

ARTICLE 1

INTRODUCTORY PROVISIONS

Section 101. Title

This ordinance shall be known and may be cited as the Subdivision Ordinance of the Town of Mineral Springs, North Carolina, and may be referred to as the Subdivision Ordinance or herein as 'this Ordinance'.

Section 102. Purpose

The purpose of this Subdivision Ordinance is to establish procedures and standards for the development and subdivision of land within the corporate limits of the Town of Mineral Springs. It is further designed to provide for the orderly growth and development of the Town, for the coordination of transportation networks and utilities within proposed subdivisions, with existing or planned streets and highways, and with other public facilities; for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision and of rights-of-way or easements for street and utility purposes; to protect floodplains and wetlands; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will assure conditions that substantially promote the public's health, safety and general welfare. This Ordinance is designed to further facilitate adequate provision of water, sewer, parks, schools, and playgrounds, and also to facilitate the further resubdivision of larger tracts into smaller parcels of land.

Section 103. Authority

This Ordinance is hereby adopted under the authority and provisions of the General Statutes of North Carolina, Chapter 160A, Article 19, Part 2.

Section 104. Jurisdiction

The regulations contained herein, as provided in G.S. 160A, Article 19, Part 2 shall govern each and every subdivision of land within the Town of Mineral Springs.

Section 105. Compliance With Ordinance Required

All plats for the subdivision of land shall conform to the requirements of this Ordinance, and shall be submitted in accordance with the procedures and specifications established herein.

Section 106. Plats to be Approved

After the effective date of this Ordinance, no subdivision plat of land within the Town's Subdivision Ordinance jurisdiction shall be filed or recorded with Union County Register

of Deeds until it shall have been submitted to and approved by the Town as provided hereinafter in this Ordinance and no land shall be sold or transferred by reference to a plat that has not been approved and recorded in accordance with the provisions of this Ordinance.

Notwithstanding, the provisions of this Ordinance shall not prohibit any owner or its agent from entering into contracts to sell or lease by reference to an approved preliminary plat for which a final plat has not yet been properly approved or recorded with the Register of Deeds, provided the contract does all the following:

- 1) Incorporates as an attachment a copy of the preliminary plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the recorded plat prior to closing and conveyance.
- 2) Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the preliminary and final plats are possible, and that the contract or lease may be terminated without breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat.
- 3) Provides that if the approved and recorded final plat does not differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than five days after the delivery of a copy of the final recorded plat.
- 4) Provides that if the approved and recorded final plat differs in any material respect from the preliminary plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 15 days after the delivery of the final recorded plat, during which 15-day period the buyer or lessee may terminate the contract without breach or any further obligation and may received a refund of all earnest money or prepaid purchase price.

The provisions of this Ordinance shall not prohibit any owner or its agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved or recorded with the Register of Deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial, or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the final plat has been properly approved under the Subdivision Ordinance and recorded with the Register of Deeds.

Section 107. Subdivision Administrator

The Town Council shall appoint a Subdivision Administrator to administer this

Ordinance and to undertake other duties as provided for under this Ordinance.

Section 108. Streets and Public Utilities

No street shall be maintained by the Town, nor shall any street dedication be accepted for ownership and maintenance in any subdivision by virtue of enactment of this Ordinance. Pursuant to North Carolina General Statute 160A-374, approval of a plat required under this Ordinance shall not be deemed to constitute or effect acceptance by the Town of the dedication of any street or other ground, public utility or other public facility shown on the plat. Rather such acceptance, if and when granted, will be by separate Ordinance or similar action on the part of the Town Council.

Section 109. Zoning and Other Plans

All proposed subdivisions must also comply in all respects with the requirements of the Town of Mineral Springs Zoning Ordinance in the area proposed to be subdivided, and any other officially adopted plans in effect for the area proposed to be subdivided.

Section 110. "Subdivision Defined"

For purposes of this Ordinance, "subdivision" means all division of a tract or parcel of land into two or more lots, building sites, or the divisions when any one or more of those divisions is created 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 any regulations enacted pursuant to this Ordinance.

- 1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town of Mineral Springs as shown in this Ordinance;
- 2) The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved;
- 3) The public acquisition by purchase of strips of land for the express purpose of widening or opening of streets;
- 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 Town of Mineral Springs as shown in this Subdivision Ordinance and the Zoning Ordinance.

However, all exempt subdivisions shall be approved via issuance of the following Exemption Certificate by the Subdivision Administrator prior to the recording of same with Union County, but only after submittal of a Certificate of Submittal Type by Surveyor to the Subdivision Administrator.

- a) Exemption Certificate

I hereby certify that this subdivision of land is exempt from the Mineral Springs Subdivision Ordinance, and may be recorded with the Union County Register of Deeds Office.

Subdivision Administrator

Date

b) Certificate of Subdivision Type by Surveyor

It is the duty of the surveyor, by a certificate, to certify to the following on the face of the plat:

This survey is of another category of subdivision such as recombination of existing parcels, a court-ordered survey, or other exception to the definition of subdivision found in the Town of Mineral Springs Subdivision Ordinance.

Section 111. “Administrative Subdivision” Defined

An administrative subdivision is defined as a subdivision where:

- No public or private streets are proposed or necessary, and
- No rights-of-way are dedicated, no easements are dedicated, and
- The parcel of land is not within an existing major subdivision or a part thereof, and
- Where three (3) or fewer lots are created after the subdivision is completed, and
- Where no floodplains or wetlands exist, and
- Where no public water or sewer systems are proposed

However, if the subdivider owns, leases, holds an option on, or holds any legal or equitable interest in any property adjacent to or located directly across a street, easement, road, or right-of-way, from the property to be subdivided, the proposed subdivision shall not qualify for consideration under the abbreviated Procedure for Review of Administrative Subdivisions, see Section 304.

Additionally, the Procedure for Review of Administrative Subdivisions shall not be used for an additional time within three (3) years on any property less than fifteen hundred (1,500) feet from the original property boundaries, by anyone, who owned, had an option on, or any legal or beneficial interest in the original subdivision at the time the original subdivision received preliminary or final plat approval.

Section 112. “Minor Subdivision” Defined

A minor subdivision is defined as a subdivision where:

- No public or private streets are proposed or necessary, and
- No rights-of-way are dedicated, no easements are dedicated, and

- The parcel of land is not within an existing major subdivision or a part thereof, and
- Where four (4) to ten (10) lots are created after the subdivision is completed, and
- Where no floodplains or wetlands exist, and
- Where no public water or sewer systems are proposed

However, if the subdivider owns, leases, holds an option on, or holds any legal or equitable interest in any property adjacent to or located directly across a street, easement, road, or right-of-way, from the property to be subdivided, the proposed subdivision shall not qualify for consideration under the abbreviated Procedure for Review of Minor Subdivisions, see Section 305.

Additionally, the Procedure for Review of Minor Subdivisions shall not be used for an additional time within three (3) years on any property less than fifteen hundred (1,500) feet from the original property boundaries, by anyone, who owned, had an option on, or any legal or beneficial interest in the original subdivision at the time the original subdivision received preliminary or final plat approval.

Section 113. “Major Subdivision” Defined

A major subdivision is defined as a subdivision where one or more of the following exist:

- New public or private streets or roads are proposed or necessary,
- More than ten (10) lots will result after the subdivision is completed,
- Where floodplains or wetlands do exist.

Section 114. Other Definitions

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

Administrator, Subdivision. The person designated by the Town Council of the Town of Mineral Springs to administer this Ordinance and to undertake other duties as called for in this Ordinance.

Block. A piece of land bounded by streets or roads.

Deeds Office. Office of the Register of Deeds of Union County, North Carolina.

Dedication. A grant, by the owner, of a right to use land for a specified purpose or purposes. Because a transfer of property rights is entailed, dedication must be made by written instrument, and shall be completed with a written, complimentary acceptance, both in a form acceptable for recording.

Easement. The right to use a specified portion of a tract or tracts of land for a specified purpose. All easements must be made in writing, and in a form suitable for recording as part of a plat.

Lot. A parcel or tract of land or a contiguous combination of several parcels of land in single ownership, and of sufficient area and dimension to comply with all minimum requirements for the uses permitted in the zoning district in which such lot is located.

Lot of Record. A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds of Union County prior to the adoption of this Ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the date of adoption of this Ordinance which lot is not in violation of the then-existing Union County Subdivision Regulations.

Lot Types:

- **Corner Lot.** A lot located at the intersection of two or more streets. A lot abutting on a curved street or street shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one hundred thirty-five (135) degrees.
- **Double Frontage Lot.** Any lot having access to two street rights-of-way.
- **Interior Lot.** A lot other than a corner lot with frontage on only one street.
- **Panhandle Lot.** A lot which contains a narrow strip providing access under lot type.
- **Single-Tier Lot.** A lot which backs upon a limited access highway, a railroad, a physical barrier, or another type of land use and to which access from the rear is usually prohibited.

