

ARTICLE I. INTRODUCTORY PROVISIONS

Section 8-1 Title

This ordinance shall be known and may be cited as the Subdivision Ordinance of the Town of Holly Ridge, North Carolina, and may be referred to as the Subdivision Regulations.

Section 8-2 Purpose

The purpose of this ordinance is to establish procedures and standards for the development and subdivision of land within the territorial jurisdiction of the Town of Holly Ridge. It is further designed to provide for the orderly growth and development of the town; for the dedication or reservation of rights-of-way or easements for street and utility purposes; and for the distribution of populations and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety and the general welfare. This ordinance is designed to further facilitate adequate provisions of water, sewage, parks, schools and also to facilitate the further resubdivision of large tracts into smaller parcels of land where such subdivision is in the best interest of the public.

Section 8-3 Authority

This ordinance is hereby adopted under the authority and provisions of the General Statutes of North Carolina, Chapter 160A-371.

Section 8-4 Jurisdiction

The regulations contained herein, as provided in G.S. 160A, Article 19, shall govern each and every subdivision within the territorial jurisdiction of Holly Ridge.

Section 8-5 Official Plans and Public Facilities

8-5.1 Transportation Plans

Where a proposed subdivision includes any part of a thoroughfare plan, collector street plan or other official transportation plan, such part of the planned public way shall be forever platted, reserved and dedicated to the town for all public uses to include access and utility by the subdivision in the location and at the width planned.

8-5.2 School Sites

If the Board of Education has determined the specific location and size of any school sites to be reserved, the Planning Board shall immediately notify the Board of Education whenever a sketch or preliminary plan for which a subdivision is submitted which includes all or part of a school site to be reserved. If the Board of Education does not wish to reserve the site, it shall so notify the Planning Board. If the Board of Education does wish to reserve the site, the subdivision shall not be approved without such reservation. The Board of Education shall have eighteen (18)

months beginning on the date of final approval of the subdivision within which to acquire the site by purchase or by exercise of the power of eminent domain. Nothing in this ordinance shall preclude an owner or developer from unilaterally platting, reserving and dedicating property to the town for schools, parks, open space, drainage or other public uses. Where a proposed subdivision includes such unilateral dedication or reservation, it shall be forever platted, reserved and dedicated to the town for such public uses in the location, area and size planned.

8-5.3 Zoning and Other Plans

The proposed subdivision must comply in all respects with the requirements of the Zoning Ordinance in effect in the area to be subdivided, and any other officially adopted plans or ordinances including, but not limited to, the Land Use Plan of Holly Ridge.

ARTICLE II. LEGAL PROVISIONS

Section 8-6 Prerequisite to Plat Recordation

No subdivision plat of land within the town's jurisdiction shall be filed or recorded until it has been submitted to and approved by the Holly Ridge Planning Board or Planning Department as set forth herein and until such approval is entered in writing on the face of the plat by the Subdivision Administrator.

The Register of Deeds shall not file or record a plat of subdivision of land located within the territorial jurisdiction of the town that has not been approved in accordance with these provisions, nor shall the Clerk of Superior Court order or direct the recording of a plat if the recording would be in conflict with this section.

Section 8-7 Effect of Plat Approval on Dedications

Pursuant to G.S. 160A-374, the approval of a plat shall not be deemed to constitute or affect the acceptance by the city or public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat. However, any city council may by resolution accept any dedication made to the public of lands or facilities for streets, parks, public utility lines, or other public purposes, when the lands or facilities are located within its subdivision regulation jurisdiction. Acceptance of dedication of lands or facilities located within the subdivision regulation jurisdiction but outside the corporate limits of a city shall not place on the city any duty to open, operate, repair, or maintain any street, utility line, or other land or facility, and the town shall in no event be held to answer in any civil action or proceeding for failure to open, repair, or maintain any street located outside its corporate limits. Unless a city, county or other public entity operating a water system shall have agreed to begin operation and maintenance of the water system or water system facilities within one year of the time of issuance of a certificate of occupancy for the first unit of housing in the subdivision, a city or county shall not, as part of its subdivision regulation applied to facilities or land outside the corporate limits of a city, require dedication of water systems or facilities as a condition for subdivision approval.

Section 8-8 Penalties for Violation

8-8.1 Pursuant to G.S. 160A-375, any person being the owner or agent of the owner of any land located within the territorial jurisdiction of the town, thereafter subdivides his land in violation of this ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of land before the plat has been properly approved under the terms of this ordinance and recorded in the Office of the Onslow County Register of Deeds, shall be guilty of a class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring land shall not exempt the transaction from this penalty. The town, through its attorney or other officials designated by the Town Council, may enjoin illegal subdivision, transfer or sale of land by action for injunction. Further, violators of this ordinance shall be subject, upon conviction, to fine and/or imprisonment as provided by G.S. 14-4.

8-8.2 The willful violation of any provision of this ordinance shall subject the offender to a civil penalty in the amount of one hundred dollars (\$100) to be recovered by the town. Violators shall be issued a written citation which must be paid within ten (10) days.

8-8.3 Each day's continuing violation of this ordinance shall be a separate and distinct offense.

8-8.4 Notwithstanding subsection 8-8.2 above, this ordinance may be enforced by appropriate equitable remedies issued from a court of competent jurisdiction.

8-8.5 Nothing in this section shall be construed to limit the use of remedies available to the town. The town may seek to enforce this ordinance by using any one, all, or a combination of remedies.

Section 8-9 Severability

Should any section or provision of this ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 8-10 Variances

The Board of Adjustment may authorize a variance from these regulations in accordance with the provisions outlined in the Town's Zoning Ordinance.

Section 8-12 Amendments

The Town Council may from time to time amend the terms of this ordinance. An amendment may be proposed by or submitted to the Planning Board via the Subdivision Administrator for review and recommendation by any person residing or owning property in Holly Ridge. The Subdivision Administrator shall have thirty (30) days to review and forward the proposed amendment to the Planning Board. The Planning Board shall have sixty (60) days from the time the proposed amendment is submitted to it from the Subdivision Administrator within which to

submit its report. If the Planning Board fails to submit a report within the specified time, it shall be deemed to have recommended approval of the amendment to the Town Council. No amendment shall be adopted by the Town Council until they have held a public hearing on the amendment. Notice of the hearing shall be published in a newspaper of general circulation in the Holly Ridge area at least once a week for two (2) consecutive weeks prior to the hearing. The initial notice shall appear not more than twenty-five (25) days nor less than fifteen (15) days prior to the hearing date. In computing the fifteen-twenty-five day period, the date of the publication is not to be counted, but the date of the hearing shall be counted.

Section 8-13 Abrogation

It is not intended that this ordinance repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits that have been previously adopted or issued pursuant to law.

Section 8-14 Reenactment and Repeal of Existing Subdivision Ordinance

This ordinance in part carries forward by reenactment some of the provisions of the Subdivision Ordinance of Holly Ridge and it is not the intention to repeal but rather to reenact and continue in force such existing provisions so that all rights and liabilities that have accrued there under are preserved and may be enforced. All provisions of the Subdivision Ordinance, which are not reenacted herein, are hereby repealed. All suits at law or in equity and/or all prosecutions resulting from the violation of any Subdivision Ordinance's heretofore in effect, which are now pending in any of the courts of this state or of the United States, shall be prosecuted to their finality the same as if this ordinance had not been adopted and any and all violations of the existing ordinance, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted: and nothing in this ordinance shall be so construed as to abandon, abate or dismiss any litigation or prosecution now pending and/or which may heretofore be instituted or prosecuted.

Section 8-15 Administrator

The holder of the Office of Planning Director and/or designee is hereby appointed to serve as Subdivision Administrator.

Section 8-16 Construction of Improvements

No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plat has been approved and all plans and specifications have been approved by all appropriate utilities/agencies. The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the administrator of this ordinance to provide for adequate inspection. The approving authorities having jurisdiction, or their representatives, shall inspect and approve all completed work prior to release of sureties.

Section 8-17 Building Permits

No building, zoning or other permit shall be issued for erection of a structure on any lot not of record at the time of adoption of this ordinance until the final plat is recorded. However, the existing parent parcel will be permitted to receive one (1) building permit.

Section 8-18 Deed Information

The Planning Board may require that provisions for the maintenance of roads, drainage systems, easements, sidewalks, dedications for public use, off-site drain fields or wastewater systems, or other special conditions pertaining to all or part of a subdivision be made a part of the deed or other legal form of conveyance and/or restrictive covenants for a lot or a group of lots. Where required, the submittal of suitable restrictive covenants, bonding or other appropriate documentation shall be a condition precedent to approval of the subdivision.

