility or drainage easement shown on such plat. Improvements within such rights-of-way or easements, such as utility lines, street paving, drainage facilities, or sidewalks may, however, be accepted only by action by the City Council following inspection and approval.

(Amended September 11, 2017)

2. Open Space

Land designed as public open space on a final plat shall be considered to be offered for dedication until such offer is officially accepted by the City of Mebane. The offer may be accepted by the City through:

- (a) Express action by the City Council;
- (b) Express action by an administrative officer designated by the City Council; or
- (c) Conveyance of fee simple marketable title (unencumbered financially and environmentally) of the property to the City at the time of final plat recordation.

Until such dedication has been accepted, land so offered may be used for open space purposes by the owner or by the owners' association. Land so offered for dedication shall not be used for any purpose inconsistent with the proposed public use.

- 3. The developer shall be responsible for the maintenance of all facilities and improvements until an offer of dedication is accepted.**

C. Permits and Certificates of Occupancy

Unless otherwise provided in this Ordinance, upon recordation of the final plat, the applicant shall be eligible to apply for building and any other permits required by this Ordinance. No certificates of occupancy shall be issued until all improvements are complete and

approved by the City and the applicable utility provider.

7-5 PENALTIES FOR TRANSFERRING LOTS IN UNAPPROVED SUBDIVISIONS

- A.** Any person who, being the owner or the agent of the owner of any land located within the territorial jurisdiction of the City of Mebane, subdivides land in violation of this Ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this Ordinance and recorded in the office of the applicable County Register of Deeds, shall be guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from this penalty. The City may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision ordinance.

Building permits required pursuant to NCGS 160A-417 may be denied for lots that have been illegally subdivided. In addition to other remedies, the City may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct. Enforcement procedures (Section 11-3) and penalties and remedies (Sections 11-4 and 11-5) are delineated in Article 11, Enforcement and Judicial Review.

- B.** The provisions of this Section shall not prohibit any owner or its agent from entering into contracts to sell or lease by reference to an approved preliminary plat for which a final plat has not yet been properly approved under this Ordinance or recorded with the register of deeds, provided the contract does all of the following:
1. Incorporates as an attachment a copy of the preliminary plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the recorded plat prior to closing and conveyance.
 2. Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the preliminary and final plats are possible, and that the contract or lease may be terminated without breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat.
 3. Provides that if the approved and recorded final plat does not differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than five days after the delivery

of a copy of the final recorded plat.

- C. Provides that if the approved and recorded final plat differs in any material respect from the preliminary plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 15 days after the delivery of the final recorded plat, during which 15-day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price. The provisions of this Section shall not prohibit any owner or its agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved under this Ordinance or recorded with the register of deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial, or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the final plat has been properly approved under this Ordinance and recorded with the register of deeds.

7-6 SUBDIVISION DESIGN STANDARDS

7-6.1 Subdivision Design Standards Purpose

The subdivision design standards, adopted and prescribed in this Section, are found by the City Council to be necessary and appropriate to:

- A. Provide for suitable residential and nonresidential developments with adequate streets and utilities and appropriate building sites;
- B. Provide for the distribution of population and traffic in a manner which shall avoid congestion and overcrowding;
- C. Provide for the coordination of streets within subdivisions with existing or planned streets and with other public facilities;
- D. Provide for the dedication or reservation of rights-of-way or easements for street and utility purposes;
- E. Provide for the dedication or reservation of adequate spaces for public lands and buildings;
- F. Encourage design that is protective of environmental quality and that provides a balance between the built environment and natural and fragile natural resources; and
- G. Provide for the dedication or reservation of recreation, park, and open space areas; and

7-6.2 General Subdivision Standards

A. Design

All proposed subdivisions, including group developments where the transfer of building sites to separate owners is proposed, shall comply with this Ordinance, shall be designed to promote beneficial development of the community, and shall bear a reasonable relationship to the approved plans of the City.

B. Development Name

In no case shall the name of a proposed development duplicate or be phonetically similar to an existing development name in the Mebane Planning and Zoning Jurisdiction unless the proposed development lies adjacent or in proximity to the existing development.

C. Reasonable Relationship

All required improvements, easements, and rights-of-way (other than required reservations) shall substantially benefit the development or bear a reasonable connection to the need for public facilities attributable to the new development.

Whenever a tract to be subdivided includes or adjoins any part of a thoroughfare or collector street as designated by an officially adopted City Thoroughfare Plan, that part of such proposed public right-of-way shall be dedicated as public right-of-way within the subdivision plat in the location and to the width recommended by the Thoroughfare Plan or this Article.

D. Establishment of Private Deed Restrictions

The subdivider is encouraged to prepare and record private deed restrictions (restrictive covenants) to establish development standards to address particular development and land use issues and/or to establish more desirable development standards that exceed the City of Mebane requirements. For example, subdividers may establish deed restrictions that address such issues as architectural design, building materials, minimum building floor area, parking of recreational vehicles, home-based businesses, etc. Deed restrictions are private agreements between the subdivider and lot buyers. Enforcement of deed restrictions is a private matter and is solely the responsibility of the lot owners and/or a property owners' association. Deed restrictions cannot be enforced by the City of Mebane. The Zoning Administrator or any other official of the City of Mebane will not be involved in the enforcement of private deed restrictions.

E. Subdivision Signs

Permanent signs announcing the name of a subdivision shall comply with the standards for identification signs delineated in Section 6-6.7, F.

7-6.3 Suitability of the Land

- A.** Land which the City has determined, either through its own investigations or the investigations of other public agencies, to be unsuitable for development because of flooding, poor drainage, steep slopes, poor soil conditions and other such physical features which may endanger health, life, or property or necessitate the

excessive expenditure of public funds for the provision and/or maintenance of public services shall not be approved for subdivision unless methods are formulated by the developer for mitigating the problems created by the subdivision of such land. Areas that have been used for disposal of solid waste shall not be subdivided unless tests by the applicable County Health Department, a structural engineer, and a soils expert determine that the land is suitable for the type of construction proposed.

- B. All subdivisions located in public water supply watershed areas shall comply with the requirements and standards of Section 5-2, Watershed Overlay District requirements.
- C. All subdivisions located in flood hazard areas shall comply with the requirements of Section 5-3, Flood Hazard Overlay District requirements. Required public utilities and facilities in all subdivisions shall be installed so as to minimize flood damage.

7-6.4 Lot Dimensions and Standards

The size, shape, and orientation of lots shall be appropriate for the location of the proposed subdivision and for the type of development contemplated and shall conform to the following:

A. Conformance to Other Regulations

Every lot shall have sufficient area, dimensions, and street access to permit a principal building to be erected thereon in compliance with all zoning district and other use, density, intensity, and dimensional requirements of this Ordinance (see Article 4, Use Regulations, Density and Dimensional Standards, and Development Standards for Individual Uses). Table 4-2-1 delineates minimum density, intensity, and dimensional requirements for each zoning district.

B. Minimum Buildable Area

Every lot shall have at least forty percent of its total area, or 3,000 square feet, whichever is less, of contiguous buildable area of a shape sufficient to hold a principal building.

C. Lot Line Configuration

Side lines of lots should be at or near right angles or radial to street lines. No intersecting lot lines shall have an angle of less than 60 degrees.

