

Chapter 36 - SUBDIVISIONS^[1]

Footnotes:

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State Law reference— Planning and regulation of development, G.S. 160A-360 et seq.; interlocal cooperation, G.S. 160A-460 et seq.

ARTICLE I. - IN GENERAL

Secs. 36-1—36-18. - Reserved.

ARTICLE II. - SUBDIVISION REGULATIONS^[2]

Footnotes:

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State Law reference— Subdivision regulation, G.S. 160A-371 et seq.

DIVISION 1. - GENERALLY

Sec. 36-19. - Title.

This article shall be known as, referred to, or cited as the "Subdivision Regulations, Carolina Beach, North Carolina."

(Code 1977, § 9-3001; Code 1986, § 12-36)

Sec. 36-20. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrator means the officer designated by the town council to administer this article.

Alley means a special public way affording only secondary access to abutting properties.

Arterial street means a street used or intended to be used primarily for fast or heavy through traffic. The term "arterial street" includes freeways and expressways as well as standard arterial, minor arterial, and major collector for rural-type streets and highways and major thoroughfare streets and highways for urban areas as defined by the state department of transportation functional highway classification guide.

Block means a tract of land bounded by streets or by a combination of one or more streets and public parks, cemeteries, railroad rights-of-way, bulkhead lines or shorelines of waterways, or corporate boundary lines.

Building means any structure having a roof supported by columns or walls.

Building setback line means a line parallel to a lot line and at a distance from the lot line to comply with the yard requirements of chapter 40, zoning.

Collector street means a street used or intended to be used to carry traffic from minor streets to the system of arterial streets including the principal entrance streets to residential developments and shall include all rural minor collector streets or highways and urban minor thoroughfare streets and highways as defined by the state department of transportation functional highway classification guide.

Comprehensive plan means any extensively developed plan, also called a master plan, prepared and adopted by the planning and zoning commission and certified and adopted by the town council, including proposals for future land use, transportation, urban redevelopment, and public facilities. Devices for the implementation of these plans, such as zoning, official map, and subdivision control ordinances and capital improvement programs shall also be considered a part of the comprehensive plan.

Cul-de-sac street means a minor street closed at one end with a turnaround provided for vehicular traffic.

Deeded lot means a lot created by metes and bounds description and which is not a legal lot of record.

Director of Planning and Development means the town Planning and Development Director.

Dune means a ridge or mound of loose, wind-blown material, usually sand.

Floodlands means those lands, including the floodplains, floodways, and channels, subject to inundation by the 100-year recurrence interval flood, or, where such data are not available, the maximum flood of record.

Frontage means the smallest dimension of a lot abutting a public street measured along the street line.

Frontage street means a minor street auxiliary to, and located on the side of, an arterial street for control of access and for service to the abutting development.

Frontal dune means the first mound of sand located landward of the ocean beach having sufficient vegetation, height, continuity and configuration to offer protective value.

High-water elevation means the average annual high-water level of a pond, stream, lake, flowage, or wetland referred to an established datum plane; or where such elevation is not available, the elevation of the line up to which the presence of the water is so frequent as to leave a distinct mark by erosion, change in, or destruction of vegetation or other easily recognized topographic, geologic, or vegetative characteristic.

Improvement, public, means any sanitary sewer, storm sewer, open channel, water main, roadway park, parkway, public-access sidewalk, pedestrian way, planting strip, or other facility for which the town may ultimately assume the responsibility for maintenance and operation.

Legal lot of record means a lot which is a part of a town-approved subdivision, a plat of which has been recorded in the office of the register of deeds of the county. In addition, this definition shall include lots for which a plat and/or deed is recorded in the office of the register of deeds and the lot was created prior to June 18, 1973; or a lot which at the time of creation met all subdivision and zoning requirements provided a plat is approved by the administrator and recorded with the register of deeds containing a certification as to having met the then existing regulations in effect.

Lot means a parcel of land having frontage on a public street or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area, and other open space provisions of chapter 40, zoning, where applicable, or requirements of this article.

Lot, corner, means a lot abutting two or more streets at their intersection provided that the corner of such intersection shall have an angle of 135 degrees or less, measured on the lot side.

Lot, through, means a lot which has a pair of opposite lot lines along two substantially parallel streets and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines; in the case of two or more contiguous through lots, there shall be a common front lot line.

Mean sea level datum means sea level datum, as established by chapter 30, flood damage prevention, as established by the United States Coast and Geodetic Survey.

Minor street means all rural local roads and urban local streets or cul-de-sac streets as defined by the state department of transportation functional highway classification guide and which is used solely to afford access to property along such street and access to the collector and arterial street systems.

Navigable stream means any stream capable of floating any boat, skiff, or canoe of the shallowest draft used for recreation purposes.

Official means the Town Manager or the Manager's designee with the primary responsibility for those matters set forth in this chapter and enforcing the same through any applicable provision of law. The term "official" also includes any other person as may otherwise be designated by law as having authority in a particular matter within the scope of this chapter.

Outlot means a parcel of land, other than a lot or block, so designated on the plat, but not of standard lot size, which can be either redivided into lots or combined with one or more other adjacent outlots or lots in adjacent subdivisions or minor subdivisions in the future for the purpose of creating buildable lots.

Planning and zoning commission means the board created by the town council as authorized by G.S. 160A, article 19 (G.S. 160A-360 et seq.).

Preliminary plat means a map showing the salient features of a proposed subdivision submitted to an approving authority for purposes of preliminary consideration.

Primary dunes means the first mounds of sand located landward of the ocean beaches having an elevation equal to the mean flood level (in a storm having a one percent chance of being equaled or exceeded in any given year) for the area plus six feet. The primary dune extends landward to the lowest elevation in the depression behind the same mound of sand (commonly referred to as the dune trough).

Public way means any public road, street, highway, walkway, drainage, or part thereof.

Replat means the process of changing, or the map or plat which changes, the boundaries of a recorded subdivision plat or part thereof. The legal dividing of a large block, lot or outlot within a recorded subdivision plat without changing exterior boundaries of such block, lot, or outlot is not a replat.

Shorelands means those lands lying within the following distances: 1,000 feet from the high-water elevation of navigable lakes, ponds, and flowages or 300 feet from the high-water elevation of navigable streams or to the landward side of the floodplain, whichever is greater.

Subdivider means any person, firm, or corporation, or any agent thereof, dividing or proposing to divide land resulting in a subdivision, minor subdivision, or replat.

Subdivision means and includes all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created 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 change in existing streets; provided, however, that the following shall not be included within this definition nor be subject to the regulations prescribed by this article:

- (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 the municipality as shown by the regulations prescribed by this article;
- (2) The division of land into parcels greater than ten 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 or for public transportation system corridors;
- (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 the municipality, as shown by the subdivision regulations contained in this article.

The town may provide for expedited review of specified classes of subdivisions as specified in section 36-74.

Surety bond means a bond guaranteeing performance of a contract or obligation through possible forfeiture of the bond if such contract or obligation is unfulfilled by the subdivider.

Wetlands means those lands which are partially or wholly covered by marshland flora and generally covered with shallow standing water, or lands which are wet and spongy due to a high-water table.

(Code 1977, §§ 9-3111, 9-3022; Code 1986, § 12-37; Ord. No. 80-03, 9-11-1979; Ord. No. 87-222, 7-14-1987; Ord. No. 04-563, 8-10-2004; Ord. No. 10-824, 3-23-2010; Ord. No. 10-831, 3-23-2010; Ord. No. 11-860, 3-8-2011)

State Law reference— "Subdivision" defined, G.S. 160A-376.

Sec. 36-21. - Authority.

This article is adopted under the authority granted by G.S. Chapter 160A, article 19 (G.S. 160A-360 et seq.) and specifically by G.S. 160A-371—160A-376 and amendments thereto.

(Code 1977, § 9-3001; Code 1986, § 12-38)

Sec. 36-22. - Penalties.

- (a) Any person violating any provisions of this article, or who shall violate or fail to comply with any order made under these articles, shall be punishable by a fine as designated in the annually adopted rates and fee schedule, subject to civil penalty as set out in section 1-6, or both.
- (b) Each day such violation shall be permitted to exist shall constitute a separate offense.

(Code 1977, § 9-3030; Code 1986, § 12-39; Ord. No. 82-53A, § 9-3077, 6-8-1982; Ord. No. 86-190, 5-22-1986)

State Law reference— Each day's violation as separate offense, G.S. 160A-175.

Sec. 36-23. - Injunctive relief.

- (a) Whenever the town council has cause to believe that any person is violating or threatening to violate this article or any rule or order adopted or issued pursuant to this article, or any term, condition, or provision of harbor and pierhead line, it may, either before or after the institution of any other action or proceeding authorized by this article, institute a civil action in the appropriate court in the name of the town for injunctive relief to restrain the violation or threatened violation.
- (b) The institution of an action for injunctive relief under this section shall not relieve any party to such proceeding from any civil or criminal penalty prescribed for violation of this article. Nothing in this article shall restrict any right which any person or class of persons may have under any statute or common law to seek injunctive or other relief.

