

CLAY COUNTY  
SUBDIVISION ORDINANCE

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**STATE OF NORTH CAROLINA  
COUNTY OF CLAY**

**AMENDED CLAY COUNTY SUBDIVISION ORDINANCE**

**ARTICLE I.**

**TITLE, AUTHORITY, PURPOSE AND GENERAL EFFECT**

**SECTION 1.1: TITLE.**

This Chapter shall be known and cited as the Amended Clay County Subdivision Ordinance and may be referred to as the "Amended Subdivision Ordinance".

**SECTION 1.2: STATUTORY AUTHORITY.**

The legislature of the State of North Carolina has in Article 18 Chapter 153A, of the North Carolina General Statutes delegated the authority to Counties to regulate the subdivision of land within their territorial jurisdiction.

**SECTION 1.3: JURISDICTION.**

The ordinance shall apply to every subdivision or development in Clay County which is located outside the planning jurisdiction of a municipality, as established pursuant to G.S. Section 160A-360. Municipalities within Clay County may elect to allow this ordinance to be effective within their corporate limits or extraterritorial jurisdictions.

**SECTION 1.4: STATEMENT OF PURPOSE.**

The purpose of this Subdivision Ordinance is to establish standards and procedures for the subdivision and re-subdivision of land within all of Clay County and the municipalities and extra territorial jurisdictions contained in Clay County. It is further designed to provide for the orderly growth and development of the County.

**SECTION 1.5: PREREQUISITE TO PLAT RECORDING.**

Pursuant to the provisions of N.C. Gen. Stat. §§ 153A-331 and 153A-332, no subdivision plat of land within Clay County shall be filed or recorded by the Clay County Register of Deeds until it has been approved in accordance with the provisions of this Amended Subdivision Ordinance.

SECTION 1.6: COMPLIANCE WITH OTHER PLATS.

- A. Any person who is the owner or the agent of the owner of any land located within Clay County, who subdivides the land in violation of this Amended Subdivision 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 Amended Subdivision Ordinance and recorded in the Office of the Clay County Register of Deeds, shall be guilty of a misdemeanor.
- B. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from the above-mentioned penalty.
- C. The County may bring an action for injunction of any illegal subdivision, transfer, conveyance or sale of land and shall upon appropriate finding, issue an injunction and order requiring the offending party to comply with this subdivision ordinance.

**ARTICLE II.**

**DEFINITIONS**

SECTION 2.1: SUBDIVISION DEFINED.

As used in this Ordinance, the definition of the word "subdivision" is defined in N.C. Gen. Stat. § 153A-335. The definition is as follows:

A "subdivision" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and includes all divisions of land including the dedication of a new street or a change in existing streets; however, the following is not included within this definition and is not subject to any regulations enacted pursuant to this part:

- A. The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the County as shown in its subdivision regulations;
- B. The division of land into parcels greater than 10 acres if no street right of way dedication is involved;
- C. The public acquisition by purchase of strips of land for widening or opening streets or for public transportation system corridor;

- D. The division of a tract in single ownership, the entire area of which is no greater than two acres, into not more than three lots, if no street right of way dedication is involved and if the resultant lots are equal to or exceed the standards of the county as shown by its subdivision regulations.
- E. The division of a tract into parcels in accordance with intestate succession under Chapter 29 of the General Statutes.

**SECTION 2.2: TYPES OF SUBDIVISION.**

For all subdivisions of land as defined in Section 2.1 the following categories of subdivisions shall be used to determine the procedures required for review:

**A. SUBDIVISION.**

A subdivision of land by a property owner into lots or parcels for the purpose of sale or development for residential purposes.

**B. SPECIAL SUBDIVISION.**

The subdivision of land for uses not otherwise specified by this Ordinance including but not limited to multifamily residential lots, condominiums, cemeteries, apartments, townhouses, mobile homes (not Mobile Home Parks), tiny homes, teepees, tree houses, and any other structures that require building permits, and any land used for commercial or industrial purposes. A Mobile Home and Recreational Vehicle Park Ordinance applies to any land use application for the purpose of establishing a mobile home park or recreational vehicle park and should be referred to for all special requirements and permits.

**SECTION 2.3: OTHER DEFINITIONS.**

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

**Acre:** A unit of land that is equal to 43,560 square feet.

**Apartment:** Any building, or portion thereof, which is designed, built, rented, leased, let, or hired out to be occupied, or which is occupied as the home or residence of three (3) or more families living independently of each other in dwelling units.

**Board of Commissioners:** Clay County Board of Commissioners.

**Buffer Easement:** Any easement not exceeding 10-feet in width adjacent to a major street or a commercial or industrial development may be required by the Board of Commissioners. The Board of Commissioners may require the grading and planting of said buffer easement.

