



Building the Hometown of Tomorrow

SUBDIVISION AND LAND DEVELOPMENT ORDINANCE

Town of Canton, North Carolina

Adopted

July 28, 2022



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CHAPTER 3

SECTION 9

SUBDIVISION AND LAND DEVELOPMENT REGULATIONS

Article A. General Provisions

Section 9-3001. Short Title

This chapter shall be known and may be cited as, “The Subdivision and Land Development Ordinance of Town of Canton, North Carolina” and may be referred herein as the “Subdivision and Land Development Ordinance,” or “this Ordinance.”

Section 9-3002. Authority and Effective Date

The Board of Aldermen of the Town of Canton pursuant to the authority conferred by an act of the General Assembly of the State of North Carolina (General Statutes, Chapter 160D, Article 8) does hereby ordain and enact into law these articles and sections.

This Ordinance is effective as of July 28, 2022, and shall repeal and replace the Subdivision Regulations, adopted originally on April 12, 1977, and revised on September 15, 1987, September 14, 1993, and June 23, 2021.

Section 9-3003. Jurisdiction

This Ordinance shall govern all subdivisions and development of land within the corporate limits of the Town and extraterritorial jurisdiction as now or hereafter established.

Section 9-3004. Purpose and Intent

The purpose of this Ordinance is to establish rules and regulations, procedures and standards for the land development and the subdivision of real estate within the corporate limits and extraterritorial jurisdiction of the Town to, among other things:

- Ensure proper legal description, identification, monumentation and recording of real estate boundaries;
- Establish design standards for the orderly, efficient development of land;
- Provide safe and convenient access and circulation of vehicular and pedestrian traffic;
- Provide suitable building sites which drain properly and protect natural resources;
- Ensure the safe, adequate, and timely installation of utilities and improvements;
- Conserve and protect the physical, economic resources of the Town and its environs.
- Ensure conformance of land development with the provisions of Chapter 4, Zoning, Chapter 160D of the North Carolina General Statutes, guidelines of the Future Land Use Plan of the Town of Canton, and other development-related local, regional, and federal regulations and plans.
- Promote and protect the health, safety, and welfare of all citizens of Canton; and,
- Provide uniform procedure and application standards for the subdivision and development of land.

Section 9-3005. Applicability

- A. This Ordinance is applicable to all development of land, including but not limited to divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions when anyone (1) or more of those divisions are created for the purpose of sale or building development (whether immediate or future). This Ordinance is also applicable to all divisions of land involving the dedication of a new street or a change in existing streets. However, the following divisions of land shall not be included within the definition of subdivision nor be subject to the regulations herein:
1. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town of Canton.
 2. The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved.
 3. The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
 4. The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the Town of Canton, as contained herein.
 5. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.
- B. Whenever the provisions of any other statute or ordinance require a greater standard or impose more restrictive standards than are required by any regulations made under authority of this chapter, the provisions of such statute shall govern.
- C. This ordinance does not repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically or explicitly repealed by this chapter, or any restrictions placed upon property by covenant, deed, or other private agreement unless objectionable hereto.
- D. Provisions in Chapter 4, Zoning, providing for varying design standards shall not be considered in conflict with the provisions of this chapter. To the extent that a conflict may exist between the provisions of this chapter and those of Chapter 4, Zoning, the provisions of Chapter 4 shall apply.
- E. From and after the effective date of this ordinance, any subdivision or land development for which application is made shall be in conformity with this chapter and all standards and specifications adopted as part of such ordinance.
- F. No parcel containing any deed restriction or previous plan restriction forbidding subdivision of that parcel may be further subdivided.

Section 9-3006. Validity and Severability.

It is hereby declared to be the intent of the Board of Aldermen that:

- A.** If a court of competent jurisdiction declares any provisions of this Ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Ordinance shall continue to be separately and fully effective.
- B.** If a court of competent jurisdiction finds the application of any provision or provisions of this Ordinance to any lot, building or other structure or tract of land to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to the person, property or situation immediately involved in the controversy, and the application of any such provision to other persons, property or situations shall not be affected.

Article B. Procedures

Section 9-3007. General Provisions

In order to establish an orderly process to develop land within the jurisdiction of the Town of Canton, consistent with standard development practices and terminology, this section provides a clear and comprehensible development process that is both fair and equitable to all interests including the applicants, affected neighbors, the Administrator, Staff, and related agencies, and the Town Board of Aldermen.

A. No Construction to Commence without Permit

No land shall be used or occupied, and no structures shall be erected, moved, extended, or enlarged, nor shall any timbering, clearing, and grubbing, or filling of any lot for the construction of any building be initiated until the Administrator has issued an appropriate development approval which will certify that the proposed work is in conformity with the provisions of this ordinance.

B. Development Approvals Run with the Land

Unless provided otherwise by law, all rights, privileges, benefits, burdens, and obligations created by development approvals made pursuant to this Article attach to and run with the land.

Section 9-3008. Subdivisions and Land Developments

A. General Requirements

1. Compliance Required

Within the jurisdiction of this Article, no land development or subdivision shall be made, platted, or recorded for any purpose, nor shall parcels resulting from such subdivision be sold or offered for sale unless such subdivision meets all the

requirements of this Article and applicable development regulations contained in this Ordinance.

2. Final Plat Approval Required

- a. No Final Plat of any land development or subdivision within the Town of Canton shall be filed or recorded by the County Register of Deeds until it shall have been prepared, submitted to, reviewed, and approved by the appropriate authority, in accordance with this Article, and such approval entered in writing on the plat.
- b. No street shall be accepted and maintained by the Town, nor shall any street lighting, water, or sewer be extended to or connected with any subdivision of land nor shall any permit be issued by an administrative agent or department of the Town, for the construction of any building or other improvement requiring a permit, upon any land concerning which a plat is required to be approved unless and until the Final Plat has been approved by the Administrator and recorded with the County Register of Deeds.
- c. Filing or recording of a plat of a subdivision not having the approval of the appropriate authority, shall be punishable as provided by Article F.

3. Exempt Subdivisions

Any plat of property exempted from the regulations of this Ordinance (Section 9-3005) shall be certified as exempt by the Administrator or, in the limited circumstances specified in G.S. 47-30.f.(11), a professional land surveyor prior to such plat being recorded. Such plat is not exempt from any zoning, water supply watershed, or other local ordinances. Any exemption from the regulations of this chapter shall not be deemed an exemption from any other applicable ordinance.

4. Improvements/Performance Guarantees

Before Final Plat approval, each land development and/or subdivision shall either contain the improvements specified in this ordinance and all conditions of approval or a satisfactory performance guarantee shall have been posted with the Town pursuant to Section 9-3015. The improvements shall be installed in accordance with the requirements of this article and paid for by the subdivider unless other means of financing are specifically allowed within the requirements of Section 9-3015 and paid for by the subdivider. The land shall be dedicated and reserved in each subdivision as specified in Article E. Each subdivision shall adhere to the minimum standards of design established by this ordinance.

5. Limitation

No portion of land that has been the subject of Minor Subdivision activity shall be the subject of additional Minor Subdivision activity for a period of two years from the most recent Minor Subdivision, except that additional Minor Subdivision activity may be considered in accordance with the review procedure for Major Subdivisions if such activity is proposed within a phase of a previously approved Major Subdivision that had been clearly reserved for future development on a properly approved and recorded Final Plat. This shall also apply to proposals for the creation of condominium lots. This shall not prevent the recombination and subsequent re-subdivision of parcels recently the subject of a Minor Subdivision.

6. Penalties for Selling Lots in an Unapproved Subdivision

The owner or agent of the owner of any land to be subdivided within the area of jurisdiction of this Ordinance who transfers or sells or agrees to sell such land by reference to or exhibition of or by any other use of a plat of a subdivision of such land before such plat has been approved by the applicable authority and recorded by the register of deeds, shall be in violation of this Ordinance and subject to the regulations of Article F. The description of the land by metes and bounds in the instrument of transfer shall not exempt the transaction from these penalties. Such transfer, sale, or agreement may be enjoined by appropriate action.

7. Effect of Plat Approval on Status of Dedication, Acceptance

The effect of plat approval on the status of dedications is as follows:

- a. The approval of a plat shall not be deemed to constitute or affect an acceptance by the public for maintenance purposes of the dedication of any road, ground, or other improvements shown upon the plat.
- b. Acceptance of such dedications shall be only by resolution of the Board of Aldermen or appropriate action by the State Department of Transportation. The Board of Aldermen shall consider such resolutions only on a determination that any required improvements have been properly installed and all applicable conditions met, as set out in this Ordinance.

8. Effect of Subdivision Regulations on Naming Streets

It shall be unlawful for any person, in laying out any new street or road, to name such street or road on any plat, by any marking, or in any deed or instrument without first getting the approval of the appropriate authority. Any person violating this subsection shall be subject to enforcement procedures as provided in Article F.

9. **Phased Development.** If an applicant proposes that a subdivision or land development will be constructed in phases, the following procedure shall apply:

- a. A Master Plan showing the entire proposed subdivision or land development and the phases of subdivision or land development, proposed density, proposed type and location of utilities, and proposed development timetable shall be submitted to the Administrator for staff review. Approval of a Master Plan by Staff as part of the Preliminary Plat application process for a subdivision shall not constitute approval of the Preliminary Plat nor shall such approval of a Master Plan be considered as an acceptance of a Preliminary Plat, in whole or in part.
- b. No Master Plan shall be filed as part of a Site Plan or Preliminary Plat unless it includes at least one phase of a multi-phase development intended for immediate development or constitutes the Master Plan for the entire development intended to be developed immediately.
- c. Subdividers of phased developments are hereby put on notice that the terms and conditions of the Town's ordinances will change from time to time. In addition to any rights conferred by G.S. 143-755 and 160D-108 plans submitted to for review in accordance with Chapter 4, Zoning, shall be deemed to have a vested right pursuant to North Carolina General Statutes to continue under the terms and conditions of the ordinance as written on the date said plans were deemed complete.
- d. Each phase of subdivision shall be preceded by submission and approval of a Preliminary Plat. Each phase of a land development shall be preceded by submission and approval of a Site Plan.
- e. As each phase of the subdivision or land development with the dedication of public utilities is completed, a final as-built plan and Final Plat must be submitted, approved for that phase, and recorded, prior to the sale or conveyance of any lot in that phase.

B. Exempted Subdivisions and Expedited Subdivision Reviews

The following divisions of land are either exempt or subject to different submittal and review processes. The Final Plats for the following, shall meet the drafting requirements contained in Section 9-3010 and 3011.E. and bear the appropriate certificates.

- 1. The division of land contained in Section 9-3005 shall be exempt and not subject to the subdivision or development regulations prescribed within this ordinance.
- 2. Expedited Reviews

Only a plat for recordation (Final Plat) is required for the division of a tract or parcel of land in single ownership if all the following criteria are met:

- a. The tract or parcel to be divided is not exempted under Section 9-3005.A.2.

- b. No part of the tract or parcel to be divided has been divided under this subsection into the ten (10) years prior to division.
- c. The entire area of the tract or parcel to be divided is greater than five (5) acres.
- d. After division, no more than three (3) lots result from the division.
- e. After division, all resultant lots comply with all of the following:
 - (1) All lot dimension size requirements of the applicable land-use regulations, if any.
 - (2) The use of the lots is in conformity with the applicable zoning requirements if any.
 - (3) A permanent means of ingress and egress are recorded for each lot.

Section 9-3009. Applications for Subdivision and Land Development

A. Application Required

- 1. Applications for development approvals may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land with the permission of the landowner, or an authorized agent of the landowner.
- 2. All application packets for development approval shall be submitted to the Administrator, including their application, application fee, all appropriate documentation, and the plan sets in accordance with the requirements of this Section and the Fee Schedule adopted by the Town Board of Aldermen.
 - a. Two (2) electronic copies of each completed application packet shall be submitted in a .pdf format to the Administrator. One shall be submitted via email, and one shall be delivered in-person to the Town building with the required application fee.
 - b. Paper copies of the completed application packet shall be submitted, if requested by the Administrator.

B. Completeness Review

1. Completeness Determination

Applicants shall submit applications to the Administrator at least forty-five days prior to the Board meeting at which the application shall be heard. Until an application is determined to be complete in accordance with the requirements of this Ordinance, an application has not been submitted.

Upon receiving a development application, the Administrator shall, within ten (10) business days, determine whether the application is complete or incomplete. A complete application is one that:

- a. Contains all information and materials required by this Subdivision Ordinance for submittal of the applicable type of application, and in sufficient detail, format, and readability for the Administrator to evaluate the application for compliance with applicable review standards; and
- b. Is accompanied by the fee established for the applicable type of application.

2. Application Incomplete

- a. On determining that the application is incomplete, the Administrator shall, within ten (10) business days following submittal, provide the applicant written notice of the submittal deficiencies electronically. The applicant may correct the deficiencies and resubmit the application for a completeness review.
- b. If the applicant fails to resubmit an application within fifteen (15) calendar days after being first notified of submittal deficiencies, the application submittal shall be considered abandoned. If an applicant submits a request in writing to the Administrator within fifteen (15) calendar days of the application abandonment date, fifty (50%) percent of the application fee paid for the withdrawn application shall be refunded.

3. Application Complete

On determining that the application is complete, the Administrator shall:

- a. Accept the application as submitted in accordance with the procedures and standards of this Ordinance in effect at the time of the submittal; and
- b. Provide the applicant written notice of application submittal acceptance electronically.

Section 9-3010. Development Application Process

Table 1
Development Application Process

Development Approval	Ordinance Sections	Process Type	Reviewer	Public Notice	Approving Body	Appeal	Valid*	Extension
Site Plan / Master Plan	9-3011.B 9-3012.B.4 9-3013.A	Admin	Admin/ TRC / PB	Y	BOA	ZBOA	1 year	1 year
Minor Subdivision	9-3011.C 9-3012.B.4 9-3013.C	Admin	Admin/ TRC	N	Staff	ZBOA	1 year	Resubmit
Major Subdivision	9-3011.D 9-3012.B.4 9-3013.A	Admin	Admin/ TRC / PB	Y	BOA	ZBOA	1 year	1 year
Final Plat	9-3011.E 9-3012.B.4 9-3013.C	Admin	Admin/ TRC	N	Staff	ZBOA	30 days to file	Resubmit
Developer Agreement	9-3014	Legislative	Admin/PB	Y	BOA	Superior Court	Varies	Varies
Construction Plans	9-3012.B.4 9-3013.B	Admin	Admin/ TRC	N	Staff	Superior Court	2 years	1 year
Building Permit	N/A	Admin	County Permitting Staff	N	County	Superior Court	6 months	Resubmit

Admin = Administrator (reviewer) or Administrative (process)

PB= Planning Board

BOA = Board of Aldermen

ZBOA = Zoning Board of Adjustment

TRC = Technical Review Committee

All Legislative and Quasi-Judicial Processes require public hearings in accordance with the procedures outlined in the Zoning Ordinance.

