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RENEE DELLINGER
REGISTER OF DEEDS
BY: CHERYL CARLAND
DEPUTY

BK: RE 562
PG: 926-987

RESOLUTION TO AMEND THE AVERY COUNTY SUBDIVISION ORDINANCE

M. Poore

WHEREAS, the North Carolina Legislature has enacted Chapter 160D of the North Carolina General Statutes which pertains to Local Planning and Development Regulation; and

WHEREAS, as a result of the enactment of Chapter 160D of the North Carolina General Statutes certain changes are necessary to the Avery County Subdivision Ordinance; and

WHEREAS, the Avery County Planning Board made a report to the Avery County Board of Commissioners on 24 May 2021 and recommended certain changes to the Avery County Subdivision Ordinance; and

WHEREAS, the Avery County Board of Commissioners held a Legislative Public Hearing on 7 June 2021 to address the proposed changes; and

WHEREAS, Notice of Legislative Public Hearing of the Avery County Board of Commissioners was duly published prior to said Hearing; and

WHEREAS, the Avery County Subdivision Ordinance was originally enacted in 1993; and

WHEREAS, after the Legislative Public Hearing on 7 June 2021 the Avery County Board of Commissioners made the below findings, and voted to adopt the proposed changes;

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Avery County, North Carolina, meeting in regular session on 7 June 2021, makes the following findings of fact:

1. That the Ordinance was enacted in 1993 and several amendments have been approved by the Avery Board of Commissioners since that time;

2. That the Avery Planning Board has recommended several changes to the Ordinance, as set forth on the Ordinance attached hereto.

NOW, THEREFORE, BE IT RESOLVED that the changes set forth are hereby adopted.

And **NOW, THEREFORE, BE IT FURTHER RESOLVED** that the Avery County Subdivision Ordinance is restated and amended to reflect the changes shown on the attached Ordinance and a copy of the Subdivision Ordinance for Avery County as Amended shall be recorded in the Office of the Register of Deeds for Avery County.

The motion to adopt this resolution was voted upon at the 7 June 2021 regular meeting of the Avery County Board of Commissioners, such motion made by Commissioner Tim Phillips, Seconded by Commissioner Wood Hall Young, Jr. and passed by a vote of 4 to 0, being a majority of those present.

Martha J. Hicks, Chair

Martha J. Hicks, Chair

Dennis Aldridge

Dennis Aldridge

Tim Phillips

Tim Phillips

Blake Vance

Blake Vance

Wood Hall Young, Jr.

Wood Hall Young, Jr.

NEWLAND, NORTH CAROLINA COUNTY OF AVERY

ATTEST:

Cindy Tuttle

[Clerk/Secretary]

SUBDIVISION ORDINANCE FOR

AVERY COUNTY, NORTH CAROLINA

ARTICLE I
AUTHORITY, PURPOSE AND JURISDICTION

Section 101. Title

This ordinance shall be known and may be cited as the Subdivision Ordinance for Avery County, North Carolina, and may be referred to as the "Subdivision Ordinance".

Section 102. Authority

This ordinance is hereby adopted under the authority and provisions of the General Statutes of North Carolina, Chapter 160D, Article 8.

Section 103. Purpose

The purpose of this ordinance is to establish standards and procedures for the subdivision and resubdivision of land within the territorial jurisdiction of Avery County. It is further designed to provide for the orderly growth and development of the county; for the coordination of streets and roads within proposed subdivisions with existing or planned transportation networks and utilities, and with other public facilities; for the dedication or reservation of recreation or open space areas serving residents of the immediate neighborhood within the subdivision and of rights-of-way or easements for streets and utilities; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions to substantially provide for public health, safety, and general welfare. This ordinance is designed to further facilitate adequate provision of water, sewerage, parks and schools, and also to facilitate the further resubdivision of larger tracts into smaller parcels of land.

Section 104. Jurisdiction

The regulations contained herein, as provided in General Statute 160D, Article 8, shall govern each and every subdivision as herein defined within Avery County, outside of the jurisdiction of any incorporated municipality.

Section 105. Prerequisite to Plat Recording

After the effective date of this ordinance, each individual subdivision plat of land within the county's jurisdiction shall be approved by the Board of Commissioners on the recommendation of the Avery County Planning Board, except as otherwise provided herein.

Section 106. Thoroughfare Plans

Where a proposed subdivision includes any part of a thoroughfare which has been designated as such upon the officially adopted thoroughfare plan of the county, or a municipality within the county, such part of such thoroughfare shall be platted by the subdivider in the location shown on the plan and at the width specified in this ordinance, or the officially adopted thoroughfare plan, whichever is greater.

Section 107. Compliance With Other Plans

All proposed subdivisions must comply with all the requirements of any officially adopted plans and ordinances in effect in the area to be subdivided.

ARTICLE II
LEGAL PROVISIONS

Section 201. 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 Avery County Board of Commissioners as set forth in Section 105 of this ordinance, and until this approval is entered in writing on the face of the final plat by the Chairman of the Board of Commissioners and is attested by the County Clerk, except as otherwise provided herein.

The Avery County 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 approved in accordance with the provisions of this ordinance, nor shall the Clerk of the Superior Court order or direct the recording of a plat if the recording of such plat would be in conflict with this section.

Section 202. Effect and Plat Approval on Dedications

Pursuant to General Statute 160D-806, the approval of a plat does not constitute or affect the acceptance by the county or the public of the dedication of any street or other ground, easement, right-of-way, public utility line, or other public facility shown on the plat and shall not be construed to do so.

Section 203. Penalties for Violation

1. After the effective date of this ordinance, any person who, being the owner or the agent of the owner of any land located within the territorial 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 the land before the plat has been properly approved under the terms of this ordinance and recorded in the office of the Avery County Register of Deeds, shall be guilty of a Class 1 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 Avery County Board of 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 General Statute 14-4.

2. When the Ordinance Administrator determines that a violation of this ordinance has occurred, he/she/they may issue a written notice of violation. The notice of

violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the County that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-1123 or G.S. 160D-1206 or otherwise provided by law, a notice of violation may be appealed to the Board of Adjustment pursuant to G.S. 160D-405.

3. The violation of any provision of this ordinance shall subject the offender to a civil penalty in the amount of fifty dollars ($50) to be recovered by the county. Violators shall be issued a written citation which must be paid within ten (10) days.

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

5. Notwithstanding subsection (2) above, this ordinance may be enforced by appropriate equitable remedies issuing from a court of competent jurisdiction.

6. Nothing in this section shall be construed to limit the use of remedies available to the county. The county may seek to enforce this ordinance by using any one, all, or a combination of remedies.

Section 204. Separability

Should any section or provision of this ordinance be decided by 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.

Section 205. Variances

The Board of Commissioners, following a review by the Avery County Planning Board, may authorize a variance from these regulations when unnecessary hardship would result from strict compliance. Pursuant to G.S. 160D-301(b)(6), no part of the forum or recommendation from the Planning Board may be used as a basis for the decision made by the Board of Commissioners. In granting any variance, the Board of Commissioners shall make the findings required below, taking into account the nature of the proposed subdivision, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. A 4/5 vote of the Board of Commissioners is required to grant a variance. No variances shall be granted unless the Board of Commissioners find:

1. Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.

4. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

No change in permitted uses may be authorized by variance.

Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.

Section 206. Amendments

The Board of Commissioners may from time to time amend the terms of this ordinance, but no amendment shall become effective unless it shall have been proposed by or shall have been submitted to the Planning Board for review and recommendation. The Planning Board shall have forty-five (45) days from the time the proposed amendment is submitted to it within which to submit its report. If the Planning Board fails to submit a report within the specified time, it shall be deemed to have recommended approval of the amendment.

No amendment shall be adopted by the Board of Commissioners until they have held a legislative public hearing on the amendment. Notice of the hearing shall be published in a newspaper of general circulation in the Avery County area at least once a week for two successive calendar weeks prior to the hearing. The initial notice shall appear not more than twenty-five (25) days nor less than ten (10) days prior to the hearing date. In computing the ten (10) and twenty-five (25) day periods, the date of publication is not to be counted, but the date of the hearing is.

Section 207. Abrogation

This ordinance shall neither repeal, abrogate, annul, impair or interfere with any existing subdivisions, the plats of which are properly recorded in the Office of Register of Deeds prior to the effective date of this ordinance nor with the existing easements, covenants, deed restrictions, agreements or permits previously adopted or issued pursuant to law prior to the effective date of this ordinance.

Section 208. Effect of 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 government or their agencies, then the ordinance, statute or regulation requiring the higher standard shall apply.

Section 209. Effect on Existing Development

Any subdivision or development, or portion thereof, for which substantial improvements or expenditures were initiated prior to the adoption of these regulations, may request an exemption from these regulations. The request must be submitted to the Planning Board for a recommendation, and the Board of Commissioners shall either grant or deny such a request based upon the following criteria and findings:

1. Documentation that substantial expenditures and/or improvements were made prior to the adoption of the ordinance (excluding the purchase of land and related fees and expenses).

2. The request for such exemption is made not more than six months from the effective date of the ordinance.

3. The exemption shall apply to only those portions of the subdivision or development where the documented expenditures have occurred.

Subject to approval by the Board of Commissioners, the owner shall complete and record those sections of the development or subdivision within one year of the Commissioners approval. All sections or portions of the development not included in the approval or not completed within one year of the approval shall comply with all provisions of the ordinance.

Section 210. Administrator

The Avery County Ordinance Administrator is hereby appointed to serve as the subdivision administrator.

Section 211. Vested Rights

Pursuant to General Statute 160D-108.1, for the purposes of this ordinance a preliminary

plat for a major subdivision is considered a site-specific vesting plan. If approved, such a plan shall have a two (2) year period of validity and shall be subject to the review procedures for major subdivisions specified in this ordinance.

Section 212. Effective Date

This amended ordinance shall take effect and be in force on and after the date of its adoption by the Board of Commissioners for Avery County on 7 June 2021.

ARTICLE III
PROCEDURE FOR REVIEW AND APPROVAL OF SUBDIVISION PLATS

Section 301. Plat Shall Be Required on Any Subdivision of Land

Pursuant to General Statute 160D-801, a final plat shall be prepared, approved and recorded pursuant to the provisions of this ordinance whenever any subdivision of land takes place.

Section 302. Approval Prerequisite to Plat Recordation

Pursuant to General Statute 160D-804, no final plat of a subdivision within the jurisdiction of Avery County as established in Section 104 of this ordinance shall be recorded by the Register of Deeds of Avery County until it has been approved in accordance with the provisions as provided herein. To secure such approval of a final plat, the subdivider shall follow the procedures established in this article.

Section 303. Procedures for Review of Major, Minor, and Special Subdivisions

All subdivisions shall be considered major subdivisions except those herein defined as minor or special subdivisions in this ordinance. Major subdivisions shall be reviewed in accordance with the procedures in Section 308. Minor subdivisions shall be reviewed in accordance with the provisions in Section 305. Special subdivisions shall be reviewed in accordance with the provisions in Section 306.