**Cemetery:** Any one or a combination of more than one of the following in a place used or to be used and dedicated or designated for cemetery purposes: (a) a burial park, for earth interment; (b) a mausoleum; or (c) a columbarium. No cemetery covered by this ordinance shall offer to sell "pre-need"

grave spaces, mausoleum crypts, niches, memorials, vaults or any other pre-need cemetery merchandise or services under any plan authorized for any cemetery, cemetery sales group, or cemetery management group, before obtaining a license from the North Carolina Cemetery Commission.

**Commercial:** Relating to trade or business; having profit or wealth as the primary aim; occupied with or engaged in commerce or work intended for commerce.

**Community Sewer System:** Any sewer system owned and operated by a municipality or local government in Clay County, or other sewer system serving two or more connections. Pursuant to North Carolina rules and regulations, the term community sewer system shall embrace both sewers and sewage disposal systems.

**Condominium:** A legal arrangement under which a person owns outright a particular unit of a multiunit development, such as an apartment building, plus an undivided interest in common areas.

**Contiguous Parcel:** Consists of a plot of land not subdivided into parcels or lots remaining under one ownership that touch and share a common border.

**County:** The word "county" means "Clay County".

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

**Design Unit:** One or more dwelling units, places of business, or places of public assembly on:

- (a) A single lot or tract of land;
- (b) Multiple lots or tracts of land served by a common ground absorption sewage treatment and disposal system; or
- (c) A single lot or tract of land or multiple lots or tracts of land where the dwelling units, places of business or places of public assembly are under multiple ownership (e.g., condominiums) and are served by a ground absorption system or multiple ground absorption systems which are under common or joint ownership or control.

**Developer:** Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

**Dwelling Unit:** Any room or group of rooms located within a structure and forming a single, habitable unit with facilities which are used or intended to be used for living, sleeping, bathing, toilet usage, cooking, and eating.

**Easement:** A grant by the property owner of a use, for a specified purpose, by the public, the Corporation or persons, of an area of land.

**Industrial:** Any nonresidential development that requires an NPDES permit for an industrial discharge and/or requires the use of storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity.

**Lot:** A portion of a subdivision or any other parcel of land intended as a unit for transfer or ownership, or for development, or both. The word "lot" includes the words "plot" or "parcel"

or "tract".

**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 Clay County prior to the adoption of this Amended Subdivision Ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this Amended Subdivision Ordinance.

**Mobile Home:** A factory-assembled portable housing unit or a portion thereof built on a chassis and intended for use as a dwelling unit and is not constructed in accordance with the standards of the North Carolina Uniform Residential Building Code for one and two-family dwellings. A mobile home is designed to be transported on its own chassis and has a measurement of forty (40) feet or more in length and eight (8) feet or more in width. A mobile home shall be construed to remain a mobile home, whether or not wheels, Ashley hitch, or other appurtenances of mobility are removed, and regardless of the nature of the foundation provided. All vehicles that are designated mobile home by the Uniform Standards Code for Mobile Home Act shall be considered mobile homes. A mobile home shall not be construed to be a travel trailer or other form of recreational vehicle.

**Mobile Home Park:** Land leased or rented being used or proposed to be used by mobile homes occupied for dwelling or sleeping purposes, consisting of three (3) or more mobile homes on a single tract shall be considered a Mobile Home Park.

**Mobile Home Space:** Any parcel of land within a Mobile Home Park designated for exclusive use of one mobile home. The space shall consist of connections to the mobile home for water service, waste water disposal, electrical connection, parking, etc.

**Municipality:** A city, town, county, district, or other public body created by or pursuant to State law, or any combination thereof acting cooperatively or jointly.

**Ordinance:** the word "ordinance" includes the words "Subdivision Ordinance" or "Clay County Subdivision Ordinance" or "Amended Clay County Subdivision Ordinance".

**Place of Business:** Any store, warehouse, manufacturing establishment, place of amusement or recreation, service station, food-handling establishment, or any other place where people work or are served.

**Place of Public Assembly:** Any fairground, auditorium, stadium, church, campground, theater, school, or any other place where people gather or congregate.

**Planning Committee:** Clay County Planning Committee.

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

**Phased Development:** a subdivision proposed to be constructed in phases shall meet all conditions and requirements of this ordinance. The term "phased development" includes the term "phased sections".

**Private Street:** A dedicated private right-of-way which affords access to abutting properties.



**Private drinking water well:** Any excavation that is cored, bored, drilled, jetted, dug, or otherwise constructed to obtain groundwater for human consumption and that serves or is proposed to serve 14 or fewer service connections or that serves or is proposed to serve 24 or fewer individuals. The term "private drinking water well" includes a well that supplies drinking water to a transient non-community water system as defined in 40 Code of Federal Regulations § 141.2 (July 1, 2003 Edition).

**Public Street:** A dedicated public right-of-way for the vehicular traffic which affords access to abutting properties and has been accepted by the Department of Transportation for State North Carolina.

**Public Water System:** Any municipal water system or well in Clay County serving 15 or more connections or serving more than 25 year-round residents as defined in 15A NCAC 18C (Rules Governing Public Water Supplies).

