

CHAPTER D – SUBDIVISION ORDINANCE

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D. SUBDIVISION ORDINANCE

1. GENERAL PROVISIONS AND ADMINISTRATION

- A. **Short Title.** This Ordinance shall be known and may be cited as Chapter D Subdivision Ordinance, except as referred to herein, where it shall be known as this Ordinance.
- B. **Purpose and Adoption.** The purpose of this *Subdivision Ordinance* is to establish criteria and procedures for managing the development and subdivision of land and other real property within the Town of Lewisville. These regulations are intended to:
1. Maintain and promote public health, safety, and welfare;
 2. Manage growth and land development according to the principles and goals of the *Lewisville Tomorrow Comprehensive Plan*;

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3. Provide for a network of streets and facilities that accommodates multiple modes of pedestrian and vehicle transportation;
 4. Connect neighborhoods across the Town while decreasing traffic congestion and improving circulation patterns;
 5. Allow for the dedication or reservation of rights-of-way or easements for future streets, utilities, and other public purposes;
 6. Provide for the maintenance and extension of public water and sewerage systems; and,
 7. Further the development of public necessities, community amenities, and public spaces to serve the residents of Lewisville.
- C. **Applicability.** These rules and ordinances shall apply to the subdivision of land anywhere in the Town of Lewisville.
- D. **General Definition of a Subdivision.** For the purpose of this ordinance, *subdivision* shall mean all divisions and recombinations of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of a gift, sale, or development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets. This general definition will be further defined in this ordinance as:
1. Subdivisions exempt by State law or court judgments;
 2. Expedited Subdivisions;
 3. Minor Subdivisions;
 4. Major Subdivisions; and
 5. Industrial or commercial subdivisions.
- E. **Approving Authority and Planning Director.** The Planning Director and the Planning Board shall be the approving authorities for various sections of this ordinance. The Planning Board shall approve all preliminary major subdivision plats. The Planning Director is authorized to approve minor or exempt plats and extensions of preliminary major subdivision approvals. No subdivision shall be created anywhere in the Town of Lewisville until said plat has been approved by the Planning Director or Planning Board.

- F. **Penalties for Transferring Lots in Unapproved Subdivisions.** In accordance with G.S. § 160D-807, "Penalties for Transferring Lots in Unapproved Subdivisions", any person who, being the owner or agent of the owner of any land located within the jurisdiction of the town, subdivides his land in violation of the subdivision requirements set forth in the Town's Unified Development 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 in accordance with the UDO and recorded in the office of the 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 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 UDO.
1. The Town of Lewisville may enjoin the transfer or sale or agreement by action for injunction brought in any court of equity jurisdiction or may recover the penalty by civil action in any court of competent jurisdiction.
 2. Building permits required pursuant to G.S. 160D-1110 may be denied for lots that have been illegally subdivided.
- G. **Pre-Existing Subdivisions.** None of the provisions of this Ordinance shall apply to subdivision plats recorded with the Register of Deeds prior to the effective date of this ordinance, provided the lots met the requirements of the *Zoning Ordinance* or any other local or State land regulatory ordinances which were in effect at the time the lots were recorded.
- H. **Administration.** These provisions shall be considered the minimum requirements for the protection of public health, safety, and general welfare. The Town Council reserves the right to amend this ordinance as may be deemed necessary to provide reasonable service to the public.
- I. **Amendments.** Before the adoption of any amendment to this ordinance, the Town Council shall conduct a legislative hearing. Notice of the hearing shall be given consistent with the public notice requirements for UDO Amendments in *Section A.4-3.1(C)(7) Public Meeting and Hearing Notice Requirements*.

- J. **Denial of Subdivision.** The reason(s) for the denial of any subdivision governed by any section of this ordinance shall be provided in writing to the landowner of record or the owner's agent by the Planning Director.
- K. **Appeal of a Denial of Subdivision.** The denial of a subdivision plat governed by this Ordinance may be appealed to the Zoning Board of Adjustment according to the procedures described in *Section A.4-3.7 Appeals*. The appeal request must be submitted to the Planning Director within thirty (30) days of receiving written notification of the decision. Application requirements include a survey map prepared by a licensed surveyor, a letter explaining the reasons for the appeal request, and a fee as determined by the current fee schedule at the time. Once the application is complete, the appeal request will be placed on the next agenda for the regularly scheduled meeting of the Zoning Board of Adjustment, subject to the required time period for public notice. The Planning Director will present a report at the meeting. The owner or owner's agent shall present the appeal request and the reasons for such request to the Zoning Board of Adjustment. In making a decision on the appeal, the Zoning Board of Adjustment shall promulgate written statements, prepared by the Planning Director detailing the reasons for the decision. The Zoning Board of Adjustment may require conditions of approval as deemed necessary, according to the terms of this ordinance.
- L. **Appeal of Zoning Board of Adjustment Denial of Subdivision.** Denials of plats issued by the Zoning Board of Adjustment may be appealed in the nature of certiorari to Superior Court within thirty (30) days of receiving written notice of the decision, according to the procedures detailed in G.S. 160D-1403.
- M. **Mapping of Environmental Features.** All preliminary and final plats are subject to Chapter C of this UDO, the *Environmental Ordinance*. Depictions of features including watercourses, wetlands, flood hazard areas, watershed boundaries, permanent stormwater controls and other provisions described in Chapter C shall be included on the face of all maps and plats, as required by the Planning Director and/or the authorizing body.
- N. **Other Applicable Definitions.** Any terms not defined in these ordinances will be assumed to have the same or similar definition(s) found in the *Unified Development Ordinance* or any other local ordinances, codes, or State law.

2. PRIVATE STREETS AND EASEMENTS

A. Access Easement, Private Off-Site.

1. **Applicability.** Access easements and private roads are allowed only for uses or structures permissible in each respective zoning district or as part of an approved subdivision, planned residential or multi-family development. Any other types access easements or private roads are subject to the requirements for special use permits described in *Section A.4-3.5 Special Use Permit*.
2. **Conditional Zoning Districts.** Notwithstanding the requirements of *Section D.2(A)(1) Applicability*, a private access easement established pursuant to *Section A.4 Procedures* may serve more than one zoning lot or conditional zoning district.
3. **Standards.** Private access easements requiring the issuance of a special use permit in *Section D.2(A)(1) Access Easement, Private Off-Site Applicability* must be designed in conformity with the minimum standards for public streets established by the North Carolina Department of Transportation (NCDOT).

