

**SECTION VII. LEGAL STATUS PROVISION**

**VII-A.**

Amended  
10/3/88

**Interpretation, Application and Conflict**

In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements adopted for the promotion of the minimum health, safety and general welfare. It is not intended by this Ordinance to repeal, abrogate, annul or in any way to impair or interfere with any existing ordinance, rule or regulation, statute or other provision of law applicable to Orange County. Furthermore, the enactment of this Ordinance is not intended to interfere with or abrogate or annul any easement, covenant or private agreement; provided, however, that where this Ordinance imposes restrictions different than are imposed or required by other ordinances, rules or regulations, or by easements, covenants or agreements, whichever provisions are more restrictive shall apply.

**VII-B.**

**Separability**

If any part or provision of these regulations or the application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in all controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances.

**VII-C.**

**Re-Enactment and Repeal of Existing Subdivision Regulations**

This Ordinance in part carries forward by re-enactment some of the provisions of the Subdivision Regulations of Orange County, as amended, and enacted as follows:

December 4, 1967	Chapel Hill Township
March 2, 1970	Eno Township
March 13, 1978	Countywide

It is not the intention to repeal but rather to re-enact and continue in force existing provisions so that all rights and liabilities that have accrued there under are preserved and may be enforced. All provisions of the Subdivision Regulations, which are not re-enacted herein, are hereby repealed.

All suits at law or in equity and/or all prosecutions resulting from the violation of any subdivision ordinance heretofore in effect, which are now pending in any of the courts of this State or of the United States, shall not be abated or abandoned by reason of the adoption of this Ordinance, but shall be prosecuted to their finality the same as if this Ordinance had not been adopted. Any and all violations of the existing ordinance, prosecutions for which have not been instituted, may be hereafter filed and prosecuted, and nothing in this Ordinance shall be so construed as to abandon, abate or dismiss any litigation or prosecution now pending and/or which may heretofore have been instituted or prosecuted.

**VII-D. Amendment Procedures**

The Board of Commissioners may, on its own motion, upon recommendation of the Planning Board or upon petition by any interested person, amend, supplement, change, modify or repeal any of the regulations established by this Ordinance. All such proposals shall be referred to the Planning Board for its consideration and recommendation. In no case shall final action by the Board of Commissioners be taken on amending, changing, modifying, supplementing or repealing any of the regulations until a public hearing has been held by the Board of Commissioners at which parties in interest and citizens shall have an opportunity to be heard.

**VII-D-1. Action by the Applicant**

A petition to amend the regulations established by this Ordinance shall be submitted in writing to the Planning Department at least thirty (30) days prior to the next regular meeting of the Planning Board. The petition shall include the following information:

- (a) A description and/or statement of the present regulations and the changes, amendments or modifications proposed thereto; and
- (b) The names and addresses of the party or parties requesting the amendment(s).

If a public hearing is held as required by this Article, the person(s) submitting a petition shall pay all expenses incurred by Orange County in the proper advertisement of such hearing.

**VII-D-2. Preliminary Review of Proposed Amendment**

The Planning Board shall review all petitions to amend, supplement, change or repeal any of the regulations contained in this Ordinance. The Planning Board, after due consideration of the proposed amendment, shall transmit its recommendation and report, including the reasons for its determination, to the Board of Commissioners.

### VII-D-3.

#### Public Hearing Procedures

The Board of Commissioners may, upon receipt of the recommendation of the Planning Board, place the proposed amendment on the agenda of the next regular joint public hearing.

The Board of Commissioners and the Planning Board shall jointly hear petitions for amendments to this Ordinance at the Board of Commissioners' last regular meeting in February, May, August, and November. The notice of public hearing shall be given once a week for two (2) successive calendar weeks in a newspaper having general circulation in the County. The notice shall be published for the first time not less than ten (10) days nor more than twenty-five (25) days before the date fixed for the hearing. The time of publication of such notice shall be computed so as to exclude the first day of publication and include the day on which the public hearing is to be held. In addition to indicating the substance of the amendment to be considered, and the time, date and location of the public hearing, every notice shall contain a provision indicating that as a result of the hearing, substantial changes may be made in the advertised proposal, reflecting objections, debate and discussion at the hearing.

