

Article 13. Subdivision Standards

30-13-1 Purpose

In addition to promoting the general purposes of this ordinance, the subdivision design and improvement standards of this article (and the subdivision review and approval procedures of [30-4-17](#)) are intended to help:

30-13-1.1 facilitate the creation of accurate and permanent public records of the separate interests created and conveyed by the subdivision of land, and in turn, help to protect private property rights and city property;

30-13-1.2 promote the timely and coordinated provision of streets, sidewalks, utilities and other required facilities and improvements to serve new developments;

30-13-1.3 ensure that proposed lots are capable of being built upon in accordance with applicable city standards; and

30-13-1.4 ensure subdivision designs and layouts that promote beneficial development of the community.

30-13-1.5 Development Name

The name of a proposed subdivision or development may not duplicate or be so similar to the name of an existing subdivision or development that it is reasonable to conclude that the name will cause confusion for public safety and other parties. Proposed subdivisions or developments may have the same or similar name if they are an extension of an existing subdivision or development with the same or similar name. The Planning and Community Development Director has final authority to approve subdivision and development names.

30-13-1.6 Reasonable Relationship

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

30-13-2 Streets

30-13-2.1 Traffic Movement and Pedestrian Circulation Principles

The street and pedestrian circulation layout in new subdivisions should be laid out and designed with due regard for topography and drainage and to the extent practicable to:

- A. create an integrated system of lots, streets, trails, and infrastructure that provides for efficient movement of pedestrians, bicycles and automobiles within the subdivision and to and from adjacent development;
- B. provide for the efficient movement of through traffic by providing an interconnected hierarchy of streets in order to avoid isolation of residential areas and over-reliance on thoroughfares;
- C. provide pedestrian routes to nearby pedestrian activity areas, as well as nearby shopping, public/civic, employment and recreation uses; and
- D. provide a street network that helps emergency services, public services, and visitors find their way to their intended destinations.

30-13-2.2 Dedication of Right-of-Way

Right-of-way for public streets must be dedicated to the city pursuant to [NCGS 160A, Article 19, Part 2](#) and other applicable state laws. When dedication cannot be required, the plat must show how the development accommodates any future street right-of-way indicated on the adopted *Thoroughfare Plan* or *Collector Street Plan*.

30-13-2.3 Conformance with Thoroughfare and Collector Street Plans

The location and design of streets must be in conformance with applicable thoroughfare and collector street plans. Where conditions warrant, right-of-way widths and pavement widths in excess of the minimum street standards may be required.

30-13-2.4 Street System Layout

- A. Streets must be properly integrated with the existing and proposed system of streets and dedicated rights-of-way as established in the Comprehensive Plan, the *Thoroughfare Plan* and *Collector Street Plan*.
- B. Streets must be properly related to special traffic generators, such as industries, business districts, schools, religious assembly uses, and shopping centers; to population densities; and to the pattern of existing and proposed land uses.
- C. Local streets must be laid out to conform as much as possible to topography, to provide for the efficient dispersal of internal traffic while discouraging high volumes of through traffic, and to permit efficient drainage and accommodate utility systems.
- D. The use of an interconnected street system must be used to broadly disperse internal traffic and provide maximum reasonable alternatives for access to property. The [street connectivity policy](#) referenced in [30-13-2.5](#) applies.
- E. The use of curvilinear streets is encouraged where conformance with existing topography would minimize the volume of cut and fill.
- F. Street designs such as loop streets or closes are preferred to the use of traditional cul-de-sac designs. Cul-de-sacs are encouraged where topographic features, natural resources or configuration of property boundaries prevent street connections. These alternatives help support the turning movements of emergency and service vehicles.
- G. Proposed streets must be extended (stubbed) to the boundary lines of the tract to be subdivided when necessary to afford desirable and safe street access to adjoining properties. The Technical Review Committee may waive the requirement for stub streets when topography, abutting development conditions, natural resources or other physical conditions make street extensions impractical and when the Technical Review Committee determines that an interconnected street network is unnecessary or undesirable.

30-13-2.5 Street Connectivity

An interconnected street system is necessary in order to promote orderly and safe development. This is done by ensuring that streets function in an interdependent manner, provide adequate access for emergency and service vehicles, enhance access by ensuring connected transportation routes, and provide continuous and comprehensible traffic routes. See the [Connectivity Policy](#) for additional information.

30-13-2.6 Temporary Turnarounds

- A. A temporary turnaround must be provided at the end of any stub street over 150 feet length or serving more than 4 lots. Temporary turnarounds must comply with the following:

1. the turnaround must be constructed in a temporary easement or within the public right-of-way;
 2. the developer of the adjacent property making a road connection to the existing stub road is responsible for the removal of the turnaround for the restoration of the area at the time that the road connection is made, and any additional improvements required by the city; and
 3. The turnaround must comply with all applicable temporary turnaround standards, including the **Street Design Standards Manual** and the *Roadway and Utility Design Standards*.
 4. Temporary turnarounds may not be used for parking and/or driveways.
- B. Any plat containing a stub street must include the following notes:
1. "The street system shown on this plat includes one or more stub streets that are intended to be connected to the adjacent property at such time that the property is developed. The interconnection of neighborhoods with a street network ensures the efficient flow and dispersal of traffic and provides for additional points of ingress and egress for emergency vehicles."
 2. "The developer of the adjacent property making a road connection to the existing stub road is responsible for the removal of the turnaround for the restoration of the area at the time that the road connection is made, and any additional improvements required by the city."
 3. In addition, a sign must be posted on the stub street right-of-way indicating that it is intended as a "Future Street Extension."

