

ARTICLE IV. - MAJOR AND MINOR SUBDIVISIONS

Sec. 12-51. - Approval process.

- (a) Major subdivisions are subject to a three-step approval process:
 - (1) Preliminary plat review by technical review committee;
 - (2) Preliminary plat approval by the planning board;
 - (3) Sale of lots is permitted after final plat approval by the planning board (section 12-54).
- (b) Minor subdivisions only require a one-step approval process: Final plat approval by the administrator (section 12-53).

(Ord. of 1-4-94, § 5.1; Amd. of 5-20-97)

Sec. 12-52. - No subdivision without plat approval.

- (a) No person who is the owner or the agent of the owner of land shall subdivide land in violation of this chapter or transfer or sell 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 provisions of this chapter and recorded in the office of the county register of deeds. In particular, no person may subdivide his land unless and until a final plat of the subdivision has been approved in accordance with the provisions of sections 12-53 or 12-54.
- (b) The county register of deeds may not record a plat of any subdivision within the county's planning jurisdiction unless the plat has been approved in accordance with this chapter.
- (c) The provisions of this section shall not prohibit any owner or agent of the owner of land from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not yet been properly approved under this chapter or recorded with the county register of deeds, provided such is done in compliance with G.S. § 153A-334, as amended.

(Amd. of 5-20-97; Ord. of 10-3-00; Amd. of 4-1-08, § 11)

Sec. 12-53. - Minor subdivision approval.

- (a) The administrator shall approve or disapprove minor subdivision plats in accordance with the provisions of this section.

- (b) The applicant for minor subdivision plat approval, before complying with subsection (c), shall submit a sketch plan to the administrator for a determination of whether the approval process authorized by this section can be and should be utilized. The administrator may require the applicant to submit whatever information is necessary to make this determination, including, but not limited to, a copy of the tax map showing the land being subdivided and all lots previously subdivided from that tract within the last five (5) years.
- (c) Applicants for minor subdivision approval shall submit to the administrator a plat along with two (2) copies conforming to the requirements set forth in section 47-30 of the General Statutes, and containing these certificates:

(1) *Reserved.*

(2) *Certificate of approval:*

I hereby certify that the minor subdivision shown on this plat is in all respects in compliance with the Cleveland County Code, and that this plat has been approved by the administrator, subject to being recorded with the Cleveland County Register of Deeds.

Administrator

Date

- (3) A certificate of survey and accuracy, in the form stated in section 12-55(2).
- (4) In addition to endorsements (1) and (2) above, the minor plat shall contain the following information:

General Information:

Scale (Written and graphic)

North Arrow (Grid North)

Name and address of owner

Tax Map

Plan Details

Standards as required by G.S. 47-30

- (5) The administrator shall take expeditious action on an application for minor subdivision plat approval as provided in section 12-40. However, either the administrator or the applicant may at any time refer the application to the major subdivision approval process.

- (6) Not more than a total of five (5) lots may be created out of the tract using the minor subdivision plat approval process, regardless of whether the lots are created at one time or over an extended period of time.
- (7) The reservation of a strip for a future street shall cause the plat to be referred to the planning board as a major subdivision.
- (8) If the subdivision is disapproved, the administrator shall promptly furnish the applicant with a written statement of the reasons for disapproval.

(Amd. of 5-20-97; Ord. of 10-3-00; Amd. of 4-4-06)

Sec. 12-54. - Major subdivision approval process.

(a) *Master Plan.* The applicant for major subdivision plat approval shall submit to the administrator five (5) copies of a master plan of the proposed development. The master plan shall contain the following information:

- (1) Project name.
- (2) North arrow and scale.
- (3) Tract boundary with bearings and distances.
- (4) Sketch of interior lots, street rights-of-way, and natural drainage features.
- (5) All street intersections bordering the tract.

(b) *Preliminary Plat Review.*

(1) The developer shall submit to the administrator, five (5) copies of a preliminary plat of the entire project or any phase for which final approval is to be sought. When more than one sheet is required to include the entire subdivision, all sheets shall be the same size, not greater than 18" x 24", and shall show appropriate match marks on each sheet and appropriate references to other sheets of the subdivision. The scale of the plat shall be at 1" = 100' (1:1200).

