

Article 5. Conventional Subdivisions, Open Space Subdivisions and Master Planned Developments

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(Section Amended 4/1/2024)

Article 5. Subdivisions and Master Planned Developments

Sec. 501 Purpose of Article 5.

This Article presents the different ways that land can be subdivided and developed, ranging from conventional subdivisions, to open space subdivisions where green space and natural features are preserved by reducing lot sizes, to master planned developments which allow a wider variety of housing types in a well-planned mixed-use environment while also preserving green space and natural features.

Sec. 502 Minor and major subdivisions; defined.

502 (a) Minor subdivision.

A "minor subdivision" is one in which no improvements (such as new streets, stormwater drainage facilities or public utilities) are to be made. Minor subdivisions are defined as any one of the following:

(1) Combinations/Recombinations.

a. The combination or recombinations of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to the standards of the County and in accordance with the provisions of this Development Standards Ordinance. (2/16/10)

b. The combination or recombination of entire lots of record where no new street or change in existing streets is involved.

(2) Non-Developable/Non-Buildable Lot for Sale/Transfer

The sale of a proposed vacant parcel, or vacant portion of a parcel, for which no new streets, new utility improvements, or no new sanitary sewer or approval of a septic tank is required (the parcel or portion thereof does not meet the minimum lot size or access requirements of this Development Ordinance). Any plat for such sale or transaction must first be presented to the Planning Department for review and approval. The following caption must be clearly and predominately affixed onto the plat by the surveyor:

"The tract(s) depicted on this plat are not eligible for connection to a sanitary sewer system or for septic tank approval nor shall building permits, certificates of occupancy or any other development permit be issued, nor shall any person construct or install upon this tract any building or structure until it has been combined with another tract in a manner that creates a conforming tract or resubdivided in accordance with the UDSO, as amended." (9/19/16)

(3) Multiple Lot Rural Split.

The subdivision of an original tract that creates no more than 3 lots, building sites, or other division (including the remaining portion of the original tract). Each lot shall front on an existing public road meeting the requirements of Sec. 1010 or be accessed by a shared driveway as outlined in Sec. 1012(a) of this development ordinance. Lots sizes and setbacks are as noted in Article 4. Any lot created under this category, including the remainder of the original tract, may not be further subdivided except as a major subdivision.

(4) Large lot subdivision.

The subdivision of an original tract that creates any number of lots that are 5 acres in size or greater (including the remaining portion of the original tract)

where no new street is involved. Any lot created under this exemption, including the remainder of the original tract, may not be further subdivided except as a major subdivision.

(5) All subdivisions are subject to the Traffic Study Policy adopted by County Council which can be found in the Appendix of this Development Standards Ordinance..

(Section Amended 4/1/2024)

502 (b) Major subdivision.

A "major subdivision" is any subdivision that does not qualify as a "minor subdivision." A major subdivision commonly involves the construction of a new street or widening of an existing roadway, the provision of stormwater drainage facilities, or the construction or improvement of public utilities, or which otherwise has four (4) or more lots (not in a large lot minor subdivision), building sites or other divisions.

Sec. 503 Subdivision activity.**503 (a) Creation of minor subdivision.**

- (1) A "minor subdivision" is the subdivision of an original tract in which each lot has frontage on an existing State or County Street or road, and the subdivision does not require the construction of a new street or the widening of an existing roadway, the of stormwater drainage facilities (other than driveway culverts), or the construction or improvement of any public utilities.
- (2) New lots or tracts of land that are created from the subdivision of the original tract as a minor subdivision may not be further subdivided as a minor subdivision. Once the capacity of the original tract to be divided as a minor subdivision is exhausted, the remaining portion of the original tract may not be further subdivided as a minor subdivision. Any further subdivision of a lot created as part of a minor subdivision must be accomplished through the procedures for a major subdivision.
- (3) The term "original tract" as used in this Section means the entire tract of land as it existed as a legal lot of record prior to the adoption of this Development Standards Ordinance.

