

TOWN OF MONTREAT

SUBDIVISION ORDINANCE

ARTICLE XI - PROCEDURES FOR REVIEW AND APPROVAL OF SUBDIVISION PLATS

600 General. To secure approval of a plat, as required by this Ordinance, the subdivider shall follow procedures set forth in this Article. A minor subdivision (defined in Section 601 of this Article) may be approved pursuant to Section 601.1 of this Article. All other subdivisions may be approved pursuant to Sections 602, 603, 604, and 605 of this Article.

601 Minor Subdivisions. Procedures for handling applications for approval of minor subdivisions are intended to simplify routine approval of small subdivisions with due regard to the protection of the public interest. Where the subdivider intends to develop a minor subdivision he may apply for final approval through the procedures set forth in Section 601.1. Said intent shall be stated, in writing, in a form acceptable to the Planning and Zoning Commission and signed by the subdivider.

601.1 Procedure for Approval. Final approval of a plat for any minor subdivision may be granted by the Planning and Zoning Commission subsequent to the following procedure which shall be expedited by the Zoning Official through reasonable application of the requirements set forth below with regard to the size, topography, location, and type of each minor subdivision:

- 1) The subdivider shall submit two (2) copies of a surveyed plat meeting the requirements of Section 605.1 of this Article, excluding administrative requirements in Appendix E. Further, he shall provide satisfactory evidence describing the following:
 - a) Methods of providing a water supply and sewage disposal to each lot, including any State or local approvals which may be needed;
 - b) Methods of providing access to each lot; and
 - c) Methods of providing for adequate drainage.
- 2) The Zoning Official shall review said minor subdivision and shall find that it either does or does not meet the requirements of this Ordinance and what improvements, if any, will be required by this Ordinance (See Section 604 of this Article).
- 3) If it is found that improvements will be required, the subdivider shall submit three (3) additional copies of said plat describing the plans for said improvements for approval by the Zoning Official. (Note: At this stage, the subdivider may post improvement guarantees pursuant to Section 605 of this Article and receive final approval of his subdivision plat.) The

Building Inspector shall, upon completion and installation of said improvements, inspect said minor subdivision and shall certify that all improvements either have been or are being installed in accordance with said plans and the requirements of this Ordinance.

- 4) When said plat has been approved, and it is found that no additional improvements are required, or when additional improvements are required and have been certified by the Building Inspector, or when an improvement guarantee has been provided pursuant to Section 604 of this Article, the Planning and Zoning Commission shall then certify final approval in writing on all copies of said plat. One (1) copy shall be recorded with the minutes of the Planning and Zoning Commission, and the approved plat shall be returned to the subdivider. He shall simultaneously record both said plat and all other documents required for recordation by this Ordinance with the Office of the Buncombe County Register of Deeds within thirty (30) days of receipt. Failure on the part of the subdivider to record said plat and document(s) within said thirty (30) days shall render said approval null and void.
- 5) Decisions of the Zoning Official or Building Inspector may be appealed at any time by the subdivider to the Planning and Zoning Commission. If an appeal is made, the Planning and Zoning Commission shall approve or disapprove of the Final Plat at its next regularly scheduled meeting, provided that, if the Planning and Zoning Commission finds that sufficient information is not available to it, the Commission may continue the hearing and/or postpone it for no more than sixty-two (62) days.

602 Sketch Plan Requirements. In order to initiate discussions between the subdivider and the Planning and Zoning Commission early in the design process, the subdivider shall submit for all subdivisions other than minor subdivisions, a Sketch Plan to Zoning Official prior to preparing the Preliminary Plan (see Section 603 of this Article).

602.1 The Sketch Plan shall show at least that portion of the subdivision that the subdivider plans to develop at this time. The subdivider shall submit two (2) copies of the Sketch Plan at least seven (7) days prior to a regularly scheduled meeting of the Planning and Zoning Commission at which said plan is to be considered, although said time limit may be waived in the discretion of the Planning and Zoning Commission.

