

ARTICLE XV

SUBDIVISIONS: PROCEDURES AND STANDARDS

15-1 REGULATION OF SUBDIVISIONS IN GENERAL

15-1.1 Exclusion Determination

If a proposed division of land meets one or more of the exclusions under the definition of 'Subdivision' in Article II (Definitions), the owner may submit to the Community Development Department maps, deeds, or other materials in sufficient detail to permit a conclusive determination by the Community Development Director. An owner of land who wishes to record a plat of such a division of land shall obtain a Certificate of Exception (see Appendix D) from the Community Development Director.

15-1.2 Approval Required

(A) 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 Shelby 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.

(B) No Subdivision Without Approval

No real property, including property declared under the N.C. Condominium Act NCGS § 47C-1 et.seq., lying within the Shelby 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 be a misdemeanor.

15-1.3 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.

15-1.4 Sketch Plans and Preliminary Plats Approved Prior to the Effective Date of this Ordinance

Sketch design plans and preliminary plats approved by the City of Shelby prior to the effective date of this Ordinance shall be valid for 12 months from the date of approval of the plan or plat unless a longer time period has been authorized through vested rights provisions.

15-2 MINOR SUBDIVISION PROCEDURES

15-2.1 Applicability

- (A) The Community Development Director or his designee shall approve or disapprove minor subdivision plats in accordance with the provisions of this Section. A minor subdivision, as defined in Article II, is a subdivision involving 5 or less lots fronting on an existing approved public street(s), not requiring any new public or private street(s) nor easements for access to interior property, not requiring extension of a public sewer or water line, and not requiring a waiver or variance from any requirement of this Ordinance.
- (B) No more than 5 lots may be created out of one tract using the minor subdivision plat approval process during a two-year period.

15-2.2 Minor Subdivision Review and Approval Procedures

- (A) A sketch plan is recommended for all proposed minor subdivisions. If a sketch plan is prepared, two prints of the sketch plan shall be submitted to the Community Development Director. The Community Development Director shall discuss with the subdivider any problems found during the review of the sketch plan that need to be addressed prior to submittal of a minor subdivision plat. The Community Development Director shall determine whether the proposed subdivision may be reviewed as a minor subdivision. No fees are required with submittal of a sketch plan. The sketch plan shall contain the following information:
 - (1) The boundaries of the tract to be subdivided. The Community Development Director may require the submittal of a tax map or other evidence as proof that the subdivision includes all contiguous land owned by the subdivider.
 - (2) The proposed street and lot layout.
 - (3) The name, address, and telephone number of the subdivider.
 - (4) The location of existing public water and sewer utilities to serve the subdivision.
- (B) The applicant for minor subdivision plat approval shall submit to the Community Development Director a plat drawn in waterproof ink on a sheet made of material and of a size that will be acceptable to the Cleveland 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 not more than one hundred feet. The applicant shall also submit 4 prints of the plat as well as any required application form and required fee.
- (C) The 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 Cleveland 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;
 - (7) All of the applicable certificates required in Appendix D; and
 - (8) Total acreage including gross and net usable acreage.
- (D) The Community Development Director shall take expeditious action on an application for minor subdivision plat approval. A decision shall be rendered by the Community Development Director within fourteen days after receipt of the proposed minor subdivision plat. If no decision is rendered by the Community Development Director within the required 14-day period, the applicant may appeal to the City Council for review of the application under the major subdivision approval process (Section 15-3.3). Either the Community Development Director or the applicant may at any time refer the application to the major subdivision approval process.
- (E) Subject to subsection (D), the Community Development Director shall approve the proposed subdivision unless the subdivision is not a minor subdivision as defined in Article II or the application or the proposed subdivision fails to comply with any other applicable requirement of this Ordinance.
- (F) If the subdivision is disapproved, the Community Development Director shall promptly furnish the applicant with a written statement of the reasons for disapproval. If a minor subdivision plat is disapproved by the Community Development Director, the applicant may appeal the decision by requesting that the plat be scheduled for review by the City Council according to the same review and approval procedures set forth in Section 15-3.3 for major subdivision preliminary plats. Appeals shall be filed within 30 days of the date of the decision that the Community Development Director disapproves the plat.
- (G) Approval of any plat is contingent upon the plat being recorded within thirty days after the date the Certificate of Approval is signed by the Community Development Director or his designee. Failure to record the approved plat within the specified 30-day period shall render the plat null and void.

15-3 MAJOR SUBDIVISION PROCEDURES

15-3.1 Applicability

- (A) A major subdivision, as defined in Article II, is a subdivision involving more than 5 lots or requiring an access easement(s), or requiring a new public or private street(s) for access to interior property, or requiring extension of a public sewer or water line, or requiring a waiver or variance from any requirement of this Ordinance. When a 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 generally involve (i) sketch design plan review approval by the Community Development Director, (ii) a preliminary review and approval by the Community Development Director and the Planning and Zoning Board, and (iii) a final plat review and approval by the Community Development Director.

