

ARTICLE 1

INTRODUCTORY PROVISIONS

Section 101 **Title**

This ordinance shall be known and may be cited as the Subdivision Regulations of Montgomery County, North Carolina, and may be referred to as the Subdivision Regulations.

Section 102 **Purpose**

The purpose of this ordinance is to establish procedures and standards for the development and subdivision of land within the territorial jurisdiction of Montgomery County. It is further designed to provide for the orderly growth and development of the County; for the coordination of street 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; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety, and general welfare. This ordinance we designed to further facilitate adequate provision of water, sewerage, parks, schools, and playgrounds, and also to facilitate the further re-subdivision of larger tracts into smaller parcels of land.

Section 103 **Authority**

This ordinance is hereby adopted under the authority and provision of the General Statutes of North Carolina, Chapter 153A, Article 18, and Part 2.

Section 104 **Jurisdiction**

The regulations contained herein, as provided in G.S. 153A, Article 18 shall govern each and every subdivision within the jurisdiction of Montgomery County.

Section 105 **Prerequisite to Plat Recordation**

After the effective date of this ordinance, each individual subdivision plat of land within the County's jurisdiction shall be approved by the Montgomery County Planning Board.

Section 106 **Thoroughfare Plans**

When a proposed subdivision includes any part of a thoroughfare which has been designated as such upon the officially adopted thoroughfare plan of the County, such part of such thoroughfare shall be platted by the sub-divider in the location shown on the plan and at the width specified in this ordinance.

Section 107 **School Sites on Land Use Plan**

If the Montgomery County Board of Commissioners and Board of Education have jointly determined the specific location and size of any school sites to be reserved and this information appears in the comprehensive land use plan, the Planning Board shall immediately notify the Board of Education whenever a sketch plan for a subdivision is

submitted which includes all or part of a school site to be reserved. The Board of Education shall promptly decide whether it still wishes the site to be reserved. If the Board of Education has not purchased or begun proceedings to condemn the site within eighteen (18) months, the sub divider may treat the land as freed of reservation.

Section 108 Zoning and Other Plans

Similarly proposed subdivisions must comply in all respects with the requirements of the zoning and watershed ordinances in effect in the area to be subdivided and any other officially adopted plans.

Section 201 General Procedure for Plat Approval

After the effective date of this ordinance, no subdivision plat of land within the County's jurisdiction shall be filed or recorded until it has been submitted to and approved by the Planning Board as set fourth in Section 105 of this ordinance, and until this approval is entered in writing on the face of the plat by the County Subdivision Administrator. The Montgomery County Register of Deeds shall not file or record a plat of a subdivision of land located within the territorial jurisdiction of Montgomery County that has not been approved in accordance with these provisions.

Section 202 Statement by Owner

The owner of land shown on a subdivision plat submitted for recording, or his authorized agent, shall sign a statement on the plat stating whether or not any land shown thereon is exempt or nonexempt from the subdivision regulation jurisdiction of Montgomery County, North Carolina. If the proposed division of land is claimed to be exempt, the owner shall submit to the Subdivision Administrator maps, deeds or other materials in sufficient detail to permit a conclusive determination by the enforcement officer. If the enforcement officer is uncertain regarding the claim of exemption, he will present the matter to the Planning Board for determination.

Section 203 Effect of Plat Approval on Dedications

Pursuant to G.S. 153A-333, the approval of a plat does not constitute or effect the acceptance by the County or public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat and shall not be construed to do so.

Section 204 Penalties for Violation

204.1: After the effective date of this ordinance, any person who, being the owner or agent of the owner of any land located within the territorial jurisdiction of this ordinance, thereafter subdivides his land in violation of the 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 office of the Montgomery County Register of Deeds, shall be guilty of misdemeanor. 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 penalty. The County through its attorney or other official designated by the County Board may enjoin illegal subdivision, transfer or sale of land by action for injunction. Further, violators of this ordinance shall be subject, upon conviction, to fine

and/or imprisonment as provided by G.S. 14-4 of the criminal statutes of the State of North Carolina.

204.2

The violation of any provision of this ordinance shall subject the offender to a civil penalty in the amount of \$50.00 to be recovered by the County. Violators shall be issued a written citation which must be paid within ten (10) days.

204.3

Each day's continuing violation of this ordinance shall be separate and distinct offence.

204.4

Not with standing Subsection 204.2 above, this ordinance may be enforced by appropriate equitable remedies issuing from a court of competent jurisdiction.

204.5:

Nothing in this section shall be construed to limit the use of remedies available to the county. The County may seek to enforce this ordinance by using anyone, all, or a combination or remedies.

Section 205 **Separability**

Should any section or provision of this ordinance be decided 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 declared to be unconstitutional or invalid.

Section 206 **Variances**

The Montgomery County Planning Board may authorize a variance from these regulations when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the Planning Board shall make the 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 variance shall be granted unless the Planning Board finds all four of the following conditions to exist:

- 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 the land.
- b) That the variance is necessary for the preservation and enjoyment of substantial property right of the petitioner.
- c) That the circumstances giving rise to the need for the variance are peculiar to the parcel and are not generally characteristic of other parcels in the jurisdiction of the ordinance.
- d) That the granting of the variance 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.

Section 207 Amendments

The Board of Commissioners may from time to time amend the terms of this ordinance (but no amendment shall be come effective unless it shall have been proposed by or shall have been submitted to the planning board for review and recommendation). If the Planning Board fails to submit q report within the specified time, it shall be deemed to have recommended approval of the amendment.

No amendment shall be adopted by the Board of Commissioners until they have held a public hearing on the amendment. Notice of the hearing shall be published in a newspaper of general circulation in Montgomery County as least once a week for two (2) successive calendar weeks prior to the hearing. The initial notice shall appear not more than twenty-five (25) no less than ten (10) days prior to the hearing date. In computing the ten (10) twenty-five (25) day’s period, the date if publication is not to be counted, but the date of the hearing is.

Section 208 Abrogation

It is not intended that this ordinance repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules. Regulations or permits previously adopted or issued pursuant to law. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall govern.

Section 209 Effective Date

1. This ordinance shall take effect and be in force from and after _____.

Section 210 Adoption

Duly adopted by the Montgomery County, North Carolina Board of Commissioners this the

Chairman, County Commission

Clerk

Section 211 Administrator

This ordinance shall be administered and enforced by an Administrative Officer or the designated representative who shall be named by the County Manager, after consultation with the Board of Commissioners, to include, but not limited to, the Subdivision Administrator and County Attorney.

ARTICLE III

PROCEDURE FOR REVIEW AND APPROVAL OF SUBDIVISION PLATS

Section 301 Plat shall be required on Any Subdivision of Land

Pursuant to G.S. 153A, Article 18, Part 2 a final plat shall be prepared, approved, and recorded pursuant to the provisions of this ordinance whenever any subdivision of land takes place.

