

# CITY OF HENDERSONVILLE



## SUBDIVISION ORDINANCE

**SUBDIVISION ORDINANCE FOR THE  
CITY OF HENDERSONVILLE, NORTH CAROLINA**

**ARTICLE I. AUTHORITY AND PURPOSE**

This Ordinance is entitled Subdivision Ordinance for the City of Hendersonville and may be cited as the Subdivision Ordinance.

This Ordinance is adopted pursuant to Chapter 160A, Article 19, Part 2, of the General Statutes of North Carolina for the purpose of supporting and guiding the proper subdivision and resubdivision of land within the subdivision jurisdiction of the City of Hendersonville in order to promote the orderly growth of the City.

**ARTICLE II. JURISDICTION**

This Ordinance shall govern all subdivisions of land within the corporate limits of the City of Hendersonville and within the Extraterritorial Jurisdiction of the City of Hendersonville as defined in the Ordinance establishing extraterritorial jurisdiction boundaries, and established on the map entitled "Extraterritorial Jurisdiction Boundary Map, City of Hendersonville" and as from time to time amended. Said Ordinance and map are hereby made a part of this Ordinance and incorporated herein by reference. Said Ordinance and map shall be retained in the Office of the Building Official.

**ARTICLE III. DEFINITIONS**

**Section 300. Subdivision.** As used in this Ordinance, the definition of the word "subdivision" is defined in Chapter 160A-376 of the North Carolina General Statutes, as now or hereafter amended. The definition is as follows:

A "Subdivision" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) 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 authorized by this part:

- 1) The combination or recombination of portions of previously platted lots where the total number of lots is not increased
- 2) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved;
- 3) The public acquisition by purchase of strips of land for the widening or opening of streets; and
- 4) The division of a tract in single ownership whose entire area is no greater than two (2) acres' into not more than three (3) lots, where no street right-of-way dedication is

involved and where the resultant lots are equal to or exceed the standards of the municipality, as shown in its subdivision ordinance.

**Section 301. Subdivision, Minor (added 02-08-96).** A subdivision, as defined in Section 300, above, consisting of not more than eight (8) lots or parcels.

**Section 302. Subdivision, Major (added 02-08-96).** A subdivision, as defined in Section 300, above, consisting of more than eight (8) lots or parcels.

#### **ARTICLE IV. COMPLIANCE**

**Section 400. Approval of Plats.** No subdivision plat of land within the subdivision jurisdiction of the City of Hendersonville shall be filed or recorded by the Register of Deeds of Henderson County until it has been submitted and approved in accordance with this Ordinance and until such approval is entered on the face of the Final Plat by the Clerk of the City of Hendersonville.

**Section 401. Permits.** No building permits shall be issued for, nor shall water, sewer, or other city facilities or services be extended to or connected with any construction in any subdivision for which a plat is required to be approved until the Preliminary Plat has been approved by the Hendersonville Planning and Zoning Board, hereinafter known as the "Planning Board."

#### **ARTICLE V. GENERAL REQUIREMENTS AND DESIGN STANDARDS FOR SUBDIVISIONS**

**Section 500. Suitability of Land.** Where land to be subdivided is found by the Planning Board to be subject to the conditions of flooding, improper drainage, severe erosion, slides, or to have other characteristics which pose an ascertainable danger to health, safety, or property, the subdivider (defined as any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined) shall take measures necessary to correct said conditions and to eliminate said dangers. In making such determinations, the Planning Board may seek and take into consideration the following, if reasonably obtainable: Official U.S. Department of Housing and Urban Development Flood Hazard Boundary Maps; the Henderson County Soil Survey; recommendations of the Tennessee Valley Authority; the Soil Conservation Service; USDA; and the Henderson County Board of Health. Any findings made by the Planning Board pursuant to this section and the basis for said findings shall be in writing and recorded in the minutes of the Planning Board.

**Section 501. Streets.** The Preliminary Plat must be accompanied by evidence satisfactory to the Planning Board as to the method of street access, as prescribed herein, to all lots to be platted. Such evidence shall provide detailed information as to proposed elevations, cut and fill, drainage, traffic circulation and other construction details required by this Ordinance, the North Carolina Secondary Roads Council and/or the North Carolina Department of Transportation (both of which are hereinafter referred to as "DOT"), or by the Planning Board or its staff. The installation of all streets in accordance with requirements set forth below, shall be required prior to Final Plat approval unless

otherwise permitted pursuant to Article VI, Section 604. Further, the subdivider shall meet all requirements of North Carolina General Statutes Section 136-102.6.

**501.1 City Streets (amended 03-09-89):** All streets to be built within the corporate limits of the City of Hendersonville shall be constructed as described on the approved Preliminary Plat and shall meet the design and construction of the N.C. State Department of Transportation.

**501.16 Alleys (amended 03-09-89):** An alley is a strip of land, owned publicly or privately, set aside primarily for vehicular service access to the back or side of properties otherwise abutting on a street. An alley shall be provided for all lots designed for commercial or industrial purposes. Alleys are prohibited in residential developments unless such are approved by the Planning Board. All alleys shall be constructed in accordance with the specifications and standards of the Department of Public Works and shall meet the following minimum requirements:

- a) Right-of-way width: 20 feet
- b) Minimum centerline radius when a deflection angle of more than ten (10) degrees occurs: 35 feet
- c) Property line radius at alley intersection: 15 feet
- d) Dead-end alleys should be avoided, but where unavoidable, adequate turnaround for service vehicles must be provided.

**501.2 Public Streets:** Unless otherwise designated by the Planning Board pursuant to Section 501.3 of this Article, all streets to be constructed outside of the City of Hendersonville, but within the City's Extraterritorial Jurisdiction, shall be designed, constructed, and proposed for dedication in accordance with existing applicable policies and standards of DOT so that said streets, when completed, are eligible for acceptance on the N. C. Secondary Road Systems.

**501.3 Private Streets:** There shall be no private streets platted within the corporate limits of the City of Hendersonville. Upon request, the Planning Board may permit certain streets located outside of the City's corporate limits, but within the City's extraterritorial jurisdiction, to be designated as "private residential streets" for the purpose of providing street access to the following:

- a) Residential subdivisions with streets designed to provide exclusive access only to said subdivision; or
- b) Minor subdivisions with a street serving too few lots for inclusion into the North Carolina Secondary Road System;
- c) Private Residential Streets: If, by written document(s) sufficient for recording in the Office of the Register of Deeds, either an owners' association is established or an agreement satisfactory to the Planning Board is provided for perpetual ownership and maintenance of streets and rights-of-way within, and/or which provide exclusive access

to, a subdivision, then said streets and rights-of-way may be designated as "private residential streets". All private residential streets shall meet the design and construction standards of the North Carolina Department of Transportation with the exception, however, of the entrance to the project, which may have a gatehouse for a private entrance, or other design features which vary from DOT standards. Dedicated rights-of-way shall not include calculation of minimum lot areas or minimum setback requirements. All street plans for "private residential streets" shall be reviewed by the department of transportation prior to approval of the preliminary plat. If private roads are to be constructed, it is the responsibility of the developer to submit core samples of the completed road taken by a licensed testing firm to the building inspector to ensure that the roads meet the required specifications. **(amended 03-09-89)**

All bridges and culverts within the subdivision shall be built to the design and construction standards required by the NCDOT so that they are eligible for NCDOT maintenance. **(added 01-04-90)**

**501.4 Conformity to Surrounding Development:** The proposed street layout within a subdivision shall be coordinated with the existing street system of the surrounding area and, where possible, existing principal streets shall be extended.

**501.5 Sidewalks (amended 02-08-90):** Sidewalks shall be constructed within the street right-of-way or, in the alternative, within areas set aside by dedication, condemnation, or otherwise, in accordance with standards of the department of public works. Sidewalks shall be required as follows.

- 1) On all internal roads within a subdivision, a sidewalk shall be required on one side of every street. On streets that end in cul-de-sacs, the sidewalk need only be constructed along the edge of the street, and not around the arc of the radius of the cul-de-sac.
- 2) On all paved peripheral streets of a subdivision, a sidewalk shall be required along its frontage when one of the following conditions exist:
  - a) When the subdivision adjoins property with existing sidewalk.
  - b) When an existing sidewalk is within four hundred (400) feet of the subdivision.
  - c) When the subdivision is within one and one-half (1.5) miles linear traverse of a school, hospital, library, or government building.
  - d) Where deemed necessary if designated by the planning board to benefit public safety or convenience.
- 3) In cases where a sidewalk exists on the opposite side of a peripheral street, but not along the area directly opposite the subdivision, and one of the criteria in 501.5(2) above are met, the planning board may require that the sidewalk be built on the opposite side for

that part of its frontage, in order to provide for a more continuous flow of sidewalk.

