

SUBDIVISION ORDINANCE



TOWN OF DOBSON, NORTH CAROLINA

Adopted November 29, 2007

Town of Dobson Subdivision Ordinance

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1.1. PURPOSE AND APPLICABILITY

- (A) **TITLE.** This Ordinance shall be known as the Subdivision Ordinance of the Town of Dobson, North Carolina.
- (B) **PURPOSE.** The provisions of this ordinance are adopted pursuant to the authority conferred by Section 160A-371 through Section 160A-376 of the General Statutes of North Carolina for the purpose of providing for the orderly development of the Town of Dobson, North Carolina and its environs by regulating the subdivision of land. The regulations contained herein are intended to coordinate proposed development with existing development and with officially adopted plans for future development of the town; to coordinate streets within subdivisions with existing or planned streets or with public facilities; to secure or protect adequate rights-of-way and easements for street or utility purposes including the dedication of rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11; to secure adequate spaces for recreation areas; to provide for the distribution of population and traffic in a manner which shall avoid congestion and overcrowding and will create conditions essential to public health, safety, and the general welfare; and to insure the proper legal description, monumentation, and recording of subdivided land.
- (C) **JURISDICTION.** The provisions of this ordinance shall apply to all subdivision activities, as defined in Section 1.2 of this ordinance, within the town limits and the extraterritorial zoning jurisdiction of the Town of Dobson, North Carolina as now or hereafter established. Any subdivision for which a preliminary plat has been approved by Surry County prior to becoming subject to the Dobson Subdivision Ordinance, may at the option of the subdivider, be developed in its entirety in accordance with the Surry County Subdivision Ordinance. Any subdivision for which a preliminary plat has been submitted to Surry County, but not approved prior to becoming subject to the Dobson Subdivision Ordinance, shall comply with the Town of Dobson's Subdivision Ordinance standards.
- (D) **SEPARABILITY.** If any section, paragraph, subdivision, clause or provision of this ordinance is adjudged invalid by a court of competent jurisdiction, such adjudication will apply only to such section, paragraph, subdivision, clause or provision so adjudged and the remainder of this ordinance will be deemed valid and effective.
- (E) **COMPLIANCE.** All plats for the subdivision of land must conform to the requirements of this ordinance, and be submitted in accordance with the procedures and specifications established herein. The description by metes and bounds in an instrument of transfer or other document used in the process of selling or transferring land will not exempt the transaction from compliance with this ordinance. No utility shall be extended nor any permit be issued by an administrative agent of the Town of Dobson for the construction of any building or other improvement upon any land for

which a plat is required until the requirements of this ordinance have been met and the final plat approved.

- (F) **EFFECTIVE DATE.** These regulations shall become effective upon the date of their adoption by the Board of Commissioners of the Town of Dobson.

1.2. DEFINITIONS AND RULES OF CONSTRUCTION.

(A) **DEFINITIONS.** As used in this ordinance, the following terms will have the meanings indicated in this section:

APPEAL. An action requesting reversal or modification of an interpretation or decision made by town staff or administrative agent in the application of these regulations.

BUILD-TO LINE. A line extending through a lot which is generally parallel to the front property line and marks the location from which the principle vertical plane of the front building elevation must be erected; intended to create an even building façade line on a street. The build-to line is established on the record plat (final plat).

BUILDING FACE. The dominant structural plane of the elevation of any side of a building. For example, the building face of a two-story dwelling with a one-story porch is considered to be the two-story elevation of such structure.

BUILDING SETBACK LINE. A line extending through a lot which is parallel to the front property line and between which and such line no building shall be erected.

CLUSTER DEVELOPMENT. A tract of land planned and developed as an integral unit in a single development operation or a definitely programmed series of development operations, and in accordance with an approved site plan. The development on the tract is limited by overall density or intensity, rather than minimum lot dimensions.

CONSULTING ENGINEER. A North Carolina registered engineer appointed from time-to-time by the Dobson Board of Commissioners.

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.

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.

LAND CLEARING AND INERT DEBRIS (LCID) LANDFILL. A landfill that is limited to receiving stumps, limbs, leaves, concrete, brick, wood, uncontaminated earth or other solid wastes meeting the standards of the State of North Carolina.

LOT. A parcel of land or any combination of several parcels of land occupied or intended to be occupied by a principal use or structure,

together with any accessory structures or uses and such access ways, parking area, yards, and open spaces required in these regulations

LOT, CORNER. A lot located at the intersection of two (2) or more streets, or abutting a curved street or streets in such a way that the front building line meets either side lot line at an interior angle of less than one-hundred thirty-five degrees (135°).

LOT COVERAGE. That portion of the lot area, expressed as a percent that is covered by impervious surface cover.

LOT, DOUBLE FRONTAGE. A lot having frontage and access on two (2) or more public streets. A corner lot shall not be considered as having double frontage unless it has frontage and access on three (3) or more streets.

LOT, INTERIOR. A lot other than a corner lot with frontage on only one (1) street.

LOT, REVERSE FRONTAGE. A lot having frontage on two (2) or more streets, one of which is a minor or less important street in the community, the access to which is restricted to the minor street.

LOT, THROUGH. A lot other than a corner lot with frontage on more than one (1) street. See **LOT, DOUBLE FRONTAGE.**

LOT LINE. A line or series of connected line segments bounding a lot.

LOT LINE, FRONT. The line which separates the lot from a street right-of-way. Corner lots shall have only one front lot line.

LOT LINE, INTERIOR. A side lot line, which separates one lot from another lot.

LOT LINE, REAR. That lot line which is opposite and most distant from the front lot line, except in the case of a triangular lot, a line ten (10) feet in length, entirely within the lot, parallel to, and at the maximum distance from the front lot line, or a chord thereof if the front lot line is curved, shall be considered as the rear lot line for purposes of determining the required rear yard. In cases where neither of these conditions is applicable, the Subdivision Administrator shall designate the rear lot line.

LOT LINE, SIDE. A lot line other than a front or rear lot line.

LOT OF RECORD. A lot described by plat or by metes and bounds which has been recorded in the office of the Surry County Register of Deeds.

LOT WIDTH. The horizontal distance between the side lot lines at the building setback line as measured along a straight line parallel to the front lot line or parallel to the chord thereof.

