

ASHE COUNTY, N.C. ORDINANCE
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GENERAL PROVISIONS

***156.01 TITLE.**

This chapter shall be known and may be cited as the Ashe County Residential Subdivision Chapter.
(Ord. Passed 3-20-96)

***156.02 AUTHORITY.**

Pursuant to the authority granted by G.S. Ch. 153A, Art. 18, the County Commissioners of Ashe County do hereby ordain and enact into law the provisions of this chapter.
(Ord. Passed 3-20-96)

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*156.03 JURISDICTION.

On and after the date of adoption, this chapter shall govern each and every subdivision of land for the purposes of the development of residential subdivisions within Ashe County (referred to hereafter as the “county”) and outside the jurisdiction of any incorporated municipality.

(Ord. Passed 3-20-96)

*156.04 PURPOSE.

The purpose of this chapter is to guide the development of residential subdivisions within the county by facilitating an orderly system for their design, layout, and development.

*156.05 WORD INTERPRETATION.

For the purposes of this chapter, the following words shall be interpreted as follows:

- (A) The word **COUNTY** shall mean Ashe County, North Carolina.
 - (B) The words **COUNTY COMMISSIONERS** shall mean the Board of County Commissioners of Ashe County, North Carolina.
 - (C) The words **PLANNING BOARD** shall mean the planning board of Ashe County, North Carolina.
 - (D) The word **CHAPTER** shall mean the Ashe County Residential Subdivision Ordinance.
 - (E) The word **REGULATION** shall mean the Ashe County Residential Subdivision Ordinance.
 - (F) The word **MAY** is permissive.
 - (G) The word **SHALL** is mandatory.
 - (H) The word **LOT** includes the words **PLOT, PARCEL, TRACT, and SITE.**
- (Ord. Passed 3-20-96)

*156.06 DEFINITIONS.

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

BUILDING SETBACK LINE (MINIMUM). A line parallel with the property line designating an area bordering the property lines and located no closer than ten feet to the property line on which no building shall be placed.

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EASEMENT. A strip of land designated by the property owner for a specific purpose and use by the public, a corporation, or others.

LOT. A portion of a subdivision no less than one acre in size, intended as a unit for transfer of ownership or for development or both.

PHASED DEVELOPMENT. A subdivision that is constructed in phases and meets the requirements of *156.29.

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

PRIVATE DRIVEWAY. A roadway serving two or fewer lots, buildings, building sites, or other divisions of land and not intended for public use.

PRIVATE ROAD, COUNTY STANDARD. A road constructed in accordance with the provisions of *156.46.

RESIDENTIAL SUBDIVISION. A residential subdivision shall include all divisions of a tract of land into two or more lots for the purpose, whether immediate or future, of sale, or building development. Said lots shall not be smaller than one acre. The following shall not be included within this definition nor be subject to the requirements of this chapter.

- (1) The division of land solely among members of the same family, who are in any degree of kinship to the grantor by any method of transfer except where the parties contemplate development for resale. By way of example, such degrees of kinship include children, grandchildren, great grandchildren, parents, grandparents, brothers and sisters, uncles and aunts, and nieces and nephews, as described under G.S. *104A-1.
- (2) The combination or recombination of portions of previous platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards required by this chapter.
- (3) The division of land by court order or court-approved partition.
- (4) The division of land for agricultural purposes such as the production of crops, livestock, or poultry.
- (5) The division of land for commercial purposes meaning all purposes meaning all purposes other than single-family residential.
- (6) The division of land into parcels greater than ten acres if no street right-of-way dedication is involved.
- (7) 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 street right-of-way dedication is involved, and where the resultant lots are equal to or exceed the standards of the county as shown in this chapter.

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RIGHT-OF-WAY. A strip of land designated by the owner or acquired by another authority by which other persons may legally pass, and on which may be constructed a road or other utilities.

ROAD, STATE STANDARD. A dedicated and accepted public right-of-way for vehicular traffic on which is constructed a road which meets the specifications of the North Carolina Department of Transportation.

SINGLE FAMILY RESIDENTIAL. The division and/or development of land intended to support the erection or placement of a structure for the use of any one single family as a temporary or permanent residence.