(Code 1986, § 12-40; Ord. No. 82-53A, § 9-3077, 6-8-1982)

Sec. 36-24. - Purpose.

This article is designed and enacted to provide for the orderly development of the town and its environs through the regulation of the subdivision of land. The regulations contained in this article are intended to coordinate proposed development with existing development and with officially adopted plans for the future development of the town; to ensure the provision of adequate facilities for transportation, water, sewerage, and other public facilities in subdivisions; to ensure the proper legal description,

monumentation, and recording of subdivided land; and to create conditions essential to public health, safety, and general welfare.

(Code 1977, § 9-3002; Code 1986, § 12-41)

Sec. 36-25. - Intent.

It is the general intent of this article to regulate the division of land so as to:

- (1) Obtain the wise use, construction, protection, and proper development of the area's soil, water, wetland, woodland, and wildlife resources and attain a proper adjustment of land use and development to the supporting and sustaining natural resource base;
- (2) Lessen congestion in the streets and highways;
- (3) Provide adequate light and air;
- (4) Prevent the overcrowding of land;
- (5) Facilitate adequate provisions for housing, transportation, water, sewerage, and other public facilities or requirements;
- (6) Further the orderly layout and appropriate use of land;
- (7) Secure safety from fire, flooding, water pollution, disease, and other hazards;
- (8) Prevent flood damage to persons and properties and minimize expenditures for flood relief and flood-control projects;
- (9) Prevent and control erosion, sedimentation, and other pollution of surface and subsurface waters;
- (10) Preserve natural vegetation and cover and promote the natural beauty of the area;
- (11) Restrict building sites on floodlands, areas covered by poor soils, or in other areas poorly suited for development;
- (12) Facilitate the further division of larger tracts into smaller parcels of land;
- (13) Ensure adequate legal description and proper survey monumentation of subdivided land;
- (14) Provide for the administration and enforcement of this article;
- (15) Provide penalties for violation of this article, and implement those town, regional, or other comprehensive plans and their components adopted by the town.

(Code 1977, § 9-3003; Code 1986, § 12-42)

Sec. 36-26. - Duty of county register of deeds.

The planning and zoning commission or the town council shall file a copy of this article with the register of deeds of the county. The register of deeds shall not thereafter file or record a plat of a subdivision located within the territorial jurisdiction of the town without the approval of the planning and zoning commission and the town council as required in this article. The landowner shown on a subdivision plat submitted for recording, or his authorized agent, shall sign a statement on the plat as to whether or not any land shown thereon is within the jurisdiction of this article as defined in this article. The filing or recording of a plat of a subdivision without the approval of the planning and zoning commission and the town council as required by this article shall be null and void. The clerk of superior court of the county shall not order or direct the recording of a plat where such recording would be in conflict with this article.

(Code 1977, §§ 9-3008, 9-3041; Code 1986, § 12-43)

Sec. 36-27. - Abrogation and greater restrictions.

It is not intended by this article to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law. However, where this article imposes greater restrictions, the provisions of this article shall govern.

(Code 1977, § 9-3004; Code 1986, § 12-44)

Sec. 36-28. - Article requirements deemed minimum.

In their interpretation and application, the provisions of this article shall be held to be minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the general statutes of the state.

(Code 1977, § 9-3005; Code 1986, § 12-45)

Sec. 36-29. - Jurisdiction.

This article shall be effective through the town's planning jurisdiction. The town's planning jurisdiction comprises the area within the corporate boundaries as well as the extraterritorial jurisdiction. Such jurisdiction may be modified from time to time in accordance with state law.

(Code 1977, § 9-3021; Code 1986, § 12-46; Ord. No. 80-03, 9-11-1979)

Sec. 36-30. - Compliance with additional regulations.

No person shall divide any land located within the jurisdictional limits of this article which results in a subdivision or a replat as defined in this article; no such subdivision or replat shall be entitled to record; and no street shall be laid out or improvements made to land without compliance with all requirements of this article and:

- (1) Rules or regulations of the state board of transportation governing proposed streets, highways, and drainage systems;
- (2) Plans, rules, or regulations of the county board of education governing proposed school sites;
- (3) Rules or regulations of the county board of health governing proposed water and sewerage systems;
- (4) Comprehensive plans or components of such plans prepared by state, regional, county, or municipal agencies duly adopted by the town council;
- (5) All other applicable regulations, including, but not limited to, zoning, sanitary, building, and thoroughfare plan map ordinances.

(Code 1977, § 9-3023; Code 1986, § 12-47)

State Law reference— Rules and regulations of board of transportation, G.S. 143B-350.

Sec. 36-31. - Improvements.

- (a) Before approval of any final plat within the jurisdictional limits of the town, the subdivider shall install street, utility and other public improvements as required by this article. If such improvements are not installed as required at the time that the final plat is submitted for approval, the subdivider shall, before recording of the final plat, enter into contract with the town agreeing to install the required improvements and shall file with such contract surety meeting the approval of the town in an amount equal to 110 percent of the cost of the improvements as estimated by a certified engineer and approved by the town as a guarantee that such improvements will be completed by the subdivider not later than one year from the date of recording of the final plat.
- (b) Before final approval of any plat the subdivider shall install survey monuments placed in accordance with the requirements of G.S. 39-32.4 and the regulations of division 4 of this article.

(Code 1977, § 9-3025; Code 1986, § 12-49; Ord. No. 96-378A, 4-9-1996)

Sec. 36-32. - Variances.

- (a) *Hardships.* Where the planning and zoning commission finds that extraordinary hardships or particular difficulties may result from strict compliance with this article, it may recommend variances or exceptions to this article so that substantial justice may be done and the public interest secured, provided that such variation or exception shall not have the effect of nullifying the intent and purpose of this article; and further provided that the planning and zoning commission shall not recommend variations or exceptions to the regulations of this article unless it shall make findings based upon the evidence presented to it in each specific case that:
 - (1) The granting of the variation will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located;
 - (2) The conditions upon which the request for a variation is based are unique to the property for which the variation is sought, and are not applicable, generally, to other property;
 - (3) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship, as distinguished from a mere inconvenience, to the owner would result if the strict letter of this article is carried out;
 - (4) The purpose of the variation is not based exclusively upon a desire to make more money out of the property.
- (b) *Conditions.* In recommending variations and exceptions, the planning and zoning commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of this article.
- (c) *Procedure.* A petition for any such variation shall be submitted in writing by the subdivider at the time when the preliminary plat is submitted for the consideration of the planning and zoning commission. The petition shall state fully the grounds for the application and all the facts relied upon by the petitioner.
- (d) *Planning and zoning commission action.* The planning and zoning commission shall review the petition for variations at the same time it reviews the submitted preliminary plat as provided in section 36-66. Such variations and exceptions approved by the commission shall be recorded in said official meeting minutes.

(Code 1977, § 9-3026; Code 1986, § 12-50; Ord. No. 96-378A, 4-9-1996)

Sec. 36-33. - Land suitability.

No land shall be subdivided which is held unsuitable for its intended use by the planning and zoning commission for reason of soil conditions with a limitation rating of "severe" and "very severe" for residential development as classified by the United States Soil Conservation Service soil survey for the

county, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities or any other feature harmful to the health, safety, or welfare of the future residents of the proposed subdivision or community. However, the planning and zoning commission may approve the preliminary plat if the subdivider improves the land to overcome the limitations of the land to where it would be consistent with the standards of this article and other applicable ordinances to make the area, in the opinion of the planning and zoning commission, suitable for its intended use. The planning and zoning commission may also approve the preliminary plat if the subdivider agrees to make suitable improvements and places a sum in escrow pursuant to section 36-31 to guarantee performance.

(Code 1977, § 9-3027; Code 1986, § 12-51; Ord. No. 04-563, 8-10-2004)

Sec. 36-34. - Appeals.

Any person aggrieved by an objection to a plat or a failure to approve a plat may appeal [according to the rules set forth in 160D-1403](#). ~~therefrom, within 60 days of notification of such objection or rejection of the plat, by presenting to a court of record a petition for a writ of certiorari directed to the town council. The court shall direct that the plat be approved if it finds that the action of the town council is arbitrary, unreasonable, or discriminatory.~~

(Code 1977, § 9-3031; Code 1986, § 12-54)

State Law reference— Certiorari, G.S. 1-269.

Sec. 36-35. - Severability and nonliability.

If any section, provision, or portion of this article is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this article shall not be affected thereby. The town does not guarantee, warrant, or represent that only those areas designated as floodlands will be subject to periodic inundation and thereby asserts that there is no liability on the part of the town council, its agencies, or employees for sanitation problems, flood damages, or structural damages that may occur as a result of reliance upon, and conformance with, this article.

