

TABLE OF CONTENTS

Article I. General Provisions.....	3
Section 1.1 Title.....	3
Section 1.2 Authority.....	3
Section 1.3 Jurisdiction.....	3
Section 1.4 Purpose.....	3
Section 1.5 Subdivision Defined.....	4
Section 1.6 Other Developments Classified the Same as Subdivisions.....	5
Section 1.7 Compliance.....	5
Section 1.8 Subdivision Administrator.....	5
Section 1.9 Coordination of Plans.....	6
Section 1.10 Administrative Fee.....	6
Section 1.11 General Definitions.....	7
Article II. Subdivision Review Procedure.....	11
Section 2.1 Approval Levels.....	11
Section 2.2 Subdivision Types.....	11
Section 2.3 Approval Authority.....	12
Section 2.4 Plan and Plat Requirements.....	12
Section 2.5 Plan and Plat Submittal and Review Periods.....	13
Section 2.6 Appeals.....	14
Section 2.7 Effects of Approvals – Prerequisites.....	14
Section 2.7.1 Preliminary Plan.....	14
Section 2.7.2 Final Plat.....	14
Article III. Subdivision Design Standards.....	15
Section 3.1 General.....	15
Section 3.2 Names.....	16
Section 3.3 Streets.....	16
Section 3.4 Water and Sewer Design Criteria.....	20
Section 3.5 Lots.....	20
Section 3.6 Blocks.....	21
Section 3.7 Storm Drainage Not in Public Streets.....	21
Section 3.8 Utility Easements.....	22
Section 3.9 Subdivision Entrance Markers and Landscaped Medians.....	22
Section 3.10 Connection to State Streets.....	22
Section 3.11 Phasing.....	23

Article IV. Required Improvements.....	25
Section 4.1 Street Improvements.....	24
Section 4.2 Drinking Water Improvements.....	27
Section 4.3 Sanitary Sewerage Improvements.....	29
Section 4.4 Water and Sanitary Sewer Main Extension Policy.....	30
Section 4.5 Facility Investment Fee (FIF) Procedures.....	32
Section 4.6 Sanitary Sewer Lift Station Policy.....	Error!
Bookmark not defined.....	35
Section 4.7 Street Name Signs.....	39
Section 4.8 Traffic Control Devices and Markings.....	37
Section 4.9 Storm Drainage.....	37
Section 4.10 Residential Planned Developments ..	40
Section 4.11 Family Subdivisions.....	38
Section 4.12 Private Streets.....	38
Section 4.13 Monuments.....	39
Section 4.14 Open Space.....	39
 Article V. Guarantee of Required Improvements; Warranty Against Defects.....	 44
Section 5.1 Financial Guarantee in Lieu of Immediate Installation for Approval.....	44
Section 5.2 Duration of Financial Guarantees.....	45
Section 5.3 Default.....	45
Section 5.4 Release of Guarantee Security.....	45
Section 5.5 Warranty Against Defects.....	45
 Article VI. Legal Provisions.....	 47
Section 6.1 Interpretation. Purpose. Conflict.....	47
Section 6.2 Repeal and Reenactment of Existing Subdivision Regulations.....	47
Section 6.3 Effect Upon Outstanding Preliminary Plats.....	48
Section 6.4 Effect Upon New Territory Added to Jurisdiction.....	49
Section 6.5 Modifications.....	50
Section 6.6 Amendment.....	50
Section 6.7 Violations, Penalty.....	51
Section 6.8 Validity.....	52
Section 6.9 Effective Date.....	52

AN ORDINANCE AMENDING THE SUBDIVISION REGULATIONS OF
HOKE COUNTY, NORTH CAROLINA

BE IT ORDAINED by the Board of Commissioners of Hoke County, North Carolina, that the Subdivision Regulations of Hoke County are hereby amended by rewriting it in its entirety to read as follows:

"Subdivision Ordinance
Hoke County, North Carolina

Article I. General Provisions

Section 1.1 Title

This Ordinance shall be known as the Subdivision Ordinance of Hoke County, North Carolina.

Section 1.2 Authority

This Ordinance is adopted under the authority and provisions of the General Statutes of North Carolina Chapter 160D, Article 8, Part 2 Subdivision Regulations.

Section 1.3 Jurisdiction

These regulations shall govern all subdivisions of land within the territorial jurisdiction of Hoke County which shall include all land within Hoke County outside the subdivision jurisdiction of any municipality.

Section 1.4 Purpose

The purpose of this Ordinance is to establish procedures and standards for the development and subdivision of real property within the jurisdiction of Hoke County, NC, in an effort to, among other things:

- A) Promote orderly growth and development consistent with the goals, objectives and policies of the Land Use Plan.

- B) Provide for suitable residential and non-residential subdivisions with adequate streets and utilities and appropriate building sites;
- C) Provide for the distribution of population and traffic in a manner which shall avoid congestion and overcrowding;
- D) Provide for the coordination of streets within subdivisions with existing or planned streets and with other public facilities;
- E) Provide for the dedication or reservation of rights-of-way or easements for street and utility purposes;
- F) Provide for the dedication or reservation of adequate spaces for public lands and buildings;
- G) Protect and enhance environmental quality;
- H) Provide for the dedication or provision of facilities for adequate storm drainage; and,
- I) Provide proper land records for the convenience of the public and for better identification and permanent location of real property boundaries.

Section 1.5 Subdivision Defined

For the purposes of this Ordinance “subdivision” shall mean all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when one or more of those divisions are created for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations of this Ordinance; provided, however, that any document or plat to be recorded pursuant to any such exclusion shall bear the notation "No approval required" and the signature of the Subdivision Administrator or his designated agent before being presented for certification by the Hoke County Review Officer:

- (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this Ordinance;
- (2) The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved;
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets;

- (4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this Ordinance; and
- (5) The division of land by will or by order of a court of jurisdiction in the settlement of a decedent's estate (NOTE: Unless such lots meet the standards of this Ordinance, a building permit shall not be issued).

Section 1.6 Other Developments Classified the Same as Subdivisions

In addition to subdivisions as defined above, any proposed development that intends to use the exception to the requirements in Section 7.3 Relationship of Building to Lot of the Zoning Ordinance “that in no case shall there be more than one principal building and its customary accessory buildings on a lot” and/or the exception to the requirements in Section 7.4 Street Access of the Zoning Ordinance that “no building shall be erected on a lot which does not abut a street or have access to a street” shall be subject to the provisions of this Ordinance the same as a subdivision. The Subdivision Administrator shall determine whether the development requires the major or minor approval process. Unless required by this ordinance or by NCGS 47-30, no Final Plat shall be required but “as-built” plans shall be submitted instead.

Section 1.7 Compliance

From and after the adoption of this Ordinance, no real property lying within the jurisdiction of this Ordinance shall be subdivided except in conformance with all applicable provisions of this Ordinance. In addition, after the effective date of this Ordinance, no plat for the subdivision of land within the jurisdiction of this Ordinance shall be certified for recording by the Review Officer, nor shall the Clerk of Superior Court order the recording of a plat until it has been submitted and approved in accordance with the provisions of this Ordinance.

Section 1.8 Subdivision Administrator

This Ordinance shall be administered by the Subdivision Administrator who shall be appointed by the County Manager. The Subdivision Administrator shall administer and enforce the provision of this Ordinance and have such other specific powers and duties as are set forth in this Ordinance. The Subdivision Administrator may designate agents to act on his behalf. The Subdivision Administrator shall have the right to enter property at reasonable hours for the purpose of making inspections.

Section 1.9 Coordination of Plans

All plans, plats and supporting documents to be submitted in connection with the procedures set forth in this Ordinance shall be submitted first to the Subdivision Administrator. The Subdivision Administrator shall develop and maintain a set of standards to serve as a basis for the type, size, graphic media, number of copies, information to be shown and other such matters in regard to the maps and documents required to be submitted in the administration of this Ordinance. Such standards may also include standards for street, storm drainage and utility construction plans. A listing of such standards may be appended to this Ordinance and are presumed to be necessary to satisfy the requirements of this Ordinance.

To assist the Subdivision Administrator in the coordination of subdivision plan and plat review and to provide for review and approval of construction plans and other such matters as are required in the administration of the subdivision process, the County Manager shall appoint a Subdivision Review Committee (SRC) consisting of representatives of the various County departments and other agencies involved in such matters as the County Manager may determine. The membership and operating procedures of the SRC shall be as determined by the County Manager and Section 2.5 of this ordinance. The Subdivision Administrator shall serve as Chairman of the Subdivision Review Committee and shall act in all instances in regard to the administration and enforcement of this Ordinance.

The following agencies shall be given opportunity to make recommendations concerning subdivision plan prior to preliminary plan approval:

- 1) The district highway engineer as to proposed streets, highways, and drainage systems; and,
- 2) The county health director as to proposed water or sewerage systems.

Section 1.10 Administrative Fee

The Board of Commissioners shall set a fee schedule for the administration of this Ordinance. The Subdivision Administrator shall be responsible for collecting such fees. All fees relating to recording of documents shall be borne directly by the subdivider.

Section 1.11 General Definitions

Unless specifically defined in this Section, words used in this Subdivision Ordinance shall have their respective customary dictionary definitions. For the purpose of these regulations certain words, terms or phrases used herein are interpreted and defined as follows:

Words used in the present tense shall include the future tense.

Words used in the singular shall include the plural and words used in the plural shall include the singular.

The words "shall" and "will" always indicate MANDATORY.

The words "should" and "may" always indicate OPTIONAL.

The word "lot" includes the words "plot", "tract" and/or "parcel".

The word "building" includes the word "structure".

The word "person" includes a "firm, association, organization, partnership, trust, company, corporation and/or individual".

The word "use" includes the terms "arranged", "designed" and/or "intended" for a use, activity and/or purpose.

The term "Board of Commissioners" shall always indicate the BOARD OF COMMISSIONERS OF HOKE COUNTY, NORTH CAROLINA.

The term "Planning Board" shall always indicate the PLANNING BOARD OF HOKE COUNTY, NORTH CAROLINA.

The term "County Manager" shall always indicate the COUNTY MANAGER OF HOKE COUNTY, NORTH CAROLINA.

The term "Subdivision Administrator" shall always indicate the SUBDIVISION ADMINISTRATOR OF HOKE COUNTY, NORTH CAROLINA.