503 (b) Creation of major subdivisions.

Major subdivisions fall into three categories for the purpose of development regulation:

- (1) Conventional subdivisions, in which the minimum lot size requirement determines the maximum number of lots in the subdivision, and all of the lots meet the minimum lot size requirements as shown on Table 4 of Article 4. Open space outside of the lots may be created, but is not required.
- (2) Open space subdivisions, in which the minimum lot size requirement determines the maximum number of lots in the subdivision, but the minimum lot size is reduced to a certain extent in response to a higher level of development standards and in order to create open space and recreational amenities for the residents.
- (3) Master planned developments, in which a density limitation controls, but the minimum lot size is further reduced in response to a higher level of development standards and in order to create open space and recreational amenities for the residents. Depending on the area in which a master planned development is located, flexibility in housing types, mixed-use projects and certain commercial uses are allowed.

Sec. 504 Conventional subdivisions.**504 (a) Maximum number of lots.**

The maximum number of lots (or dwelling units) in a conventional subdivision shall be determined by the gross acreage of the subdivision site divided by the minimum lot size allowed but shall not exceed ten (10) lots.

(Section Amended 4/1/2024)

504 (b) Minimum lot size.

In a conventional subdivision, the lot area per dwelling unit shown on Table 4 of Article 4 establishes the minimum lot size for each lot.

504 (c) Minimum lot width, setbacks.

The lot width and setback requirements of Article 4 apply to each lot in a conventional subdivision.

504 (d) Open space optional.

The developer may set aside open space in a conventional subdivision voluntarily, but such open space is not required by this Ordinance.

Sec. 505 Open space subdivisions.

Open space development provisions may be applied to any single-family detached subdivision. In addition to any conditions of land use approval that may apply to a specific property, the following shall apply to all such subdivisions:

505 (a) Quality development standards.

An open space subdivision must comply with the open space and residential development standards of Sec 507 as a prerequisite for approval.

505 (b) Open Space Subdivisions shall use the following ratio of open space:

- 50% of the total acreage in the Appalachian Heritage area,
- 40% of the total acreage in the Agricultural Heritage Area,
- 40% of the total acreage in the Natural Heritage Area
- 30% of the total acreage in the Community Center Area,
- 20% of the total acreage in the Gateway Area is to be set aside as permanent open space per 507 (a).

505 (c) Open Space must be contiguous to the Open Space of a neighboring parcel or development. This standard can be waived or negotiated by the Planning Department with adequate demonstration of why this requirement cannot be met.

505 (d) All projects must demonstrate to the County Engineer and Emergency Services Director adequate lane width for on-street parking or adequate driveway length and width for adequate off-street parking or show designated guest parking areas.

505 (e) All projects must provide a 4' minimum sidewalk along any road frontages that have at least one curb cut every 300'.

505 (f) Trees Open Space Subdivisions shall plant a minimum of two (2) 2.5" caliper trees per building lot. These trees are to be planted in the ROW or other protected area approved by staff.

(Section Amended 4/1/2024)

505 (g) Maximum number of lots.

The maximum number of lots shall not exceed the gross acreage of the site divided by the minimum lots size as allowed in Table 5.1.

505 (h) Minimum lot size

The minimum lot size per dwelling unit shall be as shown on Table 5.1, depending on the source of water supply and method of sewage disposal:

MINIMUM LOT SIZE PER DWELLING UNIT FOR OPEN SPACE SUBDIVISIONS

AREA	MINIMUM LOT SIZE	ADDITIONAL FACTORS
Appalachian Heritage Area	2-acres	
Agricultural Heritage Area	1-acre	
Natural Heritage Area	1/2 acre	
Community Center Area	1-acre	Well and Septic
	1/2-acre	Public Water and Septic
	5,000 Square Feet	Public Water and Public Sewer
Gateway Area	1-acre	Well and Septic
	1/2-acre	Public Water and Septic
	5,000 Square Feet	Public Water and Public Sewer

(Section Amended 4/1/2024)

505 (i) Minimum lot widths and setbacks.