(Code 1977, § 9-3006; Code 1986, § 12-55; Ord. No. 82-53A, § 9-3077, 6-8-1982)

Secs. 36-36—36-60. - Reserved.

DIVISION 2. - PLAT REVIEW AND APPROVAL PROCEDURE³¹

Footnotes:

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State Law reference— Plat approval, G.S. 160A-373.

Sec. 36-61. - General procedure.

To obtain final plat approval by the Director of Planning and Development, the subdivider shall follow the steps in this division.

(Code 1977, § 9-3041; Code 1986, § 12-71; Ord. No. 04-563, 8-10-2004)

Sec. 36-62. - Preapplication consultations.

It is recommended that, prior to the filing of an application for the approval of a preliminary plat, the subdivider consult with the administrator of this article in order to obtain advice and assistance. This consultation is neither formal nor mandatory, but is intended to inform the subdivider of the purpose and objectives of this article, the adopted town, county, or regional comprehensive plans or adopted plan components, and duly adopted plan implementation ordinances of the town and to otherwise assist the subdivider in planning his development.

(Code 1977, § 9-3042; Code 1986, § 12-72; Ord. No. 87-222, § 3.1, 7-14-1987)

Sec. 36-63. - Preliminary plat—Submittal.

All applicants shall adhere to the submittal requirements listed in this table. Upon determining that an application is complete, and the appropriate application fee received, the official shall then place the proposal on the agenda for the next regularly scheduled meeting.

Order of Review	Number of Copies	Deadline for Submittals
(1) Technical Review Committee	3 paper and one electronic	14 days prior to the meeting date
(2) Planning and Zoning Commission	9 paper and one electronic	14 days prior to the regularly scheduled meeting date
(3) Town Council	9 paper and one electronic	10 days prior to the regularly scheduled meeting date

(Code 1977, § 9-3043; Code 1986, § 12-73; Ord. No. 96-378A, 4-9-1996)

Sec. 36-64. - Same—Preparation; contents.

The preliminary plat shall be prepared by a land surveyor or engineer licensed to practice in the state. The preliminary plat shall be drawn to a scale of one inch to 50 feet or larger and shall contain or be accompanied by the following information which is, in the latter case, made a part of the preliminary plat by reference thereon.

- (1) *Description.*
 - a. Proposed name of subdivision;
 - b. Name of owner, surveyor, and designer;
 - c. Graphic scale, true and grid north points, and date of preparation;
 - d. Locational sketch map showing relationship of the subdivision site to the surrounding area, at a scale of one inch to 800 feet.
- (2) *Existing conditions.*

- a. Topography by contours at vertical intervals of not more than two feet tied to mean sea level datum;
- b. Zoning district classification (if there is more than one classification, the dividing lines should be shown) on land to be subdivided and on adjoining lands;
- c. Names of adjoining property owners or subdivisions;
- d. The boundary lines of the tract to be subdivided drawn accurately with all bearings and distances;
- e. Acreage to be subdivided;
- f. In case of resubdivision, a copy of existing plat;
- g. Location of streams, lakes, ocean, and swamps with direction of flow and elevations;
- h. Location of existing and platted property lines. Location, width, and names of all platted roads, railroads, utility rights-of-way, public areas, existing buildings or structures, and planning region boundary lines. Existing sewers, water mains, drains, culverts, or other underground facilities within the tract or within the right-of-way of boundary roads, with pipe sizes, grades, and invert elevations from public records. Location of these facilities in adjoining tracts or subdivisions if proposed for use or extension;
- i. Regulatory flood elevations and boundaries of flood-prone areas, including floodways, if known;
- j. Identify any lots located in the CAMA AEC.

(3) *Proposed conditions.*

- a. Layout and elevation of roads, alleys, and public crosswalks, with widths noted; road names or designation; grades and cross sections;
- b. Layout of all lots and building sites including building setback lines and lot divisions; scaled dimensions of all lots and lots on curvilinear sections of roads; utility easements with width and use on all lots; total number of lots;
- c. Preliminary plan of on-site waste disposal systems including disposal sites for lands subject to flooding or sanitary sewers with grade, pipe size, points of discharge;
- d. Where public water and/or public sewer is not available for extension to each lot in the subdivision, a written statement from the county health department shall be submitted with the preliminary plat indicating that each lot has adequate land area and soil conditions to accommodate the proposed methods of water supply and sewage disposal;
- e. Preliminary plan of the drainage system with grade, pipe size, and location of outlet;
- f. Preliminary plan of the water supply system, if any, with pipe sizes and location of hydrants;
- g. Proposed fill or other structure elevating techniques, levees, channel modifications, seawalls and other methods to overcome flood- or erosion-related hazards;
- h. In subdivisions where a lot or lots or street rights-of-way will be created by land filling, additional data shall be provided:
 - 1. Sources of fill;
 - 2. Types of fill;
 - 3. Method of filling;
 - 4. Method of disposing of vegetation and other undesirable materials;
 - 5. Proposed elevations;
 - 6. Test boring analysis of fill material;

7. Preliminary letter of review and comment by the United States Soil Conservation Service/United States Army Corps of Engineers;
 - i. Designation of all land to be reserved or dedicated for open space, recreation use, or school sites. Acreage should be shown for total of land uses;
 - j. Draft of proposed restrictive covenants (if any) to be imposed and areas subject to special restrictions;
 - k. If the subdivider desires variations or exceptions from the regulations of this article, the preliminary plat shall be accompanied by a written petition pursuant to the provisions of section 36-32.
 - l. The following certificate shall appear (lettered or stamped) on the preliminary plat:

Certificate of Approval by Planning and Zoning Commission.

The Town Planning and Zoning Commission hereby approves the preliminary plat of the _____ subdivision.

_____ Date	
_____ Chairman	

(Code 1977, § 9-3044; Code 1986, § 12-74; Ord. No. 80-03, 9-11-1979; Ord. No. 96-378A, 4-9-1996)

Sec. 36-65. - Conformity with regulations; recommendations.

The preliminary plat shall be reviewed by the planning and zoning commission to determine its conformity to this article, to all other ordinances and regulations in force which affect subdivisions and to duly adopted comprehensive plans and components thereof for the town.

(Code 1977, § 9-3045; Code 1986, § 12-75)

Sec. 36-66. - Planning and zoning commission review; approval.

- (a) The planning and zoning commission shall review and take final action on each preliminary plat within 45 days of their first meeting.
- (b) Upon completion of the preliminary plat review, the planning and zoning commission shall forward its recommendation to the town council for final approval.

(Code 1977, § 9-3046; Code 1986, § 12-76; Ord. No. 96-378A, 4-9-1996; Ord. No. 04-563, 8-10-2004)

Sec. 36-67. - Town council review; approval.

- (a) *Review and action on preliminary plat.* The town council shall review and take final action on each preliminary plat within 45 days of receipt of such plat.
- (b) *Commendation standards.* Upon completion of the preliminary plat review, the town council shall approve or disapprove the plat.
 - (1) *Approval.*
 - a. If the plat is approved, approval shall be noted on at least two copies of the plat by the clerk of the town council. One copy shall be retained by the town council as record of its proceedings; one copy shall be returned to the subdivider.
 - b. Each map, plat, site plan or other document evidencing a site-specific development plan shall contain the following notation: "Approval of this plan establishes a zoning vested right under G.S. 160A-385.1. Unless terminated at an earlier date, the zoning vested right shall be valid for a period of two years following town council approval." (Date to be entered and notarized.)
 - c. A zoning right that has been vested as provided in this section shall terminate:
 - 1. At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;
 - 2. With the written consent of the affected landowner;
 - 3. Upon findings by the town council, by ordinance after notice and a public hearing, that natural or manmade hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety and welfare if the project were to proceed as contemplated in the site-specific development plan;
 - 4. Upon findings by the town council, by ordinance after notice and a hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the town council on the site-specific development plan; or
 - 5. Upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the site-specific development plan, in which case the approval authority may modify the affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the plan, by ordinance after notice and a hearing.
 - (2) *Disapproval.* If the plat is disapproved, objections to it shall be noted in writing; one copy shall be returned to the planning and zoning commission, and one copy shall be returned to the subdivider. The subdivider may make the recommended changes and submit a revised preliminary plat per section 36-63.
- (c) *Installation/arrangement of plat improvements.* Upon approval of the preliminary plat by the town council, the subdivider may proceed with the installation or arrangement for required improvements in accordance with the approved preliminary plat and the requirements of this article, and then may proceed with the preparation of the final plat.

(Code 1977, § 9-3047; Code 1986, § 12-77; Ord. No. 91-289, 11-19-1991; Ord. No. 96-378A, 4-9-1996)

Sec. 36-68. - Final plat—Generally.

- (a) The final plat shall constitute only that portion of the preliminary plat, which the subdivider proposes to record and develop at the time; such portion shall conform to all requirements of this article.

- (b) No final plat shall be approved unless and until the subdivider shall have installed all improvements required by this article or shall have guaranteed their installation in a manner satisfactory to the town, as provided in this article.

