

ARTICLE 4

REQUIRED IMPROVEMENTS, DEDICATION, RESERVATION, AND MINIMUM STANDARDS OF DESIGN

SECTION 401. General

Each subdivision shall contain the improvements specified in this Article, which shall be installed in accordance with the requirements of this Ordinance and paid for by the subdivider. Land shall be dedicated and reserved in each subdivision as specified in this Article. Each subdivision shall adhere to the minimum standards of design established by this Article.

SECTION 402. Suitability of Land

402.1 Land which has been determined by the Village Council on the basis of engineering or other expert surveys to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed shall not be platted for that purpose, unless and until the subdivider has taken the necessary measures to correct said conditions and to eliminate said dangers.

402.2 Areas that have been used for disposal of solid waste shall not be subdivided unless tests by a structural engineer and a soils expert determine that the land is suitable for the proposed development.

402.3 All subdivision proposals shall be consistent with the need to minimize flood damage.

402.4 All subdivision proposals shall have public utilities and facilities such as sewer, gas electrical and water systems, if available, located and constructed to minimize flood damage.

402.5 Minimum lot sizes, as prescribed by the Zoning Ordinance, shall be exclusive of any required buffer, open and/or common areas, floodplains or floodways, lakes/ponds, and wetlands. Individual lot sizes on proposed subdivision plats shall not be calculated by averaging or through the application of similar mathematical techniques in order to satisfy this Ordinance's requirements. *(Added 12.08.2014)*

SECTION 403. Subdivision and Street Naming

The name of the subdivision and the names of the streets within the subdivision shall not duplicate nor closely approximate the name of an existing subdivision nor any existing streets within Union County.

SECTION 404. Subdivision Design

404.1 Blocks

- a) The lengths, widths, and shapes of blocks shall be determined with due regard to provision of adequate building sites suitable to the special needs of the type of use contemplated; zoning requirements; needs for vehicular and pedestrian circulation; control and safety of street traffic; limitations and opportunities of topography; avoidance of permanent structures of any kind in floodplains or wetlands; and convenient access to water areas.
- b) Blocks shall not be less than four hundred (400) feet nor more than fifteen hundred (1,500) feet in length. Where a longer block will reduce the number of railroad grade crossings, major stream crossings, or where blocks will result in less traffic through residential subdivisions from adjoining business areas, the Village Council may authorize block lengths in excess of fifteen hundred (1,500) feet.
- c) Blocks shall have sufficient width to allow two (2) rows of lots of minimum depth per applicable zoning regulations except where single row lots are required to separate residential development from through vehicular traffic or another type of use, in nonresidential subdivisions, or where abutting floodplain or wetlands, or a water area.

404.2 Lot Dimensions

- a) All lots in new subdivisions shall conform to the Village of Wesley Chapel zoning requirements of the district in which the subdivision is located, Conformance to zoning requirements means, among other things, that the smallest lot in the subdivision must meet all area and dimensional requirements of the Village of Wesley Chapel Zoning Ordinance.
- b) Orientation of residential lot lines. Side lot lines shall be substantially at right angles or radial to street lines. Double frontage lots shall be avoided wherever possible, unless authorized by the Village Council.
- c) Panhandle lots and other irregular shaped lots may be approved in cases where such lots would (1) not be contrary to the purpose of this Ordinance, (2) heighten the desirability of the subdivision, and (3) where necessary, enable a lot to be served by water and/or a waste disposal system. All panhandle lots shall have a minimum road frontage width of thirty-five (35) feet thereby providing access to the lot. The length of said access shall not exceed two hundred (200) feet. Said access shall not be used to determine lot area or width or setback lines.
- d) All minimum lot dimensions shall be increased in order to comply with applicable requirements of the Union County Health Department.

404.3 Retention of Existing Vegetation (rev. 02.22.2011)

The Village of Wesley Chapel encourages the retention of existing vegetation to help assure a future environment in keeping with the current character of the Village. In particular, the retention of mature trees and large shrubs throughout all proposed minor and major subdivisions may enhance the approval process and will increase the desirability of such attractively – developed properties.

(1) Purpose and intent

Protection of existing tree and vegetation cover is intended to preserve the visual and aesthetic qualities of natural landscapes; encourage site design techniques that preserve the natural environment and enhance the developed environment; increase slope stability, and control erosion, slippage, and sediment run-off into streams and waterways; protect wildlife habitat and migration corridors; and conserve energy by reducing heating and cooling costs.

(2) Applicability

The standards of this Section shall apply to development of all minor and major subdivisions.

(3) Tree and Vegetation Protection Exemptions

The following development activities and types of vegetation are exempt from the standards of this Section:

(A) Removal of Dead Vegetation

The removal of dead or naturally fallen trees or vegetation.

(B) Maintaining Clear Visibility

The selective and limited removal of trees or vegetation necessary to obtain clear visibility at driveways or intersections, or for the purpose of performing authorized field survey work.

(E) Utility Companies

The actions of public and private utility companies within their utility easements, provided Crown reduction of trees is limited to lateral limbs. Cutting the leader constitutes topping and is prohibited. Pruning which removes more than one-fourth of the canopy of a tree is prohibited. If removal of trees is necessary, they shall be replaced by trees with a minimum four (4) inch caliper and a cumulative caliper measurement equal to that of the trees that are damaged or removed. Removed trees listed as “Large Maturing” in Appendix 1 shall be only be replaced by trees also listed as “Large Maturing” and removed trees listed as “Small Maturing” in Appendix 1 shall only be replaced by trees also listed as “Small

Maturing”. In addition, trees of a hardwood species equal to or greater than ten (10) inches diameter at breast height (DBH) shall be replaced by hardwood trees.

(F) Federal, State and Local Regulations

No part of this ordinance shall in any way exempt relevant parties from or prohibit enforcement of Federal, State and Local applicable regulations with regards to tree, vegetation or vegetative debris removal. Tree, vegetation and vegetative debris removal shall be subject to N.C. Division of Water Quality Catawba River Basin Buffer Rules (15A NCAC 02B.0243).

(4) Retention of Existing Tree Canopy

(A) Tree Inventory

Prior to beginning any tree clearing, development work, or land disturbance, the owner of land subject to this Section shall prepare and submit an inventory of trees on the parcel, subject to the following requirements:

(i) General

The inventory shall identify any canopy tree ten (10) inches or larger in diameter at breast height (DBH), and any groups of trees in close proximity (i.e., those within five (5) feet of each other), which are to be designated as a clump or cluster of trees. The survey should depict any individual trees and areas of existing tree canopy that are to be saved in accordance with this Section. Known dead or diseased trees shall be identified, where practical.

(ii) Professionally Prepared

All tree surveys for minor or major subdivisions shall be prepared by a licensed landscape architect, surveyor, arborist, registered forester, or engineer registered in the state.

