

**TOWN OF FALCON
SUBDIVISION ORDINANCE**

ADOPTED BY THE FALCON BOARD OF COMMISSIONERS: JUNE 1, 1998
EFFECTIVE DATE: JUNE 2, 1998

**SUBDIVISION REGULATIONS’
FOR THE TOWN OF FALCON**

TABLE OF CONTENTS

**ARTICLE I
PREAMBLE**

Section 1.1	Purpose.....	1
Section 1.2	Authority and Enactment	1
Section 1.3	Short Title	1
Section 1.4	Jurisdiction.....	1
Section 1.5	Platting Authority.....	1
Section 1.6	Compliance with Ordinance Required.....	1
Section 1.7	Plats to be Approved.....	2
Section 1.8	Definitions.....	2
Section 1.9	Urban Services Area	7

**ARTICLE II
PROCEDURE FOR SECURING APPROVAL OF SUBDIVISIONS**

Section 2.1	Pre-Application	8
Section 2.2	Preliminary Plat--Submission and Approval Required.....	8
Section 2.3	Preliminary Plat--The Meaning of Preliminary Plat Approval	8
Section 2.4	Final Plat--Generally.....	8
Section 2.5	Final Plat--Submission and Approval of Final Plat Required.....	9
Section 2.6	Guarantees of Improvements	9
Section 2.7	Final Plat--Recording.....	10

**ARTICLE III
GENERAL REQUIREMENTS AND MINIMUM STANDARDS OF DESIGN**

Section 3.1	Conformity.....	11
Section 3.2	Relation of Proposed Streets to Adjoining Street System.....	11
Section 3.3	Through Traffic.....	11
Section 3.4	Thoroughfare Plans	11
Section 3.5	Access to Unsubdivided Property	11
Section 3.6	Lots Intended for Commercial and Industrial Uses Only.....	12
Section 3.7	Street Names	12
Section 3.8	Alleys	12
Section 3.9	Half Streets.....	12

	Page
Section 3.10	Marginal Access Streets.....12
Section 3.11	Easements12
Section 3.12	School Sites.....13
Section 3.13	Access to Parks, Schools, etc.13
Section 3.13.1	Required Parks, Open Space, Recreation Area Provisions.....13
Section 3.14	Public Water and Sewer Systems.....18
Section 3.15	On-Site Water and Sewer Systems18
Section 3.16	Lots Subject to Potential Flooding.....18
Section 3.17	Street Design19
Section 3.17.1	Circulation Requirements19
Section 3.18	Block Lengths19
Section 3.19	Block Widths20
Section 3.20	Lot Standards20
Section 3.20.1	Access to Certain Classified Streets20
Section 3.20.2	Municipal Influence Area Compliance20
Section 3.21	Group Development.....20
Section 3.22	Requirements for Condominium Developments22

**ARTICLE IV
IMPROVEMENTS REQUIRED**

Section 4.1	Streets.....25
Section 4.2	Private Streets25
Section 4.3	Other Requirements27

**ARTICLE V
PLATS AND SUBDIVISION DATA**

Section 5.1	Preliminary Plat and Supporting Data29
Section 5.2	Final Plat30

**ARTICLE VI
LEGAL PROVISIONS**

Section 6.1	Variances.....32
Section 6.2	Responsibility of the Register of Deeds.....32
Section 6.3	Deed Disclosure Certification; Private Streets.....32
Section 6.4	Approval of Plat not to Constitute Acceptance of Dedication32

	Page
Section 6.5 Penalty.....	32
Section 6.6 Validity.....	33
Section 6.7 Effective Date	33

**ARTICLE VII
FEES**

Section 7.1 Fees	34
------------------------	----

TABLES

Table I Minimum Development Standards for Urban, Suburban, and Rural Densities	24
---	----

ARTICLE I. PREAMBLE

SECTION 1.1. PURPOSE

The purpose of this ordinance is to establish regulations and procedures for the platting, recording and development of real property within the Town of Falcon. The Falcon Board of Commissioners hereby finds that these regulations and procedures are necessary in order to promote the orderly development of the Town; provide for the coordination and dedication of streets and thoroughfares; provide for the dedication of land for other public purposes; ensure the proper installation of streets, public utilities and other community facilities, promote the eventual elimination of unsafe and unsanitary conditions arising from improper land subdivision and development; insure proper description, identification, monumentation and recording of subdivision properties; and ultimately promote the public health, safety and general welfare.

SECTION 1.2. AUTHORITY AND ENACTMENT

The Falcon Board of Commissioners, pursuant to the authority conferred by Chapter 160A, Article 19, Section 371 et seq. of the General Statutes of North Carolina, does hereby ordain and enact into law these articles and sections.

SECTION 1.3. SHORT TITLE

This ordinance shall be known and may be cited as the "Town of Falcon Subdivision Ordinance."

SECTION 1.4. JURISDICTION

This ordinance shall control the subdivision of land, as defined herein, lying within the boundaries of the Town of Falcon or its Municipal Influence Area.

SECTION 1.5. PLATTING AUTHORITY

The Falcon Board of Commissioners, as permitted by the authority conferred by Chapter 160A, Article 19, Section 371 et seq. of the General Statutes of North Carolina, does hereby designate the Falcon Board of Commissioners as administrator of this ordinance with authority to grant preliminary and final plat approval in accordance with the provisions of this ordinance.

SECTION 1.6. COMPLIANCE WITH ORDINANCE REQUIRED

All plats for the subdivision of land shall conform to the requirements of this ordinance, and shall be submitted in accordance with the procedures and specifications established herein. Plans for Mobile Home Parks, Group Developments, and Condominium Developments shall be submitted in the same manner as other plats.

SECTION 1.7. PLATS TO BE APPROVED

After the effective date of this ordinance, no subdivision plat of land, as defined in Section 1.8 of this ordinance, within the jurisdiction of this ordinance, shall be filed or recorded until it shall have been submitted to the Planning Department and approved by the Falcon Board of Commissioners with a recommendation from the Planning Staff as hereinafter provided, and no land shall be sold or transferred by reference to a subdivision plat, except those recorded prior to the effective date of this ordinance, that has been approved and recorded in accordance with the provisions of this ordinance.

SECTION 1.8. DEFINITIONS

Unless otherwise expressly stated, the following words shall, for the purpose of this ordinance, have the meaning herein indicated. Words used in the present tense include the future. The singular number includes the plural and the plural the singular. The word "shall" is mandatory, not directory. For the purpose of this ordinance, the following definitions shall apply:

- a. Falcon Board of Commissioners or Commissioners. The Town of Falcon Board of Commissioners.
- b. Building rear yard. A line parallel to the rear property line, extending across the full width of the lot, thus creating a rear yard in which no principal structure shall be built.
- c. Building setback line. A line parallel to the front property line, extending across the full width of the lot, thus creating a front yard in which no structure shall be built.
- d. Building side yard. A line parallel to the side property lines, extending across the full depth of the lot, thus creating a side yard in which no principal structure shall be built.
- e. Condominium (unit ownership) development. A project of two (2) or more units in one or more multi-unit buildings designed and constructed for unit ownership as permitted by the North Carolina Unit Ownership Act [G.S. § 47A-1 et seq.], when approved under the requirements for condominium developments set forth in Section 3.22 of this Ordinance.
- f. County. Cumberland County.
- g. Crosswalk. A right-of-way dedicated to public use which cuts across a block to facilitate pedestrian access to adjacent streets and properties.
- h. County Board of Commissioners. Cumberland County Board of Commissioners.
- i. Farmland Protection Area. An area defined and adopted by the County Board of Commissioners as denoted on the Land Use Plan Map for protection of the agricultural industry; the rural character; and the preservation of farmland; and consists of the remainder of the County area outside the Urban Services Area.