15-3.2 Submission of the Sketch Plan for a Major Subdivision to the Community Development Director

(A) Submission Requirements

Prior to preliminary plat application, the subdivider may submit to the Community Development Director four prints of a sketch plan of the proposed subdivision. Included with the sketch plan shall be a sketch vicinity map that shows the subdivision in relation to the surrounding area. The subdivider shall, at this time, discuss the proposed development with the Community Development Director and become familiar with the regulations affecting the land to be subdivided. This procedure does not require a formal application or fee.

(B) Sketch Plan Contents

The proposed sketch plan shall depict the following information:

- (1) The name and location of the proposed subdivision;
- (2) The date that the sketch plan was prepared or revised;
- (3) North arrow;
- (4) Vicinity map;
- (5) Minimum scale of 1"=200';
- (6) Total number of lots;
- (7) Corporate limits, county lines, ETJ boundaries, etc.;
- (8) Existing structures;

- (9) Zoning information, including setbacks;
- (10) Total acreage to be subdivided and acreage left in open spaces or for other uses;
- (11) Property boundaries and proposed lot lines;
- (12) Proposed street layout and proposed street construction standards;
- (13) Proposed street names;
- (14) Existing railroads and bridges;
- (15) Utility and drainage easements;
- (16) Floodplains and public water supply watershed designation; and
- (17) Watercourses, ponds, streams, etc.

15-3.3 Preliminary Plat Review and Approval Procedures

(A) Conformance with Sketch Plan

The preliminary plat shall conform substantially to the approved sketch plan.

(B) Submission Requirements

The applicant for preliminary subdivision plat approval shall submit 6 prints of the proposed subdivision plat to the Community Development Director. 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 not more than one hundred feet. The applicant shall also submit any required application forms and any required fee.

The applicant for preliminary subdivision plat approval shall also submit the following documentation:

- (1) A letter of approval for proposed sanitary sewer and water distribution shall accompany the preliminary plat indicating that 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.
- (2) Where public water or public sewer is not available, a 'letter of approval' from the 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.

- (3) A Sedimentation Control Plan approved by the North Carolina Land Quality Section shall be submitted with the preliminary plat when there are plans for a land disturbing activity of one acre or more.
- (4) Street 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.

(C) Preliminary 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 Cleveland 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.

(D) Community Development Director Review

Upon receipt of the requisite copies of the proposed preliminary plat, the Community Development Director shall review the preliminary plat and any other reports or recommendations pertaining to the plat. If extensive grading results or will result in a drastic change in drainage as determined by the Community Development Director, both topographic characteristics and the storm drainage system must be shown on the plat in accordance with the *City of Shelby Standard Details* prepared by the Office of the Community Development Director.

The Community Development Director shall review the plat for compliance with this Ordinance and other ordinances and regulations of the City. The Community Development Director shall meet with an informal technical review committee composed of city staff members as well as with any agency or officials deemed necessary to adequately review the plat and shall complete such review within 14 days after submittal. If all applicable provisions of this and other City ordinances and regulations are met, the Community Development Director shall approve the plat and submit it to the Planning and Zoning Board. If all applicable provisions are not met, the plat shall be returned to the applicant with deficiencies noted.

(E) Planning and Zoning Board Review and Action

- (1) Following the review of the preliminary plat by the Community Development Director, the Community Development Director shall forward the preliminary plat to the Planning and Zoning Board. 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, County Health Department, and the Superintendent of Schools. 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.
- (2) Should the Planning Board and Zoning Board fail to act on the proposed subdivision within 45 days after submission of the preliminary plat, the developer may seek preliminary plat approval at the next regularly scheduled meeting of the City Council.
- (3) If the Planning Board and Zoning Board 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. Also, if the plat is denied the developer may appeal the Planning and Zoning Board's ruling to the City Council for their decision. Appeals shall be filed within 30 days of the date of the decision that the Planning and Zoning Board disapproves the plat.
- (4) Approval of the preliminary plat shall be valid for 1 year unless an extension is granted by the Planning and Zoning Board on or before the 1-year anniversary of said approval. If the final plat is not submitted for approval within the said 1-year period or any period of extension, the said approval of the preliminary plat shall be void.

15-3.4 Final Plat Review and Approval Procedures

No street shall be accepted and maintained by the City, nor shall any electricity, gas, 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 Community Development Director shall schedule the final plat to be reviewed and approved by the Planning and Zoning Board. If the applicant requests a waiver from any of the standards of this Ordinance, the Community

Development Director shall schedule the waiver request to be reviewed in accordance with the provisions of Section 15-8.

