

TITLE XV: LAND USAGE

CHAPTER 152: SUBDIVISION REGULATIONS

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GENERAL PROVISIONS

152.01 SHORT TITLE.

This chapter shall be known and may be cited as the Subdivision Regulations of the town and may be referred to as the Subdivision Regulations.
(Ord., passed 9-11-85)

152.02 STATUTORY AUTHORIZATION; ENACTMENT.

The Board of Aldermen of the town, pursuant to the authority and provisions conferred by G.S. 160A-19.2, hereby ordain and enact into law this chapter.
(Ord., passed 9-11-85)

152.03 TERRITORIAL JURISDICTION.

These regulations contained herein, as provided in G.S. 160A-19, shall govern each and every subdivision within the corporate limits of the town.
(Ord., passed 9-11-85)

152.04 PURPOSE.

It is hereby declared to be the policy of the town that the subdivision and development of land for residential, commercial, and industrial purposes shall be guided and regulated in such a manner as to meet the following requirements for orderly and harmonious growth: Land to be subdivided shall be of such character that it can be used safely without danger to health, or peril from fire, flood, erosion excessive noise, air pollution, or other menace. Proper provisions shall be made for drainage, water supply, sewerage, and other appropriate utility services. The proposed streets shall provide a safe, convenient and functional system for vehicular circulation and the overall subdivision plan should safely accommodate bicycle and pedestrian circulation. The street network shall be properly related to the Land Development Plan of the area. Streets shall be of such width, grade, and location as to accommodate prospective traffic, as determined by existing and probable future land uses. Buildings, lots, blocks, and streets shall be so arranged as to afford adequate light, view, and air, and to facilitate fire protection. Land shall be subdivided and developed with due regard to topography so that the natural beauty of the land and vegetation shall be protected and enhanced.
(Ord., passed 9-11-85)

152.05 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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BUILDING SETBACK LINE. A line establishing the minimum allowable distance between the nearest portion of any building, excluding the outermost three feet of any uncovered porches, steps, gutters and similar fixtures, and the right-of-way of any street when measured perpendicular thereto. Covered porches, whether enclosed or not, shall be considered as part of the main building and shall not project into the required yard.

CUL-DE-SAC. The bulb-end design located on a short, dead end street for the purpose of providing a turnaround for vehicular traffic.

EASEMENT. A grant by the property owner of use by the public, a corporation, or persons of a strip of land for specified reasons.

FINAL PLAT. The final map or drawing on which the exact subdivision plan is presented for approval and which, if approved, will be submitted to the County Register of Deeds for recording.

FLOODWAY. The channel of a stream plus any adjacent flood plain areas that must be kept free of encroachment in order that the 100-year flood may be carried without substantial increases in flood heights.

LAND SUBJECT TO FLOOD. The principal sources of flooding in town are the Swannanoa River, Flat Creek, Tomahawk Branch, Camp Branch, and tributaries. The Federal Insurance Administration defines the 100-year flood boundary for the town on panels numbered 370033 0001 - 0002 of the Floodway Maps of the National Flood Insurance Program.

LOT. A portion of a subdivision, or any other parcel of land, intended as a unit of transfer of ownership or for development or both.

LOT, CORNER. A lot located at the intersection of two or more streets or located where one street makes a sharp angle of 80 to 120 degrees.

LOT, DEPTH OF. The mean horizontal distance between the front and rear lines.

LOT, WIDTH OF. The mean horizontal distance between the two side lot lines.

LOT OF RECORD. A lot which is a part of a subdivision, a plat of which has been recorded in the office of the Register of Deeds of the county, prior to the adoption of this chapter or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this chapter.

MINOR SUBDIVISION. A proposed subdivision which involves no new public or private streets or roads, and no easements or rights of way except for private driveway easements with each such driveway easement serving no more than two lots, where the entire tract to be subdivided is five acres or less in size, and where four or fewer lots will result after the subdivision is complete.

(Am. Ord. 0-97-11, passed 12-08-97)

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OFFICIAL MAPS or PLANS. Any maps or plans officially adopted by the Board of Aldermen as a guide for the development of the town consisting of maps, charts, and texts.

PLANNING BOARD. The Town of Black Mountain Planning Board.

PLAT. This term includes; map, plan, plot, replat or replot; a map or plan of a tract or parcel of land which is to be, or which has been subdivided. When used as a verb, **PLAT** is synonymous with subdivide.

PRELIMINARY PLAT. A tentative subdivision plan, in lesser detail than the final plat, indicating the approximate proposed layout of a subdivision as a basis of study and consideration prior to the installation of improvements.

PRIVATE STREET. A non-public right-of-way for vehicular traffic, serving three or more lots.

SHALL. The word shall is always mandatory and not merely directory.

SKETCH PLAN. An informal plan, not necessarily to exact scale, indicating salient existing features of a tract and its surroundings and the general layout of a proposed subdivision.

STREET. A dedicated and accepted public right-of-way for vehicular traffic.

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

SUBDIVISION. All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions, for the purpose, whether immediate or future, of sale or building development, and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations prescribed by this chapter.

(A) The combination or re-combination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the town as required by this chapter.

(B) The division of land into parcels greater than ten acres where no new street right-of-way dedication is involved.

(C) The public acquisition by purchase of strips of land for the widening or opening of streets, or for easements for utilities, driveways, footpaths, or other similar purposes.