(2) In addition to the appropriate endorsements, as provided in section 12-55, the preliminary plat shall contain the following information:

o **General Information:**

- Scale (written and graphic)
- North Arrow (Grid North)
- Name and address of owner or developer and surveyor
- Project Name (and phase if applicable)

- Vicinity Map
- Project Map (relationship to other phases)
- Tax Map Reference

- **Site Data:**
 - Acreage in total tract or phase
 - Acreage in different land uses
 - Average lot size
 - Total number of lots
 - Water system
 - Sewer system
 - Minimum building setbacks
 - School district

- **Plan Details:**
 - Location of proposed streets with rights-of-way, drainage structures, bridges, easements, and sight distances.
 - Identification of streets as public or private and deed book and page reference of recorded disclosure statement.
 - Proposed street names.
 - Lot lines shown in bearings and distances, exclusive of street rights-of-way.
 - Lots numbered consecutively.
 - Names of adjoining property owners with deed book and page references and subdivision names if applicable.
 - Location of proposed water, sewer, gas, and storm drainage system.
 - Minimum of two (2) permanent Berntsen monuments or approved equal placed along the outside boundary so that no point within the

subdivision lies more than fifteen hundred (1,500) feet from a monument.

- Area classified as a floodplain and/or floodway by the Federal Emergency Management Association, shown on plat.
- Standards as required by section 47-30(f) of the General Statutes.
- Landscaping plans as required by article XV specifying type, size, location, and other details as applicable.
- Evidence of an approved Erosion Control Plan, if required under the North Carolina Sedimentation Pollution Control Act of 1973.
- If Erosion Control Plan is required, topographic features must be shown on preliminary plat.

- (3) The technical review committee shall meet and review the proposed preliminary plat. A written statement of the recommendations shall be forwarded to the developer.
 - (4) The planning board shall meet and approve or disapprove the proposed preliminary plat. If the planning board should recommend revisions to the preliminary plat, the reasons for such recommendations shall be communicated in writing to the developer, including any recommendations received from other county and/or state agencies.
 - (5) Approval of the preliminary plat by the planning board is authorization for the developer to proceed with the construction of improvements in preparation for submission of the final plat.
 - (6) Disapproval of the preliminary plat by the planning board shall require that the developer be furnished with a written statement of recommendations by which the proposed preliminary plat would be approved.
- (c) *Final Plat Review.* Upon completion of the installation of improvements as shown on the approved preliminary plat, or the approval and posting of a financial guarantee to adequately insure their completion (in accordance with section 12-57), the developer shall submit a final plat of the area covered by such improvements. The administrator shall have approval authority for final plats if financial guarantees for improvements are not required and if the planning board, in approving a preliminary plat, did not impose a condition requiring such final plat to be submitted to the planning board. Otherwise, the planning board shall have final plat approval authority. Either the administrator or the developer may submit any final plat to the planning board for approval.

- (1) The developer shall submit a final plat drawn in waterproof ink on an 18" x 24" sheet made of material that will be acceptable to the county register of deeds office for recording purposes, along with five (5) review copies. Submission of the final plat shall be within twelve (12) months after approval of the preliminary plat, otherwise such approval shall become null and void unless an extension of time is applied for and granted by the planning board prior to the expiration of twelve (12) months.
- (2) The final plat shall be reviewed for compliance with this chapter and with the approved preliminary plat. At the expense of the developer, the county may employ the service of a registered professional engineer or land surveyor to check the final plat against the actual installation of improvements based on the preliminary plat.

No final plat shall be approved until all improvements are installed or a financial guarantee to adequately insure their completion has been approved by the planning board (see section 12-57) and posted with the administrator, all required fees have been paid, and the appropriate endorsements (see section 12-55), have been properly filled out and signed.

Approval of the final plat by the planning board or the administrator, as applicable, shall be noted on the final plat. The original plat shall be transmitted within sixty (60) days of final approval, to the register of deeds for recording at the expense of the developer.

Disapproval of the final plat by the planning board or the administrator shall require that the developer be furnished with a written statement of recommendations to gain plat approval.

(Amd. of 5-20-97; Amd. of 4-1-08, § 12)

Sec. 12-55. - Endorsements on major subdivision plats.

All major subdivision plats shall contain the following endorsements.