Dedication - A gift, by the owner, of a right to use of land for a specified purpose or purposes. Because a transfer of property rights is entailed, dedication must be made by written instrument, and is completed with an acceptance.

Ditch – An open channel to convey water for irrigation or drainage

Easement - A grant of one or more of the property rights by the property owner of a portion of land for a specified purpose and use by the public, a corporation or other entities.

Family Subdivision - A division of land solely among direct lineal descendants (parent to child only) and direct lineal ascendants (child to parent only); when a parent makes a one time gift to a child or a child makes a one time gift to a parent of a parcel of land divided from the child's or parent's property.

Flag Lot - A lot with less lot width than a conventional lot and composed of a narrow "flagpole" strip extending from the street and a much wider "flag" section usually lying behind a conventional lot.

Lot - A separate and distinct unit of land described by either a metes and bounds description and/or subdivision plat of record and/or probated will. Lot includes a portion of a subdivision or any other parcel of land, intended as a unit for transfer of ownership or for development or both.

Open Space –An area that is intended to provide light and air, and is designed for either environmental, scenic or recreational purposes. The term "open space" shall include greenways dedicated for environmental, scenic or recreational purposes. The term "open space" shall not include roads or streets or any areas dedicated or reserved for a road or a street. Those areas which shall not be considered open space include: land within setbacks/separation areas, internal/external roads/rights-of-way, driveways, parking spaces, amenity centers, sale/model homes, solid waste disposal areas and areas needed for aboveground utility facilities including water supply or sewage disposal systems; not to include well lot dedications as required herein by the County that are eligible for open space consideration.

Planning Board - The Planning Board of Hoke County, North Carolina.

Public Sewage Disposal System - A system serving two (2) or more dwelling units and approved by the Hoke County Health Department or the North Carolina Department of Environment, Health and Natural Resources.

Public Water System - A system for the provision to the public of piped water for human consumption if such systems has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. Such term includes:

- (i) Any collection, treatment, storage, and distribution facility under control of the operator of such system and used primarily in connection with such system; and
- (ii) Any collection or pre-treatment storage facility not under such control which is used primarily in connection with such system.

A public water system is either a "community water system" or a "non-community water system."

- (i) "Community water system" means a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.
- (ii) "Non-community water system" means a public water system which is not a community water system.

Reserve Strip - A strip of land (usually only a few feet wide) owned privately, and set aside around a subdivision in order to prevent access to adjacent property by way of subdivision streets.

Storm. Ten (10) Year – The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in ten (10) years and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

Storm. Twenty-five (25) Year – The surface runoff resulting from a rainfall of intensity expected to be equaled or exceeded, on the average, once in twenty-five (25) years and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

Storm. One-Hundred (100) Year – The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in one hundred (100) years and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

Subdivider - A person engaging in the act of subdividing property.

Subdivision - See Section 1.5.

Street, Public - A public right-of-way for vehicular travel which has been constructed and then dedicated to and accepted by the North Carolina Department of Transportation (NDOT) for public use or which has been otherwise obtained by such agency for such use or which is proposed to be constructed and then dedicated to and accepted by such agency as a public right-of-way for vehicular traffic for public use pursuant to this Ordinance. Street classifications are as follows:

Arterial Street - A Federal and/or State highway designed primarily for the movement of large volumes of vehicular traffic from one area to another; a thoroughfare.

Collector Street - A public way designed primarily to connect residential streets with arterial streets and/or to provide direct connection between two or more arterial streets and which may be designed to carry significant volumes of vehicular traffic having neither origin nor destination on the Street.

Commercial/Industrial Street - A public way designed primarily to connect minor commercial/industrial streets with arterial streets and/or to provide direct connection between two or more arterial streets and which may be designed to carry significant volumes of vehicular traffic having neither origin nor destination on the street.

Minor Street - A public way used primarily for providing direct access to abutting properties, and which does not have collector characteristics.

Minor Streets are further classified as:

Residential - Those streets whose primary function is to provide direct access to residential property.

Commercial-Industrial - Those streets whose primary function is to provide direct access to commercial-industrial property.

Cul-de-Sac - A short minor street having one end open to traffic and the other end permanently terminated with a vehicular turnaround.

Street, Half - A proposed vehicular travel way intended to be developed by constructing one-half of a required width of a street with the remainder to be provided at some future date.

Street, Private - A vehicular travel way not dedicated as a public street.

Thoroughfare Plan - Any officially adopted Thoroughfare Plan within the jurisdiction of this Ordinance.

Article II. Subdivision Review Procedure

Section 2.1 Approval Levels

The subdivision review procedure shall consist of two levels of required approval:

Preliminary Plan (Tentative Final); and, Final Plat

Preliminary Plan approval shall be a prerequisite to Final Plat approval. Where required, Construction Plans must be approved prior to the submission of the Final Plat.

Section 2.2 Subdivision Types

The subdivision review procedure shall consist of two types of Subdivisions:

Major Subdivisions and
Minor Subdivisions

Major Subdivisions are those subdivisions which involve more than five (5) lots, those subdivisions which involve the dedication of new street segments (but not simply widening), those subdivisions where special developments are involved as permitted by the Section 4.8, or those subdivisions that involve dedication or reservation of land for open space, school sites and other public purposes. All other subdivisions shall be considered to be Minor Subdivisions, provided, however, the Subdivision Administrator may classify, at his discretion, any subdivision as defined herein as a Major Subdivision. See Section 4.9 for special provisions for Family Subdivisions as a Minor Subdivision.

The Minor Subdivision procedure may not be used again on same parent parcel or any property less than 1,500 feet from the original property boundaries by anyone who owned, had an option on, or held any legal interest in the original subdivision at the time the subdivision received preliminary or final plat approval or by any subsequent owner, individual having an option on, or individual having any legal interest in the original subdivision at the time the subdivision received preliminary or final plat approval.

1. However, the Planning Director or Designee may at any time refer the application to the Hoke County Board of Commissioners for consideration to allow a second Minor Subdivision to occur if deemed necessary and appropriate. Subsequent to Board of Commission approval, the application shall then be

reviewed in accordance with the major subdivision review and approval process by the Development Review Board.

2. In no case shall utilization of this process allow for the number of new lots created, combined with the number of lots created by the initial minor subdivision exceed the maximum number of lots permitted by the minor subdivision process. No other requirements set forth by the minor subdivision process shall be circumvented.

3. The minor subdivision process may be utilized for the division of lots located within a nonresidential zoning district when no easement or right(s)-of-way dedication is required.

Section 2.3 Approval Authority

The approval authority for the levels and types of subdivision approval shall be as follows:

Preliminary Plans - (Tentative Final)

Major Subdivisions - The Board of Commissioners on recommendation from the Planning Board

Minor Subdivisions - Subdivision Administrator

Final Plats

Major and Minor Subdivisions - Subdivision Administrator acting for the Board of Commissioners

Note: Any changes to a Major Subdivision or Family Subdivision which has been granted preliminary approval by the Board of Commissioners will require final review and approval by the Board of Commissioners.

Section 2.4 Plan and Plat Requirements

Plans and plats and supporting documents and material for the levels of subdivision approval shall be submitted in the form as provided for in the Subdivision Administrator's standards for such submittals as shown in the Appendix.

Prior to submitting a Major Preliminary Plan the subdivider shall hold a pre-submittal conference with the Subdivision Administrator in order to determine the subdivision approval track and supporting document requirements for the particular case.

Section 2.5 Plan and Plat Submittal and Review Periods

Prior to being heard by the Planning Board all Major Preliminary Plans will be reviewed by the Subdivision Review Committee (SRC). As authorized by Section 1.9 of this ordinance, the SRC will exist as a technical advisory committee only. Following the SRC review, the Subdivision Administrator shall forward the staff and SRC findings and recommendations to the Planning Board. The SRC shall consist of, but not be limited to, representatives of the following departments or agencies: Planning, Environmental Health, NCDOT, Emergency Services, and Soil and Water Conservation. SRC members may also include, as needed, representatives of other local, county, state, and federal agencies as well as representatives of public or privately owned utility providers. The Subdivision Administrator shall be responsible for scheduling SRC meetings and coordinating the review of subdivision plats.

Once a plan has been reviewed by the SRC, plans and plats, in the proper form, may be submitted to the Subdivision Administrator for review and consideration by the Planning Board, according to the following schedule: (Note: The Subdivision Administrator may refuse to accept the submission of any plans, plats or supporting documents which in his opinion do not meet the standards for such submittals as contained in the Manual of Practices and this Ordinance.)

Preliminary Plans - Minor Subdivisions - may be submitted at any time.

The Subdivision Administrator shall either approve, approve conditionally or deny the approval of the Preliminary Plans within fifteen (15) days of receipt. Approval, conditional approval or denial shall be in written and/or drawn form and dated.

Preliminary Plans - Major Subdivisions - Prior to the Planning Board meeting, the Subdivision Administrator shall submit the preliminary plan for review to the Subdivision Review Committee and to the District Highway Engineer and the County Health Director as appropriate. The Planning Board will forward a recommendation to the Board of Commissioners with the Board of Commissioners having final approval authority. The Planning Board recommendation will be for approval, approval with conditions, or denial of the Preliminary Plan and shall be forwarded to the Board of Commissioners within forty-five (45) days of the Planning Board's first consideration. The recommendation shall be in written and/or drawn form and dated.

Final Plats - may be submitted at any time. The Subdivision Administrator shall either approve, approve conditionally or deny the approval of the Final Plats within thirty (30) days of receipt. Approval, conditional approval or denial shall be in written and/or drawn form and dated.

Section 2.6 Appeals

An aggrieved person may appeal any decision of the Subdivision Administrator or the Planning Board to the Board of Commissioners by filing written notice with the Clerk to the Board within thirty (30) days of the Subdivision Administrator or Planning Board's action or the Administrator or Planning Board's failure to act, if the Administrator or Planning Board failed to act within the allotted time. The Board of Commissioners, acting on appeal, shall have the same authority as the Subdivision Administrator and Planning Board in regard to the subject level of subdivision review and approval.

Section 2.7 Effects of Approvals - Prerequisites

Section 2.7.1 Preliminary Plan approval shall constitute tentative approval of the Final Plat if the Final Plat is in substantive agreement with the Preliminary Plan and shall entitle the subdivider to proceed to prepare street and utility construction plans, if applicable, and/or to proceed to prepare the Final Plat. Approval of Construction Plans by the appropriate authority shall entitle the subdivider to proceed with construction of subdivision improvements.