30-13-2.7 Reserve Strips

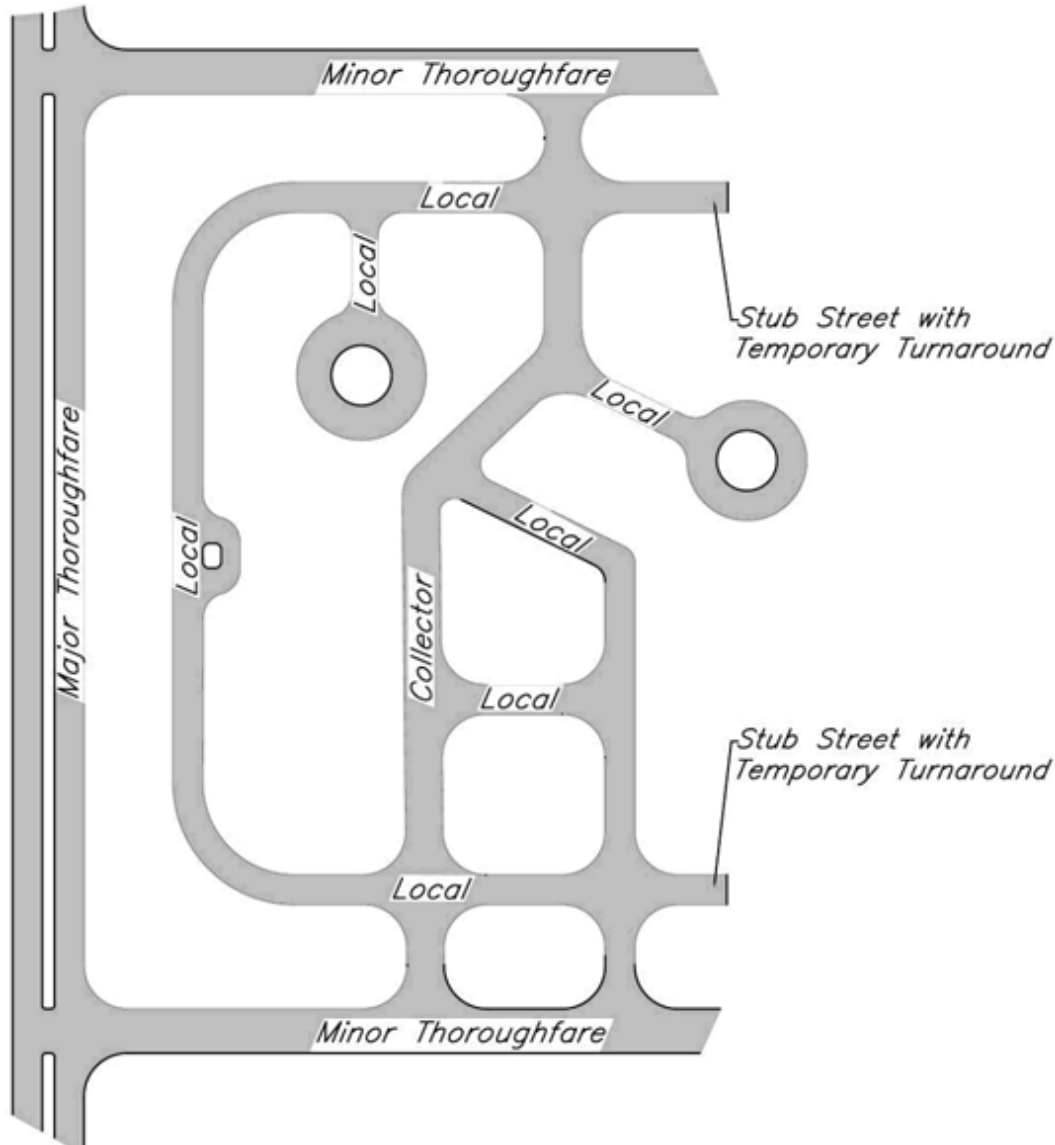
Reserve strips adjoining street rights-of-way that prevent access to adjacent property are prohibited.

30-13-2.8 Street Classification

The authority to determine the classification of streets in a proposed subdivision rests solely with the city.

