

# **MACON COUNTY SUBDIVISION ORDINANCE**

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## **GENERAL PROVISIONS**

### **§159.01 Title**

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

### **§159.02 Purpose**

The purpose of this Ordinance is to establish procedures and standards for the development and subdivision of land within Macon County. It is further designed to promote the orderly growth and development of the County; for the coordination of roads and highways within proposed subdivisions with existing or planned roads and highways and with other public facilities. It is also designed to provide the County Commissioners, Planning Board, Planning Department, Tax Assessor, Land Records Office, Code Enforcement and other local government agencies and officials with information regarding land development taking place in Macon County. This information will assist county officials in projecting the need for various public programs and facilities, in estimating population growth, and in projecting revenue and expenditures.

### **§159.03 Authority**

This Ordinance is hereby adopted under the authority and provisions of the General Statutes of North Carolina, Chapter 153A, Article 18, Part 2 and NC Session Law 2009-33

### **§159.04 Jurisdiction**

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

### **§159.05 Compliance with Ordinance Required**

All plats for the subdivision of land shall conform to the requirements of this Ordinance, and shall be submitted in accordance with the procedures and specifications established herein with the final plat being prepared, approved, and recorded pursuant to the provisions of this ordinance whenever any subdivision of land takes place.

### **§159.06 Plats to be Approved**

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

**§159.07 “Subdivision” Defined**

For the purposes of this Ordinance, “subdivision” means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development and shall include all divisions of land involving the dedication of a new road or a change in existing roads; but the following shall not be included within this definition nor be subject to any regulations enacted pursuant to this ordinance:

1. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of Macon County as shown in this Ordinance.
2. The division of land into parcels greater than ten (10) acres where no road right-of-way dedication is involved.
3. The public acquisition by purchase of strips of land for the widening or opening of roads.
4. The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no road right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of Macon County as shown in this Ordinance.
5. The division of land pursuant to an order of any state or federal Court with jurisdiction.
6. The division of land for the purpose of conveying a single lot to each tenant in common, all of whom jointly inherited the land by intestacy or by will.
7. The division of land for cemetery lots or burial plots.
8. A Family Subdivision as defined in §159.08 of this Ordinance.

**§159.08 Family Subdivision**

The division of land into two or more parcels or lots for the purpose of conveying the resulting parcels or lots to a grantee or grantees who are in any degree of lineal kinship to the grantor, or to a grantee or grantees who are within four degrees of collateral kinship to the grantor. The exemption provided by the ordinance shall only apply if the deed of conveyance notes that it is a family subdivision as defined in this section. Degrees of kinship shall be calculated in accordance with G.S. §104A-1.

§159.09 Reserved

### **§159.10 Definitions**

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

**Access Road-**A road providing motor vehicle access to lots or other areas used in common contained within a subdivision.

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

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

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

**County:** Macon County, North Carolina.

**Design Professional:** A current NC registered Civil Engineer, Geotechnical Engineer, Land Surveyor, Architect, Landscape Architect, or Professional Geologist.

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

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

**Lot-**A parcel of land or a contiguous combination of several parcels of land in single ownership.

**Incidental Subdivision-** The division of land from a parent lot into two lots not involving the dedication of a public road shall not be subject to these regulations except as provided below:

- (a) Final Plats of divisions intended for recordation in the Register of Deeds Office shall be titled "Incidental Subdivision", and shall be certified as such under these regulations by the Subdivision Administrator prior to recordation.
- (b) All lots in an Incidental Subdivision shall not be re-subdivided for a period of one (1) year after the original date of the recorded Incidental Subdivision.

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

**Phased Development**-A phased development is defined as a major subdivision that will be constructed in phases.

**Private Road**-A road within a subdivision providing means of ingress and egress to lots or common areas within the subdivision that is not open or accessible to the general public.

**Public Road**-A road maintained at the public expense and under public control.

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

**Residential Lot**- A parcel of land on which is or will be constructed a one or two family dwelling.

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

**Riparian Zone**-The area located on the bank of a natural watercourse.

**Spur road.** A spur road is a roadway serving no more than two (2) residential lots and shall meet the requirements of section 503 of the NC Fire Code.