* In accordance with NCGS 160D-108(d), unless otherwise specified, development permits expire one (1) year after issuance unless work authorized by the permit has substantially commenced.

Section 9-3011. Subdivision and Land Development Review Process

The following Review Process Outline indicates the steps for submittals, reviews, and development approvals in accordance with the requirements of the Town of Canton Zoning Ordinance and Subdivision and Land Development Ordinance. It should be noted that some applications may require additional information specific to the development approval being sought. Further, these processes may run concurrently, such as a Special Use Permit and Site Plan Approval or Major Subdivision and Rezoning.

- A. Pre-Submittal Meeting/Concept Plan.** The purpose of this meeting and plan is for the applicant to discuss the proposed development and become familiar with the regulations affecting the land to be subdivided and/or developed. The Town shall provide feedback and guidance to the submission and approval process.

- STEP 1: Application
Fees, if required
Concept Plan
- STEP 2: Administrative Review
- STEP 3: Applicant Meeting.

B. Site Plan/Master Plan

- STEP 1: Application
Fees
Existing Conditions
Project Description
Site Plan (individual) or Master Plan (phased)
- STEP 2: Completeness Review
- STEP 3: Administrative Review, and Resubmittals, as necessary.
- STEP 4: Planning Board Review and Recommendation
- STEP 5: Board of Alderman Review and Decision
- STEP 6: Construction Drawings
Landscape Plan
Environmental Permits
- STEP 7: Grading and Building Permits
- STEP 8: Construction
- STEP 9: Final Plat Process (required if any public infrastructure)
See Section 9-3011.E

C. Minor Subdivision. Use this process for subdivisions involving no new streets or roads, or right-of-way dedication, and where four (4) or fewer lots result after the subdivision is completed.

- STEP 1: Application
Fees
Final Plat
- STEP 2: Completeness Review
- STEP 3: Administrative Review, and Resubmittals, as necessary
- STEP 4: Staff Approval
- STEP 5: Submission of Final Plat for Town of Canton Staff Signatures
- STEP 6: Final Approval and Recording at Haywood County (within six (6) months of approval)

D. Major Subdivision. This process is used for all subdivisions not considered a Minor Subdivision, an exempted subdivision, or an expedited review. Major Subdivisions shall be subject to a Concept Plan and Pre-Submission Meeting

- STEP 1: Application
Fees
Existing Conditions
Project Description

- Preliminary Plat
- Drainage Calculations
- Developer Agreement (if needed)
- Protective Covenants, Conditions, and Restrictions (if applicable)
- STEP 2: Completeness Review
- STEP 3: Administrative Review and Resubmittals, as necessary
- STEP 4: Planning Board Review and Recommendation
- STEP 5: Board of Aldermen Review and Decision
- STEP 6: Construction Drawings
- Landscape Plans
- Environmental Permits
- STEP 7: Grading and Building Permits
- STEP 8: Construction of Required Improvements
- STEP 9: Final Plat - See Section 9-3011.E

E. Final Plat.

- STEP 1: Application
- Fees
- Final Plat (Compliance with G.S. 47-30, as amended)
- Guarantee of Improvements
- Certification of Infrastructure Installation
- As-Built Drawings
- STEP 2: Completeness Review
- STEP 3: Administrative Review and Resubmittals, as necessary
- Inspections
- STEP 4: Staff Approval
- STEP 5: Submission of Final Plat for Town of Canton Staff Signatures
- STEP 6: Final Approval and Recording at Haywood County (within six (6) months of approval)

Section 9-3012. Plan and Plat Requirements

Required plan sheets submitted as a part of an application must have the necessary information for the Administrator and Boards to make an adequate and informed decision on the proposed land development. However, the Administrator may waive or require additional information based on the type of application, site conditions, or the stage of the development process in which the plan is being reviewed.

A. General

Unless otherwise noted, plans required by this Ordinance, or any portion thereof, except for Concept Plans, shall be prepared:

1. By an engineer, architect, landscape architect, or land surveyor who is authorized by the State of North Carolina to practice as such;
2. To a scale of not less than one (1) inch equal to one hundred (100) feet (1" = 100');

3. In one or more sheets of appropriate size (at least 24" x 36") to show clearly the information required by this section and to facilitate the review and approval of the development or subdivision;
4. Showing all horizontal dimensions in feet;
5. Indicating decimal fractions of a foot shall be rounded to the closest one-hundredth of a foot (0.00); all bearings shall be in degrees, minutes, and seconds; and,
6. Showing the name and address of the owner and/or developer, the north arrow, the date, the scale of the drawing, and the number of sheets. In addition, it shall reserve a blank space three (3) inches in width by five (5) inches in length for the use of the approving authority.

B. Plans and Plats

The following plan types are required to be submitted with applications for development approvals in the Town of Canton in accordance with the procedures in Section 9-3013.

1. **Concept Plan.** A Concept Plan is drawn to approximate scale on the appropriate sheet or sheets of Haywood County's tax map series and shall show the following. The Concept Plans, when submitted or discussed as a portion of a pre-submittal meeting, shall not be a binding document nor shall its submission or review be construed as an approval.
 - a. A vicinity map, including north arrow, showing the location of any proposed building(s) or subdivision in relation to neighboring tracts, subdivisions, roads, and waterways.
 - b. The name, address, and telephone number of the property owner.
 - c. The name of the proposed development project.
 - d. The boundary lines of the property.
 - e. The total acreage.
 - f. The existing and proposed land uses and the existing land uses of adjacent properties.
 - g. The existing topographic conditions of the property including contours not exceeding five-foot intervals. Haywood County topographic information may be used to fulfill this requirement.
 - h. The location, names, and private and recorded right-of-way widths of any existing streets on or within three hundred (300) feet of the land to be subdivided.

- i. Lots of adjacent developed or platted properties.
- j. Zoning classification of the land and adjacent properties.
- k. Environmental features including:
 - (1) Watershed classification, if any.
 - (2) Delineation of slopes greater than twenty-five (25%) percent.
 - (3) Floodway, non-encroachment, and surface water protection area delineation.
 - (4) Floodplain delineation.
- l. Tentative street layout,
- m. Approximate right-of-way widths,
- n. Lot arrangements,
- o. Drainage and utility easements,
- p. Sites for schools, parks, churches, and other non-residential uses,
- q. The approximate number of lots

2. Existing Conditions Plan

The existing conditions plan is a necessary part of the application process as it highlights the conditions of the subject site and allows both the applicant and the Town to take every effort to preserve environmental features prior to site design.

- a. **Scale:** Denote the scale both graphically and numerically with the north arrow and declination.
- b. **Vicinity Map:** Include a vicinity map at a scale no smaller than one (1) inch equals one thousand two hundred (1,200) feet showing the location of the development with respect to adjacent streets and properties.
- c. **Topography.** Original contours at intervals not greater than five (5) feet for the entire area to be subdivided. Contours are to extend into the adjacent property for a distance of three hundred (300) feet at all points where street rights-of-way connect to the adjoining property, and fifty (50) feet at all other points of common project boundaries. Haywood County digital topography may be used to satisfy this requirement.
- d. **Survey/Existing Development:** The boundary, as determined by survey, of the area to be developed with all bearings and distances shown and the location within the area, or contiguous to it, of any existing:

- (1) Buildings and structures
- (2) Streets,
- (3) Rights-of-ways,
- (4) Bridges,
- (5) Culverts,
- (6) Railroad lines,
- (7) Water courses,
- (8) Cemeteries.
- (9) Easements,
- (10) Utilities,
- (11) Driveways and curb cuts,
- (12) Sidewalks,
- (13) Parking and loading,
- (14) Brownfields or any known contaminated areas,
- (15) Tree stands,
- (16) Any building restriction areas (i.e., flood hazard areas, stream buffers, watershed protection districts, and/or jurisdictional wetlands),
- (17) Any other environmentally significant areas, and/or
- (18) Any historic or cultural resources.

e. Significant Vegetation:

- (1) A description and GPS location of significant vegetation twenty-four (24) inches in diameter at breast height (DBH) or greater.
- (2) The average size and height of stands of homogenous trees.
- (3) The typical tree species, size, spacing, and general health and vigor of forest stands.
- (4) Identify all free-standing open-grown or field-grown specimen trees located on the site.

f. Natural Features: Show all natural features influencing site design such as the location, description, delineation, and dimensions of:

- (1) Wetlands,
- (2) Rock outcroppings,
- (3) Slopes steeper than twenty (20%) percent,
- (4) Perennial streams,
- (5) Stream buffers,
- (6) Street, yard, or any other required buffers (existing)
- (7) Water quality / riparian buffers
- (8) Natural drainage ways
- (9) Lakes, streams, ponds, and other water bodies,
- (10) The exact location of floodplain, flood fringe, and floodway (FEMA map number, date, and zone designation)
- (11) Soil types (including prime agricultural soils), and
- (12) Historical or cultural features, as well as
- (13) Designated open space or conservation easements on adjoining properties.

(14) Viewsheds

g. Subject and Surrounding Property Information

- (1) Owner name and address
- (2) PIN and/or Book and Page
- (3) Zoning
- (4) Use

3. **Landscape Plan.** The Landscape Plan shall include, at a minimum, the following information at a scale no smaller than one (1) inch equals one hundred (100) feet:

- a. **Existing Landscape:** General location, type, and quantity of existing plant materials, including those areas to be left in a natural state. Information can be shown on the existing conditions Sheet. All vegetation considered for preservation shall be shown on the Landscape Plan.
- b. **Proposed Landscape:** Locations, sizes, and labels for all proposed plants, including those in rights-of-way.
- c. **Proposed Hardscape Improvements:** Location of other hardscape improvements such as walls, paving, courtyards, and walks.
- d. **Landscape Protection:** Methods and details for preserving the critical root zone (CRZ) of existing plant materials during construction.
- e. **Plant Lists:** Plant lists with common name, botanical name, quantity, spacing, condition (B&B, container) and size/height of all proposed landscape material at the time of planting. Plant list should also indicate what ordinance requirement the proposed plant is being used to fulfill (e.g., street tree, buffer, vehicle use area). Key of symbols used on plan should be identified in the plant list.
- f. **Proposed Landscape Improvements:** Location, size, and labels for all required and proposed landscaping. Include the location and description of other landscape improvements, such as earth berms, walls, fences, screens, sculptures, fountains, streetlights, and parking area lights, courtyards, walks, or paved areas.
- g. **Installation Data:** Planting and installation details as necessary to ensure conformance with all required standards.

4. **Site Plans, Master Plans, Preliminary Plats (Major), Construction Drawings, Final Plats and As-Builts**

The following plans and plats shall have a property boundary, as determined by survey, of the area to be developed with all bearings, distances, and curve data shown and depicting or containing the information indicated in the following table. An "X" indicates that information is required.

Table 2
Drafting Requirements for Plans and Plats

Information Required	Site Plan Master Plan Preliminary Plat	Construction Drawing	As-Built	Final Plat
Cover Sheet:				
Name of Development	X	X	X	X
Scale (Graphic and written)	X	X	X	X
North Arrow	X	X	X	X
Vicinity map	X	X	X	
Address of Development or Subdivision, including PINs	X	X	X	X
Town Project Number	X	X	X	
Name, address, and contact information of owner of record, applicant, and/or developer	X	X	X	X
Name, Address, Phone and Seal of the Plan Preparer	X	X	X	X
Zoning Classification (existing and proposed)	X	X	X	X
Site Acreage	X	X	X	X
Certification Blocks (See Appendix A)				X
Title Block:				
Property title, PIN no., subdivision name and/or designation	X	X	X	X
Location (township, county, state)	X	X	X	X
Date(s) of survey and/or plat preparation and revisions	X	X	X	X
Name, address, registration number and seal of surveyor, engineer, or other professional / preparer	X	X	X	X
Site Data / Calculations:				
Total acreage of tract and breakout of acreage of parks, open space, zoning district and proposed land use	X	X	X	X
Total number of lots existing and proposed	X	X	X	
Total number of housing units by housing type	X	X	X	
Building information (sq footage, number of stories)	X	X	X	
Parcel data (required and proposed)	X	X	X	
-Lot Size	X	X	X	X
-Setbacks	X	X	X	X
-Building Height	X	X	X	
-Lot Width	X	X	X	
-Building Coverage	X	X	X	
Typical Lot Diagram (show building orientation, driveway location, setbacks, etc)	X	X		
Impervious Surface Calculations	X	X	X	

Information Required	Site Plan Master Plan Preliminary Plat	Construction Drawing	As-Built	Final Plat
Parking calculations (required and proposed)	X	X	X	
Linear feet in roads	X	X	X	
Proposed utility providers	X	X	X	
Dates, Status, Conditions of previous approvals and applications relevant to the application or site	X	X	X	
Required notes	X	X	X	X**
Existing Conditions Plan (See Section 9-3012.B.2)	X	X		
Proposed Site Features				
Proposed street, lot, and open space layout (subdivision)	X	X	X	X
Proposed building layout (Site Plan)	X	X	X	
Existing property lines to be subdivided or recombined	X	X	X	X
Exact lot lines, bearings, distances, and lot/block nos.	X	X	X	X
Zoning District boundaries	X	X	X	X
Minimum building setback lines	X	X	X	X
Proposed Lot Area of each new lot created	X	X	X	X
Proposed parks, school sites, or other open spaces and responsible parties/owners	X	X	X	X
The zoning classifications of the tract and adjoining property	X	X	X	
Buffer Widths, Street Trees, Landscaped areas (typical plantings)	X	X		X
Street Trees and other site landscaping (actual locations) – see Landscape Plan		X	X	
Retaining walls	X	X	X	
The exact location of floodplain, flood fringe, and floodway (FEMA map number, date, and zone designation)	X	X	X	X
Landscape Plan (See Section 9-3012.B.3)		X	X	
Roadways and Circulation				
Proposed streets, curbs, dimensions, grades, and linear feet	X	X	X	
Connecting streets and platted streets on adjoining properties	X	X	X	X
Rights-of-way, locations and dimensions	X	X	X	X
Approximate or final grades	X	X	X	
Street names	X	X	X	X
Roadway cross-sections		X	X	
Sidewalks, bike lanes, and other improvements	X	X	X	
Circulation drives	X	X	X	

Information Required	Site Plan Master Plan Preliminary Plat	Construction Drawing	As-Built	Final Plat
Parking and loading areas, dimensioned (ADA Compliant)	X	X	X	
Bicycle parking	X	X	X	
Electric Vehicle Charging Stations	X	X	X	
Paths, greenways, bike trails	X	X	X	
Existing and Proposed Utilities: *				
Utility, drainage, access, conservation and other easements of record	X	X	X	X
Transmission lines / provision of electrical service	X	X	X	
Natural gas lines	X	X	X	
Sanitary sewers, location, line size, top and invert elevations	X	X	X	
Wastewater Treatment	X	X	X	
Water lines, location and line size	X	X	X	
Cable/Broadband/Fiber	X	X	X	
Stormwater facilities, drains, culverts, ponds	X	X	X	X
Plans for individual water supply and sewerage disposal connections (permission letters from agencies required to be submitted)	X	X	X	
Fire hydrants	X	X	X	
Streetlights or other site lighting	X	X	X	
Grading / Erosion Control and Sedimentation Plans				
Proposed Grading / topography at 5' intervals, elevations, and slope calculations	X	X	X	
A copy of Erosion Control Plan (approval letter from the County required to be submitted)		X	X	
Building and Architectural Elevations		X	X	
Details and Cross Sections		X	X	
Environmental Impact Statement (if needed)	X			
Watershed Protection Permit (If needed)	X			
Traffic Impact Analysis (if needed)	X			
Restrictions (Easements, Covenants) and Ownership / Maintenance Documentation				X

* Utility locations only to be noted on the Preliminary Plat and the Site Plan. Details and specifications are required with the Construction Drawings.