(iii) Use of Aerial Photo for Developments Larger Than Ten Acres

Aerial Photos may be used to identify clumps or clusters of trees (i.e. those within five (5) feet of each other), but shall not be used to identify trees ten (10) DBH or greater.

(B) Tree Canopy Retention Standards

(i) Existing Tree Canopy Defined

For the purposes of this Section, the “existing tree canopy” shall be composed of significant vegetation. For the purposes of this Section, “significant vegetation” shall be composed of the crowns of all healthy self-supporting canopy trees with a diameter of ten (10) inches or greater and understory trees with a caliper size of four (4) inches or greater.

(ii) In no case shall less than the percentage of the existing tree canopy indicated in table below, Tree Canopy Retention Standards, be retained on a parcel of land during any tree clearing or development process on land subject to this Section:

**TREE CANOPY RETENTION STANDARDS
MINIMUM REQUIRED TREE CANOPY RETENTION
(AS A PERCENT OF THE TOTAL TREE CANOPY COVER)**

EXISTING TREE CANOPY	COVER (AS A PERCENT OF THE TOTAL TREE CANOPY COVER)
80% - 100%	30%
60% - 79%	36%
40% - 59%	45%
20% - 39%	48%
19% or less	54%

(iii) Heritage Trees Defined

For purposes of this Section, Heritage trees shall be defined as trees having a 15” or greater Diameter at Breast Height (DBH) with at least fifty (50) percent of crown remaining.

(iv) Priority Retention Areas

Priority areas for retention of existing trees and vegetation shall include the following (listed in priority order):

- a. Areas designated as Endangered, Threatened, Candidate, Federal species of Concern, Bald and Golden Eagle, Experimental or Proposed Species, as defined by the U.S. Fish and Wildlife Service, Critical Habitat;
- b. Riparian buffers, wetlands, or wellhead protection areas;
- c. Areas containing Heritage Trees, and their associated critical root zones; and
- d. Thoroughfare buffers.

Streets, buildings, and lot layouts shall be designed to minimize disturbance to all trees ten (10) inches DBH or larger.

(6) Tree Protection Zone

(A) For purposes of this Section, the area containing the canopy and critical root zones of trees composing the existing tree canopy to be retained shall be known as the “Tree Protection Zone.”

(B) Prior to the approval of a Zoning Permit, all Tree Protection Zones shall be identified for protection in a form acceptable to the City Attorney, and shall be areas where the existing tree canopy will be maintained, and where buildings and structures can not be located. The Tree Protection Zone shall be depicted on the Preliminary Plat for Subdivision, Site Plan, or PD Master Plan, whichever is appropriate. The Tree Protection Zone shall also be depicted on the Final Plat for Subdivision if it is required prior to development.

(C) Replacement/Mitigation Standards

When development of a site causes accidental damage or disturbance to trees inside the Tree Protection Zone, the disturbed area shall be re-vegetated to preexisting conditions as follows:

(i). Replacement of Trees with less than ten (10) Inch DBH

Any tree that is damaged or removed from the Tree Protection Zone shall be replaced with trees that have a caliper of at least two (2) inches and a cumulative caliper equal to one and one half (1&1/2) times the tree cover that has been damaged or removed.

(ii). Replacement of Trees with ten (10) Inch DBH or Greater

Any tree with a ten (10) inch DBH or larger that is accidentally damaged or removed from the Tree Protection Zone shall be replaced by trees with a four (4) inch caliper with a cumulative caliper measurement equal to twice that of the tree that is damaged or removed. Removed trees listed as “Large Maturing” in Appendix 1 shall be only be replaced by trees also listed as “Large Maturing” and removed trees listed as “Small Maturing” in Appendix 1 shall only be replaced by trees also listed as “Small Maturing”. In addition, trees of hardwood species shall be replaced by trees of hardwood species.

(iii). Priority Replacement Areas

Priority areas for the replacement of damaged or removed trees shall include the following (listed in priority order):

- a. Tree Protection Zones
- b. Thoroughfare buffers

c. Anywhere on development site

(D) Protection of Heritage Trees

For purposes of this Section, Heritage trees shall be defined as trees having a 20” or greater Diameter at Breast Height (DBH). All major or minor subdivision plats and development shall be required to protect Heritage Trees on a development site in accordance with the following standards:

(i) General Requirement

No Heritage Tree may be removed, except in accordance with provisions of this Section. In addition, Heritage Trees shall have the following protections:

a. Cutting, Removal, or Harm Prohibited

Heritage Trees shall not be cut, removed, pushed over, killed, or otherwise harmed; and

b. Paving or Soil Compaction Prohibited

The area within the dripline of any Heritage Tree shall not be subject to paving or soil compaction greater than ten percent (10%) of the total dripline square footage or within twelve (12) feet of the tree trunk.

(ii) Removal of a Heritage Tree

A Heritage Tree that is certified by an arborist or other qualified professional as severely diseased, high risk, or dying shall be exempt preservation requirements.

(iii) Replacement/Mitigation Standards

When development of a site causes accidental damage or disturbance to a Heritage tree, the tree shall be replaced with trees that have a caliper of at least four (4) inches and have a cumulative caliper equal to three (3) times the DBH of the Heritage tree that has been damaged or removed. Removed trees listed as “Large Maturing” in Appendix 1 shall be only be replaced by trees also listed as “Large Maturing” and removed trees listed as “Small Maturing” in Appendix 1 shall only be replaced by trees also listed as “Small Maturing”. In addition, trees of hardwood species shall be replaced by trees of hardwood species.

(iv) Priority Replacement Areas

Priority areas for the replacement of damaged or removed Heritage trees shall include the following (listed in priority order):

a. Tree Protection Zones

- b. Thoroughfare buffers
- c. Anywhere on development site

(E) Tree Protection During Construction

(i) Owner's Responsibility

During development, the owner or developer shall be responsible for the erection of any and all barriers necessary to protect any existing or installed vegetation from damage both during and after construction.

(ii) Tree Protection Fencing

a. Where Required

Heritage Trees, trees in a Tree Protection Zone, and other existing trees being used for credit towards landscaping requirements in accordance with this Section shall be fenced with a sturdy and visible fence before grading begins. Fencing shall extend as far as practical, preferably at least nine (9) inches in radius from the tree for each inch of diameter (DBH), or to the dripline, whichever is greater. The applicant and municipal staff shall consider existing site conditions in determining the exact location of any tree protection fencing.

b. Type of Fencing

All fencing required by this Section shall be a minimum four (4) feet high and of durable construction (i.e., chain link or wooden post with 2x4 wire mesh). Chain link or wire fencing utilized as tree protection fencing shall not be required to vinyl coated. Passive forms of tree protection may be utilized to delineate tree save areas that are remote from areas of land disturbance. These must be surrounded by fencing, continuous rope, or durable taping (minimum four (4) inches wide).