### VII-D-4.

Amended  
2/5/90  
3/14/00

#### Action Subsequent to the Date of Public Hearing

Following the date of the public hearing, all proposed amendments shall be referred to the Planning Board for consideration and recommendation. Evidence not presented at the joint public hearing (hereinafter called "new evidence") may be submitted in writing at or prior to the Planning Board meeting at which the recommendation to the Board of Commissioners is made. The Planning Board may consider oral evidence only if it is for the purpose of presenting information also submitted in writing.

The recommendation of the Planning Board will be forwarded to the Board of Commissioners. In making its decision, the Board of Commissioners shall consider all relevant evidence presented at the joint public hearing, and any new evidence which was considered by the Planning Board in making its recommendation.

The Planning Board shall submit its recommendations, including the reasons for its determination, to the Board of Commissioners. The Board of County Commissioners may direct the Planning Board to provide a recommendation by a date certain. If the Board of County Commissioners does not so direct, the Planning Board shall make its recommendation within three regularly scheduled Planning Board meetings. If the Planning Board fails to make a recommendation as directed by the Board of County Commissioners or within three regularly scheduled Planning Board meetings, whichever is applicable, the application shall be forwarded to the Board of County Commissioners without a Planning Board recommendation.

New evidence which was not presented in writing to the Planning Board may not be considered by the Board of Commissioners in making a decision unless the joint public hearing is reopened to receive said evidence, and the item is readvertised and/or referred back to the Planning Board for recommendation.

**VII-D-5.**

**Reconsideration of Petition**

Whenever a petition requesting an amendment has been denied by the Board of Commissioners, or the petition has been withdrawn by written notice to the County Manager after publication of the first notice of public hearing, such petition shall not be considered again sooner than one (1) year after the date of denial or withdrawal, unless the Board of Commissioners, upon the recommendation of the Planning Board, shall find there have been substantial changes in conditions or circumstances bearing on the petition.

**VII-E.**

Amended  
6/26/03

**VII-E-1**

**Enforcement**

**Purpose and Intent**

This Article provides for the methods of notification and penalties involved in enforcement of this Ordinance. Whenever possible, it is desirable to gain voluntary compliance with the provisions of this Ordinance without the necessity of pursuing formal enforcement measures.

**VII-E-1.1**

**Violations; Violators**

**VII-E-1.2**

**Violation**

If a person who is the owner or the agent of the owner of any land located within the territorial jurisdiction of Orange County subdivides his/her land in violation of this Ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the provisions of this Ordinance and recorded in the Office of the Register of Deeds, he/she shall be in violation of this Ordinance. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from the enforcement provisions of this Ordinance.

For the purpose of Article VII-E of this Ordinance, the term "person" is defined to include but not be limited to any individual, group of individuals, or any corporation, partnership, association, company, or business, trust, joint venture, or other legal entity.

**VII-E-1.3 Responsibility**

The Planning Director shall enforce this Ordinance and the remedies authorized under this Article. The Planning Director shall have the authority to settle any violations that involve the payment of money to the governing body.

**VII-E-1.4 Planning Director**

For the purposes of this Article "Planning Director" shall mean the Director of the Orange County, NC Planning and Inspections Department and/or a sworn staff member acting in the capacity of the Planning Director.

**VII-E-2 Enforcement Procedures**

**VII-E-2.1 Inspections and Investigations:**

On receiving complaints or other information suggesting a violation of this Ordinance, the Planning Director shall investigate the situation and determine whether a violation exists.

**VII-E-2.2 Initial Notice of Violation:**

On determining that a violation exists, the Planning Director shall, whenever possible, make contact with the violator either in person or via telephone to discuss the violation. The Planning Director shall then give the responsible person(s) written notice of the violation by certified or registered mail, return receipt requested. When service is made by certified mail, a copy of the notice may also be sent by regular mail. Service shall be deemed sufficient if the notice by certified mail is unclaimed or refused, but the notice by regular mail is not returned by the post office within ten (10) days after mailing.

The notice shall describe the nature of the violation and its location, state the actions necessary to correct the violation, and invite the alleged violator to meet with the Planning Director to discuss the violation and how it may be corrected. The Planning Director may provide the alleged violator additional notices of violation.