- 4) In cases where a sidewalk already exists on the opposite side of a peripheral street, and no sidewalk exists along the property adjacent to the subdivision, then a sidewalk is not required to be built along the peripheral street.

**501.6 Blocks:** The length, width and shape of blocks shall be reasonably designed to provide for the following: Adequate building sites for the proposed use, vehicular and pedestrian circulation, and control and safety of traffic.

**501.7 Names of subdivisions and streets:** The names of a subdivision shall neither duplicate nor closely approximate the name of an existing subdivision within the city's jurisdiction. Proposed streets which are obviously in alignment with existing streets shall be given the same name as the existing street. The assignment of new names is subject to the planning board approval, and duplication of existing names, phonetically or otherwise, shall be avoided. Street markers of a design approved by the city street department shall be installed at each intersection in uniform locations.

**501.8 Conformance with the thoroughfare plan (amended 04-05-90):** Both the planning board and city council reserve the right to require reservations of rights-of-way, as well as increased setbacks, for roads identified on the thoroughfare plan, including existing roads to be widened as well as corridors of new roads. The city planner may provide copies of the subdivision plat to the department of transportation, who may consult with city officials and the project developer to advise more precisely where the road is going to be located. If the road is identified on the thoroughfare plan to be widened, then the right-of-way needed for the additional width shall be dedicated to the department of transportation and recorded in the courthouse. In addition, if the road is identified on the thoroughfare plan as a major or minor thoroughfare, or if it is more than two (2) lanes wide, a third lane, twelve (12) feet wide, with curb and gutter to meet D.O.T. specifications shall be provided along the frontage of the property. The entire length of the frontage shall be paved to meet D.O.T. standards unless the frontage is greater than that necessary to meet D.O.T. standards for taper length and striping. The above requirements are subject to the review of the department of transportation.

**Sec. 502. Water and sewer systems.** The preliminary plat shall be accompanied by evidence satisfactory to the planning board of the proposed method and system of water supply and sanitary sewage collection and disposal for all lots intended for a use requiring domestic water supply and/or sanitary sewer. The installation of all said systems shall be required prior to final approval unless otherwise permitted pursuant to Article VI; provided that, in the case of individual septic tanks, installation shall not be required prior to final plat approval. However, land area and soil condition determination shall be so required as set forth in subsection (502.3). For subdivisions consisting of ten (10) lots or less in which the water supply system to be installed is an individual system consisting of an on-lot well for each lot, the installation of said wells will not be required prior to final plat approval.

All lots within any subdivision located within the corporate limits of the City of Hendersonville shall be provided with direct access to the City's water and sewer systems. This requirement may be

waived by the Planning Board with prior written approval of the Henderson County Health Department and the Hendersonville Water and Sewer Department.

**502.1 Public Systems:** Where the proposed system is to be connected to the Hendersonville water and/or sewer systems, the Preliminary Plat shall be accompanied by a complete set of construction plans for the proposed system. Said plans shall have been approved by the Hendersonville Water and Sewer Department and the appropriate State agency prior to their approval by the Planning Board.

**502.2 Community Systems:** Where the proposed system is a community system as defined in Appendix A, the Preliminary Plat shall be accompanied by the approval of, and documents required by, the appropriate agency as set forth in Appendix A. If, at any time, the proposed system could be connected to the Hendersonville water and/or sewer system, all requirements of Section 502.1 above, shall apply.

**502.3 Individual Systems:** Where the proposed system is an individual system, as defined in Appendix A, the Preliminary Plat shall be accompanied by the approval of the Henderson County Health Department and shall show that the subdivider has complied with all ordinances and regulations of the Henderson County Board of Health and applicable State law. The approval from the Health Department shall show that each lot has adequate land area and soil conditions suitable to accommodate the proposed methods of water supply and sewage disposal and shall be based upon a field investigation as approved by the Henderson County Health Department.

**502.4 Fire Hydrants:** Where a water line six inches or greater in diameter is required in a public or community system, fire hydrants may be installed on said line. The individual developer has the option of whether or not to install hydrants at personal expense. However, once installed, the Hendersonville Water and Sewer Department will maintain said hydrants. The hydrant type and installation must be approved by the Hendersonville Water and Sewer Department.

**Section 503. Storm Water Drainage.** The Preliminary Plat shall be accompanied by evidence satisfactory to the Planning Board as to the proposed method of providing for stormwater drainage. It shall be the responsibility of the subdivider to provide a drainage system which is designed to meet the following objectives:

- a) Provide for adequate drainage from all roads, parking lots, and other developed areas;
- b) Provide a suitable building area on each lot intended for building development which is safe from inundation, erosion, or subsidence;
- c) Prevent both the unnecessary impoundment of natural drainage ways and the creation of areas of standing water;
- d) Insure that existing drainage ways serving adjacent properties are maintained;
- e) Insure that natural runoff levels are not substantially increased in order to prevent harmful

flooding downstream and to maintain desirable groundwater levels;

- f) Prevent inundation of surface water into sanitary sewer systems; and
- g) Protect all roads, driveways, utilities and other types of development from damages caused by improper drainage control.

The design of said system shall be subject to approval of the Hendersonville Street Department and the installation of said system shall be required prior to Final Plat approval pursuant to Article VI of this Ordinance.

Easements for all drainage ways shall be provided as required by Article V, Section 508 of this Ordinance. The Planning Board shall have the authority to require underground drainage, and other improvements it finds necessary to meet the above objectives. In all subdivisions outside the City with new public street right-of-way to be dedicated to the public, the District Engineer of D.O.T. must review and certify his approval of drainage plans pursuant to Article VI, Section 603.2 of this Ordinance.

**Section 504. Sedimentation Control.** In order to prevent soil erosion and sedimentation pollution of streams, springs, flat water bodies, or other drainage networks, the subdivider shall show proof of an erosion and sediment control plan which has been approved by the State or local agency having Jurisdiction in accordance with The Rules and Regulations for Erosion and Sediment Control as adopted by the North Carolina Sediment Control Commission, April, 1974, as amended.

**Section 505. Surveying and Placement of Monuments.** "The Manual of Practice for Land Surveying", as adopted by the N. C. Board of Registration for Professional Engineers and Land Surveyors, under provisions of Chapter 89 of the North Carolina General Statutes, shall apply when conducting surveys.

**Section 506. Air Quality.** As required by Chapter 143, Article 21, of the North Carolina General Statutes, all subdivisions of more than 500 units at a density of more than 7,680 persons per square mile (12 persons/acre) shall show proof of compliance with Air Quality Guidelines established by the Division of Environmental Management, North Carolina Department of Natural and Economic Resources.

**Section 507. Lots (amended 03-09-89).** The lot size, width, depth shape orientation, and building setback lines shall be reasonable for the location of the subdivision and for the type of development and use contemplated and shall be sufficient to accommodate proposed utilities. The square footage of standing bodies of water may not be included in determining minimum lot area requirements in any zoning district, nor may any square footage of land within the boundaries of a proposed building site, or lot, which have been, or may be, declared unfit for building purposes by any of the authorities therein indicated and in conformance with Article V, Section 500, hereof.

**507.1 Single Family Residential Lots:** Any lot(s) in a subdivision intended for the development of a detached, single-family dwelling unit(s) shall comply with the following requirements:

- a) Lots Within the City: The minimum lot size, depth, width, and setbacks shall comply with the District requirements of the Zoning Ordinance of the City of Hendersonville.
- b) Lots Outside of the City: The minimum lot size, depth, width, and setbacks shall comply with the District requirements of the Zoning Ordinance of the City of Hendersonville if the lot is served by both public water and sewer. When lots are not served by both public water and sewer, the following minimum lot sizes shall apply:

Lots served by Only:	Minimum Lot Area	Approximately
Public sewer	10,000 square feet	1/4 acre
Public water	15,000 square feet	1/3 acre
Lots served by neither:		
Public sewer nor public water (Community water or sewer system as defined in Appendix A [to this Appendix B] are considered a public systems in the subsection.	20,000 square feet	1/2 acre

The Henderson County Health Department must, according to State law and Ordinances of the Henderson County Board of Health, re-quire larger lot sizes if necessary to protect public health and insure proper operation of septic tanks and wells. The Planning Board may, upon application of the subdivider, permit lots smaller than the minimums set forth in Subsection 507.1 B, provided that the proposed smaller lot size is approved in writing by the Henderson County Health Department. However, in no case shall the lot size be less than the minimum requirements of the Zoning Ordinance of the City of Hendersonville.