Figure 13-1, Street Classifications

Street Classifications



30-13-2.9 Public Street Design Criteria

- A. The minimum street design standards for all street classifications are found in the **Street Design Standards Manual**, the *Roadway and Utility Design Standards* and/or the NCDOT's *Subdivision Roads: Minimum Construction Standards*, whichever is applicable.
- B. Right-of-way dedication and paving of streets in and adjacent to the subdivision must be in conformance with the right-of-way and pavement width requirements of the **Street Design Standards Manual**, both within the city and in and adjacent to developments provided with city water or sewer service pursuant to the City Policy for Water and Sewer Extensions Outside the Corporate Limits.
- C. These streets must be designed and constructed in accordance with the **Street Design Standards Manual**, the *Roadway and Utility Design Standards*, and/or NCDOT's *Subdivision Roads: Minimum Construction Standards*, whichever is applicable.

30-13-2.10 Private Street Design Criteria

A. Where Permitted

Private streets are permitted in single-family detached cluster developments, single-family and twin home sections of planned unit developments, townhouse developments, and integrated multiple-use developments.

B. Minimum Design and Construction

1. The minimum street design standards for private streets are the same as for public streets and apply both within the city and in and adjacent to developments provided with city water or sewer service pursuant to the City Policy for Water and Sewer Extensions Outside the Corporate Limits.
2. The developer must furnish an engineer's seal and certification that the private streets have been tested and certified for the subgrade, base, and asphalt. These streets must be designed and constructed in accordance with the city's **Street Design Standards Manual**, *Roadway and Utility Design Standards* and/or NCDOT's *Subdivision Roads: Minimum Construction Standards*, whichever is applicable.

C. Owners' Association Required

An owners' association is required to own and maintain all private streets allowed under this ordinance. See 30-13-9 for regulations governing the establishment of property owners' associations. An owners' association is not required for private streets provided under the provisions of 30-9-1.3, Planned Unit Development.

D. Plats

All private streets must be shown as such on all plats.

E. Through Streets

Through streets connecting 2 public streets may not be designated as private streets.

F. Connections to Public Streets

All private streets connecting with public streets require approved driveway applications from the city (or NCDOT if applicable).

(Amended by Ord. 14-14 on 1/21/14)

30-13-2.11 Traditional Neighborhood Development Street Design Standards

The minimum street design standards for streets within approved Traditional Neighborhood Developments are set forth in the **Street Design Standards Manual**, the *Roadway and Utility Design Standards*, and/or NCDOT's *Subdivision Roads: Minimum Construction Standards*, whichever is applicable.

30-13-2.12 Private Drives

A. Where Permitted

Private drives are permitted only in townhomes, condominium developments that have individual residential driveways, single-family detached sections of planned unit developments, manufactured dwelling parks, or recreational vehicle parks.

B. Minimum Design and Construction

1. The minimum drive design standards are outlined in the city's **Street Design Standards Manual**. These standards apply both within the city and in and adjacent to developments provided with city water or sewer service pursuant to the City Policy for Water and Sewer Extensions Outside the Corporate Limits.

2. These streets shall be designed and constructed in accordance with the **Street Design Standards Manual**, the *Roadway and Utility Design Standards*, and/or the NCDOT's *Subdivision Roads: Minimum Construction Standards*, whichever is applicable.
3. The developer must furnish an engineer's seal and certification that the private drives have been tested and certified for meeting city standards for the subgrade, base, and asphalt.

C. Owners' Association Required

An owners' association is required to own and maintain all private drives allowed under this ordinance. See [30-13-9](#) for regulations governing the establishment of property owners' associations. An owners' association is not required for private streets provided under the provisions of [30-9-1.3](#), Planned Unit Development.

D. Plats

All private drives must be shown as such on all plats.

E. Through Streets

Through streets connecting 2 public streets may not be designated as a private drive.

F. Connections to Public Streets

All private drives connecting with public streets require approved driveway applications from the city (or NCDOT if applicable).

(Amended by Ord. 14-14 on 1/21/14)

30-13-2.13 Intersecting Street Angles

All streets must intersect at or as nearly as possible to 90 degrees within topographic and physical limits.

30-13-2.14 Streets Crossing Natural Areas

All streets crossing natural areas, wetlands, or stream buffers must cross at or as nearly to 90 degrees as possible within topographic and physical limits.

30-13-2.15 Spacing Between Intersections

Offset intersections are not desirable and should be avoided. Intersections that cannot be aligned should be separated in accordance with the **Street Design Standards Manual** and **Driveway Manual**. The required minimum distance between intersections along that street must be determined by the highest classification street involved. In the event of unusual topography, a distance less than the design standard, but not less than 150 feet, may be approved by the Technical Review Committee.

30-13-2.16 Curb and Gutter

- A. Curb and gutter is required in all subdivisions except as expressly stated in this subsection,
- B. Curb and gutter is not required in the Watershed Critical Area unless the Transportation Director determines that continuity of previous street work necessitates curb and gutter.
- C. Curb and gutter is not required in subdivisions outside the city unless public water and/or sewer is available.
- D. The Technical Review Committee is authorized to waive or modify curb and gutter requirements in accordance with the Type 2 Modification procedure of [30-4-11](#) when deemed necessary to ensure continuity with established development patterns or when alternative drainage designs are deemed to provide the same or higher level of benefit as traditional curb and gutter designs, including traffic and pedestrian safety.