D. Lot Lines and Drainage

Lot boundaries shall coincide with natural and pre-existing man-made drainageways to the extent practicable to avoid lots that can be built upon only by altering such drainageways. Lots shall have a minimum of one percent grade to streets and/or drainageways. The City recognizes that topographical conditions may exist where the requirement may not be practicable. The absolute minimum for such conditions as approved by the City Engineer shall be 0.5 percent. Utility and drainage easements shall be provided as required in Section 7-6.7, G.

E. Lots on Streets with Capacity Deficiencies

1. Major and minor subdivisions shall not be approved that propose individual residential lots with direct vehicular access to streets that have, in the opinion of the City Engineer and NCDOT (if applicable), capacity deficiencies that warrant the prohibition of the platting of lots with direct vehicular access.
2. Whenever a proposed subdivision abuts any major or minor thoroughfare or a major collector (as delineated on the latest adopted Thoroughfare Plan), the Planning Board, based upon the recommendation of the City Engineer or NCDOT, may prohibit the platting of lots with direct vehicular access to such roads. The Planning Board's decision to require alternative access shall be based upon the need to provide safe access to proposed lots, reduce interference with the existing traffic pattern and flow, and provide buffering of the proposed lots from adverse effects from traffic noise. Whenever a subdivision fronts on an arterial road or highway, the Planning Board may require a marginal access street to provide access to lots fronting on the arterial road or highway.
3. In order to reduce traffic congestion, commercial and industrial subdivisions may be required by the Planning Board, after consultation with the City Engineer or NCDOT, to provide a frontage road or other suitable means of access along major thoroughfares, as shown on the adopted thoroughfare plan, unless the Planning Board determines that no practicable alternative for access exists. Where a frontage road is required, intersections with public streets shall be spaced no closer than 800 feet. Frontage roads may be permitted within the rights-of-way of existing streets subject to the approval of the City Engineer or the NCDOT, as applicable.
4. Access to lots in proposed subdivisions located in HCO, Highway Corridor Overlay Districts shall comply with the requirements of Section 5-6, Highway Corridor Overlay District Requirements.
5. Subdivisions that propose lot layouts such that buildings will front on an interior street and which will have rear yards directly adjacent to major thoroughfare roads shall provide a minimum 30-foot wide Type B streetscape that complies with the planting requirements of Section 6-3, D, adjacent to the major thoroughfare road.

F. Access Requirements

All lots must have public street access and frontage meeting the requirements set forth in Section 4-4, B. The following exceptions may be approved:

1. Lots and units located in developments with Owners' Associations or in group developments in which permanent access is guaranteed by means of approved private streets and/or drives designed in accordance with the requirements of

Section 7-6.5, H.

2. Lots of record provided that there is recorded access and the use is limited to only one single-family dwelling and its uninhabited accessory structures.
3. Flag lots meeting the following requirements:
 - (a) A flag lot shall serve only one single-family dwelling and its uninhabited accessory structures;
 - (b) The maximum flagpole length shall be 300 feet;
 - (c) The minimum flagpole width shall be 25 feet;
 - (d) The maximum lot size in areas with public sewer shall be one acre. The maximum lot size without public sewer shall be three acres. (Note: the 'flagpole' portion of the lot is not used to calculate area, width, depth, coverage, and setbacks of the lot or to provide off-street parking);
 - (e) The minimum separation between the 'flagpole' portion of the lot and that of another flag lot shall be 150 feet;
 - (f) Where public water is available, any building on the flag lot must be within 500 feet of a hydrant. This distance shall be measured along the street, then along the flagpole, then in a straight line to the building location;
 - (g) Use of a single driveway to serve a flag lot and an adjoining lot is permitted and encouraged. The preferred location for the driveway is on the flagpole portion of the flag lot, with the conventional lot granted an access easement over the flagpole;
 - (h) No resubdivision of a flag lot shall be permitted unless access to the proposed new lot(s) can be provided from an approved public or private street; and
 - (i) Flag lots shall 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 which makes traditional lot design infeasible. Therefore, flag lots should be judiciously approved.

G. Water and Sewage Disposal

1. Every subdivision lot intended for building purposes shall be served by a water supply system and a sewage disposal system that (i) is adequate to accommodate the reasonable needs of the proposed use of the lot and (ii) complies with all applicable city water and sewer requirements and/or county health department

regulations.

2. Water and sewer systems shall be designed in accordance with all city and state requirements, the *City of Mebane Standard Design Details* prepared by the City Engineer, and the requirements of this Ordinance.
3. No utility improvements shall be constructed until the utility construction plans have been reviewed and approved by the appropriate utility provider. Work performed pursuant to approved utility construction plans shall be inspected and approved by the appropriate utility provider.
4. **Mandatory Connection to Existing Public Utilities**

Connection of each lot to public water and sewer utilities shall be required in accordance with the City's utility extension policies.
5. Water supply systems serving 10 or more connections are classified as public water supplies by State law, and plans and specifications must be approved by the Sanitary Engineering Division of the NC Division of Health Services.
6. Water supply systems serving from 2 to 9 connections inclusive may be regulated by the applicable County Health Department, and plans should be approved by the applicable County Health Department.
7. Plans for public and community sewer systems must be approved by the NC Division of Environmental Management.
8. Individual water supplies shall be located, constructed and operated in accordance with State Board of Health Bulletin No. 476 Protection of Private Water Supplies.
9. Individual sewage disposal systems must be installed and maintained in accordance with the State Board of Health Rules and Regulations Governing the Disposal of Sewage from any Residence; Place of Business or Place of Public Assembly in North Carolina, and the regulations of the applicable County Board of Health (State Board of Health Bulletin No. 519, Residential Sewage Disposal Plants, contains helpful information).
10. Public sewer systems are defined as any sewage collection and disposal system owned and maintained by a public governmental entity.

H. Additional Requirements for Small Lot Subdivisions

Major residential subdivisions consisting of lots with an average minimum lot size of 10,000 square feet or less may be required by the City Council to comply with specific design standards intended to mitigate the impact of small lot development (see Section 7-6.8 for specific standards).

I. Design Standards for Nontraditional Subdivision Developments

Specific design standards for nontraditional subdivision developments are provided in Article 4.

1. Residential Cluster Developments. Dimensional requirements and standards specific to Residential Cluster Developments are delineated in Section 4-7.3, O.
2. Townhouse Developments. Dimensional requirements and standards specific to Townhouse Developments are delineated in Section 4-7.3, F.
3. Planned Unit Developments. Dimensional requirements and standards specific to Planned Unit Developments (PUDs) are delineated in Section 4-7.3, N.
4. Condominium Developments. Dimensional requirements and standards specific to Condominium Developments are delineated in Section 4-7.3, C.
5. Live/Work Developments. Dimensional requirements and standards specific to Live/Work Developments are delineated in Section 4-7.3, M.
6. Traditional Neighborhood Developments. Dimensional requirements and standards specific to Traditional Neighborhood Developments (TNDs) are delineated in Section 4-7.3, P.

7-6.5 Streets

A. Conformance with Thoroughfare Plans and Traffic Impact Analyses

The location and design of streets shall be in conformance with any applicable, adopted Thoroughfare Plan and Transportation Improvements Plan. Where conditions warrant, right-of-way widths and pavement widths in excess of the minimum street standards may be required. Where a traffic impact analysis has been prepared for a proposed development, the recommendations of the traffic impact analysis shall be implemented.

