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## AN ORDINANCE AMENDING THE CHATHAM COUNTY SUBDIVISION REGULATIONS

**WHEREAS**, the Chatham County Board of Commissioners has considered amendments to the Chatham County Subdivision Regulations, Sections 7 and 12 as described in Attachment A, and finds that they are reasonable and public interests are furthered; and


**BE IT ORDAINED**, by the Board of Commissioners of Chatham County as follows:

1. The amendments to the Chatham County Subdivision Regulations described in Attachment A are approved.
2. This Ordinance shall become effective May 21<sup>st</sup>, 2012.

Adopted this 21<sup>st</sup> day of May 2012

  
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Brian Bock, Chair

ATTEST:

  
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Sandra B. Sublett, CMC, NCCCC Clerk to the Board  
Chatham County Board of Commissioners

## **ATTACHMENT A**

### **Subdivision Regulations Amendments – Conservation Subdivision Standards and Review Procedure**

*Recommended changes shown as additions or ~~deletions~~.*

#### **SECTION 7        REQUIREMENTS AND MINIMUM STANDARDS FOR IMPROVEMENTS, RESERVATIONS, AND DESIGN**

##### **7.2    Rural Roads**

###### **D. Private Road**

###### **(1)    Private roads may be allowed in the following types of developments:**

- a.    Developments which due to the very nature of their design could not occur if required to meet the requirements for subdivision roads by the Division of Highways. Such developments include conservation subdivisions, mobile home parks, apartment complexes, and planned unit developments.

##### **7.7    Conservation Subdivision—Alternative Standards for Development**

As an alternative to conventional layouts, Chatham County encourages the preservation of large, contiguous blocks of land, herein referred to as Conservation Space. Conservation Space shall consist of Open Space and Natural Space. When a project voluntarily preserves Conservation Space in accordance with this Section, a project can increase the number of units that would be allowed on the overall property by ten (10) percent. Calculation of the density bonus shall be based on the applicable underlying land use regulation(s) dictating allowable development density.

The requirements for this option are detailed below.

###### **A.    Conservation Space Requirement**

A minimum of 40 percent of the project area shall be retained as Conservation Space for a conservation subdivision design. Land required to be protected under other regulatory provisions, such as riparian buffers and floodplain, are permitted to be included in the Conservation Space calculation.

###### **B.    Composition of Conservation Space**

A maximum of 20% of the required Conservation Space shall be Open Space and a minimum of 80% of such Conservation Space shall be Natural Space, unless it can be demonstrated that no practical alternative exists for preserving that amount of Natural Space. See The Chatham County Conservation Subdivision Guidelines for Conservation Space Selection.

**C. Connectivity of Conservation Space**

At least 50 percent of the proposed Conservation Space shall consist of a contiguous tract. The Conservation Space should adjoin any neighboring areas of Conservation Space on other parcels whenever practicable.

**D. Permitted Uses of Conservation Space**

Provided it includes the required divisions of Open Space and Natural Space and otherwise conforms with the Chatham County Conservation Subdivision Guidelines, uses of Conservation Space may include the following:

**(1) Conservation**

Conservation of natural resources, archeological resources or historical resources

**(2) Agriculture**

Existing and ongoing bona fide agriculture, horticulture, or silviculture, provided that all applicable best management practices are used to minimize environmental impacts.

**(3) Recreation**

Active recreational uses of Open Space are permitted, given that active uses such as tennis courts, swimming pools, ball fields, playgrounds, et cetera are limited to a maximum of 5 percent of the total Conservation Space area.

**(4) Stormwater Management**

Use for stormwater management is permissible consistent with the Chatham County Stormwater Ordinance requirements.

**(5) Utility Easements**

Easements for drainage, access to utilities, and underground utility lines.

**(6) Water, Septic, and Sewer Systems**

Shared water, septic and sewer infrastructure is allowed in Open Space, but not in Natural Space areas unless approved by the Environmental Quality Department.