Official Maps or Plans. Any maps or plans officially adopted by the Town Council of the Town of Mineral Springs.

Open Space. An area (land and/or water) generally lacking in man-made structures and reserved for enjoyment in its unaltered state. Common areas, when so designated on plats shall be considered as open space and subject to the limitations thereof.

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

Private Driveway. A roadway serving two (2) or fewer lots, building sites, or other division of land not intended to be public ingress or egress.

Private Road. An undedicated private right-of-way which affords access to abutting properties and requires a Subdivision Streets' Disclosure Statement in accordance with G.S. 136-102.6.

Recreation Area or Park. An area of land or combination of land and water resources that is developed for active and/or passive recreation pursuits with various man-made features that accommodate such activities.

Reservation. A designation of land that does not involve any transfer of property rights,

but constitutes an obligation to keep the property free from developments for a stated period of time.

Sanitary Sewer System. A complete system of sewage collection, treatment and disposal including approved privies, septic tank systems, connection to public or community sewage systems, or other such systems, any of which shall be approved by the appropriate State Agency.

Sewage. The waste water, and its contents from kitchen, bathroom, toilet, lavatory and laundry of any residence, business establishment, institution, or any public building.

Street. A dedicated and accepted public right-of-way for vehicular traffic (or a private road when permitted by this Ordinance). The word “street” includes, but is not limited to, “road, freeway, highway, expressway and thoroughfare”. The following classifications shall apply:

Classification of Streets:

- **Collector Streets.** Streets which carry traffic from minor streets to the system of major streets.
- **Cul-de-sac.** A short street having but one end open to traffic and the other end being permanently terminated and a vehicular turnaround provided.
- **Frontage Road.** A local street or road that is parallel to a full or partial access controlled facility and functions to provide access to adjacent land.
- **Local Residential Road.** Cul-de-sac dead end streets, as limited by Section 405.7 of this Ordinance, loop streets less than 2,500 feet in length, or streets less than one mile in length that do not connect thoroughfares, or serve major traffic generators, and do not collect traffic from more than 100 dwelling units.
- **Major Thoroughfares.** A major thoroughfare as designated by the Union Thoroughfare Plan and adopted by the Town of Mineral Springs, as amended from time to time. Additionally, any other routes as designated by the Town of Mineral Springs.
- **Marginal Access Streets.** Minor streets which are parallel to and adjacent to major streets and highways and which provide access to abutting properties and protection from through traffic.
- **Minor (Residential) Streets.** Streets which are used primarily for access to the abutting properties.
- **Minor Thoroughfare.** A minor thoroughfare as designated by the Union Thoroughfare Plan and adopted by the Town of Mineral Springs, as amended from time to time. Additionally, any other routes as designated by the Town of Mineral Springs.
- **Residential Collector Road.** A local access street which serves as a connector street between local residential streets and the thoroughfare system. Residential collector streets typically collect traffic from 100 to 400 dwelling units.

- **Structure.** Any building, sign, wall, fence, or similar physical obstruction placed or erected on the property.
- **Structure Setback Line.** A line establishing the minimum allowable distance between the nearest portion of any structure including porches and the nearest street right-of-way line when measured perpendicular thereto.
- **Subdivider.** Any person, firm, or corporation who proposes to, subdivides or develops any land deemed to be a subdivision as herein defined.

Subdivision. Refer to Section 110 of this Ordinance.

Subdivision, Major. Refer to Section 112 of this Ordinance.

Subdivision, Minor. Refer to Section 111 of this Ordinance.

Town. Town of Mineral Springs, North Carolina.

Town Council. Town Council of the Town of Mineral Springs, North Carolina.

Town Engineer. The consulting engineering firm chosen by the Town of Mineral Springs to provide engineering services to the Town.

Section 115. Word Interpretation

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

- Words used in the present tense include the future tense.
- Words used in the singular number include the plural and words used in the plural number include the singular, unless the natural construction of the wording clearly indicates otherwise.
- The word “person” includes a firm, association, organization, partnership, corporation, trust, and company as well as an individual.
- The word “used for” shall include the meaning “designed for”.
- The word “structure” shall include the word “building”.
- The word “lot” shall include the words “plot”, “parcel” and “tract”.
- The words “shall”, “must”, or “will” are always mandatory and not merely directory.
- The word “he” shall include the word “she”.
- The word “may” is directory and not mandatory.
- The work "day" shall mean a normal business day unless otherwise specified.
- The words "Town", "Village" and the like denote the incorporated Town of Mineral Springs.
- All words not specifically defined herein shall be assigned their customary definitions.