B. Conformance with Adjoining Street Systems

The planned street layout of a proposed subdivision shall be compatible with existing or proposed streets and their classifications on adjoining or nearby tracts.

C. Street Access to Adjoining Property

1. Where, upon the recommendation of the TRC and City Engineer and the approval of the Planning Board, it is desirable to provide for street access to adjoining property, proposed subdivision streets shall be extended, dedicated,

and, where appropriate, constructed to the boundary of such property. It is the intention of this section to promote the orderly development of a local street system that provides interconnection between developed or developing properties.

2. Factors that shall be evaluated when considering requiring the extension of streets or street rights-of-way to adjoining property include:
 - (a) the development potential of the adjoining land;
 - (b) the physiographical and man-made characteristics of the adjoining property, and
 - (c) the existing and proposed local street system and traffic flow of the entire area surrounding the subdivided tract and adjoining properties.
3. Generally, 'stub streets' shall be required:
 - (a) where the zoning and/or land use on the adjoining property are compatible with the proposed subdivision,
 - (b) where there are no natural or man-made barriers that make the street extension impracticable,
 - (c) where the street extension will result in desirable traffic flows and patterns and where inappropriate levels of through traffic are avoided, and
 - (d) where the street extension will promote the overall orderly development of the area.
4. All stub streets shall be designed and, where required to be built, constructed in accordance with the appropriate standards as delineated in this Article.

D. Reserve Strips

Reserve strips adjoining street rights-of-way for the purposes of preventing access to adjacent property shall not be permitted under any condition.

E. Street Classification

The final determination of the classification of streets in a proposed subdivision shall be made by the City Engineer or the NCDOT, as applicable.

F. Public Street Design Standards

1. Minimum Right-of-way Widths. Minimum street right-of-way widths shall be in accordance with the Thoroughfare Plan and shall not be less than the following:

| Street Type | Right-of-Way Width |
|--------------------|---|
| Major Thoroughfare | As determined by the City Engineer and/or |
| Minor Thoroughfare | 80 feet |
| Collector or | 60 feet |
| Local Residential | 50 feet |
| Cul-de-sac | 50 feet |
| Marginal Access | 50 feet |

2. Minimum Pavement Widths. The minimum pavement widths, measured back-to-back of curb, shall not be less than the following:

| Street Type | Pavement Width |
|---------------------------|---|
| Major Thoroughfare | As determined by the City Engineer and/or NCDOT |
| Minor Thoroughfare | 49 feet |
| Collector or Subcollector | 41 feet |
| Local Residential | 31 feet |
| Cul-de-sac | 31 feet |
| Marginal Access | 31 feet |

In the event that the City approves, due to particular extenuating circumstances, streets to be constructed without curb and gutter, pavement widths may vary according to the City's design standards.

All pavement widths in excess of the minimum must be approved by the City.

3. Grades. Street grades shall be not more than 10 percent nor less than 0.7 percent. The grade on stop streets approaching an intersection shall not exceed 5 percent for a distance of not less than 100 feet from the centerline of the intersection, unless the City Engineer determines that topographical conditions dictate otherwise. The slopes in cuts shall have an incline of not more than 1 vertical to 2 horizontal, and the fills shall have an incline of not more than 1 vertical to 2 horizontal. Embankments or fills shall be made only from earth excavation and shall be placed in layers not over 8 inches thick; each layer being thoroughly compacted with a sheepsfoot roller, or other means approved by the City Engineer, before the succeeding layer is placed.
4. Horizontal Curves. Where a centerline deflection angle of more than 10 degrees occurs, a circular curve shall be introduced having a centerline radius of not less than the following:

| Street Type | Centerline Radius |
|------------------------------|-------------------|
| Major and Minor Thoroughfare | 500 feet |
| Collector or Subcollector | 300 feet |
| Local or Minor Street | 100 feet |

5. Vertical Curves. Vertical curves for residential streets shall be determined utilizing a K factor of 32, subject to approval of the City Engineer and NCDOT, if applicable. The K factor is the rate of vertical curvature for minimum sight distance and is derived utilizing the following formula: $L = KA$ where L = Length of vertical curve in feet, K = Rate of vertical curvature in feet per percent of A , and A = Algebraic difference in grades in percent. The K factor for major residential streets and all nonresidential streets shall be determined by the City Engineer and NCDOT, if applicable, on a case-by-case basis.
6. Tangents. A tangent of not less than 100 feet in length shall be provided between curves.
7. Intersections:
 - (a) All streets shall intersect at or as near to 90 degrees as possible, but in no case shall the angle of intersection be less than 75 degrees.
 - (b) All streets crossing natural areas, wetlands, or stream buffers must cross at or as near to 90 degrees as possible within topographic limits.
 - (c) Intersections with an arterial street shall be at least 800 feet apart measured from centerline to centerline. Intersections with an expressway shall be controlled as determined by the City Engineer or the NCDOT, as applicable.
 - (d) Property lines at street intersections shall be rounded with a minimum radius of 20 feet. Where the angle of intersection is less than 75 degrees, a greater radius may be required.
 - (e) Where streets are offset, the centerlines shall be offset no less than 150 feet.
8. Minimum Entrances to Public Streets. Developments of 30 or more residential units or additions to existing developments that increase the total number of residential units to 30 or more shall be required to provide vehicular access in accordance with Appendix D, Fire Apparatus Access Roads of the *NC Fire Prevention Code* unless the Fire Chief determines that topography, natural features, or the pattern of existing adjacent development makes such provision

impracticable.

9. Turn Lanes and Acceleration/Deceleration Lanes. Developments of 50 or more residential units or additions to existing developments that increase the total number of residential units to 50 or more shall provide turn lanes and acceleration/deceleration lanes. The design and construction of turn lanes and acceleration/deceleration lanes shall be in accordance with the standards and specifications of the City and NCDOT, if applicable.
10. Public streets proposed to be dedicated to the City shall be designed in accordance with the *City of Mebane Standard Design Details* prepared by the City Engineer and the requirements of this Ordinance. Public streets proposed to be dedicated to the State of North Carolina shall be designed in accordance with the standards and specifications of the North Carolina Department of Transportation (NCDOT) *Subdivision Streets; Minimum Construction Standards* or the *City of Mebane Standard Design Details*, whichever requires a more stringent standard.
11. Cul-de-sac Streets
 - (a) Cul-de-sac streets shall not exceed 800 feet in length. The length of a cul-de-sac street shall be measured from the intersecting through street to the end of the bulb at the turnaround.
 - (b) Cul-de-sac streets shall provide a turnaround with a minimum pavement radius of 50 feet and a minimum right-of-way radius of 60 feet.
 - (c) Adequate water and sewer easements shall be reserved as required by the City Engineer.
12. Streets stubbed to adjoining property or phase lines are required to have a temporary turnaround at the end of the street which will be sufficient to permit service vehicles to turn around. At a minimum, a 40-foot radius shall be provided. Temporary turnarounds shall be graded and compacted with eight inches of ABC stone or paved.
13. Sight Distance Easements. Triangular sight distance easements shall be shown in dashed lines at all street intersections and so noted on the subdivision plat. These easements will remain free of all structures, trees, shrubbery, and signs, except utility poles, fire hydrants, and traffic control signs. The location and extent of sight distance easements will be determined by the City and by the NCDOT on all state-maintained streets.
14. Street Names. Streets which are obviously in alignment with existing streets shall generally bear the name of the

existing street. Street names shall not duplicate or closely approximate phonetically the names of existing streets in the Mebane Planning and Zoning Jurisdiction or within Alamance or Orange County. Street suffixes and addresses shall conform to the standards established by City of Mebane and the applicable County for 911 addressing.

