

## ARTICLE 2

### LEGAL PROVISIONS

#### **Section 201. General Procedure for Plat Approval**

After the Effective Date of this Ordinance, no subdivision plat of land within the Town's jurisdiction shall be filed or recorded in the Office of the Union County Register of Deeds until it has been submitted and approved as set forth in Article III of this Ordinance.

The Union County Register of Deeds shall not file or record a plat of a subdivision of land located within the territorial jurisdiction of the Town that has not been first approved in accordance with these provisions, nor shall the Union County Clerk of Superior Court order or direct the recording of a plat if the recording would be in conflict with this Ordinance.

#### **201.1 Statement by Owner**

The owner of land within the jurisdiction of this Ordinance, which land is shown on a subdivision plat submitted for recording, shall himself, or through his authorized agent, sign a notarized statement on that plat stating that the land shown thereon is within the subdivision regulation jurisdiction of the Town of Mineral Springs.

#### **Section 202. Fees for Filing, Review and Approval**

From time to time the Town Council shall establish a schedule of fees for plat filing, review, and approval, which fees must be paid upon plat submission.

#### **Section 203. Issuance of Building Permits on Subdivision Lots**

No zoning permit, building permit or certificate of occupancy shall be issued for any lot which was created by subdivision after the Effective Date of this Subdivision Ordinance without having first been approved in accordance with this Ordinance and recorded at the Union County Register of Deeds Office and, where applicable, an Improvements Permit has been issued by the Union County Health Department.

#### **Section 204. Enforcement and Penalties for Violation**

**204.1** After the Effective Date of this Ordinance, any person who, being the owner or authorized agent of the owner of any land located within the territorial jurisdiction of this Ordinance, thereafter 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 the land before the plat has been properly approved under the terms of this Ordinance and recorded in the Union County Register of Deeds Office, shall be guilty of a misdemeanor.

Violators of this Ordinance shall be subject, upon conviction, to a fine of not more than fifty dollars (\$50.00) or imprisonment of not more than thirty (30) calendar days, as provided by G.S. 14-4.

- 204.2** The violation of any provision of this Ordinance shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00) per day for each calendar day a violation exists, which may be recovered by the Town in a civil action in the nature of a debt if the offender does not pay the penalty within five (5) days after he has been cited for violation of this Ordinance.
- 204.3** Any provision of this Ordinance may also be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the General Court of Justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be an acceptable defense to the application of the Town for equitable relief that there is an adequate remedy at law.
- 204.4** Any provision of this Ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement, and the General Court of Justice shall have jurisdiction to issue such orders. When a violation of such provision occurs, the Town may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.

In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished or removed; that fixtures, furniture or other movable property be removed from buildings on the property; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this Ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the Town may execute the order of abatement.

The Town shall have a lien on the property for the cost of executing the order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the appropriate Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

- 204.5** The provisions of this Ordinance may be enforced by any one, all or a combination of the remedies authorized and prescribed by this Section.
- 204.6** Except as otherwise specifically provided, each and every calendar day of continuing violation of any provision of this Ordinance shall be a separate and distinct offense.
- 204.7** 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 Section.
- 204.8** The Zoning Administrator shall not issue zoning permits for property in violation of this Ordinance.

**Section 205. Separability**

Should any section or provision of this Ordinance be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the Ordinance as a whole or any part thereof other than that part of the Ordinance so declared to be unconstitutional or invalid.

**Section 206. Modifications**

- 206.1** The Town Council may authorize a modification of these regulations when, in its opinion, undue hardship may result from verbatim compliance with these regulations. Such a modification shall be granted only to the extent that is absolutely necessary and not to an extent, which would violate the intent of this Ordinance.
- 206.2** **Procedure.** A petition for any such modification shall be submitted in writing by the subdivider to the Subdivision Administrator. The petition shall include:
- 1) The precise nature of the proposed modification of this Ordinance.
  - 2) The reason(s) that the need for the modification exist.
  - 3) A plat of the subject property drawn to a scale, suitable for recordation in the office of the appropriate County Register of Deeds, in which the property is located, indicating:
    - a) North arrow, and
    - b) Dimensions of the subject property, and
    - c) The precise dimensions of the modification requested, and
  - 4) The grounds for the modification and all facts relied upon by the subdivider, and
  - 5) Any other factual information pertinent to the proposed modification.

**206.2** The Subdivision Administrator shall review the petition and submit his written comments and recommendations with the petition to Town Council within ten (10) days of receipt of said petition.

**206.3** In granting any modification, the Town Council shall make findings required below, taking into account the nature of the proposed subdivision, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No modification shall be granted unless the Town Council finds:

- a) That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his land, and
- b) That the modification is necessary for the preservation and enjoyment of a substantial property right of the petitioner, and
- c) That the circumstances giving rise to the need for the modification are peculiar to the parcel and are not generally characteristic of other parcels in the jurisdiction of this Ordinance, and
- d) That the granting of the modification will not be detrimental to the public health, safety and welfare or injurious to other property in the territory in which said property is situated, and
- e) That the modification will not vary the provisions of the Town of Mineral Springs Zoning Ordinance applicable to the property.

In approving modifications, the Town Council may also require such additional conditions as will, in its sole judgment, secure substantially the objectives and standards or requirements of this Ordinance.

### **Section 207. Amendments**

For the purpose of providing for public health, safety, and general welfare, the Town Council may from time to time amend the provisions of this Ordinance (but no amendment shall become effective unless it shall have been proposed by or shall have been submitted to the Planning Board for review). The proposed amendment must be submitted to the Planning Board at least fifteen (15) calendar days in advance of the meeting at which the Planning Board considers said amendment, unless this requirement is waived by majority vote of the Planning Board members at the meeting the amendment is considered. The Planning Board shall have thirty (30) calendar days from the meeting the proposed amendment is considered, within which to submit its report. If the Planning Board fails to submit a report within the time specified above, the proposed amendment will be forwarded to the Town Council without recommendation of the Planning Board.

No amendment shall be adopted by the Town Council until it has held a public hearing on the amendment. Notice of the hearing shall be published in a newspaper of general

circulation in the Town of Mineral Springs at least once a week for two (2) successive weeks prior to the hearing. The initial notice shall appear not more than twenty-five (25) calendar days nor not less than ten (10) calendar days prior to hearing date. In computing the ten (10) to twenty-five (25) calendar day periods, the date of publication shall not be counted, but the date of the hearing shall be counted.