

MACON COUNTY SUBDIVISION ORDINANCE

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GENERAL PROVISIONS

§159.01 Title

This Ordinance shall be known and may be cited as the Subdivision Ordinance of the County of Macon, North Carolina, and may be referred to as the Subdivision Regulations.

§159.02 Purpose

The purpose of this Ordinance is to establish procedures and standards for the development and subdivision of land within Macon County. It is further designed to promote the orderly growth and development of the County; for the coordination of roads and highways within proposed subdivisions with existing or planned roads and highways and with other public facilities. It is also designed to provide the County Commissioners, Planning Board, Planning Department, Tax Assessor, Land Records Office, Code Enforcement and other local government agencies and officials with information regarding land development taking place in Macon County. This information will assist county officials in projecting the need for various public programs and facilities, in estimating population growth, and in projecting revenue and expenditures. It is not the intent of this ordinance to regulate the divisions of land by gift so long as it is not held for sale or building development contrary to N.C.G.S. §153A-335

§159.03 Authority

This Ordinance is hereby adopted under the authority and provisions of the General Statutes of North Carolina, Chapter 153A, Article 18, Part 2.

§159.04 Jurisdiction

The regulations contained herein, as provided in G.S. 153A, Article 18 shall govern each and every subdivision within Macon County outside of the jurisdiction of any incorporated municipality.

§159.05 Compliance with Ordinance Required

All plats for the subdivision of land shall conform to the requirements of this Ordinance, and shall be submitted in accordance with the procedures and specifications established herein.

§159.06 Plats to be Approved

After the effective date of this Ordinance no subdivision plat of land within the County's Subdivision Ordinance jurisdiction shall be filed or recorded until it shall have been submitted to and approved by the Subdivision Administrator of Macon County as provided hereinafter in this Ordinance, and no land shall be sold or transferred by reference to a plat that has not been approved and recorded in accordance with the provisions of this Ordinance.

§159.07 "Subdivision" Defined

For the purposes of this Ordinance, "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 road or a change in existing roads; but the following shall not be included within this definition nor be subject to any regulations enacted pursuant to this Ordinance:

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 Macon County as shown in this Ordinance.
2. The division of land into parcels greater than ten (10) acres where no road right-of-way dedication is involved.
3. The public acquisition by purchase of strips of land for the widening or opening of roads.
4. The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no road right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of Macon County as shown in this Ordinance.
5. The division of land pursuant to an order of any state or federal Court with jurisdiction.
6. The division of land for the purpose of conveying a single lot to each tenant in common, all of whom jointly inherited the land by intestacy or by will.
7. The division of land for cemetery lots or burial plots.

§159.10 Other Definitions

For the purpose of this Ordinance, certain words or terms used herein shall be defined as follows:

Administrator, Subdivision. The staff member of the Planning Department to whom the Local Governing Board has delegated authority to review, seek technical guidance and approve all subdivision plats submitted under the regulations in effect under this Ordinance.

Conservation Easement. A legally enforceable agreement between a property owner and the holder of the easement, with content meeting requirements of North Carolina law and in a form acceptable to the County. A conservation easement restricts the existing and future use of the defined tract or lot to conservation use, agriculture, passive recreation, or other use approved by the County and prohibits further subdivision or development. Such agreement also provides for the maintenance of open spaces and any improvements on the tract or lot. Such agreement cannot be altered except with the express written permission of the easement holder, any other co-signers and the Subdivision Administrator. A conservation easement may also establish other provisions and contain standards that safeguard the tract or lot's special resources from negative changes.

Conservation Community. A subdivision, as defined by this Article, where open space is the central organizing element of the subdivision design and that identifies and permanently protects all primary conservation areas within the boundaries of the subdivision.

County. Macon County, North Carolina.

Homeowners Association. Two or more homeowners that belong to a mandatory membership organization for the maintenance of commonly owned real estate and improvements and regulations of privately owned property in a given area.

Impervious Surfaces. Artificial structures, such as pavements and building roofs, which replace naturally pervious soil with impervious construction materials.

Lot. A parcel of land or a contiguous combination of several parcels of land in one ownership.

Incidental Subdivision. The division of land from a parent lot into two lots not involving the dedication of a public road shall not be subject to these regulations except as provided below in subsection (a).

(a) Final Plats of divisions intended for recordation in the Register of Deeds Office shall be titled “Incidental Subdivision”, and shall be certified as such under these regulations by the Subdivision Administrator prior to recordation.

(b) An incidental division shall not be subdivided for one (1) year following the principle division from the parent lot.

Open Space. Any combination of primary conservation areas as defined in this Article, that together form a permanent, undivided or relatively undivided, undeveloped area.

Private Standard Road. A road constructed in accordance with the provisions of this Ordinance.

Recreation, Active. Leisure activities that are facility oriented, such as swimming pools, tennis courts, and ball fields.

Right of Way. A strip of land designated by the owner or acquired by another authority by which persons may legally pass, on which may construct a road or install utilities.

Riparian Zone. The part of the watershed immediately adjacent to the stream channel.

Spur road. A spur road is a roadway serving two (2) lots, building sites or other division of land and not intended to be public ingress or egress. The provisions of this chapter shall apply only to those roads installed during the development of the subdivision.