15. Street Name Signs and Traffic Control Signs. Street name and traffic control signs which meet the City of Mebane and NCDOT specifications shall be placed at all street intersections. The developer shall pay the City for the cost of the required signs and the City will be responsible for installing all street name and traffic control signs. The maintenance of signs on private streets, drives, or lanes shall be the responsibility of the owner or of an Owners' Association, as applicable.
16. Streetlights. Streetlights shall be provided in accordance with the City's policies, standards, and specifications for street lighting.
17. Bridges. All bridges shall be constructed in accordance with the standards and specifications of the City and the NCDOT, if applicable. Bridges on streets that will not be publicly dedicated may be approved if designed by a registered, professional engineer.
18. Subdivision Entrance Standards. All subdivisions of 25 or more lots shall provide at least one entrance to the subdivision that includes, at a minimum, any two of the following features in the entranceway:
 - (a) A divided roadway with landscaped median island.
 - (b) Alternative paving material such as brick or natural stone.
 - (c) Brick or stone entry walls.
 - (d) Decorative lighting.
 - (e) Fountain or other water feature.
 - (f) Sculpture or public art.
 - (g) Prominent plantings and landscaping that exceed the minimum requirements for streetscape buffers as delineated in Section 6-3, D.
 - (h) Ground-mounted subdivision name marker in compliance with the provisions of Section 6-6.7, F.
 - (i) Gatehouse, gazebo, clock tower, or similar structure.

A description of and design specifications for the proposed

entranceway features shall be provided at the time of submission of the preliminary plat. An owners' association, created in accordance with the requirements of Section 7-7, shall be established with the legal and financial responsibility for maintenance of all subdivision entranceway features. Additional right-of-way may be required to accommodate entranceway features. The design and location of proposed entranceway features within or adjacent to public street rights-of-way shall be approved by the City Council and/or NCDOT, as applicable. Where private streets are proposed, entranceway features shall be approved by the City Council.

G. Curb and Gutter

1. Curb and gutter shall be required along streets in all residential subdivisions within the subdivision jurisdiction of the City of Mebane except that permanent grass lined drainage swells may be approved under the conditions specified in subsection 6 below. Curb and gutter shall be required along all streets in nonresidential subdivisions unless specifically waived by the City Council based upon the City Engineer's determination of the need for curb and gutter based upon such factors which include, but are not limited to, proposed land use, projected traffic type and traffic volumes, intensity of development, topography, stormwater management requirements, proposed street grade, and street maintenance and street sweeping requirements.
2. Standard 30-inch width concrete curb and gutter or other City approved types of curb may be constructed on all streets in the subdivision. These shall be set to true lines and grades in accordance with profiles and cross-sections approved by the City Engineer.
3. Standard concrete catch basins, fitted with heavyweight cast iron gratings, inlet throats and frames shall be installed where necessary to provide for storm water drainage. Alternate type catch basins may be used where approved by the City Engineer. When concrete curb and/or gutter has sufficiently cured, tamped earth backfill shall be placed behind the curb top of same, and smoothed off to conform to the adjacent ground.
4. All curb and/or gutter work shall be subject to the inspection and approval of the Public Works and Utilities Director and no work shall be covered up without first obtaining the approval of same by the Public Works and Utilities Director. Curbs and gutters shall be designed and installed in accordance with the *City of Mebane Standard Design Details*.
5. As provided in NCGS § 136-44.14, whenever curb and gutter construction is used on public streets, wheelchair ramps for the handicapped shall be provided at intersections and other major points of pedestrian flow. Wheelchair ramps and depressed curbs shall be constructed in accordance with

published standards of the NCDOT and/or the City of Mebane.

6. Permanent grass lined drainage swells (ditchlines) are allowed in lieu of curb and gutter in single family residential developments under the following conditions:
 - (a) The average density of the entire development is 2.0 dwelling units per acre or less.
 - (b) The minimum lot widths are 70 feet at the building line.
 - (c) The built upon area for the development is 24 percent or less.
 - (d) The permanent grass lined drainage swells are maintained by the lot owner or a property owners association.
 - (e) Driveway pipes shall be 15 inches minimum in size and shall have end treatments (headwalls) with a common community theme or style; i.e., constructed of brick, rock, masonry, etc. and maximum driveway widths are 16 feet at the right of way.
 - (f) The permanent grass lined drainage swells are constructed to the following standards:
 - (1) The shape of the permanent grass lined drainage swell shall be parabolic with a rounded bottom in accordance with the typical section to allow for mowing by typical residential mowers.
 - (2) The minimum distance from the edge of pavement to the center of the drainage swell shall be 10 feet with a 24-inch elevation drop.
 - (3) The maximum drainage area contributing to any section of the street drainage swell shall be 5.0 acre at which point the stormwater shall be diverted off the street right of way or collected into a storm piping system.
 - (4) Velocity and channel stabilization computations shall be provided for all channels to be non-erosive. Maximum water depth at Q10 storm event flows is 12 inches.
 - (5) No riprap ditch stabilization is allowed in the drainage swells.
 - (6) The grass lined drainage swells shall be of Kentucky 31 fescue or approved equal vegetative cover. Grass sodding is allowed if maintained during the initial grow in period by the lot owner or developer.

H. Private Street Design Criteria

1. Where Permitted. Private streets shall be permitted only in developments with Owners' Associations.
2. Minimum Design and Construction. The minimum design standards for all private streets will be equivalent to the minimum standards and specifications delineated for public streets in Section 7-6.5, F and the *City of Mebane Standard Design Details*. All private streets will be indicated as such on the plat.
3. Owners' Associations Required. An Owners' Association, established in accordance with the provisions of Section 7-7, is required to own and maintain all private streets allowed under this Ordinance.
4. Private Through Streets. No through street in a residential area connecting two public streets can be designated as a private street, unless approved by the City Council.
5. Connections to Public Streets. All private streets, connecting with public streets, require an approved driveway application from the City or NCDOT, if applicable.
6. Sidewalks. Where sidewalks are constructed, they shall comply with the standards of Section 7-6.6.
7. Disclosure Statement. A disclosure statement in accordance with NCGS § 136-102.6 shall be recorded simultaneously with the plat and referenced on the final plat. The disclosure statement must contain the provision(s) for construction and/or maintenance of the private street (see Appendix B).
8. Utility and Service Access Easements. When required by the City, necessary utility and service access easements (including designation of fire lanes when required) shall be dedicated over private streets for utility maintenance purposes, sanitation collection, and police and fire services.
9. Gated Private Streets. Gated private streets shall be reviewed and approved by the City Council on a case-by-case basis. As a general rule, gated private streets are discouraged and will be approved only if, in the opinion of the City Council, there are extenuating circumstances that justify their use.