Section 302 Approval Prerequisite to Plat Recordation

Pursuant to G.S. 153A-332, no final plat of a subdivision within the jurisdiction of Montgomery County as established in Section 104 of this ordinance shall be recorded by the Register of Deeds of Montgomery County until it has been approved as provided herein. To secure such approval of a final plat, the sub divider shall follow the procedures established in this article.

Section 303 Procedures for Review of Regulated Subdivisions

Subdivisions shall be reviewed in accordance with procedures in Section 304 through 308.

Section 304 Public Notice for Hearings

Notice of hearing whereat scheduled votes are to be taken concerning approval of a preliminary subdivision map and a final subdivision map must be published in a local newspaper once a week for each of the two weeks prior to the hearing. If there is not a Montgomery County newspaper in circulation, the notice must be published in a newspaper having a circulation within Montgomery County. The initial notice shall appear not more than fifteen (15) nor less than three (3) days prior to the hearing date.

Section 305 Sketch Plan for Subdivisions

305.1 Number of copies and contents:

Prior to the preliminary plat submission, the sub divider shall submit to the subdivision administrator two (2) copies of a sketch plan of the proposed subdivision containing the following information

- a) A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads, and waterways;
- b) The boundaries of the tract and the portion of the tract to be subdivided;
- c) The total acreage to be subdivided
- d) The existing and proposed uses of the land within the subdivision and the existing uses of the land adjoining it;
- e) The proposed street layout with approximate pavement and right of way width, lot layout and size of lots;
- f) The name, address, and telephone number of the owner (s) and the developer(s), if different from owner (s)
- g) The name, if any of the proposed subdivision

- h) The zoning classification of the tract and of adjacent properties;
- i) A statement from the Montgomery County Health Department that a copy of the sketch plan has been submitted to them, if a septic tank system or other onsite water or wastewater systems are to be used in the subdivision,
- j) Streets and lots of adjacent developed or plotted properties.

305.2 Submission and Review Procedure:

The subdivision administrator shall review the sketch plan for general compliance with the requirements of this ordinance and the zoning ordinance; the Subdivision Administrator shall advise the sub divider or his authorized agent of the regulations pertaining to the proposed subdivision and the procedures to be followed in the preparation and submission of the preliminary and final plats.

One (1) copy of the sketch plan shall be retained by the subdivision administrator and One (1) copy shall be returned to the sub divider or his authorized agent.

Section 306 Preliminary Plat Submission and Review

306.1 Submission Procedure

For every subdivision within the territorial jurisdiction established by section 104 of this ordinance, the sub divider shall submit a preliminary plat which shall be approved by the Planning Board before any construction or installation of improvements may begin.

Four (4) copies of the preliminary plat (as well as any additional copies which the Planning Board determines are needed to be sent to other agencies) shall be submitted to the subdivision administrator at least fifteen (15) days prior to the Planning Board meeting at which the sub divider desires the Planning Board to review the preliminary plat. The subdivision administrator shall review it and present it to the Planning Board.

Preliminary plats shall meet the specifications in section 308

306.2 Reviews by other Agencies

Concurrent with submission of the preliminary plat to the sub division administrator, the sub divider shall submit copies of the preliminary plat and any accompanying material to other officials and agencies concerned with new development including but not limited to: the district highway engineer as to proposed streets, highways, and drainage systems; the Montgomery County Health Director as to proposed water and sewage systems, the North Carolina Department of Environmental Health and Natural Resources Land Quality Section as to the erosion control requirements; and any other agency or official designated by the Planning Board for review and recommendation. The sub division administrator will advise, in writing, the sub divider concerning which agencies are applicable for a given plat.

306.3 **Review Procedure:**

The Planning Board shall review the preliminary plat at or before its next regularly scheduled meeting which follows at least fifteen (15) days after the Planning Board receives the preliminary plat and the comments from the appropriate agencies. If the Planning Board shall, in writing, recommend approval conditional approval with conditions to bring the plat into compliance, or disapproval with reasons within forty (40) days of its first consideration of the plat.

If the Planning Board approves the preliminary plat, such approval shall be noted on two (2) copies of the plat. One (1) copy of the plat shall be retained by the Planning Board and one (1) copy of the plat shall be returned to the sub divider. If the Planning Board approves the preliminary plat with conditions, approval shall be noted on two (2) copies of the plat along with a reference to the conditions. One (1) copy of the plat along with the conditions shall be retained by the Planning Board and one (1) copy of the preliminary plat along with the conditions shall be returned to the sub divider. If the Planning Board disapproves the preliminary plat the reason for such disapproval shall be specified in writing. One (1) copy shall be returned in the sub divider.

If the preliminary plat is disapproved, the sub divider may make the recommended changes and submit a revised preliminary plat, or appeal the decision to the Montgomery County Board of commissioners.

Section 307 **Final Plat Submission and Review**

307.1 Preparation of Final Plat and Installation of Improvements:

Upon approval of the preliminary plat by the Planning Board, the sub divider may proceed with the preparation of the final plat, and the installation of or arrangement for required improvements in accordance with the approved preliminary plat and the requirements of this ordinance. Prior to approval of a final plat, the sub divider shall have installed the improvements specified in this ordinance or guaranteed their installation as provided herein. No final plat will be accepted for the Planning Board unless accompanied by written notice by the subdivision administrator acknowledging compliance with the improvement and guarantee standards of this ordinance. The final plat shall constitute only that portion of preliminary plat which the sub divider proposes to record and develop at that time; such portion shall conform to all requirements of this ordinance.

307.2 **Improvements Guarantees**

a) **Agreements and Security Required**

In lieu of requiring the completion, installation, and dedication of all improvements prior to final plat approval the Montgomery County Board of Commissioners may enter into an agreement with the sub divider whereby the sub divider shall agree to complete all required improvements. Once said agreement is signed by both parties and the security required herein provided, the final plat may be approved by the Planning Board, if all other requirements of the ordinance are met. To secure this agreement, the sub divider shall provide, subject to the approval of the County Board, either one, or a combination of the following guarantees not exceeding 1.25 times the entire cost as provided herein;

1. Surety Performance Bond (s)

The sub divider shall obtain a performance bond (s) from a surety bonding company authorized to do business in North Carolinas. The bonds shall be payable to Montgomery County and shall be in an amount equal to 1.25 times the entire cost, as estimated by the sub divider and approved by the County board, 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.

2. Cash or Equivalent Security (Letter of credit)

The sub divider shall deposit cash, an irrevocable letter of credit or other instrument readily convertible into cash at face value either with the County or in escrow with a financial institution designated as an official depository of the County.

The use of any instrument other than cash shall be subject to the approval of the County Board. The amount of deposit shall be equal to 1.25 times the cost, as estimated by the sub divider and approved by the Board of Commissioners, of installing all required improvements.