** If the subdivision is located within the C-A Pigeon River Critical Area Watershed Protection District as shown on the Official Zoning Map for the Town of Canton, the following statement shall appear on the Final Plat:
 "THIS PROPERTY IS LOCATED WITHIN A PUBLIC WATER SUPPLY WATERSHED; DEVELOPMENT RESTRICTIONS MAY APPLY."

Section 9-3013. Administrative Procedures

The Administrator or his/her designee will be responsible for the administration of this Ordinance. Further, the Administrator will be responsible for the issuance of permits, certain development approvals and/or determining the further applications (variance, rezoning) should an application not meet the requirements of this Ordinance or the Zoning Ordinance.

A. Site Plan / Master Plan / Preliminary Plat (Major Subdivision)

1. Applications for approval of Site Plans, Master Plans, and Preliminary Plats of Major Subdivisions shall be filed with the Administrator as outlined in this Article. The application shall be accompanied by applicable fees as approved by the Board of Aldermen.
2. The Administrator shall review the applications for completeness and for compliance with the requirements of this Ordinance. The plans shall also be reviewed by the Technical Review Committee (TRC), which consists of departments, Staff, consultants, and agencies that are charged with the review of development applications.
3. If comments and revision requests are issued by either the Administrator, Staff, or TRC indicating that the plans do not comply with the Ordinance, the applicant shall revise the plans and resubmit until no major outstanding issues remain.
4. Before acting on the preliminary development plans the Administrator shall request reports from all applicable public agencies and departments, including emergency services, schools, etc. The reports should certify compliance with or note deviations from the requirements of this section and include comments on other factors which bear upon the public interest.
5. The Administrator will schedule the matter before the Planning Board and prepare a Staff report.
6. The Planning Board shall review the Site Plan or Preliminary Plat at or before its next regularly scheduled meeting which follows at least fifteen (15) days after the Administrator receives the application.
7. The Planning Board shall, in writing, recommend to the Board of Aldermen approval, conditional approval with recommended changes, or disapproval of the Site Plan, Master Plan, or Preliminary Plat (Major Subdivision) within forty-five (45) days of its first consideration of the plat.
8. The Board of Aldermen shall take action with an administrative hearing (process is same as a legislative hearing, refer to Section 9-4132 of the Zoning Ordinance) upon an application for approval of a Site Plan, Preliminary Plat (Major Subdivision) within forty-five (45) calendar days after the recommendation of the planning board unless the applicant consents in writing to an extension of this time limit.

- a. Where applications are approved unconditionally, the Administrator shall notify the applicant of the approval date.
 - b. Where applications are approved with conditions, the Administrator shall notify the applicant in writing of the conditions and the reasons.
 - c. Where applications are denied, the Administrator shall notify the applicant of the reasons.
9. After the plans have been approved and the permits have been issued, no changes or deviations from the terms of the application, plans or permits shall be made unless specific written approval has been obtained from the Administrator, in accordance with Section 9-3017.C., Administrative Modifications.

B. Construction Drawings

- 1. Applications for approval of Construction Drawings shall be filed with the Administrator as outlined in this Article only after approval of the Preliminary Plat, Site Plan, or Master Plan has been approved. The application shall be accompanied by applicable fees as approved by the Board of Aldermen.
- 2. The Administrator shall review the applications for completeness and for compliance with the requirements of this Ordinance. The plans shall also be reviewed by the Technical Review Committee (TRC), which consists of departments, Staff, consultants, and agencies that are charged with the review of development applications.
- 3. If the plans are not in compliance with the approved Preliminary Plat, Master Plan, or Site Plan or with the provisions of the development Ordinances, comments and revision requests will be issued by either the Administrator, Staff, or TRC. The applicant shall revise the plans and resubmit until no major outstanding issues remain.
- 4. The applicant shall submit a signature set and the Administrator shall approve the Construction Drawings.

C. Minor and Expedited Subdivision Plats and Final Plats

1. Minor and Expedited Subdivision Plats

- a. Applicants for Minor Subdivisions and Expedited Subdivisions shall file an application for a Final Plat with the Zoning Administrator as outlined in this Article. The application shall be accompanied by applicable fees as approved by the Board of Aldermen.
- b. The Administrator shall review the applications for completeness and for compliance with the requirements of this Ordinance and shall issue a determination.

- c. If the Administrator finds the application and plans not in compliance with the development Ordinances, comments and revision requests will be issued by the Administrator. The applicant shall revise the plans and resubmit until no major outstanding issues remain.
- d. Reference Points shall be installed in accordance with Section 9-3013. As built drawings and remaining application materials shall be submitted and approved Final Plats shall be recorded by the County.

2. Major Subdivision Final Plats

- a. The Final Plat shall be submitted at the same scale and on the same sheet size as the Preliminary Plat and shall conform substantially to the preliminary development plan as approved. The Final Plat shall constitute only that portion of the approved Preliminary Plat which the subdivider proposed to record and develop at the time; provided, however, that the portion conforms to all requirements of this Chapter.
- b. The Administrator shall review the application for completeness and for compliance with the requirements of this Ordinance and shall issue a determination. Where applicable the Administrator may submit the application to the Technical Review Committee (TRC) which consists of departments, Staff, consultants, and agencies that are charged with the review of development applications, should the application warrant additional scrutiny based on the intensity of the proposed use, improvements or other development related concern.
- c. If the plans are not in compliance with the approved Preliminary Plat, Master Plan, Site Plan, Construction Drawings, or with the provisions of the development Ordinances, comments and revision requests will be issued by either the Administrator, Staff, or TRC. The applicant shall revise the plans and resubmit until no major outstanding issues remain.
- d. If the Major Subdivision Final Plat conforms to the approved Preliminary Plat, Master Plan or Site Plan, the Construction Drawings, requirements lawfully established under this section, and all conditions of approval, the Administrator (and TRC) shall administratively approve the final major plat within thirty (30) working days from receipt of a complete final subdivision submittal.
- e. All required improvements shall be complete, or a performance guarantee package shall be submitted in accordance with this Article and subsequently approved by the Board of Alderman as outlined in Section 9-3015. Reference points shall be installed in accordance with Subsection 3, below. As built drawings shall be provided if infrastructure has been constructed without the provision of a performance guarantee and remaining application materials shall be submitted and approved Final Plats shall be recorded by the County. If performance guarantees are in place, As-Built

drawings shall be provided to the Town prior to the issuance of Building Permits and/or Certificates of Occupancy.

3. Requirements for All Final Plats

- a. **Permanent Reference Points.** Prior to the approval of the Final Plat, permanent reference points shall have been placed in accordance with the Manual of Practice for Land Surveying in North Carolina as published by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, as per G.S. 47-30.

- (1) **Subdivision Corner Tie.** At least one (1) corner of the subdivision shall be designated by course and distance (tie) from a readily discernible reference marker. If a corner is within two thousand (2,000) feet of a U.S. Coast and Geodetic Station or N.C. Grid System coordinated monument, or Town of Canton coordinated system, then this corner shall be marked with a monument so designated by computed X and Y coordinates which shall appear on the map with a statement identifying this station or monument to an accuracy of one to ten thousand (1:10000). When such a monument or station is not available, the tie shall be made to some pertinent and readily recognizable landmark or identifiable point, physical object, or structure.

- (2) **Monuments.** Within each block of a subdivision at least two (2) monuments designed and designated as control corners shall be installed. The surveyor shall employ additional monuments if and when required. All monuments shall be constructed of concrete and shall be at least four (4) inches in diameter or square and not less than three (3) feet in length. Each monument shall have imbedded in its top or attached by a suitable means, a metal plat of noncorrosive material and marked plainly with the point, the surveyor's registration number, the month and the year it was installed, and the word "Monument" or "Control Corner." Monuments shall be set at least thirty (30) inches in the ground with at least six (6) inches exposed above the ground unless this requirement is impractical.

- (3) **Property Markers.** A steel or wrought iron pipe or the equivalent not less than three-fourths (3/4) inches in diameter and at least thirty (30) inches in length shall be set at all corners, except those located by monuments. A marker shall also be set at a point of curve, point of intersection, property corner, point of tangency and reference point unless a monument is placed at the points. Additional markers shall be placed where necessary.

- b. **Accuracy.** The allowable angular error of closure and lined error of closure for surveys within the Town limits and extraterritorial jurisdiction shall be as follows:

- (1) Angular error of closure within the Town limits shall not exceed twenty-five (25) seconds times the square root of the number of angles turned.
 - (2) Linear error of closure within the Town limits shall not exceed one (1) foot per seven thousand five hundred (7,500) feet of perimeter of the lot of land (1:7500).
 - (3) Angular error of closure beyond the Town limits shall not exceed thirty (30) seconds times the square root of the number of angles turned.
 - (4) Linear error of closure beyond the Town limits shall not exceed one (1) foot per five thousand (5,000) feet of perimeter of the lot of land (1:5000).
- c. Final Plats shall contain sufficient data to determine readily and reproduce on the ground the location, bearing and length of every street line, lot line, boundary line (with error of closure), block line and building line, whether curved or straight. This should include the radius, central angle, point of tangent, tangent distance and arcs and chords of all curved streets and curved property lines.

Section 9-3014. Legislative Procedures – Developer Agreements

A. Authorization

As authorized by G.S. 160D-1001., the Town may enter into development agreements with developers subject to the procedures of Article 10 of that Chapter and the established procedures and requirements included below.

B. General

1. The Town may not exercise any authority, make any commitment, or impose any tax or fee not authorized by law.
2. A development agreement shall not exempt the property owner or developer from compliance with the State Building Code or State or local housing codes that are not part of the local government's development regulations.
3. Development shall comply with all applicable laws, including all ordinances, resolutions, regulations, permits, policies, and laws affecting the development of the property, including permitted uses, density, intensity, design, and improvements.

C. Hearing

A development agreement must be approved by the Board of Aldermen following a legislative hearing on the proposed agreement. Notice of the hearing shall be made in accordance with Section 9-4132.(c) of the Zoning Ordinance. The notice must specify the location of the property subject to the development agreement, the development uses proposed on the property, and must specify a place where a copy of the proposed development agreement can be obtained. The legislative hearing should follow the same procedures as for a zoning map or text amendments as outlined in the Zoning Ordinance.

D. Agreement Incorporated into Ordinance

The development agreement may, by ordinance, be incorporated, in whole or in part, into any development regulation adopted by the Town.

1. A development agreement may be considered concurrently with a zoning map or text amendment affecting the property and development subject to the development agreement.
2. A development agreement may be concurrently considered with and incorporated by reference with a plan or Preliminary Plat required under a subdivision or zoning regulation.
3. If incorporated into a conditional district, the provisions of the development agreement shall be treated as a development regulation in the event of the developer's bankruptcy.

E. Contents

A development agreement shall, at a minimum, include subsections 1. through 7. below. Items contained in subsections 8. through 10. below are at the discretion of the Board of Aldermen for the specific development:

1. A description of the property subject to the agreement and the names of its legal and equitable property owners.
2. The duration of the agreement. However, the parties may enter into subsequent development agreements that may extend the original duration period. Any action requiring an extension shall be requested prior to the actual expiration date to ensure there is no lapse in coverage.
3. The development uses permitted on the property, including densities and building types, intensities, placement on the site, and design.
4. A description of public facilities that will serve the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development. In the event that the development agreement provides that the Town shall provide certain public facilities, the development agreement shall provide that the delivery date of such public facilities will be tied to a successful performance by the developer in implementing the proposed

development, such as meeting defined completion percentages or other performance standards.

5. A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions, agreed to by the developer that exceeds existing laws related to the protection of environmentally sensitive property.
6. A description, where appropriate, of any conditions, terms, restrictions, or other requirements for the protection of public health, safety, or welfare.
7. A description, where appropriate, of any provisions for the preservation and restoration of historic structures.
8. A development schedule, including start dates and interim completion, dates at no greater than five (5) year intervals. Modifications to dates may be requested by the developer.
9. If another government entity is made a party to the agreement, the agreement must specify which government body is responsible for the overall administration of the development agreement. A local or regional utility authority may also be made a party to the development agreement.
10. Performance guarantees in accordance with G.S. 160D-804.1 and Section 9-3015 of this ordinance.