(B) Submission Requirements

The applicant for final plat approval shall submit to the Community Development Director a final plat made of material and of a size that will be acceptable to the Cleveland 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 Cleveland 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 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;
- (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 D.

(D) Community Development Director Approval

The Community Development Director shall review the final plat for compliance with this Ordinance and other ordinances and regulations of the City. The Community Development Director shall meet with an informal technical review committee composed of city staff members as well as with any agency or officials deemed necessary to adequately review the plat and shall complete such review within 14 days after submittal.

The Community Development Director shall approve the final plat unless the Community Development Director finds that the plat fails to comply with one or more of the requirements of this Ordinance or that the final plat differs substantially from the plans and specifications approved for the preliminary plat. If the final plat is disapproved by the Community Development Director, the

applicant shall be furnished with a written statement of the reasons for the disapproval and reference shall be made to the specific section(s) of this Ordinance with which the plat does not comply.

When the final plat is approved by the Community Development Director, a signed, written certification to this effect shall be entered on the face of the plat in accordance with the requirements of Appendix D.

If all applicable requirements are not met, the Community Development Director shall disapprove the plat and return it to the applicant with deficiencies noted. Also, if the plat is denied the developer may appeal the Community Development Director's ruling to the City Council for their decision. Appeals shall be filed within 30 days of the date of the decision that the Community Development Director disapproves the plat. The Community Development Director may at any time, however, refer an application for final plat approval to the City Council.

(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 15-7.

15-4 RECORDATION OF FINAL PLATS

15-4.1 Plat Approval Contingent Upon Recordation

Approval of a final plat is contingent upon the plat being recorded in the Office of the Register of Deeds within 30 days after the approval date of the final plat. Failure to record the approved plat within the specified 30-day period shall render the plat null and void.

15-4.2 Dedication and Acceptance

(A) 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 Shelby 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 for maintenance by the City, the North Carolina Department of Transportation or by the private utility provider upon compliance with applicable City, NCDOT and private utility provider guidelines and standards.

(B) 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 Shelby. The offer may be accepted by the City through:

- (1) Express action by the City Council;
- (2) Express action by an administrative officer designated by the City Council;
or
- (3) 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.

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

15-4.3 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.

15-5 OWNERS' ASSOCIATIONS

15-5.1 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.

15-5.2 Submission of Owners' 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:

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. 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 Zoning Administrator at his request. 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.

15-6 SURETIES OR IMPROVEMENT GUARANTEES

15-6.1 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 Shelby and shall be in an amount equal to 125 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.
- (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 125 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 duration of a financial guarantee shall be of a reasonable period (as determined by the Community Development Director) to allow for

completion and acceptance of improvements. In no case shall the duration of the financial guarantee for improvements exceed 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 Community Development Director, 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.

15-7 SUBDIVISION STANDARDS

15-7.1 General

(A) Design

All proposed subdivisions, including group developments where the transfer of building sites to separate owners is proposed, shall comply with this Article, 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 Shelby Planning and Zoning Jurisdiction or in Cleveland County 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.

15-7.2 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 zoning dimensional requirements of this Ordinance.

(B) Minimum Building 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 15-7.4 (H).

(E) Lots on Streets with Capacity Deficiencies

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.

Whenever a proposed subdivision abuts any major or minor thoroughfare or a major collector (as delineated on the latest adopted Thoroughfare Plan), the Planning and Zoning Board, based upon the recommendation of the City Engineer, 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.

(F) Access Requirements

All lots must have public street access and frontage meeting the requirements set forth in Article IX (Zoning Districts and Zoning Provisions). 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 15-7.3(G).
- (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; and
 - (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.

(G) Water and Sewage Disposal

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 county health department

regulations. Water and sewer systems shall be designed in accordance with all state requirements, the *City of Shelby Standard Details* prepared by the Office of the City Engineer, and the requirements of this Ordinance.

(H) Restriction of Access

When a subdivision fronts on an arterial street or highway, the Planning and Zoning Board, upon consultation with the City Engineer, may require a marginal access street to provide access to lots fronting on the arterial street or highway.

Access to lots in proposed subdivisions located within Corridor Protection Districts (CPD) shall comply with the requirements of Section 10-8.1.

15-7.3 Streets

(A) Conformance with Thoroughfare Plans

The location and design of streets shall be in conformance with any applicable, adopted Thoroughfare Plan. Where conditions warrant, right-of-way widths and pavement widths in excess of the minimum street standards may be required.

(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) Access to Adjoining Property

Where, upon the recommendation of the Community Development Director and the approval of the Planning and Zoning Board, it is desirable to provide for street access to adjoining property, proposed 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.

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

(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 Community Development Director.