After initial preliminary plat approval, any subsequent site plan changes shall require the resubmittal of new plans showing all changes, together with a revised application for new review.

Section 304. Family Subdivisions Exempt from Regulations

Family subdivisions as defined in Section 502 are exempt from the regulations of this ordinance.

Section 305. Procedures for Review and Approval of Minor Subdivisions

The subdivider shall obtain an application for a minor subdivision from the office of the ordinance administrator (see Appendix 4). The subdivider shall complete the application and submit it with the following information and documentation to the ordinance administrator:

1. Evidence that the subdivision qualifies as a minor subdivision as defined in Section 502 (2).

2. Submission of a final plat which conforms to the requirements of this ordinance (Appendix 6). For the purposes of this ordinance, an application is not considered to have been submitted unless it is complete and includes all the information required by this ordinance.

3. The application and final plat of a minor subdivision shall be reviewed and approved by the ordinance administrator if application, plat and supporting documentation meet the requirements of the ordinance.

4. If public improvements are required, said improvements shall be installed and approved by the appropriate state or local agencies, or guarantees for their installation shall be secured before final plat approval in accordance with Section 309.

5. Upon approval, or within thirty (30) days thereafter, of the application final plat, the applicant shall submit to the ordinance administrator one mylar and one copy of a final plat, developed in conformance with Appendix 6 of this ordinance, for recordation, and evidence of completion of all improvements shown on the final plat or other financial guarantees to adequately insure their completion as may be required by the Board of Commissioners.

6. If the minor subdivision is not approved or if variances are requested, the subdivision shall be referred to the Planning Board for review and the Board of Commissioners for approval.

7. The applicant shall record the final plat in conformance with the requirements of this ordinance before any land is transferred.

Section 306. Procedure for Review of a Special Subdivision

Prior to recording the plat for a special subdivision, the applicant shall complete the application for a special subdivision (Appendix 2) and provide evidence that the plat contains the information required for recording by North Carolina law. For the purposes of this ordinance, an application is not considered to have been submitted unless it is complete and includes all the information required by this ordinance. If the proposed special subdivision is within a PUD as herein defined, the applicant shall comply with the review procedures for a major subdivision in Sections 308 and 309. All other special subdivisions shall be reviewed and approved for recording by the ordinance administrator. The plat requirements for a special subdivision shall be determined by the ordinance administrator, acting in accordance with applicable sections of this ordinance and North Carolina law. The proposed use of the lot or lots created by a special subdivision shall be so designated on the plat to be recorded. Any lot created for immediate or future development or sale shall conform to the minimum lot requirements of this ordinance as provided in Section 404.

Section 307. Procedure for Review of a Recombination

Prior to recording a plat for recombination, the owner shall complete the application for a recombination (Appendix 3) and shall provide evidence to the ordinance administrator that the recombination of all or portions of parcels of previously subdivided and recorded lands which have been recombined is in such a fashion where the resultant number of parcels is less than or equal to the original number of parcels and meets the requirements of this ordinance, where applicable.

1. Any plat or any part of a plat may be vacated by the owner at any time before the sale of any lot in the subdivision by a written instrument to which a copy of such plat shall be attached, declaring the same to be vacated.

2. Such an instrument shall be approved by the same agencies as approved the final plat. The governing body may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements, streets or alleys.

3. Such an instrument shall be executed, acknowledged or approved, and recorded and filed in the same manner as a final plat; and being duly recorded or filed shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys, and public grounds, and all dedications laid out or described in such plat.

Section 308. Procedures for Review and Approval of Major Subdivisions- Preliminary Plat

For every subdivision within the territorial jurisdiction established by Section 104 of this ordinance which does not qualify for the abbreviated procedure, a preliminary plat shall be submitted for review and approval by the Avery County Planning Board before any permits may be issued or before any construction or installation of improvements may begin. For the purposes of this ordinance, an application is not considered to have been submitted unless it is complete and includes all the information required by this ordinance.

1. **Contents Required.** The preliminary plat shall be prepared by a registered land surveyor currently licensed and registered in the State of North Carolina by the N.C. Board of Registration for Professional Engineers and Land Surveyors. The preliminary plat shall conform to the provisions in Appendix 5, Preliminary Plat Checklist, including supporting documentation.

2. **Review Procedure.** The Planning Board shall review and either approve, approve conditionally, or disapprove each preliminary plat. First consideration of said plat shall be at the next regularly scheduled meeting of the Planning Board after the plat is submitted pursuant to this section. The Planning Board shall take action on the preliminary plat at its first consideration or within sixty (60) days of its first consideration. Prior to taking final action on any preliminary plat, the Planning

Board shall provide that those public agencies concerned with new development be given the opportunity to review and make recommendations on every preliminary plat. However, failure of the agencies to submit their comments and recommendations shall not delay the Planning Board's action on the plat within the prescribed time limit. Said public agencies shall include, but are not limited to, the following: the district highway engineer with regard to proposed streets, highways, and drainage systems; the director of the Avery County Health Department with regard to proposed water or sewerage systems; any other agency or official designated by the Avery County Board of Commissioners.

Where this ordinance requires proof of approval from state or local agencies the following shall be received by the Planning Board prior to its first consideration of any preliminary plat.

a. Written verification from the appropriate Department of Transportation official, stipulating that the plans for any proposed public street and drainage systems conform to the minimum construction requirements of the N.C. Department of Transportation's publication, Subdivision Roads, Minimum Construction Standards, January 1, 2000, or as hereafter amended.

b. Written verification from the appropriate state and/or local official(s), stipulating that the plans for proposed water supply and/or sewage disposal systems conform with all design requirements.

c. Written verification from the appropriate state or local official stipulating that the soil erosion and sedimentation control plan for the proposed development has been submitted.

If the Planning Board approves the preliminary plat, such approval shall be indicated on three (3) copies by the following certificate and signed by the chairman or other authorized member of the Planning Board:

Certificate of Approval by the Planning Board

This certifies that the Avery County Planning Board approved the preliminary plat for the _____ subdivision at its meeting on the _____ day of _____, _____.

_____
Chairman (or authorized member) of the
Avery County Planning Board

One copy shall be transmitted to the subdivision administrator, one copy to the subdivider, and one copy retained by the Planning Board.

If the Planning Board disapproves or approves conditionally said plan, the reasons for such action shall be stated in writing and entered in the minutes of the Planning Board. The subdivider may make changes and submit a revised plan which revision shall be submitted, reviewed, and acted upon by the Planning Board pursuant to this section.

Approval of the preliminary plat shall be valid for two years unless a written extension is granted by the Planning Board on or before the one year anniversary of said approval. In order to approve an extension, the Planning Board shall find that all of the following criteria have been met:

i. The permit holder submitted the request at least 30 days before the expiration date;
ii. The permit holder has experienced delays out of his/her/their control, such as changing market conditions, inclement weather, newly discovered site constraints, or other factors; and
iii. The permit holder has been working in good faith to submit final plats for the project, as evidenced by demonstrable actions to overcome the constraints delaying the project.

If the final plat is not submitted for approval within said one year period, or any period of extension, the said approval of the preliminary plat shall be null and void.

Section 309. Final Plat Review and Approval

1. **Preparation of Final Plat and Installation of Improvements**. Upon approval of the preliminary plat by the Planning Board, 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 by the subdivision administrator or the Planning Board in approving a preliminary plat, or guaranteed their installation as provided herein. No final plat will be accepted for review by the Planning Board or the Board of Commissioners unless accompanied by written notice by the ordinance administrator acknowledging compliance with the improvement and guarantee standards of this ordinance. The final plat shall constitute only that portion of the preliminary plat which the subdivider proposes to record and develop at that time; such portion shall conform to all requirements of this ordinance.

2. **Improvement Performance Guarantees**. In lieu of requiring the completion, installation and dedication of all improvements prior to final plat approval, Avery County may enter into an agreement with the subdivider whereby the subdivider shall agree to complete all required improvements as specified by the approved

preliminary plat 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 Board of Commissioners, if all other requirements of this ordinance are met.

To secure this agreement, the subdivider shall provide, either one, or a combination of, the following performance guarantees, based on his/her/their choosing, not exceeding 1.25 times the entire cost as provided herein:

a. **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 Avery County, and shall be in an amount not to exceed 1.25 times the entire cost, as estimated by the subdivider and approved by the Board of Commissioners, of installing all required improvements.

b. **Letter of Credit.** The subdivider shall provide a letter of credit issued by any financial institution licensed to do business in this State.

c. **Cash or Equivalent Security.** The subdivider shall deposit cash, an irrevocable letter of credit, or other instrument that provides equivalent security to a surety bond or letter of credit. The amount of deposit shall not exceed 1.25 times the cost, as estimated by the subdivider and approved by the Board of Commissioners, of installing all required improvements.

   If cash or other instrument is deposited in escrow with a financial institution as provided above, then the subdivider shall file with the Board of Commissioners an agreement between the financial institution and himself guaranteeing the following:

   i. That said escrow account shall be held in trust until released by the Board of Commissioners and may not be used or pledged by the subdivider in any other matter during the term of the escrow; and

   ii. That in the case of a failure on the part of the subdivider to complete said improvements, the financial institution shall, upon notification by the Board of Commissioners and submission by the Board of Commissioners to the financial institution of an engineer's estimate of the amount needed to complete the improvements, immediately either pay to Avery County the funds estimated to complete the improvements, up to the full balance of the escrow account, or deliver to the county any other instruments fully endorsed or otherwise made payable to the county.

3. **Amount.** The reasonably estimated cost of completion shall include one hundred percent (100%) of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional twenty-five percent (25%) allowed under this subdivision includes inflation and all costs of administration regardless of how such fees or charges are denominated.

4. **Duration.** The duration of the performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the developer determines that the scope of work for the required improvements necessitates a longer duration.

   a. **Extension.** A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not completed to the specifications of the local government, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period. An extension under this subdivision shall only be for a duration necessary to complete the required improvements. If a new performance guarantee is issued, the amount shall be determined by the procedure provided in subsection 2 of this section and shall include the total cost of all incomplete improvements.

5. **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 Board of Commissioners, pay all or any portion of the bond or escrow fund to Avery County up to the amount needed to complete the improvements based on an engineering estimate. 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. The county shall return to the subdivider any funds not spent in completing the improvements.

6. **Release of Guarantee Security**. The Board of Commissioners shall release a portion of any security posted in a timely manner as the improvements are completed and recommended for approval by the ordinance administrator. Within thirty (30) days after receiving the ordinance administrator's recommendation, the Board of Commissioners shall approve or not approve said improvements. If the Board of Commissioners approved said improvements, then it shall immediately release any security posted. The County shall return letters of credit or escrowed funds upon completion of the required improvements to its specifications or upon

acceptance of the required improvements, if the required improvements are subject to County acceptance. When required improvements that are secured by a bond are completed to the specifications of the County, or are accepted by the County, if subject to its acceptance, upon request by the developer, the County shall timely provide written acknowledgement that the required improvements have been completed.