Section 9-3015. Performance Guarantees

To ensure compliance with the development regulation requirements of NCGS 160D and this ordinance, The Town of Canton may require Performance Guarantees to assure successful completion of these required improvements.

A. Type. The type of the performance guarantee shall be at the election of the developer.

1. A surety bond issued by any company authorized to do business in North Carolina.
2. Letter of credit issued by any financial institution licensed to do business in North Carolina.
3. Other forms of guarantee provide equivalent security to a surety bond or letter of credit.

B. Duration. The duration of the performance guarantee shall initially be one (1) year unless the developer determines that the scope of work for the required improvements necessitates a longer duration.

C. Extension. A developer shall demonstrate reasonable, good-faith progress toward the completion of the required improvements. If the improvements are not completed to the specifications of the Town, and the current performance guarantee is likely to expire prior to completion, the performance guarantee shall be extended, or a new performance

guarantee issued, for an additional period. An extension under this subdivision shall only be for the duration necessary to complete the required improvements.

- D. Release.** The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgment by the Town that the improvements for which the performance guarantee is being required are complete. This shall be as twenty-five (25%) percent, fifty (50%) percent, seventy-five (75%) percent, and one hundred (100%) percent of the project is completed; a corresponding percentage can be released, unless the Board of Aldermen and the developer agree to an alternative schedule at the time of approval.
- E. Amount.** The amount of the performance guarantee shall not exceed one hundred ten percent (110%) of the reasonably estimated cost of completion at the time the performance guarantee is issued. The Town may determine the amount of the performance guarantee or use a cost estimate determined by the developer. The reasonably estimated cost of completion shall include one hundred percent (100%) of the costs for labor and materials necessary for the completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional ten percent (10%) allowed under this subdivision includes inflation and all costs of administration regardless of how such fees or charges are denominated. The amount of any extension of any performance guarantee shall be determined according to the procedures for determining the initial guarantee and shall not exceed one hundred ten percent (110%) of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.
- F. Timing.** The Town requires the performance guarantee to be posted at the time the plat is recorded.
- G. Coverage.** The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion.
- H. Legal Responsibilities.** No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this subsection or in the proceeds of any such performance guarantee other than the following:

 - 1. The Town of Canton to whom the performance guarantee is provided.
 - 2. The developer at whose request or for whose benefit the performance guarantee is given.
 - 3. The person or entity issuing or providing the performance guarantee at the request of or for the benefit of the developer.
- I. Multiple Guarantees.** The developer shall have the option to post one type of performance guarantee in lieu of multiple securities, for all development matters related to the same project requiring performance guarantees.

- J. Review & Approval.** Performance guarantees and any renewal of performance guarantees shall be reviewed by the Planning Board and approved by the Board of Aldermen. All approved performance guarantees shall be noted on the Final Plat.
- K. Exclusion.** Performance guarantees associated with erosion control and stormwater control measures are not subject to the provisions of this section.

Section 9-3016. Vested Rights and Permit Choice

See Sections 9-4040 and 9-4141 of the Zoning Ordinance for provisions regarding vested rights and permit choice.

Section 9-3017. Exceptions and Variances

- A. Group Project.** The standards and requirements of this chapter may be modified by the Board of Aldermen for a group project when approved as a part of a Conditional District. The development, in the judgment of the Board, shall provide adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated, and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the plan. Conditional Districts are subject to the requirements of Chapter 4., Zoning.
- B. Variances.** Where, because of topographical or other conditions peculiar to the site, strict adherence to the provisions of the regulations of this chapter would cause unnecessary hardship, the Zoning Board of Adjustment may authorize a variance, if such variance can be made without destroying the intent of this chapter. Any variance requested must follow quasi-judicial procedures as outlined in Zoning Ordinance Section 9-4114(c).
- C. Administrative Modifications.** Occasionally, unanticipated circumstances require changes to approved development plans and permits. In these cases, and when meeting the requirements of Zoning Ordinance Section 9-4097, minor modifications to development approvals may be granted.

Article C. Improvement Standards

Section 9-3018. General Requirements for Development

The Town of Canton requires the following elements for all land development and subdivisions within Town limits and its extraterritorial jurisdiction.

- A. Potable Water.** Connection to the Town's water system required prior to Final Plat/development approval. See Section 5-3007 of Chapter 3 of Part 5 of the Code of Ordinances for annexation requirements should the property be located outside the municipal limits
- B. Sanitary Sewer.** Connection to the Town's sewer system required prior to Final Plat/development approval. See Section 5-3007 of Chapter 3 of Part 5 of the Code of

Ordinances for annexation requirements should the property be located outside the municipal limits.

- C. **Stormwater.** No development or redevelopment shall occur in the Town of Canton or its extraterritorial jurisdiction (ETJ) except in compliance with the requirements of the Town of Canton Stormwater Ordinance.
- D. **Fire Hydrants.** Fire suppression systems shall meet the requirements of the Town's Fire Code.
- E. **Public Streets & Street Rights-of-Way.** Rights-of-Way and public streets will be required to be dedicated to the Town. See Section 9-3021 of this Ordinance. Sidewalks shall be provided within the right-of-way and provided on all new development, with the exception of infill single and two-family residential homes, per Section 9-3023 of this Ordinance. Grading, paving, curb, and gutter shall be installed as a portion of the required right-of-way for public streets. Curb and gutter may also be required in parking areas and along drive aisles.
- F. **Utility & Access Easements.** Where applicable, easements **are** required to be dedicated to the Town, the utility company, or agency which will utilize the said easement for the provision of services. All utilities located within Major Subdivisions and land developments shall be located underground.
- G. **Greenways & Multi-Use Paths.** Shall be required when identified upon adopted transportation, recreation, or similar plans. Paths may also be provided as a form of passive or active open space / recreation and used to meet the requirements of this ordinance.
- H. **Streetlights and Lighting.** Required per Section 9-3029 of this Ordinance.
- I. **Landscaping and Open Space.** Required per Section 9-3027 of this Ordinance.
- J. **Guarantee of Improvements and Developers Agreement.** in accordance with Sections 9-3014 and 9-3015 of this Chapter.

Section 9-3019. Improvements Beyond the Town's Extraterritorial Limits

- A. In the adoption of this Chapter, the Town Board of Alderman recognizes that under the General Statutes it may not be mandatory that a subdivision located beyond the Town's extraterritorial jurisdiction shall comply with the requirements set forth in this article and other existing policies and ordinances of the Town as a condition precedent for final approval of a plat of such subdivision. However, unless the requirements are complied with, the Town will not extend any public service and will not extend its water or sewer mains to any such subdivision or permit any connection thereto.
- B. In those subdivisions that lie outside the Town's extraterritorial jurisdiction, but are subject to subdivision regulations, all roads and utilities within the subdivision must conform to State minimum standards for that particular utility, road or service.

- C. No water or sewer shall be provided to any property outside of the municipal limits of the Town and no Final Plat shall be recorded for any property outside the municipal limits for which water and or sewer service will be provided unless they meet the requirements outlined in Division II, Part 5, Chapter 3, Section 5-3007 of the Code of Ordinances.

Article D. Design Standards

Section 9-3020. General Standards

- A. All portions of a tract being subdivided shall be taken up in lots, streets, public lands or other proposed uses so that remnants and landlocked areas shall not be created.
- B. Conformity to Existing Plans. Every subdivision plat or land development plans shall conform to any applicable adopted plans and ordinances of the Town of Canton.
- C. Lot lines shall in general follow municipal boundary lines rather than cross them.
- D. All performance standards as stated in Chapter 4, Zoning, relating to natural features and other environmental controls shall be adhered to.
- E. Subdivisions and land developments shall designed to avoid the necessity for excessive cut and/or fill.
- F. Common open space. All common open space shall be designated on the Preliminary Plat, as-built drawing, and Final Plat. The Final Plat shall indicate that common open space shall not be further developed, and the developer shall indicate on the Final Plat how the common open space will be maintained and ownership of said open space.
- G. Flood damage. All subdivision proposals shall be consistent with the need to minimize flood damage as provided for in the Town Flood Damage Prevention Ordinance, Chapter 5 of this Town Code. Where flooding is known to have occurred within the area shown on the plan, such area shall be clearly marked "Subject to periodic flooding," and no building or streets shall be permitted in this area except as may be permitted by Chapter 4, Zoning.
- H. When only a portion of a tract is being reviewed but where future subdivision or development is possible, the applicant shall demonstrate that the remainder of the tract or parcel may be subdivided or developed in conformance with the existing zoning classification in a logical and satisfactory manner.
- I. Applicants shall observe the ultimate rights-of-way of contiguous existing streets within the Town. Additional portions of the corridors of such streets shall be offered to the governmental agency having jurisdiction at the time the subdivision or land development is approved. Applicable building setback lines as defined in Chapter 4, Zoning, shall be delineated as measured from the ultimate right-of-way.
- J. A maintenance and financial responsibility plan for the roads within the subdivision, covering the period between the time lot sales begin and when the roads are accepted by the Town and/or NCDOT must be submitted and approved before Final Plat approval.

Prior to approval of a Final Plat with proposed public roads or prior to a release of a guarantee of improvements for said subdivision, the developer shall submit a notarized statement of financial responsibility for road maintenance which shall remain valid until the roads are dedicated to the Town, North Carolina Department of Transportation, or another responsible party.

- K. Proposed subdivision and land development shall be coordinated with the existing nearby neighborhood so that the community as a whole may develop harmoniously. Existing stub streets on contiguous parcels shall be extended into new developments where such stub streets were designed to be connected to new streets on adjacent parcels.
- L. Traffic Impact Analysis. A Traffic Impact Analysis (TIA) shall be required for a rezoning, conditional district, Site Plan, special use permit, certificate of zoning compliance, or Preliminary Plat for developments and/or their subsequent phases with an estimated trip generation of one hundred (100) peak hour trips per day or greater during an average weekday based on a five-day national average as defined in the ITE Trip Generation Manual. At the discretion of the Planning Director, a TIA may be required for projects generating seventy-five (75) or more peak hour trips, based on case specific determining factors.
- M. Improvement construction requirements shall be completed under the construction specifications of the Town of Canton, the specifications of the North Carolina Department of Transportation, the Department of Environmental Quality, Haywood County or other appropriate agencies or specifications included herein, whichever shall result in the most restrictive interpretation of this chapter and whichever standard exacts the highest quality.

Section 9-3021. Streets and Rights-of-Way

A. Streets Required

- 1. All new development shall abut a public street.
- 2. New development and substantial improvements to existing development with frontages on existing public streets shall be required to upgrade all their frontages to meet the standards of this section.
- 3. New development without frontages upon a public street shall, in all cases, extend and connect to a public street. Public street extensions and improvements required for new development, including those beyond the development boundary, are the sole responsibility of the developer. Such improvements must be provided in accordance with the requirements of the current edition of the North Carolina Department of Transportation "Subdivision Roads Minimum Construction Standards" manual.
- 4. Streets shall be installed by the developer and dedicated to the Town prior to the approval of any Final Plat or development plan unless a performance guarantee is provided to the Administrator in accordance with Town Code (See Section 9-3015), this ordinance, and procedures established by the Administrator. Streets shall be installed by the developer and dedicated to the Town prior to the issuance of any

certificates of occupancy for any building within that phase or on that street, as applicable to the particular development.

5. Town streets shall be built to the minimum specifications of the North Carolina Department of Transportation "Subdivision Roads Minimum Construction Standards" manual.

B. Connectivity. Streets shall interconnect within a development and with adjoining development. Cul-de-sacs and turnarounds (Section 9-3021.J.) are permitted only where topographic conditions and/or exterior lot line configurations offer no practical alternatives for connection or through traffic. Street stubs shall be provided with development adjacent to open land to provide for future connections at the discretion of the Administrator. Streets shall be planned with due regard to the designated corridors shown on adopted plans and policies of the Town or Haywood County.

C. Public Streets. Subdivision streets to be dedicated to public use and to be maintained by the Town and/or NCDOT, after construction, shall conform in all respects to G.S. 136-102.6. Public subdivision roads shall conform to the following standards:

1. No Major Subdivision shall be reviewed until the application has been made to the Town engineer or NCDOT for review of the public streets.
2. The subdivider shall provide proof that the Town engineer or district engineer of the NCDOT has issued a design certificate of approval. Upon completion of streets to be dedicated to public use, the developer shall submit confirmation by the NCDOT or a professional engineer that the roads have been constructed to NCDOT standards.

D. Private Streets. Private streets shall be prohibited.

E. Intersections. The following standards shall be applicable to street intersections:

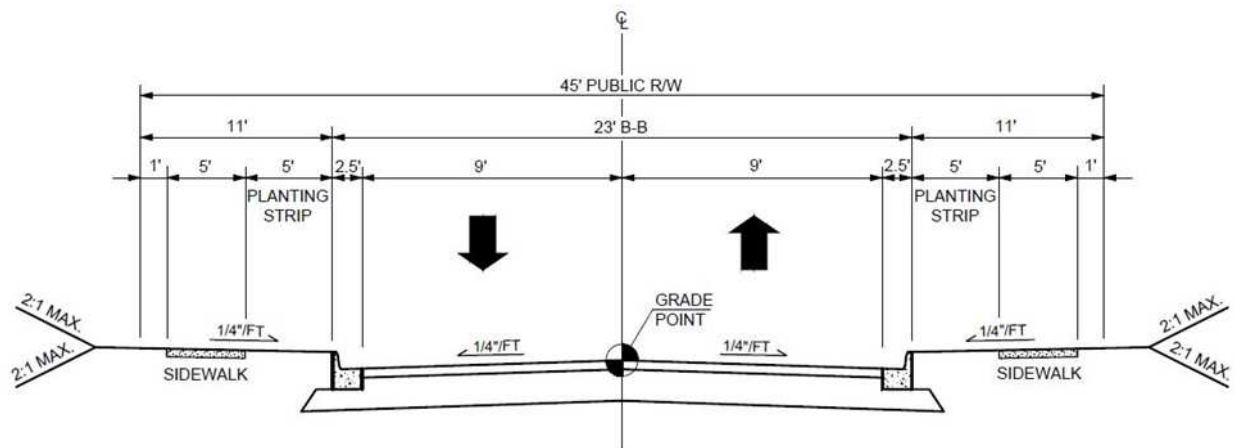
1. All proposed connections to NCDOT roads shall meet the criteria of the latest revisions of the NCDOT "Subdivision Roads Minimum Construction Standards," and the "Policy on Street and Driveway Access to North Carolina Highways."
2. No more than two (2) streets shall intersect at one point unless the intersection is designed as a roundabout.
3. Streets shall intersect as nearly as possible at right angles, and no street shall intersect any other street at an angle of less than (60) degrees, unless the intersection is designed as a roundabout.
4. Proper sight lines shall be maintained at all intersections of streets to permit adequate sight distance. Where the posted speed limit is less than twenty (20) mph, the intersection sight distance may be reduced to one hundred five (105) feet.
5. Property lines at street intersections shall be rounded with a minimum radius of twenty (20) feet.