(F) Public Street Design Criteria

- (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:

<u>Street Type</u>	<u>ROW Width</u>
Major Thoroughfare	As determined by the City Engineer and/or NCDOT
Minor Thoroughfare	80'
Collector	60'
Subcollector	60'
Local Residential	50'
Cul-de-sac	50'
Marginal Access	50'
Very Low Volume Local Road	50'

- (2) Minimum Pavement Widths. The minimum pavement widths, measured from edge to edge of asphalt surface, shall not be less than the following:

<u>Street Type</u>	<u>Pavement Width</u>
Major Thoroughfare	As determined by the City Engineer and/or NCDOT
Minor Thoroughfare	60'
Collector	32'
Subcollector	24'
Local Residential	22'
Cul-de-sac	22'
Marginal Access	24'
Very Low Volume Local Road	18'

- (3) Grades. Street grades shall be not more than 8 percent nor less than 0.5 percent. The slopes in cuts shall have an incline of not more than 1 vertical to 1 horizontal, and the fills shall have an incline of not more than 1 vertical to 1.5 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 sheepfoot roller, or other means approved by the City Engineer, before the succeeding layer is placed. Rolling is to continue until compaction is approved by the City Engineer.

- (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:

(a) Major and Minor Thoroughfares	500'
(b) Collector Streets	300'
(c) Local or Minor Streets	150'
- (5) Vertical Curves. All vertical curves shall have such length as necessary to provide safe sight distance.
- (6) Tangents. A tangent of not less than 100 feet in length shall be provided between curves.
- (7) Intersections. Intersections with an arterial street shall be at least 800 feet apart measured from centerline to centerline. 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.

Public streets proposed to be dedicated to the City shall be designed in accordance with the *City of Shelby Standard Details* prepared by the Office of the City Engineer. 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 Shelby Standard Details*, whichever is greater.

(G) Private Street Design Criteria

- (1) Where Permitted. Private streets shall be permitted in developments with Owners' Associations and in group developments.
- (2) Minimum Design and Construction. The minimum design standards for all private streets shall be the same as the minimum standards delineated for public streets in Section 15-7.3(F) and the *City of Shelby Standard Details*.
- (3) Owners' Associations Required. An Owners' Association is required to own and maintain all private streets allowed under this Ordinance. All private streets will be indicated as such on the plat.
- (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, the minimum width shall be 4 feet and shall consist of a minimum thickness of 4 inches of concrete and 6 inches of concrete at driveway crossings.
- (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 D.
- (8) Utility and Service Access Easements. When required by the City of Shelby, 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.

(H) Intersecting Street Angle

- (1) 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.
- (2) All streets crossing natural areas, wetlands, or stream buffers must cross at or as near to 90 degrees as possible within topographic limits.

(I) Cul-de-sac Streets

Cul-de-sac streets shall not exceed 1,500 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. Cul-de-sac streets shall provide a turnaround with a minimum pavement radius of 40 feet and a minimum right-of-way radius of 50 feet. Adequate water and sewer easements shall be reserved as required by the City Engineer.

(J) Minimum Street Offset

Where streets are offset, the centerlines shall be offset no less than 150 feet.

(K) Curb and Gutter

Curb and gutter shall be required along streets in all residential subdivisions within the subdivision jurisdiction of the City of Shelby. In nonresidential subdivisions, the City Engineer shall determine 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.

Standard 24- 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 profile and cross-section approved by the City Engineer.

Standard curb and gutter shall make provision for at least one standard driveway approach of not less than 12 feet wide, measured back to back of curb at the narrow point. Curb radius at driveway approaches shall be not less than 24 inches. Standard curbs shall be at least 6 inches thick and 6 inches high, measured from the surface of the gutter to the top of the curb, and shall be rounded off on the street side. Alternate type curbing may be permitted provided it is approved by the City Engineer. Gutters shall be at least 7 inches thick and 18 inches wide, measured from the street side of the curb to the face of the gutter. Curb is to be at least 12 inches high overall at the back.

Concrete for standard curb and gutter or other City approved types shall be of such proportions as to provide for a strength of not less 3,500 pounds per square inch in compressions when tested at 28 days.

Curb and gutter or approved curb only shall be formed in one pour, using standard steel forms for the purpose, with skeleton divider plates spaced not over 10 feet on centers, and asphaltic expansion joints spaced not over 50 feet on centers.

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.

All curb and/or gutter work shall be subject to the inspection and approval of the City Engineer and no work shall be covered up without first obtaining the approval of same by the City Engineer. Curbs and gutters shall be designed and constructed in accordance with the *City of Shelby Standard Details*.

(L) Temporary Turnarounds

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.

(M) Grades at Intersections

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.

(N) 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.

(O) 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 Shelby Planning and Zoning Jurisdiction or within Cleveland County. Street suffixes and addresses shall conform to the standards established by City of Shelby.

(P) Street Name and Traffic Control Signs

Street name and traffic control signs which meet the City of Shelby 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.

(Q) Streetlights

Streetlights shall be provided in accordance with the City's policies, standards, and specifications for street lighting.

