

SUBDIVISION ORDINANCE- DRAFT #1 TO COMMISSIONERS

I. TITLE

This chapter shall be known and cited as the Subdivision Ordinance of Swain County, North Carolina and may be referred to as the Subdivision Regulations.

II. AUTHORITY AND ENACTMENT

Pursuant to the authority and provision conferred by the General Statutes of the State of North Carolina, Chapter 153 Article 18, the Board of County Commissioners of the County of Swain hereby ordain and enact into law this chapter.

III. JURISDICTION

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

IV. PURPOSE. The purpose of this chapter shall be:

(A) To guide and regulate the development of private property and the development and construction of road systems in such a manner to provide a safe, convenient and functional system for vehicular circulation and shall be of such width, grade, and location as to accommodate prospective traffic. Roads shall be so arranged as to afford adequate and safe access for users of said road and emergency vehicles and public service providers.

V. Subdivision defined

(A) A subdivision means all divisions of a tract or parcel of land into two or more lots, building sites or other divisions when any one or more of those divisions are created for the purpose of sale or building development (whether immediate or future) and includes all divisions of land involving the dedication of a new road or a change in existing roads, and includes any unified residential development.

VI. Other Definitions and meanings

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

Word Interpretations

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

The word "County" shall mean Swain County, North Carolina

The words "County Commissioners" shall mean the Board of Commissioners of Swain County, North Carolina

The word "lot" includes the words "plot", "parcel", "tract", or "site"

The word "building" includes the word "structure"

The word "road" includes the words "roadway" or "street"

Definitions

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

All-weather surface road. A roadbed that supports routine vehicular traffic and has a minimum thickness of six inches (6") of compacted crushed rock or stone, including dust.

Cul-de-sac. A road having but one end open to traffic and the other end being permanently terminated and a vehicular turn-around provided.

Cut-Slope. The up-hill side or slope of a road or driveway.

Develop. To convert land to a new purpose so as to use its resources, or to use the land for residential, commercial or industrial purposes.

Developer. Any person, firm, corporation, or duly authorized agent who is engages in the subdivision and/or development of real estate.

Driveway. A road leading to one single-family residence.

Easement. A strip of land designated by the property owners for a specified purpose and use by the public, a corporation or both.

Fill-Slope. The down-hill side or slope of a road or driveway.

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

Lot of record. A lot which has not been recombined or merged that is a part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds of Swain 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 unless the lot has been recombined or merged thereafter.

Plat. Includes the term map, plan, or replat; a map or plan of a parcel of land which is to be or which has been developed or subdivided.

Preliminary Plat. A proposed development plan or subdivision plat prepared for review and consideration prior to preparation of subdivision.

Private road(s) or roadway(s). A road serving as a means of ingress and egress for any and all lots or parcels of land in Swain County that are not otherwise state maintained or public roadways.

Right of way. A strip of land designated by the owner or other authority or acquired by other over which other person may legally pass, and on which may be constructed a road or utilities.

Subdivider. Any person, firm or corporation who subdivided or develops any land deemed to be a subdivision as defined hereinabove, and their successors, heirs and assigns.

VII. Approval of Subdivision Plats. (To be Determined by Board of Commissioners)

VIII. Road Development Standards

A. Road and Design Standards for Subdivisions. Private roads shall meet the following minimum road design standards:

- (1) Road Right-of-Way Width. All subdivision roads shall have a minimum right-of-way of forty-five feet (45') in width. **NOTE: As of 2007, NC Department of Transportation requires a fifty foot (50') minimum right-of-way for a dead-end road more than 2,500 feet in length or a loop road more than one (1) mile in length, if the road is to be considered for takeover by the NC Department of Transportation.**
- (2) Road Grades. Road grades shall not exceed twenty percent (20%), except as to grade through a switchback as set out hereinbelow.

In extreme cases, a variance may be granted by the Swain County Planning Department where the terrain prohibits a lesser grade to attain access to a nearby area. A maximum grade of twenty-five percent (25%) may be allowed by variance if a professional engineer, currently licensed in the State of North Carolina by the NC Board of Examiners for Engineers and Surveyors, designs and certifies grade and slope stability of the portion from 20.01% to 25%.

(a) Variance Procedure. In order for a variance of up to 25% grade to be granted, the following minimum standards must be met and submitted by the Developer to the (GIS Director):

(i) The developer shall submit to the Swain County (GIS) a report by a professional engineer, with civil engineering qualifications, or professional land surveyor currently licensed in the State of North Carolina by the NC Board of Examiners for Engineers and Surveyors, stating that there are no reasonable alternative routes to access the adjacent area which do not exceed twenty percent (20%) grade.

(b) Any road exceeding fifteen percent (15%) grade shall meet NC Department of Transportation minimum construction and paving (bituminous) specifications for the length of road exceeding fifteen percent (15%) grade plus an additional three hundred feet (300') on each end of the length exceeding fifteen percent (15%) grade. A professional engineer, with civil engineering qualifications, or registered land surveyor currently licensed in the State of North Carolina by the NC Board of Examiners for Engineers and Surveyors shall identify on the plan(s) the road(s) which have grades exceeding fifteen percent (15%), the point(s) where the fifteen percent (15%) grade begins and terminates, and the additional three hundred foot (300') segments to be paved on each side. Should it be necessary to go beyond property lines to reach a distance of three hundred feet (300'), only that portion of the road within the subject property is required to be paved.