LOT, ZONING. A parcel or contiguous parcels of land which is indicated by the owner at the time of application for a building or zoning permit as being that land which is proposed for development under a single development plan.

OPEN SPACE. Land used for recreation, natural resource protection, amenities, and protection of important rural and town vistas and/or buffer yards. Open space may include, but is not limited to lawns, walkways, active recreation areas, playgrounds, wooded areas, and greenways.

PLANNING BOARD. The Planning Board of the Town of Dobson, North Carolina.

PLAT. A surveyed map or plan of a parcel of land which is to be, or has been subdivided.

RESERVATION. An obligation, shown on a plat or site plan, to keep property free from development and available for public acquisition for a stated period of time. It is not a dedication or conveyance.

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.

REQUIRED DRAINAGE CHANNEL. The theoretical stream bed section which is required to discharge the runoff from a one-hundred (100) year storm.

REVIEW OFFICER. A person appointed by the Board of County Commissioners to review state mapping standards prior to authorizing a subdivision plat to be recorded by the Register of Deeds.

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 an 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.

STREET. A right-of-way for vehicular travel.

STREET, ARTERIAL. A federal and/or state highway designed primarily for the movement of large volumes of vehicular traffic from one (1) area or region to another; a thoroughfare. Also referred to as a major thoroughfare.

STREET, COLLECTOR. A public way designed primarily to connect minor streets with arterial streets and/or to provide direct connection between two (2) or more arterial streets and which may be designed to carry significant volumes of vehicular traffic having neither origin nor destination on the street.

STREET, MINOR RESIDENTIAL. Those streets whose primary function is to provide direct access to residential property.

STREET, MINOR NON-RESIDENTIAL. Those streets whose primary function is to provide direct access to commercial/industrial property.

STREET, CUL-DE-SAC. A short minor street having one (1) end open to traffic and the other permanently terminated by a vehicular turnaround.

STREET, RURAL. A street designed for and located in non-urban and non-urbanizing areas as classified by the town.

STREET, URBAN. A street designed for and located in urban or urbanizing areas as classified by the town.

STREET, PARALLEL FRONTAGE ROAD. A public or private street adjoining or parallel to an arterial street designed to provide access to abutting property in place of the arterial.

STREET, PRIVATE. An interior circulation road designed and constructed to carry vehicular traffic from public streets within or adjoining a site to parking and service areas; it is not maintained nor is it intended to be maintained by the public.

STREET, PUBLIC. A right-of-way or fee simple tract of land which has been set aside for public travel, dedicated to the public by the recording of a subdivision plat, built to public street standards, and eligible for maintenance by either the Town of Dobson or the State of North Carolina.

STREET LINE. The outer boundary of a street right-of-way.

STREET ORIENTATION. The direction of the architectural front façade of a building in relation to the street.

STREET RIGHT-OF-WAY. Street right-of-way shall mean any public right-of-way set aside for public travel which is accepted or eligible to be accepted for maintenance by the State of North Carolina or the Town of Dobson; or has been dedicated for public travel by the recording of a plat or a subdivision which has been approved or is subsequently approved by the Town of Dobson; or has otherwise been established as a public street prior to the adoption of this ordinance.

SUBDIVIDER. A person engaging in the act of subdividing property.

SUBDIVISION. A subdivision will include all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose (whether immediate or future) of sale or building development and shall include all divisions of land involving the dedication of a new street or a change in existing streets; provided, however, that the following shall not be included within this definition:

- (1) The combination or recombination of portions of parcels platted and recorded prior to the effective date of this ordinance, or portions of lots platted in compliance with this ordinance after its effective date, where the total number of lots is not increased and the resultant lots are equal to the standards of this ordinance and the appropriate zoning classification.
- (2) The division of land into parcels greater than ten (10) acres where street right-of-way dedication or reservation is not involved.
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets or the location of public utility rights-of-way.
- (4) The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where street right-of-way dedication or reservation is not involved and where the resultant lots are equal to or exceed the standards of the appropriate zoning classification. **[G.S. 160A-376(a)]**

SUBDIVISION ADMINISTRATOR. Person responsible for the administration of the subdivision ordinance.

SUBDIVISION, MAJOR. A subdivision not otherwise exempt from these regulations that involves any of the following:

- (1) The creation of any new public street or street right-of-way, or improvements to an existing street.

- (2) A future public school, park, greenway, or open space site shown in any adopted plan or policy document.
- (3) The extension of any needed right-of-way or easement for the water or sewer system operated by the Town of Dobson.
- (4) The installation of drainage improvements through one (1) or more lots to serve one (1) or more other lots.
- (5) The installation of a private wastewater treatment plant or a private water supply system for more than one (1) lot or building site.
- (6) The division of land into five (5) or more lots where new right-of-way may or may not be created.

SUBDIVISION, MINOR. A subdivision that is not otherwise exempt from the provisions of this ordinance and that does not meet the criteria for the definition of a major subdivision.

TECHNICAL REVIEW COMMITTEE (TRC). This committee has the authority to give preliminary approval and recommend final approval to all major subdivisions. The committee shall be comprised of the Town’s planning staff, Town engineers, Town utility employees, Fire Department, Surry County Health Department (if subdivision is located in an area where public water and/or sewer is not available), and any other departments or agencies the Town Manager deems necessary.

TERRITORIAL JURISDICTION. The town limits and the extraterritorial jurisdiction (ETJ) of the Town of Dobson as now or may be hereafter established.

THOROUGHFARE. See **STREET, ARTERIAL.**

THOROUGHFARE PLAN. The Thoroughfare Plan as adopted by the Board of County Commissioners of Surry County and the Board of Commissioners of the Town of Dobson and as may from time to time be amended.

TOWN BOARD. The Board of Commissioners of the Town of Dobson.

VARIANCE. An action requesting consideration for relief from the strict enforcement of the standards of the ordinance where special circumstances or unusual considerations may exist on the parcel of land.

- (B) **RULES OF CONSTRUCTION.** For the purposes of these regulations, the following rules of construction apply.