E. Curb and gutter must be constructed in conformance with the design criteria of the city.

30-13-2.17 Street Names

See 30-9-8.

30-13-2.18 Private Street, Drive and Driveway Signs

A. Street Signs

At each intersection of a named private street, drive or driveway with a public street, the city must erect a street name sign. The developer must pay a fee to the city for each such sign required. At each intersection between private streets, drives or driveways, the developer must erect and maintain reflectorized signs with green lettering on a white background.

B. Traffic Control Signs

The developer must provide traffic control signs in locations designated by the city.

C. Maintenance

Maintenance of signs on private streets, drives and driveways is the sole responsibility of the property owner or owners' association, as applicable.

30-13-2.19 Public Street, Drive and Driveway Signs

A. Street Signs

At each intersection of public street, drive or driveway with a public or private street, the city must erect a street name sign. The developer must pay a fee to the city for each such sign required.

B. Traffic Control Signs

The developer must provide traffic control signs in locations designated by the city.

30-13-2.20 Extent

Sidewalks required by this ordinance must be constructed along that portion of the street or streets that the parcel abuts for the full length of the property line abutting the street or streets. When sidewalks are required to be installed on one side of a street, the Technical Review Committee is authorized to determine upon which side the sidewalks are to be installed, based upon criteria specified in the **Sidewalk Manual**.

30-13-2.21 Construction Standards

All sidewalks, whether required by this ordinance or installed voluntarily, must meet or exceed all applicable standards of this section and the standards of the **Sidewalk Manual**.

30-13-3 Lots

30-13-3.1 General

A. The size, shape, and orientation of lots must be appropriate for the location of the proposed subdivision and for the type of development contemplated. All lots must comply with the standards of this section, except as expressly provided in this ordinance.

B. The Technical Review Committee may grant a Type 2 Modification to the Subdivision Standards of this section in accordance with 30-4-11, except as expressly provided in this ordinance.

30-13-3.2 Compliance with Other Regulations

Every lot must have sufficient area, dimensions, and street access to permit the construction of a principal building in compliance with all applicable requirements of this ordinance.

30-13-3.3 Minimum Building Area

Every lot must have a contiguous buildable area of a shape sufficient to hold a principal building that is at least 2,000 square feet with a minimum dimension of at least 20 feet. This contiguous buildable area must lie at or be filled to an elevation at least one foot above the base flood elevation.

Commentary: *Watershed regulations, federal wetlands regulations or other applicable regulations prohibit or restrict fill placement in certain locations. Compliance with Flood Damage Prevention regulations may affect subdivision design.*

30-13-3.4 Lot Depth-to-Width Ratio

Lots may not have a depth greater than 4 times their width (at the required front setback).

30-13-3.5 Side Lot Line Configuration

Side lines of lots should be at or near right angles or radial to street lines.

30-13-3.6 Lot Lines and Drainage

Lot boundaries must coincide with existing (natural and constructed) drainageways to the extent practicable. This provision is intended to avoid the creation of lots that can be built upon only by altering drainageways.

30-13-3.7 Lots on Thoroughfares

Major subdivisions may not be approved that permit individual residential lots to access major thoroughfares.

30-13-3.8 Access Requirements

All lots must have public street access and frontage meeting the requirements of the subject zoning district, except as expressly stated in this section. Lots and dwelling units located in cluster developments, planned unit developments, townhouse developments, group developments and integrated multiple use developments with owners' associations may have permanent access and frontage on approved private streets, private driveways and/or private drives. The development as a whole must have public street access and frontage in accordance with the standards of the subject zoning district.

(Amended by Ord. 15-102 on 7/21/15)