7. **Submission Procedure**. The subdivider shall submit the final plat, so marked, to the ordinance administrator not less than ten (10) days prior to the Planning Board's meeting at which it will be reviewed; further, the final plat for the first stage of the subdivision shall be submitted not more than twelve (12) months after the date on which the preliminary plat was approved, otherwise, such approval shall be null and void unless a written extension of this limit is granted by the Planning Board on or before the twelve month anniversary of the approval.

8. **Contents Required**. The final plat shall be prepared by a registered land surveyor currently licensed and registered by the State of North Carolina by the N. C. Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in G.S. 47-30 and the Standards of Practice for Land Surveying in North Carolina.

   Six copies of the final plat shall be submitted, one shall be on reproducible material; five shall be black or blue line prints. Material and drawing medium for the original shall be in accordance with the Manual of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the Avery County Register of Deeds.

   The final plat shall be eighteen (18) inches by twenty- four (24) inches for recording with the Avery County Register of Deeds, and shall be at a scale of not less than on (1) inch equals two hundred (200) feet. Maps may be placed on more than one sheet with appropriate match lines.

   The final plat shall meet the specifications and supporting documentation required on the final plat checklist found in Appendix 6 of this ordinance.

9. **Planning Board Review Procedure**. The Planning Board shall review the final plat at its next regularly scheduled meeting which follows at least ten (10) days after the ordinance administrator receives the final plat. The Planning Board shall recommend approval, conditional approval with modifications to bring the plat into compliance, or disapproval of the final plat within thirty-two (32) days of its first consideration.

   If the Planning Board recommends approval of the final plat, such approval shall be indicated in the minutes of the meeting. All copies of the plat and written

recommendations shall be transmitted to the Board of Commissioners through the ordinance administrator.

If the Planning Board recommends conditional approval of the final plat with modifications to bring the plat into compliance, it shall retain one print of the plat for its minutes; return its written recommendations and one reproducible copy and two prints to the subdivider; and transmit two prints of the plat and written recommendations to the Board of Commissioners through the ordinance administrator.

If the Planning Board recommends disapproval of the final plat, it 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 provisions of this ordinance, and resubmit same for reconsideration by the Planning Board, or appeal the Planning Board's decision to the Board of Commissioners.

10. **Board of Commissioners Review**. If the Planning Board recommends approval or conditional approval with modifications to bring the plat into compliance, or the subdivider appeals to the Board of Commissioners, the Board of Commissioners shall review and approve or disapprove the final plat within forty-five (45) days after the plat is first considered by the Board of Commissioners.

    Subject to the Board of Commissioners approval of 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 certify that the final plat shown hereon complies with the Avery County Subdivision Regulations and is approved by the Board of Commissioners for recording in the Avery County Register of Deeds office.

_____	_____
Date	Chairman, Avery County Board of Commissioners

If the final plat is disapproved by the Board of Commissioners, the reasons for such disapproval shall be stated in writing, specifying the provisions of the ordinance with which the final plat does not comply. One copy of the reasons and one copy of the plat shall be retained by the Board of Commissioners; one copy of the reasons and three 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 Planning Board and Board of Commissioners.

11. **Disposition of Copies**. If the final plat is approved by the Board of Commissioners, the original tracing and one print shall be retained by the subdivider, and one print shall be filed with each of the following: county clerk, subdivision administrator, and the Planning Board.

    The subdivider shall file the approved final plat and all other documents required for recording by this ordinance with the Avery County Register of Deeds for recording within six (6) months of the Board of Commissioners' approval; otherwise such approval shall be null and void.

Section 310. Platting Requirements for Roads Without Subdividing Lots.

When a subdivider proposes to construct new roads without initially subdividing lots, the subdivider may present a preliminary plat to the Planning Board for approval of the roads only. This option is provided to allow developers the flexibility of designing and platting lots after road construction in order to adjust the subdivision to the existing terrain.

If this option is selected, the subdivider shall submit the information and documentation required in this section to the ordinance administrator at least ten (10) days prior to the Planning Board meeting at which the plat is to be considered.

1. **Contents Required**. The preliminary plat shall be prepared by a registered land surveyor currently licensed and registered by the State of North Carolina by the N.C. Board of Registration for Professional Engineers and Land Surveyors. The preliminary plat shall conform to the provisions in Appendix 5, Preliminary Plat Checklist. The preliminary plat shall contain the following information and supporting documentation:

    a. Name of the owner, developer, engineer and registered surveyor.

    b. Title, date, north point, and graphic scale.

    c. A sketch vicinity map showing the relationship of the proposed subdivision with the surrounding area.

    d. Boundaries of the tract shown with distances and approximate acreage.

    e. Access right-of-way to state road.

    f. Names of adjoining property owners and/or subdivisions.

g. Proposed streets, street names, rights-of-way, roadway widths, approximate grades and proposed drainage facilities.

h. Other proposed rights-of-way or easements showing locations, widths and purposes.

i. Statement of intended use of future lots (single, multi-family or other uses).

j. When an area covered by the plan includes or abuts a water area (stream, river, or lake) the following additional information is required: Relationship with floodway and flood plain as delineated by the county floodway boundary and flood insurance rate maps.

k. A copy of the required soil erosion and sedimentation control plan shall be submitted to the subdivision administrator with the preliminary plat. No grading shall commence until the erosion control plan has been approved by the appropriate local or state official.

l. Documentation from the N.C. Department of Transportation that the proposed public roads and drainage facilities incorporate the minimum design requirements of the Department of Transportation.

2. **Review Procedure**. The Planning Board shall review and either approve, approve conditionally, or disapprove each preliminary plat. First consideration of said plat shall be at the next regularly scheduled meeting of the Planning Board after the plat is submitted pursuant to this section. The Planning Board shall take action on the Preliminary plat at its first consideration or within thirty-two (32) days of its first consideration. Upon approval of the preliminary plat by the Planning Board, the subdivider may proceed with construction of the roads.

3. **Completion of Roads**. Upon completion of all roads proposed for public dedication, the subdivider shall submit to the subdivision administrator a written statement from the appropriate DOT official that the roads have been constructed to the state's design standards.

Roads designated as private shall be inspected by the subdivision administrator. The administrator shall submit a written statement to the Planning Board when the roads have been completed and meet the standards of this ordinance.

4. **Submission of Preliminary Plat**. Upon receipt of the statement from DOT that the roads designated for public dedication have been constructed to meet the state's design standards, or upon written receipt from the subdivision administrator that all roads designated as private have been constructed to the standards required by this

ordinance, the developer may submit a preliminary plat for subdividing lots on the approved street in accordance with the requirements and procedures in Section 308. If the subdivider does not submit a preliminary plat within 12 months from the date of the written approval from DOT or the subdivision administrator, a new written approval shall be obtained prior to submission of the preliminary plat.

Section 311. Phased Developments

If a subdivider proposes that a subdivision be constructed in phases, the following procedures shall apply:

1. A master plan showing the entire proposed subdivision and the phases of development, proposed density, proposed type and location of utilities, and proposed development timetable shall be submitted to the Planning Board for approval.

2. Each phase of development shall be preceded by submission and approval of a preliminary plat as outlined in Section 308 unless such plat submission is waived by the Planning Board. The master plan may be submitted prior to or simultaneously to submission of the preliminary plat for the first phase of development.

3. As each phase is completed, a final plat must be submitted and approved for that phase as outlined in Section 309.

4. Approval of the master plan need not be renewed unless density increases are proposed.

ARTICLE IV
REQUIRED IMPROVEMENTS, DEDICATION, RESERVATION, MINIMUM STANDARDS OF DESIGN

Section 401. General

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 are specifically stated in this ordinance. Land shall be dedicated and reserved in each subdivision as specified in this article. Each subdivision shall adhere to at least the minimum standards of design established.

Section 402. Suitability of Land

1. Where land to be subdivided is found by the Planning Board 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 (defined as any person, firm or corporation who subdivides or develops any land deemed to be as subdivision as herein defined) shall take measures necessary to correct said conditions and to reduce said dangers. In making such determinations, the Planning Board may seek to take into consideration the following, if reasonably obtainable: Official Federal Emergency Management Agency Flood Boundary and Floodway Maps and Flood Insurance Rate Maps for Avery County; the Avery County Soil Survey; and recommendations from the Tennessee Valley Authority, USDA Soil Conservation Service, Avery County Cooperative Extension Service, and the Avery County Health Department. Any findings made by the Planning Board pursuant to this section and the basis for said findings shall be in writing and recorded in the minutes of the Planning Board.

2. Areas that have been used for disposal of solid waste shall not be subdivided unless tests by the Avery County Health Department, a structural engineer, and a soil expert determine that the land is suitable for the purpose proposed. Areas that have been used for domestic sludge application shall be required to have a soils test performed by a certified testing laboratory prior to the subdivision of land. The results of said soils test must confirm that the land is safe for the purposes proposed.

3. Subdivisions proposed for areas identified as being located in flood hazard areas on Federal Emergency Management Agency maps for Avery County shall conform to the following:

    a. All subdivision proposals shall be consistent with the need to minimize flood damage.

b. All subdivision proposals shall have public utilities and facilities such as water, sewer, gas, telephone and electrical facilities located and constructed to minimize flood damage.

Section 403. Name Duplication

In order to lessen possible confusion which could hamper the response time for emergency vehicles, the name of a subdivision shall not duplicate nor closely approximate the name of an existing subdivision within Avery County.

Section 404. Subdivision Design

1. **Blocks.** The lengths, widths and shapes of blocks should be determined with due regard to: provision of adequate building sites suitable to the special needs of the type of use contemplated; local ordinances; needs for vehicular and pedestrian circulation and control of street traffic; and limitations and opportunities of topography.

2. **Lots.**

   a. All lots in a new subdivision shall abut on an approved public or private street and shall conform to the minimum requirements established in this section. It is not permitted to average the lot areas in a subdivision to meet the minimum lot areas established in this section.

   b. Lot lines shall be drawn to the right-of-way of any adjacent road except where an existing property line is drawn within an existing road right-of-way. If the right-of-way is not used for the property line, the lots shall be drawn to meet the minimum area requirements, excluding any area within the right-of-way.

   c. All lots in a new or replatted subdivision regulated by this ordinance shall meet the following minimum requirements for area and setbacks, except where provisions are made for special subdivisions as herein defined. All setbacks from street frontage shall be twenty (20) feet as measured from the property line; provided, however, the setback shall be a minimum of forty-five (45) feet if the property line is not located on the street right-of-way line.