The minimum lot widths and minimum setbacks for principal buildings for lots in any open space subdivision shall be as required on Table 5.2, depending on the minimum lot size required for the open space subdivision.

Table 5.2: Lot Width and Principal Building Setbacks—Open Space Subdivisions

Minimum Lot Size allowed in the Subdivision (in square feet)

	43,560	21,780	5,000
Minimum Lot Width*	50 feet	30 feet	20 feet
Front Setback	20 feet	20 feet	40 feet
Side Setback	7feet	5 feet	0 feet**
Rear Setback	10 feet	5 feet	0 feet**

** For developments divided into fee simple lots, no side or rear yard setback is required along the property line that separates the dwelling units, however, building code requirements for separation will apply between adjacent dwellings.

(2/16/10)

505 (j) Reduction of minimum lot widths and setbacks.

(1) Front setbacks.

A front setback may be reduced administratively up to five (5) feet from that required under Table 5.2, provided that the minimum sight distance requirements for streets is maintained in accordance with the Project Design Standards Article of this Code.

(2) Side setbacks.

A side setback may be reduced administratively up to fifty percent (50%) of that required under Table 5.2, provided that the side yard on the adjacent lot is increased by an equal amount.

505 (k) Dark Sky Lighting

All Open Space Subdivisions shall comply with Dark Sky Lighting standards.

(Section Amended 4/1/2024)

Sec. 506 Master planned development option (MPD).

506 (a) Quality Development Standards.

A master planned development must comply with the open space, residential development standards and nonresidential development standards of Section 507 as a prerequisite for approval.

506 (b) Criteria for approval.

(1) Provisions are included to encourage the development of Master Planned Developments (MPDs) in appropriate locations throughout the County that allow the use of innovative techniques, such as traditional neighborhood design, resource conservation subdivisions, village concepts and mixed-use development. Such master planned developments should be brought together as a compatible and unified development by allowing flexibility within the current development regulations.

(2) Benefits of MPDs include innovative design, the protection and accommodation of

important natural resources and open space within the County, and the cost savings of less infrastructure. MPDs are reviewed individually to determine compatibility, suitability, and health, safety and welfare issues. Individual requirements relating to such developments become part of the site through conditions of land use approval.

(3) Each MPD shall comply with the intent statement regarding MPDs. (4) Review criteria.

The following is a list of criteria that will be used by the County to determine the suitability of a proposed MPD in addition to the standards for land use approval contained in the Procedures and Permits Article of this Development Ordinance:

- a. The uses proposed will not be detrimental to present and potential surrounding uses.
- b. Exceptions from this Ordinance are warranted by the design and amenities incorporated in the development plan.

- c. Land surrounding the proposed development can be planned in coordination with the proposed development and will be compatible in use.
- d. Master planned development is in conformance with the general intent of this Ordinance and the Comprehensive Plan.
- e. Every MPD must be deemed by the Planning Commission to incorporate features of exceptional architectural, landscaping or site design prior to MPD approval. Such plans upon which this determination is made shall be incorporated into the MPD approval of the project, or shall be approved by the Planning Commission prior to building permitting.

506 (c) Development Parameters.

The following general conditions apply to master planned developments (MPDs).

(1) General requirements.

- a. A master planned development must contain at least ten (10) contiguous acres.
- b. The primary access (i.e., main entrance) to the master planned development must be from a minor collector road or higher.

(2) The proportion and distribution of nonresidential to residential uses in a MPD is determined by the size of the property. The property size also determines the maximum number of dwelling units and the type of commercial development that can be allowed in the MPD. These limitations and the distribution of residential density are shown on Table 5.3. Unless otherwise noted, the provisions of Table 5.3 override restrictions contained elsewhere in this ordinance.