B. **Width of Private Access Easements and Private Streets.** All access easements and private streets approved according to the terms of this Ordinance shall be not less than twenty-five (25) feet in width and shall be shown on the face of a plat recorded in the office of the Register of Deeds. No zoning permit shall be issued for a principal use not served by a public street or a private access easement or street which complies with provisions of this ordinance. These requirements do not apply to driveways or alleys.

C. **Utility Easements.** No part of any building shall be constructed within the boundaries of a utility easement unless authorized to do so by the grantor of such easement in writing and recorded in the office of the Register of Deeds.

3. EXEMPT SUBDIVISIONS

A. **Definition.** A subdivision exempted by State law or court judgments is a division of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of a gift, sale, or building development, including the recombination of previously divided tracts or parcels of land. All lots must comply with the size and area requirements of the *Zoning Ordinance* or any other applicable local or State land regulatory ordinances and meet any one of the following definitions:

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 Lewisville UDO regulations.
2. The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved.
3. The public acquisition by purchase of strips of land for the widening or opening of streets.
4. The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no public or private street right-of-way dedication is involved and the resultant lots are equal to or exceed the standards of the Lewisville UDO regulations.
5. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with interstate succession under Chapter 29 of the General Statutes.
6. The Town of Lewisville also considers subdivisions of land to create or dedicate private cemeteries on individual lots to be exempt from the requirements of this ordinance and the dimensional requirements of the Zoning Ordinance.

B. Application and Approval Requirements. The following are the application requirements for approval of subdivisions exempted by State law or court judgments:

1. Submission of a preliminary survey plat to the Planning Director, prepared by a land surveyor licensed to practice in the State of North Carolina. Submission may be electronic by email (preferred) or in full-size paper form.
2. Once submitted the Planning Director will have three (3) days to review the plat and provide approval or determine if more information is needed. If additional information is required, the three (3) day period will restart after the Planning Director has received it.
3. When the preliminary plat has been approved, a final survey plat may be submitted to the Planning Director according to *Section D6(H) Approval Process for Final Major Subdivision Plats*.
4. The Planning Director will provide approval of the final plat by signature as a duly appointed Plat Review Officer of Forsyth County, NC.

5. Payment of the exempt plat review fee as determined in the current schedule of fees.
6. Once the plat has been approved and fees paid, the plat may be recorded in the office of the Register of Deeds. Unless exempted by law, no plat may be recorded with the Register of Deeds without approval from a plat review officer appointed by the Forsyth County Board of Commissioners.

4. EXPEDITED SUBDIVISIONS

- A. Subdivisions qualifying for expedited plat approval per G.S. 160D-802(c), as stated below, shall be reviewed and approved in the same manner as Exempt Subdivisions. Only a plat is required for recordation for the division of a tract or parcel of land in single ownership if all of the following criteria are met to qualify for expedited review:
 1. The tract or parcel to be divided is/was not exempt according to the provisions of this Ordinance;
 2. No part of the tract or parcel to be divided has been divided under this subsection in the ten (10) years prior to division;
 3. The entire area of the tract or parcel to be divided is greater than five (5) acres;
 4. After division, no more than three (3) lots result from the division; and,
 5. After division, all resultant lots comply with all of the following:
 - (1) All size and dimensional requirements for lots as described in this Ordinance;
 - (2) The use of the lots is in conformity with applicable zoning requirements, if any; and,
 - (3) A permanent means of ingress and egress is recorded for each lot in compliance with the provisions of this Ordinance.

5. MINOR SUBDIVISIONS

A. **Definition.** A minor subdivision shall mean all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of a gift, sale, or building development. All lots must comply with the lot size, dimensional requirements, any other development standards contained in the *Unified Development Ordinance*, or any other applicable local or State land regulatory ordinances and meet any one of the following criteria:

1. Is a division of land where the entire area is greater than two (2) acres into not more than a total of three (3) lots, where no street right-of-way dedication is involved (see exception for industrial and commercial subdivisions in *Section A.4-3.10(C) Private Street Subdivisions*);
2. Is created by a private access easement established in compliance with the standards of this UDO and consists of no more than a total of three (3) lots which do not front on a public street (see exception for industrial and commercial subdivisions in *Section A.4-3.10(C) Private Street Subdivisions*); or,
3. Is created by lots, all of which front an existing public street, provided that the subdivision would not impair ingress and egress to or from the rear or side of the subject tract or any adjacent property. Lots that are approved must front on a public street with right-of-way which meets the standards of the North Carolina Department of Transportation and/or Lewisville Public Works.
4. The dedication of standard right-of-way and additional right-of-way for future widening of roads as indicated on the *Transportation Plan* may be required, subject to the provisions of G.S. 136-66.10 and as may be amended.

B. **Development Standards.** The following are the standards for approval of minor subdivisions:

1. Minor subdivisions may be approved provided that the subdivision:
 - (1) Does not violate any adopted plan, policy, or ordinance of Lewisville;
 - (2) Does not create any new public streets;
 - (3) Does not block or impede the extension of a public street located within an approved preliminary or final subdivision.

- (4) Is not located within the corridors of any planned or proposed street as shown on the adopted *Transportation Plan* of Lewisville;
 - (5) Does not leave an implied division of property which would not meet the requirements of the *Zoning Ordinance* or any other land regulatory ordinances; or,
 - (6) Does not land lock any tract of land.
2. If a minor subdivision is included in a preliminary major subdivision plat that has been approved by the Planning Board, then official action must be taken by the Planning Board to withdraw the subdivision or any portion thereof in accordance with *Section D.6(F) Withdrawal of Preliminary Subdivision Approval* before a minor subdivision can be approved.
3. Flag lots may be created according to the following standards:
 - (1) The maximum "pole" length may not exceed 150 feet and may not account for more than twenty-five (25%) of the total property area.
 - (2) The pole may not be used for either lot area or yard calculation of any other lot; and,
 - (3) If more than one flag lot is proposed to the rear of another lot or "stacked" off the street, a special use permit from the Zoning Board of Adjustment is required.
4. Where more than one property accesses a public road via a private access easement, said easement shall conform with the sight distance requirements of the NC DOT at the point of access to the public road.

