

§42-76. Approval for Subdivision Plats

A *final plat* must be prepared and approved when a *subdivision* of land occurs (See §42-343). *Final plats* must be recorded within 18 months of approval or they become null and void and must be re-approved by the appropriate authority.

§42-77. Land Disturbing and Construction Activity

No land disturbing or construction activity carried out in conjunction with the development of a *subdivision* shall begin until a development plan has been approved.

§200A-78. Subdivision Types

Subdivisions shall be either: special, *minor*, *nonstandard* or *major*. Each type of *subdivision* includes subtypes:

- A. Nonstandard Subdivision Subtypes. Public utility (pump station, water tank, etc.), *special use lot* (*sign lot*, *common area*, etc.) or *cemetery lot* (specifically excluding residential, commercial, office institutional, industrial or mixed-use).
- B. Special Subdivision Subtypes. Residential.
- C. Minor Subdivision Subtypes. Residential.
- D. Major Subdivision Subtypes. Residential, commercial, office institutional, industrial or mixed-use.

§200A-79. Reserved

§200A-80. Reserved

§200A-81. Reserved

Subpart B. Regulations Applicable to All Subdivision Types and Subtypes

§200A-82. Road Frontage and Existing Off-Site Access

Tracts to be *subdivided* must have a minimum of: (1) 30 feet of frontage on an existing public road, or (2) private *rights-of-way* no less than 30 feet in width to a public road. *Applicants* shall have the burden to prove private *right-of-way* and existing off-site access is legal, permissible and permanent (evidence may include property deed, title search, recorded *plat*, or other documentation provided by the *applicant*).

Where the minimum frontage and off-site access requirements cannot be met the maximum number of *lots* into which a *tract* may be divided shall be no more than one (1) lot per acre.

Where the minimum road frontage and existing off-site access requirements can be met but the grade of the *road* at any point in the existing off-site access exceeds 18 percent (paved) or 15 percent (gravel), and the *applicant* is proposing more than five (5) *lots*, the approving agency will review the application on a case-by-case basis.

§200A-83. Lot Designs

New subdivision *lots* shall:

- A. Abut on an approved *road* or driveway easement (See §42-104, Residential Private Road Standards by Road Classification);
- B. Be no narrower than 30 feet in width where abutting the *right-of-way* or for purposes of the driveway easement;
- C. Be calculated excluding *road right-of-way* to determine size;
- D. Be of a size, width, depth, shape and orientation reasonable for the type of development;
- E. Where possible, have side *lot* lines at right angles or radial to the *roads* faced; and
- F. Not be designed as *flag lots* except where approval may be obtained from the reviewing agency for unusual circumstances(including severe topographic conditions, the presence of *unique natural areas*, preservation of working agricultural lands, or other limiting site conditions).

§200A-84. Certificate of Understanding

The certificate shall:

- A. Be signed by the property owner(s) and provided at the time of subdivision application submittal:
- B. Acknowledge that all *lots* created from a parent tract will count toward the total number of *lots* permitted under density regulations.
- C. Acknowledge that upgrading existing improvements (including roads) may be necessary in order to expand.

§200A-85. Subdivision Names and Name Signs

The name of a *subdivision* shall not be substantially identical or similar as to likely cause confusion among prospective purchasers to any other *subdivision* or named community in the County. A community identification/subdivision sign: (1) may be provided at the primary entrance, (2) shall be in conformance with the *sign* regulations of Article VII (Sign Regulations), and (3) should be located in dedicated *sign easements*.

§200A-86. Cemeteries

Existing cemeteries shall be deeded as a separate lot in the subdivision and shall be accessed by a minimum twenty (20) foot wide private or public easement. Major subdivisions shall provide access with a minimum twenty (20) foot wide *right-of-way* (road construction is not required).

§200A-87. Advisory Provisions

- A. Soils Map. *Applicants* for *subdivisions* with *lots* smaller than one (1) acre in size should consult a soils map of the property and be knowledgeable of the suitability of ground absorption systems on the property.
- B. Utility Easements. Utility *easements* should be:
 - (1) Centered on rear or side *lot* lines,
 - (2) At least 20 feet in total width, and
 - (3) Identified following discussion with the appropriate utility agency.

- C. Stream Setbacks. See §42-251 (Perennial and Intermittent Surface Water Buffers).
- D. Traffic Impact Study (TIS) and Emergency Services Impact Report (ESIR). See Article IV (Adequate Public Facilities Regulations) for traffic impact study and emergency services impact report requirements.