**VII-E-2.3 Final Notice of Violation; Correction Order:**

The Planning Director's final written notice of violation (which may be the initial notice) shall also order correction of the violation, specify a reasonable time period in which the violation must be corrected, state the remedies and penalties authorized in Article VII-E-3 the Planning Director may pursue if the violation is not corrected within the specified time limit. The final written notice of violation shall be served upon the responsible person(s), either in person, or by certified or registered mail, return receipt requested. When service is made by certified mail, a copy of the notice may also be sent by regular mail. Service shall be deemed sufficient if the notice by certified mail is unclaimed or refused, but the notice by regular mail is not returned by the post office within ten (10) days after mailing, provided that a final notice of violation is posted in a conspicuous place on the premises affected.

**VII-E-2.4** Extension of Time Limit to Correct Violation:

The recipient of an initial notice of violation, correction order, or stop work order, or the owner of the property on which the violation occurs, may, within thirty-(30) days of the receipt or posting of the initial notice of violation or correction order whichever is earlier, submit, to the Board of County Commissioners, a written request, to be filed with the Planning Director, for extension of the specified time limit for correction of the violation. The Planning Director shall assist individuals in the preparation of said statement in cases where an individual(s) is/are unable to prepare a written statement. The Planning Director will recommend whether the time limit should be extended. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the Board of County Commissioners may extend the time limit as reasonably necessary to allow timely correction of the violation.

**VII-E-2.5** Failure to Comply with Notice:

If the violator does not comply with a notice of violation, or correction order, the violator shall be subject to enforcement action as prescribed by State law or by this Ordinance.

**VII-E-2.6** Enforcement Action After Time Limit to Correct Violation:

Following the time limit for correction of the violation, including any stay or extension thereof, the Planning Director shall determine whether the violation has been corrected. If the violation has been corrected, the Planning Director shall take no further action against the alleged violator. If the violation has not been corrected, the Planning Director may act to impose one or more of the remedies and penalties specified in the notice of violation, or correction order.

**VII-E-3** Remedies; Penalties; Enforcement Action

**VII-E-3.1** General

The Planning Director may pursue one (1) or more of the following remedies and penalties described below or in Article VII-E-4, or otherwise authorized by common law or statute, to prevent, correct, or abate a violation of this Ordinance. Use of one (1) of the authorized remedies and penalties does not preclude the Planning Director from using any other authorized remedies or penalties, nor does it relieve any party to the imposition of one (1) remedy or penalty from imposition of any other authorized remedies or penalties.

a) Permit Denial or Conditioning:

As long as a violation of this Ordinance remains uncorrected, the Planning Director may deny or withhold approval of any permit, certificate, or other authorization provided for in this Ordinance that is sought for the property on which the violation occurs. The Planning Director may also condition a permit, certificate, or authorization on the correction of the violation and/or payment of a civil penalty, and/or posting of a compliance security.

b) Injunctive and Abatement Relief in Superior Court:

The County may apply to a General Court of Justice in accordance with the provisions of G.S. 153A-123 (e) and G.S. 153A-334 to bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the Court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with this Section.

c) Criminal Penalties:

Any person who, being the owner or the agent of the owner of any land located within the jurisdiction of this Ordinance, subdivides land in violation of this Ordinance, or transfers, or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this Ordinance, and recorded in the Office of the Register of Deeds, shall be guilty of a misdemeanor and shall be punishable, accordingly, by fine and/or imprisonment.

The description by metes and bounds in the instrument of transfer, or other document used in the process of selling or transferring land, does not exempt the transaction from penalties.

d) Judicial Action to Collect Civil Penalty:

A civil action in the nature of a debt may be filed in any court of competent jurisdiction to collect an unpaid civil penalty imposed under Article VII-E-4 below.

e) Stop Work Order

If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, moved or maintained, or any building, structure or land is used in violation of a Stop Work Order, the ~~Zoning Officer~~ Planning Director, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, moving, maintenance or use, to restrain, correct or abate the violation, to prevent occupancy of the building, structure or lands, or to prevent any illegal act, conduct, business or use in or about the premises.

Notice of a Stop Work Order shall be in writing, directed to the person(s) conducting the violating activity and/or the property owner, and shall state the reasons for the issuance of the Order, and the conditions under which activity may be resumed. Notice shall be given by registered or certified mail. Upon issuance of such Order, and posting of same on the site of the violation, all work on the site of the violation shall cease, except those activities necessary to bring the site into compliance with this Ordinance.

The person(s) conducting the violating activity and/or the property owner may appeal the Stop Work Order to the Board of County Commissioners pursuant to Articles III-C-5, III-D-1-h, and III-D-5 of this Ordinance.