- (1) These regulations will be construed to achieve the purposes for which they are adopted.
- (2) In the event of any conflict in limitations, restrictions, or standards applying to a project, the provision more consistent with the Dobson Zoning Ordinance shall apply.
- (3) The words "shall," "must," and "will" are mandatory in nature, implying an obligation or duty to comply with the particular provision.
- (4) The word "may" is permissive in nature except when used in the negative.
- (5) References to "days" will always be construed to be business days, excluding weekends and holidays, unless the context of the language clearly indicates otherwise.
- (6) The word "lot" includes the words "plot", "tract" and/or "parcel".
- (7) The word "building" includes the word "structure".
- (8) The word "person" includes a "firm, association, organization, partnership, trust, company, corporation and/or individual".
- (9) The word "use" includes the terms "arranged", "designed" and/or "intended" for use, activity and/or purpose.
- (10) Words used in the present tense shall include the future tense.
- (11) Words used in the singular shall include the plural and words used in the plural shall include the singular.

1.3. DECISION MAKING AND ADMINISTRATIVE BODIES.

(A) SUBDIVISION ADMINISTRATOR/TOWN STAFF. In addition to any authority granted to the Subdivision Administrator of the Town of Dobson, the Subdivision Administrator and the employees under his or her direction, and such agent as may, from time to time, be designated by the Board of Commissioners to administer the Subdivision Ordinance (designee), will have the following duties in accordance with these regulations.

- (1) To review all requests for subdivision within the town's jurisdiction and decide whether such requests meet the requirements and intent of this ordinance. If such do meet the requirements and intent, staff shall approve the subdivision for recordation.
- (2) To review and provide comments on variance petitions.
- (3) To maintain files and other public records related to the administration and enforcement of these regulations.
- (4) To recommend and prepare amendments to the text of these regulations.
- (5) To accept and file petitions for variances.
- (6) To accept and file notices of appeal of an administrative interpretation or decision.
- (7) To interpret the provisions of these regulations.
- (8) To coordinate all local, state, and other appropriate agency review and comment on all subdivisions proposed under these regulations.
- (9) To establish such procedures as necessary and proper for the administration of their responsibilities under these regulations.
- (10) To approve for recordation in the Surry County Register of Deeds those divisions of land which, according to the definition of subdivision found in Section 1.2 (A), are not subject to the requirements of this Ordinance.
- (11) Decisions on approval or denial of preliminary or final plats may be made only on the basis of standards explicitly set forth in the subdivision or development ordinances (i.e., zoning, floodplain, watershed ordinances). Whenever the ordinance includes criteria for decisions that require an application of judgment, those criteria must provide adequate guiding standards for the entity charged with plat approval. **[G.S. 160A-371]**

(B) TECHNICAL REVIEW COMMITTEE. In addition to all other authority reserved to the Technical Review Committee (TRC) by other ordinances, the TRC shall have the following powers and responsibilities in accordance with these regulations.

- (1) To hear and give preliminary approval to major subdivisions and make recommendations for final approval to major subdivisions.
- (2) Decisions on approval or denial of preliminary or final plats may be made only on the basis of standards explicitly set forth in the subdivision ordinance or other development ordinances (i.e., Zoning Ordinance). Whenever the ordinance includes criteria for decisions that require an application of judgment, those criteria must provide adequate guiding standards for the entity charged with plat approval. **[G.S. 160A-371]**

(C) PLANNING BOARD. In addition to any authority granted to the Planning Board by other ordinances of the Town of Dobson, the Planning Board shall have the following powers and duties to be carried out in accordance with these regulations.

- (1) To hear and make advisory recommendations on proposed amendments to the text of these regulations; to propose, as needed, amendments to change the text of these regulations.
- (2) To hear and make advisory recommendations on requests for variances from the standards of this ordinance in accordance with the provisions of Section 1.4.
- (3) To hear and make advisory recommendations on appeals from the interpretation of any provisions of this ordinance by the Subdivision Administrator. The Planning Board may recommend reversal or modification of any action under appeal upon finding an error in the application of these regulations. **[G.S. 160A-371]**

In all of these matters, the Planning Board may recommend approval of the request, denial of the request, or approval of the request with conditions relating to the intent and standards of this ordinance.

(D) TOWN BOARD. In addition to all other authority reserved to the Town Board by other ordinances, the Town Board shall have the following powers and responsibilities in accordance with these regulations.

- (1) To hear and give final approval to major subdivisions.
- (2) To hear and decide proposed amendments to the text of these regulations.

- (3) To hear and decide requests for variances from the standards of this ordinance in accordance with the provisions of Section 1.4.
- (4) To hear and decide requests for appeal from the interpretation of any provisions of this ordinance by the Subdivision Administrator. The Town Board may reverse or modify any action under appeal upon finding an error in the application of these regulations.

1.4. AMENDMENTS.

- (A)** The Subdivision Administrator may from time-to-time, and at the request of the Dobson Board of Commissioners or Planning Board shall prepare certain improvements to the text of the Subdivision Ordinance to correct errors, update or modify the requirements, or otherwise improve the operation of the ordinance in regulating the subdivision of land.
- (B)** Amendments to this ordinance may only be enacted pursuant to public notice and public hearing on the proposed amendments. Notice of such public hearing shall be published once per week for two successive weeks in a newspaper of general circulation in the Town of Dobson. The notice shall be first published not less than ten (10) days nor more than twenty-five (25) days prior to the date fixed for the hearing. The notice shall indicate the date, time, and place of the hearing and shall include a statement of the substance of the proposed amendment.
- (C)** All text amendments must be referred to the Planning Board for a recommendation prior to final action by the elected officials. Failure of the Planning Board to act within forty-five (45) days following the public hearing will be deemed to constitute an affirmative recommendation on the proposed amendment. An action to defer a recommendation for cause will constitute an action for the purposes of this article.

1.5. SUBDIVISION REVIEW PROCEDURE

(A) APPROVAL LEVELS.

- (1) The subdivision review procedure shall consist of two levels of required approval:
 - a) *Preliminary Plat* (including required Construction Plans); and,
 - b) *Final Plat*
- (2) Preliminary Plat approval shall be a prerequisite to Final Plat approval.
- (3) Prior to Preliminary Plat application, the subdivider may submit to the Subdivision Administrator a sketch plan showing the concept of the proposed subdivision. The subdivider may at that time discuss the proposed subdivision with the Subdivision Administrator and become familiar with the Subdivision Regulations. This procedure does not require formal application or fee.