(a) *Certificate of Ownership and Dedication:*

I (We) hereby certify that I am (we are) the owner(s) of the property shown on this plat, that I (we) hereby acknowledge this plat and allotment to be my (our) free act and deed and that I (we) do hereby dedicate to the public use all streets, alleys, walks, parks, playgrounds, open spaces and easements, except those specifically indicated as private on said plat, and that I (we) do also dedicate forever to the appropriate agency all utilities as shown on the accompanying plan and profile sheets; and warrant all such utilities and improvements to be free of defects in workmanship and materials for a period of twenty-four (24) months

(e) *One of the following endorsements shall be shown on the plat, as applicable.*

Endorsement of Planning Board:

I hereby certify that this subdivision has been granted final approval by the Cleveland County Planning Board this _____ / _____ / _____ day of _____ / _____ / _____, 20 _____, provided this plat is recorded within sixty (60) days of the above date.

Chairman, Cleveland County Planning Board

Endorsement of Administrator:

I hereby certify that this subdivision has been granted final approval by the Cleveland County Development Ordinance Administrator this _____ / _____ / _____ day of _____ / _____ / _____, 20 _____, provided this plat is recorded within sixty (60) days of the above date.

Administrator, Cleveland County Development Ordinance

(f) One of the following endorsements shall be shown on the plat, indicating if the required improvements have either been completed prior to final plat approval or a bond, or other surety posted with the administrator.

I hereby certify that a performance bond, irrevocable letter of credit, or other sufficient surety has been posted with Cleveland County to assure completion of all required improvements within twelve (12) months after the date below.

Date Administrator

I hereby certify that all required improvements required by Cleveland County have been installed according to all public agency specifications.

Date Engineer

(Ord. of 5-18-93, § 4.5; Amd. of 5-20-97; Amd. of 4-1-08, § 13)

Sec. 12-56. - Plat approval not acceptance of dedication offers.

Approval of a plat does not constitute acceptance by the county or other public agency of the offer of dedication of any streets, sidewalks, parks, or other public facilities shown on a plat. However, the county or other public agency may, to the extent of its

statutory authority, accept any such offer of dedication by a separate express resolution of the board of commissioners, or by actually exercising control over and maintaining such facilities.

(Amd. of 5-20-97)

Sec. 12-57. - Guarantees for improvements.

(a) *Guarantee of completion of improvements.*

- (1) Where all or part of the required subdivision improvements have not been installed prior to submission of a final plat for approval, approval of such plat shall be subject to the developer receiving approval of and posting with the county a financial guarantee equal to one hundred and twenty (120) percent of the cost of construction and installation of the uncompleted improvements. All required improvements shall be completed within one (1) year of approval of the financial guarantee by the planning board.
- (2) The developer shall select and submit one of the following types of financial guarantees with the final plat:
 - a. a performance bond from a surety corporation licensed to do business in North Carolina; or
 - b. an irrevocable letter of credit from a banking corporation licensed to do business in North Carolina.
- (3) The developer shall also submit for planning board review at least one bid from a licensed contractor for the improvements to be completed or a cost estimate prepared by a professional engineer or other licensed professional. The bid or cost estimate shall include information about the types and quantities of materials and labor required, unit costs and estimated total costs.
- (4) In requesting the release of the financial guarantee, the developer shall provide the administrator with certification by a professional engineer or other licensed professional retained by the developer that the improvements have been constructed in accordance with the requirements of this chapter and approved plans and plats.
- (5) If the developer posting a financial guarantee under this section does not complete the improvements as required, the county shall call the financial guarantee and take the necessary actions to ensure completion of such improvements.

(b) *Guarantee of improvements after final plat approval.*

- (1) The owner of the property being subdivided shall guarantee that the required utilities and improvements for the subdivision shall be free of defects in workmanship and materials for a period of twenty-four (24) months. The owner shall make such guarantee by signing a certification on the final plat (see section 12-55). The guarantee period against defects shall begin on the date the owner signs the certification on the final plat, regardless of whether the required improvements have been completed or a financial guarantee has been posted to assure such completion.
- (2) A professional engineer or other licensed/certified professional retained by the developer shall certify that all facilities and improvements to be dedicated to the public or private use have been constructed in accordance with the requirements of this chapter. This certification shall be a condition precedent to acceptance of the offer of dedication of such facilities or improvements. Such certification shall be made on the final plat (see section 12-55) or, if a financial guarantee has been posted to assure completion of required improvements, the certification required by section 12-57(a)(4) for release of the financial guarantee shall fulfill the requirements of this section.
- (3) For purposes of this section, the term "defects" refers to any condition in publicly dedicated facilities or improvements that requires repairs in such facilities over and above the normal amount of maintenance that they would require. If such defects appear, the guaranty may be enforced regardless of whether the facilities or improvements were constructed in accordance with the requirements of this chapter.