**Recreational Vehicle (also known herein as "RV"):** A vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use. The term Recreational Vehicle (RV) also refers to travel trailer, camper, park models, camping trailer, truck camper, motor home and any other terms that refer to towable temporary dwellings.

**Recreational Vehicle Park (also known herein as "RV Park"):** Any single parcel of land upon which two (2) or more recreational vehicles are occupied for temporary sleeping purposes, regardless of whether or not a charge is made for such purposes, shall be deemed a Recreational Vehicle Park. A Recreational Vehicle Park qualifying for a permit shall be no less than five (5) acres.

**Residence:** Any home, hotel, motel, summer camp, labor work camp, mobile home, dwelling unit in a multiple family structure or any other place where people reside.

**Sewage:** Water-carried wastes created in and carried or to be carried away from residences, hotels, schools, hospitals, industrial establishments, commercial establishments or any other private or public building together with such surface or groundwater or household and industrial wastes as may be present.

**Sewage disposal system:** Includes any plant, system, facility, or property used or useful or having the present capacity for future use in connection with the collection, treatment, purification or disposal of sewage (including industrial wastes resulting from any processes of industry, manufacture, trade or business or from the development of any natural resources), or any integral part thereof, including but not limited to septic tank systems or other on-site collection or disposal facilities or systems, treatment plants, pumping stations, intercepting sewers, trunk sewers, pressure lines, mains and all necessary appurtenances and equipment, and all property, rights, easements and franchises relating thereto and deemed necessary or convenient by the authority for the operation thereof.

**Sewers:** Includes mains, pipes and laterals for the reception of sewage and carrying such sewage to an outfall or some part of a sewage disposal system, including pumping stations where deemed necessary by the authority.

**Sewer system:** Embraces both sewers and sewage disposal systems and all property, rights, easements and franchises relating thereto.

**Septic Tank System serving a Single-family dwelling:** Septic tank system, also referred to as an onsite wastewater system or subsurface sewage disposal system, serving a single-family dwelling governed by the State of North Carolina rules and regulations inspected, approved, and permitted through the local health department and/or the State of North Carolina.

**Single-family home:** A one unit dwelling structure for the purpose of housing a single family intended to be used for living, sleeping, bathing, toilet usage, cooking, and eating. This structure is entirely detached from other structures with open space on all four sides and with walls that are extended from the ground to the roof.

**State:** The word "State" includes the term "the State of North Carolina".

**Street Line:** The edge of the roadway pavement.

**Structure:** Structure, pursuant to this ordinance, includes all aspects of construction (except retaining walls and fences pursuant to Article IV Section 4.4 (c)). The word "structure" includes the words and/or terms "building" or "house" or "home" or "accessory buildings (those that are defined and require a Clay County Building Permit pursuant to North Carolina Residential Code)" or "porches" or "decks" or "overhangs".

**Subdivision Administrator:** An official or designated person of Clay County responsible for assisting in the administration and enforcement of this Ordinance.

**Tiny Home:** Houses that are 400 square feet in area or less and are located on a permanent foundation.

**Teepee:** A tent, usually made from animal skins or canvas, laid on a conical frame or long poles, and having an opening at the top for ventilation and a flap door.

**Townhouse:** A townhouse project most commonly consists of a group of horizontally attached two or three-story units combined with common areas for the use and enjoyment of all townhouse unit owners in the project. Each townhouse unit is individually owned, and the entire group of town house unit owners are also generally members of a homeowner's association that owns and maintains the common areas for the benefit of all. Very similar to a condominium project in many respects, except the typical townhouse development is not a condominium because the common areas are not owned by each unit owner. The common areas are generally owned and maintained by a homeowner's association.

**Treehouse:** A structure built in or around a tree which interacts with, and relies upon, the tree for its support. A treehouse consists of a roofed platform defining a sheltered space, which may be fully enclosed for protection from the elements.

**Water supply well:** Any well intended or usable as a source of water supply, but not to include a well constructed by an individual on land which is owned or leased by him, appurtenant to a single-family dwelling, and intended for domestic use (including household purposes, farm livestock, or gardens).

**Water system:** Includes all plants, systems, facilities or properties used or useful or having the present capacity for future use in connection with the supply or distribution of water or the control and drainage

of stormwater runoff and any integral part thereof, including but not limited to water supply systems, water distribution systems, stormwater management programs designed to protect water quality by controlling the level of pollutants in, and the quantity and flow of, stormwater and structural and natural stormwater and drainage systems of all types, sources of water supply including lakes, reservoirs and wells, intakes, mains, laterals, aqueducts, pumping stations, standpipes, filtration plants, purification plants, hydrants, meters, valves, and all necessary appurtenances and equipment and all properties, rights, easements and franchises relating thereto and deemed necessary or convenient by the authority for the operation thereof.