Section 8-19 Review by the Board of Adjustment

If final plat approval is denied by the Planning Department, the applicant may appeal such decision to the Board of Adjustment within thirty (30) days of the Planning Departments decision.

ARTICLE III. DEFINITIONS

Section 8-20 Subdivision Defined

For the purpose of this ordinance, "subdivision" means 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 of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this Ordinance:

- (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this ordinance and the zoning ordinance.
- (2) The division of land into parcels greater than 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 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 this ordinance and the zoning ordinance.

Any map of an exemption shall be presented to the Planning Department for sign off prior to recordation.

Section 8-21 Types of Subdivisions

- A. **Major Subdivision** - A subdivision which does not qualify as a minor, rural or utility subdivision.
- B. **Minor Subdivision** - A minor subdivision is a division of ten (10) or fewer lots, including the residual parcel where each lot will have street frontage along an existing public or private street, where no new street improvements and/or right-of-way dedication is required, and where no water and/or sewer utility extensions are required. The minor subdivision may not be used by an owner, developer, subsequent purchaser or successor-in-interest a second time within three (3) years on any property less than 1,500 feet from the original property boundaries or the boundaries of an approved minor subdivision created within the original property.
- C. **Rural Subdivision** - A subdivision where ten (10) or fewer lots result with each lot at least one (1) acre in size. The Rural Subdivision may be used only once for any parent parcel or unit of ownership as of the effective date of this ordinance.
- D. **Utility Subdivision** - A subdivision of land where the resultant lot(s) are designated for specially identified utility purposes to include, but not be limited to, well sites, communication towers and substations.

Section 8-22 Other Definitions

Buffer Strip - A strip of land which by width, vegetation or fencing, or a combination thereof, protects adjoining properties from incompatible views, noises, fumes, lighting and other disturbances. All buffers shall be constructed in accordance with guidelines provided herein as well as in the Zoning Ordinance, as appropriate.

Building Setback Line(s) - Lines parallel to the property lines between which no structure may be built or placed.

Common Open Space - A parcel of land, an area of water, or a combination of land and water, within a development designed and intended primarily for the use and enjoyment of owners within said development. Areas included in driveways and other parking areas shall not be considered a part of the open space.

Corner Lot - A lot located at the intersection of two (2) or more streets.

Cul-De-Sac - A dead end street designed with a turnaround. For the purposes of this ordinance, the length shall be measured from the center line of the turnaround to the center line of the nearest intersection.

Dedication - A proposed unilateral and perpetual offer of a gift by the owner to the town or other public entity of property or easement for a specified purpose or purposes. Because a transfer of property rights is entailed, dedications must be made by written instrument or clear notation on a subdivision plat. For purposes of all subdivisions approved under this ordinance, where property is dedicated to a public use on a plat, the town or other designated public entity may unilaterally elect to accept the dedication at any time of its convenience and until such time of acceptance, the property shall remain undeveloped and reserved for such public use. Dedications are complete upon acceptance by the town or other designated public entity.

Double Frontage Lot - A (through) lot which has both front and rear lot lines on a street and/or proposed right-of-way.

Driveway - An entrance/exit access to an approved public/private street designed to serve vehicular traffic. For the purposes of this ordinance, a driveway can serve as many as three (3) residential lots before having to be upgraded to meet the standards of a private lane.

Duplex - A two-unit residential structure joined by a common structural wall.

Easement - A grant by the property owner of a strip or portion of land for a specified purpose or use by the public, a corporation, or person(s).

Flag Lot - An irregularly shaped lot where the buildable portion of the lot is connected to its street frontage by an arm. Further, where a minimum lot width is prescribed, this width shall be measured at the building setback line.

Interior Lot - A lot other than a corner lot with only one (1) frontage on a street.

Lot - A portion of a subdivision, or any other parcel of land, intended as a unit of transfer or ownership or for development or both.

Lot Width - The distance between side lot lines measured at the front building setback line shown on the recorded plat.

Official Maps or Plans - Any maps or plans officially adopted by the Holly Ridge Town Council, the State of North Carolina or other applicable official body as a guide for development, consisting of maps, charts and texts.

Open Spaces - An area (land and/or water) generally lacking in manmade structures reserved for the use and enjoyment of wildlife, residents, occupants and/or owners within a development.

Parking Spaces - A parking space shall be a minimum of nine (9) feet by eighteen (18) feet for the purposes of this ordinance.

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

Private Lane - This is a private ingress/egress easement providing access to properties in a Rural Subdivision and is to be improved to the standards set forth herein.

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

Reservation - A reservation of land does not involve any current transfer of property rights. Reservations constitute an obligation to keep property free from development in perpetuity or for a stated period of time.

Street - A public or private right-of-way providing for vehicular traffic. The following classifications shall apply:

A. **Alley** - An access set aside primarily for vehicular service access to the back or side of properties otherwise abutting a public street.

B. **Cul-de-sac** - A short street having one end permanently closed with a vehicular turnaround provided.

C. **Frontage Road** - A local street that is parallel to a full or partial access controlled facility and functions to provide access to adjacent land.

D. **Local Residential Road** - Either cul-de-sacs, loop roads, or roads that do not connect thoroughfares or serve major traffic generators.

E. **Major Arterial Street** - Streets that serve the rural areas with characteristics of major and minor thoroughfares and are identified as part of the thoroughfare system.

F. **Major Thoroughfare** - An interstate, other freeway or expressway link, and major streets that provide for the expeditious movement of volumes of traffic within and through urban areas.

G. **Minor Thoroughfare** - Street in the urban system that performs the function of collecting traffic from local access streets and carrying it to the major thoroughfare system by facilitating a minor through traffic movement and may also serve abutting property.

H. **Residential Collector Road** - A road which serves as the connecting street between local residential roads and the thoroughfare system.

I. **Subdivision Access Road** - A road built through vacant property to provide access to the property being developed. This road would not have lots platted along it. These street classifications are subject to change to be compatible with NCDOT.

Subdivider - Any person, firm or corporation who subdivides or develops land deemed to be a subdivision as herein defined.

Technical Review Committee (TRC) - This standing committee shall be coordinated by the Planning Department and may consist of representatives from the following: Utilities Department, Environmental Health, Code Enforcement, Board of Education, Town Fire Chief, Flood Plain Administrator, County Attorney's Office, NCDOT and any other agency as may be deemed necessary.

Section 8-23 Word Interpretation

For the purpose of this ordinance, certain words shall be interpreted as follows:

1. Words used in the present tense include the future tense.
2. Words used in the singular number include the plural and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.
3. The word "person" includes a firm, association, corporation, trust and company as well as an individual.
4. The words "used for" shall include the meaning "designed for."
5. The word "structure" shall include the word "building."
6. The word "lot" shall include the words "plot," "parcel," or "tract."
7. The words "plat" and "plan" and inclusive of one another.
8. The words "shall" and "must" is always mandatory and not merely directory.
9. The words "could" and "should" are not mandatory but are recommended.
10. Words used to identify one gender shall be interpreted as including all genders.

ARTICLE IV. PROCEDURE FOR REVIEW OF SUBDIVISION PLANS

Section 8-24 Minor Subdivision and Rural Subdivision Review

A minor subdivision or rural subdivision may not be approved within three (3) years on any property less than fifteen hundred (1500) feet from the original property boundaries or the boundaries of an approved minor subdivision by anyone who owned, had an option on or any legal interest in the original subdivision at the time the subdivision received final plat approval or by any subsequent purchaser or successor in interest. Either the Planning

Department or applicant may at any time during the process refer a plat to the Planning Board for review.

8-24.1 Preliminary Plat

When the subdivision includes the installation of fire hydrants, a private lane and/or shared driveways or off-site or shared drain fields/wastewater systems, the subdivider shall submit a complete preliminary plan application in accordance with the requirements set forth in Article V. This plat may be submitted along with an application for the final plat to be reviewed concurrently.

- A. The Planning Department may distribute the plans to the Utilities Department, NCDOT, Emergency Management, Health Department, Town Attorney's office and other departments as necessary for review.
- B. If the plan is found to be in compliance, the Planning Department shall approve the plan.

8-24.2 Final Plat

The subdivider shall submit a complete final plat application with the requirements set forth in Article V and cost estimates (if fire hydrants, water lines and/or a private lane are required).