**507.2 Multi-Family Residential Lots:** Each lot intended for the development of more than one dwelling unit, shall conform with the zoning ordinance of the City of Hendersonville. If the lot(s) is not served by public water and sewer, written approval must be obtained from the Henderson County Health Department.

**507.3 Lots for Other Than Residential Use:** Appropriate provisions in the Zoning Ordinance of the City of Hendersonville shall apply in the case of all non-residential property.

**507.4 (added 08-09-79)** All lots shall abut a dedicated public right-of-way or dedicated right-of-way for a private street where such streets are allowed by this ordinance.

**507.5 (added 03-09-89)** In calculating minimum lot sizes required by this ordinance, a maximum of one-third of that portion of the dedicated right-of-way lying within the lot lines which is not actually used as part of the traveled surface of said right-of-way may be considered a part of the lot provided lot lines run to the center of the dedicated right-of-way, and provided further that the center line of the right-of-way is also the center line of the traveled surface. In all other cases, no part of the right-of-way lying within the lot lines may be used in calculating minimum lot size requirements.

**Section 508. Easements.** Easements shall be provided as follows:

**508.1 Utility Easements:** Easements for utilities shall be provided, preferably centered on rear or side lot lines, and shall be a total of at least ten (10) feet in width.

**508.2 Drainage Easements:** An easement shall be reserved by the subdivider or otherwise provided conforming with the lines of any drainageway into which natural drainage has been diverted. Said drainageway shall be of sufficient width to carry stormwater runoff from a ten year storm.

**508.3 Buffer Strip:** The Planning Board may require a buffer strip no more than ten (10) feet wide adjacent to a major street or a commercial or industrial development. The Board may also require the subdivider either to arrange for, or be responsible for, the grading and planting of said buffer strip.

## **ARTICLE VI PROCEDURE FOR REVIEW AND APPROVAL OF SUBDIVISION PLATS**

**Section 600. General.** To secure approval of a plat, as required by this Ordinance, the subdivider shall follow procedures set forth in this Article. A minor subdivision (defined in Section 601 of this Article) may be approved pursuant to Section 601.1 of this Article. All other subdivisions shall be approved pursuant to Sections 602,603, 604, and 605 of this Article.

**Section 601. Review of Minor Subdivisions (amended 02-08-96).** Minor subdivisions, as defined in Section 301, above, shall be reviewed in accordance with the provisions of this section. The minor subdivision procedure shall not be used a second time within three (3) years on property which lies in whole or in part within fifteen hundred (1,500) feet of any part of a subdivision approved pursuant to this section.

**Section 601.1 Minor Subdivision Approval (amended 02.08.96).** Minor subdivisions shall be reviewed by the City Planner and approved if the application therefore complies in all respects with this Ordinance. The City Planner shall advise the Planning Board on a regular basis of all subdivisions approved under this provision. (amended 02-08-96)

**Section 601.2 Application (added 02-08-96)** Anyone desiring to subdivide land pursuant to this section shall submit an application complying with the requirements of this ordinance and establish the following:

- a) Proof of ownership of the land to be subdivided;
- b) Methods of providing a water supply and sewage disposal to each lot, including any State or local approvals which may be needed;
- c) Methods of providing access to each lot including the name of any new street(s); and
- d) Methods of providing for adequate drainage.

**Section 601.3 Improvements (added 02-08-96).** The City Planner shall review the application and the surveyed plat to determine if any improvements are required by this ordinance. If the City Planner determines that improvements are required, he/she shall notify the subdivider who shall submit three additional copies of the plat describing the plans for such improvements.

**Section 601.4 Preliminary Plat Approval (added 02-08-96).** Once the City Planner has received copies of the surveyed plat depicting required improvements as per Section 601.3 or, in the alternative, has determined that no improvements are required by this ordinance, he/she shall determine whether the proposed minor subdivision meets the requirements of this ordinance. If the City Planner determines that the minor subdivision meets all applicable requirements of this ordinance, he/she shall issue preliminary plat approval to the subdivider. If the City Planner determines that the minor subdivision does not meet all applicable requirements of this ordinance, he/she shall deny preliminary plat approval and shall notify the subdivider of this decision and the reasons therefore.

**Section 601.5 Final Plat Approval (added 02-08-96).** Upon receipt of preliminary plat approval, the subdivider shall complete and install the required improvements and shall notify the City Planner when this has been accomplished. The City Planner shall then inspect the minor subdivision. If the City Planner determines that required improvements comply with the approved plans and the requirements of this ordinance, he/she shall certify final approval in writing on all copies of the plat. One copy shall be kept in the records of the City Planner. The approved plats shall be returned to the subdivider who shall record the plat and all other documentation required for recordation by this ordinance with the office of the Henderson County Register of Deeds. Failure on the part of the subdivider to record the plat and document(s) within thirty (30) days of receipt shall render this final plat approval null and void.

**601.6 Appeals (added 02-08-96)** Absent the filing of a notice of appeal, decisions of the City Planner concerning minor subdivisions shall constitute final action by the City. Decisions of the City Planner concerning preliminary or final plat approval may be appealed by any substantially affected person by filing a notice of appeal with the City Manager within thirty (30) day of rendition of the decision. The City Manager shall refer the notice of appeal to the Planning Board which shall consider said appeal within forty-five (45) day of the filing of the notice. The Planning Board shall determine whether the decision of the City Planner complies with all applicable requirements of this ordinance and shall enter an order doing one of the following:

- a) Denying plat approval;
- b) Granting Plat approval; or
- c) Granting plat approval with conditions.

Decisions of the Planning Board shall constitute final action by the City of minor subdivision for which a timely notice of appeal has been filed.

**Section 602. Subdivisions.** Where the subdivider intends to divide a tract into five or more lots he shall receive final approval from the Board of Commissioners subsequent to procedures set forth in the remaining sections of this Article.

**602.1 Sketch Plan:** In order to initiate discussions between the subdivider and the Planning Board early in the design process, the subdivider may submit for all subdivisions with less than 75 lots, other than minor subdivisions, a Sketch Plan to the Planning Board or its staff prior to preparing the Preliminary Plat. All subdivisions with more than 75 lots shall submit a Sketch Plan to the Planning Board. The Sketch Plan shall show at least that portion of the subdivision that the subdivider plans to develop at this time. If the subdivider intends to divide the entire tract into 75 or more lots, he shall also submit two copies of a Sketch Plan at least seven days prior to a regularly scheduled meeting of the Planning Board at which said plan is to be considered, although said time limit may be waived in the discretion of the Planning Board. Although not required, it is suggested that a Sketch Plan be submitted for all subdivisions to insure that preliminary plans are correct prior to operating extensive engineering details.

Said Sketch Plan shall be at a scale of at least 1" = 200' and contain all information required in the Sketch Plan Checklist as found in Appendix B [to this Appendix B].

The Planning Board shall review and either approve, approve conditionally, or disapprove each Preliminary Site Plan. First consideration of said Plan shall be at the first regularly scheduled meeting after the Plan is submitted in accordance with this Ordinance. The Board shall take action on the Preliminary Site Plan at its first consideration or within thirty-two (32) days of its first consideration.

**Section 603. Preliminary Plat.** For every subdivision except minor subdivisions, a Preliminary Plat, containing all required information, shall be submitted to the city Planner at least (30) days prior to the regular meeting at which said plan is to be considered, although said time limit may be waived in the discretion of the city planner. Seven copies of said plan shall be required, provided that additional copies may be required if needed.

**603.1 Contents Required:** The Preliminary Plat shall include all information required by the Preliminary Plat Checklist as found in Appendix C [to this Appendix B] of this Ordinance.

**603.2 Review Procedure:** The Planning Board shall review and either approve, approve conditionally, or disapprove each Preliminary Plat. First consideration of said plan shall be at the

next regularly scheduled meeting of the Planning Board after the plan is submitted pursuant to this Section. The Planning Board shall take action on the Preliminary Plat at its first consideration or within thirty-two (32) days of its first consideration. Before final action on any Preliminary Plat is taken by the Planning Board, copies of said plan shall be referred by the Planning Board to those public agencies concerned with new development for review and comment, provided that failure of the Planning Board to receive comment shall not delay Planning Board action on said plan within the prescribed time limit. Said agencies may include, but are not limited to, the following:

- a) District Engineer of D.O.T. regarding streets and drainage in the Extraterritorial Area;
- b) Hendersonville Water and Sewer Department, Henderson County Health Department, and/or other appropriate departments and agencies (See Appendix A [to this Appendix B]) regarding sanitary sewer and water systems;
- c) Soil Conservation Service, U.S.D.A., and the North Carolina Department of Natural and Economic Resources regarding sedimentation drainage, and the suitability of the site for development; and
- d) Hendersonville Street Department, regarding drainage.