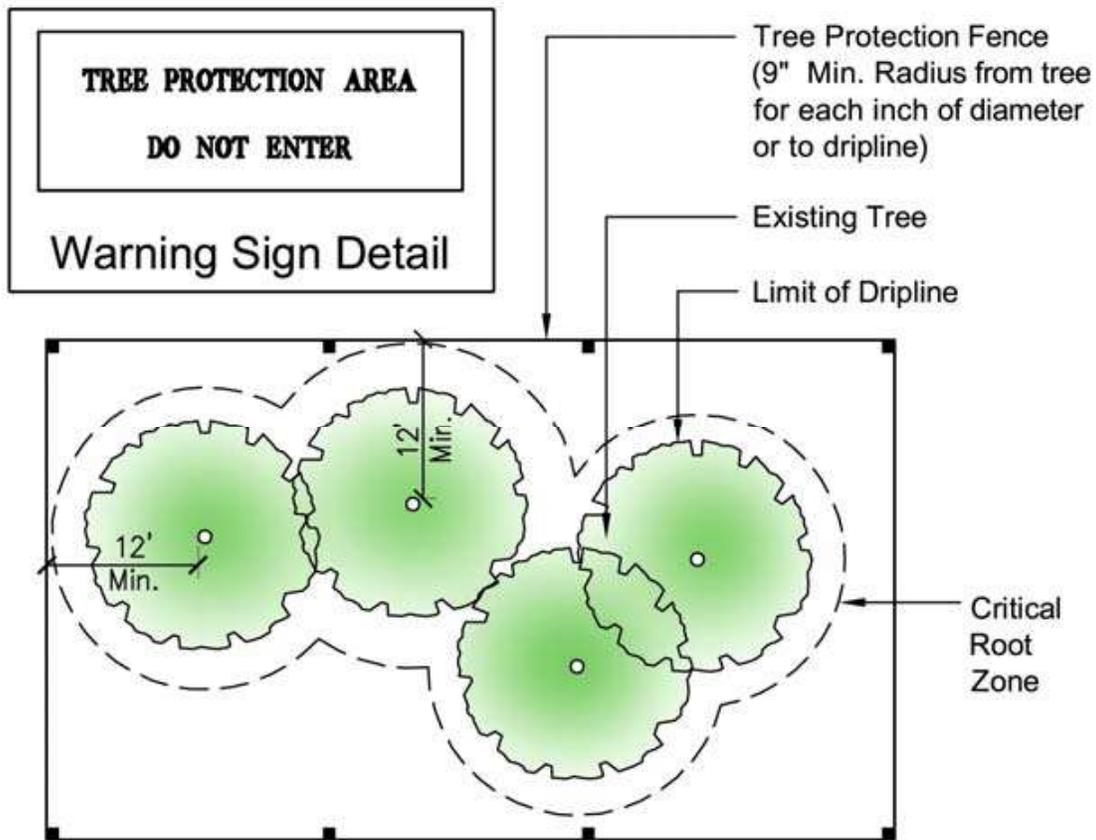
c. Signage

Signs shall be installed on the tree protection fence visible on all sides of the fenced-in area at a rate of at least one (1) for every one hundred fifty (150) linear feet. The size of each sign must be a minimum of two (2) feet by two (2) feet and shall contain the following language: "TREE PROTECTION ZONE: KEEP OUT."

d. When Required

The tree protection fencing shall be clearly shown on the Site Plan or Preliminary and Final Plat for Subdivision. No construction, grading, equipment or material storage, or any other activity shall be allowed within the fenced area. Fencing shall be maintained until

after the final site inspection.



(iii) Encroachments into Critical Root Zones

Encroachments within the critical root zones of trees protected in accordance with this subsection shall occur only when no other alternative exists. If such an encroachment is anticipated, the following preventive measures shall be employed:

a. Clearing Activities

The removal of trees adjacent to tree save areas can cause inadvertent damage to the protected trees. Prior to clearing activities, trenches located along the limits of land disturbance with a minimum width of one-and-one-half (1½) inches, and a minimum depth sufficient to cut rather than tear tree roots, shall be installed.

b. Soil Compaction

Where compaction might occur due to traffic or materials through the Tree Protection Zone or other protection areas associated with Heritage Trees, or retained existing vegetation, the area must first be mulched with a minimum four (4) inch layer of wood chips.

Equipment or materials storage shall not be allowed within a Tree Protection Zone.

c. **Chemical Contamination**

Trees located within a Tree Protection Zone shall be protected from chemical contamination from liquids or other materials, including but not limited to paint, chemical solvents, gasoline, oil, diesel fuel, hydraulic fluid, concrete spoils, or rinse water from vehicle cleaning, including rinsing of concrete truck tanks and chutes.

404.4 Easements

Easements shall be provided as follows:

a. Utility Easements

A utility easement of not less than ten (10) feet in width shall be provided where deemed necessary. Wider easement widths may be required if determined necessary by the Subdivision Administrator after consultation with all private and public utility company(ies) involved. *(Rev. 11.10.2014)*

b. Drainage Easements

Where a subdivision is traversed by a stream or drainage way, an easement shall be provided conforming with the lines of such a stream and shall be of sufficient width as will be adequate for the purpose. Other drainage easements may be required for the proper drainage of all lots.

SECTION 405 Road Standards and Buffering Along Thoroughfares

405.1(a) Public Roads *(Revised 09.13.04;05.14.07,11.10.2014)*

All subdivision lots, except as provided for in Section 409, shall abut public roads. All public roads shall be built to construction standards of the North Carolina Department of Transportation (NCDOT) for subdivision roads. Streets which are not eligible to be placed in the NCDOT System because there are too few lots or residences shall, nevertheless, be offered for dedication to the public and shall be designed and constructed in accordance with the above referenced standards. A written maintenance agreement with provision for maintenance of any and all streets until acceptance as part of the NCDOT System shall be included in the proposed preliminary plat.

405.1(b) Private Roads *(Added 11.10.2014)*

Roads that are to be privately maintained shall meet all specifications contained in Section 410.

405.2 Subdivision Street Disclosure Statement *(Revised 09.13.04, 11.10.2014)*

All streets shown on the final plat shall be designated in accordance with G.S. 136-102.6 and designated as public or private streets. All designated public streets shall be conclusively presumed to include an offer of dedication to the public. Where streets are dedicated to the public but not accepted into a municipal or the NCDOT System, and before any lots are sold, a statement explaining the status of the street shall be included with the final plat. Except for roads contained in gated residential developments, all privately maintained roads shall be dedicated for public usage and travel.

405.3 Marginal Access Street *(revised 02.22.2011)*

Where a minor or major subdivision would adjoin a major or minor thoroughfare as designated on the Village of Wesley Chapel Zoning Map or adopted Transportation Plan, the subdivider shall provide a public or private marginal access street, with platted right-of-way and built to North Carolina Department of Transportation standards in addition to additional requirements in this section, for the lots to be developed adjacent to the thoroughfare. Private driveways shall be prevented from having direct access to the thoroughfare.