Section 2.7.2 Final Plat If a Final Plat of all or part of the area shown on a Preliminary Plan is not recorded in the Office of the Register of Deeds within eighteen (18) months of approval of the Preliminary Plan, or if there is a lapse of more than eighteen (18) months between the recording of sections, the Subdivision Administrator may require the resubmittal of the unrecorded portion as a Preliminary Plan.

Final Plat approval shall entitle the Subdivider to record the Final Plat. A Final Plat must be recorded in the Office of the Register of Deeds within fifteen (15) days of its approval by the Subdivision Administrator. No Final Plat shall be regarded as finally approved until such plat shall be recorded.

No Final Plat shall be approved for recording until all required subdivision improvements have been installed and approved or a financial guarantee as provided for in Article 5 has been submitted and approved by the Board of Commissioners. In addition, no Final Plat shall be approved for recording unless such plat is in substantial agreement, as determined by the Subdivision Administrator, with the approved Preliminary Plan. Final Plats not in substantial agreement shall be resubmitted as Preliminary Plans as provided for herein.

After the Final Plat is recorded, lots as shown on the plat may be sold or otherwise conveyed by reference to the plat. Building permits and certificates of occupancy, however, may be issued only after all improvements have been installed, inspected, and approved by the Subdivision Administrator.

Approval and recording of the Final Plat shall constitute dedication by the subdivider of the right-of-way of each public street and utility and drainage easement shown on such plat. Such dedication, however, does not constitute acceptance by the public of such right-of-way, nor does it constitute acceptance for maintenance or for other purposes of the improvements within such rights-of-way, easements, and such improvements therein. In addition, land designated on an approved and recorded Final Plat as public open space and similar public purposes shall be considered to be offered for dedication until Hoke County has by resolution accepted such dedication and such land is deeded to Hoke County. Until such dedication has been accepted, land so offered may be used for open space purposes by its owner or his designees and Hoke County shall be held harmless of any liability involving such land. Land so offered for dedication shall not be used for any purpose inconsistent with the proposed public use without the express approval of the Board of Commissioners of Hoke County.

Article III. Subdivision Design Standards

Section 3.1 General

All proposed subdivisions subject to the regulation of this Ordinance shall comply with this Article and shall be so planned as to facilitate the most advantageous development of the entire community and shall bear a reasonable relationship to the Land Use Plan and any applicable Thoroughfare Plan. The Board of Commissioners may deny approval of any subdivision which the Board finds does not meet one or more of the stated purposes of this Ordinance as set forth in section 1.4

The general design of the subdivision shall take advantage of and be adjusted to the contour of the land so as to produce usable building sites and streets of reasonable gradients. Subdivision plans shall be drawn in consideration of the suitability of the land and its capability to support and maintain the proposed development. Due consideration shall be given to such factors as water supply watershed requirements, outstanding resource waters, topography, flood damage prevention, erosion control, wetland preservation, storm water management, solar energy, tree preservation, noise and pollution control, habitat for endangered species, areas of historical, archaeological or architectural significance, proximity to the Fort Bragg Military Reservation, and land use relationships in addition to other factors including those prescribed by this Ordinance.

The Board of Commissioners may require the subdivider to prepare an Environmental Impact Statement (EIS) pursuant to NCGS 113A-8 as part of the Preliminary Plan for any subdivision of two (2) acres or more where in the Board's opinion one or more of the suitability factors outlined in the paragraph above, or any similar environmental factor, is a significant issue regarding the particular subdivision. The Board may waive the EIS where an EIS or equivalent document is required by a state or federal agency for the same or essentially the same factor(s).

North Carolina General Statutes 136-102.6 "Compliance of Subdivision Streets With Minimum Standards of the Board of Transportation Required of Developers" requires that new public streets outside of city limits be in accordance with the Minimum Right-Of-Way and Construction Standards established by the Board of Transportation for acceptance on the State highway system. It is the intent of these standards as set forth, to complement and not to conflict with requirements of NCDOT as stated in NCGS 136-102.6. In all cases the most restrictive limitation or the requirement causing the highest standard of improvement shall govern.

Section 3.2 Names

In no case shall the name of a proposed subdivision duplicate or be phonetically similar to an existing subdivision name within the jurisdiction unless the proposed subdivision lies adjacent to or is in close proximity to the existing subdivision.

Proposed streets which are obviously in alignment with others already existing or proposed and named shall bear the names of the existing or proposed streets. In no case shall the names of proposed streets duplicate or be phonetically similar to other existing street names in the jurisdiction irrespective of the addition of a prefix, suffix or word such as street, avenue, place, drive or court. All road naming shall be in compliance with the Hoke County Addressing Ordinance. The E911 Coordinator has final review/approval authority regarding road naming procedures.

Section 3.3 Streets

The proposed street system shall extend existing and projected streets at not less than the required minimum width and shall be in conformance with the following criteria:

(1) Conformance with Thoroughfare Plan

The location and design of streets shall be in conformance with any applicable Thoroughfare Plan. Where conditions warrant, right-of-way width and pavement width in excess of the minimum street standards may be required. In any case where any part of a subdivision lies within the corridor of a thoroughfare shown on a Roadway Corridor Official Map adopted pursuant to North Carolina General Statutes Chapter 136, Article 2E, no subdivision approval shall be granted with respect to the property in the Roadway Corridor. Provided, however, no subdivision plat approval shall be delayed by the provision of the Roadway Corridor Official Map procedure for more than three (3) years from the date of its original submittal.

(2) Street Classification

The final determination of the classification and cross section of streets in a proposed subdivision shall be made by the Board of Commissioners. All streets shall be planned, designed and dedicated as public streets unless otherwise specifically provided for in this Ordinance.

(3) Conformance with Adjoining Street System

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

(4) Access to Adjoining Property

Where in the opinion of the Board of Commissioners it is desirable to provide for street access to adjoining property, proposed streets shall be extended to the boundary of such property. Cul-de-sacs shall not be used to avoid connection with an existing street, to avoid the extension of a thoroughfare or collector street, or to avoid connection to adjoining property. In general, cul-de-sacs shall not be used to provide access to development on the boundary of the development.

(5) Reserve Strips, Half Streets, Private Streets, Access Easements

Reserve strips adjoining street rights-of-way for the purpose of preventing access to or from adjacent property, (except those required to prevent access to major thoroughfares) and half-streets shall not be permitted under any condition. Private streets where permitted shall be designed to meet the appropriate street classification and cross section as determined by the Board of Commissioners. Access easements as the primary accessway to lots shall only be permitted as set forth in Sections 4.9 and 4.10.

(6) Intersections

Streets shall be designed so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at an angle of less than seventy-five (75) degrees. Streets crossing natural areas or streams shall cross at or near to right angles as possible within limits of topographic conditions. Offset intersections are to be avoided.

(7) Cul-de-sacs

a. Permanent dead-end streets shall not exceed fifteen hundred (1500) feet in length unless necessitated by topography or property accessibility and approved by the Board of Commissioners. Measurement shall be from the point where the centerline of the dead-end street intersects with the centerline of a through street to the center of the turnaround of the cul-de-sac. Cul-de-sacs shall be provided with a turn-around meeting NCDOT standards.

b. Where one cul-de-sac extends from another cul-de-sac, the end of each cul-de-sac shall be no more than fifteen hundred (1500) feet from a through street as measured by the centerline of the streets.

c. Cul-de-sacs shall not be used to avoid connection with an existing street, to avoid the extension of a thoroughfare or collector street, or to avoid connection to adjoining property.

(8) Marginal Access Streets

Where a tract of land to be subdivided adjoins a thoroughfare, the subdivider may be required to provide a marginal access street parallel to the thoroughfare or provide for through lots on a local street for the lots to be developed adjacent to the thoroughfare. Where through lots are established, such lots may be prevented from having direct access to the thoroughfare by driveways.

(9) Utilities, Street Lights and Storm Drainage Within Streets

Utilities, street lights, sidewalks, storm drainage and other such facilities to be placed within the street right-of-way shall be placed in accordance with NCDOT Minimum Construction Standards.

(10) Pavement, Curb and Gutter and Sidewalks

Pavement, curb and gutter and sidewalks to be placed in public streets or rights-of-way shall be placed in accordance with NCDOT Minimum Construction Standards. Please refer to subheading (12) Street Cross Sections for actual curb and gutter and sidewalk requirements.

(11) Street Design Criteria, Generally

All street designs and construction, including storm drainage, within public street rights-of-way shall be in accordance with NCDOT Minimum Construction Standards.

(12) Street Cross Sections

a. General Standards

1. These standards apply to both public and private streets.
2. All streets classified as public and private streets shall have a minimum fifty (50) foot right-of-way.
3. All streets classified as collector or major commercial/industrial streets shall have a minimum sixty (60) foot right-of-way.
4. Curb and gutter is a requirement for all major subdivisions. Asphalt wedge curb shall be the minimum required curb structure permitted in addition to standard or vertical curbing. Regardless of street cross section, no open ditches are permitted in any newly created subdivision.
5. Sidewalks are required on one side of the street for all subdivisions and the Board of Commissioners may require sidewalks on both sides of the road where the Board determines the pedestrian activity may warrant it. Exceptions for subdivisions consisting of ten (10) lots or less in all residential zoning districts, sidewalks are not required if no future phases or future road connections are planned or constructed for the subdivision and if the subdivision is served by only one road that is no longer than 1,000 feet in any length. Where sidewalks are required a concrete five-foot (5) sidewalk on the outer edge of the right-of-way meeting the Americans with Disabilities Act standards shall be provided. In approving a preliminary plan the Board of Commissioners may reduce the sidewalk requirement by up to fifty (50%) percent when in the Board's opinion other pedestrian amenities such as trails or greenways provide equal or better performance.

b. Required Cross Sections

1. All commercial/industrial subdivisions including minor subdivisions in areas classified as Urban Service Area or Economic Development Zone and all commercial/industrial subdivisions served by both public water and sewer systems shall be developed with curb and gutter and the Board of Commissioners may require sidewalks where the Board determines that pedestrian activity may warrant sidewalks.
2. Curb and gutter shall not be permitted in areas classified as Conservation Areas in the Land Use Plan (Lumber River Conservancy, Nature Conservancy, Red Wing, Calloway and N.C. Department of Agriculture).
3. Subdivisions in which all lots are a minimum of two (2) acres and are located outside of areas designated as Urban Service Area or Economic Development Zone are not required to provide curb and gutter but the Board of Commissioners may require sidewalks where the Board determines that pedestrian

activity may warrant sidewalks. All other subdivisions shall be subject to the requirements of either b.1. as applicable.