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

- (i) That said escrow account shall be held in trust until release by the County Board and may not be used or pledged by the sub divider in any other matter during the term of the escrow; and
- (ii) That in the case of a failure on the part on the sub divider to complete said improvements the financial institution shall, upon notification by the County Board, and submission by the county funds estimated to complete the improvement, up to the full balance of the otherwise made payable in full to the county.
- (iii) **Default**
Upon default, meaning failure on the part of the sub divider to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account shall if requested be the board of commissioners, pay all or any portion of the bond or escrow fund to Montgomery County up to the amount needed to complete the improvements based on an engineering estimate. Upon payment, the Board of Commissioners, in its discretion, may expand such portion of said funds as it deems necessary to complete all or any portion of the required improvements. The Board shall return to the sub divider any funds not spent in completing the improvements.
- (iv) **Release of Guarantee Security**
The Board of Commissioners may release a portion of any security posted as the improvements are completed and approved by the

Planning Board. When the Planning Board approves said improvements, then the Board of Commissioners shall immediately release any security posted.

307.3 Submission Procedure:

The Sub divider shall submit the final plat, so marked, through the subdivision administration to the planning Board meeting at which it will be reviewed; further, the final plat for the first stage of the sub division shall be submitted not more than twelve (12) months after the date on which the preliminary plat was approved; otherwise such approval shall be null and void, unless a written extension of this limit is granted by the Planning Board on or before the twelve (12) month anniversary of approval.

The final plat shall be prepared by a Registered Land survey currently licensed and registered in the State of North Carolina by the North Carolina state Board of Registration for professional Engineers and Land surveyors.

The final plat shall conform to the provisions for plats, sub divisions, and mapping requirements set fourth in G.S. 47-30 and the Manual of practice for Land Surveying in North Carolina

Five (5) copies of the final plat shall be submitted; one (1) of these shall be on reproducible material; four (4) shall be black or blue line paper prints. Material and drawing medium for the original shall be in accordance with the Manual of Practice for Land Surveying in North Carolina, where applicable and the requirements of the Montgomery County Register of Deeds.

The final plat shall be of a size suitable for recording with the Montgomery County Register of Deeds and shall be at a scale of not less than one (1) inch equals two hundred (200) feet. Maps may be placed on more than one (1) sheet appropriate match lines

Submission of the final plat shall be accompanied by a filling fee posted in the county office.

Requirements for connections to existing water and sewer service shall be decided in a case by case basis, where water and/or sewer service is available Acreage or connection fees shall be determined by policy established by the Montgomery County Commissioners.

The final plat shall meet the specifications in Section 308 of this ordinance.

The following signed certificates shall appear on all five (5) copies of the final plat:

a) Certificate of Ownership and Dedication

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of Montgomery County and that I hereby adopt this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted.

Furthermore, I hereby dedicate all sanitary sewer, storm sewer, and water lines to the Montgomery County, which may accept or reject the same.

Date Owners

b) Certificate of Survey and Accuracy
In accordance With the Manual of Practice for Land Surveying in North Carolina:

On the face of each map prepared for recordation there shall appear a certificate acknowledge before an officer authorized to take acknowledgements and executed by the person making the survey or map including deeds and any recorded data shown thereon. The certificate shall include a statement of error of closure calculated by latitudes and departures. Any lines on the map which were not actually surveyed must be clearly indicated on the map and a statement included in the certificate revealing the source of information. The certificate shall take the following general form:

State of North Carolina Montgomery County

I, _____ certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made under my supervision) (deed description recorded in Book ____, Page ____, Book ____, Page ____, etc. (other); that the ration of precision as calculated by latitudes and departure is 1:____. (That the boundaries not surveyed are shown as broken lines plotted from information found in Book ____, Page ____): that this map was prepared in accordance with G.S. 47-30, as amended. Witness my hand and seal this ____day of ____, A.D. 19__.

Registered Land Surveyor
Official Seal

Registration Number

I, (officer authorized to take acknowledgments) do hereby certify that (name of registered surveyor) personally appeared before me this day and acknowledge and due execution of this certificate. Witness may hand and (where an official seal is required by law) official seal this the __day of__ (year)

Notary Public

Official Seal

c) Certificate of Approval of the design and Installation of streets, Utilities, and Other Improvements.

I hereby certify that all streets, utilities and other required improvements have been installed in a manner approved by the appropriate state or local authority and according to county specifications and standards in the ___ - Subdivision or that guarantees of the installation if the required improvements in an amount and manner satisfactory to Montgomery County has been received, and that the filling fee for this plat, in the amount of \$\$__ has been paid.

Date

County Manager

The Planning Board shall review the final plat at or before its next regularly scheduled meeting which follows at least fifteen (15) days after the Planning Board receives the final plat and shall approve, or disapprove of the final plat with reasons within forty (40) days of its first consideration of the plat.

During its review of the final plat the planning Board may appoint an engineer or surveyor to confirm the accuracy of the final plat (if agrees to by the Board of Commissioners). If substantial errors are found, the cost shall be charged to the sub divider and the plat shall not be recommended for the approval until such errors have been corrected.

If the Planning Board approves the final plat, such approval shall be shown on each copy of the plat by the following signed certificate:

b) Certificate of Approval for Recording

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of Montgomery County, North Carolina and that this plat has been approved by the Montgomery County Planning Board for recording in the office of the register of Deeds of Montgomery County.

Date

Subdivision Administrator
Montgomery County, North Carolina

If the final plat is disapproved by the Planning Board, the reasons for such disapproval shall be stated in writing, specifying the provisions of the ordinance with which the final plat does not comply/ One (1) copy of such reasons and one (1) of the reasons and three (3) copies of the plat shall be transmitted tot the sub divider. If the final plat is disapproved, the sub divider may make such changes as

will bring the final plat into compliance and resubmit same for reconsideration by the Planning Board or appeal the decision to the Montgomery County Board of Commissioners.

If the final plat is approved by the Planning Board, the original tracing and one (1) print of the plat shall be retained by the sub divider. One (1) reproducible tracing and one (1) print shall be filed with the subdivision administrator, and one (1) print shall be retained by the Planning Board for its records.

The sub divider shall file the approved final plat consisting of one Mylar and two paper copies, size 18"x24") with the Register of Deeds of Montgomery County within thirty (30) days of planning board approval; otherwise such approval shall be null and void.