405.4 Buffering Along Thoroughfares

1. Where side and rear lot lines abut along a major or minor thoroughfare as designated on the Village of Wesley Chapel Zoning map, the subdivider shall provide a natural buffer between the lot lines paralleling the thoroughfare and the thoroughfare road right-of-way. The natural buffer shall materially screen all principal and accessory uses from public view from thoroughfare. The buffer shall consist of a natural planting or a berm with natural planting. Any walls, fences or other constructed devices allowed within the buffer area by this Ordinance and/or the Village of Wesley Chapel Zoning Ordinance shall be approved by the Zoning Administrator.
2. The subdivider is encouraged to propose the use of existing natural vegetation and/or topography or a combination of existing features as prescribed in this Section when the purpose and intent of this Section can be fully or partially met by utilizing such methods.
3. Such screening shall be located on the property with the use with which it is associated or required, and shall materially screen the subject use from the view of the adjoining properties. Screening shall be in the form of all natural material, including brick with no exposed cement block. When screening is in the form of natural vegetation, a

buffer strip at least ten (10) feet wide shall be planted. This strip shall be free of all encroachments by building, parking areas or impervious coverage.

4. Buffer requirements include a given minimum distance separation from the property line and required planting trees and shrubs within the buffer. The minimum buffer requirements, which are based on the size of the tract to be subdivided, shall be in accordance with Table 405.4(a). **(Revised 02.14.05)**

Table 405.4(a)

ACRES	less than 0.5	0.5	1.0	1.5	2.0	2.5	3.0	3.5	4.0	4.5	5.0	5.5	6.0	6.5	7.0	7.5	8.0	8.5	9.0	9.5	10 or more
BUFFER WIDTH*	10	12	14	16	18	20	22	24	26	28	30	32	34	36	38	40	42	44	46	48	50
TREES (per 100 ft)	3	3	3	4	4	4	5	5	5	6	6	6	7	7	7	7	8	8	8	8	9
SHRUBS (per 100 ft)	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20

* The minimum width of a buffer may be reduced by an additional 20% if a fence or wall is constructed in accordance with these regulations.
ft = feet of buffer width.

5. The width of the buffer may be reduced by twenty percent (20%) if a wall or fence is provided that meets the following standards:
 - (a) Any fence or wall shall be constructed in a durable fashion of brick, stone or other masonry materials, or any combination thereof as may be approved by the Subdivision Administrator. No more than twenty-five percent (25%) of the fence surface shall be left open and the finished side of the fence shall face the abutting property.
 - (b) Walls and fences shall be a minimum height of six (6) feet.
6. Required trees and shrubs within the buffer shall meet the following standards:
 - (a) Forty percent (40%) of the required trees within the buffer shall be large mature trees.
 - (b) All trees shall have a minimum caliper of two and one-half (2 1/2) inches measured six (6) inches above ground, and the minimum height of all trees shall be eight (8) feet at the time of planting.
 - (c) Shrubs shall be evergreen and at least three (3) feet tall when planted with the average height of six (6) feet in three (3) to four (4) years. However, twenty-five percent (25%) of the shrubs may vary from the above standard. The allowed variations are as follows:
 - (i) Shrubs may be deciduous; or

- (ii) Shrubs may be two (2) feet tall when planted, provided an average height of three (3) to four (4) feet is expected as normal growth within four (4) years

Shrubs planted on a berm may be of lesser height, provided the combined height of the berm and plantings is at least eight (8) feet after four (4) years.

- (d) Shrubs and trees shall be on the approved plant list in Appendix 1;
 - (e) All specifications for the measurement, quality, and installation of trees and shrubs shall be in accordance with the “American Standards for Nursery Stock: published by the American Association of Nurserymen, and free of disease; and
 - (f) Twenty-five percent (25%) of all trees shall be evergreen.
7. Landscaping buffers will have an arrangement of trees and shrubs in the buffer area shall, which be done in a manner that provides a visual separation between abutting land uses.

Shrubs shall be massed in rows or groups to achieve the maximum screening effect.

8. In the event that it can be demonstrated that existing vegetation meets the intent of this Section, but the plant materials are not on the approved list, the Subdivision Administrator may waive the requirements for plant materials. If a plant material is not on the approved list, the Subdivision Administrator may determine whether it is acceptable.
9. Berms may be used as screening provided such berms are at least six (6) feet in height with a maximum slope of 4:1 as measured from the exterior property line.
- (a) Berms shall be stabilized to prevent erosion and landscaped; and
 - (b) If a berm is constructed, shrubs are required but the number may be reduced by twenty-five percent (25%). However, constructing a berm does not modify the number of trees required.
10. Required buffers shall not be disturbed for any reason except for required driveways, sidewalks, or other pedestrian or bicycle paths, walls, fences, or required landscaping, landscaping maintenance or replacement, or maintenance and construction of berms, or utility lines. However, utility line construction must meet the following requirements:
- (a) The removal of any tree larger than six (6) inches caliper or any dogwood or redbud larger than two (2) inches in caliper shall require the approval of the Subdivision Administrator;

- (b) No utility easements shall run longitudinally within a buffer yard.
11. To the extent possible, the path cleared for the utility lines shall be replaced with plant materials which are consistent with those that existed prior to utility line construction in the buffer yard.
 12. In no case shall the plant species of *Pueraria thumberfiana* ('Kudzu') be used for planting with the buffer.
 13. All buffer screening materials shall be properly maintained in order to fulfill the purpose(s) for which it is established. The owner of the property and any tenants shall be jointly and severally responsible for maintenance of all required screening.
 14. All buffers shall be constructed in a manner that shall allow for adequate sight distance where subdivision streets intersect with the thoroughfare.
 15. If utilities are located within the buffer yard, then the right-of-way width must be added to the total buffer width, in addition to the required width in Table 405.4(a). This additional buffer width can be added into the calculated lot area.
 16. If above ground utilities are to remain in the buffer yard, then all landscaping, including the location of a berm, must be located outside the right-of-way for the utility (ies).
 17. The area of the buffer shall be in addition to lot area as required by the Village of Wesley Chapel Zoning Ordinance and setbacks as prescribed in said Zoning Ordinance shall be measured from the nearest edge of the buffer to any structure of the lot. The buffer area shall become part of the lot on which it is located, or in the case of commonly owned property, shall be deeded to the homeowner's association.
 18. Preliminary plat proposals shall be accompanied by a statement providing for buffer area permanent maintenance via a method acceptable to the Village. Maintenance of the buffer by the Village shall not be an acceptable method.

405.5 Access to Adjacent Properties

Where it is deemed desirable by the Village Council, proposed streets shall be extended by dedication to the boundary of such property and a temporary turn-around provided. Any such turn-around shall comply with the standards for cul-de-sacs, and, upon further extension of street(s) the turn-around shall be removed and the adjacent property restored to its original state, to the maximum extent feasible.