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(D) The division of a tract of land in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved, and where the resultant lots are equal to or exceed the standard of the town, as required by this chapter.

(E) The division of land into cemetery lots or burial plots.

(F) The division of land for the purpose of conveying a single lot to each tenant in common, all of whom (jointly) inherited the land from a common estate. The lots must meet the requirements of the Zoning Ordinance.

UNIFIED HOUSING DEVELOPMENT A development consisting of one or more principal residential structures or buildings and accessory structures or buildings to be constructed on a lot or plot which may or may not be subdivided into the customary streets and lots.

(Ord., passed 9-11-85)

152.06 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.
- The singular number includes the plural and the plural number includes the singular.
- The words “shall” and “will” are always mandatory and not merely directory.
- The words “may” and “should” are not mandatory, but are suggestive.

APPROVAL OF SUBDIVISION PLATS

152.20 APPROVAL REQUIRED; EFFECT OF NONCOMPLIANCE.

Pursuant to G.S. 160A-372 a final plat shall be prepared, approved, and recorded for every subdivision of land in accordance with the provisions of this chapter from and after the date of filing of a copy of this chapter with the Register of Deeds of the county, no subdivision plat of land within the platting jurisdiction, as defined in Section 152.03 shall be filed or recorded until it shall have been submitted and approved in accordance with these regulations, and such approval entered in writing on the plat by the Town Clerk. The Register of Deeds, upon receipt of a copy of this chapter, shall not file or record a plat of a subdivision of land located within the platting jurisdiction as defined herein, without the approval of such plat as required herein. No street shall be accepted and maintained by the town nor shall any street lighting, water or sewer be extended to or connected with any subdivision of land, nor shall any permit be issued by an administrative agent or department of the town for the construction of any building or other improvement requiring a permit, upon any land concerning which a plat is required to be approved unless and until the requirements set forth in this chapter have been complied with and the same has been approved by the Board of Aldermen.

(Ord., passed 9-11-85) Penalty, see Section 152.99

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152.21 APPROVAL NOT DEEMED ACCEPTANCE.

The approval of a plat by the Board of Aldermen shall not be deemed to constitute or effect the acceptance by the town or the public of the dedication of any street or other real property, lake, pond, creek, open space, public utility line, or other facility shown upon the plat. (Ord., passed 9-11-85)

152.22 PROCEDURE FOR REVIEW OF MINOR SUBDIVISIONS.

MINOR SUBDIVISION shall be defined as set forth in Section 152.05. The minor subdivision process shall be used only where the subdivision includes all contiguous land under the ownership of their sponsor.

(A) Prior to submission of a final plat, the subdivider shall submit to the Zoning Administrator (or other authorized agent) three copies of a sketch plan of the proposed subdivision containing the following information:

- (1) A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, and road drawn to an appropriate scale.
- (2) The boundaries of the tract and the portion of the tract to be subdivided.
- (3) The total acreage to be subdivided.
- (4) The existing and proposed uses of the land within the subdivision and the existing uses of land adjoining it.
- (5) The existing street layout and right-of-way width, lot layout and size of lots.
- (6) Proposed private streets, which may be built with a minimum right-of-way of 20 feet.
- (7) The name, address and telephone number of the owner.
- (8) The name, if any, of the proposed subdivisions.
- (9) Streets and lots of adjacent developed or platted properties.
- (10) The zoning classification of the tract and of adjacent properties.
- (11) A statement from the County Health Department that a copy of the sketch plan has been submitted to them if septic tanks or other on site water or wastewater systems are to be used in the subdivision.

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(B) The Zoning Administrator (or other authorized agent) shall review the sketch plan for general compliance with the requirements of this chapter, the Zoning Code, and any other applicable regulations, and shall decide approval, disapproval, or approval subject to minor modifications within 15 days of submission of sketch plan.

(C) The Zoning Administrator (or other authorized agent) shall advise the subdivider of the regulations pertaining to the proposed subdivision and the procedures to be followed in the preparation and submission of the final plat. Additional information concerning the proposed subdivision may be required at the request of the Zoning Administrator (or other authorized agent).

(D) Upon approval of the sketch plan by the Zoning Administrator (or other authorized agent), the subdivider may proceed with the preparation of the final plat in accordance with the requirements of Section 152.27.

(E) The subdivider shall submit ten copies of the final plat to the Zoning Administrator (or other authorized agent) at least seven days prior to the regularly scheduled meeting of the Planning Board. Two copies of the final plat shall be on reproducible material and eight shall be black or blue line paper prints.

(F) The Planning Board shall review the final plat at or before its next regularly scheduled meeting and shall approve, conditionally approve with modifications to bring the plat into compliance, or disapprove with the reasons stated in writing and conveyed to the subdivider.

(G) Following approval of the final plat, the town clerk shall affix a signed seal of approval to the face of said plat.

(H) Upon approval of the final plat by the Planning board, the subdivider shall file the approved final plat with the Register of Deeds of the county within 60 days from the date of approval; otherwise such approval shall be null and void.
(Ord., passed 9-11-85) Penalty, see Section 152.99

152.23 SKETCH PLAN FOR MAJOR SUBDIVISIONS.

Whenever any subdivision of any tract of land is proposed, the subdivider shall submit a sketch plan and sketch vicinity map of the proposed subdivision to the Zoning Administrator (or other authorized agent) at least seven days prior to a regularly scheduled meeting of the Planning Board. The subdivider may appear at the regularly scheduled meeting of the Planning Board to discuss the proposed subdivision and be advised of the regulations affecting the subdivision of land within the town. This procedure is mandatory.