(R) 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.

(S) Sidewalks

- (1) General. The City Engineer may require the construction of sidewalks adjacent to one side of new streets in subdivisions in which pedestrian traffic is projected to be heavy due to the proximity of schools, parks, open space, playgrounds, or other community or private facilities that generate substantial amounts of pedestrian traffic. Within any subdivision located adjacent to a major thoroughfare, minor thoroughfare, or collector street, the City Engineer may require the construction of sidewalks adjacent to both sides of the street. Sidewalks and their associated driveways shall be constructed within the street right-of-way and installed in accordance with the specifications and standards delineated below and in the *City of Shelby Standard Details*.
- (2) Description. Construction shall consist of one-course Portland cement sidewalks and/or driveways of the width, thickness, length and at locations shown on the plans or as directed by the City Engineer. It shall also consist of fine grading and compaction of the subgrade, and all backfilling necessary to complete the work, including disposal of surplus material and cleaning up

of the work. Backfilling shall include shaping the utility strip lying between the sidewalk and curb line, said area to be left reasonably uniform, free of clods, rocks, broken concrete, etc., in order that grass seed may be sowed.

- (3) **Materials and Methods.** The materials necessary for the construction of sidewalks shall conform to the requirement as set out in these specifications, and/or as called for on the plans. Concrete shall be Class I. Expansion joint material shall be of the pre-molded type and shall conform with the requirements of A.A.S.H.O., Specification M33, or approved equal.

The procedure for construction of sidewalks shall , insofar as applicable, be those as set out in the North Carolina Division of Highways Standard Specifications, Section 160, concerning the construction of Portland cement concrete pavement, except that machine finishing of the surface will not be required.

- (4) **Subgrade.** The subgrade for sidewalks shall be formed by excavating or filling to the required elevation, and shaped to the section shown on the plans and shall be thoroughly compacted before placing any mixed concrete.
- (5) **Forms.** Forms for the construction of sidewalks shall be of wood or metal, of the depth of the concrete, straight, free from warps or kinks, and of adequate strength. They shall be staked securely enough to resist the pressure of the concrete without springing. When ready for the concrete, they shall not vary from the true line of grade, and shall be kept to such line and grade during the pouring of concrete and until after the concrete has taken its set.
- (6) **Placing and Finishing Concrete.** The subgrade shall be freely wetted immediately before the concrete is placed thereon. The concrete shall be placed in one course to the required depth as shown on the plans. The concrete shall be thoroughly spaded along the faces of the forms and adjacent to the joints to prevent honeycomb, before finishing operations are started. The concrete shall be alternately tamped and screened off to the required grade and section. The concrete shall then be floated with a wooden float to produce a surface free from irregularities. The final finish shall be obtained with an approved hand float or lightweight brush so as to produce a uniform and evenly textured surface. All edges and end joints shall be finished with an approved edging tool.
- (7) **Joints.** Contraction joints shall be constructed as shown on the plans. Expansion joints shall be constructed as shown on the plans and/or as required herein. Expansion joint filler shall be one-quarter inch below the finished surface of the sidewalk. When a sidewalk is constructed between the adjoining permanent structure on one side and a curbing on the other side, an expansion joint shall be formed adjacent to the curbing. An expansion joint shall be placed between the sidewalk and the radius curbing at the street intersections to allow for the longitudinal expansion of the sidewalk. The expansion joint filler in any case shall be one-half inch thick and shall be securely fastened in position before concrete is deposited against it.

- (8) **Curbing and Protection.** After the concrete sidewalk has been properly finished, it shall be sprayed with an approved curing solution, and shall be barricaded and protected from pedestrian traffic for 72 hours after finishing. Automobile traffic shall be barricaded for a minimum of 120 hours and preferably for 168 hours.
- (9) **Method of Measurement.** The area of concrete sidewalks and driveways completed and accepted shall be measured and computed in square yards. No measurement shall be made for excavation or subgrading. Any excavation necessary between the elevation of the natural ground above the sidewalk or driveway and the elevation of the subgrade sufficiently excavated for fine grading, shall be included in the measurements for unclassified excavation.
- (10) 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.
- (11) Whenever the City Engineer concludes that a means of pedestrian access is necessary from a subdivision to schools, parks, 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 access.

(T) Alleys

All alleys shall be constructed in accordance with City specifications. The minimum right-of-way width shall be 20 feet. The minimum centerline radius when a deflection angle or more than 10 degrees occurs shall be 35 feet. A 15-foot property line radius at alley intersections shall be required.