Subdivider or Developer. The owner or any agent of the owner who subdivides or develops any land deemed to be a subdivision under the terms of this Ordinance.

Subdivision, Minor. A minor subdivision is defined as a subdivision containing no more than 8 lots, which have not been subdivided within the previous one (1) year and does not require a new road exceeding 1320 linear feet.

Subdivision, Major. A major subdivision is defined as a subdivision not meeting the definition of Minor Subdivision.

Technical Review Committee. A committee established by this Ordinance and appointed by the Local Governing Board to review all major subdivision preliminary and final plats and to approve, approve with conditions, or disapprove such plats at a regularly scheduled monthly meeting. The Committee shall consist of five members as follows:

- The Subdivision Administrator,
- One Member of the Macon County Planning Board, and
- One representative each from the following Macon County offices or agencies:
 - i. Fire Marshal’s Office,
 - ii. Environmental Health Department, and
 - iii. Code Enforcement Department.

An alternate member from each of the above agencies, boards, and departments shall be appointed by the Local Governing Board.

§159.11 Word Interpretation

For the purpose of this Ordinance, certain words shall be interpreted as follows:

Words used in the present tense include the future tense.

Words used in the singular number include the plural and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.

The word “person” includes a firm, association, corporation, trust, and company as well as an individual. The word “used for” shall include the meaning “designed for”.

The word “structure” shall include the word “building”.

The word “lot” shall include the words “plot”, “parcel”, or “tract”.

The word “shall” is always mandatory and not merely directory.

The word “may” is directory and not mandatory. All words not specifically defined in this Ordinance shall be assigned their customary definitions.

APPROVAL OF SUBDIVISION PLATS

§159.20 Plat Shall be Required on Any Subdivision of Land

Pursuant to G.S. 153A-330, a final plat shall be prepared, approved, and recorded pursuant to the provisions of this Ordinance whenever any subdivision of land takes place.

§159.21 Approval Prerequisite to Plat Recordation

Pursuant to G.S. 153A-331, no final plat of a subdivision within the jurisdiction of the County of Macon as established in this Ordinance shall be recorded by the Register of Deeds until it has been approved by the Subdivision Administrator, as provided herein.

§159.22 Appeals

Any person aggrieved by a decision of the Subdivision Administrator or the Technical Review Committee may seek relief in Superior Court by instituting a civil action, as provided in Chapter 7A of the North Carolina General Statutes.

CONSERVATION COMMUNITIES

§159.30 Purpose and Intent.

The primary purposes for the Conservation Community development provisions are the following:

- a) To allow for greater flexibility and creativity in the design of developments;
- b) To encourage the permanent preservation of open space and agricultural lands, woodlands and wildlife habitat, natural resources including watersheds, water bodies and wetlands, and historical, cultural, and archeological resources; to promote, where feasible, interconnected green space and corridors throughout the community;
- c) To protect community water supplies;
- d) To minimize the amount of stormwater runoff that flows into surface water and the floodplain as a result of development in the upper reaches of the watershed by providing

incentives for limiting impervious cover, keeping land in its natural state, and other measures that mitigate flooding by limiting the disruption of natural drainage patterns that result from development;

- e) To encourage a more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision;
- f) To facilitate the construction and maintenance of housing, streets, utilities, and public service in a more economical and efficient manner;
- g) To facilitate the provision of community services in a more economical and efficient manner;
- h) To encourage economic development that is desirable for the effected area;
- i) To foster stewardship or caring for the land and wildlife and for the neighborhoods in which we live; and
- j) To preserve the rural and natural character of Macon County.

§159.31 Primary Conservation Areas.

A Conservation Community shall incorporate all primary conservation areas into undivided or relatively undivided, permanent open space. Primary conservation areas, as defined by this Article, include the following:

- a) The 100-year floodplain as depicted on the FEMA Flood Insurance Rate Maps issued August 31, 2007;
- b) Existing landslide tracks or areas of high landslide hazard as indicated on the Macon County Slope Hazard maps;
- c) Riparian zones of streams;
- d) Slopes above 30% in a contiguous area;
- e) Wetlands that meet the definition used by the Army Corps of Engineers pursuant to the Clean Water Act;
- f) Populations of endangered or threatened species, or habitat for such species;
- g) Archaeological sites, cemeteries and burial grounds;
- h) Contiguous native woodlands;
- i) Important historic and cultural sites;
- j) Boundaries with public lands;
- k) Other significant natural features and scenic viewsheds such as ridge lines, peaks and rock outcroppings, particularly those that can be seen from public roads; and
- l) Agricultural land in a contiguous area.

§159.32 Compliance with Subdivision Ordinance Required.

Conservation Communities shall be considered and processed in accordance with preliminary and final plats requirements as specified in this Ordinance, except that in addition the criteria for approval as provided in this Article shall also apply to decisions on preliminary plats.

§159.33 Applicability.

The Conservation Community standards shall apply as an option to all divisions of a parent parcel of 10 acres or more.

§159.34 Required Open Space.

Minimum Percent of Acreage. To qualify as a Conservation Community under these provisions, at least 40 % of the development shall be set aside as open space. Impervious surfaces, excluding those considered as active recreation spaces, must be excluded from the

minimum 40%. Structures meeting the criteria for inclusion in the National Historic Registry, structures associated with active agriculture, and impervious surfaces related to active recreation spaces not exceeding the 25% limit provided in this Article shall be excluded from the calculation of impervious surfaces.