TRAVEL AREA. That area of a road which is stoned or paved in accordance with *156.46(B)(3), and which is intended for vehicular travel.
(Ord. Passed 3-20-96; Am. Ord. Passed 4-8-02)

PLANNING BOARD REVIEW

***156.15 PLANNING BOARD REVIEW AND APPROVAL.**

Pursuant to G.S.*153A-332 or unless otherwise noted, no real property within the jurisdiction of this chapter shall be subdivided and offered for sale or a plat therefor recorded until a preliminary and final plat have been reviewed and approved by the Planning Board.
(Ord. Passed 3-20-96)

***156.16 BUILDING PERMITS.**

- (A) Approval of the final plat by the Planning Board shall be required before issuance of any building permit for a structure to be erected in a subdivision, except in cases where streets, utilities, or other required improvements are to be constructed, and where a preliminary plan for such development has been approved by the Planning Board. Such preliminary approval shall in no way alter the requirements that the final plat be approved by the Planning Board prior to the sale of land in the development or the recording of a plat, except as authorized in *156.28.
- (B) No permits for any building or structure will be issued upon any land requiring approval as a subdivision under the conditions set forth in this chapter unless a final plat is recorded.
(Ord. Passed 3-20-96)

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***156.17 RECORDING OF PLATS.**

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 Planning Board, and until this approval is entered in writing on the face of the plat by the designated representative of the Planning Board.

(Ord. Passed 3-20-96)

***156.18 DUTY OF THE REGISTER OF DEEDS.**

The Register of Deeds shall not file or record a plat of a subdivision of land within the territorial jurisdiction of the county that has not been approved in accordance with the provisions of this chapter.

(Ord. Passed 3-20-96)

PROVISIONS FOR REVIEW AND APPROVAL

***156.25 PLAT REQUIRED ON ANY SUBDIVISION OF LAND.**

Pursuant to G.S.*153A-330, a final plat as delineated in G.S.*47-30 shall be prepared, approved, and recorded as required under the provisions of this chapter whenever any subdivision of land takes place for the purposes of the creation of a residential subdivision. To secure such approval the sub-divider shall follow the procedures established in this subchapter as applicable.

(Ord. Passed 3-20-96) Penalty, see *156.99

***156.26 SUBMISSION OF PRELIMINARY PLAT.**

- (A) A preliminary plat meeting the requirements of this chapter shall be submitted for a review and shall be approved by the Planning Board before any improvements or land disturbing activities are made in a residential subdivision. One copy of the plat shall be submitted to the Planning Board or their designated representative, at least 15 working days before the meeting of the Planning Board at which time it is to be reviewed. Prior to the meeting and subsequent to staff review, three copies shall be submitted. Either the developer or an appointed representative shall be present at the meeting when a plat is considered by the Planning Board in order to answer Board questions and ensure a timely action by the Board.

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- (B) The Planning Board shall review the preliminary plat and negotiate with the sub-divider for any changes required so that the residential subdivision may comply with this chapter. The Planning Board shall take formal action within two regularly scheduled meetings after the meeting at which the plan was first received. Failure to take formal action within this time frame shall have the same effect as a recommendation that the plat be approved. Within five days after its final action, the Planning Board shall notify the sub-divider by letter of the action taken.
- (C) After receiving approval of the preliminary plat by the Planning Board, the sub-divider may proceed to construct the proposed road or other improvements in accordance with the requirements of this chapter and as shown on the approved preliminary plat. No work on subdivision roads or other improvements shall be done before approval of the preliminary plat.
- (D) *Fees.* The developer shall pay an inspection fee of an amount specified from time to time by the County Commissioners. Half of the said fee shall be paid at the time of submission of the preliminary plat (the fee shall be paid before the plat will be placed on the Planning Board agenda); the remainder shall be paid at submission of final plat. Contact the County Inspections Department for a schedule of fees.
(Ord. Passed 3-20-96; Am. Ord. Passed 4-8-02) Penalty, see *156.99

***156.27 SPECIFICATIONS FOR PRELIMINARY PLAT WITH SUB-DIVIDING.**

The preliminary plat shall be at a scale of 100 feet to 1 inch or larger and shall be on a sheet with minimum measurements of 18" x 24". If the size and shape of the property is such that an 18" x 24" sheet will not accommodate the entire tract, a larger size may be used. Under no circumstances shall a preliminary plat be at a scale of smaller than 1" = 200'. The following information shall be required as applicable.

- (A) A vicinity map showing the relationship of the proposed subdivision with the surround areas.
- (B) The location of existing property lines, streets, buildings, watercourses, transmission lines, sewers, bridges, water lines, and any public utility easements.
- (C) Boundaries of the tract shown with distances and approximate acreage.
- (D) Access right-of-way from state road.

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- (E) Names of adjoining property owners and/or subdivisions, and deed references.
- (F) Proposed streets, street names, rights-of-way, roadway widths, approximate grades, curve radii, and proposed drainage facilities.

- (G) Other proposed rights-of way or easements showing locations, widths and purposes.
- (H) Proposed lot lines with metes and bounds, lot numbers, and approximate area.
- (I) Proposed utility layouts (sewer, water, electricity, phone, cable) showing connections to existing systems or plans for central water system or package sewage system, or designation for individual water and sewage.
- (J) Proposed parks, open spaces, or any other public areas.
- (K) Name of owner of record, developer, engineer, and professional surveyor.
- (L) Title, date, north point, and graphic scale.
- (M) If applicable, the relationship with floodway and flood plain as delineated by the county floodway boundary and flood insurance rate maps. Base flood elevation date shall be provided for each separate lot which lies within a special floor hazard zone. An elevation reference mark shall also be set within each lot which lies within a special flood hazard zone per Chapter 151 Flood Damage Prevention. Such reference marks shall be transferred from FEMA Flood Insurance Study elevation marks, or other acceptable method.
- (N) An erosion control schedule for less than one acre, outlining best management practices to be utilized on site, shall be submitted with the preliminary plat.
- (O) When applicable, a note to declare that individual lots have not been approved by the Appalachian Regional Health Department or other appropriate governmental authority as to suitability for the installation of wells, and/or septic/sewer systems.
(Ord. Passed 3-20-96; Am. Ord. Passed 4-8-02, 4-2-07) Penalty, see *156.99

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***156.29 PHASED DEVELOPMENTS.**

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

- (A) A master plan showing the entire proposed subdivision and the phases of the development, proposed type and location of utilities, and proposed development timetable shall be submitted to the Planning Board for approval.
- (B) Each phase of development shall be preceded by submission and approval of a preliminary plat as outlined in *156.27 and *156.28, unless such plat submission is waived by the Planning Board. The master plan may be submitted prior to or simultaneously with 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 *156.30 and *156.31.
(Ord. Passed 3-20-96) Penalty, see *156.99

***156.30 SUBMISSION OF FINAL PLAT.**

Unless a final plat is submitted to the Planning Board within 12 months from the date on which the preliminary plat was approved, the action taken by the Planning Board on the preliminary plat shall become void and of no effect, and shall necessitate the resubmission of the preliminary plat to the Planning Board for reconsideration. One copy of the final plat shall be submitted to the planning staff at least five working days before the meeting of the Planning Board at which time the plat is to be reviewed. Prior to the meeting and subsequent to staff review, three copies along with the plat fee as specified in *156.25(E) shall be submitted. Either the developer or an appointed representative shall be present at the meeting when a plat is considered by the Planning Board in order to answer Board questions and ensure a timely action by the Board.

(A) *Final plat.* The final plat shall constitute only that portion of the approved preliminary plan which the subdivider proposes to record provided that such portion conforms to all requirements of this chapter. The final plat shall be at a scale of 100 feet to 1 inch or larger and shall be on a sheet with minimum requirements of 18" x 24" and maximum measurements of 21" x 30". Under no circumstances shall a preliminary plat be at a scale of smaller than 1" = 200'. The final plat shall show as applicable the following:

- (1) A vicinity map showing the location of the subdivision in relation to the surrounding area.
- (2) The right-of-way lines and easements of all streets and roads, and access to a state road.
- (3) Lot lines and lot numbers showing metes and bounds.

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- (4) If applicable, the relationship with floodway and floodplain as delineated by the county floodway boundary and flood insurance rate maps. Base flood elevation data shall be provided for each separate lot which lies within a special flood hazard zone. An elevation reference mark shall also be set within each lot which lies within a special flood hazard zone per Chapter 151 Flood Damage Prevention. Such reference marks shall be transferred from FEMA Flood Insurance Study elevation marks, or other acceptable method. Areas inside the Base Flood Elevation levels shall be marked "This area unsuitable for residential construction. Wells and/or septic systems may be placed in this area if approved by the Appalachian Regional Health Authority or other Governmental authority for the installation of wells and/or septic/sewer systems."
- (5) Sufficient data to determine readily and be reproducible on the ground, the location, bearing, and length of every street line, lot line, boundary line, and block line whether curved or straight.

- (6) Accurate location and description of all monuments, markers, and block tie lines.
 - (7) The names and locations of adjoining subdivisions and streets, and the location and ownership of adjoining un-subdivided property including water areas.
 - (8) Title, date, name, and location of subdivision, graphic scale, and true north point.
 - (9) Name of owner of record, developer, engineer and professional surveyor.
 - (10) When applicable, a note to declare that individual lots have not been approved by the Appalachian Regional Health Department or other appropriate governmental authority as to suitability for the installation of wells, and/or septic/sewer systems.
- (B) Reservations for easements, and areas to be dedicated to public uses or sites for other than residential use shall be shown on the plat with notes stating their purposes.
- (C) Reference shall be made on final plat to deed book and page number of recorded restrictive covenants if any.
- (D) The following certifications or their equivalent, shall be shown on the final plat as applicable:

Certificate of Ownership and Dedication

I(We) hereby certify that I am (we are) the owner(s) of the property shown and described hereon, and that the property is within the regulatory jurisdiction of Ashe County, and that I (we) hereby adopt this plan of subdivision with my (our) consent, establish all lots, and dedicate all streets, alleys, walks, parks, easements, rights-of-way, and other open spaces to public or private use as noted.

Date	Owner
	Owner

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Certificate of Approval of Recording

I hereby certify that the subdivision plat shown hereon has been found to comply with all applicable regulations of Ashe County, North Carolina, including the Subdivision Regulations and Watershed Regulations of Ashe County, with the exceptions of such variances, if any, as noted in the minutes of the planning board and/or the watershed review board, and are recorded on the plat and that it has been approved by the Ashe County Planning Board and/or the Ashe County Watershed Review Board at their regular meeting of _____ for recording in the office of the Register of Deeds.

Date

Chairman, Ashe County Planning Board

Chairman, Ashe County Watershed
Review Board

**Certificate of Approval for Recording or Re-recording Subdivisions
Which Do Not Come Under the Existing Subdivision Regulations**

This plat represents a re-survey of property as shown on the plat recorded in Plat Book _____, page _____ and does not require the approval of the Ashe County Planning Board for the following reasons:

Date

Chairman, Ashe County Planning Board

(Ord. Passed 3-20-96; Am. Ord. Passed 4-8-02, 4-8-07)

***156.31 APPROVAL OF FINAL PLAT.**

Upon receipt of the final plat and required plat fee as specified in *156.26(E), the Planning Board and staff shall review it for compliance with the provisions of this chapter. The Planning Board may approve the plat in whole or in part, or subject the plat to modifications. The Planning Board shall take formal action within two regularly scheduled meetings after the meeting at which the plan was first received. Failure to take formal action within this time frame shall have the same effect as a recommendation that

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the plat be approved. Within five days after its final action, the Planning Board shall notify the subdivider by letter of the action taken.

(Ord. Passed 3-20-96)

***156.32 APPEALS.**

If either a preliminary or final plat is not approved by the Planning Board, the subdivider may appeal his case to the County Board of Commissioners within 30 days.

(Ord. Passed 3-20-96; Am. Ord. Passed 5-6-02)

***156.33 ADVISORY OPINION.**

A subdivider is encouraged to submit a sketch to the planning staff prior to submission of a preliminary plat if he wishes, to ascertain the feasibility of the development of his property.
(Ord. Passed 3-20-96)

***156.34 STAFF APPROVAL**

If a developer seeks to subdivide a parcel into no more than two lots, the developer can seek approval from a staff member appointed by the Ashe County Planning Board as the Staff Subdivision Review Officer. If staff approval is denied, the developer can seek approval for the subdivision with the planning board. If approved the subdivision plat must be recorded in the Ashe County Register of Deeds

To be approved, the parcel must meet these minimum requirements.

- (1) Has not been subdivided in the last ten (10) years, excluding exempted divisions of land as per the definition of Residential Subdivision located at 156.06
- (2) All resulting lots must meet the minimum lot size.
- (3) Plat(s) of the subdivision that meet both the requirements of the Ashe County Register of Deeds, and the plat requirements listed in chapter 156.27.
- (4) No land inside a floodplain as determined by FIRM maps.
- (5) Plats(s) also must have a certificate which states:

Certificate of Approval of Staff Approved Subdivisions

This Plat represents a subdivision of land that consists of one parcel being divided into no more than two lots, and meets the requirements of 156.34.

Date Staff

Subdivision Review Officer

**GENERAL REQUIREMENTS AND
MINIMUM STANDARDS OF DESIGN**

***156.45 GENERAL REQUIREMENTS.**

The subdivider shall observe the following general requirements and principles of land subdivision.

- (A) *Suitability of land.* Land which has been determined by the county planning staff on the basis of engineering and/or other studies prepared by licensed professionals to pose an ascertainable danger to life or property by reason of

its unsuitability for the use proposed, shall not be platted for that purpose, unless and until such time as the subdivider has taken the necessary measures to correct said conditions and eliminate said dangers.

- (1) Land subject to flooding may be considered unsuitable for residential subdivision development. The decision by the planning staff will be based on the flooding history of the area and by survey information furnished by the US Federal Emergency Management Agency as delineated on the Ashe County Floodway Boundary and Flood Rate Insurance Maps.
 - (2) Generally property which has a natural cross slope of 50% or more is considered unfeasible for residential subdivision development.
- (B) *Lots.* The minimum allowable lot size shall be one acre. One half acre shall be exclusive of any area inside floodplain Base Flood Elevation. One acre exclusive of all other easements, right of way or areas determined unusable by local, state, or federal ordinance or statute.