	Public or Private Water and Public or Community Sewer	Public or Private Water No Public or Community Sewer	Individual Water and Individual Sewer
Minimum Lot Area in Square Feet	22,000	22,000	32,670
Front Setback	20'	20'	20'
Side Setback	10'	10'	10'
Rear Setback	10'	10'	10'

d. All the lots within a designated Water Supply Watershed shall meet the minimum requirements of the district in which the lots are located.

e. All lots in a new or replatted subdivision shall meet any applicable requirements of the Avery County Health Department. The Health Department must require larger lots sizes to protect the public health and ensure proper operation of septic tanks and wells. The Board of Commissioners may, upon recommendation of the Planning Board, permit lots smaller than the minimums set forth in subsection 404(2)(c) above, provided the smaller lots sizes are approved in writing by the Health Department, certifying that the proposed water and sewer systems will be adequate to serve the smaller lots. However, in no case shall the lot size be reduced more than 10% below the minimum lot areas established in subsection 404(2)(c).

f. Multi-Family Residential Lots: Each lot intended for the development of more than one dwelling unit shall be accompanied by a written approval from the Avery County Health Department if municipal water and sewer services are not available. Such approval shall state that the lot(s) proposed for multi-family residential units is (are) adequate to accommodate the proposed water and sewerage systems. All lots proposed for multi-family residential use shall conform with the standards in Section 404 (2)(c) and (d) and each dwelling unit shall be required to have 22,000 sq. ft. green space.

g. Lots for Other than Residential Use: All lots in a subdivision not proposed for residential use shall have a written approval from the Avery County Health Department, certifying that the proposed water and sewer systems will be adequate to serve the proposed nonresidential uses. All lots proposed for nonresidential use shall conform with the standards in Section 404(2) (c) and 404(2)(d).

h. Pan Handle Lots: The Board of Commissioners, upon recommendation by the Planning Board, may approve the limited use of pan handle lots where it is impractical to serve an isolated lot by an existing or proposed road. A pan handle lot shall have a minimum road frontage of 35 feet for an access strip to an isolated building site. The access strip should not exceed 300 feet in length and the access strip shall not be used to calculate the minimum lot area unless such strip exceeds 70 feet in width.

i. Frontage Requirements for Lots: All lots shall have a minimum frontage of 70 feet on an approved street, provided a minimum frontage of 40 feet is permitted on cul-de-sacs or street curves with an equivalent radius.

j. Access Requirements for Subdivisions: All subdivisions shall have a minimum frontage on a public road or a dedicated and recorded right-of-way connecting the subdivision with the public road. The minimum frontage and right-of-way standards are as follows:

Parcel/ Subdivision Size	Frontage on Public Road or Dedicated/Recorded ROW
0-35 acres	45'
36-59 acres	50'
60+ acres	60'

k. Gates.

l. Private Driveways – Any gate on a private driveway shall be located a minimum of 30 feet from any road or public thoroughfare.

2. Entrance Gates – any gate on a required road or entrance shall be located a minimum of sixtyfive feet (65') from the intersection of the road or public thoroughfare at a grade of 8% or less for the first 65' of stacking area.

3 **Easements.**

a. **Utility Easements**: Easements for utilities shall be provided, where necessary, preferably centered on the side or rear lot lines and shall be at least ten (10) feet wide.

b. **Buffer Easement**: The Board of Commissioners, upon recommendation by the Planning Board, may require a buffer easement not exceeding ten (10) feet in width adjacent to a major street or a commercial or industrial development. The board also may require that the subdivider either arrange for, or be responsible for, the grading and planting of said buffer easement.

c. **Shoulders.** A shoulder clearance shall be provided on each side of the roadbed to minimize the likelihood of evacuation routes being blocked during wildfire or other natural disasters.

4. **Green Space Requirement**. For the purposes of this subsection, "Green Space" is area in which there is no development and is not designated nor used as common areas. Twenty-Two thousand (22,000) square feet of green space shall be required per residential dwelling unit when such unit is a condominium unit, townhome unit or PUD.

Section 405. Streets

1. **Type of Streets Required**. All lots in a new or replatted subdivision developed under the provisions of this ordinance shall abut on an approved public or private street. All streets shall be developed or improved to the standards in this section.

a. **Public Streets**: All streets proposed for public use by the developer and seller, including those proposed streets which are not eligible to be placed on the State Highway System because there are too few lots or residences, shall be dedicated to the public and shall be designed and constructed in accordance with the standards necessary to make the streets eligible to be put on the state system at a later date. Public streets shall be designed and constructed to meet the minimum construction requirements of the N.C. Department of Transportation's publication, Subdivision Roads, Minimum Construction Standards, January 1, 2000, or as hereafter amended. A written maintenance agreement sufficient for recording in the Office of the Register of Deeds shall be submitted with the final plat. Said maintenance agreement will provide for the subdivider or a property owner's association to maintain the street, drainage facilities, and right-of-way until such time as the street is accepted for maintenance by the state.

b. **Private Streets**: New streets within a subdivision may be designated by the subdivider as private, provided all streets proposed for private use shall be limited to the following: 1) streets providing exclusive access to residential subdivisions and private resort developments; 2) streets in subdivisions or portions of subdivisions serving too few lots for inclusion into the State Secondary Road System; or 3) streets providing exclusive access to family subdivisions.

Private streets shall meet the following requirements and design standards:

1. Minimum right-of-way and surface widths:

a. 20' traveled surface 25' r/w roads serving less than 10 acres and less than 10 lots

b. 20' traveled surface 35' r/w roads serving more than 10 acres but less than 20 acres, and more than 10 lots but less than 25 lots

c. 20' traveled surface 45' r/w roads serving more than 20 acres but less than 35 acres, and more than 25 lots but less than 40 lots

In subdivisions greater than 35 acres and 40 lots where the developer chooses to use private roads, the Board of Commissioners may require that the entrance roads and main thoroughfares meet the following standards:

20' traveled surface and a right-of-way of up to 60'

The minimum right-of-way and traveled surface widths required in this section are shown for the acreage and lots served in a section or phase of the subdivision.

2. No vertical grade shall exceed 18% on any new private road. Any vertical grades greater than 18% shall be presented to the Avery County Board of Commissioners in the form of a variance. The contractor is required to stop construction until a variance is granted or the site is re-engineered and resubmitted to the Avery County Planning Board for a "new" preliminary approval. Road grades of 16-18% shall be paved.

3. All new private roads shall be paved or provided with a minimum of a 6" compacted graveled surface.

4. Drainage ditches, culverts and cut and fill slopes on all private roads shall conform to the requirements of the county's soil erosion and sedimentation control ordinance.

5. All subdivision plats which include private roads shall be accompanied by a disclosure statement (G.S. 136-102.6) and a written agreement sufficient for recording, which provides for the perpetual ownership and maintenance of any and all private streets designated within a subdivision by a property owner's association.

6. Roads or streets shall be designed, constructed and maintained to accommodate the load and turning radius of the largest fire apparatus typically used to respond to that location (minimum requirement of a 3-point turn). (Turning radius for fire apparatus equipment shall be designed and conform to Appendix 8).

2. **Subdivisions Located on Existing Roads**. Proposed subdivisions which abut existing recorded public or private roads which do not meet the minimum width

requirements of this ordinance shall provide the required right-of-way to conform to the ordinance standards along the abutting property line. The subdivision will be required to provide up to one-half of the total right-of-way required unless the subdivision is located on both sides of the existing road and the full requirement shall be required. The Board of Commissioners may, upon recommendation by the Planning Board, require that improvements be made to the traveled surface of the existing road along the abutting property.

3. **Subdivision Street Disclosure Statement**. All streets shown on the final plat shall be designated in accordance with G.S. 136-102.6, and designation as public shall be conclusively presumed on offer of dedication to the public. Where streets designated private or are dedicated to the public, but not accepted into the State Highway System, before lots are sold, a statement explaining the status of the street and the required ownership and maintenance agreements required, Section 405.1 (a) or (b) shall be included with the final plat.

4. **Half-Streets**. The dedication of half-streets at the perimeter of a new subdivision shall be prohibited except when there exists a half-street in an adjoining subdivision. Where an existing half-street exists in an adjoining subdivision, the remaining half shall be provided by the proposed subdivision. The proposed subdivision shall provide the amount of right-of-way required to meet the state's standards required in Section 405(1) (a) or (b).

5. **Marginal Access Streets**. Where a tract of land to be subdivided joins a principal arterial street, the subdivider may be required to provide a marginal access street parallel to the arterial street or reverse frontage on a minor street for the lots to be developed adjacent to the arterial. where reverse frontage is established, private driveways shall be prevented from having direct access to the principal arterial.

6. **Access to Adjacent Properties**. Where, in the opinion of the Board of Commissioners and with the recommendation of the Planning Board, it is necessary to provide street access to an adjoining property, proposed public streets shall be extended to the boundary of such property and temporary turn-around provided.

7. Roads or streets shall be designed, constructed and maintained to accommodate the load and turning radius of the largest fire apparatus typically used to respond to that location (minimum requirement of a 3-point turn). (Turning radius for fire apparatus equipment shall be designed and conform to Appendix 8).

8. **Nonresidential Streets**. The subdivider of a nonresidential subdivision shall provide streets in accordance with F-4 of the North Carolina Subdivision Roads, Minimum Construction Standards, January 1, 2000, or as amended.

9. **Design Standards**. The design of all public streets and roads within the jurisdiction of this ordinance shall be in accordance with the standards and requirements of the

N.C. Department of Transportation's Subdivision Roads, Minimum Construction Standards, January 1 2000, or as amended. In any case, where standards or requirements in this ordinance are different from those in the Subdivision Roads, Minimum Construction Standards, the more stringent requirement shall be required. The following standards for street design and construction are applicable for all public streets and are recommended guidelines for the development of private streets:

a. Intersections

1. Subdivision streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at an angle less than sixty (60) degrees.

2. Property lines and street designs at intersections should be established and designed to provide sight distances for vehicles.

3. Offset intersections are to be avoided unless exception is granted by the Division of Highways. Intersections which cannot be aligned should be separated by a minimum length of 200 feet between survey centerlines.

4. Intersections with arterials, collectors, and thoroughfares shall be at least one thousand (1,000) feet from centerline to centerline, or more if required by the N.C. Department of Transportation.

b. Cul-De-Sacs: Whenever feasible, permanent dead end streets which are not the primary access to a subdivision should not exceed one thousand (1,000) feet in length. When cul-de-sacs are required to exceed 1,000 feet in length, vehicle turn-outs, turn-arounds or other alternative turning areas acceptable to the Avery County Emergency Management office shall be provided at intervals of seven hundred fifty (750) feet for emergency equipment. Cul-de-sacs should not be used to avoid the extension of an important street, unless a variance is granted by the Board of Commissioners.

c. Alleys.

1. Alleys shall be required to serve lots used for commercial and industrial purposes except that this requirement may be waived where other definite and assured provision is made for service access.

2. The width of an alley shall be at least twenty (20) feet.

3. Dead end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities at the dead end as may be approved by the Board of Commissioners.