Section 308 Information to be Contained in or depicted on Preliminary and final plat

The preliminary and final plats shall depict or contain the applicable information indicated in the following table. An "X" indicates that the information is required. This plat review Checklist is a part of the application process and will be part of the permanent file

PLAT REVIEW CHECKLIST

<u>Information Needs</u>	<u>Section</u>	<u>Preliminary</u>	<u>Final</u>
1. Acreage or square footage of lots	404.2	X	X
2. Agency written comments (DOT, S.E.D. Control, Environmental Health)	306.2	X	
3. Areas used for other than residential			
4. Boundaries/bearings & dimensions of parcel			
5. City/County limits in subdivision	305.1 (B)		X
6. Date prepared		X	X
7. Deed reference of original parcel		X	X
8. Drainage structures	406.2	X	X
9. Engineering or survey data			X
10. Fee- (set by bored), plus legal advertising	307.3©	X	
11. Flood areas/other natural features	308 & 404.2	X	X
12. Location map	305.1 (A)	X	X
13. Lots (numbered)	308 & 404.2	X	X
14. Mapping accuracy certificate	307.3		X
15. Markers – description	407.1		X
16. Name of subdivision (Township, County, & State)	403	X	X
17. North Arrow	308	X	X
18. Notary Public seal	307.3		X
19. Open areas and reasons	404.4	X	X
20. Owner or agent (name and address)	305.1	X	X

21. Owner if adjacent property	305.1	X	X
22. Owner ship certificate	307.3 (a)		X
23. Planning Agency Seal			X
24. Register of Deeds (stamp when recorded)			X
25. Scale (1" = 100') or more		X	X
26. Septic tank permit from Health Dept.	305.1 (j)		X
27. Streets – adjoining (names)	405	X	X
28. Streets – Dept. of Transportation stamp	405.7		X
29. Streets – Disclosure Statement			X

Section 309 **Recombination of Land**

309.1:

Any plat or any part of any plat may be vacated by the owner at any time before the sale of any lot in the sub-division by a written instrument to which a copy of such plat shall be attached, declaring the same to be vacated.

309.2

Such an instrument shall be approved by the same agencies as approved the final plat. The Planning Board may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements, streets or alleys.

309.3

Such an instrument shall be executed, acknowledged or approved and recorded and filed in the same manner as a final plat; and being duly recorded or filed shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys, and public grounds, and all dedication laid out or described in such plat.

309.4

When lots have been sold, the plat may be vacated in the manner provided in Section 309.1 through 309.3 by all owners of the lots in such plat joining in the execution of such writing.

Section 310 **Re-subdivision Procedures**

For any replanting or re-subdivision of land, the same procedures, rules and regulations shall apply as prescribed herein for an original subdivision.

ARTICLE IV

REQUIRED IMPROVEMENTS, DEDICATION, RESERVATION, MINIMUM STANDARDS OF DESIGN

Section 401 **General**

Each subdivision shall contain the improvements specified in this article, which shall be installed in accordance with the requirements of this ordinance and paid for by the sub divider, unless other means of financing is specifically stated in this ordinance. Land shall be dedicated and reserved on each sub-division as specified in this article. Each subdivision shall adhere to the minimum standards of design established by this article.

Section 402 **Suitability of Land**

402.1

Land which has been determined by the Planning Board, on the basis of engineering or other expert surveys, to pose an ascertainable danger to life or property by reason of its unsuitability for the user proposed shall not be plated for that purpose, unless and until the sub divider has taken the necessary measures to correct said conditions and to eliminate said dangers

402.2

Areas that have been used for disposal of solid waste shall not be subdivided unless tests by the Montgomery County Health Department, a structural engineer or a soils expert determine that the land is suitable for the purpose proposed.

402.3

- a) All subdivision proposals shall be consistent with the need to minimize flood damage;
- b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage

Section 403 **Name Duplication**

The name of the subdivision shall not duplicate not closely approximate the name of an existing subdivision within Montgomery County's jurisdiction.

Section 404 **Subdivision Design**

404.1 **Blocks:**

- a) The length, widths, and shapes of blocks shall be determined with due regard to: provisions of adequate building sites suitable to the special needs of the type of use contemplated; zoning requirements; needs for vehicular and pedestrian circulation; control and safety of street traffic; limitations and opportunities of topography; and convenient access to water areas.

b) Blocks shall have sufficient width to allow two (2) tiers of lots of minimum depth except where single tier lots are required to separate residential development from through vehicular traffic or another type of use, in nonresidential subdivisions, or where abutting a water area.

c) Where deemed necessary by the Planning Board, a pedestrian crosswalk at least fifteen (15) feet in width may be required to provide convenient public access to a public area such as a park or school, to a water area, or to area, such as a park or school, to a water area, or to areas such as shopping centers, religious or transportation facilities.

404.2 Lots

a) All lots in new subdivisions shall conform with the dimensional requirements contained in the Montgomery County Zoning Ordinance. In unzoned areas, minimum lot size shall be 20,000 square feet.

b) Lots shall meet any applicable Montgomery County Health Department Requirements.

c) Double frontage lots shall be avoided where ever possible.

d) Side lot lines shall be substantially at right angles to or radial to street lines.

e) Setbacks: The minimum building setback from the property line shall be as follows:

- | | |
|--|---------|
| 1. from the front property line | 30 feet |
| 2. from the side property line | 10 feet |
| 3. from the rear property line | 20 feet |
| 4. from the side property line on corner lots | 20 feet |
| 5. If the waterfront property line is not the same as the water contour level, the setback line may be the property line, but it may be determined that because that because of the slope of the land and percolation problems and requirements of the watershed laws a setback line up 10 60 feet from the waterfront lone may be required. | |

404.3 Waterfront Access:

If no special waterfront access (other than wildlife Public access) is provided by subdivides, a statement noting such shall be affixed to the final plat.

404.4 Open Space

In all regulated subdivisions, a minimum of 5% of the total acreage, not including streets, is to be reserved as open space and transferred in fee simple title to the common ownership of the interior lot owners of the subdivision. The purpose of the dedication is to provide open space and recreational sites to serve the residents of the neighborhood in which the subdivision is located. The Planning Board may, at its discretion, waive this requirement. If, however, no open space is provided, a statement noting such shall be affixed to the final plat.

404.5 Easements:

Easements shall be provided as follows:

a) **Utility Easements**

Easements for underground or above ground utilities shall be provided, where necessary, across lots or centered on rear or side lot lines and shall be at least ten (10) feet wide for water and sanitary sewer lines and as required by the companies involved, for telephone, gas and power lines. The Administrative Officer will determine whether one (1) easement is sufficient or whether several easements are necessary to accommodate the various facilities and the sub divider shall provide the required easements.

b) **Drainage Easements**

Where a subdivision is traversed by a stream or drainage way, an easement shall be provided conforming with the lines of such stream and of sufficient width as will be adequate for the purpose of drainage.

Section 405 Streets

All Subdivisions lots shall abut on a street designated as either public or private. All public streets shall be built to the standards of this ordinance and all other applicable standards of the County and the North Carolina Department of Transportation. Public streets which are eligible for acceptance in to the State Highway System shall be built to standards set forth in the Division of Highways Subdivision Roads minimum Construction Standards, or to standards if this ordinance, whichever is stricter in regard to each particular item, and shall be put on such system. Streets which are not eligible to be put on the State Highway System because there are too few lots or residences, shall be in accordance with the standards in this ordinance or standards necessary to be put on the State Highway System. Where private streets are provided in developments with lots or units for sale, such streets shall be designated as part of areas held in common and under ownership of a home owners association with maintenance provisions the same as required for open space areas held in common.

