

TOWN OF MONTREAT

SUBDIVISION ORDINANCE

**ARTICLE V - GENERAL REQUIREMENTS AND
DESIGN STANDARDS FOR SUBDIVISIONS**

500 Suitability of Land. Where land to be subdivided is found by the Planning and Zoning Commission to be subject to the conditions of flooding, improper drainage, severe erosion, slides, or to have other characteristics which pose an ascertainable danger to health, safety, or property, the subdivider shall take measures necessary to correct said conditions and to eliminate said dangers. Any findings made by the Planning and Zoning Commission pursuant to this section and the basis for said findings shall be in writing and recorded in the minutes of the Planning and Zoning Commission.

501 Conservation Design. The requirements in this section are intended to provide for a subdivision design that is more efficient and better suited to the natural features of the land. Conservation design allows smaller and less costly networks of roads and utilities, encourages closer-knit and potentially safer neighborhoods, preserves sensitive farmland, woodlands, scenic views and open space, and reduces the amount of impervious surface and resulting stormwater runoff. The open space provided by conservation design can be used to provide recreational opportunities for the subdivision's residents or employees, to conserve and protect significant natural areas and environmentally sensitive areas, to conserve important historic resources, and/or to conserve productive forestry uses.

501.1. Compliance. The conservation subdivision design option – once chosen - shall proceed in accordance with the requirements of this section. Notwithstanding the foregoing, subdivisions of land situated entirely within the R-1 or R-3 zoning classifications containing at least five contiguous acres may utilize conservation design but are not required to do so.

It is the intent of this section to preclude any attempt to avoid conservation design by the sequential subdivision of land into two or more subdivisions containing less than 10 acres. To that end, two or more subdivisions shall be aggregated and treated as a single subdivision under this ordinance when they are contiguous to property owned or controlled by person(s) owning or controlling the land to be subdivided.

501.2. General design requirements. In addition to the other standards contained in these regulations, conservation design subdivisions shall comply with the following design requirements.

- 1) *Minimum conservation design subdivision site size.* The minimum land area within a parcel to create a conservation design subdivision shall be at least five contiguous acres.

- 2) *Maximum number of lots in conservation design subdivision.* The maximum number of lots allowed within a conservation design subdivision shall be determined by dividing the total acreage in the tract, excluding state road and town street rights-of-way and primary conservation areas, by the lot size requirement for zoning classification of the property contained in the Zoning Regulations.

- 3) *Lot design and dimensional requirements for subdivisions.* Lots shall be clustered in one or more contiguous areas. Furthermore, provided the arrangement, design and shape of lots is such that lots provide satisfactory and desirable sites for building and contribute to the overall preservation of open space and all other requirements in this section and applicable local, state and federal requirements are met, the minimum lot area, lot width and yard requirements for the applicable zoning classification may be reduced as stated herein.
 - a) The minimum lot area shall not be less than 75 percent of the lot area required in the underlying zoning, or 10,000 square feet, whichever is greater.
 - b) The minimum lot width requirement at the building site may be reduced by 50 percent, but shall not be less than 45 feet.
 - c) The minimum front yard requirement may be reduced by 60 percent, but shall be no less than twelve (12) feet.
 - d) The minimum rear yard requirement may be reduced by 40 percent, but shall be no less than ten (10) feet.
 - e) The minimum side yard requirement may be reduced to five (5) feet or in the case of Townhouses - zero feet (0') - where the current fire resistance-rated construction requirements of N.C. State Building Code have been met.
 - f) When buildings are separated, they shall be separated a minimum of fifteen feet.
 - g) Yards abutting the perimeter boundaries of a conservation subdivision shall be no less than the minimum requirements contained in the Zoning Regulations

501.3. ***Required open space.*** Land within the subdivision site that is not contained in lots or in rights-of-way or parcels devoted to accommodating necessary streets and utilities shall be in one or more connected parcels dedicated or reserved as permanent open space as specified herein. Lands identified as primary conservation areas pursuant to below, shall be deemed permanent open space in accordance with this ordinance. In addition to primary conservation areas, 25

percent of the remaining land area of the subdivision shall be included in permanent open space. Secondary conservation areas shall be included in open space to the extent they do not exceed 25 percent of the remaining land area. In the event secondary conservation areas do not equal or exceed 25 percent of the remaining land area of the subdivision, additional open space shall be designated so that at least 25 percent of the remaining land area of the subdivision is made permanent open space.

501.4. **Open space use, location and design.** Design requirements for open space use, location and design are contained in this section.