I. Street Design Standards to Accommodate Certain Types of Nonmotorized Vehicles

Developments proposing to use internal local subdivision streets for golf cart traffic shall:

1. Provide additional sufficient paved roadway width to safely

- accommodate golf cart traffic in a designated travel lane;
2. Clearly mark and identify the designated golf cart travel lane to separate it from the normal vehicle travel lane.
 3. Include a golf course, community center, community pool, recreational facility, or other facility or area that generates a demand for the use of golf carts on internal subdivision streets;
 4. Obtain specific approval from the City Council or NCDOT for the design and installation of the public streets for nonmotorized vehicles. In the case of developments proposing private streets, specific approval shall be obtained from the City Council; and
 5. Obtain specific authorization from the City or NCDOT for the use of local subdivision streets for golf cart traffic.

J. Blocks

1. Intersecting streets shall be laid out at such intervals that block lengths are not more than 1,200 feet nor less than 400 feet except where, upon the review and recommendation of the City Engineer and the approval of the City Council, existing conditions justify a modification of this requirement.
2. Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth, except where otherwise required to separate residential development from through traffic or nonresidential uses.
3. Pedestrian ways or cross walks, not less than 10 feet in width, shall be provided, where deemed necessary by the City Council, to provide adequate pedestrian circulation or access to schools, shopping areas, community centers, parks, playgrounds, water access, transportation or other similar facilities.

7-6.6 Sidewalks

- A. Sidewalks shall be constructed in all subdivisions, residential and otherwise, and along the frontage of all new multifamily, mixed-use, and nonresidential development except as provided for in Subsection G below.
- B. Sidewalks shall be constructed on both sides of all thoroughfare and collector streets and on one side of all other streets. On a cul-de-sac street, the sidewalk shall extend to the turnaround bulb portion of such street.
- C. Sidewalks within commercial areas and places with high pedestrian traffic volumes shall be sized and surfaced appropriately to accommodate anticipated pedestrian traffic volumes and to meet or exceed Americans with Disabilities Act (ADA) guidelines.

- D. Sidewalks shall be constructed within the street right-of-way and installed in accordance with the City's or NCDOT specifications and standards. Sidewalks shall be located not less than one foot from the property line to prevent interference or encroachment by fences, walls, landscape plantings, and buildings.
- E. An encroachment agreement from the NCDOT shall be required for sidewalks located within NCDOT-maintained public street rights-of-way.
- F. Whenever the City Council concludes that a means of pedestrian access is necessary from a subdivision to schools, parks, open space, playgrounds, or other streets or facilities and that such access is not conveniently provided by sidewalks adjacent to the streets, the subdivider may be required to reserve an unobstructed easement of at least ten feet in width to provide such pedestrian access. Such pedestrian access shall be owned and maintained by a Property Owners' Association.
- G. The City Council may waive the requirement for sidewalks on one or both sides of the street in cases where the City Council determines that:
 - 1. the subdivision or development, due to its design, location, or use classification, is not reasonably expected to generate a significant amount of pedestrian traffic or
 - 2. topographic or natural features make construction of a sidewalk impractical.

7-6.7 Street and Utility Construction

A. Plans

Construction plans for all street facilities shall be submitted to the City following preliminary plat approval. Construction plans for all subdivision streets that are proposed for state maintenance shall be submitted to the NCDOT following preliminary approval. Construction plans for all water and sanitary sewer facilities shall be submitted to the City or appropriate private utility provider following preliminary plat approval. For each subdivision section, the street and utility construction plans shall include all improvements lying within or adjacent to that section as well as all water and sanitary sewer lines lying outside that section and being required to serve that section.

B. No Construction without Plan Approval

No street improvements shall be constructed until the street construction plans have been reviewed and approved by the City or NCDOT, if applicable. No utility improvements shall be constructed until the utility construction plans have been reviewed and approved by the appropriate utility provider.

C. Inspection

Work performed pursuant to approved street and utility construction plans shall be inspected and approved by the City, NCDOT (if applicable), and the appropriate utility provider.

D. Street Construction Requirements

All materials, equipment and methods of construction used in the work shall conform to the *City of Mebane Standard Design Details* or the North Carolina Division of Highways *Specifications for Roads and Structures*

E. Public Water Construction Requirements

Water lines and all appurtenances shall be constructed in accordance with state and city regulations, the *City of Mebane Standard Design Details*, and to the specifications of other utility providers, if applicable.

1. The developer shall install and bear all expenses incident to the water system facilities described herein.
2. The size of the water mains shall be large enough to take care of domestic and fire demands of the subdivision when it is completely built-out. The size and layout of all mains shall be approved by the City Engineer and meet current minimum State standards.
3. In the event a larger main is required for future expansion or other City uses, the City may pay the difference in costs as determined by the City Engineer. The City may also require that easements be reserved for future water line extensions. The developer is required to extend the water line to the end of their property without reimbursement of any costs.
4. The developer shall extend water service lines to property lines prior to acceptance by the City. All testing shall be performed after installation of services.
5. Any changes from the original layout shall be pre-approved by the City before installation and shall be entered on the drawings.
6. Where water circulation and the elimination of dead ends is required, the City may require the developer to extend the water line to the nearest intersection with an existing line, even though no additional houses within the proposed new development will be served by this extension.
7. Prior to final City approval, the water plans must receive State approval and NCDOT encroachment permits where applicable.
8. After completion of all construction, an accurate set of as-built plans shall be prepared and submitted to the Public Works and Utilities Director.

F. Public Sewer Construction Requirements

Sewer lines and all appurtenances shall be constructed in accordance with state and city regulations, the *City of Mebane Standard Design Details*, and to the specifications of other utility providers, if applicable.

1. The developer shall install and bear all expenses incident to the sewer system facilities described herein.
2. The size of the sewer lines shall be large enough to take care of the demand of the subdivision when it is completely built-out. In no case shall it be smaller than 8 inches inside diameter. In the event a larger sewer main is required for future expansion or other City uses, the City may pay the difference in costs as determined by the City Engineer. The City may also require that easements be reserved for future sewer system extensions.
3. All sewer laterals shall be extended to the property line when the main is laid. All laterals shall be tapped into the main line unless waived by the City Engineer.
4. Any changes from the original layout shall be entered on the drawings and submitted to the City Engineer.
5. In the event the sewer main is required for other City uses, the City may require the developer to extend the sewer line to the nearest street intersection, even though no additional houses within the proposed new development will be served by this extension. In this case, the City will reimburse the developer the cost of this extension as determined by the Office of the City Engineer. The developer is required to extend the sewer line to the end of their property without reimbursement of any costs.
6. Prior to final City approval, the sewer plans must receive State approval and NCDOT encroachment permits, where applicable.
7. After completion of all construction, an accurate set of as-built plans shall be prepared and submitted to the Public Works and Utilities Director.

G. Utility and Drainage Easements

1. Easements shall be provided for electrical, telephone, natural gas, cable television, water, and sewer utilities where necessary to serve every platted lot. Easements shall be centered along rear or side lot lines or located as required by the utility provider. Easements shall be 10 feet in width or as required by the utility provider. Any easements for subsurface sewage disposal systems shall be delineated on the final plat and described by bearings and distances.
2. The developer shall transfer to the applicable utility provider the necessary ownership or easement rights to enable the utility provider to operate and maintain the utility facilities. In

addition, the developer shall dedicate sufficient easement rights to accommodate the extension of utility service to adjacent or nearby properties whenever it can reasonably be anticipated that utility facilities constructed in one development will be extended to serve other adjacent or nearby developments.