Section 3.4 Water and Sewer Design Criteria

All public systems shall be approved for construction by the appropriate agency of Hoke County and the State of North Carolina.

Section 3.5 Lots

The size, shape and orientation of lots shall be appropriate for the location of the proposed subdivision, for the type development contemplated, and in consideration of the method of providing water and sewer facilities to the lots.

It is the intent of this Ordinance that lot size, shape and orientation shall be controlled by the provisions of the Hoke County Zoning Ordinance and the types of development permitted by that Ordinance. The configuration of lots in subdivisions designed for nonresidential purposes may be omitted on plans and plats. The final lot sizes may be determined and platted on a lot by lot basis provided each meets the minimum requirements. In all cases the most restrictive standard shall prevail. Every lot shall have sufficient area, dimensions and shape to permit a principal building to be constructed thereon in conformance with the applicable provisions. Such buildable area shall lie at or be elevated to least three (3) feet above the one-hundred (100) year flood elevation as provided for in the Hoke County Flood Damage Prevention Ordinance. Lots shall be designed so as to provide positive drainage away from building sites. Lot boundaries shall be made to coincide with natural and pre-existing manmade drainageways to the extent practicable to avoid the creation of lots that can be built upon only by altering such drainageways. Lotting arrangements shall be made with due consideration given to not disturbing wetlands, creeks, and other such natural features. Side lines of lots should be at or near right angles or radial to street lines. All lots must have public street access and frontage meeting the requirements set forth in the Zoning Ordinance, except as otherwise specifically provided for in the Zoning Ordinance. Parcels created through the subdivision process which are not intended for building purposes shall be so designated and perpetually bound as "not-buildable" unless subsequently released through the subdivision process.

All flag lots shall be designed such that no more than one flag lot exists within three hundred (300) feet of another flag lot. All flag lots shall have a minimum road frontage and minimum lot width of thirty (30) feet.

Three (3) subdivision lots, building sites or spaces (existing or proposed) may be allowed provided that every lot has frontage on a perpetual, easement not less than fifty (50) feet in width that meets a public road. The fifty foot easement shall serve no more than three (3) subdivision lots.

For all lots inside the Urban Services Area that will be served by an easement, that easement must meet the minimum street requirements in Section 3.3 of this ordinance. For new lots outside of the Urban Services Area that can achieve ingress and egress through an easement, the minimum travel width for both combined lanes shall be 20 feet.

Ingress and egress easements servicing more than two (2) lots will provide a continued maintenance agreement and shall be approved by the Hoke County Board of Commissioners and recorded with the Hoke County Register of Deeds in a legally valid and binding instrument that describes the method of maintenance, who will be responsible for maintenance, and the properties which the easement access way serves.

The easement shall not be within four hundred feet of another easement of this type unless approved by the Board of Commissioners after considering lot design, land ownership, topography, and other appropriate information, and receiving review by the Planning Board. The final plat for lots created under this provision shall include the easement shown in its entirety. A sub-divider shall not create any subdivision lots of this type for a period of twelve (12) months after the subdivision approval of lots with this type of access on the same property or adjacent properties.

Section 3.6 Blocks

Subdivisions shall be so designed such that no blocks with a circumference greater than four thousand (4000) feet shall be created.

Section 3.7 Storm Drainage Not in Public Streets

All storm drainage systems must meet North Carolina Department of Environment and Natural Resources requirements. Where easements are required, they shall be noted on the Final Plat. Retention ponds created by any subdivision shall be maintained by a Homeowners Association. The developer shall place in a conspicuous manner upon the final plat of the subdivision prior to final plat approval a notation concerning maintenance of retention ponds. The developer is required to assure that all recorded deeds related to the subdivision include wording clearly indicating that retention ponds run with the property. All retention ponds are required to be fenced for safety purposes.

The requirements of the Flood Damage Prevention Ordinance shall apply to storm drainage design where applicable. Generally the following standards shall apply:

- (1) Types of drainage ways requiring treatment
 - a. Those draining one (1) acre of land or more.

- b. Those carrying storm water runoff from public streets whether existing or proposed.
- c. Those carrying storm water runoff from large impervious surfaces other than streets.

(2) Design Storms

- a. Open drainage channel- 25-year storm.
- b. Enclosed systems- 10-year storm for collectors and 25-year storm for street crossing conduits and immediate downstream areas.
- c. 100-year storm where required by Flood Damage Prevention Ordinance.

(3) Types of Treatment

- a. Enclosed subsurface drains
- b. Open, unimproved channel
- c. Open, improved channel

(4) Easements

- a. Maintenance easements may be required depending upon the size of the drainage way and the maintenance responsibility.

Section 3.8 Utility Easements

To provide for electric, telephone and gas service, community antenna television distribution systems, water and sewer lines and other such facilities within the subdivision, appropriate utility easements not to exceed thirty (30) feet shall be provided on the final Plat.

Section 3.9 Subdivision Entrance Markers and Landscaped Medians

Subdivision entrance markers and landscaped medians shall be subject to the approval of NCDOT.

Section 3.10 Connection to State Streets

An approved permit is required to connect to any state system street.

Section 3.11 Phasing

Subdivisions may be designated to be constructed and platted in phases. Provided, however, the Subdivision Administrator may not approve a phasing plan when in his opinion such phasing will not provide for adequate public facilities to support any such phase or phases independent of the overall subdivision plan. In approving phases the Subdivision Administrator may require that additional streets, water and sewer facilities or other required public facilities be constructed as part of the phase or phases in order to ensure that sufficient public facilities will be in place to support such phase or phases independent of any future subdivision development. Note: Subsequent phasing shall not be approved until a written request to the Department of Transportation has been made for acceptance of streets/roads in the previous phase. Further, all roads in any new phase of a subdivision are to be guaranteed as permitted in Article 5 of this ordinance until accepted for maintenance by NCDOT. The amount of this guarantee shall be for at least fifty (50%) of the total costs of construction of the subdivision road. Once a subdivision road is accepted for maintenance by NCDOT, through written confirmation by NCDOT, this guarantee may be released.

Section 3.12 High Density Option

- a) The High Density Option is intended to add flexibility for the county and developers to allow for higher density residential development where both county water and sewer infrastructure is available. Due to the higher density and development would mirror urban growth patterns and therefore be required to provide additional amenities beyond conventional subdivision requirements already applied to new development listed elsewhere in this ordinance. 3.12 B and C below contain additional requirements for High Density Option Developments.
- b) High Density Option Developments are only permitted within the Urban Service Area. Such developments are required to be serviced by both county water and county sewer. Sidewalks are required on both sides of each street and shall encircle the bulb of any cul-de-sac. A two-foot six-inch (2'-6") vertical concrete curb and gutter or a two-foot (2') horizontal (valley) concrete curb and gutter shall be provided.
- c) High Density Option Developments may establish their own setbacks for the development up to the following minimum required setbacks and dimensions:
 1. Side: Five (5) feet
 2. Front: Twenty (20) feet
 3. Rear: Twenty (20) feet
 4. Minimum Lot Width: Sixty (60) feet

- 5: The minimum lot size of the underlying zoning district may be reduced by a maximum of fifteen (15) percent.

Article IV. Required Improvements

The subdivider shall install improvements as specified on the approved preliminary plan and such improvements shall be at no cost to Hoke County except where the Board of Commissioners has specifically agreed to participate in the cost. No improvements shall be installed until construction plans have been approved by such agency as may be appropriate or as required by law. Upon completion, the subdivider shall furnish to the Subdivision Administrator a written statement certifying that all required improvements have been installed and have been inspected and approved by the appropriate agency. This statement will be signed by the subdivider with an accompanying attestation signature. The Subdivision Administrator shall not authorize any building permits or certificates of occupancy without receiving the written certificate from the subdivider. Written statements from the appropriate regulatory agency or a certification from the subdivider's engineer or land surveyor, as appropriate, may serve as the written certification of required improvements

Section 4.1 Street Improvements

All proposed public and permitted private streets shall be graded to the full width of the right-of-way and improved as required for the particular classification of street in accordance with NCDOT standards and in accordance with the appropriate street cross section as shown in Section 3.3(12) and as specified on the Preliminary Plan. All street improvements shall be designed and installed in accordance with NCDOT standards and the approved Construction Plan.

In addition, street improvements, in accordance with the above conditions, shall be installed in the following situations:

(1) Any existing street segment that has not been accepted for maintenance by the North Carolina Department of Transportation, and that is to serve as the required frontage for one or more lots created pursuant to this Ordinance, shall be improved and dedicated to the public, as provided for above, in such a way that the street segment meets the standards of this Ordinance for the particular classification of street, including right-of-way width. Such street segment shall be directly connected to the existing public street system by way of at least one public street maintained by the North Carolina Department of Transportation. No subdivision shall be permitted on any street that is isolated by not being connected directly to the public street system.

(2) The Board of Commissioners may require pavement and widening for turning lanes as recommended by the Department of Transportation along any existing or proposed street that forms a significant entrance to a proposed subdivision or other development where in the opinion of the Board such improvements are necessary in order to provide for safe vehicular movement into and out of the proposed subdivision or development.

(3) In cases where a street is stubbed into adjoining property for future extension and such street serves as the frontage for one or more lots which are not corner lots, the Board of Commissioners may require the all weather material of a temporary turn-around in a form similar to a cul-de-sac on such street where in their opinion such turn-around is necessary for the public convenience, safety and service. Temporary easements for such purposes may be required. Temporary turn-arounds must be constructed of an NCDOT approved all weather material.

Section 4.2 Drinking Water Improvements

4.2.1 Any subdivision which has public water system lines available shall be required to extend the public water system throughout the subdivision to each lot located therein. All required water line extensions shall include appropriate valves, hydrants, taps and service to the property line of each lot as required by the standards of the provider.