(Code 1977, § 9-3048; Code 1986, § 12-78; Ord. No. 04-563, 8-10-2004)

Sec. 36-69. - Same—Preparation; contents.

The final plat shall be prepared by a surveyor or engineer licensed to practice in the state. The final plat shall be drawn to the same scale and on the same size sheets as was the preliminary plat and shall conform to the preliminary plat as it was approved. The submittal shall include one copy of the final plat and shall be drawn in ink on linen or film suitable for reproduction and one electronic copy. The final plat shall contain the following information:

- (1) All information required on the preliminary plat including, but not limited to, regulatory flood elevations, boundaries of flood-prone areas, building sites (including waste disposal areas for flood-prone lands), fills, flood or erosion protective works, and areas subject to special deed restrictions;
- (2) Sufficient engineering data to determine readily and reproduce on the ground every straight or curved boundary line, street line, lot line, right-of-way line, and setback line, including dimensions, bearings, or deflection angles, radii, arcs, chords, central angles and tangent distances for the centerline of curved streets and curved property lines that are not be boundary of curved streets. All dimensions shall be measured to the nearest one-hundredth of a foot and all angles to the nearest minute;
- (3) The accurate locations and descriptions of all monuments, markers, and control points;
- (4) The blocks numbered consecutively throughout the entire subdivision and the lots numbered consecutively throughout each block;
- (5) Minimum building setback lines;
- (6) The widths, and names where appropriate, of all proposed streets and alleys, and of all adjacent streets, alleys, and easements which shall be properly located;
- (7) The plans for water mains, sanitary sewers, and storm sewers showing sizes, outfalls, and hydrants;
- (8) The name of the subdivision, the owner, and the surveyor or engineer.
- (9) The date of the survey and plat preparation, a north arrow indicating whether true or magnetic, and graphic scale;
- (10) A statement indicating whether deed restrictions exist and the subject and location of same;
- (11) A notation of all variations and exceptions approved by the planning and zoning commission;
- (12) Any other information considered by either the subdivider or the planning and zoning commission to be pertinent to the review of the final plat.

(Code 1977, § 9-3049; Code 1986, § 12-79; Ord. No. 96-378A, 4-9-1996; Ord. No. 04-563, 8-10-2004)

Sec. 36-70. - Required certification.

The following signed certificates (lettered or stamped) shall appear on each copy of the final plat which is submitted to the planning and zoning commission by the subdivider:

- (1) *Certificate of ownership and dedication.*

I hereby certify that I am the owner of the property shown and described hereon and that I adopt this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted. Furthermore, I dedicate all public sewer lines and all water lines to the Town of Carolina Beach, if applicable.

_____	_____
Date	Owner(s)

(2) *Certificate of survey and accuracy.*

I, _____, certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book _____, Page _____, Book _____, Page _____, etc.) (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 _____ (source); that this map was prepared in accordance with G.S. 47-30, as amended. Witness my hand and seal this _____ day of _____ A.D. 20____.

Surveyor

(3) *Certificate of approval of the design and installation of streets, utilities, and other required improvements.*

I hereby certify that all streets, utilities, and other required improvements have been installed in an acceptable manner and according to Town specifications and standards in the _____ subdivision or that a guarantee of the installation of the required improvements in an amount and manner satisfactory to the Town of Carolina Beach has been received.

_____	_____
Date	Director of Operations

(4) *Certificate of approval for recording.*

I hereby certify that the Subdivision Plat shown hereon has been found to comply with the Subdivision Regulations for Carolina Beach, North Carolina, and has been approved by the Director of Planning and Development for recording in the office of the Register of Deeds of New Hanover County. The Town Council has accepted the dedication of streets, easements, and public parks, rights-of-way, or other lands shown thereon.

Date	

Town Council	
Town of Carolina Beach	

(5) *Certificate of registration by register of deeds.*

North Carolina

New Hanover County

Filed for registration on the _____ day of _____ at _____ (a.m./p.m.) and duly recorded in the Map Book _____ at page _____.

Register of Deeds	

(Code of 1977, § 9-3050; Code 1986, § 12-80; Ord. No. 96-378A, 4-9-1996; Ord. No. 04-563, 8-10-2004)

Sec. 36-71. - Review by Director of Planning and Development—Approval.

- (a) Town officials shall review the final plat together with other appropriate agencies and shall schedule a town council meeting for final approval or disapproval of the plat within 30 days from submittal.
- (b) If the final plat is disapproved by the Town Council, the reasons for such disapproval shall be specified in the motion for denial.

(Code 1986, § 12-82; Ord. No. 04-563, 8-10-2004)

Sec. 36-72. - Same—Recording.

The subdivider shall file the approved final plat with the register of deeds of the county for recording within 60 days after the date of the approval from the town; otherwise, such approval shall be null and void.

(Code 1977, §§ 9-3049, 9-3053; Code 1986, § 12-83; Ord. No. 04-563, 8-10-2004)

State Law reference— Plats and subdivisions, mapping, G.S. 47-30.

Sec. 36-73. - Resubdivision procedures.

For any replatting or resubdivision of land, the same procedures, rules, and regulations shall apply as prescribed in this division for an original subdivision. Lot sizes may, however, be varied on an approved plan after recording, provided that:

- (1) No lot or tract of land shall be created or sold that is smaller than the size shown on the approved plan;
- (2) Drainage, easements, or rights-of-way shall not be changed;
- (3) Street alignment and block sizes shall not be changed;
- (4) The property line between the back of the lots shall not be changed;
- (5) The rear portion of lots shall not be subdivided from the front part; and
- (6) The character of the area shall be maintained.

(Code 1977, § 9-3054; Code 1986, § 12-84)

Sec. 36-74. - Minor subdivisions.

- (a) *Generally.* In order to condense the review process for small subdivisions of land having a lesser impact on town's development, a minor subdivision shall require a final plat only and shall abide by the following procedure in the approval process.
- (b) *Qualifications.* In order to qualify as a minor subdivision, the property shall meet all of the following:
 - (1) No more than five lots to be subdivided;
 - (2) No new road or street for access purposes;
 - (3) No new extension of town water/sewer facilities;
 - (4) No new drainage improvements or easements to serve the applicant's property;
 - (5) No conflict with the town's land use plan.
- (c) *Preapplication consultation.* It is recommended that the subdivider meet with the town official prior to submitting an application for approval of a final plat in order to assure that the subdivision qualifies as a minor subdivision and also to familiarize himself with the requirements of this article. The subdivider shall supply one paper print copy, one electronic copy, and one final plat suitable for reproduction to the town official. This final plat shall be accompanied by an appropriate fee, as established by the budget ordinance, payable to the town.
- (d) *Final plat.* The final plat shall be drawn with an engineer's scale at one inch equals 50 feet or larger and shall contain the following information:
 - (1) Sufficient engineering data to determine readily and reproduce on the ground every straight or curved boundary line, street lines, lot line, right-of-way line, and setback line, including dimensions, bearings, or deflection angles, radii, arcs, chords, central angles, and tangent distances for the centerline of curved streets and curved property lines that are not the boundary of curved streets. All dimensions shall be measured to the nearest one-hundredth of a foot and all angles to the nearest five seconds.
 - (2) The final plat shall be prepared and drawn by a licensed professional, duly registered with the state.
 - (3) The accurate locations and descriptions of all monuments, markers and control points.
 - (4) The blocks numbered consecutively throughout the entire subdivision and the lots numbered consecutively throughout each block.

- (5) Minimum building setback lines.
 - (6) The widths, and names where appropriate, of all proposed streets and alleys, and of all adjacent streets, alleys, and easements which shall be properly located.
 - (7) The name of the subdivision, the owner and the surveyor or engineer.
 - (8) The date of the survey and plat preparation, a north arrow indicating whether true or magnetic, and graphic scale.
 - (9) A statement indicating whether deed restrictions exist, the subject and location of same.
 - (10) Location of areas of environmental concern as per the North Carolina Coastal Area Management Act maps.
 - (11) Location of the 100-year flood areas as per the town flood hazard maps.
- (e) *Certification.* The following signed certification (lettered or stamped) shall appear on each copy of the final plat which is submitted to the town official by the subdivider:
- (1) *Certificate of ownership and dedication.* The certificate of ownership and dedication shall read as follows:

I hereby certify that I am the owner of the property shown and described hereon and that I adopt this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, alleys, walks, parks and other sites and easements to public or private use as noted. Furthermore, I dedicate all public sewer lines and all water lines to the Town of Carolina Beach, if applicable.

_____ Date	_____ Owner(s)
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- (2) *Certificate of survey and accuracy.* The certificate of survey and accuracy shall read as follows:
I, _____, certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book _____, Page _____), (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 _____ (Source) _____; that this map was prepared in accordance with G.S. 47-30, as amended. Witness my hand and seal this _____ day of _____ A.D. 20____.