C. Application and Approval Requirements.

1. Submission of a preliminary survey plat to the Planning Director, prepared by a land surveyor licensed to practice in the State of North Carolina. Submission may be electronic by email (preferred) or in full-size paper form.
2. Once submitted the Planning Director will have three (3) days to review the minor subdivision and provide approval or determine if more information is needed. If additional information is required, the three (3) day period will restart after the Planning Director has received it.

3. When the minor subdivision has been approved, a final survey plat may be submitted to the Planning Director according to *Section D.6(H) Approval Process for Final Major Subdivision Plats*.
 4. The Planning Director will provide approval of the final plat by signature as a duly appointed Plat Review Officer of Forsyth County, NC.
 5. Payment of the minor subdivision plat review fee as determined in the current schedule of fees.
 6. Once the subdivision has been approved and fees paid, the subdivision may be recorded in the office of the Register of Deeds. Unless exempted by law, no plat may be recorded with the Register of Deeds without approval from a plat review officer appointed by the Forsyth County Board of Commissioners.
- D. **Public Recordation of Landfills.** A record of the use of any site for a landfill and a rehabilitation/reuse plan for the site shall be recorded with the Register of Deeds, prior to the issuance of a zoning or grading permit.

6. MAJOR SUBDIVISIONS

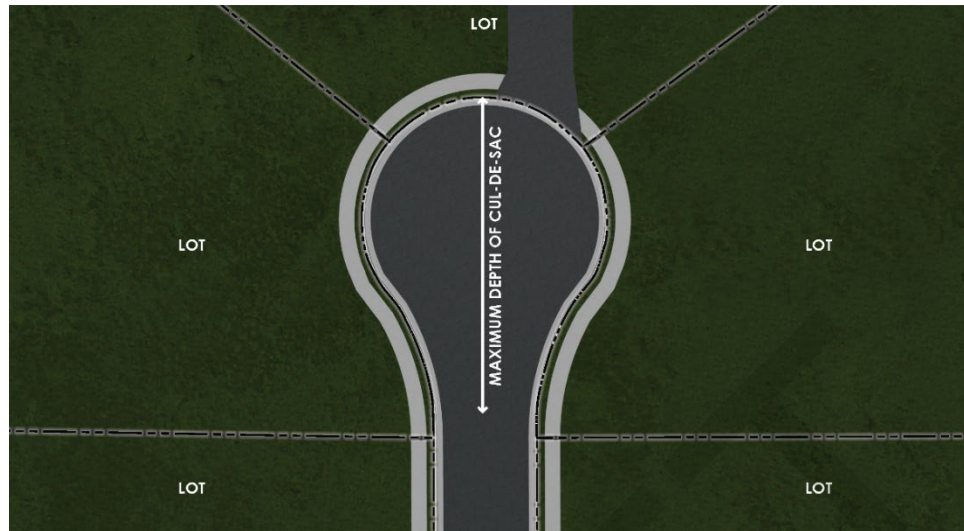
- A. **Definition.** A major subdivision of land shall mean all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of a gift, sale, or building development where new public streets rights-of-way will be dedicated or new public streets constructed. Large Lot Subdivisions are those otherwise defined as Major Subdivisions where the average density equals no more than one home per 80,000 square feet and where no individual residential lot is smaller than 40,000 square feet. All lots must comply with the lot size, dimensional requirements and any other development standards contained in the *Unified Development Ordinance*, or any other applicable local or state land regulatory ordinances. Preliminary subdivision approval of a plat in accordance with *Section D.6(H) Approval Process for Preliminary Subdivision Approval* is required by the Planning Board. Final plats must be recorded in the office of the Register of Deeds in accordance with *Section D.6(H) Approval Process for Final Major Subdivisions* when all the requirements of this Ordinance have been met.
- B. **Development Standards.** This section lists development standards and requirements for preliminary Major Subdivision approval. Anyone proposing a new Major Subdivision is encouraged to meet with the Planning Director before preparing or submitting a preliminary subdivision plat.

1. Public Streets.

- (1) All streets or roads shall be designed to integrate with the road system of Lewisville, as shown on the adopted *Transportation Plan*. These streets or roads shall be coterminous with adjoining links in said system.
- (2) The principal point(s) of access to all Major and Large Lot residential subdivisions shall be public streets. All interior streets for Major Subdivisions shall be public streets.
- (3) Dedication of additional rights-of-way, widenings, or other improvements to existing public streets may be required.
- (4) All streets proposed to become Town of Lewisville streets shall meet or exceed the minimum standards of the North Carolina Department of Transportation Manual for Subdivision Roads and those of the Lewisville Town Code, Chapter 31. Greater street widths may be required for residential or nonresidential collector streets where deemed to be necessary for public safety, welfare, or health or in coordination with the North Carolina Department of Transportation (NCDOT).
- (5) Street standards within the corporate limits of Lewisville shall permit narrower widths with slower design speeds than are conventionally required. Design speeds may be reduced to twenty (20) miles per hour on local residential streets. Local residential street widths may be reduced to twenty (20) feet without parking, twenty-six (26) feet with one (1) side parking and thirty-two (32) feet with two (2) side parking. Residential collector streets with two (2) side parking may be reduced to thirty-two (32) feet in width, with a design speed of twenty-five (25) miles per hour.
- (6) Preliminary plats shall demonstrate sight distance conformance with the terms of this ordinance. Roadway width and geometry may be revised to promote public health, safety and general welfare. Utilities may be placed under the roadway. All new public residential streets within the Town of Lewisville shall require curb and gutter types allowed by NC DOT minimum standards.
- (7) Large Lot residential subdivisions and Major Subdivisions in the Yadkin River WS IV watershed are exempt from curb and gutter requirements.

- (8) Where streams, variable topography or other physical challenges to street connectivity might exist, exemptions from or alternatives to required inter-connectivity standards may be considered by the authorizing agent or body. Exemption requests must be accompanied by a written report from a Professional Engineer (PE) detailing the barriers to connectivity and why it is impracticable. Any exemption granted shall be considered an administrative determination made by the authorizing agent or body.
- (9) All subdivisions shall dedicate rights-of-way and construct stub streets to all adjoining properties. All stub streets shall meet the design and construction criteria required by the Town of Lewisville and/or NC DOT and shall be constructed to the property line. Otherwise, stub streets are subject to an approved financial guarantee with the Town before final plats are approved for the sections of the subdivision where said streets are located. All stub streets shall be designed, constructed, and placed in locations which will permit the future extension of these streets. Any developments proposed adjacent to recorded but unbuilt stub streets shall construct the stub street through to the nearest public street inside the adjacent development. Any exemption shall be subject to the standards noted in *Section D.6(B)(1)(8)* above.
- (10) Blocks, or the distance between street intersections, shall not be less than six hundred (600) feet nor more than one thousand two hundred (1,200) feet in length unless exempted according to the requirements of *Section D.6(B)(1)(8)* above.
- (11) Any type of dead end street designed to remain permanent, shall not be longer than one thousand two hundred (1,200) feet and shall have either a cul-de-sac or a T-shaped turnaround installed at the end. Cul-de-sacs and T-shaped turnarounds shall conform to the minimum standards of NC DOT and the Lewisville Fire Department.