- A. The Planning Department may distribute the plans to the Utilities Department, NCDOT, Emergency Management, Health Department, Town Attorney's office and other departments as necessary for review.
- B. If the plan is found to be in compliance, the Planning Department shall notify the applicant so that one (1) reproducible Mylar with all signatures affixed and the recording fee can be submitted.
 - 1. When fire hydrants, water lines, private lanes or shared or off-site drain fields/wastewater systems are required, they must either be installed prior to approval or a financial guarantee must be posted for the installation before the plat can be approved.
 - 2. The Planning Department shall sign the final plat and record it within three (3) days of receipt or at a later date if requested by the subdivider. One (1) copy shall be retained by the Planning Department.
 - 3. The approval of the plat shall become null and void if, at the request of the subdivider, it is not recorded within six (6) months of the approval date.
- C. Upon receipt of the complete application, the Planning Department shall have twenty (20) working days to render a decision on the proposed subdivision plat. When a preliminary and final plat is submitted concurrently, the Planning Department shall have thirty (30) working days to render a decision on both plats. Failure of the department to

render a decision within such time shall constitute approval thereof.

Section 8-25 Major Subdivision Review

Repealed

8-25.1 Concept/Master Plan

Prior to the submission of a sketch plan, the subdivider may submit a concept/master plan for the entire property for the Planning Department and Planning Board to review and offer comments and/or recommendations. This plan would outline the major roads, lots and utilities.

- A. The Planning Department shall distribute the plans to the Technical Review Committee (TRC) for review and comment.
- B. The Planning Department shall then consolidate and present any comments to the Planning Board for their review.
- C. The Planning Department shall review the plan and take one of the following actions on the concept/master plan:
 - 1. Approve the plan as submitted;
 - 2. Approve the plan with recommendations for change;
 - 3. Disapprove the plan.

8-25.2 Sketch Plan

Prior to preliminary plat submission, the subdivider shall submit a sketch plan and complete application in accordance with the requirements set forth in Article V and the submittal policy established by the Planning Department (this process is optional when a subdivider submits a preliminary plat depicting the entire tract of land where the subdivision is not to be developed in phases).

- A. The Planning Department shall distribute the plans to the Technical Review Committee (TRC) for review and comment.
- B. The Planning Department shall then consolidate and present any comments to the Planning Board for their review.
- C. The Planning Board shall review the plan and take one of the following actions on the sketch plan:
 - 1. Approve the plan as submitted;

2. Approve the plan with recommendations for change;
3. When a significant amount of change is recommended, the Planning Board may require that the plan be resubmitted with the changes for approval; or
4. Disapprove the plan.

And shall do so within sixty (60) days of its first consideration of the plan.

- D. The subdivider shall be notified of Planning Board action within three (3) working days after the Planning Board meeting.
- E. Approval of a sketch plan shall remain valid for twelve (12) months. Preliminary plans can continue to be submitted for subsequent phases beyond the twelve (12) months provided the first phase receives preliminary plat approval during the initial twelve (12) month period.

8-25.3 Preliminary Plat

The subdivider shall submit a preliminary plat and complete application in accordance with the requirements set forth in Article V and the submittal policy established by the Planning Department.

- A. The Planning Department shall distribute the plans to the Technical Review Committee (TRC) for review and comment.
- B. The Planning Department shall then consolidate and present any comments to the Planning Board for their review.
- C. The Planning Board may approve, conditionally approve or disapprove the preliminary plan and shall do so within sixty (60) days of its first consideration of the plat.
- D. The subdivider shall be notified of Planning Board action within three (3) working days after the Planning Board meeting.
- E. Approval of the preliminary plan shall remain valid for 24 months. Final plats can continue to be submitted for subsequent sections of the preliminary plan beyond the twenty-four (24) months provided the first phase receives final approval during the initial twenty-four (24) month period. The Planning Board may grant a one (1) year extension of the preliminary plat approval.

8-25.4 Final Plat

The subdivider shall submit a final plat and complete application in accordance with the requirements set forth in Article V and the submittal policy established by the Planning Department along with the cost estimates for the improvements.

- A. The Planning Department shall distribute the plans to the Technical Review Committee (TRC) for review and comment.
- B. The Planning Department shall review the plat for compliance with the provisions of this ordinance and the approved preliminary plat.
- C. If the plat is found to be in compliance, the Planning Department shall approve the plat and notify the applicant of such approval and of the required amount of the financial guarantee so that one (1) Mylar with all signatures affixed can be submitted along with the recording fee, any required financial guarantee, the Articles of Agreement, Defects Guarantee and any other required documentation.
 - 1. Once the financial guarantee (if required) and the recreation dedication fee (if required) have been approved by the Town Council, the Planning Department shall sign the final plat and record it within three (3) days of receipt or at a later date if so requested by the subdivider. One (1) copy shall be retained by the Planning Department.
 - 2. The approval of the plat shall become null and void if, at the request of the subdivider, it is not recorded within six (6) months of the approval date.
- D. Upon receipt of a complete application, the Planning Department shall have thirty (30) working days to render a decision on the proposed subdivision plat. If cost estimates were submitted, the Planning Department may take an additional fifteen (15) days for review but only after notifying the subdivider. Failure of the department to render a decision within such time shall constitute approval thereof.
- E. If the Planning Department determines that a final plat has changed significantly since preliminary plat approval, the plat may be forwarded to the Planning Board for approval upon modification of the preliminary plat consistent with changes identified on the final plat. The subdivider shall be notified of such decision within the thirty (30) day approval period.

Section 8-26 Utility Subdivision Review

8-26.1 Final Plat

The subdivider shall submit a complete application in accordance with the requirements set forth in Article V for final plans and the submittal policy as established by the Planning Department.

- A. The Planning Department shall distribute the plans to the Technical Review Committee (TRC) for review and comment.
- B. The Planning Department shall review the plat for compliance with the provisions of this ordinance.

- C. If the plan is found to be in compliance, the Planning Department shall notify the applicant so that one (1) reproducible Mylar with all signatures affixed and the recording fee can be submitted.
 - 1. The Planning Department shall sign the final plat and record it within three (3) days of receipt or at a later date if so requested by the subdivider. One (1) copy shall be retained by the Planning Department.
 - 2. The approval of the plat shall become null and void if not recorded within six (6) months of the approval date.
- D. Upon receipt of the complete application, the Planning Department shall have thirty (30) working days to render a decision on the proposed subdivision plat. Failure of the department to render a decision within such a time shall constitute approval thereof.
- E. If the plan is disapproved the Planning Department shall notify the applicant, in writing, by service of process of certified mail, return receipt requested, specifying the provisions of the ordinance with which the plan does not comply.

Section 8-27 Appeals

- A. If a plan or plat is disapproved by the Planning Department at any stage, the Planning Department shall notify the applicant, in writing by personal service or certified mail, return receipt requested, specifying the provisions of the ordinance with which the plan does not comply. The applicant may appeal the decision of the Planning Department to the Board of Adjustment within thirty (30) days of notification of the Planning Department's decision.
- B. Decisions by the Planning Board to deny a subdivision may be appealed to the Board of Adjustment within thirty (30) days of decision.

ARTICLE V. PLAT REQUIREMENTS

All subdivision plats shall be prepared by a Land Surveyor currently licensed by the State of North Carolina.

Section 8-28 Sketch Plan Design

The sketch plan shall be drawn at a scale no smaller than 1" = 200.' The sketch plan shall contain the following information:

- 1. Subdivision name, north arrow and graphic scale;
- 2. A vicinity map showing the location of the subdivision in relation to neighboring

- tracts, subdivisions, roads and waterways;
3. Names and mailing addresses of property owners, developers, surveyors, engineers and land planners;
 4. The boundaries of the tract and the portion of the tract to be subdivided;
 5. The total acres to be subdivided, number of lots and lot sizes;
 6. The existing and proposed land use and zoning classifications within the subdivision and the adjoining land;
 7. Location of existing property lines, buildings, streets, access easements, railroads, bridges, culverts, water courses, transmission lines, sewers, drainpipes, water mains, public utility easements, township and municipal boundaries;
 8. General locations of proposed lot lines, streets, sidewalks, utility easements (storm and sanitary sewer, water, gas, electricity and telephone) and access easements;
 9. Proposed areas for parks, schools or open spaces;
 10. Location of 100 year floodplain boundary and floodway, including community panel number;
 11. Approximate mean high water mark and any areas of environmental concern, including wetlands;
 12. Location of shared or outlying drain fields or wastewater systems if separate from the lot which the field is to support;
 13. Location of reserved and dedicated public rights of way for access and utilities for adjoining parcels that do not have existing public access to a public street.