405.2 Subdivision Street Disclosure Statement:

All streets shown on the final plat shall be designated in accordance with G.S. 136-102.6 and designation as public shall be conclusively presumed and offer of dedication to the public. Where streets are dedicated to the public but not accepted into State system, before lots are sold, a treatment explaining the status of the street shall be included with the final plat.

405.3 Half Streets:

The dedication of half streets of less than sixty (60) feet at the perimeter of new subdivision shall be prohibited. If circumstances render this impracticable, adequate provision for the concurrent dedication of the remaining half of the street shall be furnished by the sub divider. Where there exists a half-street in an adjoining subdivision, the remaining half shall be provided by the proposed sub divider. .

However, In circumstances where more than sixty (60) feet of right-of-way is required, a partial width right of way, not less than sixty (60) feet in width, may be dedicated when adjoining undeveloped property is owned or controlled by the sub divider; provided that the width of the partial dedication is such as to permit the installation of such facilities as may be necessary to serve abutting lots. When the adjoining property is subdivided, the remainder of the full required right-of-way shall be dedicated.

405.4 Marginal Access Streets

Where a tract of land to be sub divided adjoins a principal arterial street, the sub divider may be required to provide a marginal access street parallel to the arterial street or reverse frontage on a minor street for the lots to be developed adjacent to the arterial. Where reverse frontage is established, private driveways shall be prevented from having direct access to the principal arterial.

405.5 Access to Adjacent Properties:

Where, in the opinion of the Planning Board, it is necessary to provide for access to an adjoining property, proposed streets shall be extended by dedication to the boundary of such property and a temporary turnaround provided.

405.6 Nonresidential Streets:

The sub divider of a nonresidential subdivision shall provided streets in accordance with the standards contained in the most current edition of the N.C. Department of transportation, Division of Highways, Subdivision Roads minimum construction standards, shall apply for any items not included in this ordinance, or where stricter than this ordinance.

405.7 Design Standards

The design of all public streets within the jurisdiction of this ordinance shall be in accordance with the accepted policies of the North Carolina Department of Transportation, Division of Highways, as taken or modified from the American Association of State Highway Officials (AASHO) manuals. The most current edition of the N.C. Department of Transportation, Division of Highways' Subdivision Roads minimum Construction Standards, shall apply for any items not included in this ordinance, or where stricter than this ordinance.

405.8 Private Streets

- a) Private streets may be allowed in the following types of developments:
1. Developments which due to the very nature of their design could not occur required meeting the requirements for subdivision roads by the division of highways. Such developments include mobile home parks and apartment complexes.

 2. The division of land into tracts which are on the average five (5) acres or greater in size with tract less than three (3) acres. The acreage of a tract is determined by the area located within lot lines. Tracts larger than ten (10) acres

will not be included when calculating the average lot size of the subdivision. All land within the lot lines except public right of ways may be included in the lot area.

- b) Private streets may be allowed when the developer shall sign a certificate attesting the fact that an instrument will be recorded with the final plat which guarantees:
 - 1. A right of access to any private street in the sub division by all lots served by the street.
 - 2. Maintenance of any private street in the subdivision at the standards set for approval; the responsibility of such maintenance shall be given to a property owners' association.
 - 3. A full disclosure of the status of the streets and street maintenance Responsibilities and that these listed items shall run with the land.

- c) Design and construction standards for private streets:
 - 1. Final standards of design and construction for private streets shall be created and approved by the Planning Board based on the type of requirements necessary for the particular development. It is recognized that Montgomery County soil types vary greatly and to require uniform standards for all private streets. The Planning Board shall utilize the advice and expertise of the subdivision administrator and other necessary agencies, departments or persons in determining the standards for private streets.

 - 2. Unless affirmatively waived by the Planning Board, private streets shall meet the following requirements.
 - (a) The minimum width of right or ways shall be fifty (50) feet. Where necessary for adequate drainage, additional right of way may be required.
 - (b) The travel way width shall be not less than twenty (20) feet, with a crown not less than one half (1/2) inch per foot fall.
 - (c) Shoulders shall not be less four (4) feet in width.
 - (d) Ditches shall be provided where necessary for proper drainage. The ditch front slope shall be not greater than 4:1
 - (e) Travel way material shall be approved by the Planning Board and shall be laid the width of the travel and shall be a uniform depth of not less than four (4) inches at the time of the final subdivision review, unless the Planning Board approves a lesser amount based on information from the developer prepared by a registered engineer, registered contractor or qualified soil specialist. The information shall substantiate the fact that the street is equal in quality to a street with a six (6) inch soil type base course which can be constructed with a lesser amount of material in the given situation.
 - (f) Private streets that are cul-de-sacs shall have adequate turnaround which has a street bed with an outside diameter not less than forty-five

(45) feet. The outside diameter of the right of way of the turn around shall not be less than fifty-five (55) feet.

- (g) Sight distance easements at the intersection of a private street with public state maintained roads shall be equal to or greater than those required by the Division of Highways.
- (h) Drainage and erosion control measures shall be equal requirements for public roads.

d) Erosion Control

There must be an approved Erosion Control Plan for all private streets as required by the Land Quality Section of the Department of Environment, Health, and natural Resources. In the case of streets that do not require an erosion Control Plan, the Planning Board may consult with the Soil Conservation Service to ensure that appropriate erosion control measures have been taken.

405.9 Other Requirements for Streets

(a) Through traffic Discouraged on Residential Collector and Local Streets.

Residential collector and local streets shall be laid out in such a way that their use by through traffic will be discouraged. Streets shall be designed or walkways dedicated to assure convenient access to parks, playgrounds, schools, or other places of public assembly.

(b) Sidewalks

Sidewalks may be required by the Planning Board on one or both sides of the street in areas likely to be subject to heavy pedestrian traffic such as near schools and shopping areas. Such sidewalks shall be constructed to a minimum width of (4) four feet and shall consist of minimum thickness of four (4) inches of concrete. All sidewalks shall be placed in the right of way, unless the development is plated as a planned unit or group development. Sidewalks shall consist of minimum of six (6) inches of concrete at driveways crossing.

(c) Street Names

Proposed streets which are obviously in alignment with existing streets shall be given the same name. In assigning new names, duplication of existing names shall be avoided and in no case shall the proposed name be phonetically similar to existing names in the county, irrespective of the of a suffix such as a street, road, drive, place, court, etc. Street names shall be subject to approval of the Subdivision Administrator after coordination with the County Emergency Medical services record of street names.