30-13-3.9 Flag Lots

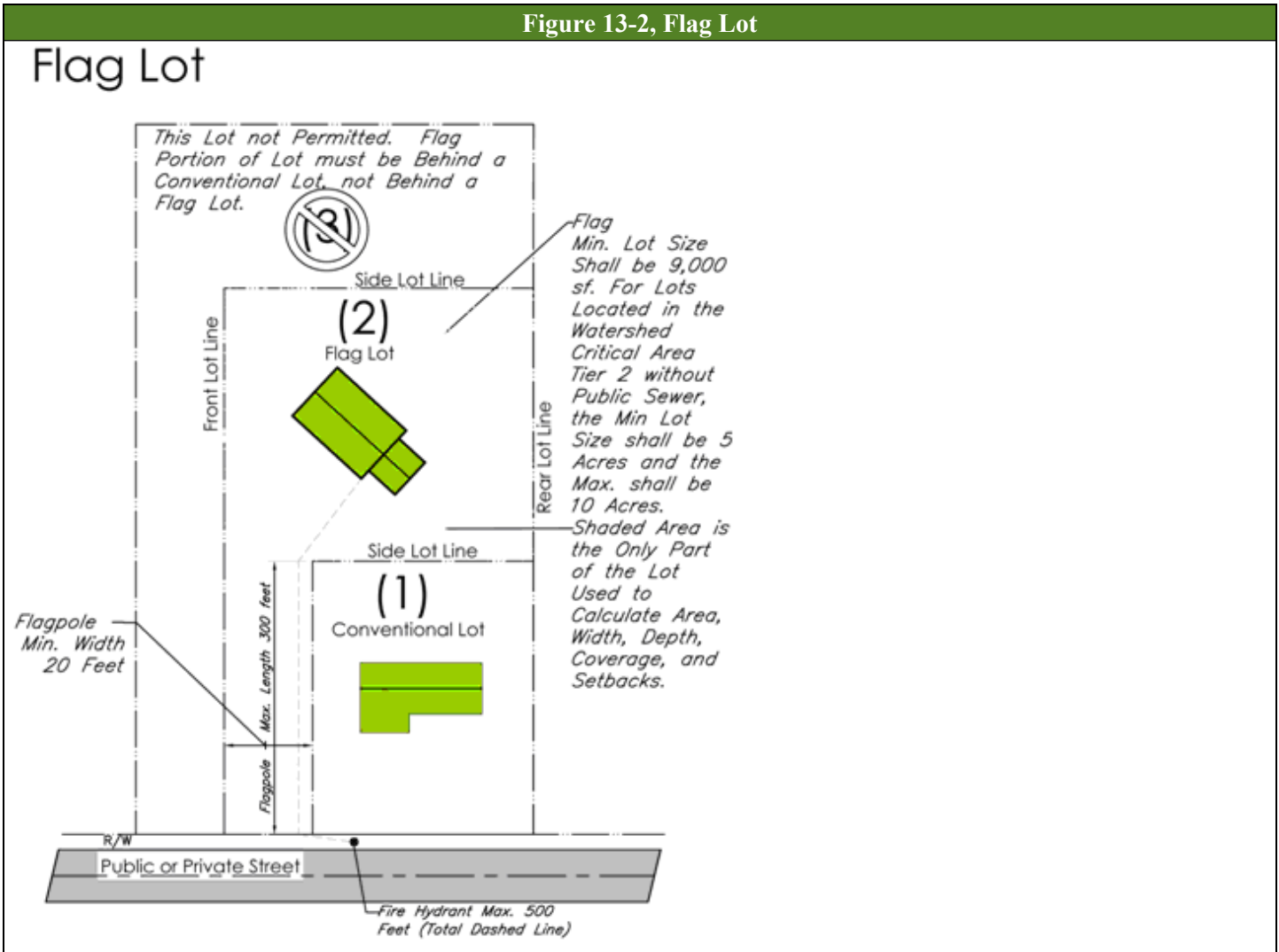
- A. Flag lots are prohibited, except that the Technical Review Committee may approve the creation of flag lots in accordance with the Type 2 Modification procedure when they determine that a flag lot is necessary to allow reasonable use and benefit of the subject parcel or to alleviate situations that would otherwise cause undue hardship. The modification request must include the proposed building footprint so that the Technical Review Committee can establish the required building orientation, setback and planting yards based on the lot configuration. Flag lots may be allowed only in the following instances:
1. when reasonably necessary to eliminate access onto thoroughfares;

2. when necessary to make reasonable use of parcels with severe topography or other physical constraints;
3. when a flag lot would provide greater protection of natural resources areas (e.g., streams); or
4. when necessary to accommodate the function of hiding or concealing utility buildings/substation, or radio, television or communication towers.

B. Approved flag lots are subject to the following requirements:

1. A flag lot may contain only one single-family dwelling, including any uninhabited accessory structures; a utility substation; or radio, television, or communication towers (when permitted by zoning).
2. The flagpole section of the lot may not exceed 300 feet in length.
3. The flagpole section of the lot must have a width of at least 20 feet.
4. The minimum lot area must be at least 9,000 square feet not including the flagpole area. For lots located in the Watershed Critical Area Tier 2 without public sewer, the minimum lot area must be at least 5 acres and the maximum area may not exceed 10 acres. The flagpole portion of the lot is not used to calculate lot area, lot width, lot depth, lot coverage or building setbacks, and the flagpole portion may not be used to provide off-street parking.
5. Where public water is available any building on the flag lot must be within 500 feet of a hydrant. This distance must be measured along the street, then along the flagpole, then in a straight line to the building location.
6. Where public sewer is available occupied buildings on the flag lot must have a gravity service line, or the sewer pump requirement must be noted on the plat.
7. Use of a single driveway to serve adjoining flag lots or to serve a flag lot and an adjoining conventional lot is permitted and encouraged. In the latter case, 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.

Figure 13-2, Flag Lot



30-13-3.10 Special-Purpose Lots

Special-purpose lots are exempt from lot area and width standards. They may be permitted only after the Technical Review Committee has determined that the proposed lot has sufficient dimensions to accommodate the intended use and any required planting yards.