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

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

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

**Technical Review Committee**-A committee established by this ordinance and appointed by the Local Governing Board to review all major subdivision preliminary plats and to approve, approve with conditions, or disapprove such plats. The Committee shall consist of five members as follows:

- The Subdivision Administrator
- One member of the Macon County Planning Board
- One Representative from the following Macon County offices or agencies:
  - I. Fire Marshal's Office
  - II. Environmental Health Department, and
  - III. Planning, Permitting, & Development Department

An alternate member from each of the above agencies, boards, and departments shall be appointed by the Local Governing Board. An alternate member may participate in Technical Review Committee decisions in place of a primary member of the Technical Review Committee if, and only if, a primary member of the Technical Review Committee is unable to participate in the same. The alternate from the agency, board, or department of which the primary member of the Technical review Committee who is unable to participate is associated shall be the alternate to participate in place of such primary member who is unable to participate.

**§159.11 Word Interpretation**

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

Words used in the present tense include the future tense.

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

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

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

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

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

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

§159.12 Reserved

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§159.19 Reserved

**APPROVAL OF SUBDIVISION PLATS**

**§159.20 Plat Shall be Required on Any Subdivision of Land**

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

**§159.21 Approval Prerequisite to Plat Recordation**

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

**159.22 Plat Approval Prerequisites**

Notwithstanding anything to the contrary contained herein, no plat shall be approved or registered:

Until the district highway engineer is given an opportunity to make recommendations concerning an individual subdivision plat as to proposed State streets, State highways, and related drainage systems; and

(2) Until the County Health Director or local public utility, as appropriate, is given an opportunity to make recommendations concerning an individual subdivision plat as to proposed water or sewer systems.

**§159.23 Appeals**

Any person aggrieved by a decision of the Subdivision Administrator may seek relief from the Technical Review Committee. Any person aggrieved by a decision of the Technical Review Committee may seek relief from the Planning Board. Any person aggrieved by a decision of the Planning Board may seek relief in Superior Court as provided by law.

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## CONSERVATION COMMUNITIES

### **§159.30 Purpose and Intent.**

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

- a) To allow for greater flexibility and creativity in the design of developments;
- b) To encourage the permanent preservation of open space and agricultural lands, woodlands and wildlife habitat, natural resources including watersheds, water bodies and wetlands, and historical, cultural, and archeological resources; to promote, where feasible, interconnected green space and corridors throughout the community;
- c) To protect community water supplies;
- d) To minimize the amount of stormwater runoff that flows into surface water and the floodplain as a result of development in the upper reaches of the watershed by providing incentives for limiting impervious cover, keeping land in its natural state, and other measures that mitigate flooding by limiting the disruption of natural drainage patterns that result from development;
- e) To encourage a more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision;
- f) To facilitate the construction and maintenance of housing, streets, utilities, and public service in a more economical and efficient manner;
- g) To facilitate the provision of community services in a more economical and efficient manner;
- h) To encourage economic development that is desirable for the effected area;
- i) To foster stewardship or caring for the land and wildlife and for the neighborhoods in which we live; and
- j) To preserve the rural and natural character of Macon County.

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

- a) The 100-year floodplain as depicted on the FEMA Flood Insurance Rate Maps issued May 4, 2009.
- b) Riparian zones of streams;
- c) Slopes above 30% in a contiguous area;
- d) Wetlands that meet the definition used by the Army Corps of Engineers pursuant to the Clean Water Act;
- e) Populations of endangered or threatened species, or habitat for such species;
- f) Archaeological sites, cemeteries and burial grounds;
- g) Contiguous native woodlands;
- h) Important historic and cultural sites;
- i) Boundaries with public lands;
- j) Other significant natural features and scenic viewsheds such as ridge lines, peaks and rock outcroppings, particularly those that can be seen from public roads; and
- k) Agricultural land in a contiguous area.