- j. Group Development. A group of more than one (1) principal structure on a single lot, tract or parcel of land designed for occupancy by separate families, business firms or other enterprises as regulated in Section 3.21 of this ordinance.
- k. Health Department. The Cumberland County Health Department.
- l. High voltage line. A high voltage line is any electrical line 25kv or greater.
- m. Lot. A portion of a subdivision or any other parcel of land intended as a unit for transfer of ownership or for development or both. The word "lot" includes "plot", "tract", etc.
- n. Lot, corner. A lot abutting upon two (2) or more streets or roads (including platted or provided at unopened streets or roads) at their intersection. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an angle of less than one hundred thirty-five (135) degrees.
- o. Lot, interior. A lot other than a corner lot.
- p. Lot lines. The property lines bounding a lot.
- q. Lot measurements.
 - (1) Depth of lots shall be the distance between the mid-points of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.
 - (2) Width of lots shall be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the building line.
- r. Lot, through. An interior lot having a frontage on two (2) streets.
- s. Mobile home. A moveable or portable dwelling over thirty-two (32) feet in length and over eight (8) feet wide, constructed to be towed on its own chassis and designed without permanent foundation for year-round occupancy, which includes one or more components that can be retracted for towing purposes and subsequently expanded for additional capacity or of two (2) or more units separately towable but designed to be jointed into one integral unit, as well as a portable dwelling composed of a single unit. Any such structure to be classed as a mobile home must be constructed in accordance with the State of North Carolina Regulations for Mobile Homes. Further, any structure meeting all the requirements specified in the North Carolina State Building Code for One and Two Family Dwellings, shall not be considered a mobile home for the purpose of this ordinance.

- t. Mobile home park. Any site or tract of land upon which is (are) located three (3) or more mobile home dwellings capable of being occupied for dwelling or sleeping purposes, regardless of whether a charge is made for such services; and, which meets the minimum area requirements of this ordinance.
- u. Municipal Influence Area, Falcon. An area within the County's jurisdiction that is assigned to Falcon where the Town's standards shall be applicable. The official Falcon Municipal Influence Area Map shall be filed with the Falcon Town Clerk and maintained by the Planning Board. The Map shall be amended by the Town submitting a request to the County Board of Commissioners for approval.
- v. NAPZ. Noise and Accident Potential Zones mapped around all the airport facilities (both civilian and military) in the County as defined in the most recent Fayetteville Regional Airport Master Plan, the Joint Compatible Land Use Policy Study, 1991, the Air Installation Compatible Use Study, April 1990, or the most recent study delineating these areas.

North Carolina Department of Transportation. The North Carolina Department of Transportation (NCDOT)

- w. Planning Board. The Cumberland County Joint Planning Board.
- x. Planning Department. The Cumberland County Joint Planning Department.
- y. Planning Director. The Director of Planning of the Cumberland County Joint Planning Board.
- z. Planning Staff. Cumberland County Joint Planning Board's Staff
- aa. Principal structure. A structure in which is conducted the principal use of the lot on which it is situated.
- bb. Private water system. Anything that is not public or identical to "dd" below.
- cc. Public sewer systems. Shall include municipal, sanitary district, community and privately owned water and/or sewer systems as regulated and controlled by the North Carolina State Utilities Commission and the Health Department.
- dd. Public water system. Shall have fifteen (15) or more connections or serves more than twenty-five (25) customers and is regulated by the State of North Carolina.
 - 1. Community water. Serves fifteen (15) or more connections or twenty-five (25) year round residents. (example- rest home)

2. Non-community water. Serves twenty-five (25) of the same people six or more months out of the year. (example-school or day care)
 3. Transient non-community. Serves twenty-five or more people at least sixty (60) days out of year, not necessarily by the same people.
 4. Purchased water system. Water purchased from a public water supply.
- ee. Rural density development. Residential density development having a minimum of 40,000 square feet of land per dwelling unit. It is preferred to occur within the Farmland Protection Area.
- ff. Street, private. A private right-of-way for vehicular traffic.
- gg. Street, public. A public right-of-way for vehicular traffic. The word "street" includes, but is not limited to, "road, freeway, expressway and thoroughfare."
- (1) Official Thoroughfare Plan. Any Thoroughfare Plan that has been adopted by the Board of County Commissioners or the governing body of any municipality in the County.
 - (2) Freeways and expressways. The primary function of freeways and expressways is to move large volumes of inter-urban, inter-county and interstate traffic. They are not intended to serve the abutting property and, therefore, should provide limited access with grade separations at all intersections. They should be at least four-lane divided facilities permitting as high an average operation speed as legal and should connect the major economic, recreation and population centers of the county with those of the state and nation.
 - (3) Major thoroughfares. Primarily for the movement of heavy volumes of traffic, major thoroughfares should form connections with all the industrial, commercial and population centers within the county and with the major roads in neighboring counties. Depending upon anticipated traffic volumes and adjacent development, they may be two-lanes, four-or-more lanes undivided, or four-or-more-lanes divided facilities with either limited or controlled access and with major intersections separated. Though their primary function is to serve traffic, they may also serve abutting property with controlled access.
 - (4) Minor thoroughfares (collectors). The main function of the minor thoroughfares is to collect traffic from the local roads and carry it to the major thoroughfares. They should be designed to serve a limited area with no access control or grade separation.
 - (5) Local street. A local service street designed primarily for access to abutting properties.

- (6) Cul-de-sac. A local street permanently terminated by a turn-around.
 - (7) Marginal access street. A local street which parallels and is immediately adjacent to a major thoroughfare, freeway or expressway, and which provides access to abutting property and protection from through traffic.
- hh. Subdivision. A "subdivision" shall include all divisions of a tract or parcel of land into two (2) or more lots, building sites or other divisions for the purpose, whether immediate or future, of sale or building development, and shall include all divisions of land involving the dedication of a new street or a change in existing streets, provided however, that the following shall not be included within this definition nor be subject to the regulations authorized by this article:
- (1) The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved;
 - (2) The public acquisition by purchase of strips of land for the widening or opening of streets;
 - (3) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town as shown in this Ordinance;
 - (4) The division of a tract in a single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the Town as shown in this Subdivision Ordinance.
- However, plats in categories (3) and (4) above shall have the Town of Falcon's and Planning Board's stamp "No Approval Required" before filing in the Office of the Register of Deeds of Cumberland County inasmuch as a determination must be made as to whether or not the resultant lots are equal to or exceed the standards of the Town as shown in this Subdivision Ordinance.
- ii. Suburban density development. Residential development having a minimum of 20,000 square feet of land per dwelling unit. This type of development should occur within the Urban Services Area.
 - jj. Superblock. A large developable piece of land exceeding 1800 feet in length surrounded by a street, divided by a minimum ten (10) foot multi-purpose easement or public right-of-way, with a minimum five (5) foot wide paved walk every 1800 feet.
 - kk. Town. Town of Falcon

- ll. Urban density development. Residential development having a density greater than two (2) dwelling units per acre. This density is promoted within the Urban Services Area.
- mm. Urban Services Area. An area defined and adopted by the County Board of Commissioners and Falcon Board of Commissioners denoted on the Land Use Plan Map as being suitable for supporting urban development due to the availability of existing or proposed urban services. Appropriate residential development densities would include urban and suburban densities.

SECTION 1.9. URBAN SERVICES AREA

Because certain areas of the County are developing at a greater density rate than other areas and will eventually be served by municipal governments, it is necessary that these urban areas be developed to an urban standard. The map entitled Cumberland County Urban Services Area is hereby adopted as part of this ordinance. Development subject to review under this ordinance and located within the Urban Services Area shall meet the standards outlined by this ordinance for the Urban Services Area.

**ARTICLE II. PROCEDURE FOR SECURING
APPROVAL OF SUBDIVISIONS**

SECTION 2.1. PRE-APPLICATION

Whenever a subdivision is proposed to be made and before any improvements shall be made, including grading, the subdivider shall cause a preliminary plat to be prepared. The preliminary plat shall comply fully with this ordinance and with the health, zoning, and other applicable ordinances in effect at the time the plat is submitted for preliminary approval. Before filing a preliminary plat for review by the Falcon Board of Commissioners, the subdivider is encouraged to submit a pre-application sketch plan to the Planning Department for criticisms and suggestions.