6. Where curbs are provided on streets or where curbs and sidewalks are constructed within a subdivision, any construction shall provide curb ramps or curb cuts for handicapped persons at all intersections.
- F. Traffic Control.** Street markers and traffic control signs shall be required and posted in accordance with Town standards and the Manual of Uniform Traffic Control Devices. Such infrastructure shall be installed by the developer prior to the issuance of any Certificates of Occupancy for any building on that street.
- G. On-Street Parking.** On-street parking shall adhere to the following requirements:
1. On-street parking may be required and/or approved by the Administrator.
 2. When required, all on-street parking provided shall be parallel. Curb or angle parking is permitted upon approval of the Administrator when the fronting buildings are more than twenty-two (22) feet in height to provide spatial definition and when the posted speed limit is less than twenty-five (25) mph.
 3. When required, minimum right-of-way widths shall be modified to account for on street parking.
- H. Blocks.**
1. The lengths, widths, and shapes of blocks shall be determined with due regard to:
 - a. The provision of adequate building sites suitable to the special needs of the type of use contemplated, and adequate public open spaces accessible and visible to residents.
 - b. District requirements and design criteria.
 - c. Needs of non-vehicular and vehicular traffic circulation and traffic control and safety.
 - d. Opportunities and constraints of topography, with convenient access to important physical and topographical features such as lakes and rivers, significant areas of trees and other natural features, and areas of high ground offering scenic views.
 2. Blocks shall not be less than two hundred (200) feet nor more than six hundred sixty (660) feet ($\frac{1}{8}$ -mile), as measured from edge of right-of-way, unless site and topography or other special circumstances are present as determined by the Administrator. Where deemed necessary by the Administrator, a pedestrian crosswalk of at least ten (10) feet in width may be required.
 3. Blocks shall have sufficient width to allow two (2) tiers of lots of minimum depth except where single tier lots are required to separate residential development from another type of use, or when abutting a perennial stream or lake.

4. The Town of Canton Fire Marshall shall reserve the right to approve/deny the proposed length of a roadway and/or the overall street layout based on site conditions, number of lots served, and required access for emergency vehicles.

- I. **Street Typical Sections.** Local streets shall be provided on forty-five (45) feet of right-of-way. Two (2) travel lanes shall be provided at nine (9) feet each and flanked by two and a half (2.5) feet curb and gutter. In addition, the street section shall also provide five (5) foot planting strips, five (5) foot sidewalks, and one (1) foot off the back of the sidewalk on either side of the street. See the figure below for reference. The Administrator shall reserve the right to approve alternative street sections when conditions of the site warrant the need for alternative designs or when the classification of the road varies from a local road.

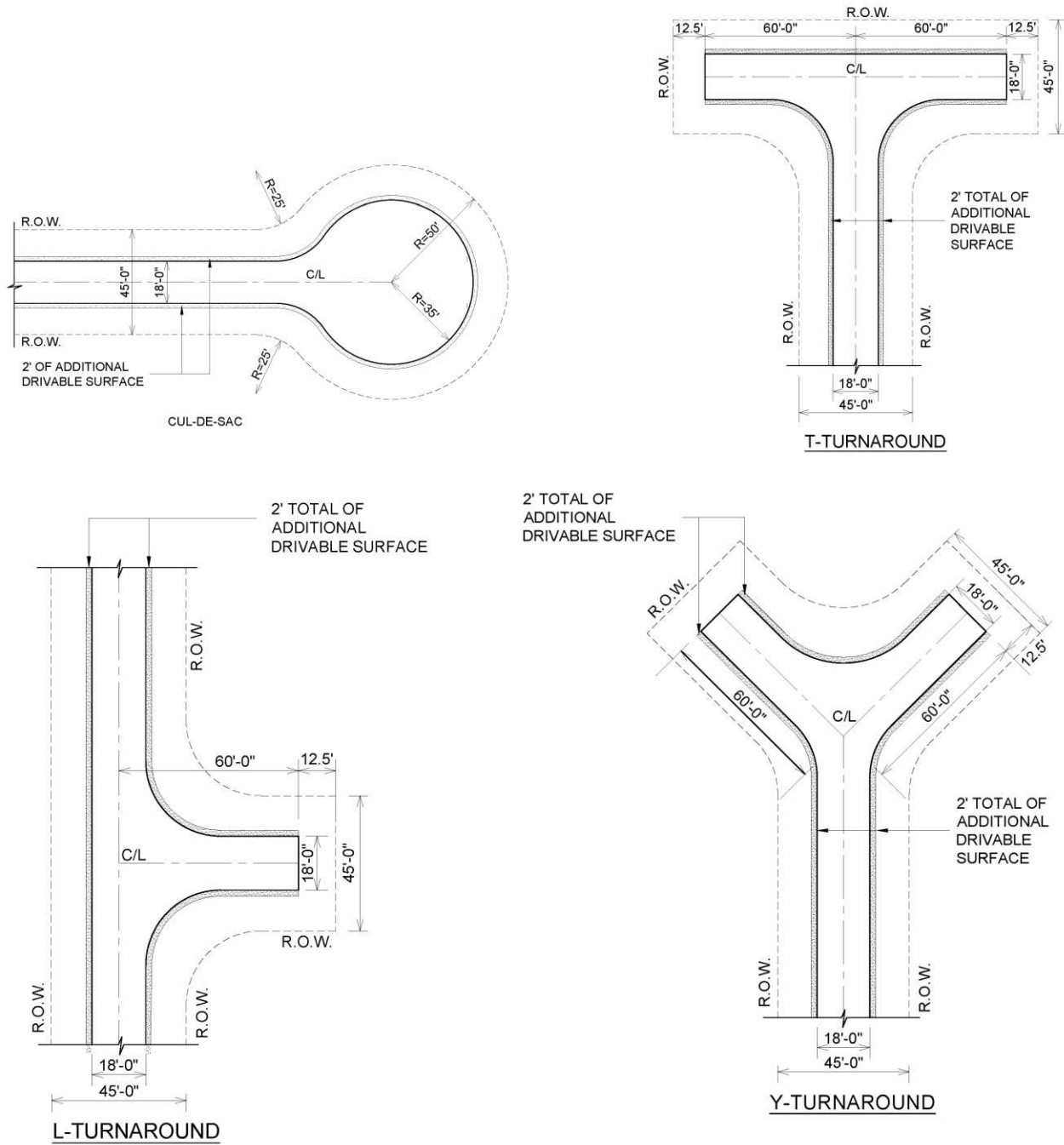
Figure 1
Local Road Street Section



- J. **Turnarounds.** The minimum pavement width for turnarounds shall be as follows as shown in Figure 2 below:

1. Cul-de-sac, minimum pavement radius, thirty-five (35) feet;
2. T-turnarounds, minimum pavement length of perpendicular cord will be one hundred twenty (120) feet;
3. L-turnarounds, minimum pavement length of each cord will be sixty (60) feet; and,
4. Y-turnarounds, minimum pavement length of each cord will be sixty (60) feet.

Figure 2
Dimensional Requirements for Local Road Turnarounds



Section 9-3022. Driveway and Access Standards

Internal access and lot driveways meet the following requirements:

A. Location

1. All non-shared access driveways shall be constructed to be at least five (5) feet from any property line at the right of-way, except that a curb return may become tangent to a curb line at a point where said property line extended intersects said curb line.
2. Driveways shall be located at a point along the frontage where it is possible for drivers of vehicles entering the roadway to see in both directions along the traveled way far enough to allow entering the roadway without creating a hazardous situation.
3. Consideration of adjacent streets and other driveways shall be used to prevent closely spaced driveways to adjacent properties and favor a more centralized driveway(s) to promote connectivity.
4. The Town reserves the right to permit access where it deems appropriate for the operational needs of the site and existing infrastructure. There is no guarantee of access to the applicant's preferred driveway location or access point.
5. Access may be restricted to less than a full access movement. Any required infrastructure improvements may be required as a condition of the Site Plan in addition to the required improvements of Sec. 9-3018.
6. At signalized street intersections, no driveway/curb cut shall be located within three hundred (300) feet of the intersection on Major Roadways and two hundred (200) feet on Minor/Local Streets.
7. At unsignalized street intersections, no driveway/curb cut shall be located within two hundred (200) feet of the intersection on Major Roadways and one hundred (100) feet on Minor/Local Streets.
8. Minimum separation distances for driveways:

**Table 3
Driveway Separation Distances**

Posted Speed Limit (mph)	Minimum Distance Between Driveways and Cuts* (feet)	Minimum Distance Between Driveways and Intersections* (feet)
<15	20	100
20	40	100
25	60	60
30	80	150
35	105	190
40	135	235
45	165	285

50	200	340
55	215	400

*Measurements are from the nearest edge of the stem of the driveway to the nearest edge of the other driveway stem.

- B. Channelization.** Adequate driveway channelization is required in order accommodate the operations needs of the development while protecting the functionality of the intersection. Protected driveway channelization assists with traffic organization of entering and exiting traffic while preventing excessive maneuverability and cross-traffic close to the intersection. All developments are required to provide a minimum of fifty (50) feet of minimum channelization (from the edge of pavement on the intersecting roadway) prior to any internal driveways, cross access, or direct parking areas. For larger commercial developments and high-density mixed-use developments, a minimum of one hundred (100) feet will be required. Driveways that are served by a signalized intersection, a minimum of two hundred (200) feet of protected channelization is required or beyond the limits of storage required by the signal, whichever is larger.
- C. Width.** No driveway or curb cut shall be less than twelve (12) feet nor greater than twenty-four (24) feet in width at the point of intersection with the margin of the right-of-way of any street located in the Town, except curb cuts may be wider than twenty-four (24) feet if a center median is provided.
- D. Elevation.** The elevation of all private driveways at the point of intersection with the margin of the right-of-way of all streets, which margin shall be established to be not less than fifteen (15) feet from the centerline of the street, shall be at the level of the street. No grade on any private driveway for a distance of seven (7) feet from the margin of the right-of-way of the street shall be greater than three-tenths foot from the intersection of the margin of the right-of-way of the street, and all approaches at private driveways shall be above street level for a distance of seven (7) feet measured from the right-of-way of the street.
- E. Joint Use Driveways.**
1. Wherever feasible, the Administrator shall require the establishment of a joint use driveway serving two abutting properties.
 2. When a property is developed before an abutting property is developed, the site shall be designed to ensure that its driveway and circulation may be modified to create a joint use driveway and interconnected parking with the abutting property at a later date.
- F. Compliance with State Requirements.**
1. Any person or corporation desiring to construct a driveway or other connection within the right-of-way of the town or state shall, before beginning any construction, secure the appropriate permits from the authorizing agency, allowing such construction. Driveway connections to residences are normally excluded from this requirement but may be included at the option of the authorizing agency.

2. Failure to secure a permit prior to construction may result in the removal of the driveways and/or denial of access at that location.

G. Culverts

1. No water culvert shall be installed in or on the streets of the Town, less than fifteen (15) inches in diameter, and the diameter shall be increased in areas having an excess of runoff groundwater and surface drainage.
2. All culverts installed shall be constructed of corrugated metal pipe, double-walled HDPE, concrete pipe, cast iron or other approved materials. No culverts shall be constructed of wood or terracotta.

Section 9-3023. Pedestrian Facility Standards

Pedestrian infrastructure shall be constructed in accordance with the following requirements:

- A. In determining the type of pedestrian infrastructure that shall be required the Administrator shall refer to any adopted plan or policy of the Town for guidance. Such plans or policies include but are not limited to transportation plans, Master Plans, small area plans, and other plans and policies.
- B. Sidewalks shall be installed by the developer and dedicated to the Town prior to the approval of any Final Plat or development plan, unless a performance guarantee is provided to the Administrator in accordance with Town Code (See Section 9-3015), this ordinance, and procedures established by the Administrator. If a performance guarantee is provided, sidewalks shall be installed by the developer and dedicated to the Town prior to the issuance of any certificates of occupancy for any building within that phase or on that street, as applicable to the particular development.
- C. Pedestrian infrastructure shall be constructed within the street right-of-way. The approving authority shall require the dedication of additional street right-of-way or a pedestrian easement when sufficient right-of-way does not exist to comply with this requirement. The approving authority may accept the dedication of additional right-of-way or a pedestrian easement in order to accommodate alternative routes and designs that do not follow streets.
- D. Streets shall be bordered by pedestrian infrastructure on both sides. Exceptions to this requirement and modifications to the design of pedestrian infrastructure may be granted by the Technical Review Committee (TRC) for developments in steep slope areas and where warranted by environmental or topographic conditions, or where this requirement would serve no useful purpose.
- E. Without exception, pedestrian infrastructure shall be required along all new streets within new subdivisions or developments, and within new phases of existing subdivisions and any other form of development.

- F. Without exception, pedestrian infrastructure shall be required along existing streets within or abutting new subdivisions and any other form of development; or along existing streets within or abutting any form of existing development undergoing substantial improvement (except for individual single-family and two-family structures).
- G. Sidewalk infrastructure shall be required along the same side of the street upon which the development fronts, except that when a development project is located on both sides of the same street the approving authority may require that infrastructure be installed on both sides of the street.
- H. When site characteristics and/or traffic patterns are such that the construction of pedestrian infrastructure in accordance with this section would be a hardship and would not result in useful pedestrian walkways, the Administrator, upon recommendation from the TRC, may allow the applicant to pay a fee in lieu of requiring construction of the infrastructure. In determining whether to accept a fee in lieu of construction of infrastructure, the Administrator shall refer to any adopted plan or policy of the Town for guidance.
- I. The Administrator may accept a performance guarantee for the construction of sidewalks on behalf of the Town in situations where no other public infrastructure is proposed in accordance with Section 9-3015 of this Ordinance.