Minimum Size. The minimum amount of open space required to qualify for an open space Conservation Community shall be one contiguous area. The purpose of this minimum open space acreage is to avoid development proposals where minor subdivisions are used simply to reduce lot sizes and development costs or that provide only small, scattered open spaces that would not functionally contribute to the overall open space network of the surrounding area.

Permitted Uses. In the case of agricultural conservation, part of the open space within a Conservation Community may be permitted to be retained in the hands of the original farmer/landowner or leased to a farmer for agricultural, pasture, or horticulture uses, so long as the activity is undertaken using best management practices to reduce environmental impacts as reasonably possible. Open space may not be used for golf courses, roadways, or water impoundments, except existing natural wetlands. No more than 25% of the open space may be used for active (developed) recreation spaces included but not limited to ball fields, pools, tennis courts and other such uses. Uses not expressly authorized via the preliminary plat process are prohibited.

§159.35 Conservation Easement Required.

All primary conservation areas shown on the preliminary plat and required to be retained as open space, shall be permanently protected from further subdivision, development, and unauthorized use by a conservation easement. A conservation easement, as defined, shall be approved by the county and 1) donated to a conservation organization or land trust; or 2) donated to a homeowners association and co-signed by the Soil and Water Conservation District or 3) donated to the county if accepted by the county and co-signed by the Soil and Water Conservation District. In the case of agricultural conservation, part of the open space within a Conservation Community may be permitted to be retained in the hands of the original farmer/landowner if subject to a conservation easement meeting the requirements of this Article. The conservation easement cannot be terminated without the consent of the County.

Guidelines for Drafting Conservation Easements.

The following guidelines are offered for drafting conservation easements and may be required by the Subdivision Administrator:

- (a) The easement recognizes and describes in a statement of purpose the special qualities of the property subject to the easement. The easement must include a map of the tract noting all significant features within the area. The easement clearly identifies the owner of the property subject to the easement, the holder of the easement, and co-signer, and the responsibilities of the property owner, easement holder, and co-signer.
- (b) The easement specifically and clearly identifies the boundaries of the property subject to the easement, preferably by metes and bounds legal description and survey plat.
- (c) The easement contains restrictions as to what the owner may do with the property and specifically delineates what may not be done with the property. Limitations may include but

may not be confined to prohibitions against subdivision, earthmoving, dumping, signs, utility lines, construction, changes to existing structures, and uses made of the property.

(d) The easement provides for the right of the easement holder and any co-signer to inspect the property to assure observance of restrictions. It also provides for enforcement procedures.

(e) The easement provides for the maintenance of property.

(f) The easement contains provisions governing its amendment, including provisions that the easement shall not be altered or terminated except with the express written permission of the easement holder, property owner, and any co-signers.

§159.36 Homeowners Association.

Open spaces may be owned and managed in common by a homeowners association, subject to compliance with the provisions of this Article and the following requirements:

(a) The developer of the Conservation Community shall provide to the Subdivision Administrator for approval, prior to the approval of a preliminary plat, a description of the homeowners association, including bylaws and methods for maintaining open space.

(b) Unless maintenance is assigned to a conservation organization or land trust, the homeowners association shall be responsible for maintenance and taxes on the open space within the open space Conservation Community.

(c) Homeowners association membership of each non-open space lot owner in the open space Conservation Community shall be mandatory (required) and automatic.

(d) Said homeowners association shall not be dissolved without the consent of the County.

§159.37 Application.

As a part of the preliminary plat application, the applicant for a Conservation Community shall in addition to the requirements for preliminary plats specified in this Ordinance, submit an analysis of existing features on the site, which shall, in addition to the boundaries of the open space, include the Primary Conservation Areas as defined in this Article. The application shall also include a baseline description of the current use and condition of the open space.

§159.38 Consideration.

Approval or denial of a preliminary plat for a Conservation Community shall, in addition to criteria specified elsewhere in this Ordinance for consideration of preliminary plats, be based on the extent to which the plat meets the following criteria:

(a) All primary conservation areas are protected as permanent open space.

(b) The configuration of the open space tract is contiguous and undivided, or open space is provided in relatively undivided tracts that cannot reasonably be reconfigured into one contiguous, undivided tract.

(d) The open space Conservation Community meets the regulations specified in this Article.

§159.39 Incentives.

Application Fees. Subdivision permit application fees for any Conservation Community shall be one dollar.

Application Process Assistance. The Subdivision Administrator shall assist the developer of a Conservation Community in the application and review process. In addition, the Subdivision

Administrator shall aid the developer in the procurement of opportunities and materials for education in the planning and development of a Conservation Community.

Priority Review. Applications for Conservation Communities shall be given priority and the review process shall be reasonably expedited.

Tax Incentives. Areas deeded as open space may be eligible for a reduced County property tax valuation as provided by the North Carolina Machinery Act.

Certification. Any Conservation Community that has received final plat approval shall be certified as a "Macon County Conservation Community" and shall have the right to advertise itself as such.

PROCEDURE FOR REVIEW OF MINOR SUBDIVISIONS

§159.40 Sketch Plan for Minor Subdivisions.