**§159.32 Compliance with Subdivision Ordinance Required.**

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

**§159.33 Applicability.**

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

**§159.34 Required Open Space.**

To qualify as a Conservation Community under these provisions, at least 40 % of the development shall be set aside as open space. Impervious surfaces, excluding those considered as active recreation spaces, must be excluded from the minimum 40%. Structures meeting the criteria for inclusion in the National Historic Registry, structures associated with active agriculture, and impervious surfaces related to active recreation spaces not exceeding the 25% limit provided in this Article shall be excluded from the calculation of impervious surfaces.

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

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

**§159.35 Conservation Easement Required.**

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

**§159.36 Guidelines for Drafting Conservation Easements.**

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

- (a) The easement recognizes and describes in a statement of purpose the special qualities of the property subject to the easement. The easement must include a map of the tract noting all significant features within the area. The easement clearly identifies the owner of the property subject to the easement, the holder of the easement, and co-signer, and the responsibilities of the property owner, easement holder, and co-signer.
- (b) The easement specifically and clearly identifies the boundaries of the property subject to the easement, preferably by metes and bounds legal description and survey plat.
- (c) The easement contains restrictions as to what the owner may do with the property and specifically delineates what may not be done with the property. Limitations may include but may not be confined to prohibitions against subdivision, earthmoving, dumping, signs, utility lines, construction, changes to existing structures, and uses made of the property.
- (d) The easement provides for the right of the easement holder and any co-signer to inspect the property to assure observance of restrictions. It also provides for enforcement procedures.
- (e) The easement provides for the maintenance of property.
- (f) The easement contains provisions governing its amendment, including provisions that the easement shall not be altered or terminated except with the express written permission of the easement holder, property owner, and any co-signers.

**§159.37 Homeowners Association.**

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

- (a)The developer of the Conservation Community shall provide to the Subdivision Administrator for approval, prior to the approval of a preliminary plat, a description of the homeowners association, including bylaws and methods for maintaining open space.
- (b)Unless maintenance is assigned to a conservation organization or land trust, the homeowners association shall be responsible for maintenance and taxes on the open space within the open space Conservation Community.
- (c)Homeowner’s association membership of each non-open space lot owner in the open space Conservation Community shall be mandatory (required) and automatic.
- (d)Said homeowners association shall not be dissolved without the consent of the County.

**§159.38 Application.**

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

**§159.39 Consideration.**

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

- (a) All primary conservation areas which are incorporated into the Conservation Community shall be protected as permanent open space.
- (b) The configuration of the open space tract is relatively contiguous, or open space is provided in relatively undivided tracts that cannot reasonably be reconfigured into one contiguous, undivided tract.
- (c) The open space Conservation Community meets the regulations specified in this Article.

**§159.40 Incentives.**

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

**Application Process Assistance:** The Subdivision Administrator shall assist the developer of a Conservation Community in the application and review process. In addition, the Subdivision Administrator shall aid the developer in the procurement of opportunities and materials for education in the planning and development of a Conservation Community.

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

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

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

**Lot Size:** In order to encourage clustering of building development, the minimum lot size as required in 159.63 is not applicable for Conservation Communities, unless minimum lot size is regulated by other Statutes or County Ordinances.

## PROCEDURE FOR REVIEW OF MINOR SUBDIVISIONS

### **§159.41 Sketch Plan for Minor Subdivisions.**

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

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

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

### **§159.42 Final Plat for Minor Subdivisions.**

The final plat shall be prepared by a Professional Land Surveyor currently licensed and registered in the State of North Carolina by the State Board of Examiners. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in G.S. 47-30. At least two (2) copies and one digital copy of the final plat shall be submitted to the Subdivision Administrator's Office with one copy being on reproducible material. Material and drawing medium for the original shall be in accordance with the Standards of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the Macon County Register of Deeds.

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

The final plat shall meet the specifications in §159.56.



## **PROCEDURE FOR REVIEW OF MAJOR SUBDIVISIONS**

### **§159.50 Sketch Plan for Major Subdivisions**

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

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

### **§159.51 Submission and Review Procedure for Sketch Plans for Major Subdivisions**

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

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

### **§159.52 Preliminary Major Subdivision Plat: Submission and Review.**

#### **a) Submission Procedure**

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

At least two (2) copies and one digital copy of the preliminary plat (additional copies may be required by the Subdivision Administrator to send to various agencies) shall be submitted to the Subdivision Administrator no less than fifteen (15) days prior to the Committee meeting at which the Subdivider desires the Committee to review the preliminary plat.