(U) Very Low Volume Local Road

Very Low Volume Local Roads shall not exceed more than 400 ADT. Very Low Volume Local Roads shall serve no more than 20 lots with a minimum lot size of 1 acre. Curb and gutter is not required for Very Low Volume Local Roads. Stormwater for Very Low Volume Local Roads shall be directed to a vegetative conveyance in accordance with the North Carolina Division of Water Quality Stormwater Best Management Practices Manual. Sidewalks may not be required on Very Low Volume Roads. A utility strip (shoulder) shall be 8 feet with 2% grade away from the road with grass.

15-7.4 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

- (1) Stone Base Course. After the curb and gutter has been completed and approved by the City Engineer and all underground utilities have been installed, the street shall receive a full width course between curbs of not less than 6 inches compacted thickness of crusher run stone. Compaction is to be accomplished by wetting stone and rolling with pneumatic tired wobble wheel roller until the required degree of compaction is obtained as approved by the City Engineer. During the compacting process, the surface shall be continuously machined with an approved type blade grader, maintaining the required cross-section until the base course is thoroughly compacted. The street shall be immediately barricaded and maintained in acceptable condition until asphalt surface course is applied.
- (2) Asphalt Surface Course. After base course is thoroughly dry, a prime coat consisting of a medium curing cutback asphalt, grade MCO, meeting the requirements of AASHO., Specs. M82, shall be applied to the surface of the stone base course when determined by the City Engineer to be necessary.

Prime coat shall be applied with approved type distributor at the rate of 0.30 gallons per square yard. The temperature of the material at the time of application shall be between 125 degrees and 150 degrees Fahrenheit, as directed by the City Engineer. In no case shall the prime coat be applied when the surface of the base is at such low temperature that the material will not properly penetrate or adhere thereto.

Immediately after the prime coat is applied, it shall be protected by suitable signs and barricades to prevent traffic from using the street while the prime coat is green. No mixture shall be deposited thereon until the prime coat is thoroughly cured. After prime coat has sufficiently cured, the surface of the street shall be cleaned of all foreign matter and contact surface of curb and

gutter, manholes, valve boxes, vertical faces of adjacent pavement, etc., shall be painted with an approved type asphalt cement.

The surface material shall consist of a mixture of coarse and fine aggregate and asphalt cement mixed in an approved plant, conforming to latest North Carolina Division of Highways Specifications for Class 1 Bituminous Concrete Surface Course, and shall be constructed on the prepared base course to a finished thickness of 2 inches.

Surfacing material shall be applied with approved-type bituminous paver in such manner as to provide a smooth, dense, uniform surface, with no bumps, pits, waves, or other irregularities.

All materials, equipment and methods of construction used in the work shall conform to North Carolina Division of Highways Specifications for Roads and Structures and shall be subject to the inspection and approval of the City Engineer.

(E) Public Water Construction Requirements

Water lines and all appurtenances shall be constructed in accordance with state and city regulations, the *City of Shelby Standard 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 completely developed subdivision. The size and layout of all mains shall be approved by the Office of 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 Office of the City Engineer. The City may also require that easements be reserved for future extensions.
- (3) Generally, all water mains shall be laid to one side of the street pavement, behind the curb and gutter. They shall have a minimum cover of 36 inches measured from finished grade.
- (5) All pipe and fittings shall be cement lined ductile iron, slip joint type, and shall conform in all respects to ASA Specifications A21-11, ANSI-A21-50 or AWWA-C 111-53. Unless otherwise specified, all pipe shall be class 52. All fittings, bends, and appurtenances shall be mechanical joint with glands, gaskets, bolts, and nuts as specified in ASA Specifications A21-11, latest edition. The cement mortar lining shall conform to ASA Specifications A21.4, latest edition.
- (6) The installation of water lines shall conform to the manufacturer's recommendations.

- (7) In areas where unstable soil is encountered, the water mains shall be supported on gravel ballast. Where rock is encountered, the rock shall be removed to a depth of at least 6 inches below grade. Before laying pipe, the trench shall be rebuilt to a grade with earth, sand or gravel and firmly compacted to provide bedding for the pipe.
- (8) The developer shall extend water services to property lines prior to acceptance by the City. All testing shall be performed after installation of services.
- (9) No work shall be covered up until it is inspected by the City representative. After installation and backfilling, all lines will be tested under pressure for leaks (2 hours @ 150 psi), flushed, disinfected and placed into service under approval of the Office of the City Engineer.
- (10) Backfilling shall be done carefully with material free of large rocks or other objects and shall be thoroughly tamped. Provision should be made so that the surface drainage will not wash backfilled material from the trench.
- (11) Any changes from the original layout shall be pre-approved by the City before installation and entered on the drawings.
- (12) 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.
- (13) Prior to final City approval, the water plans must receive State approval and NCDOT encroachment permits where applicable.
- (14) After completion of all construction, an accurate set of as-built plans shall be prepared and submitted to the City Engineer.

(F) Public Sewer Construction Requirements

Sewer lines and all appurtenances shall be constructed in accordance with state and city regulations, the *City of Shelby Standard 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.
- (3) 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 Office of the City Engineer. The City may also require that easements be reserved for future extensions.