(B) SUBDIVISION TYPES.

- (1) The subdivision review procedure shall consist of two types of subdivisions: major subdivisions and minor subdivisions.
- (2) Major subdivisions are those subdivisions which:
 - (a) involve six lots or more,
 - (b) subdivisions that have lots that are more than ten acres in size,
 - (c) those subdivisions which involve the dedication of new street segments (but not simply widening),
 - (d) those subdivisions where special developments are involved as permitted by the Zoning Ordinance, and
 - (e) those subdivisions that involve dedication or reservation of land for open space, school sites and other public purposes.
- (3) All other subdivisions shall be considered to be minor subdivisions.

(C) APPROVAL AUTHORITY.

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

- (1) *Preliminary Plats*.
 - (a) Major Subdivisions – TRC and Town Board

(b) Minor Subdivisions - Subdivision Administrator

(2) *Final Plats.*

(a) Major Subdivisions – TRC and Town Board

(b) Minor Subdivisions - Subdivision Administrator

(D) 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 standards for such submittals contained in Section 1.11.

(E) PLAN AND PLAT SUBMITTAL AND REVIEW PERIODS.

Plans and plats, in the proper form, shall be submitted to the Subdivision Administrator for review and consideration of approval by the appropriate agency, 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 Subdivision Administrator's Mapping Standards and this Ordinance.)

- (1) *Preliminary Plats - Minor Subdivisions.* Plats may be submitted at any time. The Subdivision Administrator shall either approve, approve conditionally or deny the approval of the Preliminary Plats within thirty (30) days of receipt. Approval, conditional approval or denial shall be in written and/or drawn form and dated.
- (2) *Preliminary Plats - Major Subdivisions.* Plats may be submitted at any time provided, however, in order to be eligible to be placed on an agenda of a TRC meeting, such submittal shall have been filed with the Subdivision Administrator at least seven (7) days prior to that meeting. The TRC shall approve, approve with conditions, or deny of the Preliminary Plat within thirty-five (35) days of its first consideration. The decision shall be in written and/or drawn form and dated.
- (3) *Construction Plans - Major Subdivisions.* Construction plans may be submitted following the TRC's approval of a preliminary plat for a major subdivision. In order to be eligible to be placed on an agenda of a TRC meeting, such submittal shall have been filed with the Subdivision Administrator at least seven (7) days prior to that meeting. The TRC shall approve, approve with conditions, or deny the Construction Plans within thirty-five (35) days of its first consideration. The decision shall be in written and/or drawn form and dated. (SEE SECTION 1.10 (B) FOR PLAN REQUIREMENTS)

- (4) *Final Plats* - Plats may be submitted at any time provided, however, in order to be eligible to be placed on an agenda of a TRC meeting, such submittal shall have been filed with the Subdivision Administrator at least seven (7) days prior to that meeting. The TRC shall recommend approval, approval with conditions, or denial of the Final Plat within thirty-five (35) days of its first consideration. The decision shall be in written and/or drawn form and dated.

(F) EFFECT OF APPROVALS - PREREQUISITES.

- (1) Preliminary Plat approval shall constitute tentative approval of the Final Plat if the Final Plat is in substantive agreement with the Preliminary Plat and shall entitle the subdivider to proceed to prepare street, storm drainage and utility construction plans, if applicable, and/or proceed to prepare the Final Plat. Approval of construction plans shall entitle the subdivider to proceed with construction of subdivision improvements for the Preliminary Plat and no construction, including grading, shall proceed without such approval. In addition, the TRC may require, as a prerequisite to Preliminary Plat approval, the submittal for review and approval of all or part of subdivision construction plans in order to ascertain the feasibility of all or part of a proposed subdivision.
- (2) If a Final Plat of all or part of the area shown on a Preliminary Plat is not recorded in the Office of the Register of Deeds within twenty-four (24) months of approval of the Preliminary Plat, or if there is a lapse of more than twenty-four (24) months between the recording of sections, the Subdivision Administrator may require the resubmittal of the unrecorded portion as a Preliminary Plat.
- (3) 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 thirty (30) days of its approval by the Subdivision Administrator.
- (4) No Final Plat shall be approved for recording until all required subdivision improvements have been installed and approved or until the subdivider supplies an appropriate Guarantee of Installation as provided for in this Ordinance.
- (5) In addition, no Final Plat shall be approved for recording unless such plat is in substantial agreement, as determined by the TRC, with the approved Preliminary Plat. Final Plats not in substantial agreement shall be resubmitted as Preliminary Plats as provided for herein.
- (6) 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 may be authorized to be issued provided all improvements

have been installed and inspected and approved by the Subdivision Administrator. The subdivider shall provide the Subdivision Administrator with a certified copy of the recorded Final Plat.

- (7) 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 town of such right-of-way, nor does it constitute acceptance for maintenance or for other purposes of the improvements within such rights-of-way and easements such as pavements, sidewalks, drainage facilities and other utility lines. Such right-of-way and utility improvements may be accepted by the Board of Commissioners by resolution upon completion by the subdivider and inspection by the appropriate town staff. 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 the town has by resolution accepted such dedication and such land is deeded to the town. Until such dedication has been accepted, land so offered may be used for open space purposes by its owner or his designees and the town 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.
- (8) Decisions on approval or denial of preliminary or final plats may be made only on the basis of standards explicitly set forth in this ordinance. Where the ordinance includes criteria for decisions that require an application of judgment, such judgment shall be based upon those criteria. **[G.S. 160A-371]**
- (G) **PRE-SALE CONTRACTS.** The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease by reference to an approved preliminary plat for which a final plat has not yet been properly approved under the subdivision ordinance or recorded with the register of deeds, provided the contract does all of the following:
 - (1) Incorporates as an attachment a copy of the preliminary plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the recorded plat prior to closing and conveyance.
 - (2) Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the preliminary and final plats are possible, and that the contract or

lease may be terminated without breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat.

- (3) Provides that if the approved and recorded final plat does not differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than five days after the delivery of a copy of the final recorded plat.
- (4) Provides that if the approved and recorded final plat differs in any material respect from the preliminary plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 15 days after the delivery of the final recorded plat, during which 15-day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.