405.6 Street Design and Standards *(Revised 05.14.07, 11.10.2014)*

For any road to be maintained by NCDOT, minimum street right-of-way, as well as other

engineering design standards shall be in accordance with the minimum design criteria for subdivision roads as established from time to time, by the Division of Highways, North Carolina Department of Transportation publication entitled Subdivision Roads - Minimum Construction Standards.

405.7 Cul-de-sacs *(Revised 03.12.01, 01.05.06, 05.14.07,11.22.2011, 11.10.2014)*

Permanent dead end streets should not exceed six hundred (600) feet in length unless a modification is granted by the Village Council per Section 206. Said modification may be granted as part of the plat approval process. The length of the cul-de-sac shall be computed from the point where the center line of the dead end street intersects with the center of a through street to the center of the turnaround of the cul-de-sac. Where one cul-de-sac intersects with another cul-de-sac, the end of each cul-de-sac shall be no more than 600 feet from a through street, measured as stated above, unless a modification is granted by the Village Council. For any road to be maintained by NCDOT, cul-de-sac paving and right-of-way width shall be in accordance with NCDOT standards.

405.8 Improvements Within the Village Limits

Approval of the final plat shall be subject to the subdivider having installed the improvements hereinafter designated or having guaranteed, to the satisfaction of the Village Council, the installation and maintenance of said improvements.

a. Street Improvements

The following requirements shall apply to all streets within the corporate Village limits of the Village of Wesley Chapel, or if annexation of the subdivision to the Village is desired or required by the subdivider.

- (1) **Grading.** All streets shall be graded to their full right-of-way width. Finished grade, cross section and profile shall be approved by the State of North Carolina DOT standards as established herein.
- (2) **Paving.** Road base and paving shall be installed in accordance with the State of North Carolina DOT standards as established herein.
- (3) **Sidewalks.** For all major subdivisions, sidewalks are required along both sides of all residential streets and along any portion of property having an entrance along a major thoroughfare, minor thoroughfare or collector street, as designated by the Village of Wesley Chapel Zoning Map or adopted Transportation Plan. Sidewalks must be a minimum of five (5) feet wide with four inch depth (4”) concrete with a tamped base. Sidewalks shall include a minimum of two (2) feet grass or masonry material, other than

cinderblock, buffer from back of curb, buffer from edge of pavement if no curb and gutter exists or is required, to sidewalk edge. Installation and maintenance requirements set forth in Section 309.1 of this Subdivision Ordinance shall apply. (*Revised 09.09.02, 11.22.11, 11.10.2014*)

- (4) **Curbs and Gutters.** For all major subdivisions, curbs and gutters are required along both sides of all residential streets. In all cases curb and gutter shall be constructed in accordance with D.O.T. standards. (*Revised 09.09.02*)
- (5) **Bikeways.** Bikeways are encouraged, but not required, for major subdivisions. Where proposed, the requirements of Sub-section 405.9(a) (3) shall apply.
- (6) **Street Lighting.** Decorative pedestrian street lighting is required for all major subdivisions in which public or private streets are proposed. The outdoor lighting requirements of the Zoning Ordinance shall apply. Streetlights shall be installed at the subdivider's expense along streets of new subdivisions at minimum intervals of 120 feet and maximum intervals of 200 feet distance between streetlights on alternating sides of the street. Within the specifications mentioned above, the subdivider shall use his discretion to determine the exact locations of streetlights. (*Revised 08.08.05*)
- (7) **Entrance-Way Lighting.** Subdivision entry signs, where provided, shall be illuminated and shall meet all requirements for outdoor lighting as set forth in the Zoning Ordinance.
- (8) **Multiple entrances.** Major Subdivisions are required to have one (1) entrance from a public road for every one hundred and fifty (150) lots. (*Rev. 11.22.2011*)
- (9) **Deceleration Lanes.** Deceleration lanes onto public roads for major and minor subdivisions shall be determined on a case-by-case basis by NCDOT. (*Added 11.22.2011, Rev. 11.10.2014*)
- (10) **Access distances and offsets.** Access points located across a Major Thoroughfare, Minor Thoroughfare or Collector road shall be aligned with the opposite street to the greatest degree feasible and shall meet all applicable NCDOT standards. (*Added 11.22.2011, Rev. 11.10.2014*)

(11) Any improvements specified by an approved Transportation Impact Analysis, as required in Section 6.13 of the Village of Wesley Chapel Zoning Code. *(Added 11.22.2011)*

- b. **Natural Areas.** Developers are encouraged, but not required, to provide natural areas for the mutual enjoyment of residents and the general public as a part of any proposed major subdivision.

405.9 Street Signs

Appropriate street name signs which meet the standards of Village/County specifications shall be placed at all street intersections at the subdivider's expense.

405.10 Street Layout

- a. **Conformity to Existing Maps or Plans**

Streets shall be designed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to public convenience and safety, and to the proposed use of land to be served by such streets.

- b. **Continuation of Adjoining Streets**

The proposed street layout shall be coordinated with the street system of the surrounding area. Where possible, existing principal streets shall be extended.

- c. **Large Tracts or Parcels**

Where land is subdivided into parcels larger than ordinary building lots, such parcels shall be arranged so as to allow for the opening of future streets and logical further resubdivision.

- d. **Through Traffic Discouraged on Residential Collector and Local Streets**

Residential collector and local streets shall be laid out in such a way that their use by through traffic will be discouraged. Streets shall be designed or walkways offered for dedication to assure convenient access to parks, playgrounds, schools, or other places of public assembly.

e. Permits for Connection to State Roads

An approved permit is required for connection to any existing state system road. This permit is required prior to the start of construction on any street or road. The application is available at both the Charlotte and Monroe offices of the Division of Highways.

f. Reservation of Future Right-of-Way *(Rev. 11.22.2011)*

Whenever a tract of land to be subdivided has frontage along any part of a major or minor thoroughfare, as designated by the Village of Wesley Chapel Zoning Map or adopted Transportation plan and whenever such right-of-way has been further defined by an adopted Village or State Transportation Plan, a right-of-way for the major or minor thoroughfare must be platted in the location and to the width specified in the plan. The subdivider is responsible for the reservation of the right-of-way. All measurements involving minimum lot standards under this Ordinance shall be made at the edge of the full/future right-of-way thus reserved.

405.11 Utilities

All utility lines (electric, water, sewer, telephone, cable, gas, etc.,) shall be located underground in all subdivisions.

405.12 Connection to Public Water, Sanitary and Sewer Lines

Subject to availability of public water and/or sanitary sewer service from Union County, if county or municipal water and/or sanitary sewer lines are located within one-half (1/2) mile of a subdivision of 10 – 39 lots, or within one (1) mile of a subdivision of 40 lots or more, where the distances are measured along the roadway to the nearest edge of the property, then the developer must connect to these lines to provide water service, fire protection, and sewer service for the subdivision.