Prior to submission of a final plat, the Subdivider shall submit to the Subdivision Administrator three copies of a sketch plan of the proposed subdivision. The purpose of the sketch plan is to familiarize the Subdivision Administrator with the proposed development and to insure that it is in compliance with all applicable regulations. The sketch plan should contain the following information:

- a) A sketch vicinity map including north arrow showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads, and waterways;
- b) The boundaries of the tract and the portion of the tract to be subdivided;
- c) The tax map and parcel number(s) of the lot(s) to be subdivided;
- d) The total acreage to be subdivided;
- e) The existing and proposed uses of the land within the subdivision and the existing uses of land adjoining it.
- f) The existing and proposed road layout with approximate pavement and right-of-way-width, lot layout and size of lots;
- g) The name, address and telephone number of the owner;
- h) The name of the proposed subdivision;
- i) Roads and lots of adjacent developed or platted properties;

The Subdivision Administrator shall review the sketch plan for general compliance with the requirements of this Ordinance and other county and state Ordinances; the Subdivision Administrator shall advise the Subdivider or his authorized agent of the regulations pertaining to the proposed subdivision and the procedures to be followed in the preparation and submission of the final plat.

§159.41 Final Plat for Minor Subdivisions.

The final plat shall be prepared by a Professional Land Surveyor currently licensed and registered in the State of North Carolina by the State Board of Examiners. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in G.S. 47-30. At least seven copies of the final plat shall be submitted to the Subdivision Administrator's Office with one copy being on reproducible material. Material and drawing medium for the original shall be in accordance with the Standards of Practice for Land

Surveying in North Carolina, where applicable, and the requirements of the Macon County Register of Deeds.

The final plat shall be of a size suitable for recording with the Register of Deeds. Submission of the final plat shall be accompanied by a review fee of \$50.

The final plat shall meet the specifications in §159.55.

§159.42 Approval of Final Plat by the Subdivision Administrator and Recording.

Once the Subdivision Administrator has received the required number of copies of the final plat, he/she shall have fourteen (14) days to review the plat and to grant approval, approval with conditions or disapproval. If more than fourteen (14) days is required for approval, the Subdivision Administrator must notify the Subdivider in writing advising him/her of the delay, the nature of the delay and an approximate date as to when a decision can be forwarded. Such a delay shall not exceed an additional period of fourteen (14) days. Failure of the Subdivider to supply the correct information on the final plat or to meet the requirements of this chapter shall not constitute a delay on the part of the County. During his/her review of the final plat the Subdivision Administrator may employ the Mapping Department to confirm the accuracy of the final plat. If substantial errors are found the plat shall not be recommended for approval until such errors have been corrected. If the Subdivision Administrator does not approve the final plat, he shall instruct the Subdivider concerning resubmission of a revised plat and the Subdivider may make such changes as will bring the plat into compliance with the provisions of this Ordinance and resubmit same for reconsideration by the Subdivision Administrator, or appeal the decision to the Technical Review Committee.

If the Subdivision Administrator approves the final plat, such approval shall be shown on each copy of the plat by the following signed certificate:

Certificate of Approval for Recording

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the County of Macon, North Carolina and that this plat has been approved by the Subdivision Administrator for recording in the Office of the Register of Deeds of Macon County.

Subdivision Administrator Date
Macon County, North Carolina

If the final plat is disapproved by the Subdivision Administrator, the reasons for such disapproval shall be stated in writing, specifying the provisions of this Ordinance with which the final plat does not comply. One copy of such reasons and one print of the plat shall be retained by the Subdivision Administrator as part of his/her records; a copy of such reasons and the remaining copies of the plat shall be transmitted to the Subdivider. If the final plat is disapproved, the Subdivider may make such changes as will bring the final plat into compliance and resubmit same for reconsideration by the Subdivision Administrator.

If the final plat is approved by the Subdivision Administrator, said approval shall be noted on the plat and the reproducible copy of the approved final plat. The Subdivider shall have seven days from the date of the final plat approval to have the plat recorded in the Register of Deeds. If the final plat is not recorded within the required amount of time, this shall not invalidate any prior approvals.

PROCEDURE FOR REVIEW OF MAJOR SUBDIVISIONS

§159.50 Sketch Plan for Major Subdivisions

Number of Copies and Contents

Prior to the preliminary plat submission, the Subdivider shall submit to the Subdivision Administrator three copies of a sketch plan of the proposed subdivision containing the following information:

- a) A sketch vicinity map including north arrow showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads, and waterways;
- b) The boundaries of the tract and the portion of the tract to be subdivided;
- c) Tax map and parcel number(s) of the lot(s) to be subdivided;
- d) The total acreage to be subdivided;
- e) The existing and proposed uses of the land within the subdivisions;
- f) The existing and proposed road layout with approximate pavement and right-of-way width, lot layout and size of lots;
- g) The name, address, and telephone number of the owner;
- h) The name, if any, of the proposed subdivision;
- i) Roads and lots of adjacent developed or platted properties;

Submission and Review Procedure for Sketch Plans for Major Subdivisions

The Subdivision Administrator shall review the sketch plan for general compliance with the requirements of this Ordinance and other pertinent local, state and federal regulations; the Subdivision Administrator shall advise the Subdivider or his authorized agent of the regulations pertaining to the proposed subdivision and the procedures to be followed in the preparation and submission of the preliminary and final plats.

One copy of the sketch plan shall be retained as a part of the record of the Subdivision Administrator with one copy being returned to the Subdivider or his authorized agent along with any comments made by the Subdivision Administrator concerning the proposed plat.

§159.51 Preliminary Major Subdivision Plat Submission and Review.

Submission Procedure

The Subdivider shall submit a preliminary plat to the Subdivision Administrator's Office which shall be reviewed by the Technical Review Committee (hereinafter referred to as the "Committee"). The Committee shall approve the plat before any construction or installation improvements may begin.

At least seven (7) copies of the preliminary plat (additional copies may be required by the Subdivision Administrator to send to various agencies) shall be submitted to the Subdivision Administrator no less than fifteen (15) days prior to the Committee meeting at which the Subdivider desires the Committee to review the preliminary plat.

The fee for submitting the preliminary plat shall be based on the number of lots in the proposed subdivision as follows: \$10 per lot or a minimum of \$100 whichever is greater. Preliminary plats shall meet the specifications in §159.55.

Review by Health Department and Other Agencies

Concurrent with submission of the preliminary plat to the Subdivision Administrator, the Subdivision Administrator shall submit copies of the preliminary plat and any accompanying material for review and recommendation to various officials and agencies concerned with new development including all members of the Committee.

If lots are proposed to be receiving septic tanks as the means of solid waste disposal, and do not possess a valid authorization to construct an on-site wastewater system, a disclaimer must be placed on the plat stating, “as of the date of this recording, the lots represented on this plat have not been inspected or approved by the Health Department. Until inspected there is no assurance that a building permit can be issued.”

Review Procedure

The Committee shall, on a majority vote of the members present, vote to either approve the plat, conditionally approve the plat with recommended change to bring the preliminary plat into compliance, or disapprove the plat with reasons, within seven days of the Committee meeting at which the plat was discussed.

If the preliminary plat is disapproved by the Committee, the Subdivider may make the recommended changes and submit a revised preliminary plat or appeal the decision to the Court.

If the Committee approves the preliminary plat, it shall be noted on a copy of the plat and said copy shall be filed with the Subdivision Administrator. If the Committee approves the preliminary plat with conditions approval shall be noted on the copy with a reference to the conditions. Once these conditions are met, the plat shall be noted as approved and shall be filed with the Subdivision Administrator.

If the Committee disapproves the preliminary plat, the reasons for such disapproval shall be specified in writing. One copy of the plat and the reasons shall be retained by the Subdivision Administrator and one copy shall be returned to the Subdivider.

§159.52 Final Subdivision Plat Submission and Review

Preparation of Final Plat and Installation of Improvements

Upon approval of the preliminary plat by the Committee the Subdivider may proceed with the preparation of the final plat, and the installation of or arrangement for required improvements in accordance with the approved preliminary plat and the requirements of this Ordinance. Prior to approval of a final plat, the Subdivider shall have installed the improvements specified in this Ordinance or guaranteed their installation as provided herein.

1. Improvements Guarantees

A. Agreement and Security Required

In lieu of requiring the completion, installation and dedication of all improvements prior to final plat approval for any subdivision or phase of a phased development the County of Macon shall enter into an agreement with the Subdivider whereby the Subdivider shall agree to complete all required improvements. Once said agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the Subdivision Administrator, if all other requirements of this Ordinance are met. To secure this agreement, the Subdivider shall provide to the Subdivision Administrator a surety performance bond. The amount of such bonds shall be satisfactory to the Subdivision Administrator as to form, sufficiency (i.e., sufficient funds to cover inflationary price increases, increased construction costs, engineering costs, etc.) and manner of execution as set forth in these regulations. All such bonds shall be made payable to the County of Macon.

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 duration of the bond(s) shall be until such time as the improvements are accepted by the Subdivision Administrator.

B. Default

Upon default, meaning failure on the part of the Subdivider to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account, shall, if requested by the Subdivision Administrator, pay all or any portion of the bond or escrow fund to the County of Macon up to the amount needed to complete the improvements based on an engineering estimate. Upon payment, the Subdivision Administrator, in his/her discretion, may expend such portion of said funds as he/she deems necessary to complete all or any portion of the required improvements. The County shall return to the bonding firm any funds not spent in completing the improvements.

C. Release of Guarantee Security

The County may release a portion of any security posted as the improvements are completed and recommended for approval by the Subdivision Administrator. Within thirty (30) days after approval of said improvements the Local Governing Board shall immediately release any security posted.

2. Submission Procedure

At least seven copies of the final plat (additional copies may be required by the Subdivision Administrator to send to various agencies) shall be submitted to the Subdivision Administrator's Office no less than fifteen (15) days prior to the Committee meeting at which the Subdivider desires the Committee to review the final plat with one copy being on reproducible material. Material and drawing medium for the original shall be in accordance with the Standards of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the Macon County Register of Deeds.

The final plat shall be of a size suitable for recording with the Register of Deeds.

The fees for submittal and review of a final plat and improvement guarantees shall be as follows:

Final Plat \$10 per lot or a minimum of \$100 whichever is greater.