4. Sharp changes in alignment and grade shall be avoided.

10. **Other Requirements**

a. **Through Traffic Discouraged on Residential Collector and Local Streets.** Residential collector and local streets shall be laid out in such a way that their use by through traffic will be discouraged. Streets shall be designed or walkways dedicated to assure convenient access to parks, playgrounds, schools or other places of public assembly.

b. **Street Names**. Proposed streets which are obviously in alignment with existing streets shall be given the same name. In assigning new names, duplication of existing names shall be avoided, and in no case shall the proposed name be phonetically similar to existing names in the county irrespective of the use of a suffix such as street, road, drive, place, court, etc. Street names shall be subject to the approval of the Board of Commissioners.

c. **Street Name Signs**. The subdivider shall be required to provide and erect street name signs in accordance with the following standards:

1. Public streets shall have signs which meet the requirements of the Subdivision Roads, Minimum Construction Standards, January 1, 2000, or as amended, at all intersections within the subdivision.

2. Private streets shall have signs which are approved by the Avery County Emergency Management office at all intersections within the subdivision.

d. **Permits for Connection to State Roads**. An approved permit is required for connection to any existing state system road. This permit is required prior to any construction on the street or road. The application is available at the offices of the nearest district engineer of the N.C. Division of Highways.

e. **Offsets to Utility Poles**. Poles for overhead utilities should be located clear of roadway shoulders, preferably a minimum of at least thirty (30) feet from the edge of pavement on major thoroughfares. On streets with curb and

gutter, utility poles should be set back a minimum distance of six (6) feet from the face of the curb.

f. **Emergency Entry to Controlled Access Roads.** Any person, association or other legal entity having responsibility for a controlled access system on a road that is a public vehicular area shall, before construction, obtain a permit from the Avery County Inspection Department, submit building plans and meet all applicable standards.

11. **Gates and/or Guardhouse Structures.** Gates and guardhouse structures shall:

a. Be setback a minimum of sixty five feet (65') from public road access to allow for the stacking of at least three (3) vehicles out of the public road.

b. Location of Access control device should be located a sufficient distance from the gate to allow for room to turn around if access is denied.

c. Where the gate crosses a travel way which permits:

1. Two way travel, such gate shall open so as to provide a minimum width of 20 feet of passage; or

2. One way travel, such gate shall open so as to provide a minimum width of 12 feet of passage.

d. Provide a minimum of thirteen feet six inches (13' 6") vertical clearance at its lowest point.

e. Emergency Entry to Controlled Access Roads. The developer and homeowner's association shall provide unfettered access to all private roads by emergency and law enforcement vehicles. Access procedures must ensure immediate access through the entry gates for emergency service vehicles, which shall include law enforcement, fire, rescue, ambulance, and first responder vehicles with an access control device approved by the Avery County Inspections Department. The access control device should be a Knox Lock Box or equivalent.

As an alternative, the developer or homeowners association may provide a person to provide immediate access to emergency personnel on a 24-hour basis. The developer and homeowner's association shall provide an annual update documentation necessary to provide this access to the Avery County Fire Marshall and the Sheriff's Department that proposed entry gates and access procedures meet all county standards for access by emergency and law enforcement vehicles. If the homeowner's association fails to maintain reliable access for the provision of emergency or other public services,

emergency access personnel, sheriff's department employees, or county employees on county business, may enter the gated residential development and open, disable, or remove any gate or device, which is a barrier to access, at the sole expense of the homeowner's association. The declaration of covenants, conditions, and restrictions shall include a statement to this effect.

12. **Bridges.**

A. The width of bridges is to be determined by the linear angle of approach, as follows:
   1. Less than 30 degrees, the bridge must be 14 feet wide
   2. 31-60 degrees, the bridge must be 16 feet wide
   3. Greater than 60 degrees, the bridge must be 20 feet wide

B. The bridge must be approved by an engineer to hold a weight limit of 60,000 lbs and a sign must be posted to reflect this weight. The bridge must have guard rails.

Section 406. Utilities.

1. **Water and Sanitary Sewer Systems**. The preliminary plat shall be accompanied by plans or documentation of the proposed method of water supply and sanitary sewage collection and disposal for all lots intended for use requiring a domestic water supply and/or a sanitary sewerage system. The installation of all systems shall be required prior to final plat approval unless otherwise permitted pursuant to Section 309; provided, however, that in the case of individual wells and ground absorption systems for individual lots, approval and installation shall not be required prior to final plat approval.

2. **Required Approval of Water and Sewer Systems**. All preliminary plats which will require the installation of a water and/or sanitary sewerage system prior to final plat approval shall be accompanied by written documentation that the plans for the proposed system(s) have been submitted to the appropriate state or local agency responsible for approving the system(s). The systems and the regulatory agency authorized to approve the systems are described below:

   a. **Water Systems**

      1. Individual Water Systems: Avery County Health Department.

      2. Private Water System: Any water system serving from two to 14 connections, inclusively. Written approval from the Avery County Health Department shall be submitted with the preliminary plat for

a private water system.

3. Public Water System: Any municipal water system in Avery County, and any water system serving 15 or more residential connections or serving more than 25 year - round residents. Plans and specifications for any public water system shall be submitted to the N.C. Department of Human Resources, Division of Health Services, and proof of the submission shall accompany the preliminary plat.

b. **Sewer Systems.**

1. Individual Sewer Systems: Avery County Health Department.

2. Community Sewer System: Any sewer system owned and operated by a local government in Avery County, or other sewer system serving two or more connections. A proposed subdivision which uses or is to connect with a community sewer system having a discharge into any surface waters shall submit plans to the N.C. Department of Environment, Health and Natural Resources, Division of Environmental Management. Proof of submission shall be submitted with the preliminary plat. A proposed subdivision which uses or is to connect with a community sewer system which utilizes ground absorption for sewage discharge shall have a written approval from the Avery County Health Department submitted with the preliminary plat.

Section 407. Storm Water Drainage Facilities

The preliminary plat shall be accompanied by evidence satisfactory to the Planning Board 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 is designed to meet the following objectives:

1. No surface water shall be channeled or directed into a sanitary sewer.

2. Where feasible, the subdivider shall connect to an existing storm drainage system.

3. Where an existing storm drainage system feasibly cannot be extended to the subdivision, a surface drainage system shall be designed to protect the proposed development and adjacent properties from water damage.

4. Surface drainage courses shall have side slopes, where feasible, of at least two (2) feet of horizontal distance for each one (1) foot of vertical distance. Courses should be of sufficient size to accommodate the drainage area and be designed to comply with the standards and specifications for erosion control as required by the N.C.

Sedimentation Pollution Control Act, G.S. 143-34.12, Chapter 113A, Article 4, and the N.C. Administrative Code Title 15, Chapter 4, and any locally adopted erosion and sedimentation control ordinance.

5. The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one (1) foot in each two hundred (200) feet of horizontal distance.

6. Stream banks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity in accordance with the N. C. Sedimentation Pollution Control Act, G.S. 143.34.12, chapter 113A, Article 4, and the N.C. Administrative Code Title 15, Chapter 4, and any locally adopted erosion and sedimentation control ordinances.

7. Any dam constructed within a subdivision which is greater than fifteen (15) in height (measured from the lowest point on downstream toe of the dam to the highest point on the fill) and is also greater than ten (10) acre-feet in area (measured from the top of the dam) shall comply with N.C. Dam Safety Law of 1967 and the N.C. Administrative Code Title 15, subchapter 2K.

8. In areas of flood hazard, identified on the most recently adopted Flood Insurance Rate Map of Avery County, N.C., , as zones A, AE, AH, AO, AR, A99, VE, and X. All subdivisions shall be designed to minimize flood damage in accordance with the provisions of the Avery County Flood Damage Prevention Ordinance.

Section 408. Erosion and Sedimentation Control

The preliminary plat shall be accompanied by a written statement that any required soil erosion and sedimentation control plan and a Financial Responsibility Form has been submitted to the state or local agency having jurisdiction in accordance with The Rules and Regulations for Erosion and Sediment Control as adopted by the N.C. Sedimentation Commission, and/or the Avery County Sedimentation and Erosion Ordinance, whichever is applicable. All such Erosion and Sediment Control plans required to be submitted to the County shall be submitted in 10 acre phases or the phased requirements by the State of North Carolina, whichever is more stringent.

Section 409. Surveying and Placement of Monuments

Unless otherwise specified by this ordinance, the Manual of Practice for Land Surveying as adopted by the N.C. State Board of Registration for Professional Engineers and Land Surveyors, under the provisions of Title 21 of the N.C. Administrative Code, Chapter 56 (21 NCAC 56), shall apply when conducting surveys for subdivisions; to determine the accuracy for surveys and placement of monuments, control corners, markers, and property corner ties; to determine the location, design, and material of monuments, markers, control corners, and property corner ties; and to determine other standards and procedures governing the practice of land surveying for

subdivisions.

Section 410. Construction Procedures

No building or other permits shall be issued for the erection or location of a structure, nor shall any construction or installation of improvements commence in a proposed subdivision until the preliminary plat and any required soil erosion and sedimentation control plan has been approved. The subdivider, prior to commencing any work within the subdivision shall make arrangements with the Ordinance Administrator for adequate or periodic inspections within 10 days of completion of the required improvements.

ARTICLE V
DEFINITIONS

Section 501. Subdivision Defined

As used in this ordinance, the definition of the word "subdivision" is defined in Chapter 153A-335 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 when any one of more of these divisions are created for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets; however, the following is not included within this definition and is not subject to any regulations enacted pursuant to this Part:

1. The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in its subdivision regulations;

2. The division of land into parcels greater than 10 acres if no street right-of-way dedication is involved; provided, however, land that is subdivided into exempt parcels greater than 10 acres shall not be further divided into lots less than 10 acres until all subdivision requirements of this Ordinance including Article IV are met.

3. The public acquisition by purchase of strips of land for widening or opening streets; and

4. The division of a tract in single ownership the entire area of which is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards of the county as shown by its subdivision regulations.

5. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

Section 502. Types of Subdivisions

For all subdivisions of land as defined in Section 501, the following categories of subdivisions shall be used to determine the procedures required for review:

1. **Major Subdivision**. A subdivision of land by a property owner into more than ten (10) lots or parcels for the purpose of sale or development (whether immediate or future) which involves the dedication of right-of-way.

2. **Minor Subdivision**. A subdivision of land by a property owner into either of the following:

   a. Not less than three (3) lots or parcels for the purpose of sale or development (whether immediate or future) which involves no right-of-way dedication.

   b. Not more than ten (10) nor less than three (3) lots or parcels for the purpose of sale or development (whether immediate or future) which involves the dedication of right-of-way.

3. **Family Subdivision**. A subdivision of land by a property owner among his immediate family as a gift, as settlement of the property owner's estate, or for nominal consideration; the conveyance of a tract or tracts to a grantee who would have been an heir of the grantor if the grantor had died intestate immediately prior to the conveyance; or the conveyance of a tract or tracts for the purpose of dividing lands among the tenants in common, all of whom inherited by intestacy or by will, the land from a common ancestor.