3. Where a subdivision is traversed by a water course, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width or construction, or both, as will be adequate for the purpose of drainage. Parallel streets may be required in connection therewith.
4. Lakes, ponds, creeks, and similar areas will be accepted for maintenance only if sufficient land is dedicated as a public recreation area or park or if such area constitutes a necessary part of the drainage control system. The acceptance of such dedicated areas shall be reviewed by the Planning Board before the City Council will consider accepting it.

H. Stormwater Management

All subdivisions shall comply with the stormwater management standards delineated in Section 5-4.

I. Fire Hydrants

Every subdivision served by a public water system shall include a system of fire hydrants sufficient to provide adequate fire protection for the buildings intended to be located within such subdivision. The spacing and location of fire hydrants shall be determined by the City of Mebane. Fire hydrants shall conform to *the City of Mebane Standard Design Details*, the standards and specifications of another water service provider if applicable, or the NFPA standards, whichever is more stringent.

J. Electrical Service and Underground Wiring

Every lot within a subdivision shall have available to it a source of electric power adequate to accommodate the reasonable needs of the uses anticipated within the subdivision. All utility lines for communication services shall be installed underground within all subdivisions. Where required by the electric supplier, distribution of electric service shall also be installed underground. Such underground wiring shall be installed in accordance with the standards and specifications of the City of Mebane or the applicable electric supplier and communications company.

K. Oversized Utility Improvements

In the interest of adequately providing service to adjacent properties, the City of Mebane may require the installation of certain oversized utility improvements or the extension of utility improvements to adjacent properties. If the City requires the installation of utility improvements in excess of the standards and

specifications required in this Ordinance as well as those adopted by reference, the City shall pay the cost of differential between the required oversized improvements and the standard improvements required by this Ordinance. Such reimbursement shall be made in accordance with the City of Mebane policies regarding city participation in oversized and/or off-site utility projects as may be amended from time to time.

L. As-built Drawings

As-built drawings shall be submitted to the Public Works and Utilities Director within 30 days of the completion or installation of required utility, stormwater, street, park, and recreational improvements. Final plat approval shall be withheld until all required as-built drawings are provided to the City.

M. Wet Detention Ponds and Soil Erosion and Sedimentation Control Devices Installation

Any approved wet detention pond(s) and soil erosion and sedimentation control device(s) may be installed prior to approval of street and utility construction. Fencing may be required by the City Engineer. Where fencing is required, a six-foot fence, with self-latching gates, shall be constructed around the entire perimeter of the pond.

N. Streetscape Buffers

All subdivisions shall be required to provide streetscape buffers in accordance with the provisions of Section 6-3, D.

7-6.8 Design Standards for Small Lot Residential Subdivisions

- A.** For major residential subdivisions consisting of lots with an average minimum lot size of 10,000 square feet or less, the Planning Board may recommend and the City Council may require any or all the following:
1. Sufficient land area be designated and reserved on each individual lot to accommodate anticipated off-street parking;
 2. The recordation of deed restrictions and subdivision plat notations restricting vehicular parking on individual lots to paved surfaces and within reserved off-street parking areas;
 3. Wider minimum street pavement widths to accommodate on-street parking;
 4. The provision of off-street overflow and/or visitor parking;
 5. Sidewalks adjacent to both sides of all streets and/or pedestrian walkways to provide access to internal or adjoining recreational areas and facilities, schools, commercial areas, and other pedestrian-oriented areas;
 6. Greater building setbacks along the perimeter of the subdivision where it adjoins lower density residential areas;

7. Wider buffer areas along the perimeter of the subdivision to provide a greater separation from adjoining lower density residential areas and/or increased planting standards to provide a more opaque screen;
 8. Multiple entrances to the subdivision from major streets of access;
 9. A higher level of vehicular connectivity with adjoining tracts;
 10. Shorter cul-de-sac street lengths; and
 11. Alternative means of vehicular access to individual lots fronting on major thoroughfares.
- B.** For purposes of this Section, the average lot size of all residential building lots proposed in the subdivision shall be calculated to define 'small lot subdivision'.
- C.** The City Council, in determining the minimum design standards applicable to small lot subdivisions, shall take into consideration the following factors:
1. The overall density of the proposed subdivision relative to other developments in the vicinity of the small lot subdivision;
 2. The total number of lots proposed;
 3. The zoning patterns, projected future land use, and development potential of the surrounding area for similar small lot subdivision development;
 4. The anticipated vehicular traffic generation and parking needs of the intended occupants or targeted market of the proposed development;
 5. The existing and proposed street system and traffic flows and patterns; and
 6. The mitigating impact of the voluntary provision of recreational and open space in an amount which exceeds the minimum amount required in Section 6-7.
- D.** After determining the need for the imposition of the design standards delineated in subsection A above, the City Council shall utilize the following guidelines to implement the additional requirements for small lot subdivisions:
1. Sufficient land area designated and reserved on each individual lot to accommodate anticipated off-street parking shall be calculated at approximately 200 square feet per required parking space. All parking shall be located completely on an improved driveway or improved parking pad. No more than 30 percent of the front yard or a side yard abutting a street on a

corner lot may be improved for off-street parking and drives.

2. Minimum street pavement widths should be increased by approximately 9 feet to accommodate on-street parking. The Planning Board and City Council shall request the recommendation of the City Engineer and the NCDOT, if applicable, for specific pavement widths necessary to provide adequate on-street parking on public streets.
3. Off-street overflow and/or visitor parking shall generally be provided at the standard of one parking space per three lots unless the City Council determines that the subdivision layout and density warrant a higher standard. Overflow/visitor parking shall be grouped and spaced throughout the subdivision so as to be readily accessible to lot owners. Overflow/visitor parking shall be owned and maintained by a property owners' association.
4. Sidewalks shall be provided adjacent to both sides of all streets. Sidewalks and/or pedestrian walkways shall also be installed to provide access to internal or adjoining recreational areas and facilities, community buildings, schools, commercial areas, and other pedestrian-oriented areas;
5. Building setbacks along the perimeter of the subdivision where it adjoins lower density residential areas shall be the same or exceed the building setback standard applicable to the adjoining lower density residential zoning district.
6. To provide a greater separation from adjoining lower density residential areas, a 25-foot wide Type B landscaped buffer shall be installed along the external boundary line of the small lot development that adjoins a lower density residentially-used or zoned property. The buffer shall comply with the planting requirements of Section 6-3.
7. Developments of 50 or more residential units or additions to existing developments that increase the total number of residential units to 50 or more shall be required to provide vehicular access to at least two public streets unless the City Engineer determines that topography, natural features, or the pattern of existing adjacent development makes such provision impracticable.
8. Vehicular connectivity with adjoining tracts shall be determined in accordance with the provisions of Section 7-6.5, C.
9. Cul-de-sac street lengths generally should not exceed 400 feet or be designed to provide access to no more than 20 dwellings or a maximum projected average daily traffic (ADT) of 200, whichever is greater.
10. No individual lot fronting on a major or minor thoroughfare or a collector street shall have direct vehicular access to such roadway. Vehicular access to all lots shall be limited to

internal, local residential streets.

- E. The establishment of a property owners' association is mandatory. Recordation of private deed restrictions which address particular land use and development issues or which exceed City of Mebane requirements is encouraged.

7-6.9 Recreation and Open Space

Residential subdivisions of six or more lots shall provide recreational and open space in accordance with the provisions of Section 6-7.

