

ARTICLE 5 SUBDIVISIONS

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5.01 No Subdivision Without Plat Approval

5.01.01 No person may subdivide his land except in accordance with all of the provisions of this Ordinance. In particular, no person may subdivide his land unless and until a final plat of the subdivision has been approved in accordance with the provisions of this Article and recorded in the Watauga County Registry. Building permits required pursuant to G.S. 160D-1110 shall be denied for lots that have been illegally subdivided.

5.01.02 The Watauga County Register of Deeds shall not record a plat of any subdivision within the Town's planning jurisdiction unless the plat has been approved in accordance with the provisions of this Ordinance.

5.01.03 The provisions of this Section shall not prohibit any owner or his agent from entering into contracts to sell or lease by reference to an approved preliminary plat for which a final plat has not been properly approved or recorded with the Watauga County Register of Deeds, provided the contract does all of the following:

- A.** Incorporates as an attachment a copy of the preliminary plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the recorded plat prior to closing and conveyance; and
- B.** Plainly and conspicuously notifies the prospective buyer or lessee that:
 - 1. A final subdivision plat has not been approved or recorded at the time of the contract, and
 - 2. That no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, and
 - 3. That changes between the preliminary and final plats are possible, and
 - 4. That the contract or lease may be terminated without breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat; and

- C. Provides that if the approved and recorded final plat does not differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than five (5) days after the delivery of a copy of the final recorded plat; and
- D. Provides that if the approved and recorded final plat differs in any material respect from the preliminary plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than fifteen (15) days after the delivery of the final recorded plat, during which fifteen (15) day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.

5.01.04 The provisions of this Section shall not prohibit any owner or his agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved under the subdivision regulations or recorded with the register of deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial, or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the final plat has been properly approved under the unified development Ordinance and recorded with the Watauga County Register of Deeds.

(Ord. PL04727-050721, 07-01-2021)

5.02 Flood Damage Prevention

5.02.01 All subdivisions shall comply with Article 30 Flood Damage Prevention.

5.03 Water Supply Watershed Area

5.03.01 If the proposed minor subdivision plat is located in a designated Water Supply watershed, the Commission shall review the plat and shall approve, not approve, or conditionally approve based on the following findings:

- A. It either is or is not a minor subdivision; and
- B. It either does or does not meet the requirements of this Ordinance.

5.03.02 If the proposed major subdivision plat is located in a designated Water Supply watershed, the Commission shall review the plat and shall find that it does or does not meet the requirements of this Ordinance. Such findings of the Commission shall be forwarded to the Board for preliminary plat approval and if approved and completed, Council for final plat approval.

5.04 Design Standards

5.04.01 All lots shall meet the minimum standards set forth in this Ordinance except for Architecturally Integrated Subdivisions.

- 5.04.02** Whenever a residential major subdivision that involves the creation of one or more new streets borders on or contains an existing proposed arterial street, no direct driveway access may be provided from the lots within this subdivision onto this street.
- 5.04.03** No final plat that shows lots served by private roads may be recorded unless the final plat contains the following notations:
“Further subdivision of any lot shown on this plat as served by a private road may be prohibited by the Town of Boone Unified Development Ordinance.”
- 5.04.04** The recorded plat of any subdivision that includes a private road shall clearly state that such road is a private road. Further, the initial purchaser of a newly created lot served by a private road shall be furnished by the seller with a disclosure statement outlining the maintenance responsibilities for the road.
- 5.04.05** When creating lots from an existing lot or parcel that contains a wireless support structure (stealth or non-stealth), the new lot(s) shall be located no closer to the existing structure than the applicable setback requirement provided at Section 15.24.09 and 15.24.10.