**Water supply well serving a single-family dwelling:** pursuant to North Carolina rules and regulations a water supply well serving a single-family dwelling means any well intended or usable as a source of water supply appurtenant to a single-family dwelling and intended for domestic use. A water supply well serving a single-family dwelling shall meet all local and state of North Carolina rules and regulations governing private drinking water wells.

**Well:** Any excavation that is cored, bored, drilled, jetted, dug or otherwise constructed for the purpose of locating, testing or withdrawing groundwater or for evaluating, testing, developing, draining or recharging any groundwater reservoirs or aquifer, or that may control, divert, or otherwise cause the movement of water from or into any aquifer.

#### SECTION 2.4: WORD INTERPRETATION

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

- A. Words in the present tense include the future tense.
- B. Words 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.
- C. The word "person" includes a firm, association, corporation, trust, and company, as well as an individual.
- D. The words "used for" shall include the meaning "designed for".
- E. The word "shall" is always mandatory and not merely directive.

### ARTICLE III.

#### LEGAL PROVISIONS.

##### SECTION 3.1: VIOLATIONS AND PENALTIES.

- A. In addition to the foregoing, the violation of any provision of this Ordinance shall subject the offender to a civil penalty in the amount of \$50 to be recovered by the County.

- B. Violators shall be issued a written citation which must be paid within 10 days. Each day's continuing violation of this ordinance shall be a separate and distinct offense. This Ordinance may be enforced by appropriate equitable remedies issuing from a court of competent jurisdiction.
- C. Nothing in this section shall be construed to limit the use of remedies available to the County. The County may seek to enforce this Amended Subdivision Ordinance by using any one, all or a combination of remedies.

**SECTION 3.2: SEVERABILITY.**

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

**SECTION 3.3: CONFLICTING ORDINANCES.**

Where any section or provision of this Ordinance be for any reason held void or invalid by a Court of competent jurisdiction, it shall not affect the validity of any other section or provision hereof, which is not itself held void or invalid.

**SECTION 3.4: VARIANCES.**

- A. Where, because of severe topographical or other conditions peculiar to the site, strict adherence to the provisions of this ordinance would cause an unnecessary hardship, the Clay County Board of Commissioners may authorize a variance, if such variance can be made without destroying the intent of this Ordinance.
- B. Any variance thus authorized is required to be entered in writing in the minutes of meeting of the Clay County Board of Commissioners and the reasoning on which the departure was justified set forth.

**SECTION 3.5: APPEALS**

- A. If the Subdivision Administrator disapproves of the final plat, he shall instruct the developer concerning resubmission of a revised plat. The developer may make such changes as will bring the plat into compliance with the provisions of this Amended Subdivision Ordinance, and he may resubmit the same for reconsideration by the Subdivision Administrator or appeal the Subdivision Administrator's decision to the Clay County Board of Commissioners. Pursuant to the provisions of N.C. Gen. Stat. §§ 153A-336, the Clay County Board of Commissioners may hear an appeal of decisions on subdivision plats.
- B. The developer may appeal the decision of the Subdivision Administrator by filing of

written appeal with the Board of Commissioners within 45 days from the notification of the disapproval. The notice shall be filed with the County Manager.

- C. If the Board of Commissioners disapproves the plat, it shall issue a written statement as to the reasons for the disapproval.
- D. If the Board of Commissioners approves the plat, the Board of Commissioners shall follow the requirements of N.C. Gen. Stat. §§ 153A-336.

#### SECTION 3.6: AMENDMENTS.

- A. The Board of Commissioners may from time to time amend the terms of this Amended Subdivision Ordinance, but no amendment shall become effective unless it shall have been proposed by the Subdivision Administrator, the County Manager, the County Attorney or the Board of Commissioners.
- B. No amendment shall be adopted by the Board of Commissioners 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 Clay County area at least once a week for two consecutive calendar weeks prior to the hearing. The initial notice shall appear not more than 25 days nor less than 10 days prior to the hearing date. In computing the 10- and 25-day periods, the date of publication is not to be counted, but the date of the hearing is.

#### SECTION 3.7: ABROGATION.

This Ordinance shall neither repeal, aggregate, annul, impair nor interfere with any existing subdivisions where deeds creating the same, or partition proceedings or other Court order creates the subdivision or where existing plats of the subdivision have been prepared and dated prior to the effective date of this Amended Subdivision Ordinance and are filed with the Subdivision Administrator prior to the effective date of this Amended Subdivision Ordinance, and are recorded in the Clay County Register of Deeds.

#### SECTION 3.8: EFFECT OF EXISTING LEGISLATION.

- A. Where this Amended Subdivision Ordinance conflicts with existing ordinances, statutes or regulations effective in Clay County and enacted by the County, any municipality located therein, the State or federal government or their agencies, then the ordinance, statute or regulation having higher standard shall apply.
- B. The Watershed Protection Ordinance for Clay County has higher standards than the Amended Clay County Subdivision Ordinance when proposed subdivisions are subject to an erosion and sedimentation plan under the provisions of State Law.