Section 9-3024. Utility Standards

- A. The Preliminary Plat or Site Plan must be accompanied by satisfactory evidence as to the proposed method and system of water supply and sanitary sewage collection and disposal.
- B. Sewer, water, storm water, and other utility easements shall be required for the provision of utilities and services within all new development and may be required within existing developments undergoing improvements at the discretion of the Administrator. Easements shall be shown on all land development and subdivision plats and plans.
- C. Unless otherwise specified, underground utilities should be located in public street rights-of-way. Or a five-foot (minimum) utility easement shall be provided behind the sidewalk located within either the right-of-way or a public utility easement. Utility easements centered on rear or side lot lines shall be provided where deemed necessary by the approving authority and shall be at least thirty (30) feet in width.
- D. Where a subdivision is traversed by a water course, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width or construction, or both, as may be adequate for the purpose of drainage.
- E. Lakes, ponds (including those for the purpose of stormwater), creeks, and similar areas within a subdivision are to be maintained by a Homeowner's Association or other method of ownership as outlined in Article D. These areas will not be accepted for maintenance by the Town without specific Staff recommendation and approval from the Board of Aldermen.

- F. Easements shall be accurately depicted upon all plats and plans and dedicated to the Town or appropriate authority or agency by means of a plat of dedication in accordance with procedures established by the Administrator.
- G. No structure shall be placed upon any easement. Fences and other impermanent obstructions may be permitted by the Administrator in consultation with the public works director on public property.

Section 9-3025. Easements

Easements shall be conveyed to the town or other appropriate agency for underground and overhead utility installation, stormwater drainage, pedestrian/bicycle access retaining walls, and other purposes as required by the town. Easements shall be centered along rear or side lot lines. The minimum width for easements is set out in the table below. The Administrator may vary easement widths if the topography along the proposed right-of-way is such that maintenance equipment or other necessary access cannot reasonably be achieved within the minimum width specified by the table.

**Table 4
Minimum Easement Widths**

Easement Type	Minimum Width (feet)
Greenway	20-50
Pedestrian/Bicycle Accessway	20
Alleys	20
Watercourse or Drainage Channel	25
Underground Storm Drainage	To be determined by TRC / Administrator
Public Utility Access Easement	5 foot/ 5 foot surround
Water/Sewer Easements	To be determined by Service Provider
Retaining Wall	TBD by Administrator
All Other Easements	20

Section 9-3026. Dedication of Stormwater Infrastructure

- A. **Stormwater Management Facilities.** The Town of Canton, in its discretion with Staff recommendation and Board of Aldermen approval, may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this ordinance and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance. This section is subject to the Stormwater Management Ordinance and Article D.

B. Limits of Public Ownership and Maintenance Responsibility. The following components of the drainage infrastructure will not be maintained by the Town of Canton:

1. All drainage easements shall be public to the end of any storm drainage pipe system device. All drainage beyond that point shall be carried in drainage easements which are private and will be owned and maintained by the individual property owner. This shall apply both inside the corporate limits and the ETJ.
2. The Town of Canton assumes no liability or responsibility for adjudicating disputes between property owners regarding non-publicly generated storm water.
3. Drainage systems on private property that do not have dedicated easements.
4. Drainage systems maintained by NCDOT as part of its State highway system.

C. Private Detention/Retention/Water Quality Pond Areas. The town will not accept any private detention, retention, or water quality pond areas for ownership or maintenance; however, the town reserves the right to enter these areas and remove any debris/blockage that is adversely affecting the town's drainage system. This will be done in an emergency situation without notice. Under normal conditions, the town will contact the owner/developer to have said blockages removed. If unable to do so within a reasonable time, the town reserves the right to charge the owner/developer for any expense incurred by the town in doing so.

D. Natural Water Courses. Natural ditches, streams, creeks, and rivers shall not be maintained by the Town of Canton except to remove debris/blockages that are adversely affecting the town's drainage system.

E. Limitation of Consequential Damage to Private Facilities Located on Public Easements. All public easements, including storm sewers, are to remain clear of obstructions. No buildings, fences, trees, shrubs, or other obstructions shall be placed in any easement. Driveways, walkways, asphalt, and parking lots may be permitted in easements; however, the town reserves the right to remove such asphalt, concrete, base course, and sod as necessary to access its facility in the case of emergency. Pavement or concrete will be replaced with a patch. Sod will be replaced with Fescue or rye seeding. The town will not be responsible for replacing a property owner's landscaping, sod, or other obstructions after repairing a drainage line.

F. Subdivision/Common Development. Where a subdivision/development is traversed by a water course, drainage way, underground storm drain, the subdivider/developer shall dedicate to the Town (where applicable in accordance with the above) a drainage maintenance easement as specified by Section 9-3025. Private drainage easement widths shall also correspond to these same criteria. The Town's Engineer may require wider easement widths if the topography along the proposed right-of-way is such that maintenance equipment cannot reasonably operate within the easement.

Section 9-3027. Landscaping & Open Space Standards

A. Street Trees

1. Street trees shall be required along all public and private streets for the following categories of development:
 - a. All non-residential and mixed-use development.
 - b. All projects approved as a conditional zoning district, special use permit, planned development, or group development.
 - c. All residential subdivisions for which new streets are required.
 - d. New residential subdivisions or projects for where more than two lots or dwelling units are proposed.
2. Large canopy trees shall be installed at a minimum average distance of forty (40) feet on-center in a planting strip a minimum of five (5) feet in width. Such trees shall be a minimum of two (2) inches in caliper at planting. Where overhead utilities exist prior to development, ornamental trees may be substituted.
3. Street trees shall be placed at least eight (8) feet from light poles and ten (10) feet from electrical transformers in order to allow these utilities to be safely serviced (ornamental trees may be placed within five (5) feet of such devices). A minimum of three hundred (300) square feet of pervious ground area per canopy tree shall be provided unless they are planted in irrigated tree wells.
4. Street trees shall be deciduous hardwoods and shall meet the standards set forth in the American Standard for Nursery Stock by the American Association of Nurserymen.

B. Perimeter Buffer

Each tract on which a development or subdivision is proposed shall be provided with a perimeter buffer of at least ten (10) feet in width extending around the entire perimeter of the site. This buffer shall provide a physical visual and sound filter from adjacent properties and roadways. The buffer shall provide a minimum of eighteen (18) total plants per one hundred (100) linear feet, consisting of:

1. Ten (10) shrubs (at least eight (8) shall be evergreen), min. (two) 2' in height at time of planting,
2. Three (3) small deciduous trees, (two) 2" in caliper
3. One (1) large deciduous tree, minimum of 2" in caliper, and
4. Four (4) evergreen trees, at least 6' in height at time of planting.

Existing vegetation may be used as for buffer plantings.

C. Vehicular Use Area Landscaping

1. Screening

- a. **Applicability:** Perimeter yard of all parking areas visible from the street. (Except one- and two-family homes)
- b. **Minimum planting:** Semi-opaque screen from the ground to at least a height of three (3) feet for screening of car lights and glare. (Minimum width: Ten (10) feet).
- c. **Performance standard:** This type functions as a semi-opaque screen around the perimeter of a parking lot from the ground to at least three (3) feet for the screening of car lights and glare. This shall only be required along the parking area that fronts the public right-of-way or any side of a parking lot that is not protected by a required buffer yard. The location of such yards shall be determined by the Administrator upon review. Effective screening devices may include solid decorative brick walls, wood fences, earth berms, tight evergreen hedges which shall reach the required height within two (2) years of planting, or any combination of the above. Plantings which can achieve a mature height exceeding thirty (30) inches shall not be planted in the sight triangle on each side of drives or streets.
- d. **Screening of open storage, above ground utilities, and dumpsters:** Any open storage of merchandise, equipment, materials, or goods other than those on display for retail sales, above ground utilities, and dumpsters areas shall be screened from view from any street right-of-way with a 70-30 mix of evergreen to deciduous vegetation. Sub-grade dumpsters shall be exempt from the provisions of this section.

2. Parking Lot Landscaping

- a. **Applicability:** Interiors of all parking areas with more than ten (10) parking spaces.
- b. **Stormwater management requirements:** Applicants are encouraged to design buffer and other landscape areas in such a way as to encourage alternatives for stormwater management.
- c. **Minimum plantings:**
 - (1) No parking space shall be more than fifty (50) feet from the base of a canopy tree.
 - (2) One (1) 15-to-18-inch minimum height evergreen or deciduous shrub shall be required per two hundred fifty (250) square feet of required landscaped vehicular use area. This rate may be

varied by the Administrator considering alternate shrub heights, ground covers, or other factors.

- d. **Performance standard:** This type functions as a tree ceiling over a parking area providing shelter from sun and rain and minimizing the impact of runoff by providing “green” surface area on which to collect. Large maturing canopy trees shall be planted in a manner that provides shade for the entire parking area at maturity. All landscaped areas shall be separated from parking spaces. The use of differing species around the parking area is encouraged to promote diversity in the overall urban tree canopy. The use of existing vegetation to satisfy this requirement is encouraged. Supplemental plantings may be required in addition to native materials.

D. Open Space.

1. All common open space shall be designated on the Preliminary Plat, as-built drawing, and final plat. The final plat shall indicate that common open space shall not be further developed, and the developer shall indicate on the final plat how the common open space will be maintained and ownership of said open space.
2. All Major Subdivisions must dedicate the equivalent of five (5%) percent of the total land area of the original parcel or combination of parcels used in the subdivision as dedicated, common open space.
3. Designation of easements to the town for parks or greenways according to the Town's pedestrian plan, greenway master plan or recreation and parks plan may qualify for the dedicated open space requirements but must be approved by the planning board.
4. Land designated as open space on a final plat shall be dedicated to a neighborhood association or other entity, or shall be considered to be offered for dedication to the town as outlined in Article E or below. The town may accept control of the open space through:
 - a. Express action by the governing board;
 - b. Approval of the final plat with areas specifically dedicated to the Town of Canton for the purpose of open space, park and/or greenway development as accepted by the Board of Aldermen; or
 - c. Conveyance of fee simple marketable title (unencumbered financially and environmentally) to the property to the town at the time of final plat recordation, subject to approval by the Board of Aldermen.
 - d. Until such time as the dedication has been accepted, land so offered may be used for open space purposes and be maintained by the underlying or abutting property owner or similarly by an owners' association. Land so offered for dedication shall not be used for any purpose inconsistent with the proposed public use.

5. Requirements concerning land dedicated to the town for recreational purposes. The Board of Aldermen must approve property dedications being offered to the town for parks and greenways facilities at the time of final plat approval. The Board of Aldermen may request review by the recreation and parks commission before making their determination. Dedications should meet the following criteria:
 - a. **Unity.** Dedicated area shall form a single parcel of land, except where the board of aldermen determines that two (2) or more parcels or a linear easement across multiple parcels would be in the best interest of the public given the type and distribution of space needed to serve the development. In such cases, the board may require that such parcels be connected by a dedicated strip of land or easement be at least twenty (20) feet in width or that an easement for access be granted.
 - b. **Usability.** At least one-half of the total land dedicated shall be located outside of areas of special flood hazard, alluvial soils, lakes or other water bodies, and at least seventy-five (75%) percent of the total land dedicated shall be located outside of wetlands. Land dedicated only for greenways need not follow the requirements of this subsection.
 - c. **Shape.** Dedicated land shall be sufficiently shaped and proportioned to be usable for proposed recreational facilities and activities, such as greenways, athletic fields, playground area, tennis courts, swimming pool, etc.
 - d. **Access.** Public access to dedicated land shall be provided by adjoining public street frontage or by a dedicated public easement which connects the dedicated land to a public street or right-of-way, or from adjacent property, as determined by the board of aldermen.
 - e. Greenway dedications shall be a minimum of twenty five (25) feet in width.

Section 9-3028. Cluster Mailbox Units

If required by the United States Postal Service (USPS), Cluster Box Units (CBUs) for residential developments shall meet or exceed the standards of the USPS and meet the following additional requirements. In case of regulatory conflicts, any requirement of the USPS shall supersede regulations of this Ordinance.

A. Location. CBUs shall be located as follows:

1. Within a primary building, such as an apartment building, or an accessory facility serving the development such as a clubhouse;
2. Stand-alone within twenty-five (25) feet of the parking area servicing such buildings or facilities; and/or
3. Located along right-of-way and common access drives at least fifty (50) feet interior to the development.

B. Parking & Access.

1. Vehicular Access.

- a. Each CBU shall have a minimum of two (2) parking spaces provided, with at least one (1) space meeting handicap accessibility requirements.
- b. No parking is required for CBU located within a facility with parking or within twenty-five (25) feet of a parking area serving another facility.
 - (1) Such facilities include, but are not limited to, clubhouses, leasing offices, and parking bays designated for visitor parking.
 - (2) Such parking areas shall include a designated handicap accessible parking space in a location meeting USPS requirements.

2. Pedestrian Access.

- a. Walkways or sidewalks shall connect CBUs to parking areas and the overall walkway and sidewalk system of the development.
- b. All CBUs shall be accessed by walkways or sidewalks meeting handicap accessibility width and paving requirements.

Section 9-3029. Lighting

Levels of illumination to achieve a certain function or desired effect should also reduce or eliminate the hazardous aspects and nuisance of glare and light spillage. All exterior lighting, with the exception of street lighting, that is used around buildings, recreation areas, parking lots, and signs, shall be designed to protect against the spillage of light to adjacent properties.

A. Outdoor Lighting Standards

- 1. Outdoor lighting shall not shine directly into the yard or into the windows of an adjacent residence.
- 2. Outdoor lighting shall be designed, located, and mounted at heights no greater than eighteen (18) feet above grade for pedestrian lights, or thirty-five (35) feet above grade for street or parking area lights.
- 3. Light sources may be located within the perimeter landscaped area and along pedestrian walkways providing provision (5) is met.
- 4. All outdoor and parking lot lighting fixtures, including metal halide, mercury vapor, fluorescent, induction, white high-pressure sodium, and color-improved high-

pressure sodium lamps used in non-cutoff fixtures shall be coated with an internal white frosting inside the outer lamp envelope.