_____ Surveyor or Engineer

- (3) *Certificate of approval by the town official.* The certificate of approval shall read as follows:
I hereby certify that the subdivision plat shown hereon has been found to comply with provisions of the Town of Carolina Beach Subdivision Regulations and that this map has been approved for recording in the office of the New Hanover County Registrar of Deeds.

_____	_____
Date	Town Official

(4) *Notary certification.* The notary certification shall read as follows:

I, _____, a Notary Public of New Hanover County, and State aforesaid certify that _____, a registered land surveyor, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this _____ day of _____, 20____.

Notary Public	
SEAL/STAMP	
My Commission Expires _____	

(5) *Certificate of registration by register of deeds.* The certificate of registration shall read as follows:

North Carolina

New Hanover County

Filed for registration on the _____ day of _____ at _____ (a.m./p.m.) and duly recorded in the Map Book _____ at page _____.

Register of Deeds	

(f) *Action by the town official.*

- (1) The town official shall approve or disapprove the final plat within 45 days of its first consideration.
- (2) If the town official approves the final plat, such approval shall be indicated on each copy of the plat by the signed certificate specified in subsection (e)(3) of this section.

- (3) No final plat shall be approved until it meets the requirements set forth, all required fees have been paid, and certificates required by this section to appear on the final plat have been properly filled out, dated and signed.
- (4) If the town official disapproves the final plat, the town official shall state in writing its reasons for such action, specifying the provisions of this section with which the plat does not comply. One copy of this statement shall be transmitted to the subdivider within 15 days of disapproval, the other copy shall be retained by the town official as a part of its proceedings.
- (5) If the town official fails to approve or disapprove the final plat within 45 days after first consideration or fails to provide the subdivider with written notice stating reasons for further delay not to exceed an additional 30 days, such failure shall be deemed approval.

(Code 1986, § 12-85; Ord. No. 87-222, § 3.1(1)—(6), 7-14-1987)

Sec. 36-75. - Recombination of deeded lots with town approved lots fronting on Virginia Avenue only.

In circumstances where an owner of a deeded lot wishes to combine the lot with an adjacent legal lot of record that has frontage on Virginia Avenue the following requirements shall be met prior to the recombination and recordation at the county register of deeds:

- (1) All lots involved in the recombination shall be in single ownership.
- (2) No resultant lot shall be smaller in area nor narrower in lot width of any of the lots prior to the recombination.
- (3) The total number of lots shall not be increased.
- (4) The resultant lot shall have frontage on a town approved public right-of-way.
- (5) If the resultant lot is "split zoned" each portion of the recombined lot shall conform with the development standards for each zoning district that the lot is located within.
- (6) The Planning Director or his designee is authorized to approve such recombination plats where the above conditions have been met.
- (7) Only expansions to existing single-family or new single-family homes located on legal lots of record shall be permitted to expand onto deeded lots. No separate or independent dwelling units or accessory buildings shall be permitted on deeded lots.

(Code 1986, § 12-86; Ord. No. 11-860, 3-8-2011)

Secs. 36-76—36-94. - Reserved.

DIVISION 3. - MINIMUM DESIGN STANDARDS

Sec. 36-95. - Street arrangement—Generally.

Streets shall be designed and located:

- (1) In relation to:
 - a. Existing and planned streets;
 - b. Topographical conditions and natural terrain features such as streams, lakes or other waterways, and existing tree growth;
 - c. Public convenience and safety; and
- (2) In appropriate relation to the proposed uses of land to be served by such streets.

(Code 1977, § 9-3061; Code 1986, § 12-96)

Sec. 36-96. - Same—Specific standards.

- (a) All streets shall be properly integrated with the existing and proposed system of thoroughfares and dedicated rights-of-way as established on officially adopted plans.
- (b) All thoroughfares shall be properly related to specific traffic generators such as industries, business districts, schools, churches, recreation resources, and shopping centers; to population densities; and to the pattern of existing and proposed land uses.
- (c) Minor streets shall be laid out to conform as much as possible to the topography, to discourage use by through traffic, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient, safe access to property.
- (d) The rigid rectangular gridiron street pattern need not necessarily be adhered to, and the use of curvilinear streets, cul-de-sacs, or U-shaped streets shall be encouraged where such use will result in a more desirable layout.
- (e) Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless in the opinion of the planning and zoning commission such extension is not necessary or desirable for the coordination of the layout of the subdivision with the existing layout or the most advantageous future development of adjacent tracts.
- (f) In business and industrial developments, the streets and other accessways shall be planned in connection with the grouping of buildings, the location of rail facilities, and the provision of alleys, truck loading and maneuvering areas, and walks and parking areas so as to minimize conflict of movement between the various types of traffic, including pedestrian.

(Code 1977, § 9-3062; Code 1986, § 12-97)

Sec. 36-97. - Access to major streets.

Where a subdivision borders on or contains an existing or proposed major street, the planning and zoning commission may require that access to such streets be limited by one of the following means:

- (1) The subdivision of lots so as to back onto the major street and front onto a parallel local street; no access shall be provided from the major street and screen planting shall be provided in a strip of land along the rear property line of such lots;
- (2) A series of cul-de-sacs, U-shaped streets, or short loops entered from and designed generally at right angles to such a parallel street, with the rear lines of their terminal lots backing onto the major street;
- (3) A marginal-access or service street (separated from the major street by a planting or grass strip or having access thereto at suitable points);
- (4) The number of residential streets entering a major street shall be kept to a minimum.

(Code 1977, § 9-3064; Code 1986, § 12-99)

Sec. 36-98. - Alleys.

- (a) Alleys shall be provided in all business, commercial, and industrial areas, except that the planning and zoning commission may waive this requirement where other definite and suitable provision is made for service areas, such as off-street loading and parking, consistent with and adequate for the uses proposed.

- (b) The width of alleys shall be not less than 20 feet.
- (c) Dead-end alleys are prohibited except under very unusual circumstances, and crooked and "T" alleys shall be discouraged. Where dead-end alleys are unavoidable, they shall be provided with adequate turnaround facilities at the dead end.
- (d) Alleys shall not be provided in residential areas.

(Code 1977, § 9-3065; Code 1986, § 12-100)

Sec. 36-99. - Minor streets.

Minor streets immediately adjacent and parallel to railroad rights-of-way shall be avoided, and location of minor streets immediately adjacent to arterial streets and highways and railroad rights-of-way shall be avoided in residential areas.

(Code 1977, § 9-3067; Code 1986, § 12-101)

Sec. 36-100. - Street design specifications.

- (a) *Right-of-way widths.* Minimum street right-of-way widths shall be in accordance with the minimum design standards for the type of street based on state department of transportation standards.
- (b) *Pavement widths.* Minimum pavement width face to face of curb and gutter shall not be less than the minimum design standards for the type of street based on state department of transportation standards.
- (c) *Cul-de-sacs.* Permanent dead-end streets or cul-de-sacs shall be designed per state department of transportation and fire code minimum standards.
- (d) *Street grades.*
 - (1) Unless necessitated by exceptional topography, subject to the approval of the planning and zoning commission, the maximum centerline grade of any street or public way shall not exceed the state department of transportation standards.
 - (2) The grade of any street shall in no case exceed 12 percent or be less than one-half of one percent. Street grades shall be established wherever practicable so as to avoid excessive grading, the promiscuous removal of ground cover and tree growth, and general leveling of the topography. All changes in street grades shall be connected by vertical parabolic curves of a minimum length equivalent in feet to 15 times the algebraic difference in the rates of grade for major streets, and one-half this minimum for all other streets.
- (e) *Radii of curvature.* When a continuous street centerline deflects at any one point by more than ten degrees, a circular curve shall be introduced having a radius of curvature on such centerline of not less than the following:
 - (1) Arterial streets and highways: 500 feet.
 - (2) Collector streets: 300 feet.
 - (3) Minor streets: 100 feet.

A tangent at least 100 feet in length shall be provided between reverse curves on arterial and collector streets.

- (f) *Half-streets.* Street systems in new subdivisions shall be laid out so as to eliminate or avoid half-streets. Where a half-street is adjacent to a new subdivision, the other half of the street shall be dedicated by the subdivider. Where a new subdivision abuts an existing street of inadequate right-of-

way width, additional right-of-way width may be required to be dedicated by the subdivider to meet the requirements of this section.

(Code 1977, § 9-3068; Code 1986, § 12-102)

Sec. 36-101. - Street names.

Street names shall not duplicate or be similar to existing street names; however, existing street names shall be projected where appropriate. The subdivider shall be responsible for coordinating street naming with the administrator of this article.

(Code 1977, § 9-3066; Code 1986, § 12-103)

Sec. 36-102. - Intersections.

(a) *Angle and number of streets intersecting.*

- (1) Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two new streets at an angle of less than 70 degrees shall not be acceptable.
- (2) Not more than two streets shall intersect at any one point unless specifically approved by the planning and zoning commission.