§200A-88. Conservation Subdivision Standards

A. *Open space* shall:

- (1) Comprise a minimum of 25 percent of the project area.
- (2) Be composed of (in order of which lands should be designated as open space first): *primary conservation area*, *secondary conservation area*, and any remaining lands necessary.
- (3) Be designated so that a minimum of 50 percent of the proposed open space is contiguous and, where possible, adjoins *open space* or other *protected areas* (including protected forests or wildlife areas) outside the project area.
- (4) Be designated so that, where possible, a majority of the lots directly abut *open space* to provide residents with direct views and access.
- (5) Be accessible by safe and convenient pedestrian access from all adjoining *lots* (except in the case of farmland or other resources areas vulnerable to trampling damage or human disturbance).
- (6) Be used as follows:
 - a. Conservation of natural resources, archeological resources or historical resources;
 - b. *Agriculture*, horticulture, or silviculture, provided all applicable *best management practices* are used to minimize environmental impacts;
 - c. Passive recreation;
 - d. Active recreation provided *impervious surfaces* are limited to a maximum of 12 percent of the total *open space* area;
 - e. Nonstructural stormwater management practices;
 - f. *Easements* for drainage, access, and underground utility lines; and
 - g. Water, septic, and sewer systems.
- (7) Not be used as follows:
 - a. For motor vehicles (except for maintenance purposes as provided for in the Open Space Management Plan); and
 - b. Roads, parking lots and impervious surfaces (except when accessory to active recreational uses).

- B. Open Space Ownership. The *applicant* must identify current and future owner(s) of *open space* responsible for maintaining the area/facilities. The responsibility for maintaining the *open space* and its facilities shall be borne by the owner. If a homeowners' association is the owner:

- a. Membership in the association shall be mandatory and automatic for all homeowners in the *subdivision* and their successors; and
 - b. The association shall have lien authority to ensure the collection of dues from all members.
- C. Open Space Management. The *applicant* shall submit “Open Space Management Plan” which includes:
- (1) A statement allocating maintenance responsibilities and establishing guidelines for the upkeep of *open space* and its facilities;
 - (2) Cost estimates for maintenance, operation and insurance needs for the *open space*;
 - (3) A means by which funds will be obtained for all management expenses;
 - (4) A provision allowing the *Subdivision Administrator* to approve plan change; and
 - (5) Criteria for plan enforcement.
- D. Legal Instrument for Permanent Protection. *Open space* shall be protected in perpetuity by a binding legal document recorded with the deed. The document shall be one of the following:
- (1) Permanent conservation *easement* in favor of either:
 - a. A land trust or similar conservation-oriented non-profit organization with legal authority to accept such *easements*. The organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for retransfer in the event the organization becomes unable to carry out its functions; or
 - b. A governmental entity with an interest in pursuing goals consistent with the intentions of this Section.
 - (2) Permanent restrictive covenant for conservation purposes.
 - (3) Equivalent legal tool providing permanent protection, subject to approval by the County Attorney.

The instrument shall include all restrictions contained in §42-88 (Conservation Subdivision Standards), and any further restrictions the *applicant* chooses to place on the use of the *open space*.

- E. Open Space Density Bonus. Base density is determined by the zoning district in which the *subdivision* is located. Conservation subdivisions proposing more than the minimum required *open space* may be eligible for increased densities. Table 3.1 outlines the criteria for density bonuses. Lands under conservation easement shall not be counted when determining density bonuses. Permitted housing densities shall not exceed the maximum allowances of any applicable *water supply watershed* requirements.

Table 3.1. Open Space Density Bonuses				
Percent <i>Open Space</i> (%)	25-30	31-40	41-50	>51
Percent Housing Density Increase (%)	N/A	10	15	20

- F. Agricultural Preservation Density Bonus. Base density is determined by the zoning district in which the *subdivision* is located. Conservation subdivisions proposed for sustaining existing on-site bona fide agricultural operations are entitled to a five (5) percent increase in permitted density. Residential *lots* in these *subdivisions* should be located in areas less suitable for agricultural production with prime farmland being preserved as *open space*. *Lots* should be located where agricultural operations do not interfere with the safety and well being of future residents. The reviewing agency may require vegetative buffering and/or additional *setbacks* between agricultural operations and *lots* to mitigate potential impacts of noise, vibration, light, and/or odor. This five (5) percent bonus may be used in conjunction and in addition to any applicable *open space* density bonus. Permitted housing densities shall not exceed the maximum allowances of any applicable *water supply watershed* requirements.
- G. Structure Placement. Structures should be placed as closely to *internal roads* as permitted. The reviewing agency may reduce the front yard setback to a minimum of five (5) feet; taking into consideration sound engineering, public safety concerns and community character when applying the standards. *Structures* may be: (1) located in the *side yard* setback required by the zoning district regulations; and (2) placed as closely together as permitted by the North Carolina State Building Code.
- H. Exemption. Conservation subdivision standards can be applied to any subdivision type, but are not required by this Chapter.

§200A-89. Reserved

§200A-90. Reserved

§200A-91. Reserved

Subpart C. Subdivision Road Standards Applicable to All Subdivision Types and Subtypes

§200A-92. Road Disclosure

North Carolina General Statute (NCGS) §136-102.6 requires a developer disclose to each buyer of property the following:

- A. The ownership (public or private) of the *road* serving the *lot*,
- B. How the *road* will be maintained, and
- C. Who shall be responsible for such maintenance.

The law further requires certain *road* maintenance agreements be executed.

§200A-93. Right-of-Way

Right-of-way standards apply within the property being developed. *Rights-of-way* shall be capable of supporting a *road* by meeting the minimum width specified by this Chapter (See Table 3.3). Any portion of an existing recorded *right-of-way* which does not meet minimum width requirements of this Chapter shall be upgraded to: