

SUBDIVISION ORDINANCE

TOWN OF MONTREAT

NORTH CAROLINA

Adopted December 11, 1980 by the Board of Commissioners

Revised:

October 14, 1999

October 8, 2009

**Prepared with Assistance from the
Land-of-Sky Regional Council**

TABLE OF CONTENTS

Town of Montreat Subdivision Ordinance

ARTICLE I - AUTHORITY AND PURPOSE	1
ARTICLE II - JURISDICTION CLAUSE	2
ARTICLE III - DEFINITIONS	3
ARTICLE IV - COMPLIANCE	4
• 400: NO CONVEYANCE WITHOUT APPROVAL	4
• 401: APPROVAL OF PLATS	4
• 402: ORDINANCES	4
ARTICLE V - GENERAL REQUIREMENTS AND DESIGN STANDARDS FOR SUBDIVISIONS	5
• 500: SUITABILITY OF LAND	5
• 501: CONSERVATION DESIGN	5
• 502: STREETS	10
• 503: WATER AND SEWER SYSTEMS	11
• 504: STORMWATER DRAINAGE	12
• 505: SEDIMENTATION CONTROL	13
• 506: SURVEYING AND PLACEMENT OF MONUMENTS	13
• 507: PRESERVATION OF NATURAL ENVIRONMENT	13
• 508: LOTS	13
• 509: EASEMENT	13
ARTICLE VI - PROCEDURE FOR REVIEW AND APPROVAL OF SUBDIVISION PLATS	15
• 600: GENERAL	15
• 601: MINOR SUBDIVISIONS	15
• 602: SKETCH PLAN REQUIREMENTS	16
• 603: PRELIMINARY PLAN	17
• 604: IMPROVEMENTS INSTALLATION AND GUARANTEES	18
• 605: FINAL PLAT	22
• 606: VARIANCES	24
• 607: APPEALS	24
• 608: AMENDMENTS	26

ARTICLE VII – PLANNING AND ZONING COMMISSION OF THE TOWN OF MONTREAT	27
• 700: LEGAL AUTHORITY	27
• 701: POWER AND DUTIES	27
• 702: FUNDING	27
ARTICLE VIII - LEGAL PROVISIONS	28
• 800: CRIMINAL AND CIVIL PROCEDURES	28
• 801: SEVERABILITY	28
• 802: ABROGATION	28
• 803: EFFECTS ON EXISTING LEGISLATION	28
• 804: EFFECTIVE DATE	28
APPENDIX A - APPROVAL OF WATER AND SEWAGE DISPOSAL SYSTEM	30
APPENDIX B - SKETCH PLAN CHECKLIST	31
APPENDIX C - PRELIMINARY PLAN CHECKLIST	33
APPENDIX D - FINAL PLAN CHECKLIST	35
APPENDIX E - ADMINISTRATIVE FORMS	38
• 1) CERTIFICATE OF IMPROVEMENTS	39
• 2) CERTIFICATE OF COMPLETION AND WARRANTY	40
• 3) CERTIFICATE OF DEDICATION AND MAINTENANCE	42
• 4) IMPROVEMENTS GUARANTEE AGREEMENT	44
• 5) PERFORMANCE BOND	47
• 6) CERTIFICATE OF APPROVAL OF WATER SUPPLY SYSTEM	49
• 7) CERTIFICATE OF APPROVAL OF SEWAGE DISPOSAL SYSTEM	50
• 8) CERTIFICATE OF APPROVAL OF SEPTIC SYSTEM	51
• 9) CERTIFICATE OF APPROVAL OF TOWN STREETS	52

TOWN OF MONTREAT

SUBDIVISION ORDINANCE

ARTICLE I - AUTHORITY AND PURPOSE

This Ordinance is entitled Subdivision Ordinance for the Town of Montreat and may be cited as the "Subdivision Ordinance", or as the "Subdivision Regulations". This Ordinance is adopted pursuant to Chapter 160A-371 through 160A-376 of the General Statutes of North Carolina for the purpose of guiding the proper subdivision and re-subdivision of land within the town limits of the Town of Montreat in order to promote the orderly growth of the Town.

TOWN OF MONTREAT

SUBDIVISION ORDINANCE

ARTICLE II - JURISDICTION

This Ordinance shall govern all subdivisions of land within the corporate limits of the Town of Montreat and within the Town's extraterritorial jurisdiction.

TOWN OF MONTREAT

SUBDIVISION ORDINANCE

ARTICLE III - DEFINITIONS

Subdivision. As used in this Ordinance, the definition of the word "Subdivision" is defined in Chapter 160A-376 of the North Carolina General Statutes, as now or hereafter amended. The definition is as follows:

A "*Subdivision*" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this part:

- 1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the municipality as shown in its subdivision regulations;
- 2) The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved;
- 3) The public acquisition or purchase of strips of land for the widening or opening of streets, and;
- 4) The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the municipality, as shown in its subdivision regulations.