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- (C) *Street names.* In assigning new street names, duplication of existing street names shall be avoided and in no case shall the proposed name be phonetically similar to existing names irrespective of the use of a suffix such as street, road, drive, place, court, etc. Before final plat approval, the developer must have met with the County E911 Coordinator and established a schedule to have appropriate street signage in place. Street names shall be subject to approval of the planning staff, and shall comply with the County E911 program.
- (D) *Name of subdivision.* The name of the subdivision shall not duplicate nor closely approximate the name of an existing subdivision.
- (E) *Natural assets.* In any subdivision, due consideration will be given to preserving natural features such as trees, ponds, streams, rivers, lakes, and any historical sites which are of value not only to the subdivision, but to the county as well.
- (F) *Erosion control.* In order to prevent soil erosion and sedimentation of streams, springs, flat water bodies, or other drainage networks, the subdivider shall retain the natural vegetative cover wherever possible. Additionally, all land cleared of the natural vegetation shall be reseeded or replanted with an appropriate vegetative cover. An erosion control schedule for less than one acre, outlining best management practices to be utilized on site, shall be submitted with the preliminary plat. In all cases of street construction, or land disturbing activity of one acre or more, the subdivider shall comply with all state-required erosion control measures. A list of recommended vegetative cover and procedures can be obtained from the New River Soil and Water Conservation District.
- (G) *Storm water drainage.* The subdivider shall provide an adequate drainage system for the proper drainage of all surface water.
- (1) No surface water shall be channeled or directed into a sanitary sewer.

- (2) Where actually available and not cost prohibitive to connect, the subdivider shall connect to an existing storm drainage system.
 - (3) Proposed subdivision stormwater designs shall provide adequate means to control stormwater discharge onto adjacent property and onto all existing drainage conveyance devices. The developer shall provide evidence that subdivision runoff is capable of being handled by existing structures or make provisions for upgrading such existing structures.
- (H) *Proposed water and sewage systems.* All water supply and sewage systems shall be designed, constructed and operated in accordance with all applicable laws, rules and regulations of the North Carolina Department of Environment, Health and Natural Resources and the Appalachian District Health Department.
- (1) Sufficient information as to the proposed method and system of water supply and sanitary sewage collection and disposal shall be provided with the preliminary plat.

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- (2) Where community water/sewer system(s) are proposed, the final plat shall be accompanied by a letter of approval and an operational permit from the proper official of the North Carolina Department of Environment, Health and Natural Resources or the Appalachian District Health Department, whichever is applicable.
- (I) *Designation of road status.* All roads shown on the preliminary and final plats shall be clearly noted as to which roads are private county standard and which are constructed to meet North Carolina Department of Transportation requirements.
- (1) It is permissible to have both types of roads within a subdivision.
- (J) *Disclosure statement.* The developer shall comply with G.S.*136-102.6 which provides for a disclosure statement from the developer to the purchaser setting forth the status (whether county or state) of the road on which the property is located. The disclosure statement shall also fully disclose the party or parties upon whom responsibility for maintenance of such roads shall rest. It shall also contain a statement informing the purchaser that the North Carolina Department of Transportation will not assume any responsibility for the maintenance or upkeep of a road built to county standards. Copies of G.S.*136-102.6 may be obtained from the County Building Inspections Department.
- (K) *Private county standard road maintenance.* Prior to the recording of the final plat, it is recommended that the developer record a Declaration of Restrictions having provisions for the establishment of a property owners association to establish reasonable assessments for road maintenance. Private county standard roads shall be maintained to the original or paved width.
- (L) *Access right-of-way.* Where a right-of-way, less than 45 feet, provides access to property proposed for subdivision had been granted prior to May 1, 1996, and the developer presents proof in writing that he cannot feasibly obtain a

45-foot right-of-way to the property, then he may be permitted to develop the property provided he secure at least a 30-foot right-of-way into the property proposed for subdivision. In cases where less than a 45-foot right-of-way is used for access to a subdivision, this fact shall be contained in the disclosure statement and shown on the final plat as specified in *156.30(A)(2). For purposes of this section, access road shall not include any state maintained road.

(Ord. Passed 3-20-96: Am. Ord. Passed 4-8-02) Penalty, see *156.99

***156.46 DESIGN STANDARDS FOR ROADS.**

- (A) The design standards for subdivision streets shall meet either the minimum construction standards for secondary roads as required by the North Carolina Department of Transportation or the minimum construction requirements for private county standard roads. When state standards are to be met, the

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developer shall submit proposed road specifications for the approval of the local Department of Transportation office prior to submitting a preliminary plat.