4.2.2 The term “available” shall mean:

4.2.201 There is an existing water line of adequate size and water flow and/or pressure within the distances shown on the Table 4.2.3 of the outside boundary line of the subdivision;
or

4.2.202 The provider indicates its commitment to extend such a water line within the distances shown on the Table 4.2.3 of the property line of the subdivision at no cost to the subdivider; and,

4.2.203 There are no legal or topographic problems which prevent the subdivider from connecting onto and extending the existing system to the subdivision. In the event there are phases to the subdivision or else the subdivision is a part of a larger tract of land owned or under the control of the subdivider, then, and in that event, public water service shall be deemed to be available if an existing or proposed public water system line extends or will be extended within the distances shown on the Table 4.2.3 to the larger tract of land.

4.2.3

<u>Available Water System Lines</u>	
Water is available if the subdivision contains the number of lots listed in column one and public lines are within the distance shown in column two.	
LOTS	DISTANCE
2-10	200 feet
11-20	300 feet
21-50	600 feet
51-100	1000 feet
101+	1500 feet

4.2.4 If the provider cannot extend a water line of sufficient size, flow and/or pressure in accordance within the distances shown on the Table 4.2.3 because of topographic features, legal obstacles, or financial reasons then the subdivider shall apply for a waiver from Hoke County to not be required to extend water lines to each lot nor provide public water service to the subdivision.

4.2.5 In any case where a public drinking water system and/or supply system intended to serve more than two (2) lots is proposed to be installed in a subdivision as part of the plan approval process, such system shall be considered to be a “required improvement” within the context of this Article regardless of whether such a system in an extension of the public system or not and such system shall be required to be installed by the subdivider. This requirement includes both facilities within the subdivision and off-site facilities which are essential to providing the service to the property.

4.2.6 A capacity charge or well dedication is required where the public water system intended to serve more than two (2) lots is proposed to be installed. The Developer / Applicant for subdivisions and other types of development having equivalent impact consisting of fifty (50) lots or more shall convey by general warranty deed a well lot(s) to the County that is acceptable to the County and regulatory agencies having jurisdiction in the well / drinking water approval process. The well shall produce a minimum of one (1) gallon per minute for each connection in the subdivision / development. The proposed well(s) site may be within areas designated as open space.

- 4.2.7** As part of the process of establishing new well sites Developer/Applicant will be responsible for the cost of drilling test hole(s). The County shall be responsible for the expense of bringing the well(s) into service if the well site is determined by the County to be acceptable and meets all regulatory drinking water requirements. In addition the Developer/Applicant shall provide title insurance certifying the well lot(s) to be marketable fee simple title, free and clear of liens and encumbrances along with a current plot plan surveyed and sealed by a registered surveyor. The well lot(s) shall contain an area of a minimum size of 200' X 200' feet extending 100 feet in all directions from the well head. Said well lot(s) shall front upon a public dedicated street or have a twenty (20) foot wide perpetual easement with a ten (10) foot wide gravel drive to provide reasonable access as determined by County for vehicles and utilities to the well situated thereon.
- 4.2.8** In the event well(s) meeting County minimum requirements cannot be established within the bounds of the proposed development, the development is within an area not served by wells or County determines the impact on capacity can best be served by other means; County may select an alternative it deems appropriate for addressing the water demand including but not limited to the following:
- 4.2.801** Offsite well locations acceptable to and that meet County regulatory minimum requirements secured by the Developer / Applicant at no cost to the County.
 - 4.2.802** Payment in lieu of well dedication to offset the County's cost of securing additional capacity which may be obtained through County acquisition of offsite well sites, bulk water purchase from other providers, main extensions to interconnect with service areas having surplus capacity and / or other means as deemed appropriate by County to address the additional demand on water capacity.
- 4.2.9** For those projects having the equivalent impact of fifty (50) lots or greater the payment in lieu of well site dedication shall not be less than \$50,000 per required well site.
- 4.2.901** For determining payment amount for projects less than fifty lots a one time payment based on cost per gallon per day of capacity as referenced in the North Carolina Water Supply Design Criteria shall be required. The current per gallon cost of \$0.70 may be adjusted as deemed appropriate by County.
 - 4.2.902** Example: A twenty-five (25) lot subdivision at 400 gallons per connection per day multiplied by \$0.70 per gallon equals \$7,000.
 - 4.2.903** All payments shall be made before final plat approval.

Section 4.3 Sanitary Sewerage Improvements

Any new subdivision, multifamily, and commercial development request located within the Hoke County Urban Service Area where sanitary sewer is currently available shall be required to connect to and / or extend the public sewer system throughout the subdivision to each lot located therein. For any new “MAJOR” subdivision-or development request having a comparable waste water treatment capacity demand where sewer interceptors are to be installed as part of the Urban Service Area, the developer shall be required to extend the public sewer system throughout the subdivision to each lot located therein. The Hoke County Urban Service Area Sewer Map” shall be as shown on a map adopted by the County Commissioners and maintained by the Utilities Director that delineates existing and future areas designated for central sewer service. In order to subdivide in the designated Hoke County Urban Service Area,” sewer must be extended to the subdivision site and to each lot contained within the subdivision. It being understood actual site conditions, topographic surveys, engineering studies and other site-specific information may be considered that could result in modifications to the sewer service area. In addition, any new subdivision, multifamily, or commercial development which may not be currently within the “Hoke County Urban Service Area” but has public sewer system lines available shall be required to extend the public sewer system throughout the subdivision to each lot located therein. All required sewer line extensions shall include appropriate manholes, lift station pumps, clean outs, taps and service to the property line of each lot as required by the standards of the provider.

Any new “MAJOR” subdivision and or development request having a comparable waste water treatment capacity demand proposed within the Hoke County Urban Services Area, but not within the areas currently having sewer available or designated for major interceptors as part of the Phase One Sewer Plan shall as part of the subdivision/development approval process include an evaluation and submittal of a feasibility study to the County by Applicant’s engineer that details the approximate cost and other relevant factors to be considered regarding the possible extension of sanitary sewer service for the intended project. It being understood County at its discretion may give special consideration to development request that are not of a density as determined by County that will require sanitary sewer. County may also at its discretion during the transition period to central sewer give special consideration to individual developer initiated requests associated with new sections of existing multiphase developments where initial sections were approved for septic systems.

Section 4.4 Water and Sanitary Sewer Main Extension Policy

In addition to the requirements of this ordinance, the subdivider shall meet all requirements of the Hoke County Water and Sanitary Sewer Main Extension Policy.

I. Policy

It shall be the policy of Hoke County (COUNTY), North Carolina, to extend water and/or sanitary sewer mains of a size it deems necessary upon request of applicant or developer when funds are available, in accordance with COUNTY and applicable State law.

II. Procedures

A. New Development Within Designated Sewer Service Areas

1. Water and Sewer Lines Required

Unless otherwise approved by COUNTY, no private water line, lines or system within any greater than two-acre development or subdivision will be approved for connection with the water system of the COUNTY, nor will COUNTY accept any dedication of the same nor will COUNTY agree to furnish water service to consumers within any such development or subdivision, unless, at the same time, there is connected with the COUNTY sewerage system and dedicated to the COUNTY a sewerage system laid and constructed to COUNTY standards sufficient to make available adequate sewerage services for each of the lots within such development or subdivision.

a. Unless otherwise approved by COUNTY, no private sewer line, lines, or system within any greater than two-acre development or subdivision will be approved for connection with the sewer system of the COUNTY nor will COUNTY accept any dedication of the same, nor will COUNTY agree to furnish sewer service to consumers within any such development of subdivision, unless, at the same time, there is connected with the COUNTY water system and dedicated to COUNTY a water system laid and constructed to COUNTY standards sufficient to make available adequate water services for each of the lots within such development or subdivision.

b. On lots greater than two (2) acres that have existing buildings that are having well and septic

tank problems, [these] would be able to use one utility without the other if both utilities are not available to the site. In such case where both utilities are not available to a particular tract of land and the *property* owner wishes to connect to the one that is available, the *property* owner may request COUNTY consider such utilities on a case by case basis.

c. In instances where water mains are not available, COUNTY will consider feasibility and technical issues along with possible cost sharing that may be associated with extending approach mains, installation and operation of a well system or other

2. Payments by Applicant or Developer

a. Applicant or Developer shall pay one-hundred percent (100%) of the cost of water and sanitary sewer main extensions (labor and materials), including fire hydrants and valves, based on 8-inch water mains and 8-inch sanitary sewer mains (the minimum approved sizes). The COUNTY will require installation of water and sanitary sewer mains of a size it deems necessary and, subject to availability of funds, bear 100% of that part of the cost of such mains attributable to sizes larger than the minimum sizes stated above.

b. Applicant or Developer shall pay one-hundred percent (100%) of the cost of a sanitary sewage lift station and force main, if such is required, plus the land or cost of the real estate required for the lift station.

3. When Applicant or Developer pays for water and/or sanitary sewer main extensions they will not be subject to paying the individual main charge for lots fronting on such mains. If laterals are not installed by Applicant or Developer at the time of initial construction lateral charges shall apply if made by COUNTY.

4. In all instances, mains shall be placed within or along publicly maintained streets rights-of-way or permanent easements such that COUNTY has unrestricted access to the main and all appurtenances thereto. Publicly maintained

shall be defined as NCDOT SR numbered roads, NC or US numbered highways, or city streets which are eligible for Powell Bill Funds. Main extensions will also be allowed in and along private streets which are maintained by an established Home Owners Association (or other similar organization) where appropriate easements have been granted. Exceptions can only be granted by the COUNTY Manager or his designated representative.

5. Developer shall for projects at build out containing 50 or more connections provide at Developer's cost, well lot(s) on the COUNTY water system acceptable to COUNTY capable of producing a minimum of one gallon per minute for each connection in the development. Where well lot(s) dedication is required; Developer/Applicant shall convey by general warranty deed a well lot(s) to COUNTY acceptable to COUNTY and regulatory agencies having jurisdiction in the well/drinking water approval process that shall produce a minimum of one gallon per minute for each connection in the subdivision/development and that meet all regulatory drinking water requirements. As part of the process of establishing new well sites Developer/Applicant shall pay for drilling test hole(s) with the cost of drilling the well(s), 24 hour well drawdown and water quality test, pump, pump house and related cost to bring the well(s) into service being a COUNTY expense. In addition Developer/Applicant shall provide title insurance certifying the well lot(s) to be marketable fee simple title, free and clear of liens and encumbrances along with a current plot plan surveyed and sealed by a registered surveyor. The well lot(s) shall contain an area of a minimum size of a 200' square extending 100' in all directions from the well head. Said well lot(s) shall front upon a publicly dedicated street or have a twenty foot wide perpetual easement with a ten foot wide gravel drive to provide reasonable access for vehicles and utilities to the well situated thereon. The proposed well site may include area set aside for open space designation

III. Engineering Services

The applicant or developer shall engage, at his expense, a Professional Engineer, registered in the State of North Carolina and competent in this field of practice, to oversee field surveys, and prepare plans and specifications for each utility, all to be done in accordance with rules, regulations, and specifications of the COUNTY.