30-13-4 Utilities

30-13-4.1 Public Water and Sewer Construction Requirements

Water and sewer lines, connections, and appurtenances must be constructed in accordance with state and city regulations within the city and within and in conjunction with developments provided with city water or sewer service pursuant to the City Policy for Water and Sewer Extensions Outside the Corporate Limits.

30-13-4.2 Water and Sewer Connection

- A. Lots must be connected to public water and sewer utilities if the proposed subdivision is within 300 feet of the nearest adequate line of a public system, unless the Water Resources Director determines that geographic or topographic factors make such connection unreasonable or infeasible.
- B. When public sewer is not available, lots must meet applicable County Environmental Health Division regulations. Approval of the Environmental Health Division must be obtained after Preliminary Plat approval. The final plat must show the Certificate of Approval from the Environmental Health Division.

30-13-4.3 Other Underground Utilities

Electrical, community antenna television, and telephone utility lines installed within major subdivisions must be underground unless the Technical Review Committee determines underground installation is unreasonable or infeasible.

30-13-4.4 Utility Easements

A. Public Water and Sewer Easements

Easements for sanitary sewer and water lines shall be exclusive to the city, unless otherwise determined by the Water Resources Director. The locations and widths of such easements shall be reviewed and approved by the Water Resources Director. Such easements shall be provided with a minimum width of 20 feet or 2 times the line depth (rounded up to the next multiple of 5 feet), whichever is greater. The locations and widths of easements containing public storm sewer pipes shall be in accordance with the **Storm Drainage Design Manual**.

B. Other Utility Easements

Utility easements with a maximum width of 30 feet must be provided to accommodate electric, telephone, gas, and community antenna television services; conduits; or water and sewer lines. The location and dimensional standards of such easements must be reviewed and approved by the city, with advice from utility providers, before final plat approval.

C. No Buildings or Improvements

Utility easements must be kept free and clear of any buildings or other improvements that would interfere with the proper maintenance or replacement of utilities. In addition, outside of but alongside water and sanitary sewer easements and easements containing public storm sewer pipes, improvements that exert loads into the easement at a depth determined by the lowest point of the applicable utility line within the easement envelope and affected segment shall not be allowed. The city is not liable for damages to any improvement located within the utility easement area. In addition, foundation design of structures must account for the area of influence in case of future utility excavation in the easement.

30-13-4.5 Private Utilities

Maintenance of private utilities is the sole responsibility of the property owner or owners' association, as applicable. See [30-13-9](#) for regulations governing the establishment of property owners' associations.

(Amended by Ord. 10-156 on 10/19/10)

30-13-5 Engineered Stormwater Controls

30-13-5.1 Design and Construction

Engineered stormwater controls shall be designed and installed in accordance with the requirements of [30-12-3](#) (Water Supply Watershed Districts and Other Watershed Districts).

30-13-5.2 Maintenance Responsibilities

- A. When permanent engineered stormwater controls serve more than 2 lots within a subdivision, an owners' association must be assigned responsibility of ownership and maintenance.
- B. When permanent engineered stormwater controls serve only 2 lots, they must be maintained by the owners of the lots under a recorded maintenance agreement pursuant to [30-13-5.5](#).
- C. Subdividers are responsible for installation of engineered stormwater controls and they are responsible for maintenance of such facilities until the permanent engineered stormwater controls have:
 - 1. been covered by an Engineer's Certification of Stormwater Control Completion; (see [30-4-15.6\(B\)6](#));
 - 2. been granted final approval by the Planning and Community Development Director;
 - 3. been shown on a recorded final plat; and
 - 4. been conveyed to the owners' association; after controlling interest is no longer an entity of the subdivision.
- D. Neither the posting of a performance guarantee for the completion of stormwater controls nor conveyance of the land containing the controls structures relieves the subdivider of the responsibility for maintenance described in [30-13-5.2\(C\)](#).
- E. After the permanent engineered stormwater controls have been conveyed to the owners' association, the owners' association is responsible for maintaining the facilities as directed by the governmental office having jurisdiction for watershed protection and, if the owners' association is dissolved or ceases to exist, then all the lot owners of record at the time of the required maintenance will be jointly and severally liable for any and all costs attendant thereto.

30-13-5.3 Maintenance Note Required on Final Plat

When a subdivision contains permanent engineered stormwater controls that serve more than 2 lots within the subdivision, each final plat in the subdivision must contain a prominent note with the full text of paragraph [30-13-5.2\(E\)](#) and the name of the owners' association.

(Amended by Ord. 10-161 on 12/1/10)

30-13-5.4 Plat Recordation

- A. If a subdivision lot is dependent upon an engineered stormwater control to meet the requirements of [30-12-3](#) (Water Supply Watershed Districts and Other Watershed Districts), that structure's location and type must be shown on the same plat as the lot or on a plat recorded previously.
 - 1. If the runoff control structure has been completed, with full design volume available (this may require the cleanout and disposal of sediment from the engineered stormwater control), when the plat is recorded, it shall be labeled as existing and an Engineer's Certification of Stormwater Control Completion must be included on the plat (See [30-4-15.6\(B\)6](#)).
 - 2. If the structure has not been completed, it must be labeled as proposed, a performance guarantee for its completion within one year, with full design volume available, must be provided in accordance with [30-4-20](#), and a prominent asterisk must be placed on the lot accompanied by a note on the plat stating that

- a. no certificate of occupancy may be issued for any building on that lot until the engineered stormwater controls have been completed, certified, and approved and
 - b. (the name of the person/developer) has posted a financial guarantee and bears responsibility for its timely completion.
3. If the Water Resources Director determines that there is a potential risk that underground rock, buried materials, springs, underground utility lines, or some other obstacle may make construction of the structure unviable, the Water Resource Director is authorized to require that excavation for the structure be successfully performed prior to acceptance of the performance guarantee.

(Amended by Ord. 10-161 on 12/1/10)

30-13-5.5 Engineered Stormwater Control Maintenance Agreements

- A. The proposed engineered stormwater control maintenance agreement must be reviewed and approved by the governmental office having jurisdiction for watershed protection and Planning and Community Development Director prior to recordation.
- B. The agreement must state which lot is responsible for maintenance and include provisions (including easement to enter lot, if applicable) to allow the other lot to maintain the device, if that lot does not perform the maintenance.
- C. The agreement must provide that the property owner or owners' association is responsible for maintenance of the engineered stormwater control, as directed by the governmental office having jurisdiction for watershed protection.
- D. Specify whether and how the maintenance costs will be shared, in accordance with the following options:
 1. the parties to the agreement must agree to share the cost of any required maintenance on the engineered stormwater control, based upon a percentage calculated by taking the amount of built upon area or drainage area from each site contributing flow to the engineered stormwater control and dividing it by the total built upon area or drainage area flowing into the engineered stormwater control from all sites; or
 2. the property owner must maintain the engineered stormwater control and indemnify abutting users.
- E. The agreement must provide that the expenditures for required maintenance will be validated by copies of maintenance notifications and invoices for expenses incurred.
- F. The agreement must provide that all parties will be notified when additional maintenance agreements are made involving the engineered stormwater control. As part of notification, give total acreage involved with the engineered stormwater control and the new pro-rata percentage for each property.
- G. The agreement must not have an expiration date but must be perpetual.
- H. The agreement must be recorded with the Guilford County Register of Deeds, along with the final plat.
- I. Agreements involving an owners' association must be made by and for the owners' association.
- J. The agreement must provide that amendments to the agreement relating to the maintenance and ownership of the engineered stormwater control will not be permitted without review and approval by the governmental office having jurisdiction for watershed protection.
- K. The agreement must specify that the maintenance agreement can be voided only if all of the following conditions exist:
 1. both parties agree;
 2. the off-site property owner complies with watershed protection requirements by some other means; and

3. the governmental office having jurisdiction for watershed protection approves the new means of watershed protection.
- L. The owner of the engineered stormwater control has expended a significant amount of capital in the construction of the engineered stormwater control and bears the burden of increased liability for his property due to the existence of the engineered stormwater control and can therefore expect to recoup a reasonable percentage of this cost as a result of this agreement. "Reasonable" will be interpreted in a manner similar to the percentage of maintenance cost computation.

(Amended by Ord. 10-161 on 12/1/10)

30-13-6 Sites for Public Use

In subdividing property, due consideration must be given by the subdivider to the reservation of suitable sites for schools and other public uses in accordance with [NCGS 160A-372](#).

30-13-7 Monuments

Permanent monuments must be installed in accordance with *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.

30-13-8 Condominium Development

Condominiums must be recorded in compliance with the North Carolina Condominium Act ([NCGS §47C](#)).

30-13-9 Owners' Associations

30-13-9.1 Establishment

A. Creation

An owners' association must be established to fulfill requirements of the North Carolina Condominium Act and to accept conveyance and maintenance of all common elements and facilities within a subdivision or development containing common elements. The owners' association must be 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. Conveyance

Where developments have common elements serving more than one dwelling unit, these common elements must be conveyed to the owners' association, in which all owners of lots in the development must be members. All common elements other than public street rights-of-way, other areas dedicated to the city, and lots must be designated as common elements. In a condominium development the common element must be platted as common elements in accordance with the NC Condominium Act. In other developments, fee-simple title must be conveyed by the subdivider or developer to the owners' association when the plat is recorded.

C. Subdivision or Conveyance of Common Elements

Common elements may not subsequently be 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. Minimize Number of Associations

Developments, whether including different land uses, different types of housing, or simply different sections, must hold the number of owners' associations to a minimum. An association may establish

different categories of membership, different budgets for the categories, and different rates of assessment when different kinds of services are provided to different categories. Smaller associations under an umbrella (master) association are permitted.

E. Owners' Association Not Required

A development involving only 2 units attached by a party wall (or 2 separate walls back-to-back) is not required to have common elements or an owners' association. Such developments without an owners' association must establish a maintenance agreement between owners to govern any party walls and to ensure reciprocal easement rights needed for maintenance.