SECTION 2.2. PRELIMINARY PLAT - SUBMISSION AND APPROVAL REQUIRED

- a. Ten (10) copies of the preliminary plat in such form as required by Article V shall be submitted to the Planning Staff no later than ten (10) working days prior to the Falcon Board of Commissioners meeting (1st Monday of each month).
- b. The Planning Department shall review the preliminary plat to determine its compliance with official plans and shall negotiate with the subdivider for required changes in order that the subdivision shall comply with the provisions of this ordinance. The Planning Department may negotiate for such other changes as may be found desirable.
- c. After such review and negotiations by the Planning Department, the Planning Staff will forward its recommendations to the Falcon Board of Commissioners who shall approve the plat and state the conditions of such approval, if any, or shall disapprove the plat and state its reasons therefor;
- d. In addition to approving variances, the Falcon Board of Commissioners shall decide all conditions of approval where the Planning Staff and subdivider cannot agree.

**SECTION 2.3. THE PRELIMINARY PLAT - MEANING OF PRELIMINARY PLAT
APPROVAL**

When preliminary plat approval is granted by the Falcon Board of Commissioners, the subdivider may then proceed to construct improvements in accordance with the requirements of Article IV of this ordinance and to prepare and submit the final plat.

SECTION 2.4. THE FINAL PLAT - GENERALLY

The final plat shall conform to the preliminary plat as approved. The subdivider may submit as a final plat that portion of the approved preliminary plat which he proposes to develop immediately, provided that, unless the final plat is submitted to the Planning Department for final approval within

two (2) years from the date on which preliminary plat approval was granted, such action on the preliminary plat by the Falcon Board of Commissioners shall become void.

SECTION 2.5. THE FINAL PLAT-SUBMISSION AND APPROVAL OF FINAL PLAT REQUIRED

The final plat shall be submitted to the Planning Department in such a form as required by Article V of this ordinance. The Planning Staff shall review the final plat for compliance with the provisions of this ordinance and other such specifications as agreed upon at the time the preliminary plat was approved. No final plat shall be approved until the improvements specified by the approval of the preliminary plat and required by Article IV of this ordinance have been installed or assured to be installed in accordance with Section 2.6 of this ordinance.

SECTION 2.6. GUARANTEES OF IMPROVEMENTS

Final plats of a subdivision may be approved by the Planning Department after the subdivider has complied with one (1) of the following procedures:

- a. All required improvements have been installed by the subdivider in accordance with the requirements of this ordinance; or
- b. A surety bond or certified check has been posted by the subdivider, payable to the Town of Falcon upon default, in an amount determined by the Planning Department to assure installation of the required improvements. The subdivider and the Planning Department shall set a reasonable time by which it is estimated the improvements can be installed and completed. Unless an extension of that time is granted by the Planning Department and a new estimated date of completion established, the Town shall take necessary steps to proceed with the accomplishment and completion of the improvements, making use of the certified check or calling upon the surety of the bond; or
- c. An irrevocable letter of credit, in a form approved by the Town Attorney, issued by a bank or other lending institution or a deposit of funds in escrow, may be accepted in lieu of a bond or check under the same terms and conditions; or
- d. The Town may approve the first and succeeding sections of an approved preliminary plat, submitted as final plats, without installation of improvements or financial guarantee to improvements, with the provisions that final plat approval of any succeeding section of the subdivision will be withheld until the required improvements have been installed in the preceding section. Final plats approved under this procedure shall be limited to a maximum of twenty-five (25) lots in size, or fifty percent (50%) of the gross area of the approved preliminary plat remaining in preliminary form prior to submission, whichever is the lesser. A final plat of the last section of a subdivision submitted under this procedure or a final plat constituting an entire subdivision may be of any size and shall be granted final approval only under a procedure stated in a, b, or c above.

SECTION 2.7. THE FINAL PLAT-RECORDING

Within thirty (30) days following approval of this final plat by the Town, the subdivider shall cause the recording of the final plat in the office of the Register of Deeds of Cumberland County. Failure of the subdivider to cause the recording of the final plat in the office of the Register of Deeds within thirty (30) days after the final approval of the Town shall cause such final approval to be null and void.

ARTICLE III. GENERAL REQUIREMENTS AND MINIMUM STANDARDS OF DESIGN

SECTION 3.1. CONFORMITY

All proposed subdivisions shall be so planned as to facilitate the most advantageous development of the entire community and shall bear a reasonable relationship to existing or amended plans of the Planning Board.

SECTION 3.2. RELATION OF PROPOSED STREETS TO ADJOINING STREET SYSTEMS

The proposed street system shall extend existing or proposed streets at the same or greater width, but in no case less than the required minimum width, provided that no extension wider than eighty (80) feet shall be required. Where in the opinion of the Town, it is desirable, to meet the purpose of this ordinance, to provide for street access to adjoining property, proposed streets shall be extended by dedication to the boundary of such property.

SECTION 3.3. THROUGH TRAFFIC

Minor residential streets shall be laid out so as to discourage through traffic.

SECTION 3.4. THOROUGHFARE PLANS

Where any portion of a subdivision lies with the proposed right-of-way of any major street or road shown on an officially adopted Thoroughfare Plan or the county, the street shall be dedicated in the location and width shown on the official plan; provided that no dedication wider than eighty (80) feet shall be required and provided that no area shall be required when (where) right of direct access from abutting property is denied.

SECTION 3.5. ACCESS TO UNSUBDIVIDED PROPERTY

The proposed street system shall be designed to provide for the dedication of access to and not to impose undue hardship upon unsubdivided property adjoining the subdivision. Reserve strips adjoining street right-of-way for the purpose of preventing access to adjacent property shall not be permitted.

SECTION 3.6. LOTS INTENDED FOR COMMERCIAL AND INDUSTRIAL USES ONLY

Commercial and industrial lots may be arranged in convenient units of width and to a depth that is appropriate to the development contemplated, provided that the minimum requirements for lots, blocks and zoning are met.

SECTION 3.7. STREET NAMES

The Town retains the right to name streets within the Town Limits. Naming of streets will be done in conjunction with the Planning Department's Street Naming and Addressing Section. When a proposed name is submitted that duplicates an existing name, the Planning Staff will in conjunction with the applicant and Falcon Board of Commissioners, try to create uniqueness in some manner. Proposed street names must be approved by the Planning Department Street Naming and Addressing Section prior to the submission of the preliminary plat. Where proposed streets are extensions of existing streets, the existing street names shall be used except where a new name can reasonably be used to avoid further street name duplication.

SECTION 3.8. ALLEYS

A reservation or easement for an alley to the rear of non-residential lots may be required provided that a comprehensive plan for the entire block in which the property is located establishes the need for such reservation or easement. Alleys shall not be provided in residential blocks except where the subdivider produces evidence satisfactory to the Falcon Board of Commissioners for the need of alleys.

SECTION 3.9. HALF STREETS

Whenever an existing half street is adjacent to a tract of land to be subdivided, the other half of the street shall be dedicated or shown as an easement for conditional future dedication within the new subdivision. New half streets are prohibited except when essential to the reasonable development of the subdivision 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.

SECTION 3.10. MARGINAL ACCESS STREETS

When a tract of land to be subdivided adjoins a limited access highway, the subdivider may be required to provide a marginal access street parallel to the highway or reserve frontage on an interior street for the lots to be developed adjacent to the highway.

SECTION 3.11. EASEMENTS

To provide for existing or future service poles, underground electric and communication lines, public utilities, conduits, drainage facilities, water and sewer lines, an easement not less than ten (10) feet wide, five (5) feet on each side of the common rear lot line or in other locations where necessary, shall be provided. No building or other permanent obstruction, not including fences, shall be erected on any such easement.

Where property to be subdivided is traversed by a watercourse, drainage way, canal, or stream, there shall be provided a drainage easement for channel improvement which conforms substantially with the center line of such watercourse, drainage way, canal, or stream. Such drainage easement shall be a minimum of twenty (20) feet wide (not necessarily centered) but in no case shall it be required to exceed twenty (20) feet from the top of the bank (natural stream channel) on either side of the watercourse, drainage way, canal, or stream.

In the event that the subdivision includes a man-made lake, such drainage easement shall conform to the original stream or watercourse where known or a note added to the plat to read as follows:

"In the event that the lake(s) shown on this plat is drained or otherwise lowered to the natural stream level, a public drainage easement for the purpose of channel improvement is hereby dedicated at a minimum width of twenty (20) feet but not to exceed twenty (20) feet from the top of the bank on either side of the natural stream course."