Figure D.6.1 Cul-de-sac Illustration



- (12) Sidewalks shall be required in all residential subdivisions where curb and gutter streets are required. Sidewalks shall be placed three (3) feet back of curb, measure a minimum of four (4) feet in width, and shall be designed and constructed to meet the minimum standards of the NCDOT. Sidewalks shall be placed on both sides of all residential streets with curb and gutter. Additional sidewalks may be required where any Major Subdivision is also subject to the requirements of an overlay as described in *Section B.2-4.8 Overlays – Purpose Statements and Regulations*. All curbing and sidewalks shall conform with the minimum NCDOT requirements for the Americans with Disabilities Act (ADA). The landowner, developer, HOA or other responsible entity is responsible for ensuring that all sidewalks adhere to ADA requirements. All new Major Subdivisions shall provide sidewalks, at a ratio of two (2) linear feet of sidewalk per linear, centerline foot of public streets (2:1). Large Lot Subdivisions outside of the Yadkin River WS IV watershed shall provide sidewalks or greenways that will accommodate pedestrian and bicycle traffic at a ratio of one (1) linear foot per centerline of public streets (1:1). Alleys and private drives are exempt from linear foot calculations. The exact location and type of pedestrian connections shall be determined during the site plan and subdivision review process. All pedestrian access segments not defined as sidewalks shall meet or exceed ADA standards and shall be constructed with all-weather surfaces. New Major

Subdivisions that adjoin a public-school site (or proposed site) shall create a system of pedestrian sidewalks, paths and/or greenways that provide interconnectivity to the school. Said connectivity shall provide for safe and secure pedestrian movement protected from automobile traffic.

(13) Major or Large Lot subdivisions within the Yadkin River WS-IV watershed are required to dedicate easements for pedestrian paths at a ratio of one foot of easement per one foot of both public and private roadway (1:1). The required length of this easement is not to exceed one hundred ten percent (110%) of a straight line measured from the entrance of the subdivision to the termination of the subdivision's road(s). These easements shall be located adjacent to public or private streets. Additional easements within the overall project area may also be dedicated to access development features and amenities.

(14) Half-streets.

- i. New half streets are prohibited except when essential to the reasonable progression of the subdivision or other development in conformity with the other requirements of these regulations and where it will be practicable to require the dedication of the other half when the adjoining property is subdivided or otherwise developed.
- ii. Whenever an existing half street is adjacent to a tract of land to be subdivided or otherwise developed, the other half of the street shall be dedicated and constructed unless no access to the street from the development is permitted.
- iii. In cases where access to an adjacent half street is not permitted, then the land corresponding to the other half of the street shall be reserved and included within an easement for conditional future dedication within the new subdivision or other development.

(15) Reserve strips of land adjoining public rights-of-way which are intended to or result in barriers to access are prohibited.

(16) Streets shall be designed so as to intersect in conformance with minimum NC DOT and/or Town of Lewisville street standards.

(17) All new subdivisions will have triangular sight distance easements shown in dashed lines at all street intersections and so noted on the final plat

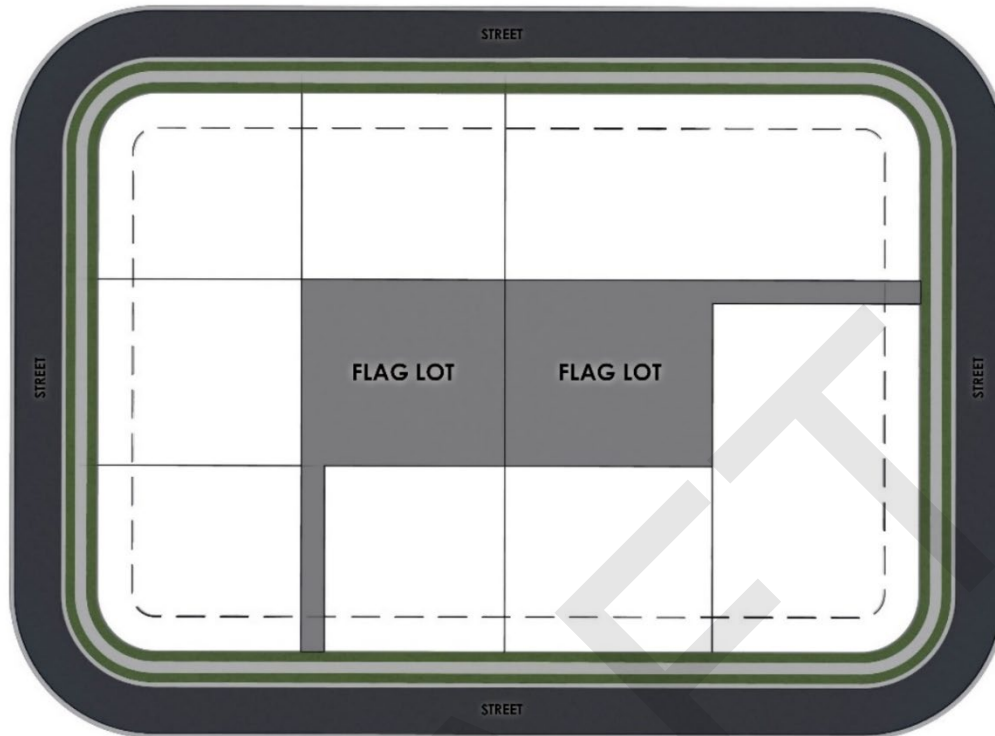
map. These easements will remain free of all structures, trees, shrubbery, driveways, and signs, except utility poles, fire hydrants, and traffic control signs. Sight easements shall conform with minimum NC DOT standards.