405.13 Congregate Mailboxes *(Added 10.12.2015)*

As required by the United States Postal Service (USPS), an area for one or more congregated mailboxes shall be provided within the subdivision. Evidence that the USPS has approved the location of the congregated mailbox facility shall be provided with the preliminary plat. A minimum of two (2) paved off-street parking spaces shall be provided for each subdivision where a congregated mailbox is required. For mailboxes that serve more than one-hundred (100) residences, one (1) additional parking space shall be provided for each additional fifty (50) residences.

For congregate mailboxes that are located within a community center facility designated for that subdivision, off-street parking provided for the community center can be used to satisfy these minimum requirements.

SECTION 406. Other Requirements

406.1 Placement of Monuments *(Was 405.9 changed to 406.1 on 09.09.02)*

Unless otherwise specified by this Ordinance, the Standards of Practice for Land Surveying as adopted by the NC State Board of Registration for Professional Engineers and Land Surveyors, under the provisions of Title 21 of the North Carolina Administrative Code, Chapter 56 (21 NCAC 56), shall apply when conducting surveys for subdivisions; to determine the accuracy for surveys and placement of monuments, control corners, markers, and property corner ties; to determine the location, design and material of monuments, markers, control corners, and property corner ties; and to determine other standards and procedures governing the practice of land surveying for subdivisions.

SECTION 407. Lighting Requirements

(Added 407.1 on 11.12.01 / 407.1 was changed to just Section 407.)

- a) Submission Contents. The applicant for any permit required by this Ordinance with proposed work involving outdoor lighting fixtures shall submit (as part of a final plat approval) evidence that the proposed work will comply with Section 4.10 of the Village of Wesley Chapel Zoning Ordinance; **Outdoor Lighting**. The submission shall contain but shall not necessarily be limited to the following, all or part of which may be in addition to the information required elsewhere in this Ordinance upon application for the required permit:

Plans indicating the location on the premises, and the type of illuminating devices, fixtures, lamps, supports, reflectors, and other devices;

Description of the illuminating devices, fixtures, lamps, supports, reflectors, and other devices and the description may include, but is not limited to, catalog cuts by manufactures and drawings (including sections where required);

Photometric data, such as that furnished by manufacturers, or similar showing the angle of cut off or light emissions.

- b) Additional Submissions. The above required plans, descriptions and data shall be sufficiently complete to enable the plans examiner to readily determine whether

compliance with the lighting provisions of the Zoning Ordinance will be secured. If such plans, descriptions and data cannot enable this ready determination, by reason of the nature or configuration of the devices, fixtures, or lamps proposed, the applicant shall additionally submit as evidence of compliance to enable such determination such certified reports of tests as will do so provided that these tests shall have been performed and certified by a recognized testing laboratory.

- c) Subdivision Plat Certification. If any subdivision proposes to have installed street or other common or public area outdoor lighting, the final plat shall contain a statement certifying that the applicable provisions of Section 407 will be adhered to. (***Added 09.09.02***)
- d) Lamp or Fixture Substitution. Should any outdoor light fixture, or the type of light source therein, be changed after the permit has been issued, a change request must be approved by the zoning administrator, and any substitute fixtures must meet all applicable requirements of the Zoning Ordinance.

Definitions: For the purpose of this ordinance, terms used shall be defined as follows:

Direct Light. Light emitted directly from the lamp, off of the reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

Fixture. The assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

Flood or Spotlight. Any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

Fully-shielded Lights. Outdoor light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the horizontal plane as certified by a photometric test report.

Glare. Light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see, and an extreme cases causing momentary blindness.

Pre-Existing Luminaries. Luminaires not conforming to this code that were in place at the time this code was voted into effect.

Height of Luminaire. The height of a luminaire shall be the vertical distance from the ground directly below the centerline of the luminaire to the lowest directly light-emitting part of the luminaire.

Indirect Light. Direct light that has been reflected or has scattered off of other surfaces.

Lamp. The component of a luminaire that produces the actual light.

Light Trespass. The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

Lumen. A unit of luminous flux. One foot-candle is one lumen per square foot. For the purpose of this ordinance, the lumen-output values shall be the INITIAL lumen output ratings of a lamp.

Luminaire. This is a complete lighting system, and includes a lamp or lamps and a fixture.

Outdoor Lighting. The night-time illumination of an outside area or object by any manmade device located outdoors that produces light by any means.

Temporary Outdoor Lighting. The night-time illumination of an outside area or object by any man-made device located outdoors that produces light by any means for a period of less than 7 days, with at least 180 passing before being used again.

(Added Section 408 11.12.01) - (Section 408 dated 11.12.01 was eliminated and replaced by this Section 408 on 09.09.02)

SECTION 408. Dedication of Land for and/or Fees in Lieu of Park, Recreation, and Open Space Purposes

408.1 Dedication of Land

- a) **General Provisions.** Every subdivider who proposes a subdivision of land for residential purposes shall dedicate a portion of land or pay a fee in lieu thereof, in accordance with this Section, for public park, greenway, recreation, and open space sites to serve the recreational needs of the residents of the subdivision or development.
- b) **Amount of Land to be Dedicated.** At least one thirty-fifth (1/35) of an acre shall be dedicated for each dwelling unit or proposed in the

subdivision plat or development.

The minimum amount of land which shall be dedicated for a public park, recreation, or open space site shall be no less than two acres in size. When the area to be provided is less than two acres, the subdivider shall be required to make payment in lieu of the dedication to be used for the acquisition or development of recreation, park, or open space sites which would serve the needs of the residents of the subdivision.

- c) **Nature of Land to be Dedicated.** Except as otherwise required by the Village Council at the time of preliminary plat approval, all dedications of land shall meet the following criteria:

Unity. The dedicated land shall form a single parcel of land, except where the Village Council determines that two or more parcels would be in the best interest of the public, given the type and distribution of open spaces needed to adequately serve the proposed development. In such cases, the Village Council may require that such parcels be connected by a dedicated strip of land at least thirty (30) feet in width.

Usability. Two-thirds (2/3) of the dedicated land shall be useable for active recreation. Furthermore, lakes and other bodies of water may not be included in computing any of the dedicated land area. Land dedicated only for greenways need not follow the requirements of the sub-section.

Shape. The shape of the portion of dedicated land which is deemed suitable for active recreation shall be sufficiently square or round to be usable for any or all recreational facilities and activities, such as athletic fields and tennis courts, when a sufficient amount of land is dedicated to accommodate such facilities. Land dedicated only for greenways need not follow the requirements of this sub-section.

Location. The dedicated land shall be located so as to reasonably serve the recreation and open space needs of residents of the subdivision.