The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved under the subdivision ordinance or recorded with the register of deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial, or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the final plat has been properly approved under the subdivision ordinance and recorded with the register of deeds. **[G.S.160A-375(b)]**

1.6. SUBDIVISION DESIGN STANDARDS AND REQUIRED IMPROVEMENTS

(A) GENERAL.

- (1) All proposed subdivisions subject to the regulations of this Ordinance shall comply with this section and shall be so planned as to facilitate the most advantageous development of the entire community and shall bear a reasonable relationship to the adopted Transportation Plan.
- (2) 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 Plats 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 topography, rock outcrops, 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, and land use relationships in addition to other factors including those prescribed by this Ordinance.
- (3) The TRC may require the subdivider to prepare an Environmental Impact Statement (EIS) pursuant to NCGS 113A-8 as part of the Preliminary Plat for any subdivision of two acres or more where in the TRC'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 TRC 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).
- (4) The subdivider shall install the improvements specified herein and such improvements shall be at no cost to the town, except as set forth herein and except as may be otherwise provided for in the town policies. No improvements shall be installed until construction plans have been approved by the TRC and such other agency as may be appropriate or as required by law. As provided for in Section 1.7. (F) a Final Plat may be recorded prior to installation of any or all required improvements provided that a financial guarantee in a form acceptable to the town is given by the subdivider as provided for in this Ordinance.

(B) SUBDIVISION AND STREET NAMES.

- (1) 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.

- (2) Proposed streets which are obviously in alignment with others already existing or proposed and named shall bear the names of the existing or proposed ones. 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.
- (3) Naming of proposed streets shall be coordinated with the Surry County E-911 Coordinator and/or other departments responsible for addressing.

(C) BLOCKS.

- (1) Blocks shall have sufficient width to allow two tiers of lots of minimum depth except where single-tier lots are required to separate residential development from through vehicular traffic or another type of use or when abutting a water area.
- (2) Blocks shall not be less than 400 feet nor more than 1,320 feet in length.

(D) LOTS.

- (1) 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.
- (2) It is the intent of this Ordinance that lot size, shape and orientation shall be controlled by the provisions of the Dobson Zoning Ordinance and the types of development permitted by that Ordinance. The configuration of lots in subdivisions designed for non-residential purposes may be omitted on the Final Plat. The final lot sizes may be determined on a lot by lot basis provided each meets the minimum requirements of the Zoning Ordinance for the district in which located. Every lot shall have sufficient area, dimensions and shape to permit a principal building to be constructed thereon in conformance with the applicable provisions of the Zoning Ordinance. Lots shall be designed so as to provide positive drainage away from building sites and individual lots shall be coordinated with the general storm drainage plan for the subdivision. Lot boundaries shall be made to coincide with natural and pre-existing man-made 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, rock outcrops 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 unless other

development types are provided for in that 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.

(E) STREETS AND STREETS IMPROVEMENTS.

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 Transportation Plan.* The location and design of streets shall be in conformance with the Transportation 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 years from the date of its original submittal.
- (2) *Street Classification.* The final determination of the classification of streets in a proposed subdivision shall be made by the TRC.
- (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 TRC it is desirable to provide for street access to adjoining property, proposed streets shall be extended to the boundary of such property.
- (5) *Reserve Strips, Half Streets and Private Streets.* Reserve strips and non-access easements adjoining street rights-of-way for the purpose of preventing access to or from adjacent property, (except those required to prevent access to Thoroughfares), private streets and half streets shall not be permitted under any condition.
- (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 60 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. A minimum intersection offset of 125 feet shall be maintained.

- (7) *Cul-de-sacs.*
- (a) Cul-de-sacs should 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.
 - (b) Permanent dead end streets shall not exceed 800 feet in length unless necessitated by topography or property accessibility and approved by the TRC. 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 town standards.
 - (c) Where one cul-de-sac extends from another cul-de-sac, the end of each cul-de-sac shall be no more than 800 feet from a through street as measured by the centerline of the streets.
- (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 through the use of reserve strips or non-access easements.
- (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 town standards. All utilities shall be placed underground.
- (10) *Pavement, Curb and Gutter and Pavement and Side Ditch.* Pavement, curb and gutter to be placed in public streets shall be placed in accordance with town standards.
- (11) *Street Design Criteria.* All street designs and construction within public street rights-of-way shall be in accordance with town standards. All utilities shall be placed underground.
- (12) *Connection to State Streets.* An approved permit is required to connect to any existing state system street.

- (a) 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 the town limits and changes to existing streets inside the town limits that are the responsibility of NCDOT 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 and requirements, as set forth, to complement and not to conflict with the requirements of NCDOT as stated in NCGS 136-102.6. In all cases the most restrictive limitation or requirement or the requirement causing the highest standard of improvement shall govern. All proposed streets shall be constructed in accordance with the minimum Public Street Standards as shown in the Appendix. All street improvements shall be designed and installed in accordance with town standards and the approved construction plans. The subdivider's engineer shall furnish the town with a certified statement that all street improvements installed in the subdivision meet the minimum standards of NCDOT. Also, the District Engineer, or their representative, shall provide a letter to the Subdivision Administrator stating that the street complies with their minimum specifications as mentioned above.

In addition, street improvements, in accordance with the street design guidelines shall be installed in the following situations:

- (i) Any existing street segment that has not been accepted for maintenance by either the town or 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 accepted for maintenance by either the Town of Dobson or the North Carolina Department of Transportation. No subdivision shall be permitted on any street that is an "island" not connected directly to the public street system.

- (ii) Subdivisions that adjoin existing streets maintained by either the town or NCDOT shall dedicate additional street right-of-way necessary to meet the minimum width requirements for the type of classification of the adjoining street. When any part of the subdivision is on both sides of an existing street, the entire minimum right-of-way shall be provided. When the subdivision is located on only one side of an existing street, one-half of the minimum right-of-way, measured from the centerline of the existing street, shall be provided. The improvement requirements of this Section shall not apply to the subdivision of lots fronting on established streets that have already been accepted for maintenance by the town or NCDOT.
- (iii) The TRC may require pavement and widening or pavement and widening and curb and gutter for turning lanes along any existing or proposed street that forms a significant entrance to a proposed subdivision where in the opinion of the TRC such improvements are necessary in order to provide for safe vehicular movement into and out of the proposed subdivision.
- (iv) In cases where a street is stubbed into adjoining property future extension and such street serves as the frontage for one or more lots which are not corner lots, the TRC may require the paving 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.