4. **Special Subdivision**. The subdivision of land for specific uses not otherwise specified by this ordinance (which may include such examples as cemeteries, boundary line disputes, etc.), the subdivision of land within a planned unit development, and the subdivision of property into less than three lots or parcels.

5. **Expedited Review.** A local government may require only a plat for recordation for the division of a tract or parcel of land in single ownership if all of the following criteria are met:

(1) The tract or parcel to be divided is not exempted under subdivision (2) of subsection (a) of this section;

(2) No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division;

(3) The entire area of the tract or parcel to be divided is greater than 5 acres;

(4) After division, no more than three lots result from the division;

(5) After division, all resultant lots comply with all of the following:

a. All lot dimension size requirements of the applicable land-use regulations, if any.

b. The use of the lots is in conformity with the applicable zoning requirements, if any.

c. A permanent means of ingress and egress is recorded for each lot.

Section 503. Other Definitions

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

Board of Commissioners: Avery County Board of Commissioners.

Buffer Easement: An easement not exceeding ten (10) feet in width adjacent to a major street or a commercial or industrial development which may be required by the Board of Commissioners. The Board of Commissioners may require the grading and planting of said buffer easement.

Community Sewer System: Any sewer system owned and operated by a local government in Avery County, or other sewer system serving two or more connections.

Dedication: A gift, by the owner, or a right of use of land for a specified purpose or purposes. Because a transfer of property rights is entailed, dedication must be made by written instrument, and is completed with an acceptance.

Driveway: A private access to one or two proposed or recorded lots which meet the lot standards of this ordinance for area, dimension and access. A driveway may be paved or unpaved, platted or described by metes and bounds, or may be otherwise described or shown as an easement or right-of-way. Any drive, access, road, easement or right-of-way proposed or designed to serve more than two lots shall be defined as a public or private street.

Easement: A grant by the property owner of a strip of land for a specified purpose and use by the public, a corporation, or person.

Fire Department. The organization that is responsible for providing fire protection and/or other emergency services to an area.

Fire Hydrant. A valved connection on a water supply system having one or more outlets and is used to supply hose and fire department pumps with water.

Individual Sewer System: Any septic tank or ground absorption system serving a single source or connection and approved by the Avery County Health Department.

Individual Water System: Any well or spring used to supply a single connection.

Knox Lock Box. A rapid entry system developed for Fire Department/Emergency Vehicles to access with one master key commercial or residential properties.

Lot: A portion of a subdivision or any other parcel of land intended as a unit for transfer of ownership, or for development, or both. The word "lot" includes the words "plot " or "parcel."

Lot of Record: A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds of Avery County prior to the adoption of this ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.

Lot Types:

Corner Lot:	A lot located at the intersection of two or more streets.
Interior Lot:	A lot other than a corner lot with only one frontage on a street.
Single-Tier-Lot:	A lot which backs upon a limited access highway, a railroad, a physical barrier, or another type of land use and to which access from the rear is usually prohibited.
Through Lot or a Double Frontage Lot:	A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

Municipal type Water System. A system having water pipes servicing fire hydrants and designed to furnish, over and above domestic consumption, a minimum of 250 gpm at 20 psi residual pressure for a two hour duration.

NCDOT. North Carolina Department of Transportation.

Ordinance Administrator: An official or designated person of Avery County responsible for assisting in the administration and enforcement of this ordinance.

Planned Unit Development (PUD): A tract of land under single ownership which is planned and developed as an integral unit for residential or commercial use. The development is designed and constructed in a single development operation or within a phased series of development, and contains more than one principal building or use. For any PUD in which land is to be subdivided, a preliminary plat and final plat shall be submitted and approved

in accordance with the review procedures of a major subdivision. The minimum lot size and other dimensional requirements are waived, provided the PUD shall comply with the setback requirements along the external perimeter of the development. All planned unit developments shall comply with the requirements of Section 404(2)(f) and 404(4).

Planning Board: Avery County Planning Board.

Plat: A map or plan of a parcel of land which is to be, or has been subdivided.

Private Street: A dedicated private right-of-way which affords access to abutting properties and conforms to the requirements of Section 405 of this ordinance.

Private Water System: Any water system serving from two (2) to fourteen (14) connections, inclusively.

Public Street: A dedicated public right-of-way for vehicular traffic which affords access to abutting properties and conforms with the requirements of Section 405 of this ordinance.

Public Water System: Any municipal water system in Avery County, and any water system serving fifteen (15) or more residential connections or serving more than twenty-five (25) year-round residents.

Public Vehicular Area. The area is a road used by vehicular traffic within or leading to a gated or non-gated subdivision or community, whether or not the subdivision or community roads have been offered for dedication to the public.

Road. Any access way, not including a driveway that gives access to more than one parcel and is primarily intended for vehicular access.

Roadbed/Roadway. Minimum requirement 20' wide. Engineered compaction to meet vehicular loads imposed, 60,000 lbs gross vehicle weight (GVW).

a. Improved travel surface per Section 405(b)
b. Maximum cut slope 1.5 to 1, without being engineered designed.
c. Maximum fill slope 2 to 1, without having engineering designed
d. Recommend two fee (2') of shoulder with minimum of 1/4" foot minimum slope and maximum 2 to 1 slope.

Slope. Upward or downward include slant, calculated as rise divided by run and expressed as a percentage.

Street Line: The edge of the roadway pavement or surface.

Subdivider: Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

Stacking Area. Stacking area is the driveway or road frontage in front of a security gate which allows for the stacking of motor vehicles; (65 foot allows for three vehicles; 30 foot allows for one vehicle or a t-turnaround for emergency response vehicles).

Section 503. Word Interpretation

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

1. Words in the present tense include the future tense.

2. 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.

3. The word "person" includes a firm, association, corporation, trust, and company as well as an individual.

4. The words "used for" shall include the meaning "designed for."

5. The word "structure" shall include the word "building."

6. The word "lot" shall include the words, "plot," "parcel," or "tract."

7. The word "shall" is always mandatory and not merely directory.

APPENDIX 1 **Application for Family Subdivision**

Date of Application: _____

Property Owner/Applicant: _____

Mailing Address: _____

Telephone Number: _____

Property Location: _____ _____

Township: _____ Original Tract Size: _____

Fire District: _____ School District: _____

PIN Number: _____

Number of Parcels created in this division: _____

Surveyor: _____

Property Recipients:

Name	Address	Relationship	Parcel Size

I certify that the information shown above is true and accurate, and that this transfer of land is in compliance with the conditions for a Family Subdivision of land as defined in Article III, Section 304 of the Avery County Subdivision Ordinance.

_____

Owner/Applicant

Review of Subdivision Provisions: _____

Ordinance Administrator Date

Final Recordation at Register Of Deeds: _____

Appendix 2 **Application for Special Subdivision**

Date of Application: _____

Application Number _____

Property Owner/Applicant: _____

Mailing Address: _____

Telephone Number: _____

Property Location: _____

PIN Number: _____

Deed Book and Page _____(List all parcels)

Township: _____ Lot Number: _____

Fire District: _____ School District: _____

Name of Proposed Subdivision: _____

Type of Subdivision: ☐ Residential ☐ Commercial ☐ Industrial ☐ Other

Acreage of Subdivision: _____ Number of Parcels/Lots: _____

Minimum Parcel Size: _____ Maximum Parcel Size: _____

Road System: ☐ Public ☐ Private

Acreas in Floodway: _____ Flood Fringe: _____

Water: ☐ Ind. ☐ Comm. ☐ Municipal

Sewer: ☐ Ind. ☐ Comm. ☐ Municipal

General Description and Location of Property to be Divided:

_____

_____

_____

I certify that the information shown above is true and accurate, and is in conformance with Article III, Section 306 of the Avery County Subdivision Ordinance.

_____

Owner/Applicant

Final Approval: _____ Date _____

Ordinance Administrator

Final Recordation at Register of Deeds: _____

APPENDIX 3 **Application for Recombinations of Land**

Date of Application: _____
Application of Number: _____

Property Owner/Applicant: _____

Mailing Address: _____

Telephone Number: _____

Property Location: _____

PIN Number : _____

Deed Book & Page: _____(List all parcels)

Township: _____ Lot Number: _____

Fire District: _____ School District: _____

Name of Proposed Subdivision: _____

Name of Former Subdivision: _____

Type of Subdivision: ☐ Residential ☐ Commercial ☐ Industrial ☐ Other

Acreage of Subdivision: _____ Number of Parcels/Lots: _____

Minimum Parcel Size: _____ Maximum Parcel Size: _____

Road System: ☐ Public ☐ Private

Acres in Floodway: _____ Flood Fringe: _____

Water: ☐ Ind. ☐ Comm. ☐ Municipal

Sewer: ☐ Ind. ☐ Comm. ☐ Municipal

General Description and Location of Property to be Divided: _____

_____

_____

I certify that the information shown above is true and accurate, and that this is a recombination in conformance with Article III, Section 307 of the Avery County Subdivision Ordinance.

_____
Owner/Applicant

Final Approval: _____ _____
Ordinance Administrator Date

Final Recordation at Register of Deeds: _____

APPENDIX 4 Application for Major & Minor Subdivision Review

Name of Subdivision _____

Location: _____ PIN #: _____

Acreage in Subdivision: _____ Number of Lots: _____

If Phased, Number of Total Phases: _____ Acreage in This Phase: _____

Type of Development (Residential, Commercial, etc.) _____

Date of Application: _____ Application #: _____

Subdivision Owner: _____

Address: _____

Telephone: _____ Fax: _____

Engineer: _____ Surveyor: _____

Address: _____ Address: _____

Phone: _____ Phone: _____

LIST ALL VARIANCES SOUGHT, INCLUDDING SPECIFICS, DISTANCES, AND DETAIALS AS TO EACH REQUEST (Use additional pages if necessary)

_____

_____

_____

This application form is to be submitted with the appropriate number of subdivision plans (Minor subdivision 3 sets, Major subdivision 7 sets) All documents must be completed per the checklist and sent to:

Avery County Planning Department
200 Montezuma Street
PO Box 596
Newland, North Carolina 28657

I certify that the information shown above and on the attached checklist is true and accurate and that this transfer of land is in compliance with the Avery County Subdivision ordinance.