(c) The road grade through a switchback shall not exceed ten (10) percent from the onset or lower end of the switchback through 100 feet above the switchback. For this purpose, a switchback is defined as a turn in the road exceeding a 90 degree angle by which the road changes its direction of traverse across a slope.

(d) Further and in addition, if road grades exceed eighteen (18) percent, a disclosure statement shall be placed on the final plat and deed of conveyance stating "This subdivision contains roads which exceed 18 percent grade(s). Access to homes using such roads may be limited and emergency vehicles and public utility access to homes using such roads within the subdivision may be limited. The North Carolina Department of Transportation is unlikely to accept and maintain roads within the subdivision as public road(s)." In addition to placing this on the final plat and deed of conveyance, the subdivider, and his successors, heirs and assigns shall post and maintain a sign with the same information at the

entrance to the subdivision of land for so long as said grade exceeds 18%.

(3) Minimum Road Surface Width.

(a) For any driveway serving one single family residence, said driveway shall have an improved road surface of at least 12 feet in width.

(b) For any subdivision of real property where two (2) through five (5) lots are served by a private roadway, the improved road surface shall be at least 12 feet in width.

(c) For any subdivision of real property where six (6) through twelve (12) lots are served by a private roadway, the improved road surface shall be at least 16 feet in width.

(d) For any subdivision of real property where twelve (12) or more lots are served by a private roadway, the improved road surface shall be at least 18 feet in width.

(e) In the event any of the above referenced roads and/or driveways are a one-way road or driveway, as opposed to two-way, then and in that event and in the discretion of the (*GIS Director*), a variance related to a road width may be allowed.

(4) Minimum Road Shoulder and Ditchline Widths.

(a) For any subdivision of real property where two (2) through five (5) lots are served by a private roadway, in addition to the improved road surface width set out above, the shoulder width, including ditchline, shall be at least two (2) feet on each side

(b) For any subdivision of real property where six (6) through twelve (12) lots are served by a private roadway, in addition to the improved road surface width set out above, the shoulder width, including ditchline, shall be at least three (3) feet on the cut side and at least two (2) feet on the fill side.

(c) For any subdivision of real property where twelve (12) or more lots are served by a private roadway, then in addition to the improved road surface width set out above, the shoulder width, including ditchline, shall be at least four (4) feet on the cut side and at least two (2) feet on the fill side.

(5) Minimum Curve Radius. Curves in private roads shall have a centerline radius of no less than thirty five (35) feet.

(6) Minimum Cul-De-Sac Radius. The required turnaround on a cul-de-sac road shall have an unobstructed improved roadway radius not less than 35 feet. Alternatively, a “Y” or a “T” turnaround may be provided, which will allow a vehicle with a wheel base of at least 25 feet to complete a turnaround with a maximum of one backing movement.

(7) Pull-Out Zones. For road and/or driveways in excess of 300 feet in length or more often where sight distance is limited and required by (*GIS director*), a pull-out zone is required. The pull-out zone shall be a minimum of 10 feet wide and 40 feet in length.

(8) Connections with State Road System. If a new subdivision road will connect to a state system road, a permit authorizing construction on state right-of-way may be required from the Division of Highways before beginning construction. If required, applications shall be made to the District Engineer, NC Department of Transportation, 345 Toot Hollow Road, Bryson City, NC 28713.

(9) Intersections. When a subdivision road connects to a state maintained road, the design standards of the NC Department of Transportation for intersections shall be required.

(10) **NOTE: Private roads constructed to the minimum standards of this Ordinance WILL NOT meet NC Department of Transportation minimum subdivision road requirements. As a result, the NC Department of Transportation WILL NOT accept these roads without additional improvement(s).**

B.Previously Platted and Existing Road Right-of Way Width. Where a right-of-way less than forty-five feet (45’) in width was recorded or platted prior to the adoption of this Ordinance and a forty-five foot (45’) wide right-of-way is not now obtainable for the purpose of accessing the subdivision of land, the following minimum standards shall be met by the developer:

- (1) The developer or his assignee shall submit a copy of the recorded plat or deed describing and identifying the right-of-way.
- (2) The improved road surface width and shoulder and ditchline widths comply with the requirements of Section VIII.A.(3) and VIII.A.(4).
- (3) A disclosure statement shall be placed on final plats and deeds stating “This property is accessed by a road which does not have a forty-five (45’) minimum right-of-way and/or does not have the minimum recommended roadbed width. Access to homes using such roads may be limited. Emergency vehicles and public utility access to homes using such roads within the subdivision may be limited. The NC Department of

Transportation is unlikely to accept and maintain roads within the subdivision as public road(s).”

- IX. ADMINISTRATOR
- X. ADMINISTRATIVE FEES
- XI. PENALTIES FOR VIOLATION
- XII. AMENDMENTS
- XIII. VALIDITY OF ORDINANCE