(Ord., passed 9-11-85)

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152.24 SKETCH PLAN REQUIREMENTS

The sketch plan shall be drawn at an appropriate scale and shall include the tentative street layout, approximate right-of-way width, lot arrangements, the locations of existing water and sewer lines, existing structures, water courses, floodplains, wetlands, steep slopes (>20%), wooded areas, unusual or unique natural features, total acres, approximate number of lots, adjoining streets, north point, tract boundary, and proposed use of land.

(A) The Planning Board shall review the sketch plan for general compliance with the requirements of this chapter, the Zoning Code, and any other applicable regulations.

(B) The Planning Board shall advise the subdivider 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.

(Ord., passed 9-11-85) Penalty, see Section 152.99

152.25 PRELIMINARY PLAT SUBMISSION AND REVIEW.

(A) For every subdivision within the town which does not qualify for the abbreviated procedure for minor subdivisions in Section 152.22, the subdivider shall submit a preliminary plat which shall be reviewed and approved by the Town Planning Board before any construction or installation of improvements may begin.

(B) The subdivider shall submit ten copies of the preliminary plat to the Zoning Administrator (or other authorized agent) at least seven days prior to a regularly scheduled meeting of the Planning Board. Two copies of the preliminary plat shall be on reproducible material and eight copies may be black or blue drawings. Preliminary plats shall meet the specifications in Section 152.27

(C) If the Planning Board determines that the land to be subdivided warrants special consideration because of topographical or other conditions peculiar to the site, the subdivider shall submit, upon request, a topographic map with a contour interval of 20 feet.

(D) Before acting on the preliminary plat, the Planning Board may request a report from any person or agency directly concerned with the proposed development, such as the District Highway Engineer, County Health Department, the Superintendent of Schools, and any other officials or agencies deemed necessary. Such report shall certify compliance with or note deviations from the requirements of this chapter and include comments on other factors which bear upon the public interest.

(E) The Planning Board shall review the preliminary plat at or before its next regularly scheduled meeting and shall decide approval, conditional approval subject to minor modifications, or disapproval. If the Planning Board disapproves the preliminary plat, the reason for such actions shall be stated in writing and references shall be made to the specific regulations with which the preliminary plat does not comply. If conditionally approved subject to modifications, the nature of the required modifications shall be indicated.

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(F) Failure of the Planning Board to act on the preliminary plat by the second regularly scheduled meeting after submission of the preliminary plat shall be deemed as a basis for appealing to the Board of Aldermen for approval or disapproval.

(G) Approval of the preliminary plat shall be effective for a period not to exceed one year and shall thereafter expire and be considered null and void, unless a petition for an extension of time is submitted to and subsequently approved by the Planning Board.
(Ord., passed 9-11-85) Penalty, see Section 152.99

152.26 FINAL PLAT SUBMISSION AND REVIEW.

In accordance with Sections 152.20 and 152.21, no street shall be accepted and maintained by the town, nor shall any street lighting, water, or sewer be extended to or connected with any subdivision or land as defined herein, nor shall any permit be issued by an administrative agent or department of the town for the construction of any building or other improvement requiring a permit, upon any land concerning which a plat is required to be approved unless and until the final plat has been approved by the Board of Aldermen. The procedure for obtaining final plat approval is as follows:

(A) Upon approval of the preliminary plat by the Planning Board, the subdivider may proceed with the preparation of the final plat, and the arrangement for required improvements in accordance with the approved preliminary plat and the requirements of Section 152.50 through 152.52.

(B) The subdivider shall submit ten copies of the final plat to the Zoning Administrator at least seven days prior to a regularly scheduled meeting of the Planning Board. The ten copies of the final plat shall include the original tracing, a reproducible permanent tracing, and eight black or blue lines print. The final plat shall be either **18 inches by 24 inches or 24 inches by 36 inches.**
(Am. Ordinance 0-94-06, passed 04-11-94)

(C) The final plat shall be prepared by a Registered Land Surveyor currently licensed and registered in the State by the State 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. 47.309 as amended, in the Manual of Practice for Land Surveying in North Carolina, and in Section 152.27 of this code.

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(3) *Certificate of Approval for Recording Plat and Acceptance of Dedications.*

I, _____, the Town Clerk of the Town of Black Mountain, North Carolina, do hereby certify that on the ___ day of _____, (year), the Board of Aldermen of the Town of Black Mountain approved this plat for recording and accepted the dedication of the streets, easements, rights-of-way and public parks and other sites for public purposes as shown hereon, but assume no responsibility to open or maintain same until in the opinion of the governing body of the Town of Black Mountain, it is in the public interest to do so.

Date
Seal

Town Clerk

(E) The Planning Board shall review the final plat and shall take formal action. The Planning Board shall recommend in writing approval or disapproval and shall convey the recommendation to the Board of Aldermen and the subdivider. If the action is to recommend disapproval, the reasons for the action shall be stated and specific reference shall be made to regulations with which the final plat does not comply.

(F) If the Planning Board fails to act on the final plat by the second regularly scheduled meeting after its submission, the subdivider may seek approval of the final plat at the next regularly scheduled meeting of the Board of Aldermen.