IV. Fire Hydrants

Fire Hydrants in single family residential developments shall be a maximum of 500' from any residence unless otherwise approved by the COUNTY. Fire hydrant spacing must meet North Carolina Fire Code Appendix D and applicable North Carolina Department of Transportation regulations.

V. Parallel Mains

Parallel water and sanitary sewer mains may be installed at COUNTY's expense along multi-lane highways when deemed necessary by the COUNTY and approved by the County Commissioners.

VI. Requirements for Water or Sewer Service

The provision of water and sanitary sewer utilities by COUNTY is based on the following criteria:

- a. As a condition of acceptance prior to dedication to COUNTY for ownership and maintenance, all water and sewer utility services shall be built to COUNTY Standards.
- b. All plans and specifications shall be approved by COUNTY staff or their designated representative, and North Carolina Department of Environment, Health, and Natural Resources.
- c. No construction will commence until requisite contracts have been executed.
- d. COUNTY requires compliance with approved plans and specifications, and reserves the right to inspect all construction.
- e. All utilities will be dedicated to COUNTY for ownership and maintenance upon written acceptance by COUNTY.
- f. COUNTY requires all main extensions be installed the entire width of applicant/developer's property, if such utilities are capable of serving properties of others as may be deemed necessary by COUNTY. The existence of an available sewer manhole or water and/or sewer main stub-out shall not preclude the requirement to extend the main across the width of the property.
- g. Master water metering may be allowed of multiple occupancy structures provided that meter locations are approved by the COUNTY. Master metering will not be

permitted where location and size of water mains interferes with provision of adequate fire protection, nor will a private water or sewer services be allowed to cross under public streets.

h. A minimum of 20 feet of road frontage (where water or sewer mains exist) is required to qualify for a COUNTY tap.

i. All service laterals are required to be a minimum of one inch

j. All facility investment fees, payments in lieu of well dedications and other applicable fees and charges shall be paid as a condition of project approval and prior to recordation of final development/subdivision plat

The provisions listed above shall not apply to bona fide mobile home parks where master metering is utilized, and spaces and/or mobile homes are rented on a monthly basis.

VII. Additional Requirements

In addition to the above COUNTY contracts with Public Works Commission of the City of Fayetteville and with the Town of Raeford for a portion of its water supply needs, waste water treatment capacity and operation and maintenance of the sanitary sewer collection system. As such with adoption of this Policy, COUNTY by reference herein also adopts those various design standards and applicable policies and procedures of PWC and Raeford where such utility providers are involved in the approval, inspection, installation and or operation of COUNTY utility infrastructure. It being understood COUNTY reserves the right to add to, delete or modify such requirements as it deems necessary to best represent COUNTY interest.

Section 4.5 System Development Fees (SDF)

I. System Development Fees (SDF)

System Development Fees are a charge or assessment for service imposed with respect to new development to fund costs of capital improvements necessitated by and attributable to such new development, to recoup costs of existing facilities which serve such new development, or a combination of those costs, as provide in this Article. The term includes amortized charges, lump-sum charges, and any other fee that functions as described by this definition regardless of terminology. System Development Fees do not include any of the following:

1. A charge or fee to pay the administrative, plan review, or inspection costs associated with permits required for development.
2. Tap or hookup charges for the purpose of reimbursing the local governmental unit for the actual cost of connecting the service unit of the system.
3. Availability charges.
4. Dedication of capital improvements on-site, adjacent, or ancillary to a development absent a written agreement providing for credit or reimbursement to the developer pursuant to G.S. 153A-280, 153A-451, 160A-320, 160A-499 or Article 10, Chapter 160D of the General Statutes.
5. Reimbursement to the local government unit for its expenses in constructing or providing for water or sewer utility capital improvements adjacent or ancillary to the development if the owner or developer has agreed to be financially responsible for such expenses; however, such reimbursement shall be credited to any system development fee charged as set forth in G.S. 162A-207(c).
6. System Development Fees shall not exceed that calculated based on the System Development Fee Analysis adopted by the Hoke County Board of Commissioners.

II. SDF Requirements

1. All lots and / or connections within the development will be subject to SDF applicable at the time such request for service is made.
2. For new development involving the subdivision of land, the system development fee shall be collected by the County at the later of either of the following:
 - a. The time of application for a building permit.
 - b. When water or sewer service is committed by the County.
3. For all other new development, the County shall collect the system development fee at the earlier of either of the following:
 - a. The time of application for connection of the individual unit of development to the service or facilities.
 - b. When water or sewer service is committed by the County.
4. After submitting payment for the System Development Fees the county will provide the developer with a document stating the payment has been received.

III. Coordination with other Governmental Units

COUNTY will coordinate its efforts with PWC, the Town of Raeford and County departments to insure building permits are not issued without evidence that such SDF has been paid.

- A. Every effort will be made to insure SDF payment is received prior to final project approval and prior to recordation of the development/subdivision plat,

however, COUNTY does reserve the right to collect such fees should it be determined that a building permit has been issued without the applicable SDF payment being made.

IV. Facility Investment Fee Credit

A. SDF credit will be given on a dollar for dollar basis for developer funded off site water and/or sanitary sewer approach mains and outfalls necessary to serve COUNTY approved projects. COUNTY will determine the value of such credit based on in house estimated cost of the utility improvement project or at its discretion may use actual developers cost if deemed to be within reasonable market range and dependent upon developer providing necessary documentation to support such cost within a timely manner.

B. The cost associated with upsizing of onsite water and/or sanitary sewer mains beyond that necessary to serve developer's specific project in order to provide service to existing and or proposed off site development that is not part of developer's project is eligible for SDF credit.

C. While payment of SDF in advance may be optional, such advance payment will insure the particular development is given highest priority with regard to avoiding restrictions on development possibly occurring as plants and infrastructure reach maximum operating and / or contractual capacity.

D. Extender of an off-site water or sanitary sewer main that is eligible for SDF credit may request such credit be prorated between both water and sanitary sewer utilities. Requests for proration of existing SDF credit must be in writing to the County Manager or his designee or as set forth in the terms of the initial contract with COUNTY regarding the particular project.

E. Construction of sanitary sewer lift stations are normally at 100% the developer's cost, however there may be situations where a lift station is necessary to serve a particular drainage basin. Such situations may also dictate that a larger station be constructed than what is required to serve a particular development in order that all properties within the drainage basin receive gravity sewer service from a single rather than multiple lift station configuration. In such situations where the cost of constructing a lift station at a size that will provide for excess capacity is paid for by the developer, this expense of providing the additional capacity will be considered for SDF credit.

F. Transfer of SDF credit to property owners or developers that are not associated with the original contract shall be considered by COUNTY on a case by case basis. The intent of such credit is to benefit the original development or other property that is to be served from such original extension.

V. Contractual Agreements

A. Language will be incorporated in all contractual agreements stating that SDF will be paid prior to connection to water distribution and sanitary sewer collection systems installed under the contractual agreements.

B. Language will be incorporated in the contractual agreement that establishes the value of the approach main for SDF purposes.

VI. Miscellaneous FIF Procedures

COUNTY shall publish the System Development Fee in its annual budget or rate plan or ordinance. COUNTY shall update the System Development Fee analysis at least every five (5) years.

Section 4.6 Sanitary Sewer Lift Station Policy

It shall be the policy of Hoke County to allow at its discretion the installation of sanitary sewer lift stations within areas as currently designated or as maybe recommended for commercial, industrial and or urban density residential development. The use of individual site specific lift stations having limited capacity (not less than the equivalent demand associated with serving 75 single family homes) may be considered where gravity sewer is not currently available and where the extension of gravity sewer to the particular site or use of a regional lift station as determined by Hoke County is not feasible for technical or economic reasons. The use of such lift station applications shall be considered on a case-by-case basis upon request of applicant or developer all in accordance with applicable State law and when such development is in compliance with the recommendation of the County planning agency and/or project review team. The cost of providing a lift station as a continuing service until a gravity system is in place will be levied as a "rider" on monthly utility bills of the benefited properties.

I. Purpose

Establish a uniform procedure under which sanitary sewer lift stations are allowed within areas as recommended by the County planning agency and/or project review team providing an affordable alternative to individual septic systems where gravity sewers or regional lift stations are contemplated for the area in question but do not currently exist. This lift station option is designed to promote new construction with both public water and sanitary sewer utility services while not negatively impacting the County or its existing utility ratepayers.

II. Scope

This procedure will apply to existing and/or new development seeking sanitary sewer service in areas where gravity sewer service is not currently

available and where the extension of gravity sanitary sewer or a regional lift station to the planned and/or existing development is not technically or economically feasible at this time. The sanitary sewer lift station application will be considered on a case-by case basis for development occurring within areas as recommended by the County planning agency and new development project review team.

III. Enforcement

The County Manager or his designee shall be responsible for enforcing this procedure.

IV. Procedure

A. As an alternative to construction of the lift station and force main, Hoke County may elect to apply, at its discretion, what would be the equivalent cost of the proposed lift station, force main, and related avoided cost being paid by developer/extender toward a more regional project that could expand service to the area.

B. Lift station applications as described herein shall only be considered where Hoke County is also providing water utility services.

C. The minimum number of single family lots that will be considered in such lift station applications where Hoke County will own and operate the facilities are seventy five. For multi-family projects, the minimum number of units will be 150, and for non-residential projects, the minimum overall usage will be based on the equivalent water usage of a 75 lot single family subdivision based on 5,000 gallons per month per dwelling.

D. The plan approval process will be as set forth in the Water and Sanitary Sewer Extension Policy currently in effect and as may be revised or amended from time to time. The developer/extender is responsible for 100% of the initial utility improvement cost which shall also apply to the lift station, force main and related improvements necessary to serve the project.