Access. Public access to the dedicated land shall be provided either by adjoining public street frontage or by a dedicated public easement, at least thirty (30) feet wide, which connects the dedicated land to a public street or right-of-way. Gradients adjacent to existing and proposed streets shall allow for reasonable access to the dedicated land. Where the dedicated land is located adjacent to a street, the developer or subdivider shall remain responsible for the installation of utilities, sidewalks, and other improvements required along that street segment. Public access or dedicated walkways to greenway dedications only shall

be at least twenty (20) feet wide.

Topography. The average slope of the portion of dedicated land deemed usable for active recreation shall not exceed the average slope of the entire subdivision to be developed. In no case shall a slope on the usable portion of dedicated land exceed fifteen (15) percent.

Landscaping. Dedicated parks, recreation, and open space areas shall have a sufficient natural or manmade buffer or screen to minimize any negative impacts on adjacent residents.

408.2 Payments of Fees in Lieu of Land Dedication

- a) **General.** The payment of fees, in lieu of the dedication of land under Subsection 408.1 above, may occur at the request of the subdivider or developer. However, the decision to require the dedication of land for recreational purposes, or a payment of a fee in lieu, shall be made by the Village Council after having received a recommendation from the Planning Board and having evaluated the proposed dedication and the relationship such dedication would have with the Village's overall recreational needs.

The preliminary plat approval and the decision to either accept land for recreational purposes or fee in lieu of shall rest with the Village Council.

- b) **Time of payment.** The fees in lieu of dedication shall be paid prior to final plat approval by the Village Council.
- c) **Amount of payment.** *(Rev. 11.10.2014)* The amount of the payment shall be the product of:
The number of acres to be dedicated, as required by Subsection 408.1 above, multiplied by the per acre assessed value; assessed value of the land being subdivided as assigned by the Union County Tax Appraiser;

408.3 Procedures

- a) At the time of filing a preliminary plat, the subdivider shall designate thereon the area or areas to be dedicated pursuant to Section 408. If the subdivider desires to make a payment in lieu of the dedication of land, a letter to that effect shall be submitted with the preliminary plat. The Village Council reserves the right to refuse to accept dedication of parcels for public park, recreation, or open space.

- b) Where a dedication of land is required, such dedication shall be shown on the final plat when submitted, and such plat shall be accompanied by an executed general warranty deed conveying the dedicated land to the Village. Where a payment in lieu of dedication is approved by the Village Council, such payment will be made before the final plat is signed and recorded.

408.4 Authority to Sell

- a.) The Village Council shall have the authority to sell land dedicated pursuant to Section 408. The proceeds of such sale shall be used for the acquisition and / or development of other recreation, park or open space sites.

408.5 Provisions of Equivalent Facilities Under Neighborhood or Community Home Owners Association of Management.

The Village encourages neighborhood or homeowner associations or management to construct, operate, and maintain private parks and recreation. The construction, operation, or maintenance of such private facilities shall not, however, diminish or eliminate the responsibility and obligations of the subdivider under Subsection 408.1, et seq.

408.6 Greenways

Greenways may be credited against the requirements of Section 408 provided that such greenways are part of the Village's greenway plan and dedicated to public use.

(Added Section 409 - 09.10.01 was originally Section 407) - (6.10.02 Section 407 was changed to Section 409 Text was also changed)

SECTION 409 Lots to Abut a Public Street

Except for lots specifically approved to being accessed on private roads as provided in Section 410, each lot shall have frontage on a public street with the following exceptions:

(Revised 09.13.04, 11.10.2014)

- (1) Existing lots meeting the requirements set forth in section 4.4.1 of the Zoning Ordinance; or
- (2) Proposed lots for use by one-family detached dwellings and which do not have frontage on a public street may be approved after making the following findings:

- A. Such lot is a minimum of one acres in size; and **(Was 2 acres changed to 1 acre 06.10.02)**
 - B. Such lot is provided with access to a public street by means of an easement at least 20 feet in width for the exclusive use of the dwelling to be established on such lot, or 2) a pre-existing private drive or easement at least 20 feet in width providing the sole means of access to no more than two (2) pre-existing lots. Use of a pre-existing easement or private drive shall require signed permission noted on the recorded subdivision plat by all property owners on whose lots the easement traverses and all property owners providing maintenance of the easement; and, **(Revised 01.10.05)**
 - C. Creation of such lot is made necessary by virtue of the fact that development of said property by conventional means (i.e., extension of public street) is impractical due to disproportionate costs of required improvements as compared to the relative value of lots created; and
 - D. Creation of such lots does not unduly restrict or impair future development or extension of an adequate system of public streets within the immediate area.
- (3) Proposed lots which have frontage on private streets built to NCDOT standards within a gated residential development as provided for in Section 410. **(Added 09.13.04)**

SECTION 410 Private Roads; Gated Residential Developments (Section 410 was Added 09.13.04, Rev. 11.10.2014)

A. Private Roads in Non-Gated Subdivisions (*Rev. 11.10.2014*)

Subdivision roads that are not built to NCDOT design standards and will not be maintained by NCDOT may be built as privately maintained roads. Such roads, with the exception of those that are located in gated residential developments, shall be publicly dedicated and available for public usage. All private roads shall be built to minimum NCDOT design standards with the following exceptions:

1. The minimum pavement radius of cul-de-sacs shall be sixty (60) feet and a minimum pavement diameter of one hundred twenty (120) feet as measured from the center of the turnaround shall be required; and,
2. The minimum pavement width for all other subdivision roads shall be twenty-six (26) feet not including curb and gutter.

In approving a private road the Village Council shall have no authority to approve modifications to these standards or to any other NCDOT subdivision road specification standard.

B. Gated Residential Developments (*Added 11.10.2014*)

Unlike other developments in Wesley Chapel, a Gated Residential Development, where a gate is placed at the outer periphery of the development in order to restrict access, may be allowed to have private streets that are not owned and maintained by NCDOT. All Gated Residential Developments must be developed in accordance with the regulations of this section, other applicable regulations of the Village of Wesley Chapel Subdivision Ordinance, and the Wesley Chapel Zoning Ordinance including the road and cul-de-sac pavement widths and sub-grade standards referenced above. In approving a private road in a gated residential development, the Village Council shall have no authority to approve modifications to either of these standards or to any other NCDOT subdivision road specification standard.

The design and layout of any gatehouse, entry gates, external fence, walls, and berms shall be located outside any public street right-of-way and shall be designed to blend in, to the greatest degree feasible, with the proposed development and be attractive to motorists and pedestrians from adjoining public streets. Gatehouses and entry gates shall be located outside any required buffer areas. Entry gates shall be setback sufficiently far from public street entrances to allow for stacking of at least three vehicles out of the public travel lanes. An additional setback between the point of the access control device and the entry gate shall be required to allow a vehicle which is denied access to safely turn around and exit onto a public street.