(G) The Board of Aldermen shall approve or disapprove the final plat at a regular meeting following a recommendation by the Planning Board. Approval of the final plat by the Board of Aldermen shall be shown on the original and all copies of the final plat.

(H) Such approval shall be void unless the final plat is offered for filing and recording in the office of the Register of Deeds of the county within 60 days from the date of approval.

(I) The original tracing of the plat shall be returned to the subdivider; the reproducible tracing shall be retained in the Town Manager's office; one print shall be filed with the Town Clerk; and one print shall be retained by the Zoning Administrator.
(Ord., passed 9-11-85) Penalty, see Section 152.99

152.27 SPECIFICATIONS FOR PRELIMINARY AND FINAL PLATS

The preliminary and final plats shall depict or contain the information indicated in the following table. An "X" indicates that the information is required. Preliminary and final plats shall be clearly and legibly drawn at a scale of not less than 100 feet to one inch and shall be drawn on a sheet size acceptable to the Register of Deeds of the county.

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<i>Information</i>	<i>Preliminary Plat</i>	<i>Final Plat</i>
Title Block Containing:		
• Property designation	X	X
• Name of owner of record	X	X
• Name of subdivision	X	X
• Location (township, county, state)	X	X
• Date(s) of survey and plat preparation	X	X
• Graphic scale	X	X
• Name, address, registration number and seal of Registered Land Surveyor	X	X
• Sketch vicinity map showing the relationship between the proposed subdivision and surrounding area	X	X
• Exact boundaries of the tract to be subdivided, shown with bearings and distances	X	X
• Names of owners of record of all adjoining boundaries which intersect with the perimeter of the tract being subdivided	X	X
• Topographic map, if requested	X	X
• North point	X	X
• The zoning classifications of the tract to be subdivided and all adjoining property	X	
• Wooded areas, marshes, rock outcrops, ponds or lakes, streams, and any other natural features affecting the site	X	
• The exact location of the flood hazard, floodway and floodway fringe areas	X	X
Streets:		
• Proposed streets	X	X
• Existing and platted streets on adjoining properties and in the proposed subdivision	X	X
• Right-of-way, location and dimensions	X	X
• Approximate grades	X	X
• Street names	X	X
Utilities:		
• Utility and other easements of record on and adjacent to the subdivision	X	X
• Transmission lines	X	

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<i>Information</i>	<i>Preliminary Plat</i>	<i>Final Plat</i>
Utilities cont'd		
• Natural gas lines	X	
• Sanitary sewers, location and size	X	
• Storm sewers, culverts, and other drainage facilities, if any	X	
• Water lines, location and size	X	
• Note all lots or building sites with an elevation of 2,540 feet or greater	X	
• Plans for individual water supply and sewerage disposal systems, if any	X	
• Existing property lines on the tract to be subdivided	X	X
• Existing buildings or other structures, railroads, and bridges on the land to be subdivided and land immediately adjoining	X	
• Proposed lot lines, with bearings and distances, and lot and block numbers	X	X
• Minimum building setback lines	X	X
• Proposed parks, school sites, or other public open spaces	X	X
Site Calculations:		
• Acreage in total tract to be subdivided	X	X
• Total number of lots	X	X
• Linear feet in streets	X	
• Area of each lot in square feet	X	
• Site description shall meet the requirements of G.S. 47-30 as amended		X
A copy of the erosion control plan submitted to the Department of Natural Resources and Community Development, Land Quality Section, Regional Office (Asheville, NC), if the land disturbing activity involves one acre or more	X	
Evidence of state approval of the erosion control plan, if applicable		X
Any other information considered by the subdivider, the Planning Board, and the Board of Aldermen to be pertinent to the review of the plat.	X	X
All certifications required in Section 152.26(D). (Ord., passed 9-11-85) Penalty, see Section 152.99		X

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***DEVELOPMENT STANDARDS
FOR MAJOR SUBDIVISIONS***

152.40 COMPLIANCE REQUIRED.

The following planning and design standards shall be complied with and no higher standard may be required by the Planning Board, except where because of exceptional and unique conditions of topography, location, shape, size, drainage or other physical features of the site, or because of the special nature and character of surrounding development, the minimum standards specified would not reasonably protect or provide for public health, safety or welfare, provided, however, that no greater right-of-way widths or any additional land to be dedicated for public open spaces shall be required than is specified in Schedule I which is set forth in Section 152.41(F).

(Ord., passed 9-11-85) Penalty, see Section 152.99

152.41 GENERAL REQUIREMENTS.

(A) Conformity to existing maps or plans. The plat of a subdivision shall conform to the Land Development Plan of the town as approved by the Planning Board and adopted by the Board of Aldermen. For subdivisions in Traditional Neighborhood Development (TND) zoning districts, the plat shall conform to the approved Master Plan. For Planned Unit Development subdivisions, the plat shall conform to the approved plans and conditional use application. (Am. Ord. 0-98-10, Passed 08-10-98, Ord. O-99-10, Adopted 06-14-99)

(B) Continuation of adjoining street system. The proposed street layout shall be coordinated with the existing street system of the surrounding area. Where possible, proposed streets shall be the extension of and/or connected to existing streets.

(C) Private streets. There shall be no private streets platted in any subdivision.

(D) Large tracts or parcels. Where land is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow for the opening of future streets and logical further re-subdivision.