5. All lighting must be located at least ten (10) feet from property lines defining rear and side yards or required perimeter landscaped areas required by this Ordinance.
6. All outdoor lighting shall be designed and located such that the maximum illumination measured in foot-candles at the property line shall not exceed one (1) foot candle. The average intensity illumination for outdoor lighting shall not exceed four-foot candles in intensity (except where noted) as measured at grade. Fixtures should be placed to provide uniform distribution of light and to avoid intense lighting that produces excessive glare. General parking lot lighting shall not exceed a maintained average of two (2) and one-half foot-candles.
7. Lighting fixtures scaled for pedestrian activities shall provide for uniform lighting distribution to produce minimal shadows.
8. Floodlights, spotlights, or any other similar lighting shall not be used to illuminate buildings or other site features unless approved as an integral architectural element on the development plan. On site lighting may be used to accent architectural elements and not be used to illuminate entire portions of building(s). Floodlights or other type of lighting attached to light poles that illuminate the site and/or building(s) are prohibited.
9. Outdoor illumination of building, landscaping, and signs:
 - a. Exterior lighting should be integrated with the architectural character of the building. To avoid light spillage, only full cutoff fixtures shall be used.
 - b. The unshielded outdoor illumination of any building or landscaping is prohibited.
 - c. Lighting fixtures used to illuminate an outdoor advertising sign either shall be by directed ground lighting sign or mounted on the top of the sign and shall point downward and shall comply with shielding requirements.
 - d. Illumination of signs shall be limited to ten (10) lumens per square foot.
10. No flickering, rotating, or flashing lights, or search lights shall be permitted.
11. Wall packs on buildings may be used at entrances to a building to light unsafe areas. They are not intended to draw attention to the building or provide general building or site lighting. Wall Packs on the exterior of the building shall be fully shielded (true cut-off type-bulb or light source not visible from off-site) to direct the light downward and be of low wattage (preferably one hundred (100) watts or lower). Other accent lighting projected onto buildings may be allowed provided that it is approved through the development plan process.
12. Gas station/convenience store aprons and canopies:

- a. The lighting fixture bulbs shall be recessed into a canopy ceiling so that the bottom of the fixture is flush with the ceiling so that light is restrained to no more than eighty-five (85) degrees from vertical.
- b. As an alternative to recessed ceiling lights, indirect lighting may be used where the light is directed upward and then reflected down from the underside of the canopy. In this case, light fixtures shall be shielded so that direct illumination is focused exclusively on the underside of the canopy.
- c. Lights shall not be mounted on the top or sides (facia) of the canopy, and the sides of the canopy shall not be externally illuminated.
- d. The lighting for new facilities (pump islands and under canopies) shall have a minimum of one (1.0) foot-candle at grade and not exceed the average horizontal illumination cannot exceed ten (10) foot-candles at grade level. These standards are based on the IESNA (Illuminating Engineering Society of North America) RP-33, Lighting for Exterior Environments.

13. Canopies used for building accents over doors, windows, etc. shall not be internally lit (i.e. from underneath or behind the canopy).

B. Design procedures

The maximum permitted illumination shall be measured in average foot-candles from ground level in accordance to the standards expressed in this chapter. The following standards shall be required of all exterior lighting with the exception of public street lighting.

The quantity of fixtures to be provided shall be based upon the desired level of uniform illumination as established by the current standards of the IESNA. Fixture locations should be chosen to minimize the hazards of glare.

The level of illumination shall be based upon the primary activity in each area to be lighted. The standards for various activities prescribed by the following Illuminating Engineering Society chart represent a number of exterior lighting uses for general reference. Foot-candle designations represent measurements for the average intensity at grade.

Table 5
Illumination Standards

Use	Illumination (in Foot-Candles)	
	Maximum (Glare)	Minimum (Safety)
UTILITY LIGHTING		
Minimum Visibility	—	.5
Driving	1	.5
Pedestrian Ways	1	.5
General Landscaped Areas	2	1

AREA LIGHTING		
Gas Station and Convenience Store Canopies	10	1
Parking Lots	4	1
BUILDING EXTERIORS		
Entrances (frequent use)	6	2
Entrances (infrequent use)	1	.5
Vital Locations or Structures	6	2
Building Surroundings	2	1

C. Outdoor Recreational Lighting

Because of their unique requirements for nighttime visibility and limited hours of operation, the lighting of active recreation areas, such as for ball fields and tennis courts are not considered in this chapter. However, lighting fixtures for such uses shall be mounted and aimed so that the illumination falls within the primary playing area and immediate surroundings so that no direct light illumination is directed off site. Lights shall be turned off within of the end of any event.

D. Street Lighting

Street lighting shall be placed on all streets by the developer to ensure for the safe use of streets by both cars and pedestrians. All street lighting shall be placed in accordance with the following minimum design standards:

1. Minimum average streetlight spacing:
 - a. Single family homes and duplex lots (greater than one hundred (100) feet wide): five hundred (500) feet.
 - b. Single family homes and duplex lots (less than one hundred (100) feet wide): three hundred (300) feet.
 - c. Multi-family uses: one hundred fifty (150) feet.
 - d. All other uses: three hundred (300) feet.
2. Preference in placement shall be given to street intersections and street curves.
3. Pedestrian lighting should be prioritized over automobile lighting. Lighting should be placed in a manner to limit the casting of shadows on sidewalks.
4. All lighting shall utilize full-cut-off fixture.
5. Alleys are excluded from the spacing and placing requirements of this chapter but are encouraged to be illuminated using private security lights, wall packs, or similar low level decorative lighting.

6. The requirement that streetlights be provided may be waived by the approving authority in mountainous areas where streetlights would be visible from the valley floor.

E. Administration and Enforcement

1. Measurement.

Light level measurements shall be made at the property line of the property upon which the light to be measured is being generated. If measurement on private property is not possible or practical, light level measurements may be made at the boundary of the public street right-of-way that adjoins the property. Measurements shall be made at finished grade (ground level), with the light-registering portion of the meter held parallel to the ground and pointing upward. Lighting levels are to be measured in foot-candles with a direct reading, portable light meter. The meter sensor shall be mounted not more than six inches above ground level in a horizontal position.

Light levels are specified, calculated, and measured in foot-candles (FC). All FC values in the Illumination Standards table in Section 9-3028.B are in maintained foot-candles.

2. Lighting plan.

- a. A lighting plan shall be submitted with all land development permit applications proposing the establishment of outdoor lighting.

- (1) A Site Plan drawn to scale showing building(s), landscaping, parking areas, and proposed exterior lighting fixtures.
- (2) Location of all post, canopy, supports, and light fixtures, including the height of each fixture, for any building, structure, parking, display and loading areas.
- (3) Specifications of the illuminating devices, lamps, supports, and other Devices, including designation as IESNA "cut-off" fixtures. This description may include but is not limited to manufacturers catalog cuts, enlarged, or reduced to the correct scale of the Site Plan, and drawings including sections where required.
- (4) Locations of all pole mounted and building mounted fixtures and a numerical 25-foot by 25-foot grid of lighting levels, in foot-candles, that the fixtures will produce on the ground (photometric report). The photometric report will indicate the minimum and maximum foot-candle levels within the lighted area of the site. The minimum (lowest number) is usually at the outer edges of the illuminated area or between two (2) fixtures. The average light level is determined by adding the foot-candle value of all the points in the grid and dividing by the total number

of points. This information is available from the manufacturer of the specified fixture.

- b. The above required plans and descriptions shall be sufficiently complete to enable the Administrator to readily determine compliance with the requirements of this chapter.
- c. An isolux lighting plan is also permitted in fulfillment of this section provided that it indicates the foot-candles at grade by contour diagram or grid points that cover the site.

F. Exceptions

The following types of lighting are exempt from these requirements:

- 1. Lighting of the United States of America or State of North Carolina flags and other non-commercial flags expressing constitutionally protected speech.
- 2. Circus, fair, carnival, or other similar civic/community events.
- 3. Construction and emergency lighting are exempt from the provisions of this chapter provided said lighting is temporary and is discontinued immediately upon completion of the construction work or abatement of the emergency necessitating said lighting.
- 4. Underwater lighting used for illumination of swimming pools and fountains is exempt from shielding standards.
- 5. Religious/holiday decorations lighting (i.e. Christmas trees and lighting).

Article E. Common Ownership

Section 9-3030. Ownership and Maintenance of Open Space and Preserved Areas

- A. General.** All existing open spaces, recreation areas, environmental features, or landscaping/preservation required for or by the regulations contained in this Chapter or the Zoning Ordinance, shall be permanently restricted from future development or removal except in cases where a tree is diseased, severely damaged, or dead, where maintenance and upgrade is required, or where improvements to open space and recreation are related to passive or active recreation and permitted by Ordinance.
- B. Ownership/Maintenance Options.** The following methods may be used, either individually or in combination, to own and maintain areas designated for open space, recreation, stormwater management facilities, environmental resources, landscape, or preserved trees. Ownership methods shall conform to the following:
 - 1. **Homeowners Association.** (*Preferred*) Open space, recreation, preserved tree areas, buffer yards, and any additional common area may be held in common ownership

by a homeowners' association in accordance with Section 9-3029 and the following:

- a. The applicant shall provide the municipality, for its approval, a description of the organization of the proposed association, including its bylaws, and all documents governing ownership, maintenance, and restrictions for the area to be preserved.
 - b. The proposed association shall be established by the owner or applicant and shall be operating (with financial subsidization by the owner or applicant, if necessary) before the sale of any dwelling units in the development.
 - c. Membership in the association shall be automatic (mandatory) for all purchasers of dwelling units therein and their successors in title.
 - d. The association shall be responsible for maintenance, tax, and insurance of the open space, grounds, equipment, facilities, trails, fences, landscaping, trees, etc.
 - e. The by-laws shall confer legal authority on the association to place a lien on the real property of any member(s) falling delinquent in their dues. Such dues shall be paid with the accrued interest before the lien may be lifted.
 - f. Written notice of any proposed ownership transfer, by the association, of subject trees, to another entity permitted in this Chapter, or the assumption of maintenance of such lands must be given to all members of the association and to the Town no less than thirty (30) days prior to such event.
 - g. The association shall have adequate staff to administer, maintain, and operate the lands.
2. **Fee Simple Dedication to the Town.** The Town of Canton may, but shall not be required to, accept any portion or portions of the open space, recreation area, stormwater management facility, trail, preserved tree areas, buffers, rights-of-way, easements, or additional lands provided the following conditions are met:
- a. There are no acquisition or immediate improvement costs to the Town.
 - b. The Town agrees to and has access to maintain such lands, facilities, tree(s), landscaping, water features, etc.
 - c. All preserved trees and newly planted trees, meeting ordinance requirements for buffer or street trees and that are located within the rights-of-way of a municipal roadway, shall become the responsibility of the Town of Canton.
3. **Private Conservation Organization.** With permission of the Town, an owner may transfer either fee simple title of the open space or easements to a private non-profit conservation organization, provided that:

- a. The conservation organization is acceptable to the Town of Canton and is a bona fide conservation organization intended to exist indefinitely.
 - b. The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions.
 - c. The open space and recreation areas are permanently preserved from future development and environmental features and tree preservation, buffers and landscaping are preserved from removal through a conservation easement and the Town of Canton is given the ability to enforce these restrictions and impose penalties.
 - d. A maintenance agreement acceptable to the Town of Canton is established between the owner and the organization.
4. **Dedication of Easements to the Town of Canton.** The Town may accept the dedication of easements for any portion of the open space, recreation area, stormwater management facility, environmental features, or preserved trees and buffers. In such cases, these features remain in the ownership of the individual property owner, homeowner's association, private conservation organization, while the easements and development rights are held by the municipality. In addition, the following regulations shall apply:
- a. There shall be no cost of acquisition to the Town.
 - b. A satisfactory maintenance agreement shall be reached between the owner and the municipality.
5. **Individual Landowner with Deed Restriction.** In instances where a residential subdivision does not occur, the landowner manages the property, or if preserved trees or buffer yards, are not located in areas designated as open space and located on individual lots without easements, the property owner will be responsible for the care and maintenance of the open space, recreation area, or preserved and installed tree(s). Further, the open space and/or preserved areas must be protected by deed restrictions as outlined in subsection C., below.

C. Deed Restrictions

1. Requirements

- a. Where open space or recreation areas, required by this Chapter or the Zoning Ordinance, are provided, the area shall be deed restricted against development with the exception of facilities and improvements related to the nature of the space (i.e., nature trail, benches, playground, etc.)
- b. Where the trees, required for preservation by the regulations contained in this Chapter or the Zoning Ordinance, are located on property held in private ownership by individuals or a homeowner's association, the lot on

which the tree(s) are located shall be deed restricted against any future removal of such trees, except in cases of disease, severe damage, or death.

2. For single-family, residential uses, buffers, as required by this Chapter or the Zoning Ordinance, are not to be placed on individual residential lots except in the absence of a homeowner's association. Where no HOA is present and when approved by the Administrator, the buffers may be held in the ownership of individual property owners of a residential development/subdivision provided deed restrictions subject to the following requirements are provided:
 - a. Must be approved by the Town of Canton Board of Aldermen
 - b. Restrictions meeting Town specifications must be placed in the deed for each property that has buffer yards within its boundaries. The restrictions shall provide for the continuance of the buffer yard, as shown on the approved plans, in accordance with the provisions of this Chapter.
 - c. It will be clearly stated in the individual deeds that the maintenance responsibility lies with the individual property owner.
3. For multi-family and nonresidential uses, open space, recreation areas, buffer yards, areas of natural resource features, and/or preserved trees may be held with the ownership of the parcel / development provided the preserved areas are deed restricted to ensure their protection and continuance, as shown on the approved plans and that a maintenance agreement suitable to the municipality is provided.

D. Maintenance and Cost

Unless otherwise agreed to by the Town, the cost and responsibility of maintaining open space, recreation areas, environmental areas, stormwater management facility, buffers, landscaping and/or tree preservation areas required by the regulations contained in this Chapter or the Zoning Ordinance, shall be borne by the property owner, homeowners association, or conservation organization:

1. The applicant shall, at the time of the initial plan submission, provide a plan for maintenance of such preserved areas in a form acceptable to the Town.
2. In the event that the organization established to preserve and/or maintain the preserved areas or any successor organization thereto, fails to maintain all or any portion thereof in reasonable order and condition, the Town may assume responsibility for maintenance, in which case any assets and general funds of the organization may be forfeited, any permits may be revoked or suspended, and penalties may be issued, including but not limited to the provision of replacement trees, mitigation, and/or fines.
3. The municipality may enter the premises and take corrective action, including extended maintenance. The costs of such corrective action may be charged to the property owner, homeowners association, conservation organization, or individual property owners who make up a homeowner's association and may include

administrative costs and penalties. Such costs shall become a lien on said properties.