SECTION 3.12. SCHOOL SITES

When a tract of land which has been approved by the School Board as a proposed school site lies wholly or partially within an area proposed to be subdivided and provided that the School Board has notified the Planning Department and the property owner of its approval of the school site prior to Falcon Board of Commissioners action on the preliminary plat, the subdivider shall reserve the proposed school site for acquisition by the School Board for a period of not more than thirty (30) days.

SECTION 3.13. ACCESS TO PARKS, SCHOOLS, ETC

Streets shall be designed or walkways dedicated to assure convenient access to adjacent parks, playgrounds, schools, and other public places. Dedicated walkways shall not be less than ten (10) feet in width.

SECTION 3.13.1. REQUIRED PARKS, OPEN SPACE, RECREATION AREA PROVISIONS

Every residential dwelling unit shall provide a portion of land for the purpose of providing park, recreation and open space areas. For group development open space provisions see Section 3.21 of this ordinance.

- A. **AMOUNT OF LAND.** The amount of park, recreation or open space area shall be five hundred (500) square feet per lot or unit when the land is above the floodplain; one thousand (1,000) square feet per lot or unit when the land is located within the floodplain area; and two thousand (2,000) square feet per lot or unit when the area is a water body. Water bodies dedicated for meeting these requirements must be approved by the Falcon Board of Commissioners. No credit shall be given for land subject to mandatory preservation such as

the requirements of the Flood Damage Prevention Ordinance requirements, watershed requirements, and stormwater requirements. The dedication/provision may include a combination of land above the floodplain, land in the floodplain, water bodies, and land not within the development. Park land dedicated that contains five acres or more, meets park specifications, and is consistent with the Parks and Open Space Plan and the adopted Designated Open Space, Parks and Recreation Corridors Map must be accepted by the Town.

Developments that are less than five acres, not consistent with the Parks and Open Space Plan, and not located on the adopted Designated Open Space, Parks, and Recreation Corridors Map may pay a fee in lieu of dedication as determined by the Town. Park, recreation, or open space areas shall be of such dimensions as to be functionally useable and maintainable. Developments that would require less than five acres maybe exempt from providing on-site park, recreation or open space areas when the Town determines that:

(1) The on-site park, recreation, or open space area cannot be combined with such areas serving adjacent property to form a functionally usable and maintainable area; or

(2) The parks, recreation, or open space needs of the development can be adequately met by existing or planned public parks, recreation or open space areas. In determining the size of a development for this purpose, the Planning Staff shall consider the entire project developed on a single tract or contiguous multiple tracts under common ownership, regardless of whether the development is constructed in phases or sections. The subdivider of any subdivision that is exempt from providing on-site park, recreation, or open space areas shall pay a fee to the Town in lieu thereof to be used to acquire and develop parks, recreation, or open space areas to benefit the residents.

B. **STANDARDS FOR PARK, RECREATION, AND OPEN SPACE AREAS.** All park, recreation, and open space areas shall meet the following standards unless special exception is made by the Planning Board and approved by the Town. These standards are as follows:

(1) UNITY. The dedicated land shall be a single parcel of land, whether or not the development is developed in phases or sections, except where it is determined by the Planning Staff with approval from the Town, that multiple parcels would better serve the residents of the development and the public.

(2) USABILITY. A maximum of one-half of the dedicated park, recreation or open space area may be water. When one-half of the dedicated area is water, the remaining land must be useable land for a park. The usability of a dedicated parks, recreation, or open space area shall be determined by the Planning Staff with a recommendation from the Town.

(3) SHAPE. The portion of the dedicated area not water or wetland shall be of such shape to be usable for recreation facilities including but not limited to tennis courts, swimming pools, clubhouses, athletic fields, basketball courts, swings, slides, play apparatus, open play areas, and picnicking, etc.

(4) LOCATION. The dedicated land shall be located to reasonably serve the recreation and open space needs of the residents within the development. The Planning Staff, with approval from the Town, may require that the land dedicated be located on the periphery of the development in order to allow enlargement by combining the park, recreation, and open space areas with adjacent developments; when adjacent property is publicly owned; or when there are plans that identify the area as future parks, recreation, or open space to be acquired by the Town. There shall be provisions at the discretion of the Town, to negotiate the location of the land or fee when it is deemed in the best interest of the immediate residents and the long range parks and recreation plan. This negotiation includes swapping larger, cheaper tracts of land away from the development for the smaller more expensive tract near the development. This shall only be allowed when there is sufficient park and recreation area to meet the needs of the affected development's residents.

(5) ACCESS. All lots in the development shall have free, easy and convenient ingress and egress to and from the dedicated area within the development provided by means of streets or public walkways or trails with the one access being a minimum width of twenty (20) feet. Rights of way for this access shall be shown on the preliminary plat. All dedicated land areas shall have access by way of a public street. Dedicated areas that do not have frontage on a public street but are adjacent to an existing public park, recreation, or open space area that has such access is exempt from this requirement.

(6) REQUIRED STORMWATER DETENTION/RETENTION FACILITIES. These facilities shall not be accepted as fulfilling the park, recreation, or open space requirements.

(7) LANDSCAPING. Dedicated parks, recreation and open space areas shall have a sufficient natural or man-made buffer or screen to minimize any negative impacts on adjacent residents.

(8) CONSISTENCY WITH MASTER PARKS, RECREATION, AND OPEN SPACE PLANS. Any portion of a development that lies within an area designated on an officially adopted Parks, Recreation, and Open Space Plan and the Designated Open Space, Parks, and Recreation Corridor Map (not exceeding the amount required to be dedicated) shall be included as part of the area set aside to satisfy the park, recreation, and open space requirements. This area shall be dedicated to public use.

(9) 100 YEAR FLOOD ELEVATION. In addition, all BASE parkland (above the 100 year flood elevation) dedicated to the public sector must meet the following:

- a. Must be outside of the 100 year flood area;
- b. Must have a minimum average slope of three (3) percent and a maximum average slope of fifteen (15) percent;

- c. Must not be a former site of or contain any remains of hazardous materials;
- d. Must have access to a public street;
- e. Must be a single parcel of land , unless exception is granted by the Town; and
- f. If the site contains a developed facility, it must be approved by the Falcon Board of Commissioners.

C. PROCEDURES FOR THE DEDICATION OF PARKS, RECREATION AND OPEN SPACE AREAS.

(1) Designation of Land to be Dedicated. The developer, upon submission of a residential preliminary plan, shall indicate at that time his/her intent to either dedicate land or pay a fee in lieu thereof. The developer shall designate whether such dedication will be to the public sector or a homeowners' association. The developer shall also designate on the preliminary plan the area or areas to be dedicated for park, recreation, or open space.

(2) Review of Land to be Dedicated. The Planning Staff shall submit a copy of the preliminary plat to the Town for review. The Town shall submit any and all recommendations concerning the land to be dedicated to the Planning Staff within seven (7) working days upon receipt of the preliminary plat.

(3) Ownership. The entity owning land to be dedicated for parks, recreation, and open space shall be selected by the owner, developer, or subdivider, subject to the approval of the Falcon Board of Commissioners. These entities may include, but are not limited, to the following:

- a. The County of Cumberland subject to acceptance by the Planning Staff;
- b. Any municipality having jurisdiction over the tract, whether within its boundary or not, subject to acceptance by the municipality;
- c. Other public jurisdictions or agencies, or non-profit organizations, subject to their acceptance; and
- d. Homeowners, condominiums or cooperative associations or organizations.

(4) Required Conditions of Homeowners' Associations. Homeowner associations or similar legal entities that own and maintain park, recreation and open space areas shall be established in such a manner that:

- a. Provision for the establishment of the association or similar entity is made prior to any lot or unit in the development being sold or any building being occupied;

- b. Membership must be mandatory for each lot or unit owner and any successive buyer;
- c. The association shall be responsible for the liability insurance, if any, local taxes and maintenance of the areas;
- d. Any sums levied by the association that remain unpaid shall become a lien on the individual homeowner's property;
- e. If all or any portion of the property held by the association is being disposed of or if the association is dissolved, the park, recreation, and open space areas shall be first deeded to the affected public jurisdiction or to any entity as defined in Ownership above; and
- f. The right to use the park, recreation, or open space shall be guaranteed to each resident of the development in good standing with the homeowners' association.