602.2 Said Sketch Plan shall be at a scale such that one inch (1”) represents no more than two hundred feet (200’) and shall contain all information required in the Sketch Plan Checklist as found in Appendix B.

602.3 The Planning and Zoning Commission shall review and either approve, approve conditionally, or disapprove each Sketch Plan. First consideration of said Plan shall be at the first regularly scheduled meeting after the Plan is submitted in

accordance with this Ordinance. The Commission shall take action on the Sketch Plan at its first consideration or within sixty-two (62) days of its first consideration.

603 Preliminary Plan. For every subdivision except minor subdivisions, a Preliminary Plan, containing all required information, shall be submitted to the Planning and Zoning Commission at least ten (10) days prior to the regular meeting at which said plan is to be considered, although said time limit may be waived in the discretion of the Planning and Zoning Commission. Three (3) copies of said plan shall be required, provided that additional copies may be required by the Board or its staff, if needed (See Appendix C).

603.1 Contents Required. The Preliminary Plan shall include all information required by the Preliminary Plan Checklist as found in Appendix C of this Ordinance.

603.2 Review Procedure. The Planning and Zoning Commission shall review and either approve, approve conditionally, or disapprove each Preliminary Plan. First consideration of said plan shall be at the next regularly scheduled meeting of the Planning and Zoning Commission after the plan is submitted pursuant to this Section. The Planning and Zoning Commission shall take action on the Preliminary Plan at its first consideration, or within sixty-two (62) days of its first consideration. Before final action on any Preliminary Plan is taken by the Planning and Zoning Commission copies of said plan shall be referred by the Planning and Zoning Commission to those concerned with new development for review and comment, provided that failure of the Planning and Zoning Commission to receive comment shall not delay Planning and Zoning Commission action on said plan within the prescribed time limit. Said agencies may include, but are not limited to, the following:

- 1) Town Street Department regarding streets and storm water drainage.
- 2) Water and Sewer Utility and/or other appropriate departments and agencies (See Appendix A) regarding sanitary sewer and water systems.

Where this Ordinance requires proof of approval from other State or local agencies, the following certificates (substantially consistent in form to those shown in Appendix E) shall be received by the Planning and Zoning Commission prior to its first consideration of any Preliminary Plan.

- 1) A certificate signed from a professional consultant engaged by the Town stipulating that the plans for any proposed street system to be dedicated to the public in the Town are approved. **Any and all fees associated with additional technical review services retained by the Town to make recommendations concerning the proposed project are the sole responsibility of the applicant.**

- 2) A certificate(s) signed by the appropriate official(s) (indicated in Appendix E) stipulating that the plans for water supply and/or sewage disposal systems proposed for installation meet all pertinent requirements and are approved. The Town Administrator approves water supply plans for subdivisions within the Town Limits and an official from the Metropolitan Sewerage District approves sewage disposal systems.
- 3) A certificate signed by the Buncombe County Erosion Control Officer stipulating that the erosion and sedimentation control plan is approved.

If the Planning and Zoning Commission approves the Preliminary Plan, such approval shall be indicated on three (3) copies by the following certificate signed by the Chairman of the Planning and Zoning Commission, as follows:

"Certificate of Approval by the Planning Zoning Commission"

This certifies that the Planning and Zoning Commission of the Town of Montreat approved the Preliminary Plan for the _____ Subdivision at its meeting on the _____ day of _____, _____.

Date	Chair, Planning and Zoning Commission of the Town of Montreat, North Carolina
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One (1) copy shall be transmitted to the Zoning Official, one (1) copy shall be returned to the subdivider, and one (1) copy shall be retained by the Planning and Zoning Commission. If the Planning and Zoning Commission disapproves or approves conditionally said plan, the reasons for such action shall be stated in writing and entered in the records of the Planning and Zoning Commission. The subdivider may make changes and submit a revised plan which revision shall be submitted, reviewed and acted upon by the Planning and Zoning Commission pursuant to this Section. Approval of the Preliminary Plan shall be valid for one (1) year unless a written extension is granted by the Planning and Zoning Commission on or before the one (1) year anniversary of said approval. If the Final Plat is not submitted for approval within said one (1) year period or any period of extension, the said approval of the Preliminary Plan shall be null and void.