Where this Ordinance requires proof of approval from other State or local agencies, the following certificates (substantially consistent in form to those shown in Appendix E ) shall be received by the Planning Board prior to its first consideration of any Preliminary Plat.

- a) A certificate signed by the appropriate D.O.T. official stipulating that the plans for any proposed street system to be dedicated to the public outside the City of Hendersonville are approved;
- b) A certificate signed by the Director of the City Street Department stipulating that the plans for any proposed street system to be dedicated to the public in the City are approved;
- c) A certificate(s) signed by the appropriate State and/or local official(s) (indicated in Appendix E) stipulating that the plans for water supply and/or sewage disposal systems proposed for installation meet all pertinent requirements and are approved; and
- d) A certificate signed by the appropriate State official stipulating that the erosion and sedimentation control plan is approved.

If the Planning Board approves the Preliminary Plat, such approval shall be indicated on three (3) copies by the following certificate signed by the Chairman or other authorized member of the Planning Board:

"Certificate of Approval by the Planning Board

This certifies that the Hendersonville Planning and Zoning Board approved the Preliminary Plat for the \_\_\_\_\_ Subdivision at its meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Date

\_\_\_\_\_  
Chairman, Hendersonville Planning and Zoning Board

One copy shall be transmitted to the Building Official, one copy shall be returned to the subdivider, and one copy shall be retained by the Planning Board.

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

Approval of the Preliminary Plat shall be valid for one (1) year unless a written extension is granted by the Planning Board on or before the one (1) year anniversary of said approval. If the Final Plat is not submitted for approval within said one (1) year period or any period of extension, the said approval of the Preliminary Plat shall be null and void. (Ordinance of 1-5-89)

**Section 604. Improvements Installation or Guarantees.** Upon approval of the Preliminary Plat by the Planning Board, the subdivider shall proceed with the installation of, or arrangement for, required improvements. Required improvements include the following:

- a) Streets, alleys, pedestrian ways.
- b) A water supply for each lot (except as excluded by Article V, Section 502).
- c) A sewage disposal system (except as excluded by Article Section 502).
- d) Any required drainage or sedimentation control facilities.
- e) Street markers.
- f) Fire hydrants, where required.
- g) Easements.
- h) Any corrective measures required pursuant to Article V, Section 500.

**604.1 Completion of Improvements:** Except as provided in Section 604.2 below, and prior to Final Plat submission or approval, the subdivider shall complete, install, and provide for the dedication of all required improvements as specified on the approved Preliminary Plat for that portion of the subdivision to be shown on the Final Plat. The subdivider shall certify the dedication of said improvements in accordance with Section 604.3 of this Article.

**604.2 Improvements Guarantees:**

**604.21 Agreement and Security Required:** In lieu of requiring the completion, installation and dedication of all improvements prior to Final Plat approval, the City of Hendersonville may enter into an agreement with the subdivider whereby the subdivider shall agree to complete all required improvements as specified by the approved Preliminary Plat for that portion of the subdivision to be shown on the Final Plat. Once said agreement is signed by both parties and the security required herein is provided, the Final Plat may be approved by the board of commissioners.

To secure this agreement, the subdivider shall provide, subject to the approval of the Board of Commissioners, either one, or a combination of, the following guarantees not exceeding one and twenty-five hundredths (1.25) times the entire cost as provided herein:

- a) **Surety Performance Bond(s):** The subdivider shall obtain a performance bond(s) from a surety bonding company authorized to do business in North Carolina. The bond(s) shall be payable to the City of Hendersonville and shall be in an amount equal to one and twenty-five hundredths (1.25) times the entire cost, as estimated by the subdivider and approved by the Building Official, of installing all required improvements. The duration of the bond(s) shall be until such time as the improvements are accepted by the Board of Commissioners pursuant to Section 604.23 of this Article or a default is declared by the Board of Commissioners pursuant to Section 604.22, or;
- b) **Cash of Equivalent Security:** The subdivider shall deposit cash or other instrument readily convertible into cash at face value, either with the City or in escrow with a financial institution designated as an official depository of the City. The use of any instrument other than cash shall be subject to the approval of the Board of Commissioners. (See Appendix E, Letter of Credit). The amount of deposit shall be equal to 1.25 times the cost, as estimated by the subdivider and approved by the Building Official, of installing all required improvements.

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

- 1) That said escrow account shall be held in trust until released by the Board of Commissioners and may not be used or pledged by the subdivider in another matter during the term of the escrow, and
- 2) That in the case of a failure on the part of the subdivider to complete said improvements, the financial institution shall, upon notification by the Board of Commissioners, immediately either pay to the City of Hendersonville all funds in said account, or deliver to the City any other instruments fully endorsed or otherwise made payable in full to the City.

**604.22 Default:** Upon default, meaning failure on the part of the subdivider to complete the required improvements, then the Board of Commissioners may require the subdivider, the surety, or

the financial institution holding the escrow account to pay all or any portion of the bond or escrow account fund to the City of Hendersonville. Upon receipt of payment, the Board of Commissioners, shall expend said funds to complete the improvements provided for in the preliminary plat.

**604.23 Release of Guarantee Security:** The Board of Commissioners may release a portion of any security posted pursuant to Section 604.2 of this Article, as the improvements are completed and recommended for approval pursuant to Section 604.3 of this Article. Within thirty-two (32) days after receiving the certificates required by Section 604.3 of this Article, the Board of Commissioners shall approve or not approve said improvements. If the Board of Commissioners approves said improvements, then it shall immediately release any security posted pursuant to Section 604.2 of this Article. The Mayor shall be authorized to-sign the Certificate of Improvements as required in Section 604.31 of this Article and shown in Appendix E [to this Appendix B].

**604.24 Substantial Compliance with Forms in Appendix E:** Forms for agreements, performance bonds, letters of credit, escrow account, or cash equivalents authorized by Section 604.2 of this Article shall conform substantially to the forms prescribed in Appendix E [to this Appendix B].

#### **604.3 Inspection and Certification:**

**604.31 Certificate of Improvements:** The Building Official or other qualified person designated by the Board of Commissioners shall regularly inspect the construction of required improvements. Upon completion of these improvements, said official shall file with the Board of Commissioners a statement: 1) certifying that said improvements have been either completed as required, or completed as required except for certain listed minor defects, and 2) recommending the approval of said improvements. (See Appendix E, Form 1.)

**604.32 Subdivider's Certificates:** Upon completion of the required improvements, the subdivider shall file with the Board of Commissioners the following certificates:

- a) Certificate of Completion and Warranty: The certificate of completion and warranty shall stipulate the following: (See Appendix E, Form 2. [to this Appendix B] )
  1. That all improvements required by this Ordinance have been completed;
  2. That these improvements are in compliance with the minimum standards specified by this Ordinance for their construction;
  3. That the subdivider knows of no defects from any cause and that he will warrant all improvements against defects in materials and workmanship for a period of one year after the Certificate of Completion and Warranty is executed; and
  4. That in the event any defects are discovered in materials or workmanship in any required improvements during the warranty period, the subdivider will, at his expense, replace and/or repair said defects to the satisfaction of the Board of Commissioners.

b) **Certificate of Dedication and Maintenance:** The certificate of dedication and maintenance shall stipulate the following (See Appendix E, Form 3. [to this Appendix B])

1. That all property and improvements are owned by the subdivider and are free of any encumbrance or lien except as enumerated;
2. That the subdivider has freely dedicated or reserved all required rights-of-way, easements, streets, utilities, open spaces, or other improvements to public or private use as noted on the approved Preliminary Plat and has freely established minimum building setback lines; and
3. That the subdivider shall be responsible for the maintenance of all required improvements until either said improvements are taken over by the appropriate public agency or arrangements satisfactory to the Board of Commissioners have been made for maintenance of said improvements.

**604.33 Form of certificates:** Certificates required pursuant to subsection (604.31) and (604.32) of this article shall conform substantially to the certificate forms prescribed in Appendix E [to this Appendix B].

All certificates contained in subsection (604.3) shall be filed simultaneously with the final plat except when improvements guarantees are used. When said guarantees are used, said certificates shall be filed with the Board when improvements are completed and shall be forwarded to the Register of Deeds to be recorded with the Final Plat.

