

P07-73

REVISION AND AMENDMENT TO THE TOWN OF FALCON SUBDIVISION ORDINANCE, AMENDING SECTION 1.6. COMPLIANCE WITH ORDINANCE REQUIRED; SECTION 1.8. DEFINITIONS; SECTION 3.20. LOT STANDARDS; CREATING SECTION 3.23. ZERO LOT LINE DEVELOPMENTS; AND UPDATING THE TABLE OF CONTENTS AS APPROPRIATE. (FALCON)

AMEND SECTION 1.6. COMPLIANCE WITH ORDINANCE REQUIRED, AS INDICATED:

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

AMEND SECTION 1.8. DEFINITIONS, SUB-SECTION "J" AS INDICATED:

- j. Group Development. A group of two or more than one (1) principal uses, structures, or dwelling units occupying, built on, or intended to occur on a single lot, tract, or parcel of land designed for occupancy by separate families, business firms or other enterprises as regulated in Section 3.21 of this ordinance.

AMEND SECTION 1.8. DEFINITIONS, BY CREATING SUB-SECTION "OO" TO READ AS FOLLOWS:

- oo. Zero Lot Line Development: A development including, but not limited to, patio houses, town houses and businesses including one or more structures and/or two or more lots comprising at least two single-family residences or businesses, whether attached or detached, intended for separate ownership.

AMEND SECTION 3.20. LOT STANDARDS, AS INDICATED:

Except as otherwise provided for in Sections 3.21, 3.22, and 3.23, governing group developments, condominiums, and zero lot line developments, respectively, the district dimensional provisions ~~Where a zoning ordinance is in effect, the lot dimensions, setbacks and other standards of the zoning ordinance shall apply.~~

CREATE SECTION 3.23., ENTITLED: ZERO LOT LINE DEVELOPMENTS, AS INDICATED:

SECTION 3.23. ZERO LOT LINE DEVELOPMENTS

Zero lot line developments shall comply with all of the requirements of group developments (Section 3.21) when not specified herein, and for the purposes of determining compliance with this ordinance and Town's Zoning Ordinance, such development plan shall be considered a group development. Zero lot line developments shall be exempt from the provisions of Section 3.20. Lot Standards, and "lot" as defined in the Town's Zoning Ordinance, provided that any such development complies with all provisions of this section.

- a. Site plans. Site plans for zero lot line developments shall show the location of structures, streets and drives, alleys, walks, parking and recreation areas, yards, residential sites, the boundary of the development, maintenance easements and all common area.
- b. Building sites. A building site shall be that property intended for conveyance to a fee simple owner after the construction thereon of residential or non-residential structures and shall be sufficient in size to contain the structure to be constructed thereon and any other proposed components of the development that is to be conveyed. Each site shall abut and have direct access to a private street or drive that is maintained by an owners' association, or a public street.
- c. Building yards. Building sites, structures and accessory structures thereon, are exempt from all zoning district dimensional requirements of Section 7.3 of the Town's Zoning Ordinance, except:
 - (1) Building lots having direct access to a public street must meet the front yard and/or corner lot provisions of the applicable zoning district;
 - (2) Building lots on the periphery of the development must meet all setback requirements of the applicable zoning district. In the event of dispute, the judgment of the Town Board of Commissioners as to what constitutes the front, rear, and side yard of each building lot on the periphery shall be final; and
 - (3) A minimum of a ten foot separation between structures shall be provided for all building lots within developments that are creating individual building lots.
- d. Density. The number of residential building sites created shall not exceed the density standard for such developments as stated in the district dimensional provisions for the applicable zoning district, excluding land area contained within the public right-of-way which is dedicated or reserved and excluding land area contained within a private street approved under the private street provisions of this chapter.

- e. Owners' association. An owners' association complying with sub-section "h" below, shall be mandatory when land and/or any portion of any structure is to be held in common.
- f. Common areas. All areas on the site plan, other than building sites and public rights-of-way, shall be shown and designated as "common areas," the fee simple title to which shall be conveyed by the developer to the owners' association. All common areas shall not be further subdivided or conveyed by the owners' association. This provision shall be so stated in the covenants and restrictions.
- g. Recreation areas. All developments consisting primarily of units shall provide recreation area in accordance with Section 3.21. Those developments consisting primarily of individual lots shall provide parks, open space and recreation area in accordance with Section 3.13.1.
- h. Covenants and restrictions. The developer shall file, along with the application for preliminary approval, a declaration of covenants and restrictions governing the common areas and the owners' association, if provided or required for the development, and the building sites. This declaration of covenants and restrictions, along with the association incorporation documents and by-laws, shall be approved by the Town Attorney prior to recording of such documents and prior to any final plat or plan approval. The restrictions shall contain, but not be limited to, provisions for the following, if applicable:
- (1) The owners' association shall be organized and in legal existence prior to the sale of any building site in the development;
 - (2) Membership in the owners' association shall be mandatory for each original purchaser and each successive purchaser of a building site;
 - (3) The owners' association shall be responsible for the provision of liability insurance, any taxes, maintenance of recreation and other facilities located on the common areas, and payment of assessments for public and private capital improvements made to or for the benefit of the common areas located within the development. It shall be further provided that upon default by the owners' association in the payment to the governmental authority entitled thereto of any ad valorem taxes levied against the common areas or assessments for public improvements to the common areas, and said default continues for a period of six months, each owner of a building site within the development shall become personally obligated to pay to the tax assessing governmental authority a portion of such taxes or assessments in an amount determined by dividing the total taxes and/or assessments due by the total number of building sites in the development. If such sum is not paid by the owner within 30 days following receipt of notice of the amount due, then such sum shall become a continuing lien on the building site of the then owner, his heirs, devisees, personal

representatives and assigns, and the taxing or assessing governmental authority may either bring an action at law against the owner personally obligated to pay the same or may elect to foreclose the lien against the property of the owner;

(4) The owners' association shall be empowered to levy assessments against the owners of building sites within the development for payment of expenditures made by the owners' association for the items set forth in the preceding paragraph and any such assessments not paid by the owner against whom such are assessed shall constitute a lien on the building site of the owner;

(5) Easements over the common areas for access, ingress and egress from and to public streets and walkways, and easements for enjoyment of the common areas and for parking and drive areas shall be granted to each owner of a building site within the development; and

(6) Any common walls constructed between units shall be party walls, and provisions for the maintenance thereof, and restoration in the event of destruction or damage shall be established either within the owners' association documents or by the covenants.

i. Final plat. A final plat shall be prepared in accordance with Section 5.2 and shall also include the following:

(1) All building sites numbered and bearings and distances given for the boundaries for any buildings to be constructed thereon;

(2) All common areas labeled as "Common Area" and with the facilities identified thereon;

(3) Any notes as required under this section, including maintenance easements when required;

(4) Clearly labeled as a "Zero Lot Line" development in the title block; and

(5) An indication as to the location (book and page number) of the covenants and restrictions governing the plat.

j. Compliance with state law. In addition to the above requirements, zero lot line developments shall comply with the pertinent provisions of Chapter 47A of the N. C. General Statutes, specifically sections 7 through 11, 14.1, 18 through 20, and 23, as if such development has been submitted under the provisions of that chapter.