E. For approved lift station applications, the developer shall incorporate language in the subdivision restrictive covenants making the homebuyer aware of a continuing monthly payment requirement to Hoke County by each customer having service in the development to be included with the regular water and sanitary sewer utility billing. The rider will remain in effect until the lift station is eliminated through a gravity extension. The initial billing rider will be based on the minimum development size of 75 lots. Such amount will be established, reviewed, and adjusted by Hoke County to reflect the cost of operating and maintaining the lift station and force main along with reserves for replacement of the lift station and/or its major components. The minimum billing rider for a 75 lot subdivision as determined by Hoke County shall remain in effect and apply to all utility customer bills until build out of the subdivision exceeds 150 homes that are

connected to the water and sanitary sewer infrastructure. The rider may then be adjusted upon 150 homes being connected to the utility infrastructure within the development with consideration given for further adjustments decreasing the rider for each additional 100 homes thereafter until the individual site specific lift station is eliminated by a regional facility or gravity sewer extension. Hoke County shall be responsible for making the determination as to what is considered a regional lift station.

F. Hoke County reserves the right to collect from developer/extender the Lift Station operating and maintenance expense and actual amounts received from homeowners in the early stages of development prior to 75 homes being connected to the system.

G. All other policies and procedures currently in effect and as may be amended from time to time will apply.

Section 4.7 Street Name Signs

The subdivider shall install the signs at appropriate locations in accordance with the standards and specifications of Hoke County Addressing Ordinance. Note: Street signs must be installed at the time of final plat approval except when a performance guarantee is posted for the subdivision streets.

Section 4.8 Traffic Control Devices and Markings

The subdivider shall install traffic control devices and pavement markings in accordance with the standards and specifications of the North Carolina Department of Transportation.

Section 4.9 Fire Hydrants

In addition to the requirements set forth in Section 4.4, the following requirements also apply to the installation of fire hydrants. Fire hydrants of a type approved by the County Fire Marshall shall be installed on all public water system lines at intervals of not more than five hundred (500) feet and at all dead end lines; however, final requirements will be installed as deemed necessary by the County Fire Marshall and meet all applicable National Fire Protection Association (NFPA) regulations.

Section 4.10 Storm Drainage Not in Public Streets

Where an existing storm drainage system feasibly cannot be extended to the subdivision, a drainage system shall be designed to protect the proposed development and adjacent properties from water damage. Stormwater design shall follow the most recent edition of the North Carolina Department of Environment and Natural Resources

(NCDENR) Division of Water Quality *Stormwater Best Management Practices*.

Section 4.11 Residential Planned Developments

Residential Planned Developments may be permitted provided all of the requirements of Section 18 of the Zoning Ordinance are met.

Section 4.12 Family Subdivisions

The Subdivision Administrator may approve as a minor subdivision the creation of up to three (3) lots in one year, plus the residual lot, from a lot of record existing at the effective date of this ordinance for a Family Subdivision. For all Family Subdivisions, proof of kinship in the form of a birth certificate or similar legal document is required before final approval is granted. No more than six (6) lots from the original parcel may be approved under the provisions of this ordinance by the Administrator. The lots created under this section shall meet the following requirements:

- (1) Each lot that does not front on a public street shall be connected to a public street by a minimum (30) foot recorded easement;
- (2) Not more than six (6) lots shall be created which have sole frontage on any one easement. Any required setbacks shall be measured from the easement;
- (3) Each easement shall originate with a connection to a public street;
- (4) The family member grantee shall retain ownership for a minimum of two (2) years.

Section 4.13 Private Streets

The Board of Commissioners may permit private streets in the following situations:

- (1) Residential Planned Developments;
- (2) Developments where all the lots are five (5) acres or more or the net density is five (5) acres or more and no lot less than three (3) acres and no more than five (5) lots are created; or,
- (3) As a modification to the standards of this Ordinance as provided for in Section 6.5.

- (4) In any case where private streets are permitted, the subdivider shall submit, as part of the final plat, documents creating a property owner's association that has the authority to access property for purposes of perpetual street maintenance.
- (5) All private streets must at least meet minimum NCDOT construction standards.

Section 4.14 Monuments

The subdivider shall install such monuments and other property markers as are required by North Carolina General Statutes Chapter 39, Article 5A and as are specified by the "Standards of Practice for Land Surveying" in North Carolina.

NOTE: Electric power, telephone, cable television, natural gas lines and other utilities which are proposed to be installed in the subdivision, and which are required to be shown on Construction Plans are not "required improvements" within the context of this Article. Since the installation of such improvements are by agreement between the subdivider and the appropriate utility company, the execution of such agreements between the subdivider and the utility companies are deemed to satisfy the construction and installation requirements of this Ordinance as long as they are installed in the public right-of-way or easement in accordance with NCDOT standards for such installations.

Section 4.15 Open Space

The purpose of this Section is for the preservation of existing environmental resources and open space. These elements are of economic value to the County and make it a desirable place to live. All subdivisions consisting of more than fifteen (15) acres or creating more than thirty (30) lots will be required to set aside a minimum of ten percent (10%) of the total development area in open space. No more than twenty-five (25%) of said open space may be located within a wetlands area. Developments in which all lots are five (5) acres or more (per lot) are exempt from this provision. Land designated as open space on the approved final plat shall be maintained as open space and may not be sold separately, subdivided, or developed.

Access from a public or private street shall be provided to all designated open space with a minimum fifteen (15) foot wide access to the open space area. Open space shall be contiguous wherever possible. County plans, particularly park and open space plans, shall be considered when evaluating proposals for dedication. Open space may be owned or administered by one or a combination of the following methods:

- (1) Fee simple ownership by a unit of government or private non-profit land conservancy
- (2) Common ownership by Homeowners Association
- (3) Split deeded ownership by individual property owners within the subdivision

- (4) By individual private ownership such as a farmer, developer or other private entity that maintains open space in accordance with the purposes of this Section. (i.e. farming, equestrian facility, etc. excluding confined livestock operations)
- (5) Deed restricted open space easements on individual private properties

The Board of Commissioners shall have authority to accept or reject land dedications made as a requirement of this Section. They shall also have the authority to sell land accepted pursuant to this section with the proceeds of such sale used only for the acquisition, expansion or improvement of recreation, park, or open space sites. The owner of dedicated open space shall be responsible for the continuing upkeep and proper maintenance of the same.

In the case of common ownership by a Homeowners Association, the restrictive covenants shall provide that, in the event the Homeowners Association fails to maintain the open space, the County may, following reasonable notice, demand that deficiency of maintenance be corrected, or enter the open space to maintain it. The cost of such maintenance shall be charged to the Homeowners Association. The developer shall place in a conspicuous manner upon the final plat of the subdivision prior to final plat approval a notation concerning control of open space. Homeowners Associations or similar legal entities that are responsible for the maintenance and control of open space areas and common areas shall be established by the developer who shall record in the Register of Deeds a declaration of covenants and restrictions that will govern the association or similar legal entity. A copy of the recorded document shall be provided to the Subdivision Administrator.

In lieu of open space land dedication, the Board of Commissioners shall permit the subdivider to contribute a cash payment to the County. The value of such payment shall be five percent (5%) of the appraised value for the amount of dedicated land from the parcel from which open space is being dedicated as required. The specified contribution shall be determined by the tax value at the time final plat approval is granted. Such tax value shall consider zoning district changes that occur at any time up until final plat approval. As set forth in the definition of open space, amenities are not considered part of the open space; however, the Board of Commissioners may consider the value of land that the amenities are located on toward the open space value

If it is determined that a cash dedication shall be made, said cash shall be paid to the County Finance Director and shall be deposited into a special Parks and Recreation Service Area fund prior to final plat approval. Money in the fund, including accrued interest, shall be expended solely for acquisition, development or rehabilitation of park land or improvements related thereto. Collected fees shall be appropriated by the County for the acquisition of parkland or other recreation related projects that will benefit the residents of the subdivision. This does not imply that the general public cannot benefit from the use of these funds, especially in cases where the fee collected is used

for acquisition of neighborhood, community, and or regional parks.

Article V. Guarantee of Required Improvements; Warranty Against Defects

Section 5.1 Financial Guarantee in Lieu of Immediate Installation for Approval

In lieu of requiring the completion, installation and inspection of all or any part of the required improvements as described in this Ordinance prior to final plat approval, the County may approve a financial guarantee whereby the subdivider shall agree to complete all required improvements. Once said financial guarantee is approved by the Board of Commissioners 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 subdivider shall provide one of, or a combination of, the following guarantees to cover the costs of the proposed improvements:

A) Surety Performance Bond

The subdivider shall obtain a performance bond(s) from a surety bonding company authorized to do business in North Carolina. The bonds shall be payable to Hoke County and shall be in an amount equal to one hundred twenty-five percent (125%) of the estimated cost, as approved by the Board of Commissioners, of installing all required improvements. The initial cost estimate shall be the responsibility of the subdivider and certified by his engineer but the approval of the final cost estimate shall be made by the Board of Commissioners.

B) Cash or Equivalent Security

The subdivider shall deposit cash, a certified check or an irrevocable letter of credit with the County Finance Director. The use of any instrument other than cash shall be subject to the approval of the Finance Director. The amount of deposit shall be equal to one hundred twenty-five percent (125%) of the estimated cost as approved by the Board of Commissioners, of installing all required improvements. The initial cost estimate shall be the responsibility of the subdivider and certified by his engineer but the approval of the final cost estimate shall be made by the Board of Commissioners.

C) Governmental Guarantee

In any case where a required improvement is to be provided by the State of North Carolina or any local government other than the County, the subdivider may provide, in lieu of the types of financial guarantee as provided for above, a letter from the appropriate State or local government official guaranteeing the installation of the improvement in the required manner and within the time allotted. Provided, however, in any case where the cost of such improvement exceeds ten thousand dollars (\$10,000) as determined by the County, such governmental guarantee shall be in form of an approved Project Budget Ordinance where local government is to be the provider and an equivalent document where the State is to be the provider.

Section 5.2 Duration of Financial Guarantees

The duration of a financial guarantee shall be of a reasonable period to allow for completion and acceptance of improvements. In no case shall the duration of the financial guarantee for improvements exceed eighteen (18) months unless extended by the Board of Commissioners.