7-6.10 Traffic Impact Analysis

A. Applicability

A traffic impact study shall be required for applications for preliminary plat or rezoning requests that are anticipated to generate 100 or more undisturbed peak hour vehicle trips or 1,000 or more undisturbed average daily trips (ADT), based on trip generation rates from the latest edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual. A traffic impact study may be required for applications for preliminary plat, rezoning requests, or special use requests that rely upon roads experiencing congestion or safety concerns, as determined by the Technical Review Committee. The Technical Review Committee may use its discretion to waive the requirement to conduct a traffic impact study.

B. Study scope

When a traffic study is required, the City shall determine the type and scope of the study jointly during a meeting with the applicant. The Planning Director may also involve representatives of, or request assessments from, other agencies or departments. The elements to be determined during the scoping session shall include:

1. **Definition of impact area**
The points of access and key streets and intersections that may be affected by development of the subject tract constitute the impact area. Traffic recorder and turning movement assessment locations shall also be determined.
2. **Period of analysis**
The period of analysis shall be for both the morning and afternoon peak hour and other times that may be relevant due to a use, as determined by the Technical Review Committee.
3. **Analysis scenarios**
Scenarios for analysis shall include existing conditions, and opening year with ("Build") and without ("No Build") development.
4. **Assumptions**
Trip generation and distribution assumptions including trip generation categories, diversion assumptions and distribution assumptions. Assumed rate of growth in background traffic, and

developments in the area that have been approved or are under review shall also be included.

C. Traffic study elements

Where required during the scoping meeting, the following details shall be required:

1. Existing condition survey
 - (a) Street system description
The street system shall be described, including geometric features, lane usage, traffic control, signage, sight distances, and adjacent uses and curb cuts.
 - (b) Traffic volumes
Existing traffic volumes shall be provided for the impact area, including both average annual daily traffic (AADT) and peak hour volumes. AADT may be derived from current counts of the NCDOT, where available, and peak hour volumes shall be provided from field counts. Data shall be adjusted for daily and seasonal variations. Turning movement counts for peak hour shall be provided for critical intersections.
 - (c) Capacity analysis
Existing capacity of signalized and unsignalized intersections.
 - (d) Other details
Other details may be required at the discretion of the City depending upon the type and scale of the project. These may include, but are not limited to, queue length analysis, pedestrian counts, accident data or crash rates, bicycle and pedestrian access, traffic speeds (both 50th and 85th percentile), and stopping distances.
2. Future without development
Capacity analysis shall be based on the Highway Capacity Manual or other methodology approved in advance by the City.
3. Future with development
 - (a) Projections of peak hour traffic generation shall be made using the latest edition of the ITE Trip Generation Manual, unless the City determines that locally-derived data will provide more accurate forecasts. Data from similar facilities may be used where the information is not available from ITE.
 - (b) Special analysis may be required to determine the need for signalization, minimum safe sight distances, gap analysis, turning radius requirements, queue length analysis, turning lane length analysis, curb cut locations or similar requirements.

D. Mitigation plan

Where the analysis indicates that the project will create deficiencies in the impact area, improvements shall be recommended, along with

projected cost estimates. The design of improvements shall be in accordance with the City of Mebane or the NCDOT, as appropriate. Where a mitigation plan is not adequate to address the traffic impacts of the project, it may serve as a basis for denial of the rezoning, preliminary plat, site plan or Planned Development request.

E. Consultants

The City may require that an independent consultant be hired by the City to perform the required studies, or to review all or part of a study prepared by the applicant's consultant. The City is authorized to administer the contract for any such consultant.

1. The City shall determine the scope of services to be performed by the independent consultant and receive a cost estimate of such services.
2. The applicant shall provide an amount equal to the estimate to the City, who shall deposit the amount in an escrow or other special account set up for this purpose. Any funds not used shall be returned to the applicant in a timely manner, without interest.
3. The City may require additional funds for independent review where a decision-making body expands the scope of the required review; the applicant substantially amends the application; additional meetings involving the consultant are requested by the applicant; or the consultant's appearance is requested at public or affected agency meetings beyond those anticipated in the original scope of services.

7-7 OWNERS' ASSOCIATIONS

7-7.1 Establishment of Owners' Association

A. Creation

An Owners' Association shall be established to fulfill the requirement of the North Carolina Condominium Act or to accept conveyance and maintenance of all common areas and facilities within a development containing common areas.

B. Conveyance

Where developments have common areas for facilities serving more than one dwelling unit, these areas shall be conveyed to the Owners' Association in which all owners of lots in the development shall be members. All areas other than public street rights-of-way, other areas dedicated to the City, and lots shall be shown and designated as common areas. The fee-simple title of the common area shall be conveyed by the subdivider or developer to the Owners' Association.

C. Subdivision or Conveyance of Common Area

Common areas shall not be subsequently subdivided or conveyed by the Owners' Association unless a revised preliminary plat and a revised final plat showing such subdivision or conveyance have been submitted and approved.

D. Owners' Association Not Required

Developments involving only two units attached by a party wall shall not be required to have common areas or an Owners' Association. Developments with only two units attached and not having an Owners' Association shall have an agreement between owners concerning maintenance of party walls.

7-7.2 Submission of Owner's Association Declaration

Prior to or concurrently with the submission of the final plat for review and approval, the applicant shall submit a copy of the proposed Bylaws of the Owners' Association containing covenants and restraints governing the Association, plats, and common areas. The submitted documents shall be reviewed by the City Attorney and a recommendation made to the City Council as to their sufficiency. The restrictions shall include provisions for the following:

A. Existence before Any Conveyance

The Owners' Association declaration shall be organized and in legal existence prior to the conveyance, lease-option, or other long-term transfer of control of any unit or lot in the development.

B. Membership

Membership in the Owners' Association shall be mandatory for each original purchaser and each successive purchaser of a lot or unit. Provisions shall be made for the assimilation of owners in subsequent sections of the development.

C. Owners' Association Declaration

1. Responsibilities of Owners' Association. The Owners' Association declaration shall state that the association is responsible for:
 - (a) The payment of premiums for liability insurance and local taxes;
 - (b) Maintenance of recreational and/or other facilities located on the common areas; and
 - (c) Payment of assessments for public and private improvements made to or for the benefit of the common areas.
2. Default of Owners' Association. Upon default by the Owners' Association in the payment to the City of any assessments for public improvements or ad valorem taxes levied against the common areas, which default shall continue for a period of six months, each owner of a lot in the development shall become personally obligated to pay to the City a portion of the taxes or assessments in an amount determined by dividing the total taxes and/or assessments due to the City by the total number of lots in the development. If the sum is not paid by the

owner within thirty days following receipt of notice of the amount due, the sum shall become a continuing lien on the property of the owner, his heirs, devisees, personal representatives and assigns. The City may either bring an action at law against the owner personally obligated to pay the same, or may elect to foreclose the lien against the property of the owner.

3. Powers of the Association. The Owners' Association is empowered to levy assessments against the owners of lots or units within the development. Such assessments shall be for the payment of expenditures made by the Owners' Association for the items set forth in this Section, and any assessments not paid by the owner against whom such assessments are made shall constitute a lien on the lot of the owner.
4. Easements. Easements over the common areas for access, ingress, and egress from and to public streets and walkways and easements for enjoyment of the common areas, and for parking, shall be granted to each lot owner.
5. Maintenance and Restoration. Provisions for common area maintenance of and restoration in the event of destruction or damage shall be established.