(b) *Spacing of intersections.*

- (1) Proposed new intersections along one side of an existing street shall wherever practicable coincide with existing intersections on the opposite side of such street. Street jogs with centerline offsets of less than 125 feet shall not be permitted, except where the intersected street has separated dual drives without median breaks at either intersection. Where streets intersect major streets their alignment shall be continuous.
- (2) The number of intersections along arterial streets and highways shall be held to a minimum. Wherever practicable, the distance between such intersections shall not be less than 1,200 feet.

(c) *Property lines.*

- (1) Property lines at street intersections shall be rounded with a minimum radius of 15 feet or of a greater radius when required by the planning and zoning commission, or shall be cut off by a straight line through the points of tangency of an arc having a radius of 15 feet.
- (2) Property lines at alley intersections and at abrupt changes in alignment within a block shall have the corners cut off in accordance with standard engineering practice to permit safe vehicular movement.

(d) *Grades.*

- (1) Where the grade of any street at the approach of an intersection exceeds seven percent, a leveling area shall be provided having not greater than four percent grade for a distance of 25 feet, measured from the nearest right-of-way line of the intersecting street.
- (2) Intersections shall be designed with a flat grade whenever practical. In no case shall the vertical alignment within the intersection area exceed four percent.
- (3) Where any street intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the developer shall cut such ground and/or vegetation (including trees) in connection with grading of the public right-of-way to the extent deemed necessary to provide an adequate sight distance.

(Code 1977, § 9-3069; Code 1986, § 12-104)

Sec. 36-103. - Blocks.

- (a) *General design.* The widths, lengths, and shapes of blocks shall be suited to the planned use of the land, zoning requirements, need for convenient access, control and safety of street traffic, and topography.
- (b) *Length.* Blocks in residential areas shall not as a general rule be less than 400 feet nor more than 1,200 feet in length, unless otherwise dictated by exceptional topography or other limiting factors consistent with good design. Wherever practicable, blocks along major streets and highways shall be not less than 1,000 feet in length.
- (c) *Width.* Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth except where otherwise required to separate residential development from through traffic, public parks, cemeteries, railroad rights-of-way, bulkhead lines, shorelines of waterways, or corporate boundaries, or except as may be necessary due to extreme topography.
- (d) *Pedestrian ways.* Pedestrian ways of not more than ten feet in width may be required between rear lot lines where deemed necessary by the planning and zoning commission to provide safe and convenient pedestrian circulation between the individual lots, streams, lakeshores or other waterways, parklands or other public areas; or may be required near the center and entirely across any block over 900 feet in length where deemed essential by the planning and zoning commission to provide adequate pedestrian circulation or access to schools, recreation areas, shopping centers, churches, or transportation facilities.
- (e) *Non-residential blocks.* Blocks designed for business, commercial, or industrial uses shall be of such length and width as may be determined suitable by the planning and zoning commission for the prospective use.

(Code 1977, § 9-3070; Code 1986, § 12-105)

Sec. 36-104. - Lots.

- (a) *General design.* The size, shape, and orientation of lots shall be appropriate for the location of the subdivision and for the type of development and use contemplated. The minimum standards set forth in chapter 40 (zoning) shall be considered in all instances. The lots should be designed to provide an aesthetically pleasing building site and a proper architectural setting for the buildings contemplated.
- (b) *Arrangement and layout of lots.*
 - (1) Side lot lines shall generally be at right angles to straight street lines or radial to curved street lines on which the lots face. Lot lines shall follow municipal boundary lines rather than cross them.
 - (2) Double frontage and reverse frontage lots shall be prohibited except where necessary to provide separation of residential development from through traffic or to overcome specific disadvantages of topography and orientation.
 - (3) Lands lying between the meander line and the water's edge and any otherwise unplattable lands which lie between a proposed subdivision and the water's edge shall be included as part of lots, outlots, or public dedications in any plat abutting a stream, lake, or other waterway.
 - (4) Every lot shall front or abut for a distance of at least 50 feet on a public street. Lots with access only to private drives or streets shall be permitted only with the approval of the planning and zoning commission.
 - (5) Whenever a tract is subdivided into large parcels, such parcels shall be arranged and dimensioned as to allow resubdivision of any such parcels into normal lots in accordance with provisions of this article.
 - (6) Lots shall be laid out so as to provide positive drainage away from all buildings, and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage

shall be designed so as to avoid concentration of storm drainage water from each lot to adjacent lots.

(c) *Area and dimensions.*

- (1) Area and dimensions of all lots shall conform to the requirements of chapter 40 (zoning), when applicable .
- (2) Width of lots shall conform to the requirements of chapter 40 (zoning), when applicable, and in no case shall a lot be less than 50 feet in width at the building setback line.
- (3) Depth and width of lots or parcels reserved or laid out for business, commercial, or industrial use shall be adequate to provide for off-street service and parking required by the use contemplated and the area zoning restrictions, when applicable, for such use.

(d) *Lots with frontal dunes.* Notwithstanding the provisions of this article, all lots of a proposed subdivision shall be so designed and/or laid out in a fashion so that adequate space is provided for the placement of structures and/or other improvements on the subject lot or lots without altering or otherwise disturbing the frontal dunes, as defined by section 36-20. If this provision is held to be in conflict with any other regulation of this article or other requirement, the more restrictive of the conflicting requirements shall be adhered to. This provision is not to be construed as limiting other requirements of this article, such as building setback lines or other requirements when conflicts arise. All necessary provisions of this article shall be complied with unless approval for a variance from such requirements is given by the appropriate jurisdictional agency or agencies.

(Code 1977, § 9-3071; Code 1986, § 12-106; Ord. No. 80-03, 9-11-1979; Ord. No. 08-742, 5-13-2008; Ord. No. 12-884, 2-14-2012)

Sec. 36-105. - Building setback lines.

Building setback lines, appropriate to the location and type of development contemplated, which are more restrictive than the regulations of the zoning district, when applicable, in which the plat is located, may be required by the planning and zoning commission.

(Code 1977, § 9-3072; Code 1986, § 12-107)

Sec. 36-106. - Easements.

- (a) *Utility easements.* The planning and zoning commission may require easements of widths deemed adequate for the intended purpose on the property side of front lot lines, on each side of all rear lot lines, on each side of all side lot lines, or across lots where necessary or advisable for electric power and communication poles, wires, conduits; storm and sanitary sewers; street trees and gas, water, and other utility lines. All utility lines for electric power and telephone service shall be placed on mid-block easements along rear lot lines whenever carried on overhead poles except when such lots border a lake, stream, or other waterway.
- (b) *Drainage easements.* Where a subdivision is traversed by a drainageway or stream, an adequate easement shall be provided as may be required by the planning and zoning commission. The location, width, alignment, and improvement of such drainageway or easement shall be subject to the approval of the planning and zoning commission; parallel streets or parkways may be required in connection therewith. Where necessary, stormwater drainage shall be maintained by landscaped open channels of adequate size and grade to hydraulically accommodate maximum potential volumes of flow, subject to review and approval by the planning and zoning commission.

(Code 1977, § 9-3073; Code 1986, § 12-108)

Sec. 36-107. - Public sites and open spaces.

In the design of the plat, due consideration shall be given to the reservation of suitable sites of adequate area for future schools, parks, playgrounds, drainageways, and other public purposes. Consideration shall be given in the location of such sites to the preservation of scenic and historic sites, stands of fine trees, sand dunes, marshes, tidal marshes, lakes and ponds, watercourses and watersheds.

(Code 1977, § 9-3074; Code 1986, § 12-109)

Sec. 36-108. - Waterfront subdivisions.

Where a subdivision which adjoins Myrtle Grove Sound, the Cape Fear River, the Intracoastal Waterway, the Atlantic Ocean, or their impounded waters and tributaries, contains interior lots, parcels, or tracts of land which do not adjoin the water's edge, one or more lots which adjoin the water's edge shall be reserved to provide water access for the owners of interior properties. Such lots shall hereafter be called water access lots.

- (1) Water access lots shall be provided at a ratio of one water access lot for each 600 feet of waterfront lots contained in the subdivision measured parallel to the shoreline of the subdivision.
- (2) All water access lots shall abut both a public street and the water shoreline and shall be no less than ten feet in width.
- (3) The water access lots shall either be dedicated to the town (but only if the town council agrees to accept such dedication) or shall be transferred in fee simple title to the common ownership of the interior lot owners of the subdivision.
- (4) Before approval of the final plat can be given, the subdivider shall submit to the planning board a covenant stating either:
 - a. That he will dedicate the required amount of water access lots to the town; or
 - b. That he will convey title to the water access lots to the purchasers of each interior lot.Such purchasers shall have common ownership of the water access lots with undivided fee simple interest and shall be equally responsible for the maintenance of water access lots.
- (5) If the subdivider chooses to dedicate the water access lots to the town, the town council must have agreed to accept the responsibility of maintaining the lots and the preliminary plan and the final plat must show the dedication. If the title is transferred to the interior lot owners, the preliminary plan and final plat shall designate the following:
 - a. The lot or lots that are to serve as water access lots; and
 - b. The lots the owners of which are to have common title to the water access lots (example: Owners of Lots 1, 2, 3, 4, 5, etc., to have undivided fee simple title to this water access lot).