(d) Street Name Signs

Two options are provided for street name signs

1. The county shall provide and erect street name signs at all intersections within the subdivisions. The county shall be reimbursed by the sub divider for the cost of the signs; or
2. Sub dividers may provide signs for all intersections within subdivisions, providing all signs have prior approval of the subdivision administrator.

(e) Permits for Connection to State Roads

An approval permit is required for connection to any existing state system road. This permit is required prior to any construction on the street or road. The application is available at the office of the nearest district engineer of the Division of Highways.

(f) Curb and Gutter

Curbs and gutters may be required by the Planning Board on streets subjects to heavy traffic, large amount of pedestrian traffic, large volumes of runoff rain water, or other circumstances determined by the Planning Board.

Section 406 **Utilities**

406-1 **Utilities**:

- (a) Public water and sewer systems. Where public water and/or sewer systems are to be installed as part of the sub division improvements, such systems shall be designed and installed in accordance with the standards and specifications of the health department and/or the government agency responsible for the approval of such systems.
- (b) Tap-on stub-outs. Where public water and/or sewer systems are to be installed as part of the subdivision improvements, such systems shall be constructed to provide tap-on stub-outs for each lot plotted in the subdivision.
- (c) On site Sewer Systems. Prerequisite to final plat approval, all lots on the plat to be recorded must be certified in writing by the health department to meet health department minimum standards for on-site sewer systems proposed to be used.

406-2 **Surface Water Drainage**

The sub divider shall provide a surface water drainage system constructed to the standards of the North Carolina Department of Transportation, as reflected in the Handbook for the Design of Highway Surface Drainage Structures, subject to review by the Montgomery County Consulting Engineer.

- a) No surface water shall be channeled or directed into a sanitary sewer.
- b) Where feasible, the sub divider shall connect to an existing surface water drainage system.
- c) Where an existing surface water drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to protect the proposed development from water damage.
- d) Surface drainage courses shall have side slopes of at least three (3) feet of horizontal distance for each one (1) foot of vertical distance, and courses shall be of sufficient size to accommodate the drainage area without flooding, and designed to comply with the standards and specifications for erosion control of the North Carolina Sedimentation Pollution Control Act, G.S. 143-34.12, Chapter 4, and any locally adopted erosion and sedimentation control ordinances.

- e) The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one (1) foot in each two hundred (200) feet of horizontal distance.
- f) Stream banks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity in accordance with the North Carolina Sedimentation Pollution Control Act, G.S. 143-34.12. Chapter 113 A, Article 4 and the North Carolina Administrative Code Title 15, Chapter 4, and any locally adopted erosion and sedimentation control ordinances.
- g) Anyone constructing a dam or impoundment within the subdivision must comply with the North Carolina Dam Safety Law of 1967 and the North Carolina Administrative Code Title 15, Subchapter 2K.
- h) In all areas of special flood hazards, all sub division proposals shall have adequate drainage provided to reduce exposure to flood damage.

Section 407 **Other Requirements**

407.1 **Placement of Monuments**

Unless otherwise specified by this ordinance, the Manual of Practice for Land Surveying As adopted by the N.C. State Board of registration for professional engineers and land surveyors, under the provisions of Title 21 of the North Carolina Administrative Code, Chapter 56 (21 NCAC 56), shall apply when conducting surveys for subdivisions, to determine the accuracy for surveys and placement of monuments, control corners, markers, and property corner ties; to determine the location design, and material of monuments, markers control corners, and property corner ties, and to determine standards and procedures governing the practice of land surveying for sub divisions.

407.2 **Construction Procedures**

No construction or installation of improvements shall commence in a proposed subdivision, until the preliminary plat had been approved, and all plans and specifications have been approved by the appropriate authorities.

407.3 **Oversized Improvements**

Montgomery County may require installation of certain oversized utilities of the extension of utilities to adjacent property when it is in the interest of future development. If the County requires the installation of improvements in excess of the standard required in this ordinance, including all standards adopted by reference, the County shall pay the cost differential between the improvement required and the standards in the ordinance

ARTICLE V

DEFINITIONS

Section 501 “Subdivision” Defined

For purposes of part 2 of Article 18 of Chapter 153A of the General Statutes, “Subdivision” means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions, for the purpose, whether immediate or future, of sale or building development and shall include all divisions of land involving the dedication of a new street or a change in existing street; provided, however, that the following shall not be included within this definition nor be subject to the regulations authorized by part 2, Article 18 of Chapter 153 A if the general statutes; provided that the grantor of any land who by deed subdivides the land other than by recorded subdivision plat shall include in the deed a statement as to why the subdivision is exempt from these regulations by reference to one or more of the following sections:

- (1) The combination or recombination of portions of previously recorded lots where the total number of lots is not increased and the resultant lots are equal to exceed the standards of the county as shown in its subdivision regulations and the combination or recombination does not change or alter the location of a public or private road as shown on a plat previously recorded in the Montgomery County Register of Deeds.
- (2) The Public acquisition by purchase of strips of land for the widening or opening of streets.
- (3) The conveyance of a lot or tract for the purpose of dividing lands among the tenants in common all of whom inherited by intestacy or by will the land from a common ancestor.
- (4) The division of land by any method of transfer among members of a linear family, which shall include direct lineal descendants (children, Grandchildren, great-grandchildren) and direct lineal ascendants (father, mother, grandfather and grandmother) and brothers, sisters, nieces and nephews.
- (5) The division of land pursuant to an Order of the General Court of justice.
- (6) The division of land for cemetery lots or burial plots.
- (7) The conveyance of a tract or parcel of land of at least 20,000 square feet exclusive of State right-of-way for a road with at least 100 feet frontage upon a State Maintained road, as well as a driveway permit previously issued by the Department of Transportation along the 100 feet frontage and a means of sewage disposal by previously issued permit from the Division of Environmental Management of the Montgomery County Health Department.
- (8) The division of land into parcels of (5) acres or more where the grantor records a road right-of-way agreement prior to or simultaneously with the recording of the deed, which said agreement for construction and maintenance of the road.