TOWN OF MONTREAT

SUBDIVISION ORDINANCE

ARTICLE IV – COMPLIANCE

- 400 No Conveyance Without Approval. No real property lying within the planning and regulation jurisdiction of the Town of Montreat now or hereafter fixed shall be subdivided until it conforms with all applicable sections of this Ordinance. Violations of this Article shall be subject to the penalties set forth in Article VIII. Any sale or transfer of land in a subdivision subject to these regulations by reference to an unapproved plat or the use of metes and bounds description shall be considered a violation of this Article.
- 401 Approval of Plats. No subdivision plat of land within the town limits of the Town of Montreat shall be filed or recorded by the Register of deeds of Buncombe County until it shall have been submitted and approved in accordance with this Ordinance and until such approval is entered on the face of the Final Plat by the Chair of the Planning and Zoning Commission of the Town of Montreat. The county Register of Deeds shall not file or record a plat of a subdivision of land located within the planning jurisdiction of the Town of Montreat that has not been approved in accordance with these provisions, not shall the Clerk of Court order or direct the recording of a plat if the recording would be in conflict with this Ordinance. Plats shall be prepared and approved pursuant to the provisions of this Ordinance whenever land is subdivided. A final plat must be prepared and approved, and recorded pursuant to this chapter whenever a subdivision of land occurs.
- 402 Permits and Construction. No land disturbing or construction activity with the exception of utility testing, engineering testing or surveying can be carried out in conjunction with the subdivision of land shall be commenced until the Preliminary Plan has been approved by the Planning and Zoning Commission. No building permits shall be issued for, nor water, sewer, or other facilities be extended to or connected with, any subdivision for which a plat is required to be approved until the Preliminary Plan has been approved by the Planning and Zoning Commission of the Town of Montreat.

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 NC 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.

501.8. **Evaluation criteria.** For any given site, resources may vary widely by importance. Likewise, for each type of resource, there should be examples of greater or lesser significance. In evaluating the layout of a site, the following evaluation criteria will be considered in determining the site's features and allowing for site design flexibility.

- 1) The open space shall be reasonably contiguous and shall abut existing open space on adjacent sites.
- 2) Wetlands, flood hazard areas and natural watercourses with associated stream buffers shall not be cleared, filled or graded except as authorized by state, federal and other applicable regulations and as may be approved by the Code Administrator. Water features shall constitute no more than 50 percent of the open space area.
- 3) Site topography, hydrology, soil type, and other related factors shall inform the design, location and installation of stormwater Best Management Practices (BMP's) and other Low Impact Development (LID) features.
- 4) Dwellings shall be located in unwooded parts of the site, whenever practicable, to prevent unnecessary clearing practices. Exceptions may be made when a site investigation reveals all or parts of wooded areas are not worth saving due to tree decay/disease or unsightly overgrowth.
- 5) The impacts on larger woodlands over two acres shall be minimized as much as practical.
- 6) Where preserving scenic views is the goal of a site design, such scenic views shall remain unblocked and uninterrupted. In wooded areas, where enclosure (i.e., a tree canopy) is a feature to be maintained, a no-cut and no-build buffer strip shall be considered along the public roadway.
- 7) Where historic or archeological preservation is the goal of a site design, new streets, driveways, fences and/or utilities shall not interfere with the historic site. Building designs of the new homes shall reflect the qualities and designs of the historic buildings, as much as is practical.
- 8) Where power line rights-of-way are proposed to be included as part of the open space, the right-of-way shall not exceed 50 percent of the required permanent open space.

502 **Streets.** The Preliminary Plan (see Article VI, Section 603) must be accompanied by evidence satisfactory to the Planning and Zoning Commission as to the method of street access, as prescribed herein, to all lots to be platted. Such evidence shall provide detailed information as to proposed elevations, cut and fill, drainage, traffic circulation

and other construction details required by this Ordinance. The installation of all streets shall be in accordance with the minimum requirements detailed in Montreat General Ordinance Chapter D – Streets and Public Walkways, Article 4: Street Standards. Further, the subdivider shall meet all requirements of North Carolina General Statutes Section 136-102.6.

502.1 **Conformity to Surrounding Development.** The proposed street layout within a subdivision shall be coordinated with the existing street system of the surrounding area.

502.2 **Pedestrian Ways.** Streets shall be designed or public walkways provided to assure safe and reasonable access to parks, playgrounds, schools, and other places of public assembly. Crosswalks may be required by the Planning and Zoning Commission.

502.3 **Blocks.** The length, width, and shape of blocks shall be reasonably designed to provide for the following: adequate building sites for the proposed use, vehicular and pedestrian circulation, and control and safety of traffic.

502.4 **Names of Subdivisions and Streets.** The name of a subdivision shall neither duplicate nor closely approximate the name of an existing subdivision within the town's jurisdiction. Proposed streets which are obviously in alignment with existing streets shall be given the same name as the existing street. The assignment of new names is subject to the Planning and Zoning Commission approval, and duplication of existing names, phonetically or otherwise, shall be avoided. Street markers of a design approved by the Street Department shall be installed at each intersection in uniform locations.