604 Improvements Installation or Guarantees. Upon approval of the Preliminary Plan by the Planning and Zoning Commission the subdivider may proceed with the installation of, or arrangement for, required improvements. Required improvements include the following:

- 1) Street access to each lot;

- 2) A water supply for each lot;
- 3) A sewage disposal system for each lot;
- 4) Any required drainage or sedimentation control facilities. Stormwater management system(s) required for compliance with the Town of Montreat Stormwater Management Ordinance shall only be installed after initial grading and site work is completed that would impair proper function of the system(s) through sedimentation;
- 5) Street markers;
- 6) Fire hydrants, where required;
- 7) Any corrective measures required pursuant to Article V, Section 500; and
- 8) Provisions for underground electrical and telephone lines. Underground lines are preferred.

604.1 Completion of Improvements. Except as provided in Section 604.2 below, and prior to Final Plat submission or approval, the subdivider shall complete, install, and provide for the dedication of all required improvements as specified on the approved Preliminary Plan for that portion of the subdivision to be shown on the Final Plat. The subdivider shall certify that the dedication of said improvements in accordance with Section 604.3 of this Article.

604.2 Improvement Guarantees.

604.21 Agreement and Security Required. In lieu of requiring the completion, installation and dedication of all improvements prior to Final Plat approval, the Town of Montreat may enter into an agreement with the subdivider whereby the subdivider shall agree to complete all required improvements as specified by the approved Preliminary Plan for that portion of the subdivision to be shown on the Final Plat. Once said agreement is signed by both parties and the security required herein is provided, the Final Plat may be approved by the Planning and Zoning Commission. To secure this agreement, the subdivider shall **elect either letter(s) of credit, a cash deposit in escrow, or surety bond(s) for the following guarantee not exceeding 2.00 times the entire cost as provided herein. Before final approval of any guarantee, the Town shall confirm an acceptable Superior/Excellent rating with either Standard & Poors (S&P), Moody's, Fitch, or A.M. Best official ratings company and verify the status of the financial institution.**

604.22 Surety Performance Bond(s): The subdivider shall obtain a performance bond(s) from a surety bonding company authorized to do business in

North Carolina. The bond(s) shall be payable to the Town of Montreat and shall be in an amount equal to 2.00 times the entire cost, as estimated by the subdivider and approved by the Planning and Zoning Commission, of installing all required improvements. The duration of the bond(s) shall be until such time as the improvements are accepted by the Board of Commissioners pursuant to Section 604.23 of this Article.

604.23 Default. Upon default, meaning failure on the part of the subdivider to complete the required improvements, then the Board of Commissioners may require the subdivider, the surety, or the financial institution holding the escrow account to pay all or any portion of the bond or escrow account fund to the Town of Montreat. Upon payment, the Board of Commissioners, in its discretion, may expend such portion of said funds as it deems necessary to complete all or any portion of the required improvements, or to make necessary stabilization or repairs of graded areas, earth cut and fill slopes, or other site areas or features disturbed by incomplete development activities that pose a threat to water quality or neighboring property due to potential soil erosion and sedimentation or site instability.

604.24 Release of Guarantee Security. The Board of Commissioners may release a portion of any security posted pursuant to Section 604.2 of this Article, as the improvements are completed and recommended for approval pursuant to Section 604.3 of this Article. Within thirty-two (32) days after receiving the certificates required by Section 604.3 of this Article, the Board of Commissioners shall approve or not approve said improvements. If the Board of Commissioners approves said improvements, then it shall immediately release any security posted pursuant to Section 604.2 of this Article. The Mayor shall be authorized to sign the Certificate of Improvements as required in Section 604.31 of this Article and shown in Appendix E. All certificates contained in Section 604.3 or this Article shall be filed simultaneously with the Final Plat except when improvements guarantees are used. When said guarantees are used, said certificates shall be filed with the Board when improvements are completed and shall be forwarded to the Register of Deeds to be recorded with the Final Plat.