- (18) All new public streets shall include a ten (10) foot utility easement on both sides of the street reserved for the installation and maintenance of public utilities, where adequate space within the street right-of-way is unavailable.
- (19) Street names shall be approved by the Planning Director, according to the Addressing and Street Naming Guidelines and Procedures Manual for Forsyth County, as may be amended, and the standards of Lewisville Town Code 31-13. Street names shall be shown on all preliminary and final subdivision plats.
- (20) One tree must be planted within the boundaries of each lot within a Major Subdivision or Large Lot Subdivision. Additionally, street trees shall be required subject to the following:
 - i. Street trees shall be provided at a rate of one (1) tree per forty-five (45) linear feet of street frontage along both sides of the right-of-way.
 - ii. Street trees shall be setback from the curb or sidewalk. Small variety trees shall be setback a minimum of four (4) feet and medium variety trees shall be setback a minimum of six (6) feet. Large variety trees shall not be used for street tree plantings.
- (21) Any local subdivision or residential collector street section measuring more than twenty-four (24) feet wide and having an uninterrupted sight distance of more than seven hundred fifty (750) feet shall provide center traffic islands. All islands shall be a minimum eight (8) feet wide and a minimum of fifty (50) feet in length. All traffic islands shall be landscaped with evergreen shrubs having a minimum height of eighteen (18) inches at installation, reaching a mature height of thirty-six (36) inches within three (3) years. Shrubs must be locally adapted species, selected from the recommended planting material described in *Section B.3-3.9 Suggested Plant Materials List*. The entire island shall be landscaped. Major and large lot subdivisions located within the Yadkin River WS-IV watershed are exempt from the center traffic island requirement.

2. Lots.

- (1) Lots shall conform to the *Zoning Ordinance* and any other applicable local or state land regulatory ordinances.
- (2) Subdivisions shall be designed to exclude any road frontage lots on major or minor thoroughfares as shown on the adopted *Transportation Plan*. Said lots shall be served internally by local residential subdivision roads, consistent with the driveway policies of the Town of Lewisville and the NCDOT. Any exemption from this requirement shall follow the requirements of *Section D.6(B)(1)(8)*.
- (3) Along major/minor thoroughfares or at thoroughfare intersections into or within the subdivision, negative access easements are required to prevent access onto thoroughfares from corner lots. Access must instead be provided to the lot on the non-thoroughfare street at the intersection. These negative access easements shall be shown on the final plat. See illustration for acceptable example in *Section D.6.(B)(2) Lots*.
- (4) In all rectangular lots, and so far as possible in all other lots, side lot lines shall be at right angles or radial to the streets each lot faces.
- (5) Flag lots may be created according to the following standards:
 - i. The maximum "pole" length may not exceed 150 feet and may not account for more than twenty-five (25%) of the total property area.
 - ii. The pole may not be used for either lot area or yard calculation of any other lot; and,
 - iii. If more than one flag lot is proposed to the rear of another lot or "stacked" off the street, a special use permit from the Zoning Board of Adjustment is required.

Figure D.6.2 Flag Lot



- (6) Where streams, variable topography or other physical challenges to street connectivity might exist, exemptions from or alternatives to required inter-connectivity standards may be considered by the authorizing agent or body. Exemption requests must be accompanied by a written report from a Professional Engineer (PE) detailing the barriers to connectivity and why it is impracticable. Any exemption granted shall be considered an administrative determination made by the authorizing agent or body.
3. **Public or Private Utilities.** No final plat shall receive approval unless the following public or private utilities have either been constructed or, if applicable, upon receipt of a financial guarantee as discussed in *Section D.6(J) Development Guarantees*.
 - (1) **Water.**
 - i. All major subdivisions of land within one thousand (1,000) feet of public water shall be required to provide public water to the subdivision and install fire hydrants in accordance with Fire Department of Lewisville standards. The preliminary subdivision plat shall indicate that public water is to be used.

- ii. If public water is not available or required, the preliminary subdivision plat shall indicate the type of private water system to be used.
- iii. If fire hydrants are installed as part of a private water system, the system and fire hydrants shall be approved by the Fire Department of Lewisville.

(2) Sewerage and Septage.

- i. The preliminary subdivision plat shall indicate if public sewer is to be used.
- ii. If public sewer is not available or required, the preliminary subdivision plat shall indicate the type of private sewer or septic system(s) to be used.
- iii. No private package sewer treatment plants shall be allowed in areas identified as Rural Residential according to the Lewisville Comprehensive Plan and Future Land Use Map.

(3) Drainage.

- i. The preliminary subdivision plat shall indicate any areas with special drainage requirements. Drainage easements shall be shown on the final plat.
- ii. If a permanent stormwater retention or detention system is required by this Ordinance or other local or State Statute, the proposed location of all devices to be used in the system shall be shown on the preliminary subdivision plat.

(4) Other Public Utilities. All distribution lines and lines providing direct service to individual properties for public utilities shall be installed underground, unless required by the utility provider to be placed aboveground.

- 4. Street and Lot Tree Credit.** Street and lot tree credits may be obtained by preserving existing trees. Credits are limited to Major and Large Lot Subdivision projects for detached one- and two-family dwellings. To receive credit, a minimum of three (3) medium to large variety trees, four (4) small variety trees, or a combination thereof equaling at least four (4) trees must be retained within the boundaries of each newly created lot. If the required number of trees cannot

be retained, newly planted street and lot trees are required on a parcel by parcel basis. In keeping with the tree preservation requirements of the UDO, the critical root zones of each tree (equal to the drip line) must remain free of construction or disturbance. Preserved trees must be species or varieties that are native to North Carolina. Tree locations must be noted and recorded on the face of the final plat. The landowner or developer shall be responsible for maintaining the trees on each lot receiving credit, until transferring responsibility to a homeowners' association at the time of conveyance. Otherwise, a deed covenant specifying the trees to be preserved must be recorded for each lot at the time of conveyance.

5. Other.

- (1) Where the plan for the subdivision includes a lake or pond of one acre or more in size, existing or to be constructed, the preliminary subdivision plat shall show the location of dams, spillways, and other structures and the location and extent of inundation at full pond.
- (2) All signs, monuments, and markers are subject to the permitting standards for signs described in *Section B.3-1 Sign Regulations*. These shall be placed outside any public right-of-way or sight easement. Preliminary and final Major Subdivision plats shall show the locations of these features.
- (3) Where a proposed greenway, park, playground or other public facility (or use) is included in any plan officially adopted by the Town of Lewisville, the approving authority may require reservation of areas for such facilities or uses, or may require easement dedication for such.
- (4) Tree preservation planting areas shall be cordoned off during construction and protected from encroachment. The minimum area to be cordoned off shall consist of the critical root zone of the tree or an area ten (10) feet from the tree's trunk in all directions, whichever is the greater area. The protection measures shall be properly maintained during site development and shall not be removed prior to final landscaping. For the purposes of this section, encroachment is defined as the ground surface disturbance caused by grading; impervious surface cover; equipment, material, or earth storage; or by temporary or permanent construction vehicle access or circulation.