**Section 605. Final Plat.** The Final Plat shall constitute only that portion of the subdivision which the subdivider proposes to record and develop at that time.

Once the Board of Commissioners has either approved all required improvements or has entered into an improvements guarantee agreement with the subdivider, then the Final Plat may be reviewed for the conformance with the approved Preliminary Plat by the Planning Board. The Board of Commissioners shall review and approve or disapprove the Final Plat on the basis of the requirements contained within this Ordinance. The subdivider shall submit three (3) copies and one (1) original of said plat to the City Planner no less than twenty days prior to the regular Planning Board meeting at which it shall be considered for approval, although said time limit may be waived in the discretion of the City Planner. Said plat shall be submitted not more than twelve (12) months after the date on which the Preliminary Plat was approved, unless a written extension of this time limit is granted by the Planning Board on or before the one year anniversary of the approval of the Preliminary Plat.

**605.1 Contents Required:** The original of the Final Plat shall be prepared on linen or film by a registered land surveyor, licensed to practice in the State of North Carolina. Said plat shall conform to the provisions of the North Carolina General Statutes Section 47-30 as amended. The Final Plat shall depict or contain all information required in the Final Plat Checklist as found in Appendix D of

this Ordinance.

**605.2 Planning Board Review Procedure:** The Final Plat shall be reviewed by the Planning Board according to the following procedure:

First consideration shall be at the next regularly scheduled meeting of the Planning Board after the Final Plat is submitted pursuant to subsection 605.1 of this Article. The Planning Board shall recommend approval or disapproval of Final Plat to the Board of Commissioners at its first consideration or within thirty-two (32) days of its first consideration.

If the Planning Board recommends approval of the Final Plat, such approval shall be indicated in the minutes of the Planning Board.

If the Planning Board recommends disapproval of the Final Plat, the Planning Board shall find in writing the provisions of this Ordinance with which the plat does not comply and the facts constituting noncompliance with said provision(s). One copy of said findings shall be sent to the subdivider within five (5) days of disapproval; one copy shall be retained by the Planning Board as a part of its proceedings, and one copy shall be sent to the Board of Commissioners. If the Final Plat is disapproved, the subdivider may make such changes as are needed to bring the plat into compliance with the provisions of this Ordinance and resubmit the same for reconsideration by the Planning Board pursuant to the procedures set forth in this Section.

**605.3 Board of Commissioners Review Procedure:** The Final Plat shall be first considered by the Board of Commissioners at the next regularly scheduled meeting after the submission of the "Certificate of Approval by the Planning and Zoning Board." The Board of Commissioners shall approve or disapprove the final plat at its first consideration. If action is not taken within thirty-two (32) days, final plat is deemed approved.

"Certificate of Approval by the Board of Commissioners

This certifies that the Board of Commissioners of the City of Hendersonville approved the Final Plat of the \_\_\_\_\_ Subdivision at its meeting on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Date

\_\_\_\_\_  
City Clerk"

**605.4 Effect of Plat Approval on Dedications:** The approval of a Final Plat shall not constitute or affect the acceptance by the City or County of the dedication of any land, utility line, or other facility shown on said plat.

**605.5 Disposition of Copies:** If the Final Plat is approved by the Board of Commissioners, such

approval shall be noted on the original tracing of said plat and on four (4) copies as required by Section 605.3 of this Article.

Said original tracing(s) and all other document(s) required for recordation by this Ordinance shall be simultaneously recorded by the subdivider and/or surveyor with the Henderson County Register of Deeds within thirty (30) days after Final Plat approval or said approval shall be null and void. One copy of the remaining prints shall be distributed to each of the following: City Clerk, Building Official, the subdivider, and the Planning Board.

**605.6 Resubdivision Procedures:** For any replatting or resubdivision of land which has been previously platted or subdivided pursuant to this Ordinance, the same procedures and requirements shall apply as prescribed in this Ordinance for an original subdivision.

**Section 606. Variances.** Where a subdivider can show that strict adherence to a provision(s) of this Ordinance would, because of conditions peculiar to the site, cause an unnecessary hardship, the subdivider may submit a written application to the Board of Commissioners for a variance from said provision(s). Such application may be delivered by the subdivider either to the City Building Official or to the Board of Commissioners who shall refer it immediately to the Planning Board for consideration and recommendation. The Planning Board shall consider said application within thirty-two (32) days of its submission and within that time, shall recommend in writing to the Board of Commissioners that said Commissioners either approve or not approve the application. Said recommendation shall state the reasoning upon which it is based. By its second regular meeting after receipt of the Planning Board's recommendation, the Board of Commissioners shall either approve or not approve said application, provided that approval of said application shall be given only to the extent that the Board of Commissioners finds to be absolutely necessary and not to an extent which would violate the intent of this Ordinance. If the application is approved and a variance granted by the Board of Commissioners, said approval and the basis therefore shall be entered in the minutes of the Commissioners. However, no variance may be granted from any requirement of State or Federal law without written approval of the appropriate governmental agency.

## **ARTICLE VII LEGAL PROVISIONS**

**Section 700. Criminal and Civil Procedures.** From the effective date of this Ordinance, any person who, being the owner or agent of the owner of any land located within the jurisdiction of this Ordinance, either subdivides his land in violation of this Ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of land before the plat has been approved and recorded pursuant to this Ordinance, shall be guilty of a misdemeanor and shall be subject to a fine and/or imprisonment as provided in North Carolina General Statute 14-4.

The City may enjoin any subdivision, transfer, or sale of land not made in compliance with this Ordinance.

The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this Ordinance.

**Section 701. Separability.** Should any section or provision of this Ordinance be found 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 found to be unconstitutional or invalid.

**Section 702. Registration of Ordinance.** In accordance with Article 160A-373 of the General Statutes of North Carolina, the Board of Commissioners shall file a copy of this Ordinance for registration with the Register of Deeds of Henderson County on or before May 5, 1977.

**Section 703. Abrogation.** This Ordinance shall neither repeal, abrogate, annul, impair, nor interfere with any existing subdivisions the plats of which are properly recorded in the Office of the Register of Deeds prior to the effective date of this Ordinance nor with existing easements, covenants, deed restrictions, agreements, or permits previously adopted or issued pursuant to law prior to the effective date of this Ordinance.

**Section 704. Repeal.** This Ordinance replaces, in its entirety, the existing subdivision regulations. Said existing regulations, entitled "Subdivision Regulations of the City of Hendersonville, North Carolina" are hereby repealed as of the effective date as shown in Section 706 of this Ordinance.

**Section 705. Effect on Existing Legislation.** Where this Ordinance conflicts with existing ordinances, statutes, or regulations effective in the Jurisdiction of this Ordinance and enacted by the County, State, or Federal governments or their agencies, then the ordinance, statute, or regulation requiring the higher standard shall apply.

**Section 706. Effective Date.** This Ordinance shall become effective on the fifth day of May, 1977.

Adopted this the fifth day of May, 1977.

**APPENDIX A: APPROVAL OF WATER AND SEWAGE DISPOSAL SYSTEMS**

<i>System Type</i>	<i>Water Systems</i>		<i>Sanitary Sewer Systems</i>	
	<i>Definitions</i>	<i>Regulatory Agency</i>	<i>Definitions</i>	<i>Regulatory Agency</i>
<b><i>Individual Systems</i></b>	Any well, spring, stream, or other source used to supply a single connection	Henderson County Health Department * Ground Water Section, Division of Environmental Management, Dept. of Natural & Economic Resources.	Any septic tank, privy, or other facility serving a single source with a design capacity of 3,000 gallons per day or less and discharging to other than surface waters.	Henderson County Health Department
<b><i>Community Systems</i></b>	Any water system serving from two to nine connections, inclusively.  Any water system serving greater than nine connections but not owned or operated by any governmental body.	Henderson County Health Department  Environmental Health Section, Division of Health Services, NC Dept. of Human Resources	Any package plant or other sewage treatment facility serving two or more sources not connected to individual or public systems and having a design capacity of greater than 3,000 gallons per day and/or a discharge to surface waters.	Division of Environmental Management, NC Dept. of Natural and Economic Resources.
<b><i>Public Systems</i></b>	The Hendersonville Water System	The Hendersonville Water and Sewer Department. * Environmental Health Section, Division of Health Services, NC Dept. of Human Resources.	The sewage disposal system owned and operated by the Hendersonville Water and Sewer Dept.	The Hendersonville Water and Sewer Dept. * Division of Environmental Management, NC Dept. of Natural and Economic Resources.