(Ord. PL04727-050721, 07-01-2021)

5.05 Exempt Divisions of Land

- 5.05.01** The following are not included within the definition of “subdivision” and are exempt from the subdivision procedures of this Article:
- A.** 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 minimum standards set forth in this Ordinance.
 - B.** The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved.
 - C.** The public acquisition by purchase of strips of land for widening or opening streets or for public transportation system corridors.
 - D.** 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 set forth in this Ordinance.
- 5.05.02** An exempt division of land must comply with the requirements of the applicable requirements of the Water Supply Watershed Overlay requirements.
- 5.05.03** No approval is required for an exempt division of land, however, certification of exempt status is required. A plat of an exempt division of land, if prepared, must be certified by the Administrator, in accordance with Appendix A, before it can be recorded in the Office of the Watauga County Register of Deeds.

5.06 Subdivision types

5.06.01 There are two types of subdivisions:

- A. Minor, and
- B. Major

5.06.02 A minor subdivision is any subdivision other than a major subdivision.

5.06.03 A major subdivision is one which involves:

- A. The creation of eleven or more lots, regardless of whether the lots are created at one time or over an extended period of time; or
- B. The creation of any new streets (either public or private); or
- C. The creation or extension of a public water or sewer system, or
- D. The installation of drainage improvements upon one (1) or more lots to serve one (1) or more other lots.

5.07 Minor Subdivision

5.07.01 Minor subdivisions are subject to a three (3) step approval process: sketch plan consultation (optional), preliminary plat approval, and final plat approval.

5.07.02 **Sketch Plan:** A sketch plan submittal is optional but is strongly encouraged for minor subdivisions.

- A. A sketch plan is a plan prepared in advance of formal submittal for the purpose of receiving informal staff comments.
- B. Although there are no minimum requirements for the content of a sketch plan, applicants are encouraged to provide as much detail as possible.

5.07.03 **Preliminary Plat:** A preliminary plat is required for all minor subdivisions.

- A. The preliminary plat shall be submitted in accordance with Article 4.
- B. The preliminary plat shall contain the information as described in Appendix A.
- C. Administrator Review:
 1. The Administrator must review the plat for conformance with the requirements of this Ordinance and may consult with other departments, agencies or officials by referral.
 2. The Administrator must approve, approve with conditions, or deny the preliminary plat within the time specified within Article 4.
 3. Preliminary plats approved by the Administrator may proceed toward final plat approval.

4. Plats denied or granted conditional approval by the Administrator may be appealed to the Board of Adjustment in accordance with Article 6.
5. Modifications to approved minor subdivision preliminary plats are subject the requirements in Section 4.16.
6. Minor subdivision preliminary plat approval remains valid for one (1) year and may be extended in accordance with the provisions of Section 4.14.

5.07.04 Final Plat: A final plat is required for all minor subdivisions.

- A. Upon approval of a minor subdivision preliminary plat, the applicant is eligible to submit a final plat for approval.
- B. The final plat shall be submitted in accordance with Article 4.
- C. The final plat shall contain the information as described in Appendix A.
- D. The final plat shall be prepared and certified by a North Carolina licensed professional land surveyor.
- E. The final plat must conform to the approved preliminary plat.
- F. The approved final plat shall be recorded within forty-five (45) days of approval by the Planning and Inspections Department or the approval shall be void.

5.08 Major Subdivision

5.08.01 Major subdivisions are subject to a four (4) step approval process: sketch plan consultation, preliminary plat approval, zoning permit for the construction of subdivision-related infrastructure, and final plat approval.

5.08.02 Sketch Plan: A sketch plan submittal is required for major subdivisions.

- A. A sketch plan is a plan prepared in advance of formal submittal for the purpose of receiving informal staff comments.
- B. Although there are no minimum requirements for the content of a sketch plan, applicants are encouraged to provide as much detail as possible.

5.08.03 Preliminary Plat: A preliminary plat is required for all major subdivisions.

- A. The preliminary plat shall be submitted in accordance with Article 4.
- B. The preliminary plat shall contain the information as described in Appendix A.
- C. Board of Adjustment Review:
 1. The Administrator shall present completed major subdivision preliminary plats to the Board in accordance with Article 4.
 2. The Board must approve, approve with conditions, or deny the preliminary plat in accordance with Article 6.