Table 5.3: Land Use Distribution in a Master Planned Development

Property Size	Use Distribution (Percent of Total Site)	Percent of Total Site by Housing Type (and open space)	Maximum Density*		
			Well & Septic	Public Water & Septic	Public Water & Sewer
10-35 acres	No less than 95% residential and open space	95% single-family detached	1.0 du/a	2.0 du/a	2.5 du/a
	No more than 5% neighborhood commercial		.25 FAR	.25 FAR	.25 FAR
36-75 acres	No less than 90% residential and open space	Min. 40% single-family detached, OR ...	1.5 du/a	2.5 du/a	3.5 du/a
		Min. 40% Two-Family	1.5 du/a	2.5 du/a	3.5 du/a
		Max. 50% Townhouse subdivision, OR ...	1.5 du/a	2.5 du/a	3.5 du/a
		Max. 50% Townhouse Condo	1.5 du/a	2.5 du/a	3.5 du/a
	No more than 10% neighborhood commercial		.25 FAR	.25 FAR	.25 FAR
76-100 acres	No less than 80% residential and open space	Min. 30% single-family detached, OR ...	1.5 du/a	2.5 du/a	4.0 du/a
		Min. 30% Two-Family	1.5 du/a	2.5 du/a	4.0 du/a
		Max. 50% Townhouse Subdivision, OR ...	1.5 du/a	2.5 du/a	6.0 du/a
		Max. 50% Townhouse Condo or Multi-Family	1.5 du/a	2.5 du/a	6.0 du/a
	No more than 20% community commercial		.50 FAR	.50 FAR	.50 FAR
101 + acres	No less than 70% residential and open space	Min. 0% single-family detached, OR ...	1.5 du/a	2.5 du/a	6.0 du/a
		Min. 0% Two-Family	1.5 du/a	2.5 du/a	6.0 du/a
		Max. 30% Townhouse Subdivision, OR ...	1.5 du/a	2.5 du/a	8.0 du/a
		Max. 30% Townhouse Condo or Multi-Family	1.5 du/a	2.5 du/a	8.0 du/a
	No more than 30% community commercial		.50 FAR	.50 FAR	.50 FAR

Du/ac: dwelling units per gross residential acre. The gross residential acreage is the total acreage of the property excluding any acreage to be used for commercial development.

FAR (Floor Area Ratio): The gross floor area of the commercial building(s) divided by the net area of the commercial site. The net area of the commercial site excludes public and private rights-of-way and buffers.

(3) Commercial structures and uses are to be located and designed as a unified development where feasible. Residential and commercial uses may either be located in freestanding buildings within a site, or combined together within the same building. Loft dwellings in a mixed use building will be considered part of the commercial floor area but not part of the maximum residential density on the site.

(4) Development is to be carefully planned to ensure the benefits of MPDs are fully realized and potential negative impacts of one use on another are minimized, both within the development and along its periphery. Factors include separation of mixed use areas from single use area, pedestrian access linkages, placement of open space and community amenities to define neighborhoods and provide community focus, appropriate internal and peripheral buffers and transitions in use or intensity approaching the MPD boundary.

(5) All master planned developments must provide internal pedestrian access including connections to external access points. The type of access such as sidewalks, bike paths, lanes and trails, will be established during the review period to determine the best way to serve a particular development.

506 (d) Maximum number of lots.

Maximum number of lots will be set as a condition of land use approval provided by the Planning Commission.

506 (e) Minimum lot size.

The minimum lot size per dwelling unit shall be as shown on Table 5.4, depending on the source of water supply and method of sewage disposal:

Table 5.4: Minimum Lot Size—Master Planned Developments

Minimum Lot Size per Dwelling Unit (square feet)* Well	
and Septic Tank	21,780
Public Water and Septic Tank	10,890
Public Sewer	No Minimum

*Or as required by DHEC to meet the standards for septic systems.

506 (f) Minimum lot widths and setbacks.