#### SECTION 3.9: ADMINISTRATOR.

- A. The Clay County Commissioners shall appoint the Subdivision Administrator (herein

referred to as "Administrator" or "Subdivision Administrator") and may appoint a Planning Committee. Appeals of decisions made by the Subdivision Administrator must be referred to the Clay County Board of Commissioners.

- B. The Subdivision Administrator is authorized to select an "Assistant Administrator: whose acts, as an assistant, shall be valid and for which the Administrator shall be officially responsible. The assistant shall be authorized, in addition to his/her powers and duties, to sign instruments and documents in the name and under the title of the Subdivision Administrator, by himself, as assistant, as appropriate. Such signing shall be substantially as follows:

John Doe, Subdivision Administrator  
By, Richard Smith, Assistant

**SECTION 3.10: ADMINISTRATION FEE**

A fee for reviewing and approving subdivision plats may be established by the Clay County Board of Commissioners. A rates and fee schedule will be posted and available for public review in the County offices and will comply with the budget ordinance approved each year by the Board. Fees may be subject to change on an annual basis as part of the adoption of the annual budget by the County Commissioners. Certain individual fees or classes of fees may not be listed in the County's fee schedule and may be maintained by other departments or as set forth by the County Manager.

**ARTICLE IV.**

**PROCEDURE FOR REVIEW AND APPROVAL OF SUBDIVISION PLATS.**

**SECTION 4.1: A PLAT SHALL BE REQUIRED ON ANY SUBDIVISION OF LAND.**

Pursuant to N.C. Gen. Stat. § 153A-331, a recordable plat shall be prepared, reviewed, approved and recorded pursuant to the provisions of this Amended Subdivision Ordinance whenever land is subdivided, or a special subdivision is proposed.

**SECTION 4.2: PROCEDURE FOR REVIEW AND APPROVAL OF SPECIAL SUBDIVISION.**

- A. The developer shall submit a completed application for a special subdivision to the Subdivision Administrator for review and approval. The preliminary and final plat(s) required for a special subdivision shall be determined by the Subdivision Administrator for review and approval.
- B. Preliminary plat(s) submitted for review shall be prepared by a registered land surveyor, landscape architect or professional engineer and shall include all information required on the Plat Checklist found in the Appendix 1 of this Ordinance.

- C. The Subdivision Administrator shall approve or disapprove the special subdivision plat within seven (7) working days. If he fails to act within seven (7) working days from the filing of the plat, the plan is deemed to be approved. The Subdivision Administrator or his secretary shall note the date of filing on each application.
- D. If the final plat for special subdivision is not approved, the developer may request a variance pursuant to Article III Section 3.4 of this ordinance.
- E. If the developer is in disagreement with the Subdivision Administrators decision, they may appeal his decision to the Clay County Board of Commissioners pursuant to Article III Section 3.5 of this ordinance.

SECTION 4.3: PROCEDURES FOR REVIEW AND APPROVAL OF SUBDIVISIONS.

A. PRELIMINARY PLAT REVIEW AND APPROVAL.

- (1) All subdivisions that do not qualify for the review procedure of Article IV Section 4.2 may submit a preliminary plat for review and approval by the Subdivision Administrator.
- (2) A preliminary plat is recommended for review by the Subdivision Administrator but is not required, except pursuant to Article IV Section 4.2 of this ordinance.
- (3) If a preliminary plat is submitted for review, it shall be prepared by a registered land surveyor, landscape architect or professional engineer and shall include all information required on the Plat Checklist found in the Appendix 1 of this Ordinance.
- (4) Approval of the preliminary plat shall be valid for one year unless a written extension is granted by the Subdivision Administrator on or before the one-year anniversary of said approval. If the final plat is not submitted for approval within said one-year period, or any period of extension, the approval of the preliminary plat shall be null and void.

B. FINAL PLAT REVIEW AND APPROVAL.

- (1) Upon approval of the preliminary plat, if required and/or submitted, by the Subdivision Administrator, the developer may proceed with the preparation of the final plat, and the installation of or arrangement of requirements in accordance with the approved preliminary plat and the requirements of Article V and VI of this Amended Subdivision Ordinance.
- (2) Prior to the approval of a final plat, if required, the developer shall have submitted proof of the installation of or arrangement of requirements of Article V and VI of this ordinance.
- (3) The final plat shall conform to all requirements of this Amended Subdivision Ordinance.
- (4) The final plat shall be prepared by a North Carolina registered land surveyor and shall include all information required on the Plat Checklist found in the Appendix 1 of this Ordinance and the minimum mapping requirements pursuant to the State of North Carolina General Statutes.

C. NUMBERS OF COPIES AND SPECIFICATIONS.

- (1) A total of four copies of the final plat shall be submitted, one shall be on reproducible material, such as Mylar, and three shall be black or blue line prints. Material and drawing medium for the originals shall be in accordance with the Manual of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the Clay County Register of Deeds.
- (2) The one copy on reproducible material such as Mylar, shall be 18" x 24" for recording with the

Clay County Register of Deeds, and shall be at a scale of not less than 1 inch equals 200 feet. Maps may be placed on more than one sheet with appropriate match lines.

D. SUBDIVISION ADMINISTRATOR REVIEW PROCEDURE.

- (1) The Subdivision Administrator shall review the final plat and he shall approve, conditionally approve with modifications to bring the plat into compliance, or shall disapprove the final plat within twenty (20) working days of its receipt.
- (2) If the Subdivision Administrator conditionally approves the final plat with modifications to bring the plat into compliance, he shall retain one copy of the plat for his records and return his written recommendations with all other copies to the developer.
- (3) If the Subdivision Administrator disapproves of the final plat, he shall instruct the developer concerning resubmission of a revised plat. The developer may make such changes as will bring the plat into compliance with the provisions of this Amended Subdivision Ordinance, and he may resubmit the same for reconsideration by the Subdivision Administrator.
- (4) If the Subdivision Administrator disapproves of the final plat, the developer may request a variance according to Article III, Section 3.4 of the Clay County Subdivision Ordinance.
- (5) If the Subdivision Administrator disapproves of the final plat, the developer may file for an appeal of the Subdivision Administrator's decision to the Board of Commissioners pursuant to Article III, Section 3.5 of the Clay County Subdivision Ordinance.
- (6) If the plat is approved, the approval shall be noted on each copy of the plat in the following form:

**CERTIFICATE OF APPROVAL FOR RECORDING:**

*I certify that the final plat shown hereof complies with the Clay County Subdivision Regulations and is approved for recording in the Clay County Register of Deeds Office.*

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

\_\_\_\_\_  
*Clay County Subdivision Administrator.*

E. DISPOSITION OF COPIES.

- (1) If the final plat is approved by the Subdivision Administrator, the plat shall be disposed of as follows: One copy may be retained by the Subdivision Administrator; two copies to the developer; and one Mylar copy to the Register of Deeds for recording.
- (2) The developer shall file the approved final plat and all other documents required for recording by this Amended Subdivision Ordinance with the Register of Deeds for recording within 90 days of the approval of said plan, otherwise such approval shall be null and void.



SECTION 4.4: PLAT APPROVAL PREREQUISITES.

Notwithstanding anything to the contrary contained herein, no plat shall be approved or registered:

- A. Until the district highway engineer is given an opportunity to make recommendations concerning an individual subdivision plat as to proposed State streets, State highways, and related drainage systems; and
- B. Until the County Planning Committee, municipality or local public utility, as appropriate, is given an opportunity to make recommendations concerning an individual subdivision plat as to proposed water and/or sewer systems.
- C. The Review Officer, pursuant to GS 47-30.2 shall not certify a plat of a subdivision of land located within the territorial jurisdiction of the County that has not been approved in accordance with these provisions, and the Clerk of Superior Court may not order or direct the recording of a plat if the recording would be in conflict with this section. (G.S. 153A-332)

ARTICLE V.

REQUIRED IMPROVEMENTS, DEDICATION, RESERVATION, MINIMUM STANDARDS OF DESIGN.

SECTION 5.1: GENERAL.

Each subdivision shall comply with minimum standards set forth below.

SECTION 5.2: SUITABILITY OF LAND.

- A. Where land to be subdivided is found by the Subdivision Administrator to be subject to the conditions of flooding, improper drainage, severe erosion, slides, or to have other characteristics which pose an ascertainable danger to health, safety or property, the developer shall take measures necessary to correct said conditions and to eliminate said dangers. In making such determinations, the Subdivision Administrator may seek to take into consideration the following, if reasonably obtainable: Official Federal Emergency Management Agency Flood Boundary and Floodway Maps, Flood Insurance Rate Maps for Clay County, and the Clay County Soil Survey.
- B. The Subdivision Administrator may also seek recommendations and consider the requirements from the North Carolina Environmental Quality Department, North Carolina Department of Health and Human Services, Tennessee Valley Authority, the USDA Soil Conservation Service, United States Forest Service, Clay County Watershed Protection Ordinance, Clay County Building Department and the Clay County Health Department.
- C. Any findings made by the Subdivision Administrator shall be in writing and retained for inspection.

- D. Areas that had been used for disposal of solid waste shall not be subdivided unless tested by a structural and professional engineer, and a soil expert who determine that the land is suitable for the purposes proposed.
- E. Subdivisions proposed for areas identified as being located in flood hazard areas on Federal Emergency Management Agency Maps for Clay County shall conform to the following:
  - (1) All subdivision proposals shall be consistent with the need to minimize flood damage; and
  - (2) Clay County Flood Damage Prevention Ordinance; and
  - (3) All proposals shall have public utilities and facilities such as water, sewer, gas, telephone and electrical facilities located and constructed to minimize flood damage.

**SECTION 5.3: NAME DUPLICATION.**

In order to lessen possible confusion which could hamper the response time for emergency vehicles, the name of a subdivision shall not duplicate nor closely approximate the name of an existing subdivision within Clay County.

**SECTION 5.4: SUBDIVISION DESIGN.**

- A. All lots in a new subdivision shall comply with the minimum requirements established in this Section, except as provided in Section 2.2.B. Compliance with these requirements means that the smallest lot within a subdivision shall meet all area and dimensional requirements of this ordinance. It is not permitted to average the lot areas to meet the minimums established in this Section.
- B. All lots in a new subdivision shall meet the following minimum requirements for area and setback found in Schedule 1 of this Ordinance, except for lots within a special subdivision where lots specifically are not proposed for permanent structures or where specific provisions are made for reduced or zero lot line development. Reduced or zero lot line development(s) shall meet all applicable local and state building code requirements.
  - (1) Setback requirements shall not apply to retaining walls or fences.
  - (2) All setbacks shall be measured from the lot line.
  - (3) When the lot line is within a road right of way, setbacks from lot lines do not apply.
  - (4) Whenever a distance from a structure to a lot line cannot be determined, the Subdivision Administrator may require a North Carolina Licensed Surveyor be employed to determine setback(s) and provide a plat with evidence of setback(s).
  - (5) The Clay County Health Department may require larger lot sizes, if necessary, to protect the public health and ensure proper operation of septic tanks and wells.

**SECTION 5.5: EASEMENTS & RIGHT OF WAY(S)**

- A. Easements for utilities shall be provided and shall meet the minimum standards of the utility company and/or municipality.

- B. All subdivisions shall have right-of-way of at least 30 feet in width except where fewer than five lots are being served by a spur right of way, in which case the right of way width may be reduced to, but no less than, a minimum of 20 feet in width.

SECTION 5.6: STREET NAMES AND SIGNAGE

- A. Street Names and Signage. In assigning new street names and installation of street signage in a subdivision, duplication of existing name shall be avoided, and in no case shall the proposed name be phonetically similar to existing names in the County.
- B. All new street names and street name signage, pursuant to this ordinance, shall be subject to the review and approval of the Clay County Addressing Office and North Carolina rules and regulations governing street names and signage prior to street name assigning, street sign purchasing, and street sign installation.

SECTION 5.7: ROADS

- A. Subdivision roads that connect to State Roads: a permit is required. This permit is required prior to any excavation and/or construction on the street or road. Information, review and permit procedures are available at the office of the nearest district engineer of the Division of Highways for the State of North Carolina.
- B. Roads constructed in subdivisions pursuant to this ordinance will not meet NC Department of Transportation minimum subdivision road requirements. As a result, the NC Department of Transportation MAY NOT accept these roads with additional improvements and requirements.

SECTION 5.6: UTILITIES

A. WATER SYSTEMS.

If the developer is to provide water systems, the plat shall so state. If no system is to be provided by the developer, the plat shall so state.

- (1) If a subdivision is to be served by private or public water systems, the well locations shall be numbered or lettered and referenced on the plat as a well lot or tract. The minimum well lot or tract shall be 10 feet by 10 feet and may not be located within a road right of way pursuant to rules and regulations that govern private and public water systems.
- (2) Water systems serving lots within a subdivision, pursuant to this ordinance, shall meet all local, state, and federal rules and regulations. The Subdivision Administrator, according to Article IV, Section 4.4 B, and Article V, Section 5.2 A and B, may require proof of approval of water systems located within the subdivision.

B. SEWER SYSTEMS.

- (1) If the developer is to provide sewer systems, the plat shall so state. If no system is to be provided by the developer, the plat shall so state.

- (2) Sewer systems serving lots within a subdivision, pursuant to this ordinance, shall meet all local, state, and federal rules and regulations. The Subdivision Administrator, according to Article IV, Section 4.4 B, and Article V, Section 5.2 A, B and E may require proof of approval of sewer systems located within the subdivision.

**ARTICLE VI.**

**GUARANTEE OF IMPROVEMENTS**

- A. Pursuant to the provisions of N.C. Gen. Stat. §§ 153A-331 (e) a subdivision ordinance may require performance guarantees. Any performance guarantees shall comply with G.S. 160A-372(g).
- B. In all subdivisions, including phased subdivisions, with twenty or more lots where the developer's required subdivision utility improvements have not been completed prior to the submission of the final plat for approval, the approval of said plat shall be subject to the developer guaranteeing the installation of the improvements within a period of time specified by the Subdivision Administrator after consulting with the developer and/or his engineer(s) and/or the county attorney.
- C. Final plats may be approved prior to the completion of required improvements upon the guarantee of said improvements by the developer within an eighteen (18) month period. The County will accept either of the methods described below, which may be used to guarantee improvements:
- (1) Filing a performance or surety bond or an irrevocable standby letter of credit in the amount of one hundred percent (100%) of the cost to complete the work as determined by a professional engineer with civil engineering qualifications currently licensed in the State of North Carolina or a North Carolina State licensed grading contractor, at the developer's expense.
- (2) Depositing or placing in escrow, a certified check or cash in an amount equal to one hundred twenty five percent (125%) of the amount of Article VI A. Portions of the deposit may be released as work progresses as specified by the Subdivision Administrator after consulting with the developer or his engineer.