OWNER: _____

APPENDIX 5 **Avery County Planning and Development**

CHECKLIST FOR SUBMISSION OF SUBDIVISON PLAT REVIEW FOR MINOR & MAJOR SUBDIVISIONS & SUBMISSION OF FINAL OR AS-BUILT DRAWINGS

Please be aware that this checklist has been prepared as a guideline for obtaining approval to develop a subdivision in compliance with the Avery County Subdivision Ordinance and compliance with hillside development standards. This checklist is made available as an aid. It does not replace or supersede any ordinance. ***Any person seeking to develop a subdivision must comply with the Subdivision Ordinance and all other applicable Ordinances.*** *Please read the Ordinance before completing the items included in the checklist. All items required in the Ordinance should be completed prior to submittal of plans to the County. A copy of the completed checklist and an "Application for Subdivision Review" form must be submitted with your plans.*

Date: _____

PROPERTY INFORMATION

Subdivison Name: _____

Phase Number and/or Name of Phase (if part of a Master Plan for Phased Development):_____

Address/Street Location of Property:

_____

PIN Number(s) of Property to be Subdivided:

_____

CONTACT INFORMATION:

Owner Name: _____

Address: _____

Phone Number: _____

Surveyor/Engineer/Landscape Architect Name and Company Name: _____

Address: _____

Telephone Number:_____

E-Mail: _____

Primary Contact for Submission:_____

Address: _____

Telephone Number: _____

E-Mail: _____

TYPE OF PLAN BEING SUBMITTED:

☐ **MASTER PLAN – PHASED DEVELOPMENT** (# of Phases) _____

☐ **MINOR SUBDIVISION** (# of Lots) _____

Please submit three (3) copies of complete subdivision plans (no larger than 34" x 44") to the Planning Department for Preliminary Plat Approval and one (1) copy of complete subdivision plans with mylar plat to be recorded for final plat approval.

☐ **MAJOR SUBDIVISION** (# of Lots) _____

Please submit nine (9) copies of complete subdivision plans (no larger than 34" x 44") to the Planning Department for Preliminary Plat Approval, and one (1) copy of complete subdivision plans with Mylar plat to be recorded for Final Plat Approval.

☐ **FINAL OR AS-BUILT PLANS**
All Plan requirements are the same as preliminary plat requirements.

ALL FINAL PLANS WHICH DIFFER FROM THE APPROVED PRELIMINARY PLANS MSUT BE RESUBMITTED TO THE PLANNING BOARD FOR REVIEW.

OTHER INFORMATION:

Does the proposed development meet the definition of a HILLSIDE DEVELOPMENT?
☐ YES ☐ NO

Please check which of the following utilities will serve the proposed development when completed:

☐ Public Sanitary Sewer ☐ Community Sanitary Sewer System ☐ Septic tanks on each individual lot

☐ Public Water ☐ Community Water System ☐ Wells on each individual lot

Please Note:

These requirements are subject to change pursuant to the Ordinance.

All development must comply with the Avery County Sedimentation and Erosion Control Ordinance.

Specifications for Submission Of A Master Plan For A Phased Development

The Subdivider shall submit a master plan showing the entire proposed subdivision which shall include the following information:

- ☐ All phases of the subdivision, clearly marked
- ☐ Proposed Density
- ☐ Proposed Type and location of utilities
- ☐ Proposed Timetable for all phases of development

Please Note:

No master plan shall be filed as part of a subdivision plan or preliminary plan unless it includes at least one phase of a multi-phase development intended for immediate development, or constitutes the master plan for the entire development to be developed immediately.

Approval of a master plan by the Planning Department staff or by the Planning Board as part of a preliminary plan application process for a subdivision shall not constitute approval of the preliminary plan nor shall such approval of a master plan be considered as an acceptance of a preliminary plan, in whole or in part.

Each phase of a subdivision shall be preceded by submission and approval of a preliminary plat.

As each phase is completed, a final as-built plan and final recordable plat must be submitted and approved for that phase, prior to the sale or conveyance of any lot in that phase.

Approval of the master plan by the planning Board does not need to be renewed unless significant design changes or density increases are proposed; however, a master plan must be submitted with each phase submission.

Specifications for Submission of a Preliminary Plat

A. ☐ All plats submitted for approval shall be legibly drawn at a scale of not less than two hundred feet (200') to one inch (1"), and prepared by a professional land surveyor.

B. ☐ List any requested variances on submitted application page; or, if necessary, provide a separate letter listing any requested variances required to develop the proposed subdivision.

C. ☐ Title Block. All plans shall have a Title Block and shall include the following:

1. ☐ Name and address of both owner(s) and subdivider of record;
2. ☐ Name of subdivision;
3. ☐ Project Location (Township, County, State);
4. ☐ Date and revision dates (if applicable) of plan(s);
5. ☐ Scale denoted graphically and numerically;
6. ☐ Name, address and phone number of Surveyor, Engineer, Landscape Architect or other designer;
7. ☐ Tax parcel identification number or PIN numbers; and
8. ☐ Signed and dated seal (please make sure seal is dated with most current revision of plans;
9. ☐ Deed Book and Page reference.

D. ☐ Details shall be part of the submitted plans:

1. ☐ North Arrow
2. ☐ Vicinity Map. Sketch Vicinity Map showing the location of the subdivision in relation to the surrounding area. If the subdivision is a portion of a larger tract, the map is to show the relation of the subdivision to the larger tract.
3. ☐ Tract Boundaries. The boundaries of the tract or portion thereof to be subdivided, with all bearings and distances shown.
4. ☐ Property Lines. Property lines, and, where known, the names of owners of abutting properties and/or abutting subdivisions of record.
5. ☐ Natural Features. Significant natural features including wooded areas, marshes, major rock outcrops, lakes or streams, or other natural features affecting the site. Approximate location of the 100 year flood hazard, where applicable. The directional flow of all streams shall be shown for any stream within the subdivision.
6. ☐ Existing features. Existing features, where known, including buildings, streets, power lines, drainage ways, sewer and water lines, and utility easements which are located on or intersect the proposed subdivision. County or city jurisdictional lines on or adjacent to the land being subdivided. The location of the nearest water supply for fire protection if hydrants are not available.
7. ☐ Topographic Lines. Topographic contour liens, not to exceed five (5) foot intervals, shall be provided for all subdivisions which include a total land area greater than thirty (30) acres or more than fifty (50) building lots, unless otherwise required by Hillside Development Regulations.

8. ☐ Lot and Street Lines. All proposed lot and street right-of-way lines with approximate area and dimensions, lot numbers; all easements; designation of any dedication or reservations to be made; a notation of building setback lines; and proposed use of land. Designation of public or private streets.

9. ☐ Street Layout. Typical cross sections of proposed streets, vertical grades, and proposed street names. The street design for all public roads shall incorporate the minimum design standards required by the N.C. Department of Transportation and the DOT approval of the design shall accompany the preliminary plat. All private streets shall be designed to meet the standards set forth in Section 405 of this ordinance.

10. ☐ Water and Sewer Layout. Proposed water and sewer system (excluding individual water sewer systems), including line sizes, approximate location of manholes, pumps, hydrants, force mains, or treatment facilities; and the connection of the proposed system(s) with existing systems.

11. ☐ Other Improvements. Proposed location and description of any other improvements including, but not limited to, riding trails, sidewalks, pedestrian or bike ways, reserved open space or recreational facilities, commercial areas, or buffer strips.

12. ☐ Site Data. Total acreage in tract to be subdivided, acreage in flood hazard zone, smallest lot size (square feet), total number of lots, lineal feet in streets.

Please Note:

The following documentation is to accompany the Preliminary Plat and Application:

_____ Written evidence acknowledging the submission of water and sewer system plans to the appropriate agencies.

_____ Written evidence acknowledging the submission of the required soil erosion sedimentation control plan. Written approval is required prior to any ground disturbing activity which exceeds 20,000 square feet or is subject to the Avery County Soil Erosion and Sedimentation Control Ordinance.

FINAL PLAT SUBMISSION

The final plat shall show compliance with the following prior to any review of the plat by the Planning Board:

1. ☐ Compliance with Standards of Practice for Land Surveying as adopted by the NC Board of Registration for Professional Engineers and Land Surveyors.
2. ☐ Notice that improvements guarantee has been accepted or certification of improvements has been granted.
3. ☐ Submitted within twelve months of preliminary plat approval, unless written extension is granted by the Board.
4. ☐ Final plat is 18" by 24" and is at a scale of at least 1"=100', provided a scale of 1" = 200' may be used when necessary.
5. ☐ Six copies submitted, one (1) reproducible and five (5) prints.
6. ☐ Title Block, Subdivision name, North Arrow, scale (denoted graphically and numerically), date of plat preparation, location of subdivision (township, county, and state), the name(s) of the owner(s) and the registered surveyor responsible for the subdivision (including the seal).
7. ☐ Tract Boundaries. Exact boundary lines of the tract to be subdivided, fully dimensioned by lengths and bearings, and the location of intersecting boundary lines of adjoining lands.
8. ☐ Adjoining Property Owners. Names and deed references (when available) of owners of abutting properties and subdivisions of record.
9. ☐ Location of Improvements. All visible and apparent rights-of-way, watercourses, utilities, roadways, and other such improvements shall be accurately located where crossing or forming any boundary of the property shown.
10. ☐ Engineering date. Sufficient engineering date to determine readily and reproduce on the ground every straight or curved boundary line, street line, lot line, right-of-way line, and easement line, including dimensions bearings, or deflection angles, radii, central angles, and tanagent curved property lines that are not the boundary of curved streets. Building setback lines are to be noted.
11. ☐ Monuments. The accurate locations and descriptions of all monument markers and control points.
12. ☐ Lot and Tract Numbers. The tracts numbered consecutively throughout the entire subdivision and the lots numbered consecutively throughout each block.
13. ☐ Streets. The designation of all streets as public or private in accordance with the provisions of this ordinance.
14. ☐ Rights-of-way. The location and dimensions of all rights-of-way, utility or other easements, riding trails, natural buffers, pedestrian or bicycle paths, and areas to be dedicated to public use with the purpose of each stated.
15. ☐ Flood Hazard Areas. Location of existing flood hazard areas, where applicable.
16. ☐ Certifications. Certifications as on Administrative forms.

APPENDIX 6 — Certificates

(1) *Certificate of Ownership and Dedication
I hereby certify that I am (we are) the owner(s) of the property shown and described hereon, and that I (we) hereby adopt this plan of subdivision with my (our) free consent, and dedicate all streets, sewers, waterlines, alleys, walks, parks and other sites to public or private use as noted in the Disclosure of Private Roadways, where applicable.

_____ _____
Date Owner(s)

(2) Certification of Private Roads (if applicable)
The roads within this subdivision are designated private. The maintenance of all roads and streets shall be the responsibility of

_____.

_____ _____
Date Owner(s)

(3) Certificate of Survey & Accuracy
I, _____, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book _____, Page _____, etc.) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book _____, Page _____; that the ratio of precision as calculated is1:_____; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number and seal this _____ day of _____, A.D., 20____.

Seal or Stamp _____
Surveyor

_____
Registration Number

For Major & Special Subdivisions, use all of the certificates listed on the final plat.

For Minor, Recombination or Family Subdivision, use Certificates (7) & (8) only

(4) Certification of Road Grades & Suitability
State of North Carolina, Avery County, I, _____ certify that the newly constructed or proposed road grades and slopes were (calculated by me) (calculated under my supervision) from (an actual survey made under my supervision) and do not exceed 18 percent. Witness my original signature, registration number, and seal this _____ day of _____, 20____.