**(7) Trails**

All trails, provided that Best Management Practices and an approved Trail Management Plan are employed for recreational purposes, such as pedestrian, mountain biking, general recreation and equestrian uses.

**E. Prohibited Uses of Conservation Space**

**(1) Use of Motor Vehicles**

(Except for maintenance purposes as provided for in the Open Space Management Plan).

**(2) Roads, Parking Lots and Impervious Surfaces**

(Except when necessary for access to active recreational uses).

**F. Ownership of Conservation Space**

The applicant must identify the current and intended future owner(s) of the Conservation Space who is/are responsible for maintaining such area/facilities. The responsibility for maintaining the Conservation Space and any facilities located

thereon shall be borne by the owner unless otherwise specified in a Conservation Space Management Plan approved by the County.

#### **G. Management of Conservation Space**

The applicant shall submit a management plan for all proposed Conservation Space. Upon initial approval of the management plan by the County, changes to the plan shall be allowed only when approved by the County Board of Commissioners. The plan shall be referred to as the "Conservation Space Management Plan" and shall include:

- (1) A statement allocating maintenance responsibilities and establishing guidelines for the upkeep of Conservation Space and all associated facilities;
- (2) Cost estimates for all maintenance, operation and insurance needs for the Conservation Space, as well as a plan that outlines the means by which funds will be obtained for such expenses;
- (3) Establishment of criteria for enforcement of the plan.
- (4) Prior to any clearing or grading of the site, protective fencing should be established around all Natural Space areas. Fencing shall be placed outside the critical root zone or dripline, whichever is greater, of any trees.

#### **H. Legal Instrument for Permanent Protection**

Conservation Space proposed for a conservation subdivision shall be protected in perpetuity by a binding legal document that is recorded with the deed upon review and approval by the County. The document shall be one of the following three (3) options:

**(1) Permanent Conservation Easement.**

A permanent conservation easement in favor of either:

- A land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for retransfer in the event the organization becomes unable to carry out its functions; or
- A governmental entity with an interest in pursuing goals consistent with the intentions of this Section.

**(2) Permanent Restrictive Covenant.**

A permanent restrictive covenant for conservation purposes.

**(3) Alternative Land Use Restriction.**

An equivalent legal tool that provides permanent protection, if approved by the County Attorney. The instrument for permanent

protection shall include all use restrictions contained in this section, as well as any additional reasonable restrictions the applicant chooses to place on the use of the open space.

### **I. Density Bonuses**

The base density for a conservation subdivision is determined by the underlying land use regulation, establishing otherwise allowable unit density (minus any regulated floodplain, riparian buffers where building is prohibited under Chatham County ordinances) in which the development parcel is located. Permitted housing densities shall not exceed the maximum allowances of any applicable water supply watershed requirements.

### **J. Agricultural Preservation Density Bonus**

Conservation subdivisions proposed for the purposes of sustaining existing on-site bona fide agricultural operations are entitled to a five (5) percent increase in permitted density (this in addition to the ten (10) percent density bonus). Ideally, residential lots in such developments should be located in areas less suitable for agricultural production, while prime farmland areas of the property should be reserved as Conservation Space. It is strongly recommended that development parcels be located where agricultural operations do not interfere with the safety and/or well being of potential future residents. Upon completion such agricultural uses, all lands previously occupied by those uses shall be preserved in perpetuity as natural space, and shall not qualify for future development.

### **K. Lot and Structure Placement**

#### **(1) Lot Size**

There is no minimum size for lots in a conservation subdivision; however the lot size shall be adequate to provide for minimum setbacks and any required infrastructure or services.

#### **(2) Structure Placement.**

##### **a. Setbacks**

Structures within a conservation subdivision should be placed as closely to internal roads as practical. The reviewing agency may reduce the front yard setback to a minimum of five (5) feet when necessary. In such cases, the reviewing agency must take into consideration sound engineering, public safety concerns and community character when applying standards. Vegetative buffers should be left between new development and existing residential development where possible.