Section 8-29 Preliminary Plat Design

The preliminary plat shall be drawn at a scale no smaller than 1" = 100.' The preliminary plat shall contain the following information:

1. Subdivision name, north arrow and graphic scale;
2. A vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads and waterways;
3. Names and addresses of property owners, developers, surveyors, engineers and land planners;

4. Location of existing property lines, buildings, streets, railroads, bridges, culverts, water courses, transmission lines, sewers, drainpipes, water mains, public utility easements, township and municipal boundaries;
5. The name and location of any property or buildings within or adjacent to the subdivision that is located on the National Register of Historic Places;
6. The boundaries of the tract to be subdivided with all bearings and distances shown;
7. The names of owners of adjoining properties and the names of any adjoining subdivisions;
8. Zoning classifications of the tract and adjoining properties;
9. Proposed lot lines and approximate dimensions;
10. Lots numbered consecutively throughout the subdivision;
11. The location of flood hazard and floodway areas, including the community panel number;
12. Boundaries of areas of environmental concern to include 404 wetlands, CAMA wetlands, etc;
13. Contour map with intervals of at least two (2) feet;
14. Proposed streets (along with designation as private or public), street names, rights-of-way, pavement widths, approximate grades and typical cross sections;
15. Utility easements;
16. Utility plans for sanitary sewers, storm sewers, drainage, water distribution lines, natural gas lines, telephone line, and electric lines.
17. Location of shared or outlying field/wastewater systems;
18. Location of reserved and dedicated public rights of way for access and utilities for adjoining parcels that do not have existing public access to a public street;
19. Site data to include total acreage in tract, acreage in parks or other open space, average lot size, smallest lot size, total number of lots and linear feet in streets;
20. Location of riding trails, buffers, sidewalks, pedestrian or bicycle paths, parks and recreation areas with specific type indicated, school sites and any other areas to be

dedicated to or reserved for public use.

Additional Information Required

1. If 404 wetlands are located on the property, the subdivider shall provide a map with a signature from the US Army Corps of Engineers verifying the location.
2. Other information as applicable to the project.

Section 8-30 Final Plat

The final plat shall constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time, provided, however, that such portion conforms to all requirements of this ordinance. The final plat shall contain the following information:

1. Title, date, name of subdivision and graphic scale;
2. Names and addresses of property owners, developers, surveyors (registration number), engineers and land planners;
3. The lines of all streets and roads;
4. Lot lines - lot numbers circled and addresses in rectangular boxes;
5. Minimum building setback lines;
6. Reservations, easements, alleys and any areas to be reserved and dedicated to public use with notes stating their purposes;
7. Sufficient data to determine readily and reproduce on the ground, the location, bearing and lengths of every shared or outlying drain field/wastewater system, street line, lot line, boundary line, block line, whether curved or straight, and including north point. This should include the radius, central angle and tangent distance for curved streets and curved property lines that are not the boundary of curved streets;
8. Accuracy standards shall be according to the North Carolina state statutes;
9. Accurate location and description of all monuments and markers;
10. The names and locations of adjoining subdivisions and streets, and the location, ownership and description of the existing rights to public streets, if any, or adjoining unsubdivided property;

11. Corporate limits, township or county boundaries;
12. The name and location of any property or buildings within or adjacent to the subdivision that is located on the National Register of Historic Places;
13. Boundaries of applicable Areas of Environmental Concern (AEC) in accordance with the State Guidelines for AEC's (15A NCAC 7H) pursuant to the Coastal Area Management Act of 1974;
14. The location of flood hazard and floodway areas, including the community panel number or a statement that the site is not affected by any special flood hazards based upon the official FEMA maps;
15. Boundaries of areas of environmental concern to include 404 wetlands, CAMA wetlands, etc;
16. The following applicable statements and/or certifications shall be affixed on the final plat (the exact wording of these statements may change from time to time as conditions warrant and agency policies change):

Certificate of Ownership and Dedication

I, _____ (printed name) hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Holly Ridge and that I hereby adopt this plan of subdivision with my free consent; establish minimum building setback lines; and dedicate all streets, alleys, walks, parks, waterlines, other sites, improvements, perpetually reserve and easements to public or private use as designated and noted.

_____ Date _____ Owner(s)

Certificate of Survey and Accuracy

I, _____, certify that this map was drawn under my supervision from an actual survey made under by supervision (deed description recorded in Book __, page ____, etc) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book __, page __; that the ratio of precision as calculated is 1:__; that this plat was prepared in accordance with G.S. 47.30 as amended. Witness

My original signature, registration number and seal the ___ day of _____, A.D., 20___. Seal or stamp _____

Surveyor signature

License Number

In the absence of a Homeowner's Association, maintenance of any shared or outlying septic fields/wastewater systems shall be the responsibility of the developer and owner jointly and severally.

Sight distance easements shown hereon shall remain free of all structures, trees, shrubbery and signs, except utility poles, fire hydrants and traffic controls signs.

Other statements may be required by the Planning Department and/or Planning Board when deemed necessary.

Additional Information Required

1. Improvement permits for each lot served by a septic system or a letter of sewer availability from utility providing sewer.
2. Recreation dedication requirement.
3. Erosion Control and Storm Water Permits from the State of North Carolina.
4. Street design and/or construction approval from NCDOT.
5. Water and/or sewer line approval from the State of North Carolina.
6. Complete cost estimates for all required improvements.
7. Proposed restrictive covenants and owner's association documentation.
8. Other information as applicable to the project.

ARTICLE VI. DESIGN STANDARDS AND IMPROVEMENTS

Section 8-31 Suitability of Land

8-31.1 Land which has been determined by the Planning Board on the basis of engineering or other expert surveys to pose an ascertainable danger to life or property by reason of its unsuitability for the proposed use shall not be platted for that purpose, unless and until the subdivider has taken the necessary measures to correct said conditions and to eliminate said dangers.

8-31.2 Areas that have been used for disposal of solid waste shall not be subdivided unless tests by the appropriate NC state agency, a structural engineer and a soils expert determine that the land is suitable for the purpose proposed.

8-31.3 All subdivisions shall be designed to minimize flood damage and shall conform to the Flood Damage Prevention Ordinance.

8-31.4 When a subdivision adjoins public trust waters and other publicly owned water bodies, public access may be required.

8-31.5 Where areas of environmental concern have been identified, the suitability of the land in those areas will be based upon the guidelines and standards developed in accordance with the Coastal Area Management Act of 1974.

Section 8-32 Name Duplication

The name of the subdivision shall not duplicate nor closely approximate the name of an existing development within Holly Ridge.

Section 8-33 Lots

8-33.1 General

- A. Only one (1) principal structure and/or use shall be permitted per lot. This statement shall appear on the final plat to be recorded.
- B. Side lot lines shall be at right angles to or radial to street lines where natural and manmade obstructions permit.
- C. Lot boundaries shall coincide with natural and pre-existing man made drainage ways to the extent practicable to avoid lots that can be built upon only by altering such drainage ways.
- D. Double frontage lots in residential subdivisions shall be avoided unless an adequate buffer is provided. Developments with access alleyways are permitted, where access to both the alley and the street are allowed.
- E. Flag lot design subdivisions shall be prohibited except as provided herein. A flag lot may be permitted where the configuration of the parcel or site features warrant such a lot design. Authorizing a flag lot is intended to accommodate a particular extenuating and unusual circumstance and requires approval by the Planning Board. Flag lot design may be used in order to provide access to a water body, park, golf course or other similar public land use when permitted by the Planning Board.
- F. No lot lines shall run to the centerline of any road right-of-way, public or private.
- G. Addresses in the subdivision shall be assigned by the town and shall appear on the final plat for recordation.
- H. The location of any 404 wetlands shall be surveyed and delineated on a map signed by the US Army Corps of Engineers; the signature need not be on the final plat but must be submitted before final plat approval. A wetlands caution statement shall appear on the final plat. If no wetlands exist on the property, a note of such fact shall appear on the

final plat.

- I. Lots in Rural Subdivisions shall not be further subdivided and a note stating that shall be placed on the plat.

8-33.2 Area and Setbacks

- A. All lots shall conform to the zoning requirements, if applicable.
- B. Lots fronting on an existing or proposed Federal or State Highway, as shown on an officially adopted transportation plan, shall have a thirty (30) foot setback from the edge of state right-of-way.
- C. Lots fronting on an existing or proposed State maintained thoroughfare, as shown on an officially adopted transportation plan, shall have a thirty (30) foot setback from the edge of state right-of-way.
- D. Lots fronting all other State maintained roads or proposed residential collector roads shall have a thirty (30) foot setback from the edge of state right-of-way.

8-33.3 Access Requirements

All newly created lots and parcels shall have access to a public street via a proposed public street, a private street evidenced by a recorded easement for access and utilities, or in the case of a rural subdivision, a private lane evidenced by a recorded easement for access and utilities. However, direct access (driveways) to some roads may be prohibited (see Section 8-33.3).