(5) Maintenance of Areas. The entity as defined in Ownership, Section 3.13.1.C.(3) above shall be responsible for the continuing upkeep and proper maintenance of the park, recreation, or open space area.

(6) Provisions for Payment in Lieu of Dedication. When it is determined that the park, recreation, and open space needs of a development can be met by existing or proposed public park, recreation, or open space areas, then the Planning Staff with approval from the Town, may authorize the developer to pay a fee to the Town in lieu of dedication. The Planning Staff may also authorize, with a approval from the Town , a combination dedication and partial payment in lieu of dedication when it is determined that this method is in the best interest of the residents in the area to be served and the public at large. The affected jurisdiction's governing body shall make the final decision.

- a. Procedure. The developer shall include with the application for a preliminary plan approval, a letter requesting approval to make a payment in lieu of dedication. The letter shall include the proposed per acre value (raw land value) and the basis for the determination of such value. Upon receipt of the preliminary plan, the Planning Staff shall submit a copy of the preliminary plan with the letter to the Town. The Town shall submit a recommendation to the Planning Staff within seven (7) working days.
- b. Amount of Payment. The fee in lieu of dedication shall be based on the required acres (in square feet) times the assessed raw land value. The Planning Staff shall determine if the developer's assessed raw land value is reasonable based on the tax value and the data submitted by the developer. If there is a

disagreement with the Planning Staff's findings, the matter shall be appealed to the Falcon Board of Commissioners for final disposition.

- c. Use of Payments in Lieu of Dedication. All monies received by the public sector for fees in lieu of dedication shall only be used for the acquisition of the closest unpurchased parkland or recreation area as outlined in the official Parks and Recreation Plan, that will benefit the residents within the development. This does not imply that the general public cannot benefit from these funds especially in cases where the money is used for acquisition of neighborhood, community and regional parks.
- d. Required Payment in Lieu of Dedication. If the existing or proposed dedicated land does not meet the long-range plans for Parks and Recreation, the Planning Staff with a approval from the Town, may require payment in lieu of dedication. The Planning Staff may also require a fee in lieu of dedication when the dedicated area is less than one-half acre in size with approval by the Town. All subdivisions that qualify to be stamped with "No Approval Required" shall pay the fee in lieu of dedication unless it is determined that it would be in the best interest of the residents in the development or the general public otherwise.
- e. Time of Payment. When a payment in lieu of dedication is authorized, such payment must be made before recording the final plat. If the subdivision is developed in phases or sections, a payment relating to each phase or section must be made prior to the recording of a final plat for each phase or section.

SECTION 3.14. PUBLIC WATER AND SEWER SYSTEMS

Where public water and/or sewer systems are to be installed as part of the subdivision improvements, such systems shall be designed and installed in accordance with standards and specifications of the Health Department and/or the Town responsible for the approval of such systems. All developments must have Town water.

SECTION 3.15. ON-SITE WATER AND SEWER SYSTEMS

Prerequisite to final plat approval, all lots on the plat to be recorded must be certified in writing by the Health Department to be large enough to meet Health Department minimum standards for on-site water and/or sewer systems when either or both of such systems are proposed to be used.

SECTION 3.16. LOTS SUBJECT TO POTENTIAL FLOODING

All watercourses, streams and drainways located within the Town of Falcon shall meet the following:

- a. No encroachment, including fill, new construction, substantial improvements or new development shall be permitted within a distance of the stream bank equal to five (5) times the width of the watercourse, stream or drainageway at the top of bank or twenty (20) feet each side from the top of bank, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- b. When no flood elevation data is available from federal, state or other source, the lowest floor, including basement, shall be elevated at least two (2) feet above the highest adjacent grade.

SECTION 3.17. STREET DESIGN

- a. Street gradient, reverse curves, and horizontal alignment shall be in accordance with the standards and specifications of the North Carolina Department of Transportation (NCDOT).
- b. Right-of-Way. Proposed street right-of-way shall be of sufficient width to meet the requirements of this ordinance and/or the specifications of the Department of Transportation (NCDOT), but in no case shall the right-of-way be less than fifty (50) feet, except for Section 3.17.(c). Where a subdivider elects to establish a street divided with a median strip, the right-of-way width shall not be less than eighty (80) feet and no median strip shall be less than twenty (20) feet wide.
- c. Cul-de-sac. A cul-de-sac shall not be longer than eight hundred (800) feet and shall be provided at the closed end with a circular turnaround having an outside roadway diameter of at least eighty (80) feet and a right-of-way line diameter of at least one hundred (100) feet. The minimum right-of-way width shall be in accordance with the standards and specifications of the North Carolina Department of Transportation (NCDOT).
- d. Corner radii. Property lines at street intersection shall be rounded with a radius of twenty-five (25) feet.
- e. Intersecting streets. Streets shall be laid out so as to intersect as nearly as possible at right angles.
- f. Street offsets. Where there is an offset in the alignment of a street across an intersection, the offset of the center lines shall not be less than one hundred twenty-five (125) feet.

SECTION 3.17.1 CIRCULATION REQUIREMENTS

The minimum circulation requirements for all development located within the Town's Urban Services Area and/or Municipal Influence Area shall be the standards outlined in the Manual on Street and Driveway Access in Cumberland County. Circulation requirements outside of the Urban

Services Area and/or Municipal Influence Area shall meet North Carolina Department of Transportation (NCDOT) standards.

SECTION 3.18. BLOCK LENGTHS

Block lengths shall not be longer than one thousand eight hundred (1,800) feet; provided, that where a longer block will result in less traffic through residential subdivisions from adjoining businesses or areas, the planning staff may recommended block lengths in excess of one thousand eight hundred (1,800) feet. Where blocks longer than one thousand eight hundred (1,800) feet are permitted, crosswalks of a width not less than ten (10) feet with a minimum five (5) foot wide paved walk is required. Superblocks are allowed in accordance with Section 1.8(jj) of this ordinance.

SECTION 3.19. BLOCK WIDTHS

Block width shall be sufficient to allow two (2) tiers of lots except where prevented by topographical conditions of the size of the property. A single tier of lots may be used to separate residential developments from non-residential developments or residential developments from watercourses, traffic arteries, or railroads.

SECTION 3.20. LOT STANDARDS

Where a zoning ordinance is in effect, the lot dimensions, setbacks and standards of the zoning ordinance shall apply.

SECTION 3.20.1 ACCESS TO CERTAIN CLASSIFIED STREETS

No direct access shall be allowed for any single family lot located along any street as defined or classified by a Thoroughfare Plan or locally adopted Collector/Feeder Street Plan as major or minor thoroughfare, arterial, collector, or feeder street, where feasible and sufficient land depth exists.

SECTION 3.20.2 MUNICIPAL INFLUENCE AREA COMPLIANCE

All development located within the Town's Municipal Influence Area shall be developed in accordance with standards enforced within the Town. An official Falcon Municipal Influence Area Map shall be maintained at the Office of the County Clerk and Falcon Town Clerk.