(E) Lots. All lots shall meet or exceed the minimum lot frontage requirements for the zoning district in which they are located.

(F) Contour map. A contour map shall be provided if requested by the Planning Board. The contour interval shall be at least 20 feet.

(G) Street names. Proposed streets, which are obviously in alignment with others existing and named, shall bear the assigned name of the existing streets. In no case shall the names for proposed streets duplicate or be phonetically similar to existing street names, irrespective of the use of the suffix street, avenue, boulevard, drive, place, court, and the like.

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(H) Suitability of the land. Land which the Planning Board has found to be unsuitable for subdivision due to flooding, bad drainage, steep slopes, rock formations, and features likely to be harmful to the safety, health, and general welfare of the future residents shall not be subdivided unless adequate methods approved by all public agencies concerned are formulated by the developer for meeting the problems created by the subdivision of each land.

(I) Flood damage. All subdivision proposals shall be consistent with the need to minimize flood damage.

(J) Utilities. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(K) Compliance with Flood Insurance Program. Land within the floodway, as defined by the National Flood Insurance Rate Maps (Panels 370033 0001-0002) for the town shall not be platted for residential occupancy or building sites. Land outside the floodway, but subject to flooding, may be platted for residential occupancy provided each lot contains a building site that may reasonably lend itself to construction of a floor level above the elevation of the 100-year flood, or for such other uses which will not increase the danger to health, life, and property. Fill shall not be used to raise land in the floodway.

(L) Recreation areas and open space. Every person or corporation who subdivides ten (10) or more acres of land for thirty (30) or more families shall be required to dedicate an adequate amount, and safe location of recreational areas according to the concentration of residential occupancy. Only land usable for recreational purposes will be considered as recreation areas. The Planning Board may require the dedication of land not exceeding ten percent (10%) of the total area for public recreation areas.”

(Ord., passed 9-11-85; Am. Ord. Passed 6-14-99) Penalty, see Section 152.99

152.42 DESIGN STANDARDS.

The following design standards shall be considered minimum requirements:

(A) Street standards. Street designs shall permit the comfortable and safe use of the street by motorists, pedestrians, and bicyclists. Pavement widths, design speeds and the number of motor travel lanes should be minimized to enhance safety for motorists and non-motorists alike. The specific design of any given street must consider the relationship of the street to the overall town street network. The standards for streets are set forth in Schedule I, which is set forth in division (F) of this section.

(Ord. 0-07-03, passed 5-14-07 - deleted A-1, renumbered remaining sections; see Chapter 151, Article 5, Section A, paragraphs 12-15)

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(1) Every street shall be designed to accommodate a 25 year, hour storm drainage standard.

(2) The maximum grade of 14% may be waived up to a maximum of 18% grade by approval of the Board of Adjustments through the variance procedure.

(3) To prevent the build-up of vehicular speed, disperse traffic flow, and create a sense of visual enclosure, long uninterrupted segments of straight streets should be avoided.

(4) Ramps for Handicapped Persons. Where curbs are provided on streets or where curbs and sidewalks are constructed within any subdivision, any construction shall be in full compliance with the provisions of N.C.G.S. 163-44.14 which sets forth standards for providing curb ramps or curb cuts for handicapped persons.

(B) Intersections. Angles at intersections of street center lines are set forth in Schedule I, which is located in division (F) of this section.

(1) Intersections with a major thoroughfare shall be at least 800 feet apart measured from center line to center line, wherever possible.

(2) Property lines at street intersections shall be rounded with a minimum radius of 15 feet. (Am. Ord. 0-98-10, passed 08-10-98)

(C) Cul-de-sacs. Permanent dead-end streets shall not exceed 500 feet in length, unless exception is granted by the Planning Board, and shall be provided with a turnaround having a roadway diameter of at least 70 feet and a right-of-way diameter of at least 90 feet. Temporary dead-end streets shall be provided with a turnaround having a 40 foot radius. Cul-de-sacs shall not be used to avoid connection with an existing street or to avoid the extension of an important street.

(D) Lots. The size, shape, and orientation of non-residential lots shall be such as the Planning Board deems appropriate for the type of development and use contemplated. All lots shall comply with the Zoning Code of the town.

(E) Easements. Utility and other easements shall be provided as follows:

(1) Utility easements centered on rear or side lot lines shall be provided where deemed necessary by the Planning board and shall be at least ten feet in width.

(2) Where a subdivision is traversed by a water course, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width or construction or both, as may be adequate for the purpose of drainage.

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(3) Lakes, ponds, creeks, and similar areas within a subdivision will be accepted for maintenance only if such acceptance is recommended by the Planning Board and approved by the Board of Aldermen.

(F) Schedule I Design Standards is set forth as follows:

**Schedule I
Design Standards**

Standards*	Streets
Minimum Right-of-Way Width:	
Curb and Gutter Section	40 feet
Shoulder Section	40 feet
Minimum Pavement Width:	
Curb and Gutter Section	20 feet
(Measured back of curb to back of curb)	
Shoulder Section	18 feet
Maximum Grade	14%
(See also 152.42 (A) (3))	
Maximum Grades with 50' of Center Line Intersections	5%
Angles of Intersections	75 deg.-90 deg.

*Source: NC Department of Transportation, Subdivision Roads: Minimum Construction Standards, July 1, 1985.