When property is proposed to be subdivided which has access along an existing private easement, no more than ten (10) residential units may be served by the easement. The applicant must provide the names and addresses (and stamped envelopes) of the other property owners whose property is served by the existing easement so that the Planning Department may notify them of the proposed development.

A. Private Streets

Lots and units located in developments with owners associations or in group housing developments in which permanent access is guaranteed by means of approved private streets and/or drives designed in accordance with the requirements in Section 8-36.7, may be approved by the Planning Board as an alternative means of access to a public street. These streets must be built to NCDOT standards and the design and construction shall be certified as such by a licensed surveyor or engineer.

B. Rural Subdivision

A private lane and easement may be approved provided that the following requirements are met:

1. A private lane shall serve no more than ten (10) residential units;
2. The minimum width of the easement shall be forty-five (45) feet and allow for the installation of utilities;
3. A minimum travel way of twenty (20) feet in width shall be cleared with a minimum height clearance of fourteen (14) feet;
4. The easement shall be recorded and shall run with the land;
5. The travel way shall be developed with a minimum of 6 (six) inch ABC stone base course at a sixteen (16) foot width and a minimum 1 ½ (one and one-half) inch asphalt lane at a minimum of ten (10) feet in width. A turnaround for emergency vehicles is required but does not have to be paved; the proposed design of the turnaround shall meet the minimum requirements of the current edition of the NCDOT subdivision roads minimum construction standards. The design and installation of the travel way shall be certified by a licensed engineer or surveyor;
6. The private lane shall intersect with an approved public or private street;
7. A disclosure statement stating that maintenance of the private lane is the responsibility of the property owners and that public services may not be provided shall be placed on the plat;
8. A property owners association shall be established to ensure maintenance of the private lane. A street maintenance agreement specifying the provisions for maintenance shall be recorded and run with the deeds to the property (the deed, access and utility easement and street maintenance agreement may be included in one (1) document);
9. A twenty-four (24) inch x thirty (30) inch sign with two (2) inch letters stating “Private Lane Maintained by Property Owners” shall be posted at all intersections with public or private streets.

C. Other Special Access Requirements

1. Subdivisions shall not be approved that propose individual lots with direct vehicular access (driveways) to roads that have, in the opinion of the NCDOT and the Technical Review Committee (TRC), capacity deficiencies that warrant the prohibition of the platting of lots with direct vehicular access.
2. Whenever a proposed subdivision abuts a major arterial road, major or minor thoroughfare or collector (as delineated on the latest adopted transportation plans), the Planning Board, or the administrator in the case of a minor subdivision, shall prohibit the platting of lots with direct vehicular access to such road. The decision to require shared or other suitable access shall be based upon the need to provide safe access to the proposed lots, reduce interference with the existing traffic pattern and flow and/or

provide buffering from adverse effects of traffic noise.

3. When a subdivision is proposed to connect to an existing adjoining private street, the subdivider must provide adequate documentation that these lots have approval to be served by the private street.
4. Commercial and industrial subdivisions shall be required to provide a frontage road or other suitable means of shared access along highways and major and minor thoroughfares unless NCDOT and the Planning Board determines that no practicable alternative for access exists. Where a frontage road is required, intersections with public streets shall be spaced no closer than four hundred (400) feet. Frontage roads may be permitted within the rights-of-way of existing streets subject to the approval of the NCDOT.

Section 8-34 Easements

8-34.1 Access and Utility Easements

Reservation and dedication of access and utility easements may be required to provide access to adjoining properties.

8-34.2 Buffer Easements

Buffer easements shall be required between conflicting land uses in order to minimize impacts - see Buffer Requirements. Vegetative buffers may also be required along water courses and/or wetland areas to mitigate impacts and to facilitate drainage.

8-34.3 Drainage Easements

These easements shall be required to facilitate adequate drainage along streams or other water courses and also along lot lines and any proposed drainage facilities. Where possible, the existing and/or natural drainage way shall not be altered. Drainage flows between lots must be reflected on all subdivision plats or drainage plans.

8-34.4 Septic System Easements

Easements for off-site or shared subsurface septic systems, repair systems and/or supply lines or wastewater systems may be regulated by state or local law as appropriate. These easements may be combined with other easements only upon approval of the Onslow County Health Department.

8-34.5 Utility Easements

Easements for underground or above ground utilities shall be provided, where necessary, across lots or centered on rear or side lot lines and shall be at least twenty (20) feet wide or as required by the utilities involved. A utility easement may be combined with a drainage easement only upon approval of said utility.

8-35.6 Easement Maintenance

Provisions shall be made for the continued upkeep and maintenance of all easements in a manner acceptable to the Planning Board. A statement regarding maintenance shall be included on the final plat. The developer shall make it clear that neither Town Council nor NCDOT provides upkeep and maintenance of easements.

Section 8-35 Block Design

8-35.1 The lengths, widths and shapes of blocks shall be determined with regard to: provisions of adequate building sites suitable to the needs of the type of use contemplated; zoning requirements; needs for vehicular and pedestrian circulation; location of offsetting streets; control and safety of traffic; limitations and opportunities of topography; and convenient access to water bodies.

8-35.2 Blocks shall have sufficient width to allow two (2) tiers of lots of minimum depth except in non-residential subdivisions or where abutting a water body. Single tier lots may be allowed to separate residential development from through vehicular traffic or another type of use.

8-35.3 Where deemed necessary by the Planning Board, a pedestrian easement at least fifteen (15) feet in width may be required to provide convenient access to a public water area or to other public or private areas, such as parks, schools, shopping centers, religious or transportation facilities.

Section 8-36 Streets

8-36.1 Conformance with Official Plans

The location and design of streets and roads shall be in conformance with any applicable, adopted transportation plan. Where conditions warrant, right-of-way widths and pavement widths in excess of the minimum street standards may be required.

8-36.2 Conformance with Adjoining Road Systems

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

8-36.3 Access to Adjoining Property

Where it is desirable or necessary to provide for street access to adjoining property, proposed streets shall be extended, reserved, dedicated and, where appropriate, constructed to the boundary of such property. Generally, providing access shall be required, (I) where the zoning and/or land use on the adjoining property are compatible with the proposed subdivision, (II) where there are no natural or manmade barriers that make the street extension impracticable, (III)

where the street extension will result in desirable traffic flows and patterns and where inappropriate levels of through traffic are avoided, and (IV) where the street extension will promote the overall orderly development of the area. All stub streets shall be designed and, where required to be built, constructed in accordance with the standards herein.

8-36.4 Reserve Strips

Reserve strips adjoining street rights-of-way for the purpose of preventing access or utilities to adjacent property shall not be permitted under any condition.

8-36.5 Street Classification

The final determination of the classification of streets in a proposed subdivision shall be made by the Town in accordance with the most recent version of the NCDOT Subdivision Roads Minimum Construction Standards.

8-36.6 Public Streets

Public roads shall be designed and constructed in accordance with the North Carolina Department of Transportation (NCDOT) Subdivision Roads; Minimum Construction Standards. Where streets are dedicated to the public but not accepted into a town at the time the plat is recorded, a statement explaining the status of the street shall be included on the final plat. Said statements shall explain that the property and/or lot owners are ultimately responsible for the upkeep and maintenance of all streets until such time that the streets are accepted by the Town.

8-36.7 Private Streets

- A. The Planning Board may authorize the development of private streets upon evaluation of written justification provided by the developer during the sketch plan stage. These streets must be designed and built to at least the minimum NCDOT Subdivision Street Standards. Street construction and testing shall be performed in accordance with NCDOT "Standard Specifications for Roads and Structures", latest edition, 2003 Hot Mix Asphalt Specifications and Manual, and "Quality Management Systems Maintenance Version," and shall report the testing and/or core locations, test method, results and DOT allowable range or tolerance, as applicable. Subgrade shall be tested for density and shall be proof-rolled by the testing Engineer or the Engineer or Surveyor who will Sign Street Certificate. Base and pavement shall be tested for density and thickness. Testing for pavement shall be certified by either a professional Engineer or properly certified QMS Technician and shall be in accordance with QMS criteria. The minimum densities shall be as follows: Subgrade – 100%; Stone Base – 100%; SF 9.5A – 90%; S 9.5B – 92%. The Engineer or Surveyor must be notified by the developer of each phase of construction so that the proper testing can be completed. All culverts under streets shall be per NCDOT Specifications, unless otherwise approved by the town. Adequate road drainage provisions shall be made to protect the integrity of the constructed street system and such construction shall be certified by a licensed surveyor or engineer.