## APPENDIX B: SKETCH PLAN CHECKLIST

The following information shall be contained in the sketch plan prior to consideration by the Planning Board:

Name of Subdivision \_\_\_\_\_ Date Submitted \_\_\_\_\_  
Location \_\_\_\_\_  
Subdivider \_\_\_\_\_ Address \_\_\_\_\_ Tel. \_\_\_\_\_  
Surveyor \_\_\_\_\_ Address \_\_\_\_\_ Tel. \_\_\_\_\_  
Engineer \_\_\_\_\_ Address \_\_\_\_\_ Tel. \_\_\_\_\_

### Checklist:

- a) Title Block:  
\_\_\_\_\_ Subdivision name, subdivider's name and address, North Arrow, scale (min. 1"-200') denoted graphically and numerically, date of plat preparation, and township, county, and state in which subdivision is located, Deed Book Reference;
- b) Vicinity Map:  
\_\_\_\_\_ A sketch vicinity map showing the location of the sub- division in relation to the surrounding area;
- c) Tract Boundaries:  
\_\_\_\_\_ The boundaries of the tract or portion thereof to be subdivided, with all bearings and distances shown;
- d) Property Lines:  
\_\_\_\_\_ Property lines and owners' names of abutting properties and/or abutting subdivision of record;
- e) Natural Features:  
\_\_\_\_\_ Significant natural features including wooded areas, marshes, major rock outcrops, lakes or streams, or other natural features affecting the site;
- f) Existing Features:  
\_\_\_\_\_ Existing features including buildings, streets, rail- roads, power lines, drainageways, sewer and water lines, utility easements, and City limit lines both on or adjacent to the land to be subdivided;
- g) Topographic Lines:  
\_\_\_\_\_ Topographic contour lines at five foot elevation interval when the area being subdivided exceeds two (2) acres or has proposed streets which will exceed 800 lineal feet;
- h) Lot and Street Lines:  
\_\_\_\_\_ All proposed lot and street right-of-way lines with approximate dimensions, lot and block numbers, all easements; designation of any dedication or reservations to be made, a notation of building setback lines', and proposed use of land if other than single family residences;

- i) **Water and Sewer Layout:**  
\_\_\_\_\_ Sketch view of proposed water and sewer system (excluding individual wells and septic systems); including line sizes, approximate location of manholes, pumps, hydrants, force mains, or treatment facilities; and the connection of the proposed system(s) with existing systems;
  
- J) **Drainage System:**  
\_\_\_\_\_ Sketch view of proposed drainage facilities, including approximate location and dimensions of open drainageways, storm sewers, culverts, retaining ponds, or areas where water is to be divided through grading;
  
- k) **Other Improvements:**  
\_\_\_\_\_ Proposed location and description of any other improvements including, but not limited to, riding trails, sidewalks, or pedestrian ways, reserved open space or recreational facilities, school sites, commercial areas, or buffer strips;
  
- l) **Site Data:**  
\_\_\_\_\_ Total acreage in tract to be subdivided; smallest lot size (square feet); total number of lots; lineal feet in streets.

## APPENDIX C: PRELIMINARY PLAT CHECKLIST

The Preliminary Plat shall be clearly and legibly drawn at a scale of not less than one inch to two hundred feet (1"=200'). The Preliminary Plat shall be prepared by a registered surveyor and shall include the following information prior to consideration by the Planning Board:

Name of Subdivision \_\_\_\_\_ Date Submitted \_\_\_\_\_  
Location \_\_\_\_\_  
Subdivider \_\_\_\_\_ Address \_\_\_\_\_ Tel. \_\_\_\_\_  
Surveyor \_\_\_\_\_ Address \_\_\_\_\_ Tel. \_\_\_\_\_  
Engineer \_\_\_\_\_ Address \_\_\_\_\_ Tel. \_\_\_\_\_

### Checklist

- a) Title Block:  
\_\_\_\_\_ Subdivision name, subdivider's name, North Arrow, scale (denoted graphically and numerically), date of plat preparation, location of subdivision (township, county, and state), name and seal of registered surveyor preparing plat, Deed Book Reference;
- b) Vicinity Map:  
\_\_\_\_\_ A sketch vicinity map showing the location of the subdivision in relation to the surrounding area;
- c) Tract Boundaries:  
\_\_\_\_\_ The boundaries of the tract or portion thereof to be subdivided, with all bearings and distances shown;
- d) Property Lines:  
\_\_\_\_\_ Property lines and owners' names of abutting properties and/or abutting subdivision of record;
- e) Natural Features:  
\_\_\_\_\_ Significant natural features including wooded areas, marshes, major rock outcrops, lakes or streams, or other natural features affecting the site;
- f) Existing Features:  
\_\_\_\_\_ Existing features including buildings, streets, railroads', power lines, drainageways, sewer and water lines, utility easements, and City limit lines both on or adjacent to the land to be sub- divided;
- g) Topographic Lines:  
\_\_\_\_\_ Topographic contour lines not to exceed five foot intervals when the area to be subdivided exceeds two (2) acres or has proposed streets which will exceed 800 lineal feet;
- h) Lot and Street Lines:  
\_\_\_\_\_ Ail proposed lot and street right-of-way lines with approximate dimensions, lot and block numbers, all easements; designation of any dedication or reservations to be made, a notation

of building setback lines, and proposed use of land if other than single family residences;

- i) **Street Layout:**  
\_\_\_\_\_ Typical cross section of proposed streets and proposed street names;
- j) **Water and Sewer Layout:**  
\_\_\_\_\_ Sketch view of proposed water and sewer system (excluding individual wells and septic systems); including line sizes, approximate location of manholes, pumps, hydrants, force mains, or treatment facilities; and the connection of the proposed system(s) with existing systems;
- k) **Drainage System:**  
\_\_\_\_\_ Sketch view of proposed drainage facilities, including approximate location and dimensions of open drainageways, storm sewers, culverts, retaining ponds, or areas where water is to be diverted through grading;
- l) **Other Improvements:**  
\_\_\_\_\_ Proposed location and description of any other improvements including but not limited to, riding trails, sidewalks, pedestrian or bike ways, reserved open space or recreational facilities, school sites, commercial areas, or buffer strips.
- m) **Site Data:**  
\_\_\_\_\_ Total acreage in tract to be subdivided; smallest lot size (square feet); total, number of lots; lineal feet in streets.

**APPENDIX D: FINAL PLAT CHECKLIST**

The Final Plat shall meet the following requirements prior to any review of the plat by the Planning Board:

Date Final Plat Submitted \_\_\_\_\_

Date Preliminary Plat Approved \_\_\_\_\_

Name of Subdivision \_\_\_\_\_ Date Submitted \_\_\_\_\_

Location \_\_\_\_\_

Subdivider \_\_\_\_\_ Address \_\_\_\_\_ Tel. \_\_\_\_\_

Surveyor \_\_\_\_\_ Address \_\_\_\_\_ Tel. \_\_\_\_\_

Checklist

**ADMINISTRATIVE REQUIREMENTS**

- \_\_\_\_\_ Notice that improvements guarantee has been accepted or certification of improvements has been granted;
- \_\_\_\_\_ Submitted within twelve months of Preliminary Plat approval, unless written extension is granted by the Board;
- \_\_\_\_\_ Final plat is either 15 by 20 inches or 20 by 30 inches and is at a scale of at least 1" - 200'; .
- \_\_\_\_\_ Five copies submitted; the original; four copies.

**REQUIRED DATA**

- a) Title Block:
  - \_\_\_\_\_ Subdivision name; North Arrow, scale (denoted graphically and numerically), date of plat preparation, location of subdivision (township, county and state); the name(s) of the owner(s) and the registered surveyor(s) responsible for the subdivision (including the seal(s)).
- b) Tract Boundaries:
  - \_\_\_\_\_ Exact boundary lines of the tract to be subdivided, fully dimensioned by lengths and bearings, and the location of intersecting boundary lines of adjoining lands.
- c) Adjoining Property Owners:
  - \_\_\_\_\_ Names and deed references (when possible) of owners of abutting properties and subdivisions of record (proposed or under review).
- d) Location of Improvement:
  - \_\_\_\_\_ All visible and apparent rights-of-way, watercourses, utilities, roadways, and other such improvements shall be accurately located where crossing or forming any boundary line of the property shown.