- (4) All sewer lines generally shall be laid in the roadway. The minimum cover shall be not less than 36 inches measured from finished grade. Grades shall be such that the lowest lot in the subdivision can receive adequate sewer service using minimum grades as specified by the North Carolina State Regulations.
- (5) PVC pipe, SDR21, shall be used except where other pipe is specified by the Office of the City Engineer. It shall be of the bell and spigot type and conform in all respects to current ASTM Standard Specifications.
- (6) In sections where unstable soil is encountered or where excess fill is required, ductile iron, class 51 bell and spigot pipe shall be used. Manholes shall be installed at each end of the ductile iron section. Ductile iron pipe shall be of the same diameter as the adjoining sewer. In crossing streams or open gullies, an appropriate design shall be submitted for review and approval by the Office of the City Engineer.
- (7) Manholes shall be built where there is a change in line and grade of the sewer line. On straight sections, manholes will be required every 400 feet. Cast iron manhole frames and covers approved by the City shall be furnished and installed true to finished grade by the owner or developer. Manholes shall be constructed from pre-cast concrete and conform in materials and installation to the *City of Shelby Standard Details*. Drop manholes are not allowed without specific approval of the Office of the City Engineer.
- (8) All sewer laterals shall be extended to the property line when the main is laid. Laterals shall be 4-inch approved PVC. All laterals shall be tapped into manholes unless waived by the City Engineer.
- (9) No work shall be covered up until it has been inspected by a City representative and approved.
- (10) Backfilling shall be done carefully with material free of large rocks or other objects and shall be thoroughly tamped. Provision should be made so that surface drainage will not wash backfilled material from the trench.
- (12) Any changes from the original layout shall be entered on the drawings and submitted to the Office of the City Engineer.
- (12) 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.
- (13) Prior to final City approval, the sewer plans must receive State approval and NCDOT encroachment permits, where applicable.
- (14) After completion of all construction, an accurate set of as-built plans shall be prepared and submitted to the City Engineer.

(G) Water and Sewer Connection

Connection of each lot to public water and sewer utilities shall be provided in accordance with the provisions of Chapter 23, Article II, City of Shelby Code of Ordinances. Water and sewer connections shall be made at the developer's expense and shall be installed in accordance with the City's standards and specifications. Where public sewer is not available, lots shall be evaluated, at the developer's expense, in accordance with *Laws and Rules for Sanitary Sewage Collection, Treatment, and Disposal 15 A NCAC 18 A 1990*. Approval of the Cleveland County health department shall be obtained prior to preliminary plat approval. The final plat shall show lot(s) denied or not evaluated crosshatched and labeled 'NO IMPROVEMENT PERMIT HAS BEEN ISSUED FOR THIS LOT.'

(H) 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 Community Development Director and the Planning and Zoning Board before the City Council will consider accepting it.

(I) Stormwater Management

- (1) An adequate drainage system, including necessary open ditches, pipes, culverts, intersectional drains, drop inlets, bridges, etc., shall be provided for the proper drainage of all surface water. The drainage system shall be

designed and constructed in accordance with the stormwater management standards and specifications of the City (see *City of Shelby Standard Details*) or the NCDOT, whichever is more stringent. Banks of ditches shall be immediately seeded upon grading and installation of utilities and the ditch itself shall be improved with appropriate vegetative cover to retard erosion.

- (2) The storm drainage system shall follow existing topography as nearly as practical, shall divert stormwater away from surface waters, and shall incorporate stormwater Best Management Practices to minimize adverse water quality impacts.
- (3) No surface water shall be channeled or directed into a sanitary sewer.
- (4) Where feasible, the subdivider shall connect to an existing storm drainage system. Where an existing storm drainage system cannot feasibly be extended to the new subdivision, a drainage system shall be designed to protect the proposed development from water damage. The minimum design frequency shall be ten years for storm sewer collectors and 25 years for cross drains.
- (5) Storm drainage systems shall be enclosed and buried underground with minimal disruption of surface features, unless the City Engineer approves an alternative surface storm drainage system design.
- (6) In areas where ditch grades or quantities of flow deem it impracticable to establish and maintain vegetation, an erosive resistant lining such as paving or rock riprap may be required.
- (7) Subsurface drainage shall be adequate to maintain a stable subgrade.
- (8) When street crossings are within areas designated as flood hazard areas under the Federal Flood Insurance Program, the design must be approved for its consistency with Section 10-2.
- (9) Storm drainage systems in any subdivision or development shall be the entire and sole responsibility of the developer and shall be provided and installed by the developer in accordance with the specifications of the City.
- (10) Street storm drains that discharge water onto lots within a development will be extended by the developer at his expense to a point 15 feet beyond the rear setback line of said lot.
- (11) A detailed construction plan shall be submitted to the Community Development Department for approval. The plan shall include all grading, ditching, drainpipe layout, pipe size, junction boxes, catch basins and any other improvements related to drainage.
- (12) A storm water detention system may be required depending upon relevant factors to protect downstream property. The basin design and drainage design is the responsibility of the developer.