- B. Private streets shall be permitted in developments with owners associations. The ownership interest and maintenance obligations of such private streets shall be identified and recorded in the homeowner association agreement.
- C. All private streets shall be indicated as such on the final plat.
- D. No through street in a residential area connecting two public streets can be designated as a private street.
- E. All private streets, connected with state-maintained streets, require a driveway permit from NCDOT.
- F. A street disclosure statement shall be included on the recorded final plat.
- G. A 24" x 30" sign with two-inch letters stating, "Private Street Maintained by Property Owners" shall be posted at all entrances to the private street

8-36.8 Non-Residential Streets

Streets in a non-residential subdivision shall be designed and constructed to meet the standards of NCDOT for the type of street proposed. When the street is proposed to be private, certification from a licensed engineer or surveyor that the proposed streets are designed per NCDOT road standards shall be submitted prior to preliminary plat approval. Furthermore, certification by a licensed surveyor or engineer that such streets have been constructed in accordance with minimum NCDOT standards and specifications shall be provided prior to final plat approval or, in the case of an improvement guarantee, prior to the release of the guarantee. Where not otherwise reserved and dedicated to public use, all such streets shall be described in a recorded easement for the benefit of all appurtenant properties and shall allow egress, access and installation of utilities for public use.

8-36.9 Design Standards for All Streets

- A. The provision of street rights-of-way shall conform to and meet the requirements of any adopted transportation plan.

- B. **Right of Way**

Right of way widths shall not be less than required by the NCDOT standards for the type of road or street proposed and/or as required by any adopted transportation plan whichever is greater.

- C. **Street Widths**

Widths for streets shall be as required by NCDOT standards for the classification of the proposed street and in accordance with any adopted transportation plan but in no case shall it be less than (20') twenty feet in width.

D. Access Points.

It is desirable for subdivisions to have two or more points of access to existing public or private streets. The internal street network shall be designed to optimize internal and future connectivity by minimizing the length of blocks and providing a looped or grid type road system.

E. Intersections

1. Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at an angle less than seventy-five (75) degrees.
2. Offset intersections are to be avoided. Intersections which cannot be aligned should be separated by a minimum length of two hundred (200) feet between center lines.
3. Intersections with arterials, collectors and thoroughfares shall be as required by the North Carolina Department of Transportation and in accordance with any adopted transportation plan.
4. No two (2) streets may intersect with any other street on the same side at a distance of less than four hundred (400) feet measured from center line to center line at the intersections. When the intersecting street is a major or minor thoroughfare, the distance between intersecting streets shall be at least six hundred (600) feet. When two (2) thoroughfares are proposed to intersect, this distance may need to be increased to one thousand (1,000) feet and/or right-in/right-out drives may be required.
5. The grade at an intersection shall not exceed five (5) percent for a distance of not less than one hundred (100) feet from the center line of the intersection.

F. Sight Distance Easements

These easements shall be shown on the final plat along with a note that the easements shall remain free of all structures, trees, shrubbery, signs, utility poles, fire hydrants, and traffic control signs. The subdivider may be relieved of their requirement if it can show good cause for its failure to obtain such easements.

G. Cul-de-sacs

It is the intent of this section to limit the use of cul-de-sacs wherever practicable while recognizing that property width, environmental features and other site design issues may require their use in order to reasonably develop certain properties. In particular, cul-de-sacs shall not be used to avoid connection with an existing public or private street.

The maximum distance from an intersecting public or private through street to the end of a cul-de-sac shall be 1200 feet. This distance shall be measured from the centerline of the turnaround to the centerline of the nearest public or private street intersection. A stub-out

street may be used as the nearest intersection provided that the stub out street is built as part of the infrastructure for the subdivision. No more than 30 single family, or 100 multifamily residential units shall be served by a cul-de-sac street or combination of streets where no future access is planned. Planning Board may grant exceptions (beyond the limitations of Section 206) to these design requirements in cases where significant environmental conditions such as extensive wetlands, streams and other water bodies, maritime forests, and floodplains and floodways preclude reasonable street interconnectivity. In granting these exceptions, the Planning Board may establish conditions to ensure the safety of the public, including, but not limited to, emergency access drives, sprinkler system installation, and additional fire hydrants. All cul-de-sacs shall have a circular turnaround right-of-way of at least 100 feet in diameter. Where circumstances warrant, the Planning Board may allow the substitution of other turnaround designs specified in the NCDOT Subdivision Road Minimum Construction Standards.

H. Alleys

Alleys are encouraged to serve lots used for commercial and industrial purposes except that this requirement may be waived where other acceptable provisions are made for service access. The width of any alley shall be at least twenty (20) feet. Dead end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities. Sharp changes in alignment and grade shall be avoided. All commercial alleys shall be designed in accordance with the North Carolina Department of Transportation Standards.

I. Street Name and Traffic Control Signs

The subdivider shall be required to provide and erect street name and traffic control signs to town and state standards at all intersections within the subdivision prior to final plat approval or sufficient guarantees for such signs shall be provided.

J. Permits for Connection to State Roads

A permit issued by the North Carolina Department of Transportation shall be required prior to any construction on an NCDOT street or road.

K. Sidewalks

Sidewalks shall be required on at least one (1) side of the street, and in some cases it shall be required on both sides of the street in all new major subdivisions, commercial property, development upon any existing property and areas likely to be subject to heavy pedestrian traffic such as near schools, parks, recreation areas or shopping areas. Such sidewalks shall be constructed to a minimum width of four (4) feet and shall consist of a minimum thickness of four (4) inches of concrete. All sidewalks shall be placed in the right-of-way or appropriate easement. Sidewalks shall consist of a minimum of six (6) inches of concrete at driveway crossings or shall be adequately reinforced otherwise. All sidewalks must meet ADA requirements.

1. The Town Council may exempt sidewalk installation in specific cases upon a finding that sidewalks are unnecessary for the protection of the public safety or welfare due to conditions peculiar to the site, to avoid impacting wetlands, or as part of a low impact design development plan or,
2. No final plat shall be approved (unless a financial guarantee is in place for sidewalk installation), until the requirements for sidewalks are met.

L. Wheelchair Ramps

Ramps shall be installed according to General Statutes Chapter 136, Article 2A, Section GS136-44.14, and any other applicable NC requirement.

M. Curb and Gutter

Curb and gutter for public and private streets may be required by the Planning Board for drainage and other engineering purposes.

N. Offsets to Utility Poles

Poles for overhead utilities should be located clear of roadway shoulders, to a minimum of at least 30 feet from the edge of pavement and off the right-of-way on major and minor thoroughfares. On public and private streets with curb and gutter, utility poles should be set a minimum distance of ten feet from the back of curb.

O. Bridges

All bridges and approaches shall conform to the requirements established by the North Carolina Department of Transportation.

Section 8-37. Utilities and Other Plans Required

8-37.1 Water Supply

Each lot in a subdivision shall be provided with a connection to a public water system at the subdivider's expense if it is determined that such system is available. Water line extensions must comply with the standards and policies of ONWASA or other utility providing service. Utility subdivisions do not have to meet this requirement.

8-37.2 Sanitary Sewer

Each lot in a subdivision shall be provided with a connection to a public sanitary sewer system at the subdivider's expense if it is determined that such system is reasonably available given the distance to existing sewer mains, scale of the proposed subdivision, the need to upgrade off-site mains or pumping systems, and similar factors; the sewer line extensions shall comply with the

standards and policies of the utility providing the service. The Planning Board will make the final determination as to what constitutes “reasonably available” after receiving a recommendation from the Technical Review Committee.

If a subdivision is developed using an off-site drain field, a community sewer system, area wide system, multi-user remote system or any other form of off-site sewer treatment facility, a disclosure of the type of system proposed, and its ownership shall be submitted with the sketch plan. All other necessary and appropriate local and state documentation shall be submitted with the final plat.

8-37.3 Individual Septic

The subdivider shall submit an improvement permit issued by the Onslow County Environmental Health Division for each lot to be created or have a soil scientist certification (in Section 503) on the final plat. Along with the certification, a note must be included on the final plat identifying the type of system proposed for each lot.

Off-site drainfields and repair areas for individual septic systems shall be shown on the preliminary plan.