(F) DRINKING WATER IMPROVEMENTS.

- (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 town.
- (2) For subdivisions within or partially within the town, the term "available" shall mean that there is an existing water line of adequate size and water flow and/or pressure either crossing the subdivision property or immediately available from an adjacent public right-of-way or the town indicates its commitment to extend

such a water line to the property line of the subdivision at no cost to the subdivider.

- (3) For subdivisions located entirely outside the boundaries of the town but within the jurisdiction of this Ordinance, the term "available" shall mean that there is an existing water line of adequate size and water flow and/or pressure within the distances shown on the table below of the outside boundary line of the subdivision or the agency indicates its commitment to extend such a water line within the distances shown in Table 1 below of the property line of the subdivision at no cost to the subdivider and 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 below to the larger tract of land.
- (4) In the event the town elects not to extend a water line of sufficient size, flow and/or pressure, to the subdivision (if in the town) or within the distances shown in Table 1 of the subdivision boundary (if outside the town) because of topographic features, legal obstacles, or financial reasons, then, the subdivider shall not be required to extend water lines to each lot nor provide water service to the subdivision.
- (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 section regardless of whether such a system is an extension of the town 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.

Table 1: Available Water System Lines	
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

(G) SANITARY SEWERAGE IMPROVEMENTS.

- (1) Any subdivision which 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, life stations, pumps, clean outs, taps and service to the property line of each lot as required by the standards of the town.
- (2) For subdivisions within or partially within the town, the term "available" shall mean that there is an existing sewer line of adequate size and flow either crossing the subdivision property or immediately available from an adjacent public right-of-way or the town indicates its commitment to extend such a sewer line to the property line of the subdivision.
- (3) For subdivisions located entirely outside the boundaries of the town, but within the jurisdiction of this Ordinance the term "available" shall mean that there is an existing sewer line of adequate size and flow within the distances shown on the table below of the outside boundary line of the subdivision or the town indicates its commitment to extend such a sewer line to within the distances shown on Table 2 below of the property line of the subdivision and there are no legal or topographic problems which prevent the subdivider from connection 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 sewer service shall be deemed to be available if an existing or proposed public sewer system line extends or will be extended to within the distance shown on the table below of the larger tract of land.
- (4) In the event the town elects not to extend a sewer line of sufficient size and flow, to the subdivision (if in the town) or within the distance shown on Table 2 below of the subdivision boundary

(if outside the town) because of topographic features, legal obstacles, or financial reasons, then, the subdivider shall not be required to extend sewer lines to each lot nor provide sewer service to the subdivision.

- (5) In any case where a sanitary sewerage system and/or treatment system intended to serve more than two 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 section regardless of whether such system is an extension of the town system or not and such system shall 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.
- (6) In any case where an on-site sanitary sewer system is intended to serve one lot or more, the approval of such system by the Surry County Health Department shall be considered to be a "Required Improvement" within the context of this section.

Table 2: Available Sewer System Lines	
Sewer 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

- (H) **OVERSIZED WATER AND SEWER FACILITIES.**
The town may, in order to serve future development, require the subdivider to install certain oversized water and sewer improvements and/or to increase such improvements to a size and/or extent beyond that necessary for the needs created by the subdivision. In such cases, the town shall enter into an agreement to reimburse the subdivider for the oversizing and/or extension based upon rates as agreed to by the town.
- (I) **STORM DRAINAGE IMPROVEMENTS.**
(1) A comprehensive storm drainage system shall be planned and implemented for each subdivision in accordance with the general standards and requirements of this section. The general storm drainage plan shall be shown on the Preliminary Plat. Detail plans where required shall be submitted as part of the construction plan requirement. Where easements are required, they shall be noted on the Final Plat.

- (2) Storm drainage plans shall be considered on an individual basis depending upon the situation within a given subdivision. Generally the following standards shall apply:
- (a) *Types of drainage ways requiring treatment.*
 - (i) Those draining one acre of land or more.
 - (ii) Those carrying storm water runoff from public streets either existing or proposed.
 - (iii) Those carrying storm water runoff from large impervious surfaces other than streets.
 - (b) *Design Storms.*
 - (i) Open drainage channel - 25 year storm.
 - (ii) Enclosed systems - 10 year storm for collectors and 25 year storm for street crossing conduits and immediate downstream areas.
 - (c) *Types of Treatment.*
 - (i) Enclosed subsurface drains.
 - (ii) Open, unimproved channel.
 - (iii) Open, improved channel.
 - (iv) Open channel with flood plain and open space dedicated to the town. This option shall not be available except in cases where the Board of Commissioners agrees to accept such dedication prior to Final Plat approval.
 - (d) *Easements.*
 - (i) Maintenance easements may be required depending upon the size of the drainage way and the maintenance responsibility as determined by the town. In any case where maintenance is to be the responsibility of the property owner, the town may require a right to enter for maintenance purposes where in the future the Board of Commissioners may determine that the public health, safety, or general welfare constitutes a public necessity for such maintenance.

- (J) **SIDEWALK IMPROVEMENTS.**
Sidewalks are only required within the town limits and must be provided by the subdivider on at least one side of all proposed streets. Sidewalks are not required within the Town's extraterritorial jurisdiction. Sidewalk installation shall be in accordance with NCDOT standards for sidewalk construction in a public right-of-way.
- (K) **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 30 feet shall be provided on the Final Plat. The locations of such easements shall be as determined by the Subdivision Administrator and based upon the approved construction plans. All utilities shall be placed underground. In addition, storm drainage easements may be required in order to carry out the storm drainage improvements as required in Section 1.7 (I).
- (L) **STREET NAME SIGNS.**
In subdivisions located outside the town limits, the subdivider shall install street name signs at appropriate locations in accordance with the standards and specifications of Surry County. Inside the town limits the subdivider shall install standard street name signs in accordance with the town's standards and specifications.
- (M) **TRAFFIC CONTROL SIGNS AND MARKINGS.**
In subdivisions outside the town limits, the subdivider shall install traffic control signs and pavement markings in accordance with the standards and specifications of the North Carolina Department of Transportation. Inside the town limits, the subdivider shall install traffic control signs and pavement markings in accordance with the town's standards and specifications.
- (N) **STREET LIGHTS.**
Inside the town limits the subdivider shall install street lighting at appropriate locations in the subdivision in accordance with town standards. Outside the town limits the subdivider shall install the wiring for future street light installation at appropriate locations in the subdivision in accordance with town standards. All wiring shall be underground.
- (O) **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 shall be "Required Improvements" within the context of this section.