SECTION 3.21. GROUP DEVELOPMENTS

The site plan for group developments shall show the locations and sites for buildings, streets, alleys, parking, recreation areas, signs, loading berths, landscaping, yards and other open spaces, and shall be in accordance with the following specifications:

- a. The plot area per dwelling unit, excluding the area of publicly dedicated rights-of-way within the development, shall be as permitted by the Falcon's Zoning Ordinance.
- b. Each building on the periphery of a group development shall observe the minimum yard requirements of the Falcon Zoning Ordinance for the district in which it occurs..
- c. Buildings within group developments under single ownership shall be separated by a minimum distance of twenty (20) feet plus ten (10) feet for each story above two (2) stories.
- d. In no case shall any part of a principal residential building be located closer than twenty (20) feet to any part of another principal building.
- e. The property to be developed must have a boundary line or lines contiguous with and giving direct vehicular access to and from one (1) or more public streets or private streets with public access rights, approved in accordance with Section 4.2 of this ordinance. All portions of every building shall be located within five hundred (500) feet of some portion of one or more said access points, except when it can be demonstrated that adequate provisions can be made for fire protection, garbage collection, law enforcement, and other county services, and the local street system is completed as necessary.
- f. Where official plans show future streets or thoroughfares or where reasonable access to adjoining property is required, the development shall be designed to provide right-of-way for such future streets or thoroughfares and to give access to such properties by means of a public street dedication.
- g. Parking shall be provided in accordance with applicable zoning regulations.
- h. At least three-fourths of the required parking spaces shall be located on the development in off-street parking lots, no part of which shall be located closer than fifteen (15) feet to any existing or proposed street right-of-way line in accordance with the locally adopted Collector/Feeder Street Plan. Each space shall be not less than nine (9) feet by twenty (20) feet in area. Compact car spaces may be utilized within a development, provided the minimum standard size off-street parking space requirements are met. Isles adjacent to the compact car spaces shall be standard width, and all compact car spaces shall be clearly marked. Each compact car space shall be not less than seven and one-half (7 1/2) feet by fifteen (15) feet in area. One-fourth (1/4) of the required parking space may be in parking bays on minor public streets which are entirely within the development, provided that none shall be in the turn-around portion of cul-de-sacs. Bays shall not be longer than eighty (80) feet along such street lines, and each bay shall be separated from any other bay by a distance of not less than one-half (1/2) the combined width of both bays. No more than one-third (1/3) of the total frontage of any such street shall be devoted to parking bays.
- i. Each off-street parking space for each residential building shall be located within two hundred (200) feet of said building.

j. Swimming pools which are constructed within a group development shall be located not less than one hundred (100) feet from any boundary of the project and not less than fifty (50) feet from any public street and conform to the following:

- (1) Have a fence at least three (3) feet high completely enclosing the portion of the yard containing the pool with a gate that can be securely fastened;
- (2) Cause all floodlights to be shielded in such a manner that no offensive glare will be visible from adjoining streets or property; and
- (3) Have, for each pool with a capacity of two thousand (2,000) gallons or more, filtering and purification equipment or automatic water exchange capable of changing all of the water every twenty-four (24) hours.

k. In residential group developments, designated recreation areas and facilities shall be provided and shall consist of at least five hundred (500) square feet of area per unit in the development located and designed with a reasonable relationship to building locations and the particular recreation requirements of the occupants. Recreation areas shall comply with the following provisions:

- (1) Group developments containing less than ten (10) units shall provide five-hundred (500) square feet of recreation area per unit;
- (2) Group developments containing between ten (10) and one hundred (100) units shall provide individual recreation site(s) having a minimum size of five-thousand (5,000) square feet; and
- (3) Group developments containing more than one hundred (100) units shall provide individual recreation sites having a minimum size of ten-thousand (10,000) square feet.

Areas within the setback areas can be counted as part of the required recreation/open space area provided they are developed, which would include tennis and basketball courts, jogging trails, etc. These facilities shall not consist of over ten (10) percent of the required recreation/open space area. On-site amenities outside the setback area such as indoor recreation centers and clubhouses may be counted as part of the recreation/open space requirements up to one-half (1/2) of the required area. Recreation/open space areas dedicated to the public sector shall be subject to all the requirements in Section 3.13.1 of this ordinance.

l. All dumpsters and utility areas shall be screened. Dumpster sites shall be located on concrete slabs and be fenced around three (3) sides, minimum. Chain link fencing may be utilized,

but it must be accompanied with an evergreen screen as in Section XIV--Landscape Ordinance of the Falcon Zoning Ordinance.

SECTION 3.22. REQUIREMENTS FOR CONDOMINIUM DEVELOPMENTS

Before a declaration establishing a condominium development may be recorded in the office of the Cumberland County Register of Deeds as prescribed in the North Carolina Unit Ownership Act (G.S. § 47A-1 et seq.) the declaration and plan shall be approved by the Falcon Board of Commissioners. Such declaration and plan shall conform to applicable subdivision or residential group development requirements as set forth in this ordinance and to the applicable zoning requirements. In addition, the following requirements shall be complied with:

- a. The declaration shall be a complete legal document prepared strictly in accordance with the North Carolina Unit Ownership Act (G.S. § 47A-1 et seq.) and shall be submitted in final form in three (3) copies to the Planning Department at least ten (10) days prior to the submission of the final plat.
- b. The final plan of the proposed development shall contain the following particulars:
 - (1) Unit designation of each unit and a statement of its location, approximate area, number of rooms, and/or immediate common area to which it has access and any other data necessary for its proper identification;
 - (2) Description of the general common areas and facilities as defined in the North Carolina Unit Ownership Act (G.S. § 47A-1 et seq.) and the proportionate interest of each unit owner therein;
 - (3) Description of boundary lines between portions of the structures designed for different ownership;
 - (4) Description of all garages, balconies, patios, etc., which form a part of any unit;
 - (5) Description of any special common areas and/or facilities stating what units shall share the same and in what proportion; and
 - (6) Statement of the purpose for which the building and each of the units are intended and restricted as to use.
- c. The recordation of the declaration and plan shall be completed by the developer within thirty (30) days after approval by the Falcon Board of Commissioners in accordance with the provisions of Section 2.7 of this ordinance. Where a condominium is submitted as a residential group development, a group development plan as provided in Section 3.21 of this ordinance shall accompany the declaration and plan.

ARTICLE IV. IMPROVEMENTS REQUIRED

Before any subdivision plat shall be eligible for final approval, the following minimum improvements must have been installed, or assured to be installed, in accordance with the provisions of Section 2.6 of this ordinance. Improvements proposed by the subdivider and exceeding those required by this Article shall be installed in accordance with the standards and requirements for acceptance of the Town of Falcon, North Carolina Department of Transportation, the standards of the Health Department, or the standards of another public body, whichever is applicable.

All of the development in the Town of Falcon and the Falcon Municipal Influence Area shall meet at least the minimum standards based on the density of the development as shown on Table I below entitled Minimum Development Standards for Urban, Suburban, and Rural Densities.

**TABLE I
MINIMUM DEVELOPMENT STANDARDS
FOR URBAN, SUBURBAN, AND RURAL DENSITIES**

URBAN > 2 UNITS/ACRE	SUBURBAN = 2 UNITS/ACRE	RURAL < 2 UNITS/ACRE
1. Fire Hydrants	1. Fire Hydrants If Public Or Community Water Is Utilized	1. Fire Hydrants If Developing Rural Density Within The Urban Services Area And Within 2000 Feet Of Public Water; Or Inside The Urban Services Area And On Community Water
2. When connection to Sanitary Sewer and Public Water is required. 2-10 lots within 300 feet, utilities must be extended. 11-20 lots within 500 feet, utilities must be extended. More than 20 lots within the Urban Services Area, and where density is greater than 2 units per acre, utilities must be extended. Exceptions allowed as stated in Section 4.3.d.(2) Other Requirements.	2. When connection to Sanitary Sewer and Public Water is required. 2-10 lots within 300 feet, utilities must be extended. 11-20 lots within 500 feet, utilities must be extended. More than 20 lots within the Urban Services Area, and where density is greater than 2 units per acre, utilities must be extended. Exceptions allowed as stated in Section 4.3.d.(2) Other Requirements.	2. When connection to Sanitary Sewer and Public Water is required. 2-10 lots within 300 feet, utilities must be extended. 11-20 lots within 500 feet, utilities must be extended. More than 20 lots within the Urban Services Area, and where density is greater than 2 units per acre, utilities must be extended. Exceptions allowed as stated in Section 4.3.d.(2) Other Requirements.
3. Recreation Area Dedication Required or Fee	3. Recreation Area Dedication Required Or Fee	3. Recreation Area Dedication Required Or Fee
4. Underground Utilities Except High Voltage Electrical Lines	4. Underground Utilities Except High Voltage Electrical Lines	4. Not Required
5. Landscape Standards	5. Landscape Standards	5. Landscape Standards Required If Rural Density Developed Within The Urban Services Area

SECTION 4.1. STREETS

- a. Grading. Rights-of-way and roadways shall be graded in accordance with the standards and specifications of the North Carolina Department of Transportation (NCDOT).
- b. Roadway base. All roadways shall be improved with a base course to the required width of the North Carolina Department of Transportation (NCDOT). All construction and materials shall meet the standards and specifications of North Carolina Department of Transportation (NCDOT).
- c. Roadway surface. All surfaced roadways shall be paved. Roadways shall be improved with a surface material to meet the standards and specifications of the North Carolina Department of Transportation (NCDOT).
- d. Pavement widths. All surface roadways shall be improved to meet the standards and specifications of the North Carolina Department of Transportation (NCDOT).
- e. Required drainage. An adequate drainage system shall be installed by the subdivider in accordance with good engineering practices.
- f. Town of Falcon or NCDOT approval. All streets shall be certified by the Town of Falcon or North Carolina Department of Transportation (NCDOT) as being acceptable for future maintenance by the Town or NCDOT, provided that other conditions for acceptance and maintenance are met.