E. Documentation

Documents providing for the establishment of a property owners' association or similar legal entity in accord with this section shall be submitted approved by the Town attorney before any plat for the development is recorded. The review by the attorney shall be limited to ensuring that the property owners' association or similar legal entity is established so that it has the clear legal authority to maintain and exercise control over the common areas and facilities, including the power to compel contributions from subdivision residents to cover their proportionate shares of the costs associated with the maintenance of the common areas and facilities.

Section 9-3031. Property Owners' Associations

- A.** An Owners' Association shall be established to fulfill requirements of the NC Condominium Act, NC Planned Community Act, or to accept conveyance and maintenance of all common elements (common areas) within a development. The Owners' Association shall be in legal existence prior to the conveyance, lease-option, or other long-term transfer of control of any unit or lot in the development.
- B.** Where developments have common elements serving more than one (1) dwelling unit, these areas shall be conveyed to the Owners' Association, in which all owners of lots in the development shall be members. All areas other than public street rights-of-way, other areas dedicated to the Town, and lots shall be designated as common elements. In a condominium development the common elements shall be platted in accordance with the NC Condominium Act. In other developments, the fee-simple title shall be conveyed by the subdivider or developer to the Owners' Association prior to the sale of the first lot.
- C.** Common elements shall not subsequently be subdivided or conveyed by the Owners' Association unless a revised Preliminary Plat and a revised Final Plat showing such subdivision or conveyance have been submitted and approved by the Board of Aldermen. In no such instance, shall the common elements be reduced to an area that is less than what is required for the subject development by this Chapter or the Zoning Ordinance, such as required open space, buffers, or recreation areas.
- D.** Developments, whether including different land uses, different types of housing, or simply different sections, shall hold the number of Owners' Associations to a minimum. An association may establish different categories of membership, different budgets for the categories, and different rates of assessment when different kinds of services are provided to different categories. Smaller associations under an umbrella (master) association are permitted.
- E.** A development involving only two units attached by a party wall (or two separate walls back-to-back) shall not be required to have common elements or an Owners' Association. Such developments without an Owners' Association shall establish a binding agreement between owners to govern any party walls and to ensure reciprocal easement rights needed for maintenance.

Article F. Enforcement

Section 9-3032. Notice to Comply.

- A. Administrator Authority.** The provisions of this Ordinance shall be enforced by the Board of Aldermen and the Administrator through their authority to abate any violations, enjoin, restrain, and prosecute any person violating this Ordinance pursuant to North Carolina law.
- B. Inspections.** Administrative staff may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, the Staff is authorized to enter any premises within the jurisdiction of the local government at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.
- C. Complaints Regarding Violations.** Whenever a violation of this ordinance occurs or is alleged to have occurred, any person may file a written complaint. Any written complaint stating fully the cause and basis thereof shall be filed with the Administrator who shall properly record such complaint, immediately investigate, and take action as provided by this ordinance.
- D. Notice of Violation.** Upon discovering a violation of this ordinance, the Administrator shall issue a written "Notice of Violation" containing the following information:

 - 1. That the land, building, structure, sign, or use is in violation of this Ordinance;
 - 2. A description of the violation and citation of the relevant Sections of the Zoning and Subdivision Ordinances;
 - 3. Specific measures necessary to remedy the violation;
 - 4. The time within which the violation shall be corrected.
 - 5. The Notice of Violation shall be in writing and shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail or by conspicuously posting on the property. The responsible party shall remedy the violation within the time specified in the Notice of Violation. Appeals of the Notice of Violation may be taken to the Zoning Board of Adjustment and any further enforcement shall have stayed pending hearing of the appeal.
- E. Responsible Party.** The owner of any land, building, structure, sign, land use or part thereof, and any occupant, architect, builder, contractor, agent or another person, who participates or acts in concert, assists, directs, creates or maintains any condition that is in violation of this ordinance may be held responsible for the violation and subject to the civil penalties and remedies provided therein.

Section 9-3033. Stop Work Orders.

Whenever any work or activity subject to regulation pursuant to this ordinance is undertaken in substantial violation of any State or local law, or in a manner that endangers life or property, the Administrator may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped.

- A. The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefore, and the conditions under which the work or activity may be resumed.
- B. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail. The person or persons delivering the stop-work order shall certify to the local government that the order was delivered, and that certificate shall be deemed conclusive in the absence of fraud.
- C. Appeals and Violations of Stop Works Orders. Except as provided by G.S. 160D-1112 and G.S. 160D-1208, a stop-work order may be appealed pursuant to G.S. 160D-405. No further work or activity shall take place in violation of a stop-work order pending a ruling on the appeal. Violation of a stop-work order shall constitute a Class 1 misdemeanor.

Section 9-3034. Revocation of Permits

In addition to initiation of enforcement actions under G.S. 160D-404, development approvals may be revoked by the Town by notifying the holder in writing stating the reason for the revocation. The Town shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked.

Section 9-3035. Remedies

Any development regulation adopted in accordance with N.C.G.S. 160D may be enforced by any remedy provided in G.S. 160A-175 or G.S. 153A-123. If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used or developed in violation of this ordinance or of any development regulation, the Town may take appropriate action or proceedings.

- A. No civil penalty shall be assessed under this Section until a Notice of Violation has been issued to the responsible party as provided above. If after receiving a Notice of Violation the responsible party fails to correct the violation, a civil penalty shall be imposed in the form of a citation. Such citation shall be in writing and shall be delivered by certified or registered mail to the holder of the development approval and to the owner of the property

involved (if that person is not the holder of the development approval), by personal service, or by conspicuously posting on the property. The citation shall state the civil penalty fee and shall direct the violator to pay the civil penalty within ten (10) business days of the date of issuance. Failure to pay the civil penalty shall subject the responsible party, in addition to other remedies, to the payment of reasonable attorney's fees, including the principal amount of the penalty and interest accruing thereon.

- B. Upon expiration of the time limit set forth by the Administrator in the Notice of Violation, Civil Penalties as set by the Town of Canton fee schedule shall be assessed per violation. Assessment of a civil penalty and payment of that penalty does not negate the responsible party from correcting the violation. Civil penalties paid within ten (10) business days shall be reduced by fifty (50%) percent if the violation has been corrected.
- C. Civil penalties assessed for violations of this Ordinance shall constitute a lien against the property upon which the violation is or has been conducted.
- D. Notwithstanding any other remedies of civil penalties imposed for violations of this Ordinance, in the event that the Town files suit to enforce any section of this Ordinance and prevails in such suit, the entity found to be in violation shall be responsible for reasonable attorney's fees expended by the Town to enforce such Ordinance.

Article G. Definitions

Section 9-3036. Word Usage

Unless otherwise expressly stated, the following terms shall, for purposes of the Ordinance, have the meanings given herein:

- A. Words used in the singular include the plural, and words in the plural include the singular.
- B. Words in the present tense include the future.
- C. The word "person," "subdivider," "owner" or "applicant" includes a corporation and a partnership as well as an individual.
- D. The word "building" means "structure" and shall be construed as if followed by the words "or part thereof."
- E. The word "street" includes "road," "roadway," "alley," and "highway" and shall mean the whole or any part thereof, and shall include bridge or culvert, cartway, gutter, curb, sidewalk, and the whole legal width of the right-of-way.
- F. The word "lot" includes "plot" and "parcel."
- G. The words "shall" and "will" are mandatory; the word "may" is permissive.

Section 9-3037. Definitions of Terms.

For purposes of this Chapter, certain words or terms used herein shall be defined as follows:

- A. Administrative decision. Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this Chapter or other development regulations.
- B. Administrator. Person or persons appointed by the Board of Aldermen to implement this Chapter. May also be referred to as Staff.
- C. Board of Aldermen. The Town of Canton Board of Aldermen. The local, elected governing body of the Town of Canton, NC.
- D. Building setback line. A line delineating the minimum distance between the property line and a building on a lot, within which no building or other structure shall be placed except as otherwise provided.
- E. Development. Any of the following:
 - 1. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
 - 2. The excavation, grading, filling, clearing, or alteration of land.
 - 3. The subdivision of land as defined in N.C.G.S. 160D-802.
 - 4. The initiation or substantial change in the use of land or the intensity of use of land.
- F. Development Plan. A scaled drawing which represents an existing or proposed development. For purposes of this Chapter, Development Plans may be a Preliminary Plat, a Site Plan, a Master Plan, or a Final Plat. Construction Drawings and As-Builts may also be classified as Development Plans.
- G. Easement. A grant by the property owner for use, by the public, a corporation, or person(s) of a strip of land for specified purposes.
- H. Extraterritorial jurisdiction. That land lying within one (1) mile in all directions of the corporate limits of the Town, as established by ordinance.
- I. Group project. A development comprising two (2) or more buildings such as a group of apartments, and the land is not subdivided into the customary street and lots.
- J. 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 the word "plot" or "parcel."
 - 1. Double frontage lot. A lot of the same depth as the width of a block containing two (2) tiers of lots and which is accessible from both of the streets upon which it fronts.
 - 2. Single tier lot. A lot which backs upon a limited access highway, a railroad, a physical barrier, or a nonresidential use and to which access from the rear is usually prohibited.

- K. Master Plan. A Preliminary Plat or Site Plan that details the overall plan of a multi-phase development, including site details for each proposed phase. The Master Plan may also be a single-sheet in subsequent Preliminary Plat, Site Plan, or Construction Drawing application based on an approved Master Plan Final Plat.
- L. Official maps or plans. Any maps or plans officially adopted by the Board of Aldermen as a guide for the development of the Town and surrounding area.
- M. Planning Board. The Town of Canton Planning Board.
- N. Plat, Final: The final map representing a tract of land showing the boundaries and location of individual properties, streets, and easements, recorded by the Haywood County Register of Deeds.
- O. Plat, Preliminary: A scaled subdivision plan, indicating the approximate proposed layout of a subdivision and its site features, including but not limited to existing conditions, lot layout and building envelopes, roadways, sidewalks, buffers, conservation areas, parking, open space, and recreation areas, as a basis of study and consideration prior to the installation of improvements.
- P. Run with the Land. A covenant, restriction, or permission that is binding on the present and all future owners of the property.
- Q. Site Plan. A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review.
- R. Street. A dedicated and accepted public right-of-way for vehicular traffic.
1. Thoroughfare. A traffic artery designed primarily to carry heavy volumes of through vehicular traffic.
 2. Major street. A street designed to carry heavy volumes of local vehicular traffic.
 3. Collector street. A street designed to carry medium volumes of vehicular traffic, provide access to the major street system and collect the vehicular traffic from the intersecting minor streets.
 4. Minor street. A street which provides vehicular access to the abutting properties.
 5. Cul-de-sac. A street permanently terminated by a turn-around.

6. Marginal access street. A minor street which parallels and is adjacent to a major street or highway; and which provides access to abutting properties and protection from through traffic.
- S. Subdivider. Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.
- T. 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 prescribed by this chapter.
1. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town as required by this chapter.
 2. The division of land into parcels greater than ten (10) acres where no street right-of-way is involved.
 3. The public acquisition by purchase of strips of land for the widening or opening of streets or for public system corridors.
 4. The division of a tract of land in single ownership whose entire area is not 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 required by this chapter.
 5. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.
- U. Subdivision, Major. A subdivision which involves new streets, roads or right-of-way dedication and where five (5) or more lots result after the subdivision is complete; or any subdivision which does not qualify as exempt; or any subdivision considered an Expedited Subdivision or a Minor Subdivision.
- V. Subdivision, Minor. Subdivision involving no new streets, roads, or right-of-way dedication and where four (4) or fewer lots result after the subdivision is completed.
- W. Substantial Improvement. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50%) percent of the market value of the structure either (1) before the improvement or repair is started, or (2) if damaged, the value of the structure to be restored prior to being damaged.
- X. Traffic Impact Analysis (TIA). A study that assesses the impacts of a proposed development on the existing and future multi-modal transportation network. The study must recommend mitigation measures for the anticipated impacts and must analyze the

adequacy of the development's planned access points within the existing and planned road network.



Building the Hometown of Tomorrow

Appendices

Town of Canton, North Carolina

June 2022



Appendix A: Certifications

Certificate of Approval by the Planning Board

I, _____, Chairman of the Planning Board, hereby certify that the said Board fully approved the final plat of the subdivision entitled _____ on the ____ day of _____.

Certificate of Ownership and Dedication

I (we) hereby certify that I am (we are), the owner(s) of the property shown and described hereon and that I (we) hereby adopt this plan of subdivision with my (our) free consent, establish minimum building lines, and dedicate all streets, alleys, walks, parks and other sites to public or private use as noted. Further, I (we) certify the land as shown hereon is within the platting jurisdiction of the Town of Canton, North Carolina.

Date

Owner

Owner

Certificate of Accuracy

(As required under General Statutes 47-30 as amended)

Date

Engineer or Registered Surveyor

Certification of the Approval of Private Water and Sewer Systems

I hereby certify that the water supply and sewage disposal system installed, or proposed for installation in the subdivision entitled _____ fully meets the requirements of the North Carolina State Health Department and are hereby approved as shown.

Date

County Health Officer or his/her legal representative

Certification of the Approval of the Installation and Construction of Street, Utilities and Other Required Improvements

I hereby certify (1) that streets, utilities and other required improvements have been installed in an acceptable manner and according to Town specifications and standards in the subdivision entitled _____, or (2) that a guarantee of the installations of the required improvements in an amount or manner satisfactory to the Town of Canton has been received.

Date

Town Clerk

Certificate of Approval for Recording Plat and Acceptance of Dedications

I, _____ the Town Clerk of the Town of Canton, North Carolina, do certify that on the __ day of _____, 20____ the Board of Aldermen of the Town of Canton approved this final plat for recording and accepted the dedication of streets, easements, rights-of-way and public parks and other sites for public purposes as shown hereon, but assume no responsibility to open or maintain the same until, in the opinion of the Board of Aldermen of the Town of Canton, it is in the public interest to do so.

Date

Town Clerk

(Seal)