- (B) *Design standards for private county standard roads.*
- (1) *Right-of-way width.* Right-of-way width for private county standard roads shall be not less than 45 feet.
 - (2) *Width of road.* Graded width of roadbed including ditch and shoulder areas shall be a minimum width of 25 feet.
 - (3) *Stone or paved area.* Road travel area may be either stoned or paved, and shall have a minimum width of 18 feet.
 - (a) Where stone is used, it shall be “crusher-run” or DOT approved “ABC” stone compacted to a minimum of four inches. In locations where soil conditions require additional stone or other acceptable means to attain a stable roadbed, the developer shall complete the necessary road stabilization prior to submitting the final plat for approval.
 - (b) If the developer elects to pave county standard roads, he shall meet the requirements of the North Carolina Department of Transportation pertaining to stone base and top surface.
 - (4) *Shoulder areas and ditches.* Shoulder area on cut side shall be a minimum of four feet in width and shall provide a drainage ditch of adequate size to accommodate stormwater runoff based on terrain and location. Shoulder width on fill side shall be a minimum width of three feet. In locations where cuts are required on both sides of the road, drainage ditches and shoulders shall occupy approximately 3 ½ feet on each side.

- (5) *Cuts and fills.* Cuts and fills shall have a maximum slope of 1:1 (one foot horizontal spread to each foot vertical rise). All cuts and fills shall be seeded when weather and season permits.
- (6) *Benching.* Where the terrain cross grade is 20% or greater, the fill side shall be benched a minimum width of six feet at the base of the fill and fill material shall be well compacted. Neither brush nor stumps shall be placed in the roadbed or within any part of the fill.
- (7) *Road grades.* Maximum grade for a gravel-surfaced road shall be 15%. Maximum grade for a road paved in accordance with *156.46(B)(3)(b) shall be 18%.
- (8) *Culverts and drainage.* Culverts shall be of adequate size to discharge stormwater from any given area depending upon terrain and location. Minimum culvert size shall be 15 inches inside diameter.
 - (a) Culverts may be either corrugated metal, plastic, or concrete (bell or spigot) and shall be installed on a constant grade of sufficient degree to insure proper drainage and a minimum danger of becoming clogged with debris or mud.

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concrete culverts shall not be permitted where it cannot extend sufficient distance from the fill side of the road to prevent discharge from eroding the road bank.

- (b) All culverts shall be a minimum cover of 12 inches of well-compacted earth.
- (9) *Curve radius.* All curves in county standard roads shall be a radius of no less than 40 feet as measured from the centerline of the travel area.
- (10) *Bridges.* Proposed bridges which will be part of a county standard road shall accommodate two lanes of traffic. Bridges shall be constructed to meet North Carolina Department of Transportation specifications except that the width may be reduced to 20 feet. Confirmation that a proposed bridge meets these specifications must be provided by a Department of Transportation engineer or by a licensed professional engineer.
- (11) *Culs-de-sac.* Turnaround right-of-way width shall be 70 feet in diameter for round-design cul-de-sac. The gravel surface shall be a maximum of 40 feet in diameter. However, if the terrain prevents the construction of round-design cul-de-sac, “tee” or “y” types of turn around may be constructed. In said cases, right-of-way shall be 45 feet in width. The gravel width shall be 18 feet in both a “tee” and a “y” turnaround.
- (12) *Property lines concerning private county standard roads.* Property lines may be located along with the centerline of the proposed road and shall be a 22 ½ foot road right-of-way measured from the centerline to each side of the road. If this method is used it shall be clearly indicated on the plats and incorporated in all deed conveyances. If the developer elects, he may place the property

line(s) 22 ½ feet from the centerline of the road(s) thereby providing a 45-foot right-of-way.

- (a) Property markers (iron, granite, or concrete monument) shall be placed at the intersection of the right-of-way and property line at a point measured 22 ½ feet from the center of the road.
- (b) The minimum building setback distance from the road abutting the front of the property shall comply with the North Carolina Building Code.

(C) Design standards for private driveways.

- (1) *Right-of-way width.* Right-of-way width for private driveways shall not be less than 20 feet.
- (2) *Width of driveway.* Graded width of a private driveway shall be no less than 12 feet. Ditches and shoulders are not required.
- (3) *Stoned area.* Driveway travel area must be stoned, and shall have a minimum width of 12 feet. Where stone is used, it shall be “crusher-

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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.

- (4) *Length of private driveway.* A private driveway shall only require construction up to the boundary, or property line(s) of the lot(s) which it is designed to serve. No private driveway may service more than two (2) lots.

(Ord. Passed 3-20-96; Am. Ord. Passed 2-1-99; Am. Ord. Passed 4-8-02) Penalty, see *156.99

(D) Roads and utility easements inside the floodplain.

- (1) County standard roads may only be placed inside the hundred year floodplain to access the tract of land being developed from a state maintained road. The road must exit the hundred year floodplain as quickly as reasonably possible, and once outside the hundred year floodplain, may not reenter the hundred year floodplain.
- (2) Utility Easements may only be placed inside the hundred year floodplain to access the tract of land being developed from a state maintained road. The utility easements must exit the hundred year floodplain as quickly as reasonably possible, and once outside the hundred year floodplain, may not reenter the hundred year floodplain.

PLANNED UNIT DEVELOPMENTS

***156.47 AUTHORITY.**

The County Commissioners authorize the Planning Board as the most appropriate zoning agency to review planned unit developments.
(Ord. Passed 2-3-97)

***155.48 DEFINITION.**

For purposes of this chapter the following definition shall apply unless the context clearly indicates or requires a different meaning.

PLANNED UNIT DEVELOPMENT (PUD). A tract of land under ownership either by a single entity, a corporation, a partnership, or an association or a tract of land subdivided into lots, that remain contiguous, for purposes of a single development being either a unique residential use (to include single family and multi-family use), commercial use, or a combination of both commercial and residential uses, residential uses.
(Ord. Passed 2-3-97; Am. Ord. Passed 1-4-99)

***156.49 PURPOSE.**

The purpose of *156.47 through 156.50 is to accommodate differences between traditional lot-by-lot subdivisions and planned unit developments, which are usually turn-key operations. *156.47 through *156.50 encourage PUD proposals that have imagination and creativity in the design process to include preservation of open spaces, paved roads, community water and sewer systems, and promoting the general welfare. The Planning Board and planning staff reserve the right to modify the requirements in the existing subdivision ordinance for projects that are identified as PUD's, since the overall aims of PUD's cannot be accomplished without negotiations. (Ord. Passed 2-3-97)

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***156.50 MINIMUM REQUIREMENTS.**

- (A) The normal minimum requirements for lot size, setbacks, and frontage may be waived for lots or building sites within an approved planned unit development, provided the spirit and intent of this chapter is not altered based on the interpretations and decisions of the Planning Board.
- (B) All streets providing access to a planned unit development and the streets located in the planned unit development shall meet the minimum requirement for streets as defined in the design standards for roads in *156.46, excluding *156.46(B)(3)(b). However, the right-of-way requirements may be waived, but the roadbed shall remain 25 feet and the road surface shall remain 18 feet and the road surface shall be paved 18 feet with asphalt according to NCDOT standards. The street(s) that serve as access from state maintained roads to

the PUD, provided they are owned by the developing entity, shall have curb and guttering for a minimum of 85 feet on each side of the entrance access. All streets that do not meet NCDOT standards for maintenance and are not dedicated to the state shall have a legal, recorded maintenance agreement available to every landowner that acquires property in the approved PUD. This agreement shall contain the following information: who will maintain the streets, when will the streets be maintained, how the streets will be maintained, and the associated cost to each landowner for street maintenance. The Planning Board and the planning staff discourages the use of cul-de-sacs in PUD's, however, if their use cannot be avoided then a minimum requirement of 70 feet in diameter shall be required.

- (C) Common open spaces are an important element in a planned unit development. Common open space is defined as a group of parcels or tracts of land designated and intended for use by all residents of the PUD. A minimum of 15% of the total project acreage shall be designated as common open space. Suggested uses may include fitness, recreation, educational, religious or cultural. The common open spaces may have accessory buildings such as swimming pools, tennis courts, equestrian trails, fitness trails and others. A pond, lake, large stream or other body of water may be used in conjunction with parcels of land to constitute common open space. Conveyance and maintenance of common open space, recreational areas, and commonly owned facilities shall be in accordance with the Unit Ownership Act (G.S. Chapter 47A) or other appropriate mechanisms acceptable to the planning staff or the Planning Board. The designated common areas shall be recorded with the county's Register of Deeds to restrict the use and future development of the common open spaces.
- (D) A planned unit development application shall not be approved unless the developer's plans include either a community water and sewer system that has the capacity to serve the entire planned unit development, or designs that

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include connecting to a municipal water and sewer system. The community water and sewer systems shall need approval from the appropriate health agencies. Whenever reasonably possible, all proposed planned unit developments shall include installation of underground facilities to include water and sewer lines, electric lines, telephone lines and cable television lines.

- (E) Each development shall provide reasonable visual and acoustical privacy for all dwelling units. Fences, insulation, walkways, barriers and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants. If topographical or other existing barriers within 200 feet of the planned unit development do not provide reasonable privacy for existing uses adjacent to the development, the Planning Board may require the structures on the perimeter of the planned unit development be well screened in a manner which is approved by the Planning Board.