Improvements Guarantees Review \$50

The final plat shall meet all applicable specifications in §159.55 of this Ordinance.

The following signed certificate shall appear on all copies of the final plat:

Certificate of Approval of the Design and Installation of Roads, Utilities, Other Required Improvements, and Approval for Recording

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the County of Macon, North Carolina. This plat has been approved by the Subdivision Administrator for recording in the Register of Deeds.

Date Subdivision Administrator

A quorum of the Committee shall on a majority vote of the members present either approve, conditionally approve with recommended changes to bring the final plat into compliance, or disapprove the final plat with reasons, within fourteen (14) days of the Committee meeting. During the review of the final plat the Subdivision Administrator may utilize the Mapping Department to confirm the accuracy of the final plat. If substantial errors are found the plat shall not be recommended for approval until such errors have been corrected.

If the Committee conditionally approves the final plat with modifications to bring the plat into compliance, the Subdivision Administrator shall retain two copies of the plat and return the written recommendations and the reproducible copy to the Subdivider.

If the final plat is disapproved by the Committee, the reasons for such disapproval shall be stated in writing, specifying the provisions of this Ordinance with which the final plat does not comply. One copy of such reasons and one print of the plat shall be retained by the Subdivision Administrator as part of his/her records; one copy of the reasons and one copy of the plat shall be transmitted to the Subdivider.

If the final plat is approved by the Committee, said approval shall be noted on the plat and the reproducible copy of the approved final plat. The Subdivider shall have seven days from the date of the final plat approval to have the plat recorded in the Register of Deeds. If the final plat is not recorded within the required amount of time, this shall not invalidate any prior approvals.

§159.53 As-Built Plats.

The Subdivider shall provide an As-Built plat to the Subdivision Administrator and the Homeowners Association. The Subdivision Administrator shall keep the As-Built plat on file in the Planning Department. As-Built plats shall be submitted in electronic PDF or TIFF format.

§159.54 Phased developments.

If a developer proposes that a subdivision (including planned developments) will be constructed in phases, the following procedure will apply:

- a) A master plan showing the entire proposed subdivision and phases of development, proposed density, proposed type and location of utilities, and proposed development timetable shall be submitted to the Subdivision Administrator.
- b) Each phase of development shall be preceded by submission and approval of a preliminary plat as outlined in §159.51. The master plan may be submitted prior to, or simultaneously, to the submission of the preliminary plat for the first phase of development.
- c) As each phase is completed, a final plat must be submitted and approved for that phase as outlined in §159.52.
- d) Any approved phase not completed within two (2) years shall require renewed approval.

§159.55 Information to be Contained in or Depicted on Preliminary and As-Built Plats

The preliminary, final and as-built plats shall depict or contain the information indicated below. Preliminary plat information is only required for major subdivisions.

The plat must also show the following information:

Title Block:

Name and address of owner of record or agent

Name of subdivision

Location (township, county, state)

Date(s) of survey(s)

Graphic scale and written scale

Name, address, registration number and seal of registered land surveyor

Tax parcel identification number

Lots:

Lot layout and lot size
Lot numbers, if applicable
Roads:
Existing and platted roads on abutting properties and in the proposed
Subdivision
Right of ways, location and dimensions (proposed/actual)
Roadway and shoulder dimensions
Road grades
Road name(s)
Utilities:
Utility and other easements of record on and abutting to the subdivision
Transmission lines
Sanitary sewers, location and size if community systems are proposed
(proposed/actual)
Water lines, location and size, if community system is proposed
(proposed/actual)
Storm sewers, culverts, retention ponds, and other drainage facilities, if
Any (proposed/actual)
Hazards:
Watershed designation and Watershed Boundaries, if applicable
Waterways
Proposed ponds or other water features
Floodway/Non-Encroachment Areas and Floodplain boundaries including base flood
elevation
Slope hazard designation as indicated on the Macon County Slope Hazard Maps
Vicinity Map:

§159.56 Recombination of Land.

Any plat or any part of any plat may be vacated by the Subdivider at any time before the sale of any lot in the subdivision by gaining approval of and filing a plat that either a) is inconsistent with the originally approved plat, or b) shows the tract without the lots if no lots have been sold. The same procedures, rules, and regulations shall apply in gaining approval of and filing a plat for this purpose as prescribed herein for an original subdivision.

§159.57 Resubdivision Procedures.

For any replatting or resubdivision of land, the same procedures, rules and regulations shall apply as prescribed herein for an original subdivision.

**REQUIRED IMPROVEMENTS, DEDICATION AND
MINIMUM STANDARDS OF DESIGN**

§159.60 General.

Prior to final plat approval, each subdivision shall contain the improvements specified in this article, which shall be installed in accordance with the requirements of this Ordinance and paid for by the Subdivider, unless other means of financing is specifically stated in this Ordinance. Each subdivision shall adhere to the minimum standards of design established by this article.

§159.61 Homeowners Association Shall Be Established.

A homeowners' association shall be responsible for the maintenance and control of recreational facilities, common space, and subdivision roads.

When created. Provision for the establishment of the association or similar entity is made before any lot in the development is sold or any building occupied.

Authority. The association or similar legal entity has clear legal authority to maintain and exercise control over such common areas and facilities.