- (13) The City will not open, clean, or maintain storm channels, creeks, or storm water piping beyond the street right-of-way.
- (14) The property owner, when installing underground storm drains and/or extending existing storm drainage on private property will install piping in accordance with the City specifications and the Community Development Department's approval. The pipe size, alignment, grade, length, discharge point, structural accessories (such as manholes, headwalls, catch basins, junction boxes) and other specifications shall be determined by the Community Development Department. The City will not open, clean, or maintain storm channels, creeks, or storm water piping beyond the street right-of-way.

(J) 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 Shelby. Fire hydrants shall conform to *the City of Shelby Standard Details*, the standards and specifications of another water service provider if applicable, or the NFPA standards, whichever is more stringent.

(K) 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 Shelby or the applicable electric supplier and communications company.

(L) Oversized Utility Improvements

In the interest of adequately providing service to adjacent properties, the City of Shelby 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.

(M) As-built Drawings

As-built drawings shall be submitted to the City Engineer 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.

(N) 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.

15-7.5 Blocks

- (A) 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 Planning and Zoning Board, existing conditions justify a modification of this requirement.
- (B) 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.
- (C) Pedestrian ways or cross walks, not less than 10 feet in width, shall be provided, where deemed necessary by the Planning and Zoning Board, to provide adequate pedestrian circulation or access to schools, shopping areas, churches, parks, playgrounds, water access, transportation or other similar facilities.

15-7.6 Buffer Areas

- (A) In residential districts, a buffer strip at least fifty feet in depth, in addition to normal lot depth required, shall be provided adjacent to all railroads and limited access highways. This strip shall be a part of the platted lots and shall have the following notation lettered on the face of the plat: *'This strip is reserved for the planting of trees or shrubs by the owner; the building of structures hereon is prohibited.'*
- (B) A minimum fifty-foot vegetative buffer is required along all perennial waters indicated on the most recent versions of USGS 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Additional buffer area requirements for subdivisions located within a watershed protection overlay district are delineated in Section 10-1.6.

15-7.7 Sites for Public Uses

In subdividing property, due consideration shall be given by the developer to the reservation of suitable sites for school and other public uses in accordance with NCGS § 160A-372.

15-7.8 Placement of Monuments

The *Standards of Practice for Land Surveying in North Carolina*, as adopted by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, shall apply when installing monuments.

15-7.9 Flood Standards Pertaining to Subdivisions

Proposed subdivisions located in flood hazard overlay districts shall comply with the requirements of Section 10-2.5.

15-7.10 Townhouse Developments

Subdivisions designed to accommodate townhouse developments shall comply with the additional applicable provisions of Section 11-1.75.

15-7.11 Planned Unit Developments

Planned Unit Developments shall comply with the additional applicable provisions of Section 9-10.

15-7.12 Campground Subdivisions

Subdivisions designed to specifically accommodate recreational vehicles, campers, tents, or travel trailers shall comply with the additional applicable provisions of Section 11-1.52.

15-7.13 Coordination with State and Federal Requirements

All lots, structures, utilities, land disturbing activities, and filling activities shall comply with any applicable state and federal regulations, including but not limited to, Section 404 of the Clean Water Act, Code of Federal Regulations; and the Sedimentation Pollution Control Act of 1973. Whenever there is a conflict between requirements, the more restrictive shall apply.

15-8 WAIVERS

15-8.1 Approval Authority

The City Engineer may recommend waivers to standards in this Article for consideration by the City Manager. Approval of waivers shall be based upon written justification and shall conform to the requirements outlined in Section 15-8.2.

15-8.2 Grounds for Waivers

Standards in this Article may be waived under one of the following circumstances:

(A) 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 Article would cause unusual and unnecessary hardship on the subdivider.

(B) Equal or Better Performance

Where, in the opinion of the City Engineer, a waiver will result in equal or better performance in furtherance of the purposes of this Ordinance.

(C) Unintentional Error

Where through an unintentional error by the applicant, his agent, or the reviewing staff, there is a minor violation of a standard in this Article, where such violation is not prejudicial to the value or development potential of the subdivision or adjoining properties.

15-8.3 Conditions

In granting waivers, the City Engineer and City Manager may require such conditions as will secure, insofar as practicable, the purposes of the standards or requirements waived.

15-8.4 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 10-1.9 shall follow the procedural requirements of Section 7-2.3(B).

15-9 MODIFICATIONS

Modifications to approved preliminary plats shall be made in accordance with the requirements of Section 4-12.