**ARTICLE VII.**

**EFFECTIVE DATE.**

This Amended Subdivision Ordinance shall take effect and be enforced from and after the 2<sup>nd</sup> day of January, 2020. It shall apply to all subdivisions of land, the platting thereof and the platting of roads in Clay County, North Carolina from said date forward. The Amended Subdivision Ordinance, effective March 1, 2006, shall continue to apply to the subdivisions of land, the platting thereof and the platting of roads in Clay County which occurred from March 1, 2006, to and including January 2, 2020, but not thereafter. The original Clay County Subdivision Ordinance,

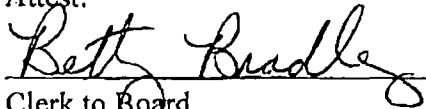
effective July 1, 1996, shall continue to apply to the subdivisions of land, the platting thereof and the platting of roads in Clay County which occurred from July 1, 1996, to and including February 28, 2006, but not thereafter.

THIS ORDINANCE IS adopted this 2nd day of January, 2020.

**CLAY COUNTY BOARD COMMISSIONERS**

Date: 01-02-2020

By:   
Chairman

Attest:  
  
Clerk to Board

Date: 01-02-2020

(County Seal)



**APPENDIX I**

**A. PLAT CHECKLIST**

The plat shall be clearly and legibly drawn at a scale of not less than one inch equals 100 feet or one inch equals 200 feet in extreme cases. The plat shall be prepared by a registered surveyor and shall include the following information prior to consideration by the Subdivision Administrator:

- (1) Name of Subdivision
- (2) Location
- (3) Name of owner(s)
- (4) Telephone Number of owner(s)
- (5) Email of owner(s)
- (6) Surveyor
- (7) Telephone of Surveyor
- (8) Email of Surveyor
- (9) Engineer (if applicable)
- (10) Date Submitted

**B. REQUIRED DATA**

- (1) Title Block: subdivision name, developer's name, North Arrow, scale (denoted graphically and numerically), date of plat preparation, location of subdivision (township, county, state), name and licensed number of registered land surveyor, and deed book and page references.
- (2) Vicinity Map: a sketch vicinity map showing the location of the subdivision in relation to the surrounding area. If the subdivision is a portion of a larger tract, the map is to show the relation of the subdivision to the larger tract.
- (3) Tract Boundaries: The boundaries of the tract or portion thereof to be subdivided, with all bearings and distances shown.
- (4) Property Lines: Property lines and owners' names of abutting properties and/or an abutting subdivision of record.
- (5) Natural Features: Approximate location of existing features including buildings, streets, railroads, power lines, drainage ways, public sewer and water lines and utility easements.
- (6) Lot and Street lines: All proposed Lot and Street right of way lines with approximate area and dimensions, Lot numbers, all easements, designations, dedications or reservations to be made, and designation of public or private streets.
- (7) Road and/or Street Layout: If the road is to be dedicated as a public road, plans shall be submitted complying with the North Carolina Department of Transportation Minimum Standards.
- (8) Water and Sewer Layout: Proposed water and sewer systems (excluding water supply well and septic tank system serving a single-family dwelling), including line(s) sizes, approximate location of tanks, manholes, pumps, hydrants, force mains, or treatment facilities, and the connection of the proposed system(s) with existing systems.

- (9) Drainage System(s): Proposed drainage facilities, including approximate location and dimensions of open drainage ways, storm sewers, culverts, retaining ponds, or areas where water is to be diverted through grading.
- (10) Other Improvements: Proposed location and description of the any other improvements including, but not limited to, riding trails, sidewalks, pedestrian or bike ways, reserved open space or recreation facilities, commercial areas, or buffer strips.
- (11) Site Data: Total acreage in the lot to subdivided, smallest lot size, total number of lots, linear feet of roads.
- (12) Erosion Control Plans: submission of plans and approval from appropriate State and/or Federal agencies.
- (13) North Carolina Department of Transportation (NCDOT) recommendations and/or requirements.
- (14) Clay County Health Department recommendations and/or requirements.
- (15) Clay County Water and Sewer recommendations and/or requirements.
- (16) Flood Hazard Areas
- (17) Right of way (R/W): the location and width of all right of ways or other easements.
- (18) Lot Numbers: the lots numbered and/or lettered consecutively throughout the entire subdivision as required by the Subdivision Administrator.
- (19) Monuments: the location and description of all monument markers and control points.