- e) **Engineering Data:**  
 \_\_\_\_\_ Sufficient engineering data to determine readily and repro- duce on the ground every straight or curved boundary line, street line, lot line, right-of-way line and easement line, including dimensions, bearings, or deflection angles, radii, central angles, and tangent curved property lines that are not the boundary of curved streets. Building setback lines are to be notated.
- f) **Monuments:**  
 \_\_\_\_\_ The accurate locations and descriptions of all monument markers, and control points.
- g) **Lot and Block Numbers:**  
 \_\_\_\_\_ The blocks numbered consecutively throughout the entire subdivision and the lots numbered consecutively throughout each block.
- h) **Streets**  
 \_\_\_\_\_ Street names and right-of-way lines of all streets. Streets located in the extraterritorial Jurisdiction of the City are to be designated as public or private.
- i) **Rights-of-way**  
 \_\_\_\_\_ The location and dimensions of all rights-of-way, utility or other easements, riding trails, natural buffers, pedestrian or bicycle paths, and areas to be dedicated to public use with the purpose of each stated.

**REQUIRED CERTIFICATES**

The following certificates are to appear on the final plat in such a manner as to insure that the said certificate will be legible on any prints made therefrom, or are to be submitted with, and recorded with the final plat in accordance with the provisions of this Ordinance.

\*Certificate of Survey and Accuracy signed by the Surveyor; \_\_\_\_\_ Date

\*Certificate of Completion and Warranty signed by the subdivider; \_\_\_\_\_ Date

\*Certificate of Dedication and Maintenance signed by the subdivider; \_\_\_\_\_ Date

\*Certificate of Improvements signed by the Building Official and Mayor; \_\_\_\_\_ Date

Certificate of approval by the Planning Board; \_\_\_\_\_ Date

Certificate of approval by the Board of Commissioners; \_\_\_\_\_ Date

(\*To accompany Final Plat if improvements are completed prior to final plat review or as separate documents if guarantees are used.)

APPENDIX E: ADMINISTRATIVE FORMS

- 1) Certificate of Improvements
- 2) Certificate of Completion and Warranty
- 3) Certificate of Dedication and Maintenance
- 4) Improvements Guarantee Agreement
- 5) Performance Bond
- 6) Irrevocable Letter of Credit
- 7) Certificate of Approval of Water Supply and Sewage Disposal System(s)
- 8) Certificate of Survey and Accuracy
- 9) Certificate of Approval by Division of Highways (public streets)
- 10) Certificate of Approval by City Street Department (city streets - private residential streets)

**1) CERTIFICATE OF IMPROVEMENTS**

The following improvements have been completed by (name of subdivider) \_\_\_\_\_  
in \_\_\_\_\_ Subdivision.

List Completed Improvements:

Said improvements have been inspected by my office, have been built according to the standards set forth in the Hendersonville Subdivision Ordinance and are constructed as prescribed in the approved Preliminary Plat. To my knowledge said improvements (contain no defects) (contain only the following minor defects) and should be approved.

List any Known Defects:

_____	_____
Date	Building Official for the City of Hendersonville

All said improvements are approved according to the requirements of this Ordinance.

_____	_____
Date	Mayor, City of Hendersonville

**2) CERTIFICATE OF COMPLETION AND WARRANTY**

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

(name of corporation), through the undersigned, hereby certifies that the following improvements required under the authority of the Hendersonville Subdivision Ordinance have been installed as specified by the approved Preliminary Plat for \_\_\_\_\_ Subdivision and that said improvements during said period (name of corporation) will replace and/or repair the defective improvements at its own expense.

By: \_\_\_\_\_  
(name of corporation)

Attest: \_\_\_\_\_  
(Secretary)

Date: \_\_\_\_\_

STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON

I, \_\_\_\_\_, Notary Public of said State and County certify that \_\_\_\_\_ personally came before me this day and acknowledged that (s)he is \_\_\_\_\_ Secretary of \_\_\_\_\_, a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its \_\_\_\_\_ President, sealed with its corporate seal, and attested by \_\_\_\_\_ as its \_\_\_\_\_ Secretary.

Witness my hand and notarial seal, this the \_\_\_\_\_ day of , 20\_\_ .

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

*(This Certificate may be appropriately modified for execution by a subdivider who is not incorporated.)*

### 3) CERTIFICATE OF DEDICATION AND MAINTENANCE

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

(name of corporation), through the undersigned hereby certifies that all property and improvements described on the final plat for \_\_\_\_\_ Subdivision are owned by (name of corporation) and are free of any encumbrances or liens except as follows:

List any encumbrance or lien:

(name of corporation), through the undersigned, freely dedicates all required rights-of-way, easements, streets, utilities, open space, and other improvements to public or private use as noted on said Final Plat and freely establishes minimum building setback lines as required by the Hendersonville Subdivision Ordinance. (name of corporation) further (assumes full responsibility for) (has made arrangements suitable to the Hendersonville Board of Commissioners for) the maintenance of said improvements which (assumption of responsibility) (arrangements) shall remain in effect until such time as said improvements are accepted for maintenance by an appropriate public body.

By: \_\_\_\_\_  
(name of corporation)

Attest: \_\_\_\_\_  
(Secretary)

Date: \_\_\_\_\_

STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON

I, \_\_\_\_\_, Notary Public of said State and County certify that \_\_\_\_\_ personally came before me this day and acknowledged that (s)he is \_\_\_\_\_ Secretary of \_\_\_\_\_, a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its \_\_\_\_\_ President, sealed with its corporate seal, and attested by \_\_\_\_\_ as its \_\_\_\_\_ Secretary.

Witness my hand and notarial seal, this the \_\_\_\_\_ day of , 20\_\_ .

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

*(This Certificate may be appropriately modified for execution by a subdivider who is not incorporated).*

**4) IMPROVEMENTS GUARANTEE AGREEMENT**

STATE OF NORTH CAROLINA  
CITY OF HENDERSONVILLE

THIS AGREEMENT WAS MADE AND ENTERED INTO this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between \_\_\_\_\_ (Subdivider) \_\_\_\_\_ ,

hereinafter known as "the Subdivider", and the Hendersonville Board of Commissioners, hereinafter known as "the Board".

WITNESSETH:

WHEREAS, the Subdivider is attempting to secure from the Board approval of a Final Plat of a proposed subdivision to be known as the \_\_\_\_\_ Subdivision to be known as the \_\_\_\_\_ Subdivision to be located within the Jurisdiction of the City of Hendersonville, North Carolina; and

WHEREAS, a City ordinance entitled Subdivision Ordinance for the City of Hendersonville, as adopted by the Board of Commissioners for the City of Hendersonville on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_, (and as subsequently amended), requires the completion of certain improvements prior to Final Plat approval by the Board; and

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

WHEREAS, the Board desires to approve said Final Plat and, in lieu of requiring completion of all improvements prior to said approval, will accept from the Subdivider the filing of a (surety performance bond with \_\_\_\_\_ Company as surety) (letter of credit from the \_\_\_\_\_ Bank) (other) to guarantee and secure completion of said improvements.

IT IS THEREFORE, AGREED AS FOLLOWS:

1) The Subdivider will, on or before the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_, complete as required the following improvements in the \_\_\_\_\_ Subdivision: *(here detail all improvements to be completed)*

2) The Subdivider shall file with the City of Hendersonville through the Board a (enter here the type of document to be filed) securing and guaranteeing completion of said improvements by the required date; and

3) When the (enter here the type of document to be filed) is filled and other requirements of said Ordinance are met, then the Board will approve the Final Plat of the \_\_\_\_\_ Subdivision.

The Board of Commissioners of the City of Hendersonville has, by appropriate Board action, caused this agreement to be executed by the Mayor or other authorized member and attested by the City Clerk, and the (name of company) has, by appropriate action of its Board of Directors, caused this Agreement to

be executed by its \_\_\_\_\_ and attested by its \_\_\_\_\_ Secretary under corporate seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

Board of Commissioners of the  
City of Hendersonville

By: \_\_\_\_\_  
Mayor

Attest:  
\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
(name of corporation)

By: \_\_\_\_\_  
President

Attest: \_\_\_\_\_  
Secretary

STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON

I, \_\_\_\_\_, Notary Public of said State and County certify that \_\_\_\_\_ personally came before me this day and acknowledged that (s)he is \_\_\_\_\_ Secretary of \_\_\_\_\_, a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its \_\_\_\_\_ President, sealed with its corporate seal, and attested by \_\_\_\_\_ as its \_\_\_\_\_ Secretary.