- (9) An exempt rural subdivision is defined as one where ten (10) or fewer lots result after the subdivision is completed and each lot in the subdivision is at least one acre in size. Furthermore, the exempt rural sub division may be used only once for any parent parcel or unit of ownership as of the effective date of this ordinance. The intent of the exempt rural sub division is to provide for special situations in the areas of Montgomery County.
- (a) An application for an exempt rural subdivision must be submitted to the Montgomery County Planning Department two weeks prior to the regularly scheduled meeting of the Montgomery County Planning Board. Any application for an exempt rural sub division must be approved by the Montgomery County Planning Board.
- (b) An exempt rural subdivision may only be approved if such application is presented to the Montgomery County Planning Board in completed form, including a recordable plat upon which there are clear provisions for legal access to each and every lot; provisions for upkeep and maintenance of any right of way or easement, which shall be at least forty-five (45) feet in width, a statement limiting the proposed lots to one residential structure, and that the lots may not be subdivided , and that any further sub division of the parent parcel or unit of ownership is subject to the terms and conditions of the Montgomery County Sub division Ordinance. The plat shall also include a statement that Montgomery County is not responsible for any upkeep and maintenance of any right of way or easement, and that the proposed right of way or easement is not suitable for acceptance by the North Carolina Department of Transportation for maintenance purposes or acceptance into the State Highway system.
- (c) The plat shall be prepared by a registered Land surveyor or currently licensed and registration in the State of North Carolina by the North Carolina State board of registration for professional engineers and land surveyors. The final plat shall conform to the provisions for plats, subdivisions and mapping requirements set fourth in G.S. 47-30 and the manual of practice for land surveying in North Carolina.
- (d) Following the review by the sub division administrator, the plat shall be reviewed by the Planning Board at or before its next regularly scheduled meeting which follows at least fifteen (15) days after the planning board receives the plat and shall approve or disapprove the plat with reason within fifteen (15) days. During the review of the plat, the Planning Board, may appoint an engineer or surveyor to confirm the accuracy of the plat) if agreed to by the Board of Commissioners). If substantial errors are founds, the costs shall be charged to the sub divider and the plat shall not be recommended for approval until such error have been corrected.
- (e) If the Planning Board approves the plat, such approval shall be shown on each copy of the plat by the following signed certificate:

Certificate of Approval for Recording

I hereby certify that the subdivision plat shown hereon has been found to comply with the subdivision regulations of Montgomery County, North Carolina and that this plat has been approved for recording in the office of the Register of Deeds of Montgomery County.

Date

Subdivision Administrator
Montgomery County, North Carolina

(f) Water Supply Watershed Review Certificate

All proposed subdivision plats shall be reviewed prior to recording with the register of Deeds to determine if the plat is located in the Watershed Protection District displayed on the Montgomery County Watershed Map. If it is determined that the plat is located in the Watershed protection District, appropriate regulations for that District will apply. In any event the following certificate shall be added to the plat:

Certificate of Approval for recording

I certify that the plat shown hereon is not within the Watershed Protection District or complies with the Watershed Protection District for Montgomery County and is approved by the planning Board for recording in the Register of Deeds Office.

Date

Watershed Administrator
Montgomery County, North Carolina

- (g) If the plat is disapproved by the Planning Board the reasons for such disapproval shall be stated in writing, specifying the provisions of this ordinance with which the plat does not comply. One (1) copy of such reasons and one (1) print of the plat shall be retained by the planning board as part of the records; one (1) copy of the reasons shall be transmitted to the subdivider. If the plat is disapproved, the subdivider may make such changes as will bring the plat into compliance and resubmit same for reconsideration by the Planning Board, or appeal the decision to the Montgomery County Board of Commissioners.
- (h) If the plat is approved by the Planning Board the subdivider shall file the approved plat with the register of Deeds of Montgomery County within thirty (30) days of the approval; otherwise such approval shall be null and void.

Section 502 Other Definitions

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

Block: A piece of land bounded on one or more sides by streets or roads.

Building Setback Line: A line parallel to the front property line in front of which no structure shall be erected. Setbacks shall be figured from the right of way line.

Cluster Development: The groupings of buildings in order to conserve land resources and provide for innovation in the design of the project. This term includes non residential development as well as single family residential subdivisions and multi-family developments that do not involve the subdivision of land (also called innovative Development).

Dedication: A gift, by the owner, or a right to use of land for a specified purpose or purposes. Because a transfer of property rights is entailed, dedication must be made by written instrument, and is completed with an acceptance.

Easement: A grant by the property owner of a strip of land for a specified purpose and use by the public, a corporation, or persons.

Half Street: A Street whose centerline coincides with a subdivision plat boundary, with one-half (1/2) the street right of way width being contained within the subdivision plat. Also, any existing street to which the parcel of land to be sub division abuts on only one side.

Lot: A portion of subdivision, or any other parcel of land, intended as a unit of transfer of ownership or for development or both.

Lot of Record: A lot which is part of a subdivision, a plat of which has been recorded in the office of Register of Deeds of Montgomery 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 adoption of this ordinance.

Lot Types

Corner Lot: A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lots to the foremost point of the lot meet at an interior angle of less than one hundred thirty five (135) degrees.

Double Frontage Lot: A continuous (through) lot which is accessible from both streets upon which it fronts.

Innovative Development: See Cluster Development.

Interior Lot: A lot other than a corner lot with only one frontage on more than one street.

Through Lot or a “Double Frontage Lots.” A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots

Reversed Frontage Lot: A lot on which the frontage is at right angles or approximately right angles (interior angles less than one hundred thirty-five (135) degrees to the general pattern in the area. A reversed frontage lot may also be a corner lot, an interior lot or a through lot.

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 Montgomery County Board of Commissioners.

Open Space: An area (land and/or water) generally lacking in man-made structures and reserved for enjoyment in its unaltered state.

Plat: A map or plan of a parcel of land which is to be, or has been sub divided.

Public Water System: A system for the provision to the public of piped water for human consumption if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

Public or Community Sewage System: A single system of sewage collection, treatment, and disposal owned and operated by a sanitary district, a metropolitan sewage district, a water and sewer authority, a county or municipality, or public utility.

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

Private Street: 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.

Reservation: A reservation of land does not involve any transfer of property rights. It simply constitutes an obligation to keep property free from development for a stated period of time.

Septic Tank System: A ground absorption sewage treatment and disposal system consisting of a septic tank and a nitrification field, necessary pipe lines, conduits, pump

stations, and other appurtenances required for proper collection, distribution, treatment, disposal, operation and performance, or any other system approved by the health Department.

Street: A dedication and accepted public right-of way for vehicular traffic) or a private road only if permitted by this ordinance). The following classifications shall apply.

Rural Roads

Principal Arterial: A rural link in a network of continuous routes serving corridor movements having a trip length and travel density characteristics indicative of substantial statewide or interstate travel and existing solely to serve traffic. This network would consist of interstate routes and other routes designed as principal arterials.

Minor Arterial: A rural link in a network joining cities and larger towns and providing intrastate travel and inter county service at relatively high overall travel speeds with minimum interference to through movement. This network would primarily serve traffic

Major Collector: A road which serves major intra county travel corridors and traffic generators and provides access to arterial system.

Minor Collector: A road which provides service to small local communities and links locally important traffic generators with their rural hinterland.

Local Road/Street: A local road which serves primarily to provide access to adjacent land and for travel over relatively short distances.