NOTE - Streets shall be organized according to a hierarchy based on function, size, capacity and design speed. Streets and rights-of-way are therefore expected to differ in dimension. The proposed hierarchy of streets shall be indicated on the submitted Preliminary Plat and each street type shall be separately detailed.

(Ord., passed 9-11-85, Am. Ord. O-95-04, passed 6-12-95, Am. Ord. 0-96-03, passed 3-11-96)
Penalty, see Section 152.99

INSTALLATION OF IMPROVEMENTS

152.50 PERMANENT REFERENCE POINTS.

Prior to the approval of the final plat, permanent reference points shall have been placed in accordance with G.S. 47-30, as amended.

(Ord., passed 9-11-85) Penalty, see Section 152.99

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152.51 IMPROVEMENTS WITHIN TOWN.

The town reserves the right to inspect, reject, stop or otherwise cease the construction of all service facilities or improvements in the event the same are not being constructed in accordance with plans, specification standards, policies, or other requirements of the town set forth in this section.

(A) Intent of specifications. The intent of those specifications is to prescribe minimum requirements for street improvements to be undertaken by the developer within the town. Satisfactory completion of these improvements will qualify streets in the town to be accepted for maintenance by the town.

(B) Grading. All streets shall be graded to their full pavement width back to back of curb, and for an additional five feet on each side of the pavement width. Finished grade, cross-section and profile shall be approved by the town Planning Board. Due to special topographical conditions, deviation from the above will be allowed only as a variance by the Planning Board. (See Section 152.72)

(1) Preparation. Before grading is started, the required grading width shall be first cleared of all stumps, roots, brush, and other objectionable

materials and all trees not intended for preservation

(2) Cuts. All tree stumps, boulders, and other obstructions within the proposed pavement width shall be removed to a depth of one foot below the subgrade. Rock, when encountered, shall be scarified to a depth of one foot below the grade. Cut slopes shall not exceed a ratio of greater than 1:1.

(3) Fill. All suitable material from roadway cuts may be used in the construction of fills, approaches, or at other places as needed. The fill shall be spread in layers not to exceed 12 inches loose and compacted by a sheep's foot roller. The filling of utility trenches shall be with a suitable material and compaction of at least 95% and shall be rolled or mechanically tamped. Fill slopes shall not exceed a ratio of greater than 1 1/2:1.

(C) Pavement base. After preparation of the subgrade, the road-bed shall be surfaced with material of no lower classification than crushed rock, stone, or gravel. The size of the crushed rock or stone shall be that generally known as "crusher run stone" from 1 1/2 inches down including dust. Spreading of the stone shall be done uniformly over the area to be covered by means of appropriate spreading devices and shall not be dumped in piles. After spreading, the stone shall be rolled until thoroughly compacted. The compacted thickness of the stone roadway shall be no less than six inches. The developer shall be responsible for the preparation of the roadbed and the initial paving.

(D) Pavement. Pavement shall be of not lower classification than a Double Bituminous Surface Treatment applied in a thickness of no less than 1 1/2 inch I-2. Minimum pavement width shall be in accordance with Schedule I as set forth in Section 152.42(F).

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(E) Installation of utilities and driveways. After grading is completed and approved and before any base is applied, all of the underground work - water mains, gas mains, and the like - and all service connections shall be installed completely and approved throughout the length of the road. All driveways for houses to be built by the developer shall be cut and prepared for a minimum 15 inch culvert. All utilities shall be located underground.

(1) Water supply system. Water mains properly connected with community water supply system or with an alternate supply approved by the Department of Health Services shall be constructed in such a manner as to serve adequately, for both domestic use and fire protection, all lots shown of the subdivision plat.

(2) Sanitary sewers. When the subdivision is located within the service area of a public sewerage system, sanitary sewers shall be installed in such a manner as to service adequately all lots with connection to the public system. Where lots cannot be economically connected with a sewerage system, they must contain adequate area for the installation of approved septic tank and disposal fields and must be approved in writing by the county health officer.

(3) Whenever an extension of a water and sewer line is necessary in a subdivision, the developer shall be responsible for the cost of labor, materials, and appurtenances to install the water or sewer extensions in accordance with the specifications of the state Division of Health Services and the Town of Black Mountain (for water systems) or the state Division of Environmental Management and the Metropolitan Sewerage District (for sewer systems). The developer shall be responsible for the operation and maintenance of such systems for at least one year following the acceptance of the system by the town. The town will not accept or maintain any water system which does not contain a pressure of 30 p.s.i. base upon the existing main take level. All water taps shall be made by the town. The town may require the installation of increased line sizes if it is determined that such increase is necessary to serve adjacent property.

(F) Sidewalks. Sidewalks shall be constructed on at least one side of all new streets, and shall be at least five feet wide. Exceptions to this requirement may be granted by the Planning Board where topography or other natural features make this requirement impractical. Sidewalks shall be constructed within the street right-of-way and installed as follows:

(1) Material and construction. Sidewalks shall be constructed of not less than 4,000 P.S.I. concrete and shall be five feet wide, four inches thick, constructed on an adequately graded base, except that where the sidewalk crosses a driveway it shall be six inches thick. The surface of the sidewalk shall be steel trowel and light broom finished and cured with an acceptable curing compound. Tooled joints shall be provided at intervals of not less than five feet and expansion joints at intervals of not less than 30 feet. The sidewalk shall have a lateral slope of 1/4 inch per foot.