- (P) SUBDIVISION ENTRANCE SIGNS AND LANDSCAPED MEDIANS.**
The TRC may permit subdivision entrance signs and landscaped medians provided they are entirely contained on private property and provided that the TRC determines that a satisfactory arrangement is in place to provide perpetual maintenance. Subdivision entrance signs shall be developed in accordance with the Dobson Zoning Ordinance.
- (Q) PHASING.**
Subdivisions may be designated to be constructed and platted in phases. Provided, however, the TRC may not approve a phasing plan when in its 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 TRC 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.

1.7. GUARANTEE OF REQUIRED IMPROVEMENTS; WARRANTY AGAINST DEFECTS

(A) 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 town may enter into a contract with the subdivider whereby the subdivider shall agree to complete all required improvements. Once said agreement is signed by both parties 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 contract, the subdivider shall provide either of, or a combination of; the following guarantees to cover the costs of the proposed improvements:

(1) *Cash or Equivalent Security.*

- (a) The subdivider shall deposit cash, an irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the town or in escrow with a financial institution. The use of any instrument other than cash shall be subject to the approval of the town. The amount of deposit shall be equal to 120% of the estimated cost as approved by the Subdivision Administrator, 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 Subdivision Administrator.
- (b) If cash or other instrument is deposited in escrow with a financial institution as provided above, then the subdivider shall file with the town an agreement between the financial institution and himself guaranteeing the following:
 - (i) That said escrow account shall be held in trust until released by the Board of Commissioners and may not be used or pledged by the subdivider in any other matter during the term of the escrow; and
 - (ii) That in the case of a failure on the part of the subdivider to complete said improvements within the time allotted, the financial institution shall, upon notification by the town and submission by the town to the financial institution of an estimate of the amount needed to complete the improvements, immediately either pay to the town the funds estimated to complete the improvements, up to the full balance of the escrow account, or deliver to the

town any other instruments fully endorsed or otherwise made payable in full to the town.

(2) *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 town, 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 \$10,000 as determined by the town, such governmental Guarantee shall be in form of an approved Project Budget chapter where local government is to be the provider and an equivalent document where the State is to be the provider.

(B) DURATION OF FINANCIAL GUARANTEES.

(1) 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 18 months.

(2) 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.

(C) DEFAULT.

(1) Upon default, meaning failure on the part of the subdivider to complete the required improvements in a timely manner as specified in the escrow agreement, the surety or the financial institution holding the escrow account shall, if requested by the town, pay all or any portion of the escrow fund to the town up to an amount needed to complete the improvements based on an estimate by the town. Upon payment, the town, at its discretion, may expend such portion of said funds as deemed necessary to complete all or any portion of the required improvements. The town shall return to the subdivider any funds not spent in completing the improvements.

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

(D) RELEASE OF GUARANTEE SECURITY.

The Subdivision Administrator may release a portion or all of any security posted as the improvements are completed and approved by the Administrator. Prior to such release the subdivider shall provide the

Subdivision Administrator with a set of "as built" drawings certified by his Engineer.

(E) WARRANTY AGAINST DEFECTS.

- (1) Prior to the approval of the Final Plat or acceptance by the town of any improvements in any subdivision, the subdivider shall furnish to the town 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 town equal to at least 50% of the cost of the installation of such improvements as determined by the Subdivision Administrator. Such financial guarantee as provided for in Section 1.8. (A) of this Ordinance.

- (2) 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 1.8. (C) of this Ordinance.

1.8. LEGAL PROVISIONS AND ENFORCEMENT

(A) INTERPRETATION, PURPOSE AND 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.

(B) EFFECT UPON OUTSTANDING PRELIMINARY PLATS.

- (1) Nothing herein contained shall require any change in any Preliminary Plat which has received approval by the town prior to the time of the adoption of this Ordinance provided that such Preliminary Plat has been processed to completion and a Final Plat recorded in the Office of the Register of Deed within 18 months 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 18 months after the time of the adoption of this Ordinance, such non-recorded area shall be subject to all the provisions of this Ordinance.
- (2) 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 including the Guarantee of Installation provisions.
- (3) In addition, nothing herein contained shall require any change in any Final Plat which has received approval by the town 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, the town 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.

(C) EFFECT UPON NEW TERRITORY ADDED TO JURISDICTION.

- (1) 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:

- (a) 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 processed to completion. Provided, however, the town may not accept the dedication of any street or street improvements unless such street and street improvements meet the standards of this Ordinance and the town's Policy for Acceptance of streets for use and maintenance by the town.
- (b) 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.

(D) MODIFICATIONS.

The Planning Board may recommend and 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. In granting Modifications, the Planning Board may recommend and Board of Commissioners may require such conditions as will secure, insofar as practicable, the objectives or requirements modified. In no case however, shall the Board of Commissioners, acting pursuant to this section, modify the terms or requirements of the Zoning 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.

(E) AMENDMENT.

The 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 160A-364. 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 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.

(F) LIABILITY.

Acceptance of dedication of lands or facilities located within the jurisdiction of this Ordinance but outside the town limits shall not place on the town any duty to open, operate, repair or maintain any street, utility line, or other land or facility and the town shall in no event be held to answer in any civil action or proceeding for failure to open, repair or maintain any street located outside its corporate limits.

(G) 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 any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

(H) VIOLATIONS; PENALTY.

- (1) 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.
- (2) 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.
- (3) Any person who, being the owner or agent of the owner of any land located within the jurisdiction of the Town of Dobson, thereafter subdivides his land in violation of the 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 such ordinance and recorded in the office of the Surry County Register of Deeds, shall be guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The Town of Dobson may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an

injunction and order requiring the offending party to comply with the subdivision ordinance. Building permits required pursuant to G.S. 160A-417 [153A-357] may be denied for lots that have been illegally subdivided. In addition to other remedies, the Town of Dobson may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.