Witness my hand and notarial seal, this the \_\_\_\_\_ day of , 20\_\_ .  
\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_  
*(This Certificate may be appropriately modified for execution by a subdivider who is not incorporated).*

**5) PERFORMANCE BOND**

STATE OF NORTH CAROLINA  
CITY OF HENDERSONVILLE

KNOWN ALL MEN BY THESE PRESENTS that we, \_\_\_\_\_ (the name of the subdivider), as Principal, and \_\_\_\_\_ (the name of the Bonding Company), as Surety, are held and firmly bound unto the City of Hendersonville, a political subdivision of the State of North Carolina, and a body politic and corporate, in the sum of \$\_\_\_\_\_, lawful money of the United States of America, for the payment of which, well and truly to be made,, we, and each of us, bind ourselves and each of us, our successors and assigns, Jointly and severally, by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, the Principal has submitted a Final Plat of the subdivision known as the \_\_\_\_\_ Subdivision, located in the Jurisdiction of the City of Hendersonville, North Carolina, for approval by the Board of Commissioners of the City of Hendersonville, which approval is a condition precedent to the right of said Principal to have said final plat registered in the Office of the Register of Deeds for Henderson County; and

WHEREAS, the Board of Commissioners of the City of Hendersonville is unable, pursuant to City ordinance, to approve said plat of said Subdivision for registration until all required improvements are completed or until a guarantee of completion of said required improvements is filed with the City of Hendersonville through said Board of Commissioners; and

WHEREAS, the Board of Commissioners of the City of Hendersonville and the Principal have this date entered into an Agreement by which said Board will approve Principal's final plat for the \_\_\_\_\_ Subdivision prior to the completion of required improvements, and the Principal has agreed to file a Surety Bond in the amount of \$\_\_\_\_\_ securing to the City of Hendersonville, through said Board, the actual completion of said required improvements on or before the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_, which Agreement is attached hereto as Exhibit A and made a part thereof; and

WHEREAS, the improvements required and agreed to be completed are set forth in said Exhibit A.

NOW THEREFORE, if the Principal shall fully comply with all the terms hereof, including the requirements of that Agreement attached hereto as Exhibit A and by which the Principal agrees to complete certain improvements on or before the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_, then this obligation shall be null and void; otherwise, it shall remain in full force and effect.

IN WITNESS WHEREOF the said Principal and Surety have hereunto set their hands and seals this the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_.

\_\_\_\_\_  
Principal  
By: \_\_\_\_\_ (SEAL)  
President

Attest:  
\_\_\_\_\_

\_\_\_\_\_  
Surety  
\_\_\_\_\_  
Attorney-in-Fact  
(Power of Attorney attached)

**6) IRREVOCABLE LETTER OF CREDIT**

STATE OF NORTH CAROLINA  
CITY OF HENDERSONVILLE

IRREVOCABLE LETTER OF CREDIT  
No.

\_\_\_\_\_  
Name of Bank:  
Address: (including branch, if any)

Date:

TO: THE CITY OF HENDERSONVILLE  
c/c BOARD OF COMMISSIONERS FOR  
THE CITY OF HENDERSONVILLE  
145 5<sup>TH</sup> AVENUE EAST  
HENDERSONVILLE, NORTH CAROLINA

Commissioners:

We hereby open our irrevocable credit in your favor available by your drafts at sight on us for a sum not exceeding \$ \_\_\_\_\_ for the account of \_\_\_\_\_ hereinafter known as "Customer". When presented for negotiation, drafts must be accompanied by the signed statement of the Mayor of the City of Hendersonville that drawing is due to default or failure to perform by Customer, the following improvements in the Subdivision on or before the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_:

(Here list the required improvements)

The term of this irrevocable credit is either through and including the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_ or upon written notice from the Mayor of the City of Hendersonville that the required improvements have been timely completed, whichever is earlier.

Acting through the Mayor of the City of Hendersonville, you will notify us when either of the following occurs:

- 1) The required improvements have been timely completed and the credit may be released; or
- 2) The Customer has failed to perform or is in default thereunder.

All drafts drawn hereunder must be marked as follows:

The amount of any draft drawn under this credit must, concurrently with negotiation, be endorsed on the reverse side hereof, and the presentment of any such draft shall be a warranty by the negotiating bank that such endorsement has been made.

This Letter of Credit shall be transferable and/or assignable.

This Letter of Credit, except as otherwise expressly provided herein, is governed by the Uniform Commercial Code in force in the State of North Carolina on the date hereof.

Very truly yours,

\_\_\_\_\_  
(Name of Bank)

By: \_\_\_\_\_  
(Authorized Signature)

**7) CERTIFICATE OF APPROVAL OF  
WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM**

I hereby certify that the water supply and sewage disposal systems (installed) (proposed for installation) and specified on the Preliminary Plat for \_\_\_\_\_ Subdivision meet all pertinent State and local requirements and are hereby approved.

\_\_\_\_\_  
(To be signed by the appropriate State  
or local official(s) - See Appendix A)

\_\_\_\_\_  
(Agency)

Date: \_\_\_\_\_

**8) CERTIFICATE OF SURVEY AND ACCURACY**

(For purposes of this Ordinance, the following shall constitute substantial compliance with North Carolina General Statute 47-30, as amended.)

I hereby certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (a deed description recorded in the Office of the Register of Deeds for Henderson County in Deed Book \_\_\_\_\_ at page \_\_\_\_\_, Deed Book \_\_\_\_\_, at page \_\_\_\_\_, etc.) (other); that the error of closure as calculated by latitudes and departures is 1: \_\_\_\_\_; that the boundaries not surveyed are shown as broken lines plotted from information found in deed descriptions 'recorded in said Register's Office in Deed Book \_\_\_\_\_ at page \_\_\_\_\_; that this map was prepared in accordance with N.C.G.S. 47-30, as amended.

Witness my hand and seal this the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

\_\_\_\_\_  
Registered Surveyor

\_\_\_\_\_  
Registration Number

**9) CERTIFICATE OF APPROVAL BY DIVISION OF HIGHWAYS  
(PUBLIC STREETS)**

The form for this Certificate is provided by a District Engineer of the Division of Highways of the North Carolina Department of Transportation.

**10) CERTIFICATE OF APPROVAL BY CITY STREET DEPARTMENT  
(CITY STREETS - PRIVATE RESIDENTIAL STREETS)**

This is to certify that the street plans in the \_\_\_\_\_Subdivision are in conformance with the standards of the Hendersonville Street Department and the Subdivision Ordinance.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Director, Hendersonville Street Department

**ENVIRONMENTAL CONSIDERATIONS  
SUBDIVISION ORDINANCE  
CITY OF HENDERSONVILLE, NORTH CAROLINA**

Pursuant to the requirements and guidelines of the National Environmental Protection Act, the Council on Environmental Quality, the U. S. Department of Housing and Urban Development, and the State Environmental Policy Act, the following is a summary of environmental considerations regarding the Subdivision Ordinance for the City of Hendersonville, North Carolina.

1. Abstract. The Subdivision Ordinance will constitute a City ordinance, setting forth provisions that will aid in bringing orderly development. This Ordinance applies to the future subdivision of land within the City's planning jurisdiction as authorized by the General Statutes of North Carolina. Included are provisions for the orderly layout of streets; for property identifying, monumenting and recording real estate; for insuring that adequate improvements are installed in new subdivisions; and the establishment of a plat review and approval process.

2. Environmental Impact. This Ordinance, if adopted and adequately enforced, will have a favorable impact on the environment because of more efficient use of land, sewage collection and disposal requirements, and soil erosion control requirements.

3. Adverse Environmental Effects Which Cannot Be Avoided. The Subdivision Ordinance will not create any adverse environmental effects.

4. Alternatives. Three other alternatives exist; no ordinance, a less restrictive subdivision ordinance, and a more restrictive ordinance. The first two alternatives would not produce satisfactory development controls. The third alternative would excessively retard development.

5. The Relationship Between Local Short-Term Uses of Man's Environment and the Maintenance and Enhancement of Long-Term Productivity. The Subdivision Ordinance requires street and lot design compatible with land characteristics. A short-term consideration is that families will enjoy more pleasurable residential developments while at the same time protecting long-term productivity considerations embracing soils, vegetation and the unique mountainous topography.

6. Irreversible and Irrecoverable Commitments of Resources. This Subdivision Ordinance will not commit resources, but rather help direct the commitment of resources in a consistent manner.

7. Applicable Federal and State Environmental Controls. Federal controls include the National Environmental Policy Act of 1969. State legislation includes the North Carolina Environmental Policy Act of 1971 (Chapter 113A).

8. Mitigation Measures Proposed to Minimize Impact. One of the primary purposes of a subdivision ordinance is to minimize the impact of development on the natural environment.