Where individual off-site systems are proposed, the following standards shall apply:

1. Supply lines and accessways shall be installed as part of the infrastructure improvements for the subdivision. The clearing and grading of the off-site system areas when there are adjacent off-site systems shall be installed as part of the infrastructure improvements for the subdivision. These improvements shall be included in the performance guarantee when not complete at the time of final plat approval.
2. The location of septic systems and access easements shall be designed such that damage to existing systems is avoided. These locations and easements shall be included on the preliminary plan and final plat.
3. A suitable equipment access easement of 20' to the off-site septic area(s) shall be provided along with an adequate repair staging area for equipment and materials (this is to be included in the preliminary plan design; the easements shall also be shown on the final plat). The TRC may recommend an access easement smaller than 20' when it can be determined that a smaller easement will be adequate based on the system type, location and/or other factors.
4. The off-site area shall be marked with a permanent property marker along with appropriate information (lot and section number and address). A note shall be included on the final plat identifying which lot(s) are served by off-site septic systems.
5. Adequate provisions for the upkeep and maintenance of off-site septic systems shall be identified by recorded restrictive covenants, recorded home owner association covenants, recorded maintenance agreements, or other recorded means approved by the Subdivision Officer that ensure off-site septic systems are maintained. The instrument providing for the maintenance

of the off-site septic systems shall be recorded referencing the map book and page of the subdivision.

8-37.4 Erosion Control.

When one acre or more is to be disturbed, an erosion control permit must be obtained from the State of North Carolina. A copy of this permit shall be submitted to the Planning Department prior to final plat approval and no construction activity shall commence until such permit is obtained.

8-37.5 Storm Water Drainage System

A. No surface water shall be channeled or directed into a sanitary sewer.

B. Where feasible, the subdivider shall connect to an existing storm drainage system.

C. Where an existing storm drainage system cannot feasibly be extended to the subdivision; a surface drainage system shall be designed to protect the proposed development from water damage and shall be approved by the State of North Carolina Department of Environmental Quality.

D. A copy of the stormwater permit shall be submitted to the Planning Department prior to final plat approval.

8-37.6 Proposed Dam or Impoundment

Any proposed dam or impoundment within the subdivision must comply with the North Carolina Dam Safety Law of 1967 and the North Carolina Administrative Code, Title 15A, Chapter 2, Subchapter K.

8-37.7 Underground Wiring

All multi-family and high density subdivision (lots less than 10,000 square feet) shall have underground wiring.

Section 8-38 Buffering

8-38.1 Whenever a residential subdivision is located adjacent to an office, institutional, commercial, industrial use, or property zoned for these uses, the subdivider shall provide a buffer. If a buffer exists on the adjacent tract and is deemed by the Subdivision Administrator and/or Planning Board to be sufficient, an additional buffer will not be required. Additionally, if a water course, street or other area exists between the adjacent use and the proposed use, the buffer requirement may be waived and/or altered. Final plats shall not be approved until the buffer is constructed or an adequate bond or guarantee is provided.

8-38.2 Applicants must satisfy the buffering requirements provided here as well as those found in the Zoning Ordinance. The buffer shall be uniform in appearance and become a part of the lot on which it is located, or in the case of common property shall be deeded to the owner's association.

8-38.3 The width and contents of the buffer shall be as follows:

Content/Size	5-15 ft in width	16+ feet in width
6' opaque fence/wall	required	optional
trees*	8 per 100'	6 per 100'
shrubs*	none required	20 shrubs per 100'

*trees must be from no less than 3 gallon containers and/or 6' in height at planting and shrubs must be from no less than one gallon containers and/or 2' in height at planting.

Natural buffers and/or an alternative design may be utilized if the Subdivision Administrator and/or Planning Board deem it sufficient.

8-38.4 The upkeep and maintenance of the fence and plants are the responsibility of the subdivider until the lots are sold and then become the individual lot owner or owner's association.

ARTICLE VII OTHER DEVELOPMENT TYPES

(MOVED TO ZONING)

ARTICLE VIII. GUARANTEED REQUIRED

Section 8-42 Improvements Guarantee

8-42.1 General Requirements.

No final plat shall be approved until all improvements identified in Article VI, not including septic systems, have been constructed or, in lieu of such construction, the applicant has provided the Subdivision Administrator a Performance Guarantee equal to one hundred twenty-five percent (125%) of the cost necessary to complete required improvements in the form of a surety, authorized by NCGS 160A-372(g)(1), payable to the Town of Holly Ridge and referencing this Article VIII of the ordinance and the project name; Such guarantee shall be specifically approved by the Town Council in concert with review by the Town Attorney, a professional engineer representing the Town, and other applicable agency representatives.

8-42.2 Articles of Agreement Required

All financial guarantees shall be submitted along with the Articles of Agreement. See Appendix A. The Articles of Agreement provided in Appendix A shall serve a general outline, strict adherence is not required. Any deviation from that provided shall be approved by the Town Council in consultation with the Town Attorney. The agreement shall be signed by the developer

and the Subdivision Administrator. Extensions beyond a previously approved completion date must be approved by the Town Council.

8-42.3 Review of Cost Estimates

The developer shall submit to the Subdivision Administrator an estimate of the total cost of all improvements within the subdivision (both complete and incomplete) as well as an estimate of the total cost to complete all unfinished improvements prepared by and sealed by a licensed professional engineer. The estimates may be submitted by phases where the development has been approved to proceed by phases. The Planning Department shall submit the plans and the developer's cost estimates to appropriate local, state, or federal agencies for review with a request that they return comments regarding the accuracy of the estimates within 30 working days. The Town may also solicit review of the cost estimates by a professional engineer.

8-42.4 Amount of Financial Guarantee

The amount of the Performance Guarantee shall be equal to the estimated cost to complete all unfinished improvements as prepared by and sealed by a licensed professional engineer representing the developer plus 25 percent ("Performance Guarantee") subject to review as specified in this ordinance.

8-42.5 Draw Downs Permitted

The Town Council may release a portion of any security posted as the improvements are completed, not to exceed once per month. If the Town Council approved said improvements, then it shall immediately release any security posted.

8-42.6 Workmanship Guarantee

The developer shall protect all rights-of-way from encroachment. The developer shall guarantee all improvements against defects in workmanship and materials for a period of one (1) year from the date of acceptance of such improvements. Where utilities are to be conveyed to a public utility or enterprise, the developer shall take all efforts necessary to expeditiously transfer such utilities to the public utility or enterprise.

Thirty (30) days prior to the expiration of the workmanship guarantee, if any defects in workmanship and/or materials are not repaired to the satisfaction of the Planning Department, the subdivider shall be required to make all necessary repairs immediately. Failure to complete improvements will result in penalties as outlined in this Ordinance.

8-42.7 Final Plat of Record

The final plat of record shall include the developer's name and address or address of registered agent. All deeds to lots within the subdivision shall refer to the recorded map book and page of the subdivision plat.

8-42.8 Terms of Guarantee

The term of the Financial Guarantees shall be for a minimum period of one year. The Performance Guarantee and the Workmanship Guarantee shall each contain specific provisions for an automatic one-year extension in the event the guarantee has not been released by the Town 90 days before either the initial expiration date of the guarantee or the expiration date of any subsequent extension. No Financial Guarantee shall expire or be released without written authorization from the Subdivision Administrator.

8-42.9 Forfeiture of Financial Guarantee

If the developer fails to satisfy any of obligations or responsibilities identified in this Article or the Articles of Agreement, the Town Attorney shall notify the developer by registered mail at the address provided in the Articles of Agreement that the developer is in default. If the financial guarantees are in the form of a bond or letter of credit, a copy of the notice shall also be provided to the surety at the address provided in the Articles of Agreement. If the notice is returned undelivered from both the developer and the surety, then the notice may be published in a newspaper of general circulation within the Town of Holly Ridge. All notices shall identify the nature of the default and provide the developer or surety 15 days to appear at a hearing before the Town Council to show cause why the developer should not be considered in default. If the developer or surety fails to request a hearing or fails to show cause why the developer should not be held in default, the Subdivision Administrator shall declare the developer in default and the financial guarantee shall be forfeited to the Town of Holly Ridge and shall be used to cure the default. Remaining funds not used to cure the default, if any, shall be deposited into the general fund of the Town of Holly Ridge as compensation for administrative fees.

Appendix A

ARTICLES OF AGREEMENT

THIS AGREEMENT made and entered into this the ____ day of _____, ____, by and between _____, (hereinafter known as "Developer"), and the Town of Holly Ridge, (hereinafter known as "Town").

1. Purpose: This Subdivision Improvements Performance Guarantee Agreement ("Agreement") is intended to help ensure that developers properly install all required subdivision improvements in a timely manner, in accordance with approved plats and construction plans. This Agreement is not executed for the benefit of persons providing services or material to the subdivision, or for the benefit of persons buying lots or homes in the subdivision, or other possible third-party beneficiaries.
2. Term: The term of this Agreement is _____.
3. Subdivision: This Agreement applies to property the Developer is developing as _____ [Insert Subdivision Name], Phase(s) _____, recorded in Book(s) of Maps and Page(s) _____.