503 **Water and Sewer Systems.** The Preliminary Plan (see Section 603) shall be accompanied by evidence satisfactory to Planning and Zoning Commission of the proposed method and system of water supply and sanitary sewage collection and disposal for all lots. The installation of all said systems shall be required prior to Final Plat approval unless otherwise permitted pursuant to Article VI. All lots within any proposed subdivision located within the corporate limits of the Town of Montreat shall be provided with direct access to the water and sewer systems serving the Town of Montreat.

503.1 **Public Systems.** Where the proposed systems are to be connected to the water and sewer system serving the Town, the Preliminary Plan shall be accompanied by a complete set of construction plans for the proposed systems. Said plans shall have been approved by the water and sewer utility providers and the Planning and Zoning Commission. The minor distributors of water supplying the subdivisions shall consist of mains at least six inches (6") in size arranged so that they form a good gridiron - intervals not exceeding six hundred feet (600'),

and looped with no dead ends - in all areas of the water distribution system. In the sewer system, manholes shall be placed no further than six hundred feet (600') apart - preferably four hundred feet (400'). The main collector lines must meet the Metropolitan Sewerage District or Buncombe County Health Services Regulations.

503.2 **Fire Hydrants.** Hydrants shall conform to American Water Works Association Standard for Dry Barrel Fire Hydrants (AWWAC502). Hydrants shall have at least three (3) outlets; one outlet shall be a pumper outlet and other outlets shall be at least two and one-half inch (2 ½") nominal size. Street connection shall be not less than six inches (6") in diameter. Hose threads on outlets preferably should conform to National Standard dimensions. A valve shall be provided on connections between hydrants and street mains. Hydrants that operate in a direction opposite to that of the majority shall be considered unsatisfactory. Flush hydrants are considered undesirable because of delay in getting into operation, which is more serious because of the possibility of heavy snow. At no place on the main or artery lines will there be a distance of more than one thousand feet (1,000') between hydrants.

504 **Storm Water Drainage.** The Preliminary Plan (see Section 603) shall be prepared by a Licensed Landscape Architect or Registered Land Surveyor and be accompanied by evidence satisfactory to the Planning and Zoning Commission as to the proposed method of providing for storm water drainage. It shall be the responsibility of the subdivider to provide a drainage system which meets the following objectives:

- 1) Provides for adequate drainage from all roads, parking lots, and other developed areas;
- 2) Provides a suitable building area on each lot intended for building development which is safe from inundation, erosion, or subsidence;
- 3) Prevents both the unnecessary impoundment of natural drainage ways and the creation of areas of standing water;
- 4) Insures that existing drainage ways serving adjacent properties are maintained; or if necessary, re-routed but still function;
- 5) Prevents inundation of surface water into sanitary sewer systems;
- 6) Protects existing roads, driveways, utilities and other types of development from damages caused by improper drainage control; and
- 7) Compliance with current Stormwater Management regulations for the Town of Montreat.

The design of said system shall be subject to approval of the Town of Montreat Street Department and the installation of said system shall be required prior to Final Plat approval pursuant to Article VI of this Ordinance. Easements for all drainage ways shall be provided as required by Article V, Section 508 of this Ordinance. The Planning and Zoning Commission shall have the authority to require underground drainage, and other improvements it finds necessary to meet the above objectives.

505 Sedimentation Control. In order to prevent soil erosion and sedimentation pollution of streams, springs, flat water bodies, and other drainage networks, the subdivider shall show proof of an erosion and sediment control plan in conformity with the Rules and Regulations for Erosion and Sediment Control as adopted by the North Carolina Sedimentation Control Commission, April, 1974, and as amended, or with the Ordinance for Control of Erosion and Sedimentation for the Town of Montreat, whichever is the higher standard.

506 Surveying and Placement of Monuments. "The Manual of Practice for Land Surveying", as adopted by the N.C. Board of Registration for Professional Engineers and Land Surveyors, under provisions of Chapter 89 of the North Carolina Statutes, shall apply when conducting surveys.

507 Preservation of Natural Environment. Land to be subdivided shall be laid out and improved in reasonable conformity with the existing topography in order to minimize clearing and grading, cut and fill, and to retain, insofar as possible, the natural contours, reduce storm water runoff, and conserve the natural cover and soil. No topsoil shall be removed from any lots shown on any subdivision plan except for the purpose of improving such lots for development (the footprint of proposed structures and driveways) and for the laying out of streets shown therein. Developers are encouraged to retain a significant number of specimen trees* and native species to preserve the natural quality of the existing environment.

* A specimen tree is a particularly impressive or unusual example of a species due to its size, shade, age, or any other trait that epitomizes the character of the species.