604.3 Inspection and Certification.

604.31 Certificate of Improvements. The building official designated by the Board of Commissioners shall regularly inspect the construction of required improvements. The building official may, in his or her sole discretion, require a professional engineer or other special inspector to evaluate improvements at the project site and provide third-party verification of any work conducted. Any and all fees associated with additional inspection services required by the Town to provide evaluation

of improvements are the sole responsibility of the applicant. Upon completion of these improvements, said inspector shall file with the Board a statement certifying that said improvements have been completed as required, or completed as required except for certain listed defects, and recommending approval of said improvements. (See Appendix E)

604.32 Subdivider's Certificates. Upon completion of the required improvements, the subdivider shall file with the Board of Commissioners the following certificates:

- 1) Certificate of Completion and Warranty. The certificate of completion and warranty shall stipulate the following: (See Appendix E)
 - a) That all improvements required by this ordinance have been completed;
 - b) That these improvements are in compliance with the minimum standards specified by the Board of Commissioners for their construction;
 - c) That the subdivider knows of no defects from any cause and that he will warrant all improvements against defects in materials and workmanship for a period of one (1) year after the Certificate of Completion and Warranty is executed; and
 - d) That in the event any defects are discovered in materials or workmanship in any required improvements during the warranty period, the subdivider will, at his expense, replace and/or repair said defects to the satisfaction of the Board of Commissioners.

- 2) Certificate of Dedication and Maintenance. The Certificate of Dedication and Maintenance shall stipulate the following (See Appendix)
 - a) That all property and improvements are owned by the Subdivider, and are free of any encumbrance or lien except as enumerated;
 - b) That the subdivider has freely dedicated all required rights-of-way, easements, streets, utilities, open spaces, or other improvements to public or private use as noted on the approved preliminary plat and has freely established minimum building setback lines; and

- c) That the subdivider shall be responsible for the maintenance of all improvements until either said improvements are taken over by the appropriate public agency or arrangements satisfactory to the Board of Commissioners have been made for maintenance of said improvements.

Both of said certificates shall be filed with the final plat except when improvements guarantees are used. When said guarantees are used, said certificates shall be filed when improvements are completed. The certificates will be forwarded by the Board of Commissioners to be recorded either with the final plat or as separate documents.

604.33 Form of Certificate. Certificates required pursuant to Subsections 604.31 and 604.32 of this Article shall conform substantially to the certificate forms prescribed in Appendix E.

605 Final Plat. The Final Plat shall constitute only that portion of the subdivision which the subdivider proposes to record and develop at that time. Once the Board of Commissioners has either approved all required improvements or has entered into an improvements guarantee agreement with the subdivider, then the Final Plat may be reviewed for conformance with the approved Preliminary Plan by the Planning and Zoning Commission. The subdivider shall submit four (4) copies and one (1) original of said plat to the Planning and Zoning Commission no less than ten (10) days prior to the regular Planning and Zoning Commission meeting at which it shall be considered for approval, although said time limit may be waived in the discretion of the Planning and Zoning Commission. Said plat shall be submitted not more than twelve (12) months after the date on which the Preliminary Plan was approved, unless a written extension of this time limit is granted by the Planning and Zoning Commission on or before the one-year anniversary of the approval of the Preliminary Plan.

605.1 Contents Required. The original of the Final Plat shall be prepared on linen or film by a registered land surveyor, licensed to practice in the State of North Carolina. Said plat shall conform to the provisions of the North Carolina General Statute Section 47-30 as amended. The Final Plat shall depict or contain all information required in the final Plat Checklist as found in Appendix D of this Ordinance.