F. Common Elements in Subdivision Phases

Common elements required by this ordinance must be provided within each phase of the subdivision in an amount proportional to the size of the phase under review. Common elements can be counted cumulatively, including all sections recorded to date.

30-13-9.2 Submission of Owners' Association Declaration

After preliminary plat approval, and before any building permit issuance, it is recommended that the subdivider submit for review and approval a draft of the declaration of the owners' association containing covenants and restrictions governing the owners' association, lots or units, and common elements. Prior to or concurrently with the submission of the final plat for review and approval, the subdivider must submit a copy of the final declaration for review and approval. The declaration must include provisions for the following:

A. Membership

Membership in the owners' association is mandatory for each original purchaser and each successive purchaser of a lot or unit. Provisions must be made for the addition of owners in subsequent sections of the development.

B. Responsibilities of Association

The declaration must state that the owners' association is responsible for:

1. payment of premiums for liability insurance and local taxes and fees;
2. maintenance of recreational, engineered stormwater control and/or other facilities located on the common elements; and
3. payment of assessments for all public and all private improvements made to or for the benefit of the common elements.

C. Exterior Maintenance of Units

The owners' association must be made responsible for exterior maintenance of all attached units (whether they be dwelling units or nonresidential units); or each unit owner must be made responsible, with the owners' association granted authority to perform such exterior maintenance in the event the unit owner fails to do so in a prompt and satisfactory manner and to assess the cost of the maintenance against the unit.

D. Default By Association

If the owners' association defaults on payments to the jurisdiction entitled to payments of any assessments for public improvements or ad valorem taxes levied against the common elements, and the default continues for a period of 6 months or more, each owner of a lot in the development must pay to the jurisdiction a portion of the taxes or assessments in an amount determined by dividing the total taxes and/or assessments due to the jurisdiction by the total number of lots in the development. If the sum is not paid by the owner 30 days following receipt of notice of the amount due, the sum will become a continuing lien on the property of the owner, the owner's heirs, devisees, personal representatives, and assigns. The taxing or assessing jurisdiction may either bring an action at law against the owner personally obligated to pay, or may elect to foreclose the lien against the property of the owner.

E. Powers of the Association

The owners' association is empowered to levy assessments against the owners of lots or units within the development. Such assessments must 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 will constitute a lien on the lot of the owner.

F. Easements

Easements over the common elements for access, ingress, and egress from and to public streets and walkways, and easements for enjoyment of the common elements and for parking, must be granted to each lot owner.

G. Maintenance and Restoration

Provisions for maintenance and restoration in the event of destruction or damage must be established for common element improvements and party walls.

H. Parking Allocation in Nonresidential Developments

In nonresidential owners' association developments, the declaration must contain the following provision: "Parking spaces must 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 must maintain a register listing the total number of parking spaces in the development and the number of spaces allocated to each lot or unit. A copy of this register must be available to the Planning and Community Development Director upon request. The owners' association may not reduce the number of parking spaces allocated to an individual lot or unit without the express written consent of the subject owner, and in no case may the number of parking spaces allocated to an individual lot or unit be reduced to a number below that required by this ordinance."

I. Owners Association with a Private Wastewater Treatment, Collection and Disposal System

The Declaration for an owners' association, responsible for the maintenance of a private wastewater treatment, collection and disposal system, must contain the following provisions:

1. The wastewater collection system with pumps, wastewater treatment works, and/or disposal facilities, including all appurtenances (the "disposal system") must be part of the common elements.
2. The disposal system must be properly maintained and operated by the owners' association in conformity with law and the provisions of the permit for construction, operation, repair and maintenance of the system and facilities, as required by Title 15A, Subchapter 2T of the North Carolina Administrative Code.
3. The disposal system must be maintained out of the common expenses of the owners' association, and must receive the highest priority for expenditures by the owners' association except for federal, state and local taxes and insurance.
4. In order to assure that there will be funds readily available to repair, maintain or construct the disposal system, beyond the routine operation and maintenance expenses, a separate fund must be created out of the common expenses. Such funds must be separate from the routine maintenance funds allocated for the disposal system and must be part of the yearly budget.
5. In the event the common expense allocation and separate fund are not adequate for the construction, repair and maintenance of the disposal system, the owners' association is authorized to levy special assessments to cover the necessary costs. There will be no limit on the amount of special assessments, and any such special assessments can be made as necessary at any time.
6. The owners' association may not enter into voluntary dissolution without first having transferred its disposal system to another person acceptable to and approved by the North Carolina Environmental Management Commission or appropriate delegated authority, by the issuance of a permit.
7. The owners' association may not transfer, convey, assign or otherwise relinquish or release its responsibility for the operation and maintenance of its disposal system until a permit has been issued by the North Carolina Environmental Management Commission or appropriate delegated authority, to the owners' association successor.

30-13-10 Conversion of Nonconforming Development

If a nonconforming use or nonconforming building is converted into a condominium or other owners' association development, the declaration and final plat must disclose such nonconformity and explain potential consequences of such nonconforming status.