- (5) Statements of fact may be required on Major Subdivision preliminary (and final) plats when deemed necessary for public health, safety, and welfare by the Planning Director or Planning Board. Such information or statements may include:
 - i. The location of any proposed or planned thoroughfare. If the location of such thoroughfare has not been determined, a statement as to which lots may be affected or that the entire subdivision may be affected by the thoroughfare under study may be required.
 - ii. Planned public facilities identified in the Capital Improvement Program of Lewisville or other official plans adopted by the Lewisville Town Council;
 - iii. Other information deemed to be in the public interest.
- (6) A Type III bufferyard is required adjacent to a major or minor thoroughfare, or exterior collector street. Use of earthen berms as described in *Section B.3-4.2(B)(4) Earthen Berms* is encouraged. The bufferyard shall be clearly delineated on preliminary and final plats.

C. Application Requirements for Preliminary Subdivision Approval. The following are the application requirements for preliminary major subdivision approval:

1. Submission of any required application forms to the Planning Director, completed in full.
2. **Fees.** Payment of any required fees per the adopted fee schedule.
3. **Mapping Standards.** Ten (10) copies of a plat are required, at a scale not smaller than one (1) inch represents one hundred (100) feet (1" to 100'). Any other scale must be approved by the Planning Director. All paper and electronic copies shall be marked "PRELIMINARY". Additional copies of the preliminary subdivision map shall be required if modifications are made to the original submission during the review and approval process. Additionally, an electronic version in a format readable by the Planning Director and designees shall be submitted. Two (2) physical copies, at a minimum, shall be provided. Preliminary plats for Major Subdivisions shall include the following elements:

- (1) Vicinity/Location Map at a scale not smaller than one (1) inch represents two thousand (2,000) feet (1" to 2,000'), indicating the location of the site and showing:
 - i. The intersection of at least two (2) public streets nearest to the property; and
 - ii. North arrow.
- (2) Title Block to appear in the lower right-hand corner of the plat:
 - i. Development name;
 - ii. Name and address of landowner or owner's agent;
 - iii. Name and address person or firm who prepared the plat;
 - iv. Date survey was made; and
 - v. Scale, date, and north arrow.
- (3) Legend.
- (4) Property boundaries with bearings and distances.
- (5) Adjacent property lines with ownership indicated according to current deed or tax records.
- (6) Natural features — existing and proposed:
 - i. The location of all intermittent and perennial streams and/or designated wetlands;
 - ii. Any floodway or flood hazard area as described in *Chapter C. Environmental Ordinance*;
 - iii. Topography at four-foot intervals. Distinction between existing and proposed topography lines to be shown according to the following; existing - light dashed lines; proposed - thin solid lines. In certain instances, this may require the submission of separate maps; and
- (7) A landscape plan showing all required screening, bufferyards and streetyards and the dimensions for each according to the requirements of the UDO. The landscape plan shall indicate wooded areas and other natural features to be left undisturbed, in accordance with *Section B.3-3 Landscaping Standards*. Other existing and proposed plantings shall be

included in the landscape plan. If plantings are to be delayed, a planting schedule shall be submitted to the Planning Director, in accordance with *Section B.3-3.2(B) Delay of Landscaping*. The Director shall approve, deny or request modifications to the alternate planting schedule, provided in writing to the landowner or owner's agent. The landowner or owner's agent shall be responsible for maintaining all required plant materials in good health. Any plant material that may become damaged, diseased or die within one (1) year from the date of planting shall be replaced.

- i. A Tree Protection Plan consistent with the requirements of *Section B.3-3.2.A(5) Tree Protection Plan*.

(8) Constructed Features - existing and proposed:

- i. Rights-of-way and easements with type and widths indicated and an indication of whether public or private;
- ii. Private and public streets including pavement widths, names and an indication of whether public or private, (access drives and parking areas to be shaded in);
- iii. All major public serving utility lines visible on the site including water, sewer, power, telephone, gas, cable, or any other public utility;
- iv. Public/private water and sewer systems to be used;
- v. All other easements, parklands, playgrounds, sidewalks, and other common or public areas;
- vi. Lot lines, dimensions, and lot numbers;
- vii. Finished elevations on all center lines of new streets and of any stub streets shall be specified both on the site and at connection with adjacent property(s); and
- viii. All streets, driveways, etc. (including pavement and right-of-way) within one hundred (100) feet of the project site.

D. Approval Process for Preliminary Major Subdivisions. The following is the process for preliminary subdivision approval:

- 1. Application by the owner or owner's agent shall be made to the Planning Director according to the established annual development review schedule.

- The Planning Board shall act on the preliminary subdivision plat within the time frame established by the annual Development Review Schedule.
2. Applications for preliminary major subdivisions shall be reviewed by the Planning Director and the Technical Review Committee (TRC) prior to the Planning Board Review.
 3. Modifications to the original preliminary subdivision plat may be required by the Planning Director or TRC. Revised plat submissions shall follow the same time frame established by the annual Development Review Schedule.
 4. The Planning Board may approve a preliminary subdivision plat as submitted by the applicant, approve the subdivision with conditions as authorized in *Section A.3-5.3 Powers and Duties*, or deny the subdivision. If the conditions on the subdivision are accepted by the applicant, they shall become binding on the development of the subdivision. Failure to comply with any conditions determined necessary by the Planning Director, TRC, or Planning board and agreed upon by the applicant shall nullify the subdivision approval.
 5. The Planning Board may approve preliminary subdivisions with changes to the plat. Such changes shall be made to the plat and submitted to the Planning Director no later than thirty (30) days after the meeting at which the plat was approved. Failure of the owner or owner's agent to submit amended copies of the plat within the thirty (30) day period shall nullify the Planning Board approval.
 6. Preliminary Major Subdivision approval by the Planning Board shall constitute approval of the general widths and alignments of streets, the general dimensions and shapes of lots, and the type of public or private utilities to be used. The approval shall be valid for two (2) years and in accordance with GS 160D-108.1 regarding site specific vesting rights.