Contributions. The association or similar legal entity has the power to compel contributions from residents of the development to cover their proportionate shares of the costs associated with both maintenance and upkeep.

Maintenance Certification. The following road maintenance certification shall appear on the final plat.

Road maintenance shall hereby be the responsibility of the Homeowners Association. The road maintenance agreement is recorded in Deed Book_____Page_____of the Macon County Register of Deeds.

Date

Owner/Developer

§159.62 Name and Road Duplication.

The name of the subdivision and the names of the roads within the subdivision shall not duplicate nor closely approximate the name of neither an existing subdivision nor any existing roads within Macon County.

§159.63 Subdivision Design.

Lot Dimensions. For lots served by public or community water and sewer the minimum lot size shall be 8000' square feet. In addition, all new residential lots in subdivisions not served by public water and sewer or community water and waste water treatment facilities shall contain sufficient lot area to accommodate a well and a septic system and their respective buffer and drain field areas.

Compaction of Fill. Backfill and fill materials shall achieve an equal or higher degree of compaction than undisturbed materials adjacent to the disturbed land. Backfill materials shall conform to the current NC DOT specifications. Compaction shall be accomplished by suitable mechanical compaction equipment and methods pursuant to current NC DOT specifications. Any geotextile fabric or geogrid encountered in the excavation must be restored in a manner that ensures the integrity of the material as it was originally intended. All organic material and other refuse from the clearing and grubbing operation shall be removed from the construction area.

§159.64 Road Standards.

The design standards for subdivision roads and streets shall meet either the minimum construction standards for secondary roads as required by the North Carolina Department of Transportation or the minimum construction requirements for private standard roads as established by this Chapter. When State standards are to be met, the subdivider or developer shall submit proposed road specifications for the approval of the local Department of Transportation office prior to submitting a preliminary plat.

(A) Design standards for private county standard roads.

(1) Width of road. Graded width of roadbed including ditch and shoulder areas shall be a minimum width of 16 feet, or as required by The North Carolina Fire Code, as applicable.

(2) Stone or paved area. Road travel area may be either stoned or paved, and shall have a minimum width of 14 feet.

(a) Where stone is used, it shall be “crusher-run” or DOT approved “ABC” stone compacted to a minimum of four inches. In locations where soil conditions require additional stone or other acceptable means to attain a stable roadbed, the developer shall complete the necessary road stabilization prior to submitting the final plat for approval.

(b) Private standard roads which are paved shall meet the requirements of the North Carolina Department of Transportation for stone base and top surface.

(3) Shoulder areas and ditches. Area on cut side shall provide a drainage ditch of adequate size to accommodate stormwater runoff based on terrain and location. Shoulder width on each side shall be a minimum width of 1 foot. .

(4) Road grades. Road grades shall meet the standards as set forth in §153.37 of the Macon County Soil and Erosion Control Ordinance. If an existing road does not meet those minimum grade requirements the following shall be noted on the face of the plat:

THE PRIVATE ROAD SERVING THIS (SUBDIVISION) (LOT) OR (LOT NUMBERS _____) DOES NOT MEET THE MINIMUM GRADE STANDARDS OF THE MACON COUNTY SOIL AND EROSION CONTROL ORDINANCE.

(5) Culverts and drainage. Culvert location and design shall meet the standards set forth the in the Macon County Soil and Erosion Control Ordinance.

(6) Stormwater Measures. Stormwater measures shall meet the standards as set forth in §153.39 of the Macon County Soil and Erosion Control Ordinance.

(7) Spur Roads. Spur road grades shall meet the standards as set forth in §153.37 of the Macon County Soil and Erosion Control Ordinance.

Spur roads shall have a minimum width of 9’ of driving surface and a minimum of 1.5’ shoulder width on each side.

(8) Driveways. Any driveway constructed by the developer shall meet the standards as set forth in §153.37 of the Macon County Soil and Erosion Control Ordinance.

(9) One-way roads. One-way roads shall have a minimum width of 9’ of driving surface and a minimum of 1.5’ shoulder width on each side.

(10) Access Roads. Any road providing access to the subdivision that does not meet the minimum standards as provided in this Ordinance shall be noted on the face of the final plat as follows.

THE PRIVATE ROAD SERVING THIS (SUBDIVISION) (LOT) OR (LOT NUMBERS _____) DOES NOT MEET THE MINIMUM ROAD STANDARDS OF THE MACON COUNTY SUBDIVISION ORDINANCE. ACCESS BY EMERGENCY VEHICLES MAY BE LIMITED.

(11) Road gates. Gates securing any access road to a subdivision shall comply with all the following criteria:

- (a) The minimum gate width shall be 16 feet.
- (b) Gates shall be of the swinging or sliding type.
- (c) Construction of gates shall be of materials that allow manual operation by one person.
- (d) Gate components shall be maintained in an operative condition at all times and replaced or repaired when defective.
- (e) Electric gates shall be equipped with a means of opening the gate by emergency personnel for emergency access. Emergency opening devices shall be approved by the fire code official.
- (f) Manual opening gates shall not be locked with a padlock or chain and padlock unless they are capable of being opened by means of forcible entry tools or when a key box containing the key(s) of the lock is installed at the gate location.
- (g) Locking device specifications shall be submitted to for approval by the fire code official.