508 Lots. The lot size, width, depth, shape, orientation, and building setback lines shall be reasonable for the location of the subdivision and for the type of development and use contemplated shall be sufficient to accommodate proposed utilities, and shall comply with the requirements of the Zoning Ordinance of the Town of Montreat.

509 Easements. Easements shall be provided and offered for the dedication to the Town as follows:

509.1 Utility Easements. Easements for utilities shall be provided, preferably centered on rear or side lot lines, and shall be a total of at least ten feet (10') in width.

509.2 **Drainage Easements**. An easement shall be reserved by the subdivider or otherwise provided conforming to the lines of any drainage-way into which natural drainage has been diverted. Said drainage-way shall be of sufficient width to carry storm water runoff from a 25 year storm.

TOWN OF MONTREAT

SUBDIVISION ORDINANCE

ARTICLE VI - 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.

- 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

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 Chair 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.

TOWN OF MONTREAT

SUBDIVISION ORDINANCE

**ARTICLE VII - PLANNING AND ZONING COMMISSION
OF THE TOWN OF MONTREAT**

700 Legal Authority. Pursuant to the North Carolina General Statute Section 160A-373, the Planning and Zoning Commission of the Town of Montreat is hereby designated as the planning agency which may give approval to Final Subdivision Plats and otherwise administer the "Subdivision Ordinance".

701 Powers and Duties. Pursuant to the requirements and procedure set forth in this Ordinance, the Planning and Zoning Commission in addition to its powers and duties under the Zoning Ordinance shall have, and is delegated the following powers and duties:

- 1) To consider and review all proposed subdivision plats for land within the subdivision jurisdiction of this Ordinance;
- 2) To give or not give final approval of each individual subdivision plat;
- 3) To review and make recommendations to the Board of Commissioners regarding proposed variances from any amendments to the Ordinance; and
- 4) To enter into contracts and agreements authorized in this Ordinance and to enter into such other contracts and agreements as the Board of Commissioners may approve.

All other powers and duties not set forth herein, including those set forth in North Carolina General Statute Sections 106A-371 through 106A-380 are reserved to the Board of Commissioners.

702 Funding. Provision for timely funding of the operations of the Planning and Zoning Commission shall be made by the Board of Commissioners of the Town of Montreat in accordance with its regular budget and finance procedures.

TOWN OF MONTREAT

SUBDIVISION ORDINANCE

ARTICLE VIII – LEGAL PROCEDURES

- 800 Criminal and Civil Procedures. From the effective date of this ordinance, any person who, being the owner or agent of the owner of any land located within the jurisdiction of this Ordinance, either subdivides his land in violation of this Ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of land before the plat has been approved and recorded pursuant to this Ordinance, shall be guilty of a misdemeanor and shall be subject to a fine and/or imprisonment as provided in North Carolina General Statute 14.4. The Town of Montreat may enjoin any subdivision, transfer, or sale of land not made in compliance with this Ordinance. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this Ordinance.
- 801 Severability. Should any section or provision of this Ordinance be found by a court of competent jurisdiction to be unconstitutional or invalid, all other sections or provisions shall nevertheless continue in full force and effect. In accordance with Article 160A-373 of the General Statutes of North Carolina, the Board of Commissioners shall file a copy of this Ordinance for registration with the Register of Deeds of Buncombe County.
- 802 Abrogation. This Ordinance shall neither repeal, abrogate, annul, impair, nor interfere with any existing subdivisions the plats of which are properly recorded in the Office of the Register of Deeds prior to the effective date of this Ordinance nor with existing easements, covenants, deed restrictions, agreements, or permits previously adopted or issued pursuant to law prior to the effective date of this Ordinance.
- 803 Effect on Existing Legislation. Where this Ordinance conflicts with existing ordinances, statutes, or regulations effective in the jurisdiction of this Ordinance and enacted by the County, State or Federal governments or their agencies, then the ordinance, statute, or regulation requiring the higher standard shall apply.
- 804 Effective Date. This Ordinance shall become effective on the 8th day of October, 2009.

Adopted this the 8th day of October, 2009.

[CONTINUED ON FOLLOWING PAGE]

BOARD OF COMMISSIONERS OF THE
TOWN OF MONTREAT, NORTH CAROLINA

BY: /s/ Letta Jean Taylor
Mayor

APPROVED AS TO FORM:

/s/ Susan Taylor Rash
Town Attorney

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, Misty R. Gedlinske, Clerk to the Board of Commissioners for the Town of Montreat do hereby certify that during the regularly scheduled meeting following a public hearing on October 8, 2009, the foregoing Subdivision Ordinance for the Town of Montreat was read, approved, and adopted by the Board upon a motion of Commissioner Currie and seconded by Commissioner Hollins. The Ordinance was passed by a vote of 4/0.