The fee for submitting the preliminary plat shall be based on the number of lots in the proposed subdivision as follows: \$10 per lot or a minimum of \$100 whichever is greater. Preliminary plats shall meet the specifications in §159.56.

**b) Review by Health Department and Other Agencies**

Concurrent with submission of the preliminary plat to the Subdivision Administrator, the Subdivision Administrator shall submit copies of the preliminary plat and any accompanying material for review and recommendation to various officials and agencies concerned with new development including all members of the Committee. If lots are proposed to be receiving septic tanks as the means of solid waste disposal, and do not possess a valid authorization to construct an on-site wastewater system, a disclaimer must be placed on the plat stating, “as of the date of this recording, the lots represented on this plat have not been inspected or approved by the Health Department. Until inspected there is no assurance that a building permit can be issued.”

**c) Review Procedure**

The Committee shall, on a majority vote of the member’s present, vote to either approve the plat, conditionally approve the plat with the recommended changes to bring the preliminary plat into compliance, or disapprove the plat with reasons. The subdivider must be made aware of the decision within seven days of the Committee meeting at which the plat was discussed.

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

If the Committee disapproves the preliminary plat, the reasons for such disapproval shall be specified in writing. One copy of the plat and the reasons shall be retained by the Subdivision Administrator and one copy shall be returned to the Subdivider. The Subdivider shall have thirty days from the disapproval date to seek review of the decision by the Planning Board. Upon the decision of the Planning Board the Subdivider shall have thirty days to seek review of the decision in Superior Court as stated in Section 159.22.

**§159.53 Final Subdivision Plat: Submission and Review**

**Preparation of Final Plat and Installation of Improvements**

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

## **Improvement Guarantees:**

### **A. Agreement and Security Required**

In lieu of requiring the completion, installation and dedication of all improvements prior to final plat approval for any subdivision or phase of a phased development, the County of Macon shall accept a financial guarantee whereby the Subdivider shall agree to complete all required improvements. Once said agreement is signed by both parties, the security required herein is provided, and if all other requirements of this Ordinance are met the final plat may be approved by the Subdivision Administrator.

To secure this agreement, the Subdivider shall provide to the County a surety performance bond equal to 125% of the entire cost as estimated by contractors under contract, by bids from licensed contractors, or by the Subdivider's design professional.

### **B. Security Guarantee**

The applicant shall deposit cash, a cashier's check or obtain a performance bond(s) from a surety bonding company authorized to do business in North Carolina. The security guarantee shall be payable to the County of Macon and shall be in an amount equal to 125% of the entire cost of installing all required improvements. The duration of the bond(s) shall be until such time as the improvements are accepted by the Board of County Commissioners.

### **C. 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 guarantee agreement, then the surety or the money deposited shall, if requested by the County, pay all or any portion of the amount needed to complete the improvements based on an engineering estimate. The Board of County Commissioners may expend such portions of said funds as it deems necessary to complete all or any portion of the required improvements. The County shall return to the applicant or bonding firm any funds not spent in completing the improvements. Default on a project does not release the applicant from liability or responsibility, financial or otherwise, for the completion of the improvements.

### **D. Inspection of Required Improvements**

Before the release of improvement guarantees, the Subdivider shall obtain a written certificate from a design professional that the improvements have, in fact, been installed in accordance with the requirements of this Ordinance. The Subdivider shall provide the certificate to the Subdivision Administrator before the release of the improvements guarantee.

### **E. Release of Guarantee Security**

The Board of County Commissioners may release a portion or all of any security posted as the improvements are completed and recommended for approval by the Subdivision Administrator, after he/she has received the required statement from a design professional.