Specific Type Rural or Urban Streets

Freeway, expressway, or Parkway: Divided multilane roadway designed to carry large volumes of traffic at relatively high speeds. A freeway is a divided highway providing for continuous flow of vehicles with no direct access to abutting property or streets and with access to selected crossroads provided via connecting ramps an expressway is a divided highway with full or partial control of access and generally with grade separations at major intersection. A parkway is a highway for non-commercial traffic, with full or partial control of access, and usually located within a park or a ribbon of park like development.

Residential Collector Street: A local access street which serves as Connector Street between local residential streets and the thoroughfare system. Residential collector streets typically collect traffic from 100 to 400 dwelling units.

Local Residential Street: Cul-de-sacs, 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.

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 partial access controlled facility and functions to provide access to adjacent land.

Alley: 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.

Sub divider: Any person, firm or corporation who subdivides or develops any land deemed to be a sub division as herein defined.

Section 503 **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 indicates otherwise.

The word “person” includes a firm, association, corporation, trust, and company as well as an individual.

The word “use for” shall include the meaning “designed for”.

The word “structure” shall include the word “building”.

The word “lot” shall include the words “plot”, “parcel”, or “tract”.

The word “shall” is always mandatory and not merely directory.

ARTICLE VI

INNOVATIVE DEVELOPMENT PROJECTS

Section 601 **Purpose**

It is objective of this section to encourage innovate development proposals that exhibits such special qualities or concepts that they may deviate from standard ordinance requirements. These regulations are established in order that each cluster development proposal will be evaluated on its own merits. It is recognized that some proposals or concepts will be more successful than others and the approval of a specific proposal in one situation does not mean that a similar proposal would be accepted in other

circumstances. These provisions are purely optional and are a voluntary means by which land may be developed outside of the standard ordinance requirements. These provisions are designed to evaluate only those innovative concepts that propose to meet a community need that would not be otherwise be met. Finally it should be emphasized that these provisions should not be confused with or take place of the normal variance procedures established either in this ordinance or in the subdivision ordinance.

For the purpose of this section, the Montgomery County Planning Board is empowered to review and approve cluster development applications.

For the purpose of this section, the Montgomery County Planning Board is empowered to review and approve cluster development applications.

601.1 Certain Zoning Ordinance Standards May Be Modified:

The zoning standards listed below which would normally apply to development may be modified through the cluster development process.

- | | |
|---------------------------|-------------------------------|
| 1. Lot area | 5. Building separation |
| 2. Lot width | 6. Height of fences and walls |
| 3. Public street frontage | 7. Off-street parking |
| 4. Setback and yards | 8. Open Space |

601.2 Subdivision Regulations Standards May Be Modified:

The subdivision design standards listed below which would normally apply to development may be modified through the innovative development process.

Section 602 Street right of way

- (1) Street right of way must be at least forty feet for a private street.
- (2) Street right of way must be at least forty feet for a public street in accordance with the NC Department of Transportation standards.
- (3) The Planning Board may modify above right of way requirements as they deem necessary or justifiable.

Section 603 Sidewalks

Where required or used, must conform to Montgomery County standards.

Section 604 Curb and Gutter

Where required or used, must conform to Montgomery County standards.

Section 605 Street Type (Public or Private)

- (1) Where “Public Street” is used, it must be constructed in accordance with NC Department of Transportation standards.

(2) Where “Private Street” is used, it must be constructed in accordance with NC Department of Transportation standards.

(3) The Planning Board may modify above requirements as they deem necessary or justifiable.

(4) In Montgomery County, any street that is to be acceptable for public maintenance must be built in accordance with the standards of the State of North Carolina.

(5) All other provisions of the Montgomery County Subdivision ordinance remain in effect.

Section 606 Limitations of Project Size

Because of the special nature of these provisions it is desirable to limit the size of the area proposed for innovative development. This will insure the appropriateness of the land use relationships with adjoining property while providing the needed flexibility that is essential to the success of these provisions.

In the event an owner of a large tract of land desires to have more than one innovative development proposal (project) within the perimeter boundary of the larger tract, each project must comply with this ordinance.

The project area that may be considered under these provisions is listed below:

75 acre maximum No minimum

Development must be accomplished through a single application for the entire allowable acreage or through a series of smaller areas which together do not exceed the maximum size allowed.

Section 607 Minimum Open Space Requirements

In order to insure that each project constructed under this ordinance provides for adequate open space, both common open spaces for the enjoyment of the residents as well as adequate private open space for each home will comply with the following minimum standards.

The minimum common open space to be provided for each project exclusive of street right of ways is to be ten percent (10%) of the gross site area.

Each lot must contain as a minimum fifty percent (50%) of open space exclusive of all roof areas. Decks, trellises and patios may occur within this area; however, nothing under this ordinance is to modify the normal building standards required by the North Carolina State building code.

Section 608 **Required off Street Parking**

Each lot must contain as a minimum fifty percent (50%) of open space exclusive of all roof areas. Decks, trellises and patios may occur within this area; however, nothing under this ordinance is to modify the normal building standards required by the North Carolina State building code.

Section 608.1 **Required off Street Parking**

Each lot shall provide a minimum of two (2) off street parking spaces. These may be covered or uncovered, stacked or side by side.

Section 609 **Homeowners Association – Maintenance and Covenants**

Each project, prior to final approval, must submit a preliminary description of the organization of the Homeowners Association as well as restrictive covenants which apply to the community. These shall address the maintenance and responsibility for public and private open spaces, private streets if applicable, as well as maintenance requirements for patio exterior walls.

Section 610 **Application**

In applying for approval if a cluster development concept the applicant must include a letter to the director or Planning with a statement of intent outlining; the purpose and objectives of the proposed development; the particular development standards that are being modified, and the special design features or amenities that are being incorporated into the plan which make the proposed development significant and worthy of approval; and any other applicable information that the applicant may feel is appropriate. The applicant must submit a site development plan drawn to scale showing the information listed below.

1. Proposed lot configuration (s)
2. Proposed vehicular circulation system and off-street parking arrangements.
3. Proposed pedestrian and/or open space system.
4. Proposed screening, including fences, walls, or planting areas.
5. Proposed treatment of any existing significant natural features.

The Board of County Commissioners, the Planning Board, or the Director of Planning may require additional information that may be necessary for an adequate review of the proposed development. This information may include individual dwelling unit concepts, intended use and design of the open space network, recreational amenities, and other similar information.

Section 611 **Review and Approval**

In evaluating an application for innovative developments the Planning Board will consider whether the development plan meets the objective listed below.

1. Accomplish objectives as specified in the statement of intent
2. Exhibits special, a typical design features and thoughtful, imaginative use of the land.
3. Provides for reasonable and appropriate land use relationships, both within the development itself and with surrounding areas adjacent of the development.
4. Provides the community with a beneficial, alternate design concept which is potentially applicable in other community situations.

If the Planning Board disapproves an application for an innovative development, the grounds for the disapproval will be stated in the records of the Planning Board, Any appeal from the decision of the Planning Board may be taken to the Board of County Commissioners.