(Code 1977, § 9-3075; Code 1986, § 12-110)

Sec. 36-109. - Establishment of harbor and pierhead line.

When applicable permits are obtained as by law required in the design and construction of piers and docks along the Intracoastal Waterway and Myrtle Grove Sound within the jurisdiction of the town, the following description shall be the proposed harbor and pierhead line which shall limit the extension of piers and docks to protect the general health and safety of the citizens who use these waters for commercial and recreational purposes:

- Legal description of the revised pierhead line in the Myrtle Grove Sound Area for the Town of Carolina Beach.
- Located in the Town of Carolina Beach, Federal Point Township, New Hanover County, State of North Carolina and being described as follows:
- Beginning at a point where the current pierhead line intersects the U.S. Army Corps of Engineers Setback Line (Setback Line), said point being having N.C. Grid Coordinates: N=107,375.64 and East=2,335,878.75, (coordinates are based on NAD 83-NSRS 2007 datum), said beginning point being located North 62 degrees 08 minutes 56 seconds West-498.76' from a concrete monument located in the centerline of Carolina Beach Avenue North and the northern right of way of Scallop Lane extended and runs thence from said beginning point, with the Setback Line, South 13 degrees 57 minutes 34 seconds West-731.68' to a point; thence continued with the Setback Line, South 02 degrees 16 minutes 11 seconds West-342.04' to a point; thence continued with the Setback Line the following four calls: South 00 degrees 00 minutes 00 seconds East-1.40'; South 08 degrees 07 minutes 48 seconds West-2.83'; South 13 degrees 34 minutes 14 seconds West-2.98' and South 15 degrees 15 minutes 18 seconds West-1.14'; to a point; thence continued with the Setback Line, South 17 degrees 11 minutes 57 seconds West-178.90' to a point; thence continued with the Setback Line, the following ten calls; South 21 degrees 48 minutes 05 seconds West-3.77'; South 30 degrees 41 minutes 59 seconds West-3.72'; South 39 degrees 36 minutes 38 seconds West-3.76'; South 48 degrees 14 minutes 23 seconds West-3.75'; South 57 degrees 59 minutes 41 seconds West-3.77'; South 66 degrees 48 minutes 05 seconds West-3.81'; South 75 degrees 57 minutes 50 seconds West-3.71'; South 83 degrees 59 minutes 28 seconds West-3.82'; North 85 degrees 21 minutes 52 seconds West-3.71' and North 77 degrees 47 minutes 58 seconds West-3.69' to a point; thence continued with the Setback Line, North 72 degrees 49 minutes 10 seconds West-130.00' to a point; thence continued with the Setback Line the following nine calls: North 67 degrees 41 minutes 38 seconds West-4.22'; North 57 degrees 50 minutes 52 seconds West-4.13'; North 47 degrees 54 minutes 39 seconds West-4.18'; North 38 degrees 14 minutes 02 seconds West-4.20'; North 27 degrees 10 minutes 52 seconds West-4.16'; North 18 degrees 00 minutes 15 seconds West-4.21'; North 08 degrees 07 minutes 48 seconds West-4.24'; North 02 degrees 43 minutes 35 seconds East-4.20' and North 12 degrees 40 minutes 49 seconds East-4.10' to a point; thence continued with the Setback Line, North 17 degrees 10 minutes 41 seconds East-178.77' to a point; thence continued with the Setback Line, North 11 degrees 20 minutes 36 seconds East-337.59' to a point; thence continued with the Setback Line, North 12 degrees 31 minutes 44 seconds East-0.92' to a point; thence continued with the Setback Line, North 13 degrees 35 minutes 07 seconds East-2276.80' to a point; thence continued with the Setback Line, North 00 degrees 46 minutes 29 seconds East-2492.23' to a point; thence continued with the setback, North 06 degrees 00 minutes 32 seconds East-3.82' to a point; thence continued with the Setback Line, North 11 degrees 18 minutes 36 seconds East-2.04' to a point; thence continued with the Setback Line, North 14 degrees 47 minutes 22 seconds East-1282.18' to a point; thence continued with the Setback Line, North 13 degrees 54 minutes 02 seconds West-911.18' to a point; thence continued with the Setback Line, North 58 degrees 51 minutes 43 seconds West-107.14' to a point; thence continued with the Setback Line, North 13 degrees 51 minutes 00 seconds West-107.74' to a point; thence North 68 degrees 56 minutes 04 seconds East-305.03' to a point; thence South 13 degrees 04 minutes 09 seconds East-1373.97' to a point; thence South 67 degrees 59 minutes 09 seconds East-894.79' to a point; thence South 22 degrees 00 minutes 51 seconds West-1455.00' to a point; thence South 19 degrees 35 minutes 51 seconds West-2125.00' to a point; thence South 17 degrees 05 minutes 51 seconds West-1469.44' to the point of beginning, containing 81.42 acres more or less, and being shown on a map entitled "Map of Proposed Revisions to the Carolina Beach Pierhead Line for the Town of Carolina Beach" as recorded in Map Book 57, Page 169 of the New Hanover County Registry.

(Code 1986, § 12-111; Ord. No. 82-53A, § 9-3076, 6-8-1982; Ord. No. 12-900, 8-14-2012)

Secs. 36-110—36-131. - Reserved.

DIVISION 4. - REQUIRED IMPROVEMENTS

Sec. 36-132. - Survey monuments.

- (a) Permanent monuments of stone or concrete shall be placed at one or more corners of the subdivision to be designated as control corners. Permanent monuments shall also be placed at the point of intersection on the centerlines of intersecting streets and at the point of intersection of the tangents or curves when such point lies completely within the right-of-way of the proposed street. Otherwise, monuments shall be placed on the centerline at the points of curvature and also at the points of tangency of all curved areas which are to be dedicated for street purposes.
- (b) Such monuments shall be set nine inches below the finished grade of pavement. A metal casting of an approved type shall be mounted over the monument with its base flange mounted on a brick foundation with mortar joints of at least two course thickness, the top of which must be a minimum of 1¾ inches higher than the highest point of the monument. Permanent monuments shall be either of stone or concrete. They shall be at least 30 inches in length, six inches in diameter, and shall have a metal pin or punch-marked metal plate imbedded therein marking the point represented on the final plat. The location of all monuments shall be shown on the final plat.

(Code 1977, § 9-3081; Code 1986, § 12-126)

Sec. 36-133. - Grading.

- (a) Cut and filled lands shall be graded to a minimum slope of one on four or the soil's angle of repose, whichever is the lesser, and covered with permanent vegetation.
- (b) After the installation of temporary block corner monuments by the subdivider and approval of street grades by the planning and zoning commission, or the state department of transportation, the subdivider shall grade the right-of-way of all streets proposed to be dedicated in accordance with plans and standard specifications approved by the planning and zoning commission, or the state department of transportation. The subdivider shall grade the roadbeds in the street right-of-way to subgrade.

(Code 1977, § 9-3082; Code 1986, § 12-127)

Sec. 36-134. - Surfacing.

After the installation of all utility and stormwater drainage improvements, the subdivider shall surface all roadways and streets proposed to be dedicated to the widths prescribed by, and in accordance with, the standards of the planning and zoning commission, or the state department of transportation. Such surfacing shall be done in accordance with plans and standard specifications approved by the planning and zoning commission and the state department of transportation.

(Code 1977, § 9-3083; Code 1986, § 12-128)

Sec. 36-135. - Curbs and gutters.

After the installation of all utility and stormwater drainage improvements, the subdivider shall construct curbs and gutters in accordance with plans and standard specifications approved by the planning and zoning commission. This requirement may be waived where a permanent rural street section has been approved by the planning and zoning commission. Wherever possible, provision shall be made at the time of construction for driveway-access curb cuts.

(Code 1977, § 9-3084; Code 1986, § 12-129)

Sec. 36-136. - Sidewalks.

The planning and zoning commission may require the subdivider to construct a concrete sidewalk on one side of all frontage streets and on one or both sides of all other streets within the subdivision. The construction of all sidewalks shall be in accordance with plans and standard specifications approved by the planning and zoning commission.

(Code 1977, § 9-3086; Code 1986, § 12-130)

Sec. 36-137. - Rural street sections.

When permanent rural street sections have been approved by the planning and zoning commission, the subdivider shall finish grade all shoulders and road ditches, install all necessary culverts at intersections and, if required, surface ditch inverts to prevent erosion and sedimentation in accordance with plans and standard specifications approved by the planning and zoning commission and the state department of transportation.

(Code 1977, § 9-3085; Code 1986, § 12-131)

Sec. 36-138. - Street lamps.