E. Continuing validity of Preliminary Subdivision Approval.

1. Within two (2) years of the date of approval of the preliminary plat, the applicant shall submit a final plat for at least one phase of the major subdivision, otherwise the preliminary plat approval shall expire. Resubmission of plans will be required.
2. For multi-phase developments greater than twenty-five (25) acres, the preliminary plat shall expire seven (7) years after preliminary plat approval and

- is subject to the requirements of G.S. 160D-108(d). As phases continue to receive development approval or site specific vesting plans, the vesting period may extend past the initial seven (7) year period according to the standards for those approvals.
3. For preliminary plats approved as part of Conditional Zoning Districts, the preliminary plat does not expire and runs with the land, or until a subsequent rezoning changes the district.
 4. Where more than one vested right may be in effect, the longer time period applies.
 5. At its discretion, upon application from a property owner or affected party, or with reasonable cause the Town Council may pass a resolution extending the period of vested rights for any given development project beyond the requirements of G.S. 160D-108. The resolution shall set forth the terms, conditions, duration of the extension and any other relevant information.
- F. **Withdrawal of Preliminary Subdivision Approval.** Any landowner or owner's agent may withdraw an approved preliminary subdivision by providing a written request to the Planning Director. The withdrawal request shall be placed on the agenda for the next available Planning Board meeting according to the annual Development Review Schedule. If the withdrawal request is approved by the Planning Board, the owner or owner's agent may apply or reapply to subdivide the subject property in accordance with the provisions of this Ordinance.
- G. **Major Subdivision Final Plat Application Requirements.** The following are the application requirements for final plats:
1. **Preliminary Review.** An electronic copy of the plat shall be submitted to the Planning Director, along with one (1) full size paper copy at least three (3) days prior to the desired recording date. If applicable, the Planning Director will return comments to the applicant if any modifications are needed, according to the procedures described in *Section D.6(H) Approval Process for Major Subdivision Plats*. The applicant shall make any necessary modifications and return a copy of the proposed final plat to the Planning Director.
 2. **Final Plat.** One electronic copy, one (1) archival Mylar and one (1) full size paper copy of the final plat shall be submitted for approval to the Planning Director. The final plat shall contain all the changes, corrections, and

information required by the Planning Director and shall conform to all the requirements of these ordinances and any other recording requirements of local or State law.

3. **Application Fee.** Payment of the application fee per the current fee schedule.

H. **Approval Process for Final Major Subdivision Plats.** The final subdivision plat shall be prepared and submitted to the Planning Director. Once the final plat is approved by the authorized agent or body, it may be recorded in the office of the Register of Deeds within two (2) years, or within the time frames allowed by GS 160D-108(d). Plat(s) shall be signed by the Review Officer when all the following requirements have been met:

1. **Conformance of Final Plat.** The final plat shall conform to the conditions as approved by the Planning Board, the recording requirements of State law and shall meet the requirements as listed in G.S. 47-30, as amended.
 - (1) **Flood Hazard Areas.** All flood hazard areas and base flood elevations shall be accurately delineated and identified on the final plats according to the Federal Emergency Management Agency (FEMA) maps, where available.
 - (2) **Wetlands.** Any areas delineated by the United States Army Corps of Engineers as *Wetlands* shall be accurately identified on the final plat.
 - (3) **Utility or Other Easements.** All public or private utility easements, drainage easements, sight distance easements, and sign easements for subdivision markers shall be shown on the final plat.
 - (4) **Greenway or Other Public Easements or Dedication of Public Lands.** Any greenway or other public easements or fee simple dedication of public lands or public right-of-way required as a condition of preliminary subdivision approval shall be accurately delineated on the final plat.
 - (5) **Existing Trees to be Retained.** Any existing trees to be retained shall be shown on the final plat and protected in accordance with *Section D.6(B)(4) Other*.
 - (6) **Statements of Fact.** Any statements of fact required in *Section D.5(B)(4) Other* and made a condition of preliminary subdivision approval, shall be shown on the final plat. Any statements of fact which may become

obsolete or are no longer required, may be removed by the Planning Director from the final plat after notification of the Planning Board. A new final plat must be recorded to remove these statements of fact.

- (7) **Street Traffic Signs.** Street traffic signs (e.g., stop signs, etc.) shall be installed in accordance with the specifications of either the Public Works Department of the Town of Lewisville, or the North Carolina Department of Transportation, whichever is the appropriate agency, prior to signing final plats. If a financial guarantee has been approved for street completion, it shall not be released until said street traffic signs are installed to the specifications of either the Public Works Department of the Town of Lewisville or the North Carolina Department of Transportation.
- (8) **Street Name Signs.** Street name signs shall be installed in accordance with the specifications of the Manual On Uniform Traffic Control Devices (MUTCD)/Lewisville Retroreflectivity Policy, the Town's addressing policy, and provisions made with Staff for the installation of said signs prior to signing final plats. If a financial guarantee has been approved for street completion, it shall not be released until said street name signs are installed to the specifications of the Town's Public Works Department.
- (9) **Subdivision Phasing and Illogical Phasing Determinations by the Planning Director.** The final plat shall represent the full plan of development for the subdivision or phase(s) thereof. If developed in phases or sections, each plat shall denote phase or section numbers in numerical order as the subdivision is developed. The Planning Director may determine that a phase or section of the development is illogical due to its proximity to adjoining property or for other valid reasons. The reasons for any illogical phasing determination by the Planning Director shall be provided in writing to the landowner. Any party with standing may appeal the Planning Director's illogical phasing determination to the Zoning Board of Adjustment in accordance with *Section D.1(K) Appeal of Denial of Subdivision*.

- (10) **Public Recordation of Landfill.** Any portion of a site used for a landfill.

- 2. **Effect of Approving and Recording the Final Plat.** Approval of the final plat by the Review Officer and subsequent recording of such plat in the office of the Register of Deeds shall be deemed a dedication of all streets and other public

areas for public use or public easements as shown on the plat. Recording the final plat shall have the effect of transferring:

- (1) Proposed public areas other than streets in fee simple to Lewisville;
- (2) Proposed streets in fee simple to Lewisville; and,
- (3) Proposed streets to the purchasers of the property and to the general public in areas outside the corporate limits or areas being annexed into the corporate limits of Lewisville.