All subdivisions whose public improvements are not completed and accepted at least thirty days prior to the expiration of the financial guarantee shall be considered to be in default, unless said guarantee is extended with the consent of the Board of Commissioners to a future date certain not to exceed six months.

Section 5.3 Default

Upon default, meaning failure on the part of the subdivider to complete the required improvements by the date specified in the financial agreement, the County shall be entitled to the full amount of the bond unless the subdivider can show, to the satisfaction of the Board of Commissioners, that the required improvements can be completed for less. If the subdivider can show this, then the subdivider would be required to forfeit only the required amount for said improvement plus a fifty percent (50%) safety margin.

Default on a project does not release the subdivider from liability/responsibility, financial or otherwise, for the completion of the improvements.

Section 5.4 Release of Guarantee Security

The Board of Commissioners may release a portion or all of any security posted as the improvements are completed. Prior to such release the subdivider shall provide the Subdivision Administrator with a set of "as built" drawings certified by his engineer.

Section 5.5 Warranty Against Defects

Prior to the approval of the final plat or acceptance by the County of any improvements in any subdivision that are dedicated to the County, the Board of Commissioners may require the subdivider to furnish to the County a written warranty against defects which shall guarantee the material and workmanship for a period of not less than one year from the date of such acceptance. Such warranty shall be accompanied by a financial guarantee payable to the County equal to at least ten percent (10%) of the cost of the installation of such improvements as determined by the Board of Commissioners. Such financial

guarantee shall be in the form of financial guarantee as provided for in Section 5.1 of this Ordinance.

Upon successful performance of the improvements, as determined by the Board of Commissioners, for the one-year period, the financial guarantee shall be returned to the subdivider. Upon the failure of an improvement to perform within the generally accepted standards for the type improvement as determined by the Board of Commissioners, the subdivider shall be notified and given a reasonable period of time to correct the defects. Should the subdivider fail to act, fail to act in a timely manner, or otherwise fail to correct the defect(s), the Board of Commissioners shall find the subdivider in default and proceed in the same manner as provided for in Section 5.3 of this Ordinance.

Article VI. Legal Provisions

Section 6.1 Interpretation. Purpose. Conflict

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction or imposes higher standards than those required by other ordinances, rules, regulations, or by easements, covenants, or agreements the provisions of this Ordinance shall govern so that, in all cases, the most restrictive limitation or requirement, or the requirement causing the highest standard of improvement, shall govern. Provided, however, in any case where the Zoning Ordinance specifically permits a development type not otherwise provided for in this Ordinance, the Zoning Ordinance shall prevail.

Section 6.2 Repeal and Reenactment of Existing Subdivision Regulations

The rewriting of this Ordinance in part carries forth by reenactment some of the provisions of the existing Subdivision Regulations of Hoke County and it is not intended to repeal but rather to reenact and continue in force such existing provisions so that all rights and liabilities that have been accrued are preserved and may be enforced. All provisions of the Subdivision Ordinance which are not reenacted herein are hereby repealed. All suits at law or in equity and/or all prosecutions resulting from the violation of the Subdivision Regulations in effect, which are now pending in any of the courts of this State or of the United States, shall not be abated or abandoned by reason of the adoption of this Ordinance, but shall be prosecuted to their finality the same as if this Ordinance had not been adopted; and any and all violations of the existing Regulations, prosecutions for which have not been instituted, may be filed and prosecuted; and nothing in this Ordinance shall be so construed as to abandon, abate, or dismiss any litigation or prosecution now pending and/or which may have been instituted or prosecuted.

Section 6.3 Effect Upon Outstanding Preliminary Plats

Nothing herein contained shall require any change in any Preliminary Plat which has received approval by Hoke County prior to the time of the adoption of this Ordinance provided that such Preliminary Plat has been prosecuted to completion and a Final Plat recorded in the Office of the Register of Deed within four (4) years after the time of the adoption of this Ordinance. If the Final Plat of all or part of the area shown on any previously approved Preliminary Plat is not recorded in the Office of the Register of Deeds within four (4) years after the time of the adoption of this Ordinance, such non-recorded area shall be subject to all the provisions of this Ordinance.

For preliminary plats approved prior to the effective date of this ordinance, and outstanding preliminary plat approval shall have two (2) years from the date the preliminary plat approval, then the applicant may apply to the Board of Commissioners for an extension of up to two years, so long as said application is filled prior to the preliminary plat approval's expiration date. Such an extension may be granted only when the applicant demonstrates good cause and where there has been substantial expenditure of resources directly related to the subdivision development. For those developments whose preliminary plan approval is older than two (2) years where the developer has finalized at least one phase involving road construction improvements, then an applicant may apply to the Board of Commissioners for an extension of up to two (2) years. Such an extension may be granted only where the applicant demonstrated good cause and where there has been a substantial expenditure of resources directly related to the subdivision development. In all cases where extensions are granted, the period of six (6) years from the date of the initial preliminary plat approval. For those developments where the preliminary plat approval is older than two (2) years and the developer has not finalized at least one phase involving road construction improvements, then the approval is expired and the development must meet the current ordinance requirements.

After the effective date of this Ordinance, any Final Plat to be recorded based upon any outstanding Preliminary Plat shall follow the Final Plat approval procedures of this Ordinance.

In addition, nothing herein contained shall require any change in any Final Plat which has received approval by Hoke County prior to the time of the adoption of this Ordinance provided that such Final Plat is prosecuted to completion in accordance with the terms of approval. In the event of default or the failure of the subdivider to perform in accordance with the conditions as approved, Hoke County may, at its option, take lawful action pursuant to the Subdivision Ordinance in existence at the time of the Final Plat approval or this Ordinance.

Section 6.4 Effect Upon New Territory Added to Jurisdiction

At any time when new territory is added to the jurisdiction of this Ordinance, such new territory shall immediately become subject to the provisions of this Ordinance. Any proposed subdivision or any subdivision in progress within such new territory shall proceed only in accordance with the following:

- (1) Any subdivision for which a Final Plat has been recorded in the Register of Deeds Office pursuant to the approval of another local government, but which is subject to an outstanding guarantee to such local government for the installation of subdivision improvements, shall remain under the subdivision control of such

local government until such time as such subdivision shall have been prosecuted to completion.

- (2) All other subdivisions shall meet all of the requirements of this Ordinance and it shall be the responsibility of the subdivider of any proposed subdivision or subdivision in progress to receive approval as provided for in this Ordinance before proceeding with any development. The subdivider shall arrange a conference with the Subdivision Administrator who shall determine the level and type of approval required and provide the subdivider with an approval track for the particular case.

Section 6.5 Modifications

The Board of Commissioners may modify the requirements of this Ordinance where, because of the size or shape of the tract to be subdivided, its topography, the condition or nature of adjoining areas, or the existence of other unusual physical conditions, strict compliance with the provisions of this Ordinance would cause an unusual and unnecessary hardship on the subdivider or where in the opinion of the Board of Commissioners, a modification will result in **equal or better performance**. In granting modifications, the Board may require such conditions as will secure, insofar as practicable, the objectives or requirements modified. In no case however, shall the Board, acting pursuant to this Section, modify the terms or requirements of the Zoning Ordinance, the Flood Damage Prevention Ordinance, the Water Supply Watershed Ordinance or any other ordinance. Violation of any condition shall constitute a violation of this Ordinance. A modification granted as part of a plan approval shall have the same duration as the plan approval.

Section 6.6 Amendment

The Hoke County Board of Commissioners may from time to time amend the terms of this Ordinance after a public hearing has been held and notice given as required by North Carolina General Statutes 160D-601. However, any proposed amendment shall be submitted to the Planning Board for review and recommendation prior to Board of Commissioners action. The Planning Board shall have forty-five (45) days from the date such amendment is first submitted for review to the Board to make its recommendation. If the Planning Board fails to make its recommendation within the specified time, it shall be deemed to have recommended in favor of the amendment.

Section 6.7 Violations, Penalty

After the effective date of this Ordinance, no subdivision plat of land within the jurisdiction of this Ordinance shall be filed or recorded until it shall have been submitted to and approved by the appropriate approval authority.

The Review Officer shall not certify for recording a plat of subdivision of land subject to this Ordinance that has not been approved in accordance with this Ordinance nor shall the Clerk of Superior Court order or direct the recording of a plat if the recording would be in conflict with the provisions of this Ordinance.

After the effective date of this Ordinance, any person who, being the owner or agent of the owner of any land within the jurisdiction of this Ordinance, thereafter subdivides his land in violation of this Ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this Ordinance and recorded in the Office of the Register of Deeds shall be guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from such penalty.

The County may bring action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the Subdivision Ordinance.

Any person, firm or corporation who violates any provisions of this ordinance shall, upon conviction, be guilty of a misdemeanor and shall be fined not exceeding one hundred (\$100) dollars or imprisoned not exceeding thirty (30) days. Each day that a violation continues to exist shall be considered to be a separate offense, provided the violation is not corrected within thirty (30) days after notice of the violation has been given, as provided by G.S. 14-4.

Additionally, violation of this ordinance subjects offenders to a civil penalty that may be enforced through the issuance of citations by the Hoke County Subdivision Administrator. The County may recover this penalty in a civil action in the nature of a debt if the offender does not pay the penalty within seventy-two (72) hours after being cited for a violation. In addition, failure to pay the civil penalty within seventy-two (72) hours may subject the offender to criminal charges.

The following civil penalties are established for violations under this section:

Warning citation	Correct violation within seven (7) days
First citation	\$100.00
Second citation for same offense	\$250.00
Third and sequential citations for same offense	\$250.00

These civil penalties are in addition to any other penalties, which may be imposed by a court of law from violation of the provisions of this ordinance.

All monetary civil penalties must be paid to the Hoke County Finance Department.

Section 6.8 Validity

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Commissioners hereby declares that it would have passed this Ordinance and each section, subsection, clause, and phrase thereof, irrespective of the fact that anyone or more sections, subsections, sentences, clauses or phrases be declared invalid.

Section 6.9 Effective Date

This Ordinance shall become effective upon its adoption by the Board of Commissioners of Hoke County, North Carolina."

ADOPTED this the _____ day of _____, 200____, by
the Board of Commissioners of Hoke County, North Carolina.

ATTEST

Linda Revels, Clerk

James A. Leach, Chairman