4. Improvements: The Developer is responsible for the construction and installation, at the Developer's sole expense, of the following improvements:
 - a. all roads within the subdivision and improvements to existing roads required for safe and adequate access to the subdivision as may be required by Town regulations;
 - b. water supply and wastewater systems, other than individual wells and septic tanks;
 - c. drainage facilities and easements;
 - d. storm water management devices;
 - e. erosion and sedimentation control devices; and
 - f. any other on- or off-site improvements required by Town ordinance or subdivision plat approval.

5. Standards: The Developer will construct and install improvements required in accordance with all applicable Town subdivision regulations and any other applicable federal, state, county or municipal standards in effect at the time of subdivision plat approval.

6. Estimate of Probable Costs: The Developer hereby agrees and states that the following estimates of the probable costs of subdivision improvements include the cost of design, engineering and construction and project management and supervision. The Developer further represents that the Developer's estimates of such costs represent the Developer's good-faith efforts to accurately predict the probable total costs of such improvements. The Developer hereby agrees that the construction of the improvements will be completed on or prior to _____ [*insert "Construction Completion Date"*]. The Developer estimates, based on the certified formal cost estimate(s) attached hereto, that the total cost of the construction of the improvements will be as follows:

Improvement	Estimate of Probable Cost	Construction Completion Date
A.	\$	
B.	\$	
C.	\$	

D.	\$	
E.	\$	
F.	\$	
	\$	
Subtotal; Estimated Supervision/General Contractor and Project Management Costs (for all above-listed improvements)	\$	
Plus 25% of Total Estimated Cost	+ \$	
TOTAL AMOUNT OF FINANCIAL SECURITY REQUIRED >>>>>>	\$	

Note: Pursuant to Town of Holly Ridge subdivision regulation standards, estimated probable costs must be itemized by improvement type and certified by the applicant's engineer. In the case of minor subdivisions, the applicant's engineer or surveyor may provide the itemized cost estimate. Cost estimates must be based on industry norms within the Town of Holly Ridge. Itemized costs estimates must be attached to this Agreement.

7. Administrative Fee: The Developer will pay the Town, at the time of execution signified

below, an administrative fee in the amount of \$400.00 to cover the Town's cost in administering the provisions of this Agreement. The Developer will pay the Town this (\$400.00) fee with each successive renewal or extension of this Agreement.

8. Security: To secure the performance of the Developer's obligations under this Agreement, the Developer will provide the Town either an irrevocable letter of credit, performance bond, or a cash deposit in the amount of \$ _____ [*insert total amount of financial security required, from above*].
 - a. Letter of Credit: If the Developer provides a letter of credit, it must be valid for at least the term of this Agreement and be payable to the Town at any time upon presentation of (a) an affidavit executed by an authorized Town Official stating that the Developer is in default under this Agreement, and (b) the original or copy of the letter of credit. The letter of credit will be issued by a financial institution located within North Carolina, and must be irrevocable. An authorized Town official for purpose of this subsection shall include the Town Manager, the Planning Director, or their designees.
 - b. Performance Bond: If the Developer provides a surety bond, it must be valid for at least the term of this Agreement. The surety bond must be issued by a company authorized to do business in North Carolina.
 - c. Cash Deposit: Cash will be deposited in a separate Town of Holly Ridge noninterest bearing account.
9. Release of Security: The Town will release the security when all required Subdivision Improvement Completion Certification Forms have been provided.
10. Events of Default: The following conditions, occurrences, omissions or actions will constitute a default by the Developer:
 - a. Developer's failure to, at least 15 days before this Agreement expires, either (1) provide the Town a properly executed Subdivision Improvement Completion Certification Form certifying that all required subdivision improvements have been constructed or installed or (2) renew this Agreement under Section 12, below;
 - b. Developer's insolvency, the appointment of a receiver for the Developer, or the filing of a voluntary or involuntary petition in bankruptcy respecting the Developer; or
 - c. Foreclosure of any lien against the Subdivision property or a portion of the property, or assignment or conveyance of the Subdivision property in lieu of foreclosure.
11. Notice of Default: At least 60 days before this Agreement expires, the Town may give the Developer written notice of the Agreement's upcoming expiration and of the Town's intent to declare a default under Section 11.a unless the public road Improvements are accepted or the Agreement renewed. The Town need not provide any further notice before declaring a default under Section 10.a. Within 10 days after any appointment of a receiver for the Developer, filing of a bankruptcy petition respecting the Developer, foreclosure against the Subdivision

property, or conveyance of the Subdivision property in lieu of foreclosure, the Developer will give the Town written notice of such event.

12. **Renewal of Agreement:** If the Developer fails to complete the improvements within the term of this Agreement, and is using good faith efforts to complete the improvements, then this Agreement shall be renewed in an amount equal to 125% of the cost to complete the improvements then remaining.
13. **Town's Rights Upon Default:** When any event of default occurs, the Town may draw on the financial security to the extent of its face value. The Town will have the right to use the drawn funds to construct, install or arrange for the construction or installation of any subdivision improvements. The Town will have the right to conduct such work itself, or to contract with a third party to do so. The Developer grants the Town, its successors, assigns, agents, contractors, and employees, a nonexclusive right to enter the Subdivision property for the purposes of constructing or installing subdivision improvements.
14. **Indemnification:** The Developer expressly agrees to indemnify and hold the Town harmless from and against any claims, cost, and liability for injury or damage received or sustained by any person or entity in connection with work performed under this Agreement. The Developer further agrees to aid and to pay for the defense of the Town if the Town is named as a defendant in an action concerning work performed under this Agreement except where the action is brought by the Developer. The Developer is not an agent or employee of the Town.
15. **No Waiver:** No waiver of any provision of this Agreement will constitute a waiver of any other provision, nor will it constitute a continuing waiver, unless expressly provided for by a written amendment to this Agreement. Nor will any waiver of any default under this Agreement constitute a waiver of any subsequent default of defaults of the same type. The Town's failure to exercise any right under this Agreement will not constitute the approval of any wrongful act by the Developer. The Town's exercise of any right under this Agreement will not relieve the Developer from any obligation to construct or install subdivision improvements under the Town's ordinances and will not constitute a waiver of the Town's right to exercise any enforcement action under those ordinances.
16. **Amendment or Modification:** The parties to this Agreement may amend or modify this Agreement only by written instrument executed on behalf of the Town by the Town Manager (or his designee) and by the Developer (or the Developer's authorized officer). An amendment or modification must be properly notarized before it is effective.
17. **Third Party Rights:** No person or entity not a party to this Agreement will have any right of action under this Agreement.
18. **Scope:** This Agreement constitutes the entire agreement between the parties, and no statement, promise, or inducement not contained in this Agreement will be binding on the parties.
19. **Severability:** If the courts hold any part of this Agreement to be illegal or otherwise unenforceable, such illegality or unenforceability will not affect the validity of any other part, and the rights of the parties will be construed as if the part was never a part of the Agreement.

20. Notice: Any notice required by this Agreement will be considered effective when personally delivered in writing, or 3 days after being deposited with the U.S. Postal Service, postage prepaid, and addressed as follows:

if to the Developer: _____

if to the Town:

Town of Holly Ridge,
P.O. Box 145
Holly Ridge, NC 28445

21. Immunity: This Agreement is made for regulatory purposes, and nothing contained in this Agreement constitutes a waiver of the Town’s governmental or public official immunities under state law.

22. Law Controlling. The laws of the State of North Carolina shall control and govern this contract.

23. Venue. Any action brought concerning this agreement shall be brought in the General Court of Justice in Onslow County, NC.

24. General Provisions. The text herein shall constitute the entire Agreement between the parties. If any provision, or any portion thereof, contained in this Agreement is held invalid or unenforceable, the remainder of this Agreement, or portion thereof shall not be affected and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed and executed on the day and year first above written.

[For one or more individuals]

By: _____

Name(s) of Developer (s)

North Carolina

_____ County

I, _____, a Notary Public for said County and State, do hereby certify that _____ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

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

(Official Seal)_____ Notary Public

My commission expires _____, 20_____.

[For a Corporation]

Dated this _____ day of _____, 20_____.

by: _____

(Signature)

_____ [Title and name printed]

North Carolina

_____ County

I, _____, a Notary Public for said County and State, do hereby certify that _____, personally appeared before me this day and stated that he is _____ of _____ and acknowledged, on behalf of _____, the due execution of the foregoing instrument.

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

(Official Seal)

Notary Public

My commission expires _____, 20_____.

Town of Holly Ridge

Town Manager

(SEAL)

Attest: _____

Town Clerk