§159.65 Other Requirements.

Construction Procedures. No construction or installation or improvements shall commence in a proposed minor subdivision until the final plat has been approved, and all plans and specifications have been approved by the appropriate authorities. No construction or installation or improvements shall commence in a proposed major subdivision until the preliminary plat has been approved, and all plans and specifications have been approved by the appropriate authorities.

No building or other permits shall be issued for erection of a structure on any lot not of record at the time of adoption of this Ordinance until all the requirements of this Ordinance have been met. The Subdivider, prior to commencing any work within the subdivision, shall make arrangements with the Subdivision Administrator to provide for adequate inspection. The approving authorities having jurisdiction or their representatives shall inspect and approve all completed work prior to release of the sureties.

LEGAL PROVISIONS

§159.70 General Procedure for Plat Approval.

After the effective date of this Ordinance, no subdivision plat of land within the County's jurisdiction shall be filed or recorded until it has been submitted to and approved by the Subdivision Administrator as set forth in this Ordinance, and until this approval is entered in writing on the face of the plat by the Subdivision Administrator.

The Register of Deeds shall not file or record a plat of a subdivision of land located within the territorial jurisdiction of the County that has not been first approved in accordance with these provisions, nor shall the Clerk of Superior Court order or direct the recording of a plat if the recording would be in conflict with this section.

§159.71 Issuance of Building Permits on Subdivision Lots.

No building permit shall be issued for the erection of any building on any lot within a proposed subdivision until a final plat of said subdivision has been approved by the Subdivision Administrator and recorded at the Register of Deeds and where applicable, an improvements permit has been issued by the Health Department.

§159.72 Enforcement and Penalties for Violation.

This Ordinance shall be enforceable in accordance with provisions available in Articles 6 and 18 of Chapter 153A of the General Statutes of North Carolina. Enforcement may be by one, all, or a combination of the remedies described below or otherwise authorized by common law or statute. Such statutes include but are not limited to NCGS Chapter 153A-123 (a) through (g), 153A-324, and 153A-334.

A. Misdemeanor

After 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, thereafter 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 properly approved under the terms of this Ordinance and recorded in the Office of the Macon County Register of Deeds, shall be guilty of a misdemeanor. 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 penalty. The County through its attorney or other official designated by the Board of County Commissioners may enjoin illegal subdivision, transfer or sale of land by action for injunction. Further, violators of this Ordinance shall be subject, upon conviction, to fine and/or imprisonment as provided by G.S. 14.4.

B. Continuing Violations

Each day's continuing violation of this Ordinance shall be a separate and distinct offense.

C. Equitable Remedies

This Ordinance may also be enforced by appropriate equitable remedies issuing from a court of competent jurisdiction, including a mandatory or prohibitory injunction, or an order of abatement as authorized by NCGS 153A-123. It should not be a defense to the County's application for equitable relief that there is an adequate remedy at law.

D. Combination of Remedies

Nothing in this section shall be construed to limit the use of remedies available to the County, which may seek to enforce this Ordinance by using any one, all, or a combination of remedies.

E. Civil Penalties

Any person who violates any provisions of this Ordinance shall be subject to the assessment of a civil penalty of the maximum penalty allowed by law. No civil penalty shall be assessed until the person alleged to be in violation has been notified by the Subdivision Administrator. The notice shall be provided by certified or registered mail, personal service, or by posting notice of the violation conspicuously on the property.

If after receiving a notice of violation, the violator fails to take corrective action, a civil penalty may be imposed in the form of a citation. The citation shall be served in the same manner as the notice of violation. The citation shall state the nature of the violation, the civil penalty to be imposed upon the violator, and shall direct the violator to pay the civil penalty within 15 days of the date of the notice. If payment is not received or equitable settlement reached within 30 days after demand for payment is made, the matter shall be referred to the County Attorney for institution of a civil action in the appropriate division of the General Courts of Justice for recovery of the civil penalty. Provided however, if the civil penalty is not paid within the time prescribed, the Subdivision Administrator may have a criminal summons or warrant issued against the violator. Upon conviction, the violator shall be subject to any criminal penalty the court may impose pursuant to NCGS 14-4.

§159.73 Severability.

Should any section or provision of this Ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

§159.75 Amendments and Review.

(1) The Board of Commissioners may from time-to-time amend the terms of this Ordinance. Any proposed amendment shall, whenever possible, be referred to the Planning Board for its review and recommendation.

(2) Every two (2) years the Board of Commissioners shall direct the Subdivision Administrator to submit a report to the Planning Board outlining the effectiveness of this chapter, enforcement activities and recurring issues that may arise in the enforcement of this chapter. Upon receipt of this report the Planning Board shall review the Ordinance and propose updates and/or corrections that may be necessary to increase the effectiveness of the Ordinance and to minimize the recurrence of problems related to the enforcement of this chapter.

§159.76 Abrogation.

It is not intended that this Ordinance repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

§159.77 Effective Date.

This Ordinance shall take effect 90 days after its adoption by the Macon County Commissioners, the ____ day of _____, 200_.

§159.78 Adoption.

Duly adopted by the Board of Commissioners of the County of Macon, North Carolina, this the ____ day of _____, 200_.