3. If the major subdivision preliminary plat is granted approval with conditions, the applicant has thirty (30) calendar days to revise and resubmit the preliminary plat to the Administrator which incorporates the revised conditions.
 - a. If all of the conditions have been met and the preliminary plat is otherwise unchanged, the Administrator must approve the preliminary plat.
 - b. If the preliminary plat is not revised within thirty (30) calendar days to meet the approval conditions, or the applicant notifies the Administrator that no more revisions to the preliminary plat will be made, the Administrator shall deny the preliminary plat.
4. An applicant for a major subdivision preliminary plat denied by the Board may seek judicial review pursuant to Article 6.
5. A modification to an approved major subdivision preliminary plat is subject to the requirements of Section 4.15.
6. A major subdivision preliminary plat approval remains valid for two (2) years and may be extended in accordance with the provisions of Section 4.14. Once constructed the subsequent development of individual lots shall not require modification of the subdivision plat approval unless explicitly required in the original approval or prior modification.
7. An applicant for a major subdivision preliminary plat approved by the Board may thereafter proceed with an application for a zoning permit in accordance with Article 4, for the construction of subdivision-related infrastructure.
8. All infrastructure approved through the preliminary plat process must be completed or the applicant must provide a performance guarantee per Section 4.13 prior to proceeding with Final Plat approval.

5.08.04 Final Plat: The final plat is proof that all the requirements of the preliminary plat have been met. A final plat is required for all major subdivisions.

- A.** Upon approval of a major subdivision preliminary plat, and completion of all required subdivision-related infrastructure as authorized by the preliminary plat approval, the applicant is eligible to submit a final plat for approval.
- B.** The final plat shall be submitted in accordance with Article 4.
- C.** The final plat shall contain the information as described in Appendix A.
- D.** The final plat shall be prepared and certified by a North Carolina licensed professional land surveyor.
- E.** The final plat must be in compliance with the approved preliminary plat.
- F.** The Administrator shall approve the final plat if the subdivision improvements are consistent with this Ordinance and the preliminary plat approval.

- G. The approved final plat shall be recorded within forty-five (45) days of approval by the Planning and Inspections Department or the approval shall be void.

(Ord. PL05189-100821, 11-18-2021)

5.09 Plat Approval Not Acceptance of Dedication Offers

- 5.09.01** Approval of a final plat does not constitute acceptance by the Town of the offer of dedication of any streets, sidewalks, parks or other public facilities shown on a plat. However, the Town may accept any such offer of dedication by resolution of the Council or by actually exercising control over and maintaining such facilities.

5.10 Architecturally Integrated Subdivisions

- 5.10.01** In an architecturally integrated subdivision, the applicant may create lots and construct buildings without regard to any minimum lot size, lot width or setback restrictions except that:
 - A. Lot boundary setback requirements shall apply where and to the extent that the subdivided tract abuts land that is not part of the subdivision, and
 - B. Each lot must be of sufficient size and dimensions that it can support the structure proposed to be located on it, consistent with all other applicable requirements of this Ordinance.
- 5.10.02** The number of dwelling units in an architecturally integrated subdivision may not exceed the maximum density authorized for the tract. The number of lots allowed in an architecturally integrated subdivision shall be calculated by dividing the project area by the minimum gross land area set forth for the zoning district. For an architecturally integrated subdivision project that is composed of areas with different zoning designations, the number of lots shall be determined for each zoning district. The maximum number of lots for the project shall be the sum of the densities for each district. Further, only authorized uses shall be permitted in each zoning district.
- 5.10.03** In architecturally integrated subdivisions the amount of land saved by creating lots that are smaller than the standards set forth in B1.04 Complete Intensity Table, shall be set aside as open space.
- 5.10.04** The purpose of this Section is to provide flexibility, consistent with the public health and safety and without increasing overall density, to the applicant who subdivides property and constructs buildings on the lots created in accordance with a unified and coherent plan of development.

(Ord. PL04727-050721, 07-01-2021; PL05688-050322, 06-08-2022)