605.2 Planning and Zoning Commission Review Procedure. The Final Plat shall be reviewed by the Planning and Zoning Commission according to the following procedure:

First consideration shall be at the next regularly scheduled meeting of the Planning and Zoning Commission after the Final Plat is submitted pursuant to Section 605.1 of this Article. The Planning and Zoning Commission shall approve or disapprove the Final Plat at its first consideration or within sixty-two

(62) days of its first consideration. If the Planning and Zoning Commission approves the final Plat, such approval shall be indicated on the original and each copy of the plat by the following certificate signed by the Chairman or other authorized member of the commission.

"Certificate of Approval by the Planning and Zoning Commission"

This certifies that the Planning and Zoning Commission of the Town of Montreat approved the Final Plat of the _____ Subdivision at its meeting on the _____ day of _____, _____.

Date

Chair, Planning and Zoning Commission
of the Town of Montreat

If the Planning and Zoning Commission disapproves the Final Plat, the Planning and Zoning Commission shall find in writing the provisions of this Ordinance with which the plat does not comply and the facts constituting noncompliance with said provision(s). One (1) copy of said findings shall be sent to the subdivider within five (5) days of disapproval and one (1) copy shall be retained by the Planning and Zoning Commission as a part of its proceedings. If the Final Plat is disapproved, the subdivider may make such changes as needed to bring the plat into compliance with the provisions of this Ordinance and resubmit the same for reconsideration by the Planning and Zoning Commission pursuant to the procedures set forth in this Section.

605.3 Effect of Plat Approval on Dedications. The approval of a Final Plat shall not constitute or affect the acceptance of the Town or the County of the dedication of any land, utility line, or other facility shown on said plat.

605.4 Disposition of Copies. If the Final Plat is approved such approval shall be noted on the original tracing of said plat and on four (4) copies. Said original tracing(s) and all other document(s) required for recordation by this Ordinance shall be simultaneously recorded by the subdivider and/or surveyor with the Buncombe County Register of Deeds within thirty (30) days after Final Plat approval or said approval shall be null and void. One (1) copy of the remaining prints shall be distributed to each of the following: Town Clerk, Zoning Official, the subdivider, and the Planning and Zoning Commission.

605.5 Re-subdivision Procedures. For any re-platting or re-subdivision of land which has been previously platted or subdivided pursuant to this Ordinance, the same procedures and requirements shall apply as prescribed in this Ordinance for an original subdivision.

606 Variances. Where a subdivider can show that strict adherence to a provision(s) of this Ordinance would, because of conditions peculiar to the site, cause an unnecessary

hardship, the subdivider may submit a written application to the Board of Commissioners for a variance from said provision(s). Said application may be delivered by the subdivider either to the Planning and Zoning Commission (or its staff) or to the Board of Commissioners who shall refer it immediately to the Planning and Zoning Commission for consideration and recommendation. The Planning and Zoning Commission shall consider said application within thirty-two (32) days of its submission and within that time, shall recommend in writing to the Board of Commissioners that said Commissioners either approve or not approve the application. Said recommendation shall state the reasoning upon which it is based. By its second regular meeting after receipt of the Planning and Zoning Commission's recommendations, the Board of Commissioners shall either approve or not approve said application, provided the approval of said application shall be given only to the extent the Board of Commissioners finds it absolutely necessary and not to any extent which would violate the intent of this Ordinance. If the application is approved and a variance granted by the Board of Commissioners, said approval and the basis therefore shall be entered in the minutes of the Commissioners. However no variance may be granted from any requirement of State or Federal law without written approval of the appropriate governmental agency.

607 Appeals to the Board of Commissioners. Any subdivider may appeal to the Board of Commissioners either from a decision of the Planning and Zoning commission disapproving a proposed Final Plat or from the failure of the Planning and Zoning Commission to act within any time limit required by this Ordinance.