[G.S. 160A-376(a)]

- (4) In order to properly enforce the provisions of the subdivision regulations as stated in this ordinance prior to the beginning of any construction, reconstruction, use, or alteration of any land, building, or structure, the appropriate permit must be obtained from the Subdivision Administrator. No permit will be issued unless there has been a determination made that the proposed use, building, or structure complies with the requirements of this ordinance.

1.9. APPLICATION AND PROCESSING FEES.

- (A)** Fees for the submittal of preliminary and/or final subdivision plats shall be established, and from time to time revised, by the Board of Commissioners of the Town of Dobson and shall be collected when a subdivision application is submitted. Fees shall be collected by the Subdivision Administrator or an administrative agent designated by the Town Board to administer the subdivision ordinance.
- (B)** Fees for variances and appeals of administrative decisions or interpretations shall be in accordance with the fee schedule established by Dobson Board of Commissioners and shall be collected by the Subdivision Administrator, Town Clerk, or an administrative agent designated by the Town Board to administer the subdivision ordinance.

1.10. PLAT SUBMISSION AND REQUIRED CERTIFICATES

(A) MAPPING STANDARDS.

Town of Dobson
Subdivision Ordinance

The following are the Standards of Maps to be submitted as part of the subdivision process. These standards are intended to be general and the subdivider may be required to file more maps than required or provide more information depending upon the circumstances of the particular case.

TABLE 3: NUMBER AND TYPE OF MAP TO BE SUBMITTED			
MAP	INITIAL REVIEW BY SUBDIVISION ADMINISTRATOR	TRC REVIEW	TOWN FILE (as approved)
Preliminary Plat			
Minor	3 copies (1 reproducible)		4 copies (1 reproducible)
Major	3 copies (1 reproducible)	10 copies (1 reproducible)	4 copies (1 reproducible)
Construction Plans	1 sets (1 reproducible)	4 sets (1 reproducible)	1 Set (as built) mylar*
Final Plat	3 copies	8 copies (1 reproducible)	7 copies (1 mylar)

All maps shall be drawn to scale. The scale shall be not less than 1" = 200'. Construction plans shall be at a scale of not less than 1" = 50'. Preliminary Plats and Final Plats shall not exceed an outside dimension of 18" X 24"ft. The Final Plat copies and mylar for Town file shall be copies of the Final Plat as presented for recording. If larger than 8 ½ X 11 the reproducible copy may be in the form of a sepia.

*Must be certified by subdivider's engineer.

**Consult Surry County Review Officer for Record Map requirements.

(B) CONSTRUCTION PLANS.

- (1) Plan and profile showing streets with complete design showing all horizontal curve data, vertical curve data, superelevation, etc. and DOT approvals such as driveway permits, DOT streets, etc.
- (2) Storm drainage design and calculations with size, material, grade, length and cover on all pipes, and size, type and location of all catch basins.
- (3) Location of all flood boundaries and temporary and permanent erosion control methods and proposed fill.

- (4) Utility system plan and profile to show size, material, cover, and grade on all mains; size, depth and type of all manholes, location of all hydrants and cleanouts, location of all services and meter boxes, and location of easements.
- (5) Distribution systems of electric, telephone, natural gas, cable antenna television and other services in right-of-way.
- (6) A copy of the approved State Erosion Control Plan and approval letter prior to beginning construction.

(C) CERTIFICATIONS, NOTES, AND APPROVAL BLOCKS

(1) All subdivision final plats shall contain the following certificates if applicable:

(a) **Certificate of Subdivision Administrator Approval.**

Certificate of Subdivision Administrator Approval
 Approved for recording by the Town of Dobson, N.C. Subdivision Administrator. This plat shall be recorded within thirty days of this date.

_____ Date Subdivision Administrator

(b) **Certificate of Ownership and Dedication.**

Certificate of Ownership and Dedication
 I (We) hereby certify that I am (we are) owner(s) of the property shown and described herein, that the property is within the Subdivision Jurisdiction of the Town of Dobson and that I (we) hereby adopt this plan of subdivision with my (our) free consent and hereby establish all lots and dedicate to the public all streets, easements, walks, parks and other open spaces as shown hereon unless otherwise noted as private.

_____ Date Owner

STATE OF NORTH CAROLINA
 COUNTY OF _____

I, Notary Public in and for the County of _____, and the State of North Carolina, do hereby certify that _____, owner(s) personally appeared before me this day and acknowledged the due execution of the foregoing certificate and upon his/her oath, swore to the truth of the statements set forth therein.

Witness my hand and notarial seal this _____ day of _____, 20____.

 Notary Public

My commission expires _____ SEAL

(c) **Notary Certificate of Surveyor Statement.**

STATE OF NORTH CAROLINA
COUNTY OF _____

I, Notary Public in and for the County of _____, and the State of North Carolina, do hereby certify that _____, surveyor, personally appeared before me this day and acknowledged the due execution of the foregoing certificate and upon his oath, swore to the truth of the statements set forth therein.

Witness my hand and notarial seal this _____ day of _____, 20____.

Notary Public

My commission expires _____ SEAL

(d) **Certificate of Survey and Accuracy.**

Certificate of Survey and Accuracy

I, certify that this map as (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision)(a deed description recorded in Book _____, Page _____, of the Surry County Registry) (other); that the error of closure as calculated by latitudes and departures is 1:_____; that the boundaries not surveyed are shown as broken lines plotted from information found in Book _____, Page _____, and that this map was prepared in accordance with G.S. 47-30. Witness my hand and seal this __ day of _____, A.D., 20_____.

Surveyor License or Registration number

(maximum allowable error: 1:10,000) SEAL

(e) **NCDOT Construction Standards Certification.**

(For all Plats outside town limits involving new street right-of-way and any plat inside town limits which changes a State system street)

Department of Transportation
Division of Highways
Proposed Subdivision Road
Construction Standards Certificate

Approved: _____
District Engineer

Date: _____

(f) **On-site Water and/or Sewer Note.** (where appropriate)