**VII-E-4**

**Civil Penalty**

**VII-E-4.1**

**General**

Any person who proceeds to develop land as authorized by an approved preliminary plat and who fails to carry out such development according to the provisions of the plat, and all specific conditions of approval, shall be in violation of this Ordinance and shall be punished by fine.

The Planning Director may impose one (1) or more civil penalties and issue one (1) or more Civil Penalty Citations for a violation as provide below. If the violator does not pay the penalty, the Planning Director may collect it in a court through a civil action in the nature of a debt.

**VII-E-4.2**

**Notice**

The Planning Director shall give the responsible person(s) written notice of the civil penalty citation, either in person, or by certified or registered mail, return receipt requested. When service is made by certified mail, a copy of the notice may also be sent by regular mail. Service shall be deemed sufficient if the notice by certified mail is unclaimed or refused, but the notice by regular mail is not returned by the post office within ten (10) days after mailing, provided that a notice of civil penalty citation is posted in a conspicuous place on the premises affected. The notice shall include a copy of the notice of violation, the amount of the penalty, information about where to pay the penalty, the deadline for payment, which shall be ten (10) days from the date of the notice, and the possibility of civil and/or criminal enforcement.

**VII-E-4.3**

**Amount**

The Planning Director may impose a penalty of five hundred dollars (\$500.00) per day of violation.

For purposes of assessing the amount of a civil penalty, each day the violation remains uncorrected after receipt of the final notice of violation, or correction order, shall constitute a separate violation that subjects the violator to additional civil penalty.

**VII-E-4.4**

**Settlement of Claims**

The Planning Director is authorized to determine the amount of payment that will be accepted in full and final settlement of some or all of the claims the governing body may have in connection with the violation. The Planning Director shall indicate in writing the claims from which the violator is released. If the violation has not been remedied, payment shall not release a violator from potential criminal prosecution or a claim for injunctive relief.

**VII-E-4.5**

**Continuing Violations**

The Planning Director may issue a Civil Penalty Citation for a violation that continues without being corrected. The violator in such cases may be assessed a penalty for each day of the continuing violation. An initial Civil Penalty Citation for a single violation must be issued before a Civil Penalty Citation for a continuing violation is issued. If the violator has failed to pay the penalty and correct the violation after the initial Civil Penalty Citation, the violator is subject to a Civil Penalty Citation for a continuing violation with a daily penalty.

The Planning Director may give a single notice of a Civil Penalty Citation for a continuing violation. The notice must contain a copy of the notice of violation and must state the violation is continuing, that a daily penalty of a specified amount is being imposed, and that the penalty is cumulative.

**VII-F.**

**Effective Date**

This Ordinance shall be in full force and effect

December 4, 1967	Chapel Hill Township
March 2, 1970	Eno Township
March 13, 1978	Countywide (Bingham, Cedar Grove, Cheeks, Little River and Hillsborough Townships)

## ***Amendments***

August 16, 1977  
January 17, 1979  
April 21, 1981  
October 4, 1982  
July 5, 1983  
April 1, 1985  
November 19, 1985  
February 3, 1986  
August 4, 1986  
November 3, 1986  
January 5, 1987  
March 24, 1987  
July 6, 1987  
October 5, 1987  
February 1, 1988  
April 4, 1988  
July 5, 1988  
October 3, 1988  
January 3, 1989  
May 16, 1989  
August 1, 1989  
September 5, 1989  
October 2, 1989  
November 21, 1989  
January 8, 1990  
February 5, 1990  
April 2, 1990  
April 17, 1990  
August 6, 1990  
August 21, 1990  
September 4, 1990  
October 1, 1990  
November 5, 1990  
October 16, 1990  
(Eff. December 3, 1990)  
February 19, 1991  
August 20, 1991  
September 3, 1991  
October 7, 1991  
October 22, 1991  
January 6, 1992  
August 3, 1992  
May 3, 1993  
January 4, 1994  
August 8, 1994  
October 5, 1994  
October 18, 1994  
October 2, 1995  
October 18, 1995

April 1, 1996  
July 1, 1996  
September 3, 1996  
October 1, 1996  
June 2, 1997  
October 13, 1999  
October 19, 1999  
March 14, 2000  
May 16, 2000  
October 10, 2000  
April 17, 2001  
September 18, 2001  
November 19, 2001  
February 24, 2003  
June 26, 2003  
September 16, 2003  
October 1, 2003  
November 5, 2003  
February 3, 2004