SECTION 4.2. PRIVATE STREETS

Private streets will be permitted to serve as access within residential developments; however, dedication of public streets and other rights-of-way or easements may be required if such are indicated on the official plans as adopted by the Falcon Board of Commissioners, the Cumberland County Board of Commissioners, or the Cumberland County Joint Planning Board. Public street and/or other rights-of-way or easements or public access over private streets will be required where the Joint Planning Board, North Carolina Department of Transportation (NCDOT), or Town of Falcon determines that such are necessary in order to promote the continuity of existing streets or utility systems or otherwise protect and promote the public health, safety and welfare.

The developer shall reserve enough area along all private streets to meet North Carolina Department of Transportation (NCDOT) specifications for right-of-way width requirements on secondary roads. Such area as is required to be reserved may not be used toward lot area requirements or be included in any required yard space.

- a. Maintenance. All subdivisions containing private streets shall create a homeowners association for maintenance of such streets. In developments that are to be retained under single ownership and units or lots will be for rental purposes only, maintenance of private streets shall be provided, the same as for open space or other facilities for the purpose of common use. Upon determination by the Falcon Board of Commissioners that such private streets as are approved are not in a proper state of maintenance, the Falcon Board of Commissioners may, in addition to other remedies, prevent reoccupancy of any structure to which such streets provide access until such streets are in a proper state of maintenance as determined by the Falcon Board of Commissioners.
- b. Access to government agency. In any development where private streets are provided, the developer shall prepare for Falcon Board of Commissioners approval and record in the Office of the Cumberland County Register of Deeds, a plat of such development indicating all private streets. It shall be indicated on such plat that any governmental agency or personnel or equipment thereof shall be granted perpetual access over all such private streets to accomplish or fulfill any service or function for which the agency is responsible and that any agency or organization designated by a governmental agency to perform a designated function shall also retain access the same as any governmental agency. It shall be indicated on such plat that any agency exercising its access rights shall have the same rights and only such liabilities as it would have on any public lands, rights-of-way or easements.
- c. Design. Private streets shall be designed in accordance with the following criteria:
 - (1) Minimum Private Street Construction Standards for subdivisions and in group developments :
 - All street construction and drainage standards shall meet or exceed the design specifications of the North Carolina Department of Transportation (NCDOT) for residential streets with asphalt curb and gutter cross-section of a sixty (60) foot right-of-way and pavement width of twenty (20) feet face to face or gutter to gutter.
 - Property lines shall not be included in rights-of-way.
- d. Certification of construction. Upon completion of construction of private streets and related facilities including drainage ways, the developer shall provide for an inspection of all such facilities by a Registered Engineer, who shall provide in writing a statement that all private streets and related facilities are constructed in accordance with the above requirements and that all such facilities are adequate to service the development. Such statement shall be affixed with the engineer's seal and submitted to the Town of Falcon and approved prior to the recording of the final plat or release of any construction guarantees as required under Section 2.6 of this ordinance.

SECTION 4.3. OTHER REQUIREMENTS

- a. Monuments. Monuments of a permanent material shall be installed in accordance with the North Carolina General Statutes, Chapter 39, Article 5A (§ 39-32.1 et seq.) and at such points as may be consistent with good engineering practices.
- b. Removal of rubbish. All cut or fallen trees, stumps, or rubbish shall be completely burned or in other ways removed from the subdivision.
- c. Drainage. During the construction, preparation, arrangement, and installation of subdivision improvements and facilities in subdivisions located at or along a watercourse, the developer shall maintain the watercourse in an unobstructed state and shall remove from the channel and banks of the watercourse all debris, logs, timber, junk, and other accumulations of nature that would, in time of flood, clog or dam the passage of waters in their downstream course; provided that installation of appropriately sized storm water drains, culverts, bridges, levee systems or closure structures in a levee system shall not be constructed as obstructions in the stream.
- d. Public water and sewer systems.
 - (1) Generally. Where the installation of public water and/ or sewer systems is prerequisite to approval of lot sizes and standards, such systems shall be installed and certified prior to final plat approval or assured to be installed in accordance with the provisions of Section 2.6 of this ordinance.
 - (2) When Connection to Sanitary Sewer and Public Water is Required. Where any portion of a subdivision, group development or mobile home park of two (2) to ten (10) units or lots is within three hundred (300) feet of water or sewer, the utilities shall be extended. Where any portion of eleven (11) to twenty (20) units or lots is within five hundred (500) feet of water or sewer, the utilities shall be extended. For more than twenty (20) lots or units within the Urban Services Areas, and where density is greater than two (2) units per acre, the extension of water and sewer service is required.

The Falcon Board of Commissioners may make exceptions to this requirement when any of the following conditions warrant:

- (1) Sanitary sewer is within a different drainage basin or sub basin;
- (2) The utility is located beyond the jurisdiction of the Planning Board, and the utility provider will not agree to extend service;
- (3) Crossing of South River, Cape Fear River, controlled access highways such as Interstate 95, and the Fayetteville Outer Loop;

- (4) Extensions exceeding two thousand (2,000) feet from existing service;
 - (5) Property is located outside of the municipal government's approved master plan.
- e. Street signs. All streets within a subdivision shall be marked with a street name sign of a design and location approved by the Planning Department's Street Naming and Addressing Section.
- f. Fire Hydrants. Fire hydrants are required when a development subject to this ordinance is located in the Town of Falcon or its Municipal Influence Area, the subdivision is to be served by a community, municipal or county water system.
 - (1) Fire hydrants shall be located no more than one thousand (1,000) feet apart and at a maximum of five hundred (500) feet from any residential or commercial lot;
 - (2) Each fire hydrant shall have a minimum six (6) inch main supply line;
 - (3) Fire hydrants shall be maintained by the entity supplying water thereto; and
 - (4) Standard hydrant design (National Standard Thread, one 4 1/2-inch steamer, two 2 1/2-inch discharge connections, etc.) and maintenance be utilized throughout the County.
- g. Underground utilities required. All development shall have utilities placed underground where practical. High voltage electrical lines as defined in Section 1.8(1) shall be exempt from this requirement.