This the 8th day of October, 2009

/s/ Misty R. Gedlinske
Clerk to the Board of Commissioners
for the Town of Montreat

TOWN OF MONTREAT

SUBDIVISION ORDINANCE

APPENDIX A - APPROVAL OF WATER AND SEWERAGE DISPOSAL SYSTEMS

Refer to Chapter E, Article I in the Town of Montreat Code of General Ordinances for the Town's water and sewer connection regulations.

The Town of Montreat controls the water supply system.

The Metropolitan Sewerage District (MSD) controls the sewage disposal system.

The Buncombe County Health Department is responsible for issuing permits for septic systems.

TOWN OF MONTREAT
SUBDIVISION ORDINANCE

APPENDIX B – SKETCH PLAN CHECKLIST

Name of Subdivision: _____ Date Submitted: _____

Location: _____

Owner Name: _____

Address: _____

City: _____ State: _____ ZIP: _____

Subdivider Name: _____

Address: _____

City: _____ State: _____ ZIP: _____

_____ Title Block: Subdivision name, subdivider’s name and address, North arrow, scale (min. 1” = 200’) denoted graphically and numerically, date of preparation, location of subdivision (township, county and state), Deed Book references and name of person or firm who prepared the Sketch Plan.

_____ Vicinity Map: A sketched map showing the location of the subdivision in relation to the surrounding area.

_____ Tract Boundaries: The boundaries of the tract or portion thereof to be subdivided, with all bearings and distances shown.

_____ Property Lines: Property lines and owners’ names of abutting properties and/or abutting subdivision(s).

_____ Natural Features: Significant natural features including wooded areas, marshes, major rock outcrops, lakes or streams, steep topography and other natural features affecting the site.

_____ Existing Improvements or Conditions: Existing features including buildings, streets, power lines, drainage ways, sewer and water lines, utility easements, and Town limit lines both on or adjacent to the land to be subdivided.

_____ Topographic Information: Topographic contour lines at five foot (5’) elevation intervals when the area being subdivided exceeds two (2) acres or has proposed streets which will exceed eight hundred (800) linear feet.

- _____ Lot and Street Lines: All proposed lot and street right-of-way lines, lot and block numbers, all easements, designation of any dedication or reservations to be made, and proposed use of land if other than single family residences.

- _____ Water and Sewer Layout: Sketch view of proposed water and sewer system (excluding individual wells and septic systems), including approximate location of manholes, pumps, hydrants, force mains and the connection of the proposed systems(s) with existing systems.

- _____ Drainage System: Sketch view of proposed drainage facilities, including approximate location and dimensions of open drainage ways, storm sewers, culverts, retaining ponds or areas where water is to be diverted through grading. Reference Montreat General Ordinance Chapter K, Article III "Stormwater Management" which provides detailed requirements for approval of proposed stormwater best management practices and subsequent maintenance and inspection agreements for installed systems.

- _____ Other Improvements: Proposed location and description of any other improvements including, but not limited to, riding trails, sidewalks or pedestrian walkways, reserved open space or recreational facilities, school sites, commercial areas or buffer strips.

- _____ Site Data: Total acreage in tract to be subdivided, total number of lots and linear feet in streets.

TOWN OF MONTREAT
SUBDIVISION ORDINANCE

APPENDIX C – PRELIMINARY PLAN CHECKLIST

Name of Subdivision: _____ Date Submitted: _____
Location: _____
Owner Name: _____ Phone: _____
Address: _____
City: _____ State: _____ ZIP: _____
Subdivider Name: _____ Phone: _____
Address: _____
City: _____ State: _____ ZIP: _____

_____ Title Block: Subdivision name, subdivider’s name and address, North arrow, scale (denoted graphically and numerically), date of preparation, location of subdivision (township, county and state), Deed Book references and name and seal of the person or firm who prepared the Plan.

_____ Vicinity Map: A sketched map showing the location of the subdivision in relation to the surrounding area.

_____ Tract Boundaries: The boundaries of the tract or portion thereof to be subdivided, with all bearings and distances shown.

_____ Property Lines: Property lines and owners’ names of abutting properties and/or abutting subdivision(s).

_____ Natural Features: Significant natural features including wooded areas, marshes, major rock outcrops, lakes or streams, steep topography and other natural features affecting the site. See Section 506 for more detail.

_____ Existing Improvements or Conditions: Existing features including buildings, streets, power lines, drainage ways, sewer and water lines, utility easements, and Town limit lines both on or adjacent to the land to be subdivided.

_____ Topographic Information: Topographic contour lines at five foot (5’) elevation intervals.

_____ Lot and Street Lines: All proposed lot and street right-of-way lines with scaled dimensions, lot and block numbers, all easements, designation of any dedication or reservations to be made, a notation of building setback lines, and proposed use of land if other than single family residences.

_____ Water and Sewer Layout: Sketch view of proposed water and sewer system (excluding individual wells and septic systems), including line sizes, approximate location of manholes, pumps, hydrants, force mains, the connection of the proposed systems(s) with existing systems and sanitary sewer profiles to show the size and depth of pipe and details of construction.