The minimum lot widths and minimum setbacks for lots in any MPD shall be as established on the concept plan approved for the MPD. No variances will be granted for individual lot development because someone desires to build a structure that will not fit on the lot as designed and platted since all setbacks were proposed by the developer and approved by the Planning Commission when the concept plan was presented.

506 (g) Buffer requirements.

(1) A permanent 50-foot buffer area shall be established around the perimeter of any MPD. Except for a fence along the property line, no structure of any type shall be permitted in the buffer area.

- a. Any such buffer located on a lot shall be identified as such on the final subdivision plat.
- b. The buffer shall meet the requirements for buffers under the Buffer Article of this Ordinance.

(2) Internal buffers as would otherwise be required by the Buffer Article of this Ordinance between land use areas within a master planned development are waived, subject to conditions of land use approval for the master planned development.

506 (h) Ownership Control.

(1) All of the land in a MPD initially shall be in single ownership by an individual, a partnership, tenants in common, a corporation or by some other legal entity.

(2) The use of common open space and open green space and other common areas shall be governed by an owner's association which shall provide for: all users to have equal access and right of use to all shared facilities; perpetual and continued maintenance of open and shared space; tax liability in the case of default; mandatory membership in the owner's association and its creation is required before any individual properties are sold; the method of assessment for dues and related costs; and where appropriate, party wall maintenance and restoration in the event of damage or destruction.

506 (i) MPD Concept Plan.

(1) Concept plan; administration

- a. Development of a MPD shall be guided by an approved concept plan for the overall project. Prior to any land development activity or the issuance of a building permit, the concept plan shall have been approved by the Planning Department or the Planning Commission, as appropriate, and subsequent development must substantially conform to the approved concept plan.
- b. The level of detail to be shown on a MPD concept plan shall reflect the scale of the proposed project. For a mixed-use development, the various areas by housing type and land use category are to be identified and the parameters of development identified for each area. A MPD involving only one type of housing would present more detail regarding the layout of the development.
 1. The concept plan for a MPD involving only one type of housing shall conform to the requirements for a development under Article 12.
 2. The concept plan for a mixed-use MPD must designate the type of development planned for each area. The concept plan shall illustrate the individual lot lines within each subdivision and the building outlines in each condominium, multi-family or nonresidential project, and must conform to the requirement for a development under Sections Article 12.

(2) Impact analyses.

- a. Land Use impact analysis.
Every initially proposed MPD concept plan shall be accompanied by a narrative specifically addressing each of the standards set forth in Section 1205(f).
- b. Every initially proposed Open Space subdivision or MPD concept plan that is capable of generating 1,000 average daily vehicle trips or more shall be accompanied by a traffic analysis.

(3) Modifications to the concept plan.

Development of each portion of a MPD must substantially conform to the approved concept plan. If any preliminary site plan or preliminary subdivision plat is proposed that does not substantially conform, the concept plan must first be modified before the preliminary site plan or preliminary subdivision plat can be approved. Modifications of the concept plan for an MPD can only be approved by the Planning Commission, following the same procedures as the initial approval of the original concept plan under Section 1205.

(4) Concept Plan updates required.

The MPD concept plan is to be updated as individual site plans are approved for construction or final subdivision plats are recorded. Updating is an administrative process for submission to the Planning Department, and is intended to provide a record of the MPD as build-out progresses. No update will be allowed that does not substantially conform to the approved concept plan.

Sec. 507 Quality development standards.

In order for an open space subdivision or master planned development to be approved, the development must meet or exceed the Quality Development Standards of this Section.

507 (a) Common open space.

Acreage not utilized for residential lots, roadway access and utilities shall be placed in common open space or devoted to recreation amenities.