- (F) Every planned unit development shall provide at least two off-street parking spaces per dwelling unit and commercial/office parking and loading space according to the following schedule:
- (1) Parking space for commercial/office shall consist of one off-street parking space for each 200 square feet of gross floor area.
 - (2) Loading and unloading space for commercial/office uses shall consist of one space at least 300 square feet in size for each 5000 square feet of gross floor area.
- (Ord. Passed 2-3-97)

PERMANENT REFERENCE POINTS AND IMPROVEMENTS

***156.55 PERMANENT REFERENCE POINTS.**

Prior to the approval of the final plat, permanent reference points shall have been placed in accordance with G.S. Chapter 89C and G.S. *47-30, which provide regulations for surveyors for the mapping of subdivisions.
(Ord. Passed 3-2-0-96) Penalty, see *156.99

***156.56 INSTALLATION OF IMPROVEMENTS.**

Prior to the approval of the final plat, the subdivider shall have complied with the following requirements:

- (A) *Streets and storm drainage facilities.* All streets and storm drainage facilities in the subdivision shall be constructed in accordance with the drawings submitted.
- (B) *Water supply.* Where public water is reasonably accessible (actually available and not cost prohibitive), the subdivider shall connect with the

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public supply and may provide water mains and a suitable water connection to each lot. Where a public water supply is not reasonably accessible, the subdivider may provide individual water supplies.

- (C) *Sewage systems.* Where a public sanitary sewer system is reasonably accessible (actually available and not cost prohibitive) the subdivider shall connect with the public system and shall provide a connection for each lot. Where a public sanitary sewer is not accessible, individual sewage disposal systems may be provided. These systems shall be located, constructed, and operated in accordance with the requirements and standards of the North Carolina Department of Environment, Health, and Natural Resources; the North Carolina Division of Health Services; and the Appalachian District Health Department.
- (D) *Installation at time of final plat.* In the event that any public or community utilities are not installed at the time of final plat approval, a bond or other

security guarantee may be required by the Planning Board as specified in *156.57.

(Ord. Passed 3-20-96) Penalty, see *156.99

***156.57 DEFERMENT OF IMPROVEMENTS.**

Where it is in the best interest of all parties concerned to defer the installation or completion of some required improvements such as roads, or sewer and water connections, the Planning Board may approve the final plat if the subdivider posts a bond with surety or other guarantees satisfactory to the County Commissioners in the amount equal to or greater than the estimated cost of the deferred improvements. Such guarantees shall guarantee either the performance of the specified work or payment of the specified sum to the county if said improvements have not been installed within the times specified on the final plat. The County Commissioners may require the bond or other guarantee be greater than the estimated cost of the improvements to allow for cost increases.

(Ord. Passed 3-20-96) Penalty, see *156.99

VARIANCES

***156.65 VARIANCES.**

Where, because of 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 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 into the minutes of the Planning Board with the reasoning set forth on which the departure was justified. Requests for variances shall be made in writing and submitted to

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the Planning Department staff, in the form of a letter, at or before the time of either preliminary or final plat submission. The letter shall be addressed to the Ashe County Planning Board, and shall include the project name, and explain the variance being sought as well as any circumstances which make a variance necessary.

(Ord. Passed 3-20-96; Am. Ord. Passed 4-8-02)

***156.98 INJUNCTIVE RELIEF AND OTHER EQUITABLE REMEDIES.**

The County may bring an action for injunction and order abatement for any illegal residential subdivision, transfer conveyance or sale of land therein, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with this chapter under G.S.*153A-123(e). This chapter may also be enforced by

other appropriate, equitable remedies issued from a court of competent jurisdiction under G.S.*153A-123(d). (Ord. Passed 3-20-96)

***156.99 PENALTY.**

- (A) It shall be a violation of G.S.*153A-334, if a person who is the owner, or the agent of the owner, of any land located within the territorial jurisdiction of the county, subdivides has land in violation of this chapter, or transfers or sells land by reference to, exhibition of, or any other use of a plat showing such subdivision before the plat has been properly approved under this chapter and recorded in the office of the County Register of Deeds. Such violation shall be a misdemeanor.
- (B) The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from this penalty.
- (C) Any person violating the provisions of this chapter shall be guilty of a misdemeanor and shall be subject to punishment as provided by G.S.*14-4. Every day a subdivider is in violation of this chapter is considered a separate offense.
- (D) Civil penalties. In lieu of or in addition to the criminal penalties outlined above, a subdivider or other person violating this chapter may be subject to a civil penalty under G.S.*153A-123(c). This penalty shall be at the discretion of the Board of County Commissioners and shall not exceed \$100. No penalty shall be assessed prior to notice of the subdivider. For every day a subdivider is in violation of this chapter, it may be considered a separate offense. If the violator does not pay such penalty within 30 days of notification of its assessment by written citation, it may be recovered by the county in a civil action in the nature of a debt. The subdivider may contest said penalty in the court of appropriate jurisdiction.
(Ord. Passed 3-20-96)