If the final plat is disapproved by the Subdivision Administrator, the reasons for such disapproval shall be stated in writing, specifying the provisions of this Ordinance with which the final plat does not comply. One copy of such reasons and one print of the plat shall be retained by the Subdivision Administrator as part of his/her records; one copy of the reasons and one copy of the plat shall be transmitted to the Subdivider. If the Subdivider is not satisfied with the decision of the Subdivision Administrator, the Subdivider shall have thirty days to seek review by the Technical Review Committee as stated in Section 159.22.

If the final plat is approved by the Subdivision Administrator, said approval shall be noted on the plat and the reproducible copy of the approved final plat. The Subdivider shall have twenty (20) business days from the date of the final plat approval to have the plat recorded in the Register of Deeds. The Final Plat approval shall become invalid if the final plat is not recorded within the required amount of time.

**§159.54 Phased developments.**

If a developer proposes that a subdivision will be constructed in phases, the following procedure will apply:

- a) A master plan showing the entire proposed subdivision and phases of development, proposed density, proposed type and location of utilities, and proposed development timetable shall be submitted to the Subdivision Administrator.
- b) Each phase of development shall be preceded by submission and approval of a preliminary plat as outlined in §159.51 & 159.52. The master plan may be submitted prior to, or simultaneously, to the submission of the preliminary plat for the first phase of development.
- c) As each phase is completed, a final plat must be submitted and approved for that phase as outlined in §159.53.
- d) Any approved phase not completed within two (2) years shall require renewed approval.

**§159.55 As-Built Plats.**

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

**§159.56 Information to be Depicted on Preliminary, Final, and As-Built Plats.**

The preliminary and final plat shall depict or contain the requirements of NCGS 47-30 and the information indicated below. Preliminary plat information is only required for major subdivisions.

**Tax parcel identification number**

**Road name(s)**

**Sanitary Sewer Systems:** system and easement locations

**Drinking Water Wells:** location and size of community and/or shared water system easements, and location of all existing wells on site

**Watershed designation and Watershed Boundaries, if applicable**

**Floodway/Non-Encroachment Areas and Special Flood hazard Area boundaries including base flood elevation**

The as-built plats shall depict or contain the requirements of NCGS 47-30 and the information indicated below.

**Tax parcel identification number**

**Roadway and shoulder dimensions**

**Road grades**

**Road name(s)**

**Underground utilities**

**Existing water features**

**Sanitary sewer systems:** system and easement locations

**Drinking water wells:** location and size of community and/or shared water system easements, location of all existing wells on site and location of installed waterlines, valve boxes, etc. which are part of a community/shared water system and located within subdivision.

**Stormwater drainage facilities, culverts, and retention ponds**

**Watershed designation and watershed boundaries, if applicable**

**Special Flood Hazard Area boundaries including floodway/non-encroachment areas and base flood elevations.**

**§159.57 Recombination of Land.**

Any plat or any phase of an approved plat, in an approved subdivision may be vacated by the Subdivider at any time prior to the sale of any lot in the subdivision by gaining approval of and recording a plat that either:

- a) is inconsistent with the originally approved plat, **or**
- b) reflects the tract without the lots if no lots have been sold. The same procedures, rules, and regulations shall apply in gaining approval of and recording a plat for this purpose as prescribed herein for an original subdivision.

**§159.58 Resubdivision Procedures.**

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

§159.59 Reserved

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

**§159.60 General.**

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

**§159.61 Homeowners Association Shall Be Established.**

A homeowners' association shall be responsible for the maintenance and control of recreational facilities, common space, shared well water systems, community septic systems, and subdivision roads contained within a residential subdivision.

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

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

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

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

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Owner/Developer

**§159.62 Name and Road Duplication.**

All subdivisions and all roads contained within the subdivision shall be named and those shall be included on all preliminary and final plats. The name of the subdivision and the names of the roads within the subdivision shall not duplicate nor closely approximate the name of neither an existing subdivision nor any existing roads within Macon County.

**§159.63 Subdivision Design.**

**Lot Dimensions.** The minimum lot size for residential lots shall be 8000' square feet, unless minimum lot size is regulated by other Statutes or County Ordinances. Where off site sewer and water are supplied, there are no minimum requirements for lot size.