- (1) A minimum percent of the gross project site area shall be reserved for common open space, as follows: no less than twenty percent (20%) of the total site must be set aside as open space for conservation, preservation or passive recreational use, such as walking trails and picnicking. Examples of areas to be considered for open space protection are scenic vistas, natural water courses, woodlands, waterfalls, coves, geologic features, wetlands, floodplains, lakes, creeks, and land with slopes exceeding twenty-five percent (25%).
- (2) Land devoted to stormwater detention facilities may not be counted toward the 20% minimum unless the facility is a permanent lake or pond, and is designed and intended for recreational access and use by the occupants of the development.
- (3) In Master Planned Developments, additional common open space may be provided and may include active recreation areas for the proposed development, such as swimming pools, tennis courts, community facilities, etc.
- (4) Required buffers on the perimeter of the property may be included in the minimum open space requirement.
- (5) While common open space shall not be required to be contiguous, no individual portion of the twenty percent (20%) minimum required open space shall be less than fifty (50) feet wide in its narrowest dimension, except as follows:
 - a. The open space area, by the very nature of its designated boundaries, is less than 50 feet in width. Examples include strips of steep slopes and "fingers" of floodplains that extend up drainage swales.
 - b. Parkways between road travel ways, which must be at least twenty-six (26) feet in width in order to be counted as part of the minimum 20% requirement.
- (6) No portion of the residential lots shall be credited toward the minimum open space requirement unless the portion is included within the conservation easement. No portion of any street right-of-way or public or private utility easement shall be credited toward the minimum open space requirements.
- (7) The required common open space shall be platted at the same time that adjacent residential lots are platted, in whole or in phases.

507 (b) Residential development standards.

- (1) Every residence must be connected to a public or community water system.
- (2) The subdivision may be served by a community sanitary sewer system approved by DHEC and the applicable sewerage jurisdiction.
- (3) Recreation amenity (master planned developments). In addition to common open space, every Master Planned Development must contain a community recreation amenity of adequate size or variety to serve the development, such as a community pool, tennis courts, active play area or basketball courts,
- (4) Private open space required (Master Planned Developments). In a master planned development, every single-family or two-family dwelling on a lot smaller than ten thousand (10,000) square feet, and every townhouse dwelling shall have a minimum four hundred (400) square foot private yard or patio.
 - a. The private yard or patio shall be arranged for use by the occupants of the dwelling and located in the side or rear yard.
 - b. The private yard or patio must be enclosed by any combination of the following: a masonry wall, wood fence, trellis or lattice with a minimum height of six (6) feet; or an evergreen hedge, shrubs or trees that will achieve a height of six (6) feet within 3 years of planting under normal growing conditions.
- (5) Lots within the subdivision shall be serviced with underground utilities (electric power, natural gas, telephone, TV cable. etc.).
- (6) All dwelling units shall have front, side and rear façades matching a common theme or architectural detail that is consistent throughout the development. While it is the intent for all dwellings to be sided entirely of brick, stucco or stone finish, or painted wood or fiber cement lap siding (such as Hardiplank), vinyl siding may be used, provided it is certified by the Vinyl Siding Institute and is installed by an installer certified and recognized by the VSI.
- (7) All single-family detached dwellings must include at least a 2-car garage.

507 (c) Nonresidential development standards.

Restrictions within through-road corridors apply to all commercial and institutional uses within a Master Planned Development (MPD).

(1) Through-road corridor defined

Land lying along and within two hundred (200) feet of the right-of-way of a public street or highway that adjoins or traverses a MPD and that provides for movement of through traffic (in contrast to internal local streets) shall constitute a through- road corridor.

(2) Any commercial property or public or community use property or portion of such property within the MPD that is located within a through-road corridor shall comply with the following special design standards:

a. Building setbacks.

No principal or accessory building shall be located within fifty (50) feet from the right-of-way of a through road. This entire setback area shall be landscaped as a landscape strip.

b. Signage.

Signs shall be limited to ground mounted or monument signs. Signs which have exposed structures shall not be permitted.

c. Landscaping.

Any property or portion of a property that is located within a through-road corridor shall provide at least 20 percent (20%) of its gross land area in landscaping. Landscape areas and treatments shall be identified on the site plan for the development, subject to approval by the County.

d. Building materials.