Official Seal _____
Registered Land Surveyor or
Civil Engineer

_____
Registration Number

Certificate of Approvals
(5) This certifies that the Avery County Planning Board approved the final subdivision at its meeting on the _____ day of _____, 20____.

_____ _____
Date Chairman, Avery County
Planning Board

(6) I certify that the final plat shown hereon complies with the Avery County Subdivision Regulations and is approved by the Board of Commissioners for recording in the Avery County Register of Deeds office.

_____ _____
Date Chairman, Avery County
Board of Commissioners

(7)Certificate of approval by the Ordinance Administrator.

_____ _____
Date Ordinance Administrator

(8) State of North Carolina, Avery County, I, _____, Review Officer of Avery County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

_____ _____
Date Review Officer

*Documentation for this certificate shall be required from the appropriate Department of Transportation official that the subdivision's Driveway Permit and the permitted driveway drainage systems have been constructed to the Department's minimum construction standards as required by this ordinance.
Note: Dedication and Maintenance of roads or streets to North Carolina Department of Transportation are required to have a North Carolina Department of Transportation approval before the Preliminary Plat approval by the Avery county Planning Board.

APPENDIX 7 — Administrative Forms

1. Certificate of Approval of the Design and Installation of Improvements.

2. Certificate of Ownership, Dedication and Maintenance:

   (a) Subdivider - Not Incorporated
   (b) Subdivider - Incorporated

3. Improvements Guarantee Agreement

THESE ADMINISTRATIVE FORMS ARE TO BE FILLED OUT AND SUBMITTED TO THE ORDINANCE ADMINISTRATOR BEFORE THE FINAL PLAT REVIEW.

APPENDIX 7 – 1 **Certificate of Approval of the Design and Installation of Improvements**

I hereby certify that all of the required improvements listed in this certification have been installed in an acceptable manner and according to County specifications and standards in the _____ subdivision, or that guarantees of the installation of the required improvements in an amount and manner satisfactory to the County Commissioners has been received, and that the filing fee for this plat in the amount of $_____ has been paid.

List of completed improvements (or guaranteed improvements):

List of any known defects:

_____ Date

_____
Ordinance Administrator
Avery County

APPENDIX 7(2)(a)	Certificate of Ownership, Dedication, And Maintenance (Subdivider – Not Incorporated)

I hereby certify that I am the owner of the property shown and described hereon which is located in the subdivision jurisdiction of Avery County and that I hereby adopt this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted. Furthermore, I hereby dedicate all sanitary sewer and water lines to _____. I hereby certify further that I (assume full responsibility for) (have made arrangements suitable to the County Commissioners for) the maintenance of said improvements which (assumption of responsibility) (arrangements) shall remain in effect until such time as said improvements are accepted for maintenance by the appropriate public or private body, or shall be designated for perpetual ownership and maintenance if dedicated for private use.

_____ _____

Date Subdivider

STATE OF NORTH CAROLINA
COUNTY OF AVERY

I, _____, a Notary Public of said state and county certify that _____ personally came before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal, this the _____ day of _____, 20____.

_____

Notary Public

My Commission Expires: _____

APPENDIX 7(2)(b)	Certificate of Ownership, Dedication and Maintenance (Subdivider – Incorporated)

The undersigned certifies that he is an officer, to wit: the _____ of

The undersigned certifies that he is an officer, to wit: the _____, a corporation, and that he has been fully authorized to execute this Certificate pursuant to authority granted by resolution of the Board of Directors of _____, copy of which resolution is attached hereto.

_____, through the undersigned, freely dedicates 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 Avery County Subdivision Ordinance. _____ further (assumes full responsibility for) (has made arrangements suitable to the County Commissioners for) the maintenance of said improvements which (assumption of responsibility) (arrangements) shall remain in effect until such time as said improvements are accepted for maintenance by an appropriate public or private body, or shall be designated for perpetual ownership and maintenance if dedicated for private use.

By: _____

Attest:

_____
Secretary

_____
Date

STATE OF NORTH CAROLINA

COUNTY OF AVERY

I, _____, a Notary Public of the said state and county certify that _____ personally came before me this day and acknowledged that (s)he is the _____ Secretary 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 _____, President, sealed with its corporate seal, and attested by _____ as its Secretary.

Witness my hand and notarial seal, this the _____ day of _____, 20___.

My commission expires: _____ _____

APPENDIX 7(3) Improvements Guarantee Agreement

STATE OF NORTH CAROLINA
AVERY COUNTY

THIS AGREEMENT WAS MADE AND ENTERED INTO this the _____ day of _____, 20____, by and between (Subdivider), hereinafter known as "the Subdivider", and the County Commissioners of Avery County, hereinafter known as "the Commissioners."

WITNESSETH:

WHEREAS, the Subdivider is attempting to secure from the Commissioners approval of a final plat of a proposed subdivision to be known as the _____ Subdivision to be located within the jurisdiction of Avery County, North Carolina; and

WHEREAS, an ordinance entitled Subdivision Ordinance of Avery County, North Carolina, as adopted by the County Commissioners on the _____ day of _____, 2008, (and as subsequently amended), requires the completion of certain improvements prior to final plat approval by the Commissioners; and

WHEREAS, said ordinance allows the Commissioners, at its discretion, to permit the Subdivider to (post a surety bond) (deposit cash or other instrument readily convertible into cash at face value) with the County through the Commissioners to guarantee the completion of said required improvements; and

WHEREAS, the Commissioners desire 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 as surety, letter of credit from the _____ bank, or other to guarantee and secure completion of said improvements.

IT IS, THEREFORE, AGREED AS FOLLOWS:

1) The Subdivider will, on or before the _____ day of _____, 20____, complete as required the following improvements in the _____ Subdivision:

(Here detail all improvements to be completed)

2) The Subdivider shall file with Avery County through the Commissioners a _____ securing and guaranteeing completion of said improvements by the required date; and

3) When the _____ is filed and other requirements of said ordinance are met, the Commissioners will approve the final plat of the _____ Subdivision.

The County Commissioners of Avery County has, by appropriate Commission action, caused this agreement to be executed by the Chairman or other authorized member and attested by the County Clerk, and the _____ Company has, by appropriate action of its board of directors, caused this Agreement to be executed by its _____ and attested by its _____ Secretary under corporate seal, this the _____ day of _____, 20____.

Avery County Board of Commissioners

By: _____
Chairman

Attest:

_____
County Clerk

_____
Corporation
By: _____
President

Attest:

_____
Secretary

STATE OF NORTH CAROLINA
COUNTY OF AVERY

I, _____, Notary Public of said State and County certify that _____ personally came before me this day and acknowledged that she/he is _____ Secretary 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 _____, 20____.

_____
Notary Public

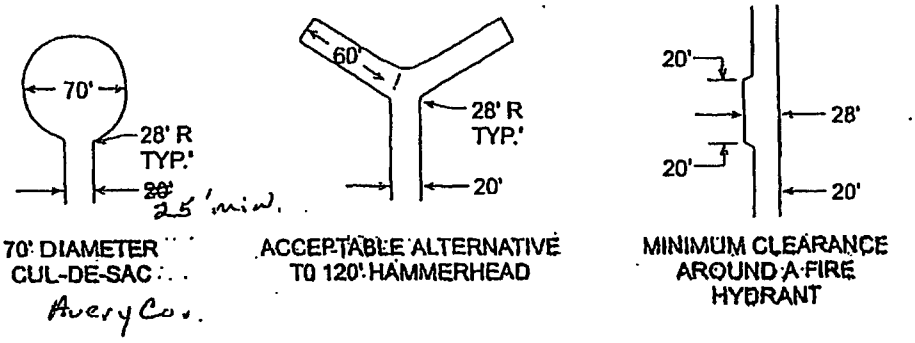
My Commission Expires: _____

APPENDIX 8 Fire Apparatus Access Road Turnarounds

TABLE D103.4
REQUIREMENTS FOR DEAD-END FIRE APPARATUS ACCESS ROADS

LENGTH (feet)	WIDTH (feet)	TURNAROUNDS REQUIRED
0–150	20	None required
150–500	20	120 feet "Hammerhead," 60 feet "Y" or 96 feet diameter cul-de-sac in accordance with Figure D103.1
501–750	26	120 feet Hammerhead, 60 feet "Y" or 96 feet Diameter cul-de-sac in accordance with Figure D103.1
Over 750	Special approval required	

For SI: 1 foot = 304.8 mm.

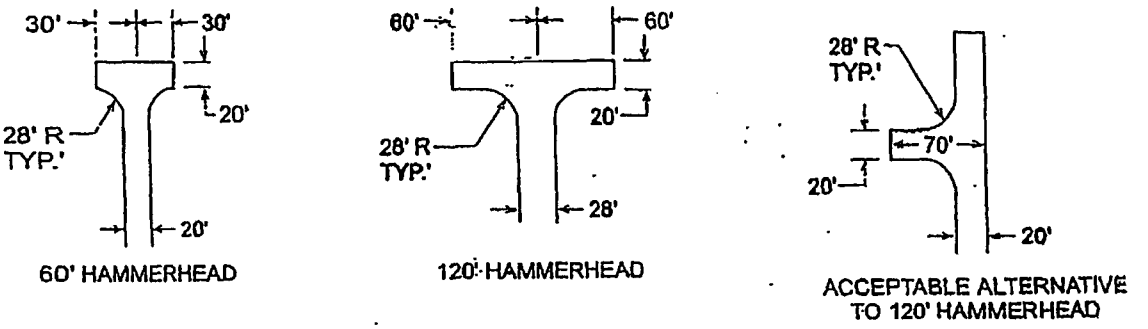


70' DIAMETER CUL-DE-SAC

ACCEPTABLE ALTERNATIVE TO 120' HAMMERHEAD

MINIMUM CLEARANCE AROUND A FIRE HYDRANT

Avery Co.



60' HAMMERHEAD

120' HAMMERHEAD

ACCEPTABLE ALTERNATIVE TO 120' HAMMERHEAD

For SI: 1 foot = 304.8 mm.

FIGURE D103.1
DEAD-END FIVE APPARATUS ACCESS ROAD TURNAROUND

APPENDIX 9 Supplemental Information Provided to Subdividers

The following information is available to subdividers from the Avery County Inspections Office. These items are for informational purposes only.

1. Fire Protection Infrastructure for Land Development and Protection of Life and Property From Wild Life.

   Copies of NFPA 1141 and NFPA 1144 shall be provided to applicants requesting subdivision plat approval.

APPENDIX 10 WATER SUPPLY

Where water mains or fire hydrants are provided for fire protection services, the following shall apply:

1. They shall be installed and maintained with AWWA Manual 31, distribution System Requirements for Fire Protection, when on public property.

2. They shall be installed and maintained in accordance with NFPA 24, *Standards for the Installation of Private Service Mains and Their Appurtenances*, where on nonpublic property.

3. Where there are no water mains for fire protection, NFPA 1142, *Standard on Water Supplies for Suburban and Rural Fire Fighting* shall apply.