(Amd. of 5-20-97; Amd. of 4-1-08, § 14)

Sec. 12-58. - Maintenance of dedicated areas until acceptance.

All facilities and improvements with respect to which the owner makes an offer of dedication to public use shall be maintained by the owner until such offer of dedication is accepted by the appropriate public authority. The planning board or board of adjustment may relieve the developer of the requirements of this section if it determines that a property owners association has been established for the development in accordance with section 12-41 and that this association has assumed and is capable of performing the obligations set forth above.

(Amd. of 5-20-97)

Sec. 12-59. - Cluster subdivisions.

Cluster subdivisions may be permitted in accordance with the provisions of sections 12-60 through 12-60.4 and the requirements applicable to major subdivisions.

(Ord. of 7-7-98; Amd. of 4-1-08, § 15)

Sec. 12-60. - Location and permitted uses.

Cluster subdivisions are permitted in residential zoning districts and unzoned areas. Within a cluster subdivision, permitted uses are limited to the specified permitted uses allowed in the district where the subdivision is located.

(Ord. of 7-7-98)

Sec. 12-60.1. - Minimum size of cluster subdivisions.

The minimum size of a cluster subdivision shall be six (6) lots (major subdivision only).

(Ord. of 7-7-98)

Sec. 12-60.2. - Minimum lot size and dimensional requirements.

Within an approved cluster subdivision, the minimum lot size and dimensional requirements of this chapter are waived; provided all provisions for open space dedication and the required approvals of utility systems conform with the requirements of all applicable codes, ordinances, and policies; and that adequate ingress and egress is provided per sections 12-195 through 12-197. A minimum building setback of thirty (30) feet (fifty (50) feet in the rural agricultural zoning district) shall be established along the exterior perimeter of the cluster subdivision.

(Ord. of 7-7-98; Amd. of 4-1-08, § 16)

Sec. 12-60.3. - Open space requirements.

A minimum amount of permanent open space shall be provided in any cluster subdivision in an amount equal to or greater than the total square foot reduction in all lots, but in no case less than one contiguous acre. The open space shall be dedicated, owned and maintained by any of the following methods, either individually or in combination:

- (1) *Homeowner's association.* The undivided open space and associated facilities may be held in common ownership by a homeowner's association. The association shall be formed and operated under the provisions provided by state law; or
- (2) *Private ownership with easement.* The owner may transfer easements to a private, nonprofit organization, among whose purposes it is to conserve open space and/or natural resources, provided that (1) the organization is a bona fide conservation organization with perpetual existence; (2) the conveyance contains appropriate provision for proper reverter or retransfer in event that organization becomes unwilling or unable to continue carrying out its functions; and (3) a

management plan acceptable to the board is entered into by the developer and the organization.

- (3) *Private ownership with deed restriction.* The open space may be held in private ownership, such as a golf course, provided that the land is restricted by deed as perpetual open space.

An instrument providing for the dedication, ownership and maintenance of the open space shall be submitted with the preliminary plat.

In calculating open space requirements, a maximum of fifty (50) percent may be in these areas or uses: Lakes or ponds, rock outcrops, or slopes exceeding twenty (20) percent. The required open space area shall be located on land contiguous to and geographically situated within the subdivision.

(Ord. of 7-7-98; Amd. of 4-1-08, § 17)

Sec. 12-60.4. - Access to open space.

Access to the dedicated land shall be provided either by adjoining public street frontage or by a dedicated easement, at least sixty (60) feet wide, which connects the dedicated land to a public street or right-of-way. Gradients adjacent to existing and proposed streets shall allow for reasonable access to the dedicated land. Where dedicated land is located adjacent to a street, the developer or subdivider shall remain responsible for the installation of utilities, sidewalks, and other improvements required along that street segment. Access to greenway dedications only shall be at least twenty (20) feet wide.

(Ord. of 7-7-98)