ARTICLE V. PLATS AND SUBDIVISION DATA

SECTION 5.1. THE PRELIMINARY PLAT AND SUPPORTING DATA

The preliminary plat shall be drawn to a scale of not less than two hundred (200) feet to the inch nor more than fifty (50) feet to the inch. It shall be superimposed on a topographic map with contour lines shown at one (1) or two (2) foot intervals. In addition, the preliminary plat shall show the following:

- a. Title data. Subdivision name, the names and addresses of the owner or owners, name of the designer of the plat, the scale, date, and approximate north point;
- b. Vicinity sketch. A key map or vicinity sketch at a scale of not less than one (1) inch to one thousand (1,000) feet showing the relation of the property to adjoining properties;
- c. Existing data. Location of existing and platted property and street lines, existing buildings, water mains, sewers, drainpipes, culverts, bridges, watercourses, railroads and spurs, political boundary lines, zoning district lines, parks, playgrounds, public easements both on the land to be subdivided and on the land immediately adjoining, names of existing streets on and adjoining the land to be subdivided, and the names of adjoining subdivisions and property owners;
- d. Data relating to proposed subdivision. The names, locations and dimensions of proposed streets, alleys, crosswalks, lots, easements, building setback lines, building restriction flood lines, parks, playgrounds and other open restrictions or restricting covenants;
- e. Data relating to surrounding area. Where the preliminary plat submitted includes only a part of the subdivider's tract, an additional sketch showing the prospective future street system, proposed public open spaces, and other features for the development of the entire tract shall accompany the preliminary plat;
- f. Utility plans. Preliminary plans of proposed utility layouts for public water and/or sewer, if these utilities are to be furnished to the subdivision, shall be provided, the preliminary plan shall contain a statement as to the proposed method of water supply and/or sewage disposal;
- g. Street cross sections. Typical cross sections of proposed streets shall be drawn, showing width and proposed construction of roadways at a scale of not less than thirty (30) feet to the inch; and
- h. Other improvements. Where other improvements are to be provided in the subdivision, appropriate plans shall accompany the preliminary plat.

SECTION 5.2. THE FINAL PLAT

The final plat shall be submitted as a reproducible map in cloth, linen, film or other permanent material; shall be drawn to a scale of not larger than fifty (50) feet to the inch, and not less than two hundred (200) feet to the inch; and shall have an outside margin size of either eighteen (18) by twenty-four (24) inches or twenty-four (24) by thirty-six (36) inches. Where size of land areas require, maps may be shown on two (2) or more sheets with appropriate match lines, and each section shall contain a key map showing the location of the sections. In addition, the final plat shall show the following:

- a. General. The final plat shall conform to the approved preliminary plat and to the requirements of North Carolina General Statutes, Section 47-30.
- b. Engineer's or surveyor's certificate. There shall appear on each final plat a certificate by the person making the survey, or on each map where no survey was made, a certificate by the person under whose supervision such survey or such map was made, stating the origin of the information shown on the map, including deeds and any recorded data shown thereon. If a complete survey was made, the error of closure as calculated by latitudes and departures must be shown. Any lines on the map that were not actually surveyed must be clearly indicated and a statement included revealing the source of information. The execution of such certificate shall be acknowledged, before any officer authorized to take acknowledgements, by the person preparing the map. All maps to be recorded shall be probated as required by law for the Register of Deeds. The certificate shall include the source of information for the survey and data indicating the accuracy of closure of the map and shall be in substantially the following form:

"I, _____, certify that this map was (drawn under my supervision) from (actual survey made under my supervision) (deed description recorded in Book ____, page __; Book __, page __; etc.) (other); that the error of closure as calculated by latitudes and departures is 1) ____, that the boundaries not surveyed are shown as broken lines plotted from information found in Book ____, page __; that this map was prepared in accordance with North Carolina General Statutes, Section 47-30, as amended."

"Witness my hand and seal this __ day of _____, AD 19__.

(Acknowledgement)

Surveyor or Engineer

- c. Certificate of ownership and dedication. On the final plat, the following shall be printed over the signature of the owner(s):

"The undersigned here acknowledges that the land shown on this plan is within the subdivision regulation jurisdiction of Town of Falcon and that this plat and allotment is (my or our) free act and deed and that (I or we) do hereby dedicate to public use as (streets, parks, playgrounds, school site, open spaces and easements) forever all areas so shown or indicated on said plat."

Owner(s)' Signature(s)

- d. Certificate of Registration. Space shall be provided on the final plat for the Certificate of Registration on the Register of Deeds as required by law.
- e. Certificate of approval of final plat. The following certificate shall appear on the final plat with a blank line provided for the signature of the Cumberland County Planning Director:

"Approved by the Cumberland County Joint Planning Board on the ____ day of _____, 19__."

Signed _____ (Seal)
Planning Director

- f. Certificate of private street status. The following certificate shall appear on any final plat containing a private street as provided in this ordinance (See Section 4.2):

"No public agency is presently responsible for maintenance of the private street(s) shown on this plat. The private streets are for the use of all owners of property within this subdivision, their guests and all representatives of governmental agencies for ingress and egress, and for the construction, inspection and maintenance of streets, utilities and drainage."

- g. Farmland Protection Area Disclosure Notice. All final plats or deeds for subdivisions located within the designated Farmland Protection Area as defined on the current Land Use Plan Map, shall contain a disclosure notice that states that:

"This property or neighboring property may be subject to inconvenience, discomfort, and the possibility of injury to property and health, arising from normal and accepted farming and agricultural practices and operations, including but not limited to noise, odors, dust, the operation of any kind of machinery, the storage and disposal of manure, and the application of fertilizers, soil amendments, herbicides, and pesticides."

ARTICLE VI. LEGAL PROVISIONS

SECTION. 6.1. VARIANCES

The Falcon Board of Commissioners may vary the requirements of this ordinance where because of the size of the tract to be subdivided, its topography, the condition or nature of adjoining areas, or the existence of other unusual physical conditions, strict compliance with the provisions of this ordinance would cause an unusual and unnecessary hardship on the subdivider. In granting variances, the Falcon Board of Commissioners may require such conditions as will secure, in so far as practicable, the objectives of the requirements varied. Any variance, thus granted, is required to be entered in writing in the minutes of the Falcon Board of Commissioners and the reasoning upon which departure was justified set forth.

SECTION 6.2. RESPONSIBILITY OF THE REGISTER OF DEEDS

From and after the adoption of this ordinance by the Falcon Board of Commissioners and the filing of a copy with the Register of Deeds, no subdivision plat of land within the Town's subdivision regulation jurisdiction shall be filed or recorded until it shall have been submitted to the Planning Department and approved by the Falcon Board of Commissioners and until such approval shall have been entered on the face of the plat in writing, by the Mayor of the Town of Falcon. The Register of Deeds shall not file a plat of subdivision land located within the territorial jurisdiction of Town of Falcon, which has not been approved in accordance with these provisions, nor shall the Clerk of Superior Court order or direct the recording of a plat where such recording would be in conflict with this section.

SECTION 6.3. DEED DISCLOSURE CERTIFICATION; PRIVATE STREETS

Every deed created for a lot served by a private street within the limits of this ordinance and to be filed with the Register of Deeds for Cumberland County shall include the following statement: "It is hereby acknowledged that a Subdivision Streets Disclosure Statement has been executed in accordance with G. S. 136-102.6."

SECTION 6.4. THE APPROVAL OF PLAT NOT TO CONSTITUTE ACCEPTANCE OF DEDICATION

The approval of a plat pursuant to this ordinance shall not be deemed to constitute or effect the acceptance by the Town or the public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat.

SECTION 6.5. PENALTY

From and after the effective date of this ordinance, any person who being the owner, or agent of the owner, of land located within the platting jurisdiction of this ordinance as defined in Section 1.4.of this ordinance, thereafter transfers or sells such land by reference to a plat showing a subdivision of

land before such plat has been properly approved under this ordinance and recorded in the office of the Register of Deeds, shall be guilty of a misdemeanor. The description of metes and bounds in the instrument of transfer, or other document used in the process of selling or transfer, shall not exempt the transaction from such penalties. The Town, through its Town Attorney or other official designated by the Falcon Board of Commissioners, may enjoin such illegal transfer or sale by action for jurisdiction.

SECTION 6.6. VALIDITY

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

SECTION 6.7. EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its passage by the Falcon Board of Commissioners this the 2nd day of June, 1998.

ARTICLE VII. FEES

SECTION 7.1. FEES

For each preliminary plat, final plat, each group development plan, and each site plan as required under this ordinance filed, the owner or agent of said property shall pay a nonrefundable filing fee of twenty-six dollars (\$26) to the Cumberland County Joint Planning Board in accordance with a fee schedule recommended by the Planning Board and approved by the Falcon Board of Commissioners.

TOWN OF FALCON SUBDIVISION ORDINANCE

**ADOPTED BY THE FALCON BOARD OF COMMISSIONERS: JUNE 1, 1998
EFFECTIVE DATE: JUNE 2, 1998**

PREPARED BY: CUMBERLAND COUNTY JOINT PLANNING DEPARTMENT