Pedestrian access to the gated residential development shall be provided at its entrance outside of the vehicle travel lanes. Entry gates shall have sufficient minimum gate widths and openings to allow safe passage of all vehicles permitted to use public roadways. Overhead barriers or obstructions shall not be allowed above entry gates. All gatehouses, entry gates, external fences and walls shall be subject to specific review and approval of the Village of Wesley Chapel Planning Board prior to the start of construction. Said review and approval shall include any signage and/or illumination integral to subdivision gatehouses, entry gates, external fences and walls. **(Revised 01.10.05)**

With the exception of the placement of a gate and guardhouse in a private street right-of-way, all private roads, traffic signs and markings shall meet all applicable minimum right-of-way, pavement, construction and design standards for public roads as herein established. The Village of Wesley Chapel reserves the right to

have streets inspected during the construction phase to insure that they are being built in accordance with all applicable standards. The developer of the subdivision shall bear all costs borne by the Village in association with such inspections. **(Revised 01.10.05, 11.10.2014)**

Prior to the approval of a final plat, the subdivider shall submit to the Village evidence that the subdivider has created a homeowners' association whose responsibility it will be to maintain common areas, private streets, curb and gutter and sidewalks within the subdivision. Such evidence shall include filed copies of the articles of incorporation, declarations, and homeowners' association bylaws.

The maintenance and upkeep of any guardhouses or entry structures, and subdivision walls, fences, or berms located at the external periphery of the subdivision as well as internal streets, curb, gutter, and sidewalks shall be the sole responsibility of the subdivider and/or any duly incorporated and active homeowners' association. Accordingly, any maintenance bond accepted by the Village per Section 313.2 of the Village of Wesley Chapel Subdivision Ordinance for a gated residential development subdivision shall be calculated using the construction costs of all facilities listed above (in addition to the cost of roads as provided in Section 313.2). The maintenance bond shall remain in place for two years following final plat approval of the Subdivision plat or until the Village Council is satisfied (in its own exclusive discretion) that the homeowners' association is controlled by individual lot owners other than the developer (one year, at a minimum, after a homeowners' association is incorporated and active), has made necessary assessments for payment of maintenance of the roads and facilities, and has otherwise taken over the full responsibility of maintenance of such facilities and the private roads within the subdivision. The decision to release the bond shall rest entirely with the Village Council and shall be made based upon the homeowners' association financial ability to properly maintain these roads and common facilities. After the maintenance bond is released by the Village Council, the homeowners' association shall be required to submit to the Village, by the 15th of January of each calendar year, the names, addresses, and telephone numbers of all duly elected members of their board of directors as well as a copy of their annual financial statement showing, at a minimum, the amount of funds budgeted to maintain such facilities. In the event the Village Council, in its discretion, believes the homeowners' association is not making necessary repairs to the roadways or facilities (amenities) or is not making assessments necessary to cover the cost of said repairs, it may after notice of hearing published as provided in this Ordinance, and notice provided to each lot owner within the subdivision, as shown on the tax scrolls of Union County as of January 1 of the prior year, require the homeowners' association to provide a maintenance bond as required in Section 313.2 of the Village of Wesley Chapel Subdivision Ordinance. This maintenance bond may be eliminated or reinstated at the discretion of the Wesley Chapel Village Council upon notice as set out above.

The subdivider and homeowners' association shall guarantee access to all private streets by emergency and law enforcement vehicles. Access procedures must ensure immediate access through the entry gates for emergency and law enforcement vehicles responding to emergencies. Approach and departure areas on both sides of a gated entrance must provide adequate setbacks and proper alignment to allow free and unimpeded passage of emergency vehicles through the entrance area. The subdivider shall provide documentation from Union County Emergency Management and Sheriff's Departments that proposed entry gates and access procedures meet all County standards for access by emergency and law enforcement vehicles. **(Revised 01.10.05)**

The subdivider and homeowners' association shall guarantee access to all private streets in gated residential developments by Village of Wesley Chapel, Union County agencies, State of North Carolina agencies, and all public utility companies. Village of Wesley Chapel, Union County, and State of North Carolina Officials and staff shall be permitted entry to the gated residential development to perform zoning, inspections and other governmental regulatory activities. Public Utility company vehicles and personnel shall be permitted entry to the gated residential development to perform installation and maintenance activities of public utility infrastructure. A statement to this effect shall appear on or accompany the final plat. **(Added 01.10.05, Rev. 11.10.2014)**

If the homeowners' association fails to maintain reliable access for the provision of emergency or other public services, the Village may enter the gated residential development and open, disable or remove any gate or device, which is a barrier to access, at the sole expense of the homeowners' association. The declaration of covenants, conditions and restrictions and any other relevant documents of the homeowners' association shall include this provision. **(Added 01.10.05)**

(Section 411 was added on 01.10.05, rev. 10.18.2011)

SECTION 411. Homeowners' Associations Required

411.1 New major subdivisions, consisting of twenty-five (25) houses or more, which include facilities requiring maintenance, such as private roads, pools, tennis courts, parks, facility parking, stormwater facilities beyond curb and gutter, and clubhouses shall establish a homeowner's association for the maintenance of those facilities. Subdivisions providing only amenities, such as sidewalks, fountains, monument signs, street lighting, walls, gates, planting areas, flower beds and sculpture, are not required to be maintained through a homeowners' association and, therefore, a homeowners' association is not required, as long as no common open space is proposed.

411.2 The homeowners' association shall be organized and established as a legal entity prior to or as a part of the final plat approval and recording process. Membership in the homeowners' association shall be mandatory for each original purchaser of a residential lot within the subdivision .

The homeowners' association shall be organized so that it has clear legal authority to maintain and exercise control over the required improvements, common areas and facilities, as specified in Section 411.1, and not dedicated to and accepted by a public authority for the purposes of maintenance. *(Rev. 10.18.2011)*

a) As a part of the final plat approval process, the developer shall submit to the Village the following documents, should an association be required, for review: *(Rev. 10.18.2011)*

1. Proposed Articles of Incorporation for the association. Such Articles of Incorporation shall provide for homeowners control when over 50% of the lots are sold.
2. Proposed bylaws of the association. Such bylaws shall provide for annual meetings of the association, election of officers and distribution of an annual financial accounting to members.
3. Proposed annual budget of the association showing monthly assessments. The monthly assessments must be set at a sufficient level to insure success of the association and necessary capital expenses.
4. Proposed restrictions and covenants for the common areas.

b) All proposed common areas shall be designated on the subdivision plat as common areas to be held in separate ownership for the use and benefit of residents occupying residential lots in the subdivision. Should these common areas contain facilities which require maintenance, approval of these common areas by the Village Council as part of the final plat approval process requires submission by the developer of restrictions and covenants that will govern the ownership, management, and maintenance of the facilities within those common areas. The Village Council reserves the right to conditionally deny approval of final subdivision plats if it finds that the restrictions and covenants do not properly address issues of ownership, management and maintenance of common areas. There shall be full disclosure that potential home-buyers understand the obligations and requirements of homeowners' associations. *(Rev. 10.18.2011)*