3. **Acceptance of Streets for Town Maintenance.** Acceptance of streets by the Town of Lewisville for maintenance may be obtained by application as provided in Chapter 31-4 and 31-5 of the Lewisville Town Code.

I. **Modifications to an Approved Plat.**

1. **Minor Modifications.**

(1) **Preliminary Plat.** Minor modifications to an approved preliminary plat shall be reviewed and approved by the Planning Director if the proposed changes are within the scope and intent of the original approval, meet all other standards of this chapter, and meet the criteria below. Such revisions may include but not be limited to:

- i. Modifying phase lines; and
- ii. Minor internal adjustments to lot or street locations no more than fifty (50) feet in any direction.

(2) **Final Plat.** A final plat may be rerecorded to:

- i. Revise or correct dimensions;
- ii. Change street names;
- iii. Add, delete, or modify easements; or
- iv. Change subdivision name.

(3) **Procedures.**

i. **Preliminary Plat.**

- a. Application for a revised preliminary subdivision approval shall be submitted to the Planning Director delineating the revisions and requesting authorization for administrative revision. The Planning

Director shall, within five (5) working days after an application is received, grant or deny the revised preliminary subdivision approval. If granted, the final plat may be submitted in accordance with the revisions.

- b. The Planning Director will distribute the revised preliminary subdivision plats to applicable governmental agencies and the owner or owner's agent.

ii. **Final Plat.**

- a. Application for a revised final subdivision approval shall be submitted to the Planning Director delineating the revisions and requesting authorization for administrative revision. In addition to the letter and the revised final plat, the applicant shall submit the required fees to the Planning Director for processing and rerecording the revised plat. The Planning Director shall, within five (5) working days after an application is received, grant or deny the revised preliminary subdivision approval.
- b. If the plat has been recorded, the applicant shall submit the recorded plat with a statement describing the revisions made and title block for the Planning Director signature, and date of signing.
- c. If the ownership of the subdivision has changed or if any lots have been sold since the previous recording, and owner's and notary's certificates shall be provided on the plat for each current owner.
- d. The Planning Director will distribute the revised final subdivision plats to applicable governmental agencies and the owner or owner's agent.

- 2. **Major Modifications.** Proposed modifications to an approved plat not considered minor revisions shall be submitted and processed as new applications in accordance with the provisions of this section.

J. **Development Guarantees.**

- 1. **Generally.** Final plats or site plans will be signed by the Planning Director only after all required improvements have been approved, installed or guaranteed by a financial instrument. Pursuant to the standards of G.S. 160D-804.1, in lieu

of meeting the requirements for the completion, installation or dedication of any public infrastructure improvements (e.g. streets, sidewalks, water, sewer, stormwater control measures, trees, landscape buffers, and others) the Town of Lewisville may enter into a written agreement with a landowner or developer, whereby the costs of all required improvements will be guaranteed. Once such an agreement has been approved according to the procedures described herein, a final plat or site plan may be approved by the Planning Director.

2. Type of Guarantee. The following types of financial guarantees are acceptable:

- (1) A surety bond underwritten by a corporate surety company licensed to do business in North Carolina.
- (2) An irrevocable bank letter of credit issued by a financial institution licensed to do business in North Carolina.
- (3) Any other form of guarantee that provides equivalent security to a surety bond or letter of credit, issued or underwritten by a financial institution licensed to do business in North Carolina.

3. Requirements.

- (1) All financial guarantee agreements must be reviewed and approved by the Town Manager, who may consult with the Town Attorney, Public Works Director, Planning Director, or other local government officials before rendering a decision. These guarantees shall be filed with the Finance Director when complete.
- (2) Any cash or certified check shall be deposited with the Finance Director, as escrow agent, who shall deposit the check in an interest-bearing escrow account of the county, with all interest accruing to the applicant.
- (3) All financial guarantees shall provide the terms by which an action may be taken by the Town of Lewisville upon the failure of the owner or developer to perform the obligations described in the financial guarantee within the stipulated period of the instrument during which the work required is to be performed.

4. **Terms.**

- (1) The financial guarantee shall equal 1.25 times or one hundred twenty-five (125) percent of the entire cost of completion, as determined by the certified estimate of a Professional Engineer (PE). The duration of the financial guarantee shall be for one (1) year, unless it is determined that the scope of work of the required improvements necessitates a longer duration.
- (2) The landowner or developer shall demonstrate good faith in completing all required improvements. If the improvements are not completed within the one (1) year period, the Town Manager may grant an extension or renewal of a financial guarantee according to the same process. The amount of any performance guarantee, extension, or renewal shall be determined according to the same procedures for determining the initial guarantee, not to exceed 1.25 times (125%) the estimated cost to complete the remaining improvements still outstanding at the time the extension is obtained.
- (3) The financial guarantee may be returned or released when the specified improvements covered by the guarantee have been completed and approved, as determined by the Town Manager, who may consult with other local government officials.
- (4) Where all or part of the required improvements are to be completed by another government agency or public utility, the Town Manager may accept the written guarantee of the agency to complete the improvements within a time to be mutually agreed upon.

5. **Inspections.** The Town Manager, Public Works Director, Planning Director or other authorized local government official shall be allowed to make periodic inspections during the course of construction and development, subject to the provisions of G.S. 160D-403(e).

7. NON-RESIDENTIAL SUBDIVISIONS

- A. **Definition.** A non-residential subdivision of land shall mean divisions of a tract or parcel of land into two (2) or more lots, building sites or other divisions or recombinations for the purpose of a gift, sale or non-residential development. The subdivisions may incorporate new public or private streets. All lots must comply with the size and dimensional requirements of the *Zoning Ordinance* or any other applicable local or state land regulatory ordinances.
- B. **Public Streets.** Non-residential subdivisions that include the dedication of new public rights-of-way and public streets shall follow the same procedures for Major Subdivisions, described in this Ordinance, *Section D.6(D) Approval Process for Preliminary Major Subdivisions* and *Section D.6(H) Approval Process for Final Major Subdivision Plats*.
- C. **Private Streets.** Non-residential subdivisions that include only private easements or streets shall follow the same procedures for Minor Subdivisions, described in this Ordinance, *Section D.5(C) Application and Approval Requirements*. However, these subdivisions will not be limited to the requirement of no more than three (3) lots served by a private easement or street, described in this ordinance, *Section D.5 Minor Subdivisions*.