(2) Elevation. The elevation of the sidewalk shall be related to the elevation of the crown of the adjacent roadway. The sidewalk shall be no less than six inches or more than eighteen inches above the roadway crown, except that crosswalk elevations shall be properly related to existing or prospective roadway curb.

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(G) Erosion Control. The subdivider shall cause all grading, excavations, open cuts, side slopes and other land surface disturbances to be mulched, seeded, sodded, or otherwise protected to comply with the North Carolina Sedimentation Pollution Control Act, Article 4 of N.C.G.S. 113.

(H) Existing Flora. All subdividers shall make every effort to protect and retain existing trees, shrubbery, vines, and grasses not actually lying in public roadways, drainage-ways, building foundation sites, private driveways, soil absorption waste disposal areas, paths and trails wherever possible. Trees are to be protected and preserved during construction in accordance with sound conservation practices. All such trees are to be preserved by well islands or retaining walls wherever abutting grades are altered.

(Ord., passed 9-11-85, Am. Ord. O-87-1, passed 5-11-87; Am. Ord. O-88-1, passed 12-12-88)

152.52 IMPROVEMENTS BEYOND TOWN LIMITS

In the adopting of this chapter the Board of Aldermen recognizes that under the subchapter statutes it may not be mandatory that a subdivision located beyond the town limits shall comply with the requirements set forth in this subchapter and other existing policies and ordinances of the town as a condition precedent for final approval of a plat of such subdivision. However, unless such requirements are complied with by the subdivider, the town will not extend any public service and will not extend its water or sewer services to any such subdivision or permit any connection thereto.

(Ord., passed 9-11-85)

UNIFIED HOUSING DEVELOPMENT (UHD and PLANNED UNIT DEVELOPMENT (PUD)

152.60 MODIFICATION OF PLAN

The standards and requirements of this chapter may be modified by the Planning Board in the case of a plan for the Unified Housing Development or a Planned Unit Development (as set forth in Section 153.094 and 153.100 of the Zoning Code) if, in the judgment of the Board, the plan provides adequate public spaces and improvements for the circulation, recreation, light, air, and services needs of the tract when fully developed and populated, and which also provides such covenants or other legal provisions which will insure conformity to and achievement of the plan.

(Ord., passed 9-11-85; Am. Ord., passed 6-14-99)

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TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND)

152.65 MODIFICATION OF REQUIREMENTS

The standards and requirements of this chapter may be modified by the Planning Board in the case of a plan for a Traditional Neighborhood Development (as set forth in Section 153.081 of the Zoning Code) if, in the judgment of the Planning Board,

(1) the plan provides adequate public spaces and improvements for the pedestrian and vehicular circulation, recreation and public and private services needs when fully developed and populated, and

(2) which also provides such covenants or other legal provisions which will insure conformity to and achievement of the plan.

(Am. Ord. 0-98-10, passed 08-10-98)

ADMINISTRATION

152.70 SUBDIVISION ADMINISTRATOR

The holder of the office of Zoning Administrator is hereby appointed to serve as Subdivision Administrator.

(Ord., passed 9-11-85)

152.71 GENERAL PROCEDURE FOR PLAT APPROVAL.

(A) After the effective date of this chapter, no subdivision plat of land within the town shall be filed or recorded until it has been submitted to and approved by the Planning Board as set forth in Section 152.20 through 152.27, and until this approval is entered in writing on the face of the plat by the Board of Aldermen as attested by the Town Clerk.

(B) The Register of Deeds shall not file or record a plat of a subdivision of land located within the town that has not been approved in accordance with these provisions, nor shall the Clerk of Superior court order and direct the recording of a plat if the recording would be in conflict with this section.

(Ord., passed 9-11-85)

152.72 VARIANCES.

(A) Where, because of severe topographical or other conditions peculiar to the site, strict adherence to the provisions of this chapter would cause an unnecessary hardship, the Planning Board may recommend and the Board of Aldermen may authorize a variance, if such variance can be made without destroying the intent of this chapter. Any variance thus authorized is required to be entered in writing in the minutes of the Planning Board and the Board of Alderman and the reasoning on which the departure was justified set forth.

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(B) Notice of variance request. All property owners within the development and within 200 feet of the development shall be notified by the Planning Board when a variance is requested. This notice shall include the date, time and place of the meeting held to consider the variance request.

(Ord., passed 9-11-85, Am. Ord. O-88-12, passed 12-12-88)

152.73 AMENDMENTS.

(A) The Board of Aldermen may from time-to-time amend the terms of this chapter, 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 30 days from the time a 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 this amendment.

(B) No amendment shall be adopted by the Board of Aldermen until they have held a public hearing on the amendment. Notice of the hearing shall be published in a newspaper of general circulation in the town area at least once a week for two successive calendar weeks prior to the hearing. The initial notice shall appear not more than 25 days nor less than 10 days prior to the hearing date. In computing the notice period, the date of publication is not to be counted, but the date of the hearing is.

(Ord., passed 9-11-85).

152.74 ABROGATION.

It is not intended that this chapter 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 chapter imposes greater restrictions, the provisions of this chapter shall govern.