### **§159.64 Road Standards.**

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

**Compaction of Fill**-All fill material shall be stabilized in conformance with generally accepted engineering standards. Vegetation which has been cut or cleared shall be removed from the disturbed area and shall not be covered by, or imbedded in, fill material. If necessary the Subdivision Administrator may require certification of compaction by a qualified professional to determine compliance with this section.

### **Design Standards for Private Roads**

**(1) Width of road**-Graded width of roadbeds shall meet the NC Fire Prevention Code and under no circumstance the road width shall be less than 16' in width. See 159.64(8) for road widths regarding one way roads.

**(2) Stone or paved area**-Road travel area may be either stoned or paved.

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

(b) Private roads which are stoned or paved shall be constructed to the design requirements of the design professional.

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

**(4) Road grades**-Road grades shall meet the standards as set forth in §153.07 of the Macon County Soil and Erosion Control Ordinance.

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

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

**(7) Spur Roads**-Spur road grades shall meet the standards as set forth in §153.07 of the Macon County Soil and Erosion Control Ordinance.

**(8) One-way Roads**-One-way roads shall have a minimum width of 12' of driving surface and a minimum of 1.5' shoulder width on each side.

**(9) Access Roads**-Any road providing access by motor vehicles to lots or other areas used in common contained within the subdivision.

**(10) Security Gates-**Gates securing any access road to a subdivision shall comply with all the following criteria:

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

**§159.65 Other Requirements.**

No construction or installation or improvements shall commence in a proposed major subdivision until the preliminary plat has been approved, and all plans and specifications have been approved by the appropriate authorities. No building permits shall be issued for erection of a structure on any lot unrecorded at the time of adoption of this Ordinance, until all the requirements of this Ordinance have been met. Prior to commencing any work within the subdivision, the property owner(s) shall make arrangements with the Subdivision Administrator to provide for adequate inspection. The approving authorities having jurisdiction or their representatives shall inspect and approve all completed work prior to release of the sureties.

159.66 Reserved

159.67 Reserved

159.68 Reserved

159.69 Reserved

## LEGAL PROVISIONS

### **§159.70 General Procedure for Plat Approval.**

After the effective date of this Ordinance, no subdivision plat of land within the County's jurisdiction shall be filed or recorded until it has been submitted to and approved by the Subdivision Administrator as set forth in this Ordinance, and until this approval is entered in writing on the face of the plat by the Subdivision Administrator. The Register of Deeds shall not file or record a plat of a subdivision of land located within the territorial jurisdiction of the County that has not been first approved in accordance with these provisions, nor shall the Clerk of Superior Court order or direct the recording of a plat if the recording would be in conflict with this section.

### **§159.71 Issuance of Building Permits on Subdivision Lots.**

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

### **§159.72 Enforcement and Penalties for Violation.**

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

#### **(A.) Misdemeanor**

After the effective date of this Ordinance, any person who, being the owner or agent of the owner of any land located within the jurisdiction of this Ordinance, thereafter subdivides his land in violation of this Ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of land before the plat has been properly approved under the terms of this Ordinance and recorded in the Office of the Macon County Register of Deeds, shall be guilty of a misdemeanor.

The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The County through its attorney or other official designated by the Board of County Commissioners may enjoin illegal subdivision, transfer or sale of land by action for injunction. Further, violators of this Ordinance shall be subject, upon conviction, to fine and/or imprisonment as provided by G.S. 14.4.

#### **(B.) Continuing Violations**

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

#### **(C.) Equitable Remedies**

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

(D.) Combination of Remedies

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

(E.) Civil Penalties

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

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

**§159.73 Severability.**

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

§159.74 Reserved

**§159.75 Amendments and Review.**

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

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

**§159.76 Abrogation.**

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

**§159.77 Effective Date.**

This Ordinance shall take effect upon its adoption by the Macon County Commissioners the 9<sup>th</sup> day of July, 2013

**§159.78 Adoption.**

Duly adopted by the Board of Commissioners of the County of Macon, North Carolina, this the 9th day of July, 2013.

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Chairman, Board of Commissioners

ATTEST:

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C. Jack Horton

Amended: September 8, 2008  
September 14, 2009  
January 25, 2010  
July 9<sup>th</sup>, 2013