607.1 Appeals From Decision Disapproving Final Plat.

- 1) Notice. Notice of appeal from said decision must be given by the subdivider to the Planning and Zoning Commission in writing within ten (10) days from the date of said decision. Upon receipt of said notice, the Planning and Zoning Commission shall simultaneously send to the Board of Commissioners said notice and a copy of the findings, required by Section 605.3 of this Article.
- 2) Hearing Date. Upon receipt of said notice and findings, the Chairman of the Board of Commissioners shall fix a date and time for hearing said appeal, which hearing may be held at either a regular or special meeting of the Board of Commissioners, provided that said hearing shall be held within thirty (30) days of receipt by the Board of Commissioners of said notice and findings.
- 3) Hearing. At said hearing, the Board of Commissioners may consider the following: (1) part or all of such presentations as the subdivider and/or the Planning and Zoning Commission desire to make in support of their contentions; (2) the results of any investigations which the Board of Commissioners, or any member thereof, has made or has caused to have been made, with respect to said appeal; and (3) any records, data, or other specified documents required by the Board of Commissioners.

- 4) Decision by Board of Commissioners. The Board of Commissioners shall find if errors were committed by the Planning and Zoning Commission with respect to each of its written findings. If the Board of Commissioners concludes that none of the specified provisions of this Ordinance were violated, then it shall reverse the decision of the Planning and Zoning Commission and shall order the Planning and Zoning Commission both to approve said proposed Final Plat and to indicate said approval both in the Planning and Zoning Commission's records and on the proposed Final Plat. If the Board of Commissioners concludes that any of the specified provisions of this Ordinance were violated, then it shall affirm the decision of the Planning and Zoning Commission. The Board of Commissioners shall render its decision within five days of said hearing, and its findings and decision shall be entered in its minutes.

607.2 Appeals from Failure of Board to Act Within Required Time.

- 1) Notice. Following the expiration of any time limit within which the Planning and Zoning Commission is required to act under this Ordinance, the subdivider shall give written notice to the Planning and Zoning Commission of his/her intent to appeal to the Board of Commissioners from the Planning and Zoning Commission's failure to act. Following receipt of said notice, the Planning and Zoning Commission shall have three (3) days within which to act. If the Planning and Zoning commission fails to act within said three (3) days, written notice of appeal to the Board of Commissioners may be given by the Subdivider to both the Planning and Zoning Commission and the Board of Commissioners. Said notice shall specify that provision(s) of the Ordinance setting forth the time limit(s) within which the subdivider alleges that the Planning and Zoning Commission failed to act.
- 2) Hearing. The hearing shall be conducted as provided in Section 607.1 of this Article.
- 3) Decision by the Board of Commissioners. The Board of Commissioners shall find if the Planning and Zoning Commission failed to act within the time limit(s) of the provision(s) of the Ordinance specified in said notice. If the Board of Commissioners concludes that the Planning and Zoning Commission failed to act as specified in said notice, then the Board of Commissioners shall do one of the following:
 - a) Take whatever action it finds the Planning and Zoning Commission should have taken;
 - b) Both order the Planning and Zoning Commission to act within the next five (5) days and take whatever additional action is necessary to ensure that said order is obeyed; or

- c) Extend the time limit within which the Planning and Zoning Commission may act

If the Board of Commissioners concludes that the Planning and Zoning Commission did not fail to act as specified in said notice, then it shall dismiss the appeal. The Board of Commissioners shall render its decision within five (5) days of said hearing, and its findings and decision shall be entered in its minutes.

608 Amendments. This Ordinance may be amended from time to time by the Board of Commissioners, but no amendment shall become effective unless it shall have been proposed by, or shall first have been submitted to, the Planning and Zoning Commission for review and recommendations. The Planning and Zoning Commission shall have forty-five (45) days within which to submit its report. If the Planning and Zoning Commission fails to submit a report within the forty-five (45) day period, it shall be deemed to have approved the proposed amendments. The Board of Commissioners shall consider the amendment at their next regularly scheduled meeting after having received the recommendations from the Planning and Zoning Commission and shall take action within thirty-five (35) days of the time they first consider the amendment. If the Board of Commissioners takes no action within the time limit, then it shall be deemed to have decided not to amend the Subdivision Ordinance.