_____ Drainage System: Sketch view of proposed drainage facilities, including approximate location and dimensions of open drainage ways, storm sewers, culverts, retaining ponds or areas where water is to be diverted through grading and details of inlet construction. Reference Montreat General Ordinance Chapter K, Article III "Stormwater Management" which provides detailed requirements for approval of proposed stormwater best management practices and subsequent maintenance and inspection agreements for installed systems.

_____ Other Improvements: Proposed location and description of any other improvements including, but not limited to, riding trails, sidewalks or pedestrian walkways, bikeways, reserved open space or recreational facilities, school sites, commercial areas or buffer strips.

_____ Site Data: Total acreage in tract to be subdivided, smallest lot size, largest lot size, average lot size, total number of lots and linear feet in streets.

TOWN OF MONTREAT
SUBDIVISION ORDINANCE

APPENDIX D – FINAL PLAT CHECKLIST

The Preliminary Plan shall meet the following requirements prior to any review of the Plat by the Planning and Zoning Commission.

Date Final Plat Submitted: _____
Date Preliminary Plan Approved: _____

Name of Subdivision: _____
Location: _____
Owner Name: _____ Phone: _____
Address: _____
City: _____ State: _____ ZIP: _____
Surveyor Name: _____ Phone: _____
Address: _____
City: _____ State: _____ ZIP: _____

Administrative Requirements:

- _____ The Improvements Guarantee has been accepted by the Town or Certification of Improvements has been granted by the Zoning Official and Mayor.

- _____ Final Plat submitted within twelve (12) months of Preliminary Plan approval, unless written extension has been granted by the Planning and Zoning Commission.

- _____ Final Plat conforms substantially to the Preliminary Plan as it was approved and conforms with the provisions of N.C.G.S. §47-30, as amended, and with the Standards of Practice for Land Surveying as adopted by the State board of registration for professional engineers and land surveyors.

- _____ Final Plat is either fifteen by twenty inches (15" X 20") or twenty by thirty inches (20" X 30") and is at a scale no greater than 1 inch = 100 feet.

- _____ Five (5) copies submitted (original and four (4) copies).

[CONTINUED ON FOLLOWING PAGE]

Required Information:

_____ Title Block: Subdivision name, subdivider's name and address, North arrow, scale (denoted graphically and numerically), date of plat preparation, location of subdivision (township, county and state), Deed Book references and name and seal of the registered surveyor responsible for the Plat..

_____ Vicinity Map: A sketched map showing the location of the subdivision in relation to the surrounding area.

_____ Tract Boundaries: The boundaries of the tract or portion thereof to be subdivided, fully dimensioned by lengths and bearings, and the location of intersecting boundary lines of adjoining lands.

_____ Adjoining Property Owners: Names and deed references (when possible) of owners of abutting properties and abutting subdivisions which are proposed or under review.

_____ Location of Improvements: All visible and apparent rights-of-way, watercourses, utilities, roadways and other such improvements shall be accurately located where crossing and forming any boundary line of property shown.

_____ Engineering Data: Sufficient engineering data to determine readily and reproduce on the ground every straight or curved boundary line, street line, right-of-way line and easement line, including dimensions, bearings or deflections angles, radii, central angles, and tangent curved property lines that are not the boundary of curved streets. Building setback lines shall also be marked.

_____ Monuments: The accurate locations and descriptions of all monument markers and control points.

_____ Lot and Block Numbers: The blocks numbered consecutively throughout the entire subdivision and the lots numbered consecutively throughout each block.

_____ Streets: Street names and right-of-way lines of all streets.

_____ Rights-of-Way: The location and dimensions of all rights-of-way, utility or other easements, riding trails, sidewalks or pedestrian walkways, bikeways, and areas to be dedicated to public use with the purpose of each stated.

Required Certificates: The following certificates are to appear on the Final Plat in such a manner as to ensure that the said certificate will be legible on any prints made therefrom, that are to be submitted with, and recorded with the Final Plat in accordance with the provisions of this Ordinance:

_____ Certificate of Survey and Accuracy signed and dated by the surveyor.

_____ Certificate of Approval by the Planning and Zoning Commission of the Town of Montreat, including the date of the approval.

The following certificates are to accompany the Final Plat and shall be recorded with the Final Plat at the same time:

_____ Certificate of Completion and Warranty signed and dated by the subdivider.

_____ Certificate of Dedication and Maintenance signed and dated by the surveyor.

_____ Certificate of Improvements signed by the Building Inspector and Mayor.

TOWN OF MONTREAT

SUBDIVISION ORDINANCE

APPENDIX E – ADMINISTRATIVE FORMS

1)	Certificate of Improvements	34
2)	Certificate of Completion and Warranty	35
3)	Certificate of Dedication and Maintenance	37
4)	Improvements Guarantee Agreement	39
5)	Performance Bond	42
6)	Certificate of Approval of Water Supply System	44
7)	Certificate of Approval of Sewage Disposal System	45
8)	Certificate of Approval of Septic System	46
9)	Certificate of Approval of Town Streets	47

1) CERTIFICATE OF IMPROVEMENTS

The following improvements have been completed by _____
(name of Subdivider) in _____ Subdivision.