##### **a. Separation**

Structures within conservation subdivisions may be located in the side yard setback required by the zoning district regulations. Structures may be placed as closely together as permitted by the North Carolina State Building Code.

#### **(3) Lot Proximity to Open Space.**

Open space shall be accessible to the largest possible number of lots within the development. To achieve this, the majority of lots should abut open space to provide residents with direct views and access. Safe and convenient pedestrian access to the open space from all adjoining lots shall be provided, except in the case of farmland or other resources areas vulnerable to human disturbance.

#### **L. Private Driveway Easements**

Private driveway easements may be used in place of public and/or private roads where proposed to provide access to two (2) or fewer lots. The minimum required easement width is 30 feet and shall have a centerline length of no more than 200 feet. Proposed driveway easements should be clearly identified on all plans and plats with a description of what lots the easement is proposed to serve. Final Plats creating driveway easements must contain a note that conveys maintenance responsibility of the easement to the home owners utilizing it to access their property. The note shall specifically state that the easement(s) must be maintained to allow clear passage for emergency response vehicles. Driveway easements are not subject to the requirements for public or private roads.

#### **M. Public and Private Road Standards**

All conservation subdivisions with proposed roads and rights-of-way shall follow the standards in Section 7.2.

- (1) The Planning Department may accept public rights-of-way in conservation subdivisions of 15 or fewer lots.
- (2) Conservation subdivisions of 15 or fewer lots shall follow the provisions of Section 3 in order to record a final plat prior to completion of the required improvements.

#### **N. Review and Approval**

- (1) Conservation subdivisions of Fifteen (15) or Fewer fewer Lotslots are reviewed and approved by the Planning Department using the following process:- The review and approval process for conservation subdivisions of fifteen (15) or fewer lots shall be the same as that of a minor subdivision.
  - a. The applicant shall submit the required number of prints of the plat to the Planning Department. Applicants shall pay any administrative fee established by the County at the time of the application or request. The staff shall inform the applicant of necessary modifications to the plat. Conservation Subdivisions involving access to more than two lots shall have the access road name approved by the Emergency Operations Center (EOC) and Board of Commissioners.
  - b. Where public service is available, public sewer shall be provided and installed in such a manner as to serve adequately all lots within the subdivision. Where public service is not available, a soil scientist, licensed in North Carolina, shall certify that suitable soils are available for each lot in accordance with applicable state and local rules. The Chatham County Environmental Health Department will

review soil scientist reports and maps and indicate its' adequacy prior to proceeding with final plat approval. Installation of all sewage disposal systems shall conform to appropriate regulations of any governmental agency having jurisdiction thereof.

- c. The Planning Department shall review the plat and if everything is in order, the Director of Planning or his/her authorized agent shall approve the plat. (See Appendices)
- d. The plat shall be submitted for recording by the applicant within the time limit specified in these regulations.
- e. In order for a subdivision to be processed under these provisions, the following requirements must be met:

(1)The plat must meet all requirements and standards for Final Plats as required in section 6.4.

(2)There can be no variances requested from the subdivision regulations.

(3)There cannot be, as a result of such subdivision, a creation of any lots which fail to meet all requirements of the subdivision regulations.

(4)No subdivider may use this procedure in the same immediate location (approximately fifteen hundred [1,500] feet) for a period of twelve (12) months after getting subdivision approval using said procedure in said location, if he/she owns, has an option on, or has any legal interest in any property adjacent to the property to be subdivided.

(5)Additional street right-of-way dedication shall be shown on the plat in cases where the existing right-of-way does not meet the present minimum right-of-way width.

(6)If a conservation subdivision does not meet the above listed requirements it shall be reviewed as a major subdivision, unless otherwise provided.

- f. Any appeals of a staff decision regarding a Conservation Subdivision shall follow the process in Section 5.2(F).

- (2)** Conservation subdivisions in excess of fifteen (15) lots shall be reviewed as a major subdivision.

**DELETE SECTION 12 INDEX**