(Ord., passed 9-11-85)

152.75 PRE-EXISTING SUITS AT LAW OR IN EQUITY; PROSECUTION.

All suits at law or in equity and all prosecutions resulting from the violation of any subdivision ordinance heretofore in effect, which are now pending in any of the courts of this state or of the United States, shall not be abated or abandoned by reason of the adoption of this chapter, but shall be prosecuted to their finality the same as if this chapter had not been adopted; and any and all violations of the existing ordinance, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in this chapter shall be construed as to abandon, abate, or dismiss any litigation or prosecution now pending and which may heretofore have instituted or prosecuted.

(Ord., passed 9-11-85)

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152.76 SEPARABILITY.

Should any section or provision of this Ordinance be declared 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.

152.99 PENALTY.

After the effective date of this chapter any person who, being the owner or agent of the owner of any land located within the corporate limits of the town thereafter subdivides his land in violation of this chapter, or begins improvement of the land (including grading and excavation for roads and utilities), 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 chapter and recorded in the Office of the 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 transactions from this penalty. The town through its attorney or other official designated by the Board of Aldermen may enjoin illegal subdivision, transfer, or sale of land by action for subject, upon conviction, to fine and imprisonment as provided by G.S. 14-4. (Ord., passed 9-11-85, Am. Ord. 0-98-11, passed 10-12-98)

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APPENDIX "A" - PRELIMINARY PLAT CHECKLIST

SUBDIVISION RECORD: DATE SUBMITTED: _____

_____ HILLSIDE SUBDIVISION (Ref. To Section 153.071)

NAME OF SUBDIVISION : _____

LOCATION : _____

OWNER _____ ADDRESS _____ TELEPHONE _____

LAND PLANNER _____ ADDRESS _____ TELEPHONE _____

SURVEYOR _____ ADDRESS _____ TELEPHONE _____

CHECKLIST

- ___ Vicinity map embracing subdivision and surrounding area.
- ___ Ten (10) copies of preliminary plat.
- ___ Scale: 1" : 100% or larger.
- ___ Name of subdivision and owner.
- ___ North point, graphic scale, date.
- ___ Boundaries of tract with bearings and distances.
- ___ Name of adjoining property owners or subdivisions.
- ___ The location of existing sewers, water and gas mains, and other utilities.
- ___ The location of existing streets, easements, bridges, culverts, railroads, water courses, etc.
- ___ Name, location, and approximate dimensions and grades of proposed streets.
- ___ Name, location, and approximate dimensions of easements, parks and reservations, lot lines, etc.
- ___ Contour map, if required.
- ___ Proposed lot lines, building lines, and approximate dimensions.
- ___ Lot and block numbers.
- ___ Proposed minimum building and setback lines.
- ___ Proposed parks, school sites, or other public open spaces, if any.
- ___ Preliminary plan for surface drainage or storm drainage.
- ___ Erosion control plan as submitted to the N. C. Department of Natural Resources and Community Development..
- ___ Zoning classification, if any, on the land to be subdivided and on adjoining land.
- ___ Conforms to general requirements and minimum design standards
- ___ Acreage in total tract.
- ___ Total number of lots.
- ___ Lots noted with elevations of 2,540 feet or higher.

DATE OF CERTIFICATION OF APPROVAL BY DISTRICT HIGHWAY ENGINEER _____

DATE OF CERTIFICATION BY REGISTERED ENGINEER _____

DATE OF CERTIFICATION OF WATER SUPPLY AND SEWERAGE DISPOSAL SYSTEM BY CO. HEALTH OFFICER _____

APPROVED TO PROCEED TO FINAL PLAT:

Signed:

Date:

TITLE XV: LAND USAGE

APPENDIX "B" - FINAL PLAT CHECKLIST

SUBDIVISION RECORD: DATE SUBMITTED: _____

FINAL PLAT PRELIMINARY APPROVAL DATE: _____

____ MINOR SUBDIVISION
____ HILLSIDE SUBDIVISION (Ref. To Section 153.071)

NAME OF SUBDIVISION _____

LOCATION _____

OWNER _____ ADDRESS _____ TELEPHONE _____

LAND PLANNER _____ ADDRESS _____ TELEPHONE _____

SURVEYOR _____ ADDRESS _____ TELEPHONE _____

CHECKLIST

- ___ Vicinity map embracing subdivision and surrounding area.
___ Name of subdivision, owner, date, north point, graphic scale, and location.
___ Submitted within twelve (12) months of preliminary approval.
___ Ten (10) copies of final plat.
___ Scale: 1" : 100' or larger.
___ Names and lines of streets and alleys' percent of grades.
___ Lot lines, building lines, minimum setback lines.
___ Lot and block numbers.
___ Reservations, easements, public areas, or sites for other than residential use with explanation of purpose.
___ Contour map, if required.
___ Location and description of monuments.
___ Names and locations of adjoining subdivision and streets and the location and ownership of adjoining unsubdivided property.
___ Utility layouts, size(s) of water lines, gas lines, sewer lines.
___ Storm drainage plans.
___ Acreage in total tract.
___ Area of each lot in square feet.
___ Total number of lots.
___ Each lot noted with an elevation greater than or equal to 2,540 feet.
___ Conforms to general requirements and minimum design standards.
___ Evidence of state approval of the erosion control plan (if applicable).
___ Required certificates.

ON SITE FIELD INSPECTION _____ BY: _____ DATE: _____

COMMENTS: _____

DATE OF PLANNING BOARD APPROVAL _____

DATE APPROVED FOR RECORDING BY BOARD OF ALDERMEN _____

APPROVED TO PROCEED TO FINAL PLAT:

Signed: _____

Date: _____