List of Completed Improvements:

Said improvements have been inspected by my office, have been built according to the standards set forth in the Montreat Subdivision Ordinance and are constructed as prescribed in the approved Preliminary Plan. To my knowledge, said improvements (contain no defects) (contain only the following minor defects) and should be approved.

List any known defects:

Building Inspector, Town of Montreat

Date

All said improvements are approved according to the requirements of this Ordinance.

Mayor, Town of Montreat

Date

2) CERTIFICATE OF COMPLETION AND WARRANTY

The undersigned certifies that s/he is an officer of the _____ Corporation, and that s/he has been authorized to execute this Certificate pursuant to authority granted by Resolution of the Board of Directors of _____ Corporation, a copy of which Resolution is attached hereto.

_____ Corporation, through the undersigned, hereby certifies that the following improvements required under the authority of the Town of Montreat Subdivision Ordinance have been installed as specified by the approved Preliminary Plan for _____ Subdivision and that said improvements are in compliance with the minimum standards specified by the Ordinance and by the Planning and Zoning Commission for the construction of said improvements.

List of Completed Improvements:

_____ Corporation, through the undersigned, further certifies that it knows of no defects from any cause and will fully warrant said improvements to be free from defects in material and workmanship for a period of one (1) year from this date. In the event defects are discovered in any of said improvements during said period, _____ Corporation will replace and/or repair the defective improvements at its own expense.

_____ [SEAL]
(Corporation)

By: _____
(Printed Name)

Attest: _____
(Printed Name)

Date: _____

[CONTINUED ON FOLLOWING PAGE]

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, _____, Notary Public of Buncombe County, North Carolina certify that _____ personally appeared before me this day and acknowledged that s/he is _____ of _____, a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by _____ as its Secretary.

Witness my hand and notarial seal, this the _____ day of _____, _____.

Notary Public

My Commission expires: _____

[Note: This Certificate may be appropriately modified for execution by a Subdivider who is not incorporated.]

3) CERTIFICATE OF DEDICATION AND MAINTENANCE

The undersigned certifies that s/he is an officer of the _____ Corporation, and that s/he has been authorized to execute this Certificate pursuant to authority granted by Resolution of the Board of Directors of _____ Corporation, a copy of which Resolution is attached hereto.

_____ Corporation, through the undersigned, hereby certifies that app property and improvements described on the Final Plat for _____ Subdivision are owned by _____ and are free of any encumbrances or liens except as follows:

List any encumbrance(s) or lien(s):

_____ Corporation, through the undersigned, freely offers for dedication all required rights-of-way, easements, streets, utilities, open space and other improvements to public or private use as noted on said Final Plat and freely establishes minimum building setback lines as required by the Town of Montreat Zoning Ordinance.

_____ [SEAL]
(Corporation)

By: _____
(Printed Name)

Attest: _____
(Printed Name)

Date: _____

[CONTINUED ON FOLLOWING PAGE]

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, _____, Notary Public of Buncombe County, North Carolina certify that _____ personally appeared before me this day and acknowledged that s/he is _____ of _____, a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by _____ as its Secretary.

Witness my hand and notarial seal, this the _____ day of _____, _____.

Notary Public

My Commission expires: _____

[Note: This Certificate may be appropriately modified for execution by a Subdivider who is not incorporated.]

4) IMPROVEMENTS GUARANTEE AGREEMENT

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

THIS AGREEMENT is made and entered into this _____ day of _____, _____ by and between _____, herein after known as "Subdivider," and the Town of Montreat Board of Commissioners, hereinafter known as "the Board."

WITNESSETH:

WHEREAS, the Subdivider is attempting to secure from the Town of Montreat approval of a Final Plat of a proposed Subdivision to be known as the _____ Subdivision and to be located within the jurisdiction of the Town of Montreat, North Carolina; and,

WHEREAS, a Town Ordinance entitled "Subdivision Ordinance for the Town of Montreat," as adopted by the Board on the 11th day of December, 1980, and as subsequently amended, required the completion of certain improvements prior to Final Plat approval; and,

WHEREAS, said Ordinance allows the Board, at its discretion, to permit the Subdivider to post a surety bond with the Town of Montreat through the Board to guarantee the completion of said required improvements; and,

WHEREAS, the Town of Montreat desires to approve said Final Plat and in lieu of requiring completion of all improvements prior to said approval, will accept from the Subdivider the filing of a surety performance bond with _____ Company to guarantee completion of said improvements.