1. The exterior walls of any building that are located within a through-road corridor and/or is visible from a through road corridor shall be of masonry and/or stucco-type-construction. These finish building materials shall be applied to all sides of the building visible from the through road. Colors and materials shall be harmonious and compatible with colors of other buildings within and immediately adjacent to the district. Material colors shall be natural, muted earth tones, gray or muted color brick, stone, and/or neutral shades of concrete. Bright or accent colors may be used with discretion where appropriate on ornamental locations on the building's exterior but shall not be used as the primary building material color.

No buildings with metal exterior facades will be permitted within the corridor nor shall any metal façade buildings be visible from the corridor. Metal roofs, including mansard roofs, are not considered part of a facade.

Sec. 508 Conservation easements.

(1) All areas in open space subdivisions or master planned developments that are protected by the provisions of these Development Standards, shall be permanently protected from further subdivision, development, and unauthorized use by a conservation easement.

(2) Land within conservation easements may be included within the lots in a subdivision, or ownership may be transferred to a homeowners' association or to a non-profit conservation organization or land trust organized under South Carolina law.

Sec. 509 Owner's association.

509 (a) Homeowner's association; when required.

For any residential development containing common open space or other lands in common ownership, a Homeowner's Association which provides for building and grounds maintenance and repair, insurance and working capital shall be required.

(1) Membership in the Homeowner's Association must be mandatory for each property in the development.

(2) Such associations must also include homeowner's declaration and bylaws, including covenants, conditions and regulations applicable to each property in the development.

(3) The declaration and bylaws shall be enforced by the Association or by an Association Management Company designated by them, which shall have the power to compel the payment of membership dues and assessments.

(4) The homeowners' association shall be formed under the provisions of South Carolina State Law and shall contain adequate provisions to qualify it as a "holder" under the South Carolina Law governing conservation easements, if it is to act as a holder of a conservation easement.

(5) The documents creating the Homeowner's Association must provide that an adequate reserve fund for the Association will exist at the time that control of the Association transfers from the developer to the purchasers of homes in the development. The reserve fund must be equal to no less than one year's expenses reasonably expected for the minimum operations legally required of the Association. In lieu of a reserve fund, documents creating the Homeowner's Association may provide for a contract committing the developer to pay for all reasonable expenses of the Association for the one-year period following transfer of control.

(6) The covenants, conditions and regulations shall, at a minimum, regulate and control the following:

- a. Equal access and right of use to all shared facilities;
- b. Perpetual and continued maintenance of open and shared space, specifically including storm water detention facilities;
- c. Tax liability in the case of default;
- d. The method of assessment for dues and related costs;
- e. Where appropriate, party wall maintenance and restoration in the event of damage or destruction;
- f. Animals, including household pets;
- g. Signs;
- h. Exterior items such as fences, lawn ornaments, and landscape areas and buffers;
- i. Building improvements;
- j. Outside storage; and
- k. Overnight parking of vehicles

(7) For subdivisions, the Homeowner's Association must be formed and incorporated at the same time the final plat for the subdivision or any portion of the subdivision is first recorded. A copy of the proposed Homeowner's Association documents is to be submitted with an application for final subdivision plat approval.

509 (b) Owners' association.

For nonresidential development projects, an association of the property owners that is consistent with the requirements for a homeowners' association will serve in lieu of the requirements of this Section

509 (c) Condominium association.

For condominium projects, incorporation of a Condominium Association consistent with state law will serve in lieu of the requirements of this Section, provided that:

- (1) Specific maintenance responsibilities for storm water detention facilities are included; and
- (2) The documents creating the Condominium Association must provide that an adequate reserve fund for the Association will exist at the time that control of the Association transfers from the developer to the purchasers of units in the development. The reserve fund must contain an amount equal to no less than one year of expenses reasonably expected for the minimum operations legally required of the Association.