- 1) *Primary conservation areas.* The following areas are considered primary conservation areas and shall be designated as open space on the plat of any major subdivision:
 - a) Natural watercourses and any adjoining areas required to be maintained in a natural vegetated and unaltered state by this or any other Ordinance for the Town of Montreat, or pursuant to regulations of NCDENR – Division of Water Quality.
 - b) Any identified sensitive natural area as defined herein,
 - c) Any areas within the Ridge Protection Overlay (RPO) District for the Town of Montreat.
 - d) Any areas previously platted and designated Montreat Greenspaces or Conservation Easement as defined in the Open Space Conservation Plan for the Town of Montreat, within the corporate limits of the Town, or unincorporated areas of Buncombe County within the extraterritorial jurisdiction for Montreat.
- 2) *Secondary conservation areas.* The following areas are considered secondary conservation areas and should be considered for designation as open space on the plat of any conservation design subdivision:
 - a) Any environmentally sensitive areas where land clearing, land disturbance and/or development might threaten water quality or ecosystems (e.g., stream buffers, groundwater recharge areas, unique wildlife habitat).
 - b) Any identified important historic resources (e.g., homesteads, archeological sites) identified from a local archeological or architectural survey or an individual site survey.
 - c) Productive agricultural or forest land intended for continued use as such.
 - d) Areas with steep slopes equal to - or exceeding - fifty percent (50%).

- 3) Open space which is not situated within a primary conservation area may be used to provide active and/or passive outdoor recreation opportunities (e.g. bikeways, walking trails, nature trails, and picnic areas), either for the general public or for the subdivision's residents or employees and their guests. No more than ten percent of such additional open space shall be covered with impervious surfaces.
- 4) Open space situated within a primary conservation area may be used for limited passive recreational activities, such as nature trails, so long as such activities do not impair the functionality of the area.
- 5) The use of unpaved walking paths is encouraged wherever practical to promote pedestrian travel and minimize the installation of impervious surfaces. Sidewalks may be provided by the developer, if approved by the Code Administrator and Public Works Director, as leading to a pedestrian destination point, such as a school, park, etc., and may constitute part of the open space requirements.
- 6) The location, size, character, and shape of required open space shall be appropriate to its intended use (e.g., open space proposed to be used for recreation, particularly active recreation, shall be located and designed so as to be conveniently and safely reached and used by those persons it is intended to serve, and should be located on land that is relatively flat and dry).
- 7) *Phasing.* When a conservation design subdivision is developed in phases, it shall be designed and developed in such a manner that total open space is never less than 25 percent of the total land area in any such phase and all previously approved phases.

501.5. ***Open space dedication or reservation.*** Open space shall be dedicated or reserved in accordance with the standards contained herein.

- 1) Subdivision occupants shall be ensured direct access to and use of the subdivision's open space by conveying such open space to the Town. The Town will accept responsibility for managing the open space for its intended purpose and that will ensure subdivision occupants direct access to and use of the open space.
- 2) Each dedicated or reserved open space parcel shall be shown on all subdivision plans and on a record plat recorded with the county register of deeds, with a notation of its area and its intended open space use, as identified herein.
- 3) The land clearing, land disturbance and/or development area for any lot in a conservation design subdivision shall be delineated on subdivision plats. Those areas described in 501.4 above, shall not be included in the area of any

lot intended for development and shall be set aside for the common use and enjoyment of occupants of the subdivision, or in the case of publicly-dedicated open space, for the general public. These areas shall be designated for permanent protection on the subdivision plat and recorded deeds, with appropriate recorded deed restrictions for the use and protection of these areas stipulated.

501.6. ***Open space maintenance.*** The Town of Montreat shall be responsible for maintaining the open space so that it continues to effectively function for its intended use, and any dedication or conveyance of an open space parcel shall provide for such responsibility. Where the subdivision is located within a watershed protection district, retention of undeveloped open space in a vegetated or natural state shall be ensured by maintenance provisions filed with the county register of deeds, either as part of recorded documentation or in a maintenance agreement recorded with the property deeds.

501.7. ***Design procedure.*** The following conservation design procedures shall be used in evaluating conservation design subdivision applications.

- 1) *Existing features/site analysis.* An existing features/site analysis map shall be submitted to the Code Administrator. The map shall indicate all features that exist on the subject site as described in this section.
- 2) *Identification of open space conservation areas.* Open space areas shall be identified. Guidance as to which parts to classify as open space areas shall be based upon three factors:
 - a) On-site visits by the Code Administrator, the subdivider and the site designer.
 - b) The open space standards contained in this section.
 - c) The evaluation criteria as shown in 501.8 below.
- 3) *Principal structure setback from open spaces.* Any principal structures must be set back a minimum of 30 feet from all open space lot lines. Provided, however, the Code Administrator may reduce this setback requirement when, due to soil types, topography or other site considerations, strict compliance would result in practical difficulty or unnecessary hardship and when adequate assurances have been given for the protection of the open space.
- 4) *Street, trail and sidewalk locations and alignments.* All streets, sidewalks, paths and trails shall be located and aligned on the site in the most reasonable, economical, and environmentally protective manner. Trails shall be provided from housing clusters to the designated open space.