IT IS THEREFORE AGREED AS FOLLOWS:

1. The Subdivider will, on or before the _____ day of _____, _____ complete as required the following improvements in the _____ Subdivision;
2. The Subdivider shall file with the Town of Montreat through the Board a surety performance bond securing and guaranteeing completion of said improvements by the required date; and
3. When the surety performance bond is filed and other requirements of said Ordinance are met, then the Town of Montreat will approve the Final Plat of the _____ Subdivision.

IN WITNESS WHEREOF, the Town of Montreat Board of Commissioners has, by appropriate Board action, caused this Agreement to be executed by the Mayor or other authorized member and attested by the Town Clerk, as the _____ Company has, by appropriate action of its Board of Directors, caused this Agreement to be executed by its President and attested by its Secretary under corporate seal, this the _____ day of _____, _____.

_____ Corporation, through the undersigned, freely offers for dedication all required rights-of-way, easements, streets, utilities, open space and other improvements to public or private use as noted on said Final Plat and freely establishes minimum building setback lines as required by the Town of Montreat Zoning Ordinance.

TOWN OF MONTREAT BOARD
OF COMMISSIONERS

By: _____
Mayor

Attest: _____
Town Clerk

Date: _____

(NAME OF CORPORATION)

By: _____
President

Attest: _____
Secretary

Date: _____

[CONTINUED ON FOLLOWING PAGE]

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, _____, Notary Public of Buncombe County, North Carolina certify that _____ personally appeared before me this day and acknowledged that s/he is _____ of _____, a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by _____ as its Secretary.

Witness my hand and notarial seal, this the _____ day of _____, _____.

Notary Public

My Commission expires: _____

[Note: This Certificate may be appropriately modified for execution by a Subdivider who is not incorporated.]

5) PERFORMANCE BOND

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

KNOW BY THESE PRESENTS THAT we, _____, as Principal, and _____, as Surety, are held and firmly bound unto the Town of Montreat, a political subdivision of the State of North Carolina, and a body politic and corporate, in the sum of \$_____, lawful money of the United States of America, for the payment of which, well and truly to be made, we, and each of us, bind ourselves and each of us, our successors and assigns, jointly and severally, by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, the Principal has submitted a Final Plat of the Subdivision known as the _____ Subdivision, located in the jurisdiction of the Town of Montreat, which approval is a condition precedent to the right of said Principal to have said Final Plat registered in the Office of the Registrar of Deeds for Buncombe County; and,

WHEREAS, the Town of Montreat is unable, pursuant to Town Ordinance, to approve said plat of said Subdivision for registration until all required improvements are completed or until a guarantee of completion of said required improvements is filed with the Town of Montreat through its Board of Commissioners; and,

WHEREAS, the Town of Montreat Board of Commissioners and the Principal have this date entered into an Agreement by which the Town of Montreat will approve the Principal's Final Plat for the _____ Subdivision prior to the completion of required improvements, and the Principal has agreed to file a surety bond in the amount of \$_____ securing to the Town of Montreat, the actual completion of said required improvements on or before the _____ day of _____, _____, which Agreement is attached hereto as Exhibit "A" and made a part thereof, and,

WHEREAS, the improvements required and agreed to be completed are set forth in said Exhibit "A."

NOW, THEREFORE, if the Principal shall fully comply with all the terms hereof, including the requirements of that Agreement attached hereto as Exhibit "A" and by which the Principal agrees to complete certain improvements on or before the _____ day of _____, _____, then this obligation shall be null and void; otherwise, it shall remain in full force and effect.

[CONTINUED ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the said Principal and Surety have hereunto set their hands and seals on this the _____ day of _____, _____.

(NAME OF PRINCIPAL)

By: _____
President

Attest: _____
Secretary

Date: _____

(NAME OF SURETY)

By: _____
Attorney-in-Fact
(Power of Attorney attached)

Attest: _____
(Print Name)

Date: _____

6) CERTIFICATE OF APPROVAL OF WATER SUPPLY SYSTEM

I hereby certify that the water supply system proposed for installation and specified on the Preliminary Plan for _____ Subdivision meets all pertinent state and local requirements and is hereby approved.

Town Administrator, Town of Montreat

Date

7) CERTIFICATE OF APPROVAL OF SEWAGE DISPOSAL SYSTEM

I hereby certify that the sewage disposal system proposed for installation and specified on the Preliminary Plan for _____ Subdivision meets all pertinent state and local requirements and is hereby approved.

(Appropriate Official),
Metropolitan Sewerage District

Date

8) CERTIFICATE OF APPROVAL OF SEPTIC SYSTEM

I hereby certify that that the septic system proposed for installation and specified on the Preliminary Plan for _____ Subdivision meets all pertinent state and local requirements and is hereby approved.

(Appropriate Official),
Buncombe County Health Department

Date

9) CERTIFICATE OF APPROVAL OF STREETS

I hereby certify that the streets plans for _____ Subdivision are in conformance with the standards of the Town of Montreat Street Department and the Subdivision Ordinance.

(Engineering Consultant),
(Name of Firm)

Date