The planning and zoning commission shall require the subdivider to install street lamps along all streets proposed to be dedicated of a design in accordance with the ordinances of the town.

(Code 1977, § 9-3091; Code 1986, § 12-132)

Sec. 36-139. - Street name signs.

The planning and zoning commission shall require the subdivider to install at the intersection of all streets proposed to be dedicated a street name sign of a design specified by the planning and zoning commission.

(Code 1977, § 9-3092; Code 1986, § 12-133)

Sec. 36-140. - Street trees.

The subdivider shall plant at least one tree of approved species and of at least six feet in height for each 50 feet of frontage on all streets proposed to be dedicated. Tree plantings shall be completed in accordance with plans and specifications approved by and at such time as directed by the planning and zoning commission.

(Code 1977, § 9-3093; Code 1986, § 12-134)

Sec. 36-141. - Sewage disposal facilities.

When public sewer facilities are available to the subdivision plat or when it is proposed to establish a private community sanitary sewerage system to serve two or more lots, the subdivider shall construct sanitary sewerage facilities in such a manner as to make adequate sanitary sewage service available to each lot within the subdivision, according to state and county public health laws and regulations:

- (1) *Laterals.* The planning and zoning commission may require the installation of sewer laterals to the street lot line.
- (2) *Size.* The size, type, and installation of all sanitary sewers and sanitary sewer laterals proposed to be constructed shall be in accordance with plans and standard specifications approved by the planning and zoning commission, the office of water and air resources, and the state department of natural resources and community development.
- (3) *Cost.* The subdivider shall assume the cost of installing all sanitary sewers, sewer laterals, and sewer appurtenances within the proposed subdivision, except for the added cost of installing sewers greater than eight inches in diameter which are necessary to serve tributary drainage areas lying outside of the proposed subdivision. In addition, the subdivider shall pay to the town a sanitary sewer trunk line connection fee based on the added cost of installing larger sewers in the total tributary drainage area which shall be prorated in proportion to the ratio which the total area of the proposed plat is to the total drainage area to be served by such larger sewers.

(Code 1977, § 9-3087; Code 1986, § 12-135)

Sec. 36-142. - Stormwater drainage facilities.

The subdivider shall construct stormwater drainage facilities, which may include curbs and gutters, catch basins and inlets, storm sewers, road ditches, open channels, water retention structures, and settling basins as required to adequately serve the subdivision. All such facilities shall be of adequate size and grade to hydraulically accommodate the maximum potential volumes of flow and shall be so designed as to prevent and control soil erosion and sedimentation and to present no hazard to life or property.

- (1) *Unpaved ditches.* Unpaved road ditches and street gutters shall be shaped and seeded and/or sodded as grassed waterways. Where the velocity of flow is in excess of four feet per second on soils having a severe or very severe erosion hazard and in excess of six feet per second on soils having moderate, slight, or very slight erosion hazard, the subdivider shall install a paved invert or check dams, flumes, or other energy dissipating devices.
- (2) *Shoreland drainage.* Shoreland drainage facilities shall include water retention structures and settling basins so as to prevent erosion and sedimentation where such facilities discharge into streams, lakes, or other waterways. The design criteria, the size, type, grades, and installation of all stormwater drains and sewers and other cross-section, invert, and erosion-control paving, check dams, flumes, or other energy dissipating structures and seeding and/or sodding of open channels and unpaved road ditches proposed to be constructed shall be in accordance with plans and standard specifications approved by the planning and zoning commission.
- (3) *Cost.* The subdivider shall assume the cost of installing all storm sewers within the proposed subdivision, except for the added cost of installing storm sewers greater than 24 inches in diameter which are necessary to serve tributary drainage areas lying outside of the proposed subdivision. In addition, the subdivider shall pay to the town a storm sewer trunk line connection fee based on the added cost of installing larger sewers in the total tributary drainage area which shall be prorated in proportion to the total area of the proposed plat to the total drainage area to be served by such larger sewers.

(Code 1977, § 9-3088; Code 1986, § 12-136)

Sec. 36-143. - Water supply facilities.

Where public water supply and distribution facilities are available to the subdivision, the subdivider shall cause connections to be made to such water supply and distribution facilities and it shall be installed in such a manner to make adequate water service available to each lot in the subdivision. When a public water supply system is not available and it is proposed to establish a privately owned public water supply

system to serve two or more lots, the subdivider shall cause such water supply and distribution facilities to be installed in such a manner as to make adequate water service available to each lot in the subdivision. The plans and specifications for a water system of either type, as outlined above, must be submitted to and approved by the state department of health and human services.

- (1) *Laterals.* The planning and zoning commission may require the installation of water laterals to the street lot line.
- (2) *Size.* The size, type, and installation of all public water mains proposed to be constructed shall be in accordance with plans and standard specifications approved by the planning and zoning commission.
- (3) *Cost.* The subdivider shall assume the cost of installing all water mains, water laterals, and water system appurtenances within the proposed subdivision, except for the added cost of installing water mains greater than eight inches in diameter.

(Code 1977, § 9-3089; Code 1986, § 12-137)

Sec. 36-144. - Other utilities.

- (a) The subdivider shall cause gas, electrical power, and telephone facilities to be installed in such a manner as to make adequate service available to each lot in the subdivision. All utility lines for local distribution of electric power and telephone service shall be installed underground within all residence districts as shown on the official zoning maps when applicable and in other subdivisions consisting of five or more lots. Primary electrical or telephone service lines shall be located on overhead poles along the rear lot lines unless otherwise allowed due to exceptional topography, other physical barriers or on lots bordering navigable streams, lakes, or other waterways.
- (b) Plans indicating the proposed location of all gas, electrical power, and telephone distribution and transmission lines required to service the plat shall be approved by the planning and zoning commission.

(Code 1977, § 9-3090; Code 1986, § 12-138)

Sec. 36-145. - Shoreland planting and sediment control.

- (a) The subdivider shall plant those grasses, trees, shrubs, and vines of a species and size specified by the planning and zoning commission necessary to prevent soil erosion, protect stream banks, lake banks, and other waterways and sand dunes, and substantially screen all development within five years from surface water users.
- (b) In addition, the planning and zoning commission may require the subdivider to provide or install certain stream, lake, and other waterway protection and rehabilitation measures, such as fencing, sloping, seeding, rip-rap, revetment, jetties, clearing, dredging, snagging, drop structures, and grade stabilization structures.

(Code 1977, § 9-3094; Code 1986, § 12-139)

Secs. 36-146—36-173. - Reserved.

DIVISION 5. - CONSTRUCTION

Sec. 36-174. - Commencement.

No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plat has been approved by the appropriate authority.

(Code 1977, § 9-3101; Code 1986, § 12-151)

Sec. 36-175. - Compliance with article; issuance of permits.

- (a) No building or other permits shall be issued for erection of a structure on any lot not of record at the time of adoption of the ordinance from which this article is derived until all the requirements of this article have been met.
- (b) The administrator of this article shall have access to premises and structures during reasonable hours to make those inspections as deemed necessary by him to ensure compliance with this article.

(Code 1977, § 9-3102; Code 1986, § 12-152)

Sec. 36-176. - Inspections.

The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the administrator of this article to provide for adequate inspection. The approving authorities having jurisdiction or their representatives shall inspect and approve all completed work prior to release of the sureties.

(Code 1977, § 9-3103; Code 1986, § 12-153)

Sec. 36-177. - Erosion control.

- (a) The subdivider shall cause all grading, excavations, open cuts, side slopes, and other land surface disturbances to be so mulched, seeded, sodded, or otherwise protected that erosion (wind or water), siltation, sedimentation, and washing are prevented in accordance with plans and specifications and within such time periods approved by the planning and zoning commission.
- (b) Sod shall be laid in strips at those intervals necessary to prevent erosion and at right angles to the direction of drainage or wind current.

(Code 1977, § 9-3104; Code 1986, § 12-154)

Sec. 36-178. - Protection of existing flora.

- (a) The subdivider shall make every effort to protect and retain all existing trees, shrubbery, vines, and grasses not actually lying in public roadways, drainageways, building foundation sites, private driveways, soil absorption waste disposal areas, paths, and trails.
- (b) Such trees are to be protected and preserved during construction in accordance with sound conservation practices recommended by the United States Department of Agriculture in Agricultural Information Bulletin No. 285, "Protecting Trees Against Damage From Construction Work," United States Government Printing Office, 1964. Such trees are to be preserved by well islands or retaining walls whenever abutting grades are altered.
- (c) Temporary vegetation and mulching shall be used to protect critical areas, and permanent vegetation shall be installed as soon as practical.
- (d) Construction at any given time shall be confined to the smallest practical area and for the shortest practical period of time.

- (e) Sediment basins shall be installed and maintained at all drainageways to trap, remove, and prevent sediment and debris from being washed outside the area being developed.

(Code 1977, § 9-3105; Code 1986, § 12-155)