D. Nonresidential Condominiums

If the condominium is a nonresidential condominium, the declaration shall contain the following provision:

1. Parking spaces shall be allocated among the individual lots or units in such a manner that each unit is entitled to a sufficient number of parking spaces to comply with this Ordinance for the use intended to be located therein.
2. The Owners' Association shall maintain a register listing the total number of parking spaces in the development and the number of parking spaces allocated to each lot or unit. A copy of this register shall be available to the City at the request of the Zoning Administrator.
3. The Owners' Association shall not reduce the number of parking spaces allocated to an individual lot or unit without the express written consent of the owner thereof, and in no case shall the number of parking spaces allocated to an individual unit be reduced to a number below that required by this Ordinance.

7-8 SURETIES OR IMPROVEMENT GUARANTEES

7-8.1 Agreement and Security

A. Financial Guarantee in Lieu of Immediate Installation for Approval

In lieu of requiring the completion, installation, and dedication of all improvements prior to final plat approval, the City may enter into an agreement with the developer whereby the developer shall complete all required improvements. Once said agreement is signed by the developer and the security required herein is provided, the final plat may be approved if all other requirements of this Ordinance are met. To secure this agreement, the developer shall provide any or a combination of the following guarantees to cover the costs of the uncompleted improvements:

1. Surety Performance Bond(s)
 - (a) The developer shall obtain a surety bond from a surety bonding company authorized to issue said bonds in North Carolina.
 - (b) The bond shall be payable to the City of Mebane and shall be in an amount equal to 150 percent of the entire estimated cost, as approved by the City, of installing all uncompleted improvements. Developers must submit a request for bonding including a detailed construction cost estimate upon submission of the final plat.
 - (c) The bond amount and term shall be as approved by the City Engineer.
 - (d) The City Attorney shall review the submitted bond and make a recommendation regarding its sufficiency to the City Engineer.
 - (e) The minimum improvements to be completed prior to securing a surety bond shall include street grading, curb and gutter, storm drainage, stormwater management facilities, water lines, sewer lines, stone base, and first layer of pavement unless specifically waived by the City Council.
2. Cash or Equivalent Security
 - (a) The developer shall deposit cash, an irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the City or in escrow with a financial institution. The amount of deposit shall be equal to 150 percent of the entire estimated cost, as approved by the City, of installing all uncompleted improvements.
 - (b) If cash or other instrument is deposited in escrow with a financial institution as provided above, then the developer shall file with the City an agreement between

the financial institution and himself guaranteeing the following:

- (i) That said escrow account shall be held in trust until released by the City and may not be used or pledged by the developer in any other matter during the term of the escrow; and
 - (ii) That in case of a failure on the part of the developer to complete said improvements, the financial institution shall, upon notification by the City, immediately pay the funds deemed necessary by the City to complete the improvements, up to the full balance of the escrow amount, or deliver to the City any other instruments fully endorsed or otherwise made payable in full to the City.
- (c) All instruments shall be reviewed by the City Attorney and a recommendation regarding their sufficiency made to the City Engineer.

B. Duration of Financial Guarantees

1. The minimum duration of a financial guarantee shall be one year.
2. All developments whose improvements are not completed and accepted fourteen days prior to the expiration of the financial guarantee shall be considered to be in default. Said guarantee may be extended with the consent of the City Attorney, if such extension takes place prior to default.

C. Default

1. Upon default, the surety bonding company or the financial institution holding the escrow account shall, if requested by the City, pay all or any portion of the bond or escrow fund to the City up to the amount deemed necessary by the City to complete the improvements. Upon payment, the City shall expend such funds or portion thereof to complete all or any portion of the required improvements. The City shall return any funds not spent in completing the improvements. Default on a project does not release the developer from liability and responsibility for completion of the improvements.
2. Release of Guarantee Security. The City may release a portion or all of any security posted as the improvements are completed and approved by the City.

7-9 WAIVERS

Where topography or other existing physical conditions are such that compliance with all of the subdivision requirements of this Article would cause an unusual and unnecessary hardship on the subdivider, the City Council may modify or waive the minimum requirements set forth herein, provided that

such waiver will not have the effect of nullifying the interest and purpose of the regulations. Developers are particularly encouraged to apply for a waiver to preserve areas of specific aesthetic or environmental value or to allow land development techniques or infrastructure that would result in a performance that is superior to that afforded by the general standards and specifications of this Article. Where a waiver is accepted, the reasons for such shall be noted in the minutes of the City Council.

A. Approval Authority

The Technical Review Committee and/or City Engineer may recommend waivers to standards in this Article for consideration by the City Council. Approval of waivers shall be based upon written justification and shall conform to the requirements outlined in subsection B below.

B. Grounds for Waivers

Standards delineated in Section 7-6 may be waived under one of the following circumstances:

1. Physical Hardship

Where because of the size of the tract to be subdivided, its topography, the condition or nature of adjoining areas, or the existence of other unusual physical conditions, strict compliance with the provisions of this Ordinance would cause unusual and unnecessary hardship on the subdivider.

2. Equal or Better Performance

Where, in the opinion of the Technical Review Committee, a waiver will result in equal or better performance in furtherance of the purposes of this Ordinance.

3. Unintentional Error

Where through an unintentional error by the applicant, his agent, or the reviewing City staff or Technical Review Committee, there is a minor violation of a design standard delineated in Section 7- 6, where such violation is not prejudicial to the value or development potential of the subdivision or adjoining properties.

C. Conditions

In granting waivers, the Technical Review Committee and/or City Engineer may recommend and City Council may require such conditions as will secure, insofar as practicable, the purposes of the standards or requirements waived.

D. Waivers Affecting Subdivisions in Watershed Protection Overlay Districts

Any waiver which would have the effect of waiving or relaxing any of the watershed protection management requirements delineated in Section 5-2, Watershed Overlay District Regulations shall follow the procedural requirements of Section 8-2, Variances from Watershed Overlay District Requirements.

E. Process for Review and Approval of Waivers

1. Submittal of a Written Request

The subdivider shall submit a written request to the Planning Director identifying the specific standard(s) that are proposed to be waived. The request shall include a reference to the specific standard of Section 7-6 that is proposed to be waived and shall provide documentation justifying the need for a waiver.

2. Waiver Request Review by TRC and City Engineer

The subdivider's request shall be forwarded to the TRC and City Engineer for review and recommendation to the City Council.

3. City Council Action on Waiver Request

- a. The City Council shall review the requested waiver; the recommendation, if any, of the TRC and City Engineer; and the grounds for waivers as delineated in subsection B above.
- b. The City Council may require such conditions as will, in its judgment, preserve the spirit and intent of these regulations. These conditions may include, but shall not be limited to: surety, performance, or maintenance bonds, or affidavits, covenants, or other legal instruments as will assure conformity to and achievement of the purpose and intent of the regulations of this Article.
- c. If the waiver request is approved, the City Council shall provide the subdivider with written approval which specifies the justification for the waiver and delineates any conditions placed on the approval.
- d. If the waiver request is not approved, the Planning Director shall provide the subdivider with written notification stating that the request has been disapproved and specifying the reasons for denying the request.