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**ARTICLE I
SHORT TITLE**

This ordinance shall be known and may be cited as the **Subdivision Regulations of The Town of Biltmore Forest, North Carolina**

**ARTICLE II
AUTHORITY AND ENACTMENT CLAUSE**

The Board of Commissioners of the Town of Biltmore Forest, pursuant to the authority granted by the General statutes of North Carolina, Article 19, Chapter 160A 371-376, hereby ordain and enact into law these articles and sections for the purpose of providing for the orderly growth and development of the town.

**ARTICLE III
JURISDICTION**

These regulations shall govern all subdivision of land lying within the corporate limits of the Town of Biltmore Forest, North Carolina, as now or hereafter established.

**ARTICLE IV
PURPOSE**

The purpose of this regulation is to establish procedures and standards for the development and subdivision of real estate within, the corporate limits of the Town of Biltmore Forest in an effort to among other things, ensure proper legal description, identification, monumentation and recordation of real estate boundaries; further the orderly layout and appropriate use of the land; provide safe, convenient, and economic circulation of vehicular traffic; provide suitable building sites which are readily accessible to emergency vehicles; assure the proper installation of streets and utilities and other improvements; and, help conserve and protect the physical and economic resources of the Town of Biltmore Forest and its environs.

**ARTICLE V.
COMPLIANCE**

All plats for the subdivision of land shall conform to the requirements of these regulations, and shall be submitted in accordance with the procedures and specifications established herein. No plat or a subdivision of land within the Town of Biltmore Forest shall be filed or recorded by the Buncombe County Register of Deeds until it has been submitted in accordance with these provisions and given final plat approval by the Biltmore Forest Board of Commissioners.

ARTICLE VI DEFINITION OF TERMS

Section 600. Definitions.

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

Board of Commissioners: Biltmore Forest Town Board of Commissioners.

Building Setback Line: A line delineating the minimum allowable distance between the property line and a building on a lot, within which no building or other structure shall be placed except as otherwise provided. Front setback lines shall be measured from the street line.

Corner Lot: A lot abutting upon two (2) or more streets at their intersection.

Cul-de-sac: A street permanently terminated by a turn-around.

Individual Sewer System: Any septic tank or ground absorption system serving a single source or connection and approved by the County Sanitarian.

Individual Water System: Any well or spring used to supply a single connection.

Lot: A portion of a subdivision or any other parcel of land intended as a unit for transfer of ownership, or for development, or both. The word "lot" includes the words "plot" or "parcel."
Easement: A grant by the property owner of use, by the public, a corporation, or person(s), of a strip of land for specified reasons.

Planning Commission: Biltmore Forest Planning Commission.

Public Sewer System: Any sewer system owned and operated by the Town of Biltmore Forest or the Metropolitan Sewerage District in Buncombe County. Plans for public sewer system extensions serving two or more connections to a public system shall be approved by the state Division of Environmental Management. **Registered Engineer:** A professional engineer who has been duly registered and licensed as a professional engineer pursuant to G.S. 89C.

Public Water System: The water system operated by the Town of Biltmore Forest. Water systems serving fifteen (15) or more residential connections or serving more than twenty-five (25) year-round residents are classified as public water supplies, and plans and specifications must be approved by the state Division of Environmental Health. Also, water supply systems serving from two (2) to fourteen (14) connections shall be regulated by the County Board of Health and plans shall be approved by the Buncombe County health Department, Environmental Health Section.

Registered Land Surveyor: A person duly registered to practice land surveying pursuant to G.S. 89C.

Residential Planned Unit Development: In this ordinance, a planned unit development means a group residential development where more than one principal building is proposed to be constructed on a single tract or a clustered housing development or any residential complex **containing at least six (6) or more units**, shall be deemed a residential planned unit development. (PUD). Multi-family structures shall have no less than three, (3) dwelling units per structure. Residential units within a residential planned unit development may include single-family detached or attached units, townhouse developments, condominiums, and other multi-family type residential units **excluding** time-sharing units, mobile homes, and mobile home parks.

Shall: The word "shall" is always mandatory and not merely directory.

Street: In this ordinance, a street shall be a dedicated right-of-way intended for vehicular traffic, which affords the principal means of access to abutting properties.

Street Line: The edge of the roadway pavement.

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

Subdivision: A "subdivision" as defined by state law shall mean 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 shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following as defined by state law shall not be included within this definition nor be subject to the subdivision regulations of this ordinance; however, items (a) and (d) below are regulated through the town's zoning ordinance.

- (a) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the town as required by this ordinance.
- (b) The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved.
- (c) The public acquisition by purchase of strips of land, for the widening or opening of streets.
- (d) The division of a tract of land in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved, and where the resultant lots are equal to or exceed the standards of the town, as required by this ordinance.

Subdivision Administrator: An official or designated person of the Town of Biltmore Forest responsible for assisting in the administration and enforcement of this ordinance.

ARTICLE VII PROCEDURE FOR REVIEW AND APPROVAL OF SUBDIVISION PLATS

Section 700. General.

The town Board of Commissioners and Planning Commission shall be involved in the review of proposed subdivisions as stated in this article. The Planning Commission will serve in an advisory capacity and shall make recommendations to the Board of Commissioners on preliminary and final plats. The Board of Commissioners shall make the final approvals on all preliminary and final plats.

No final plat of a subdivision within the Town of Biltmore Forest shall be recorded by the Register of Deeds of Buncombe County until it has been submitted to the Biltmore Forest Planning Commission for review and recommendation, and has been approved by the Board of Commissioners of Biltmore Forest as provided herein. To secure such approval of a final plat, the Subdivider shall follow the procedure established in this article. Furthermore, no street shall be maintained by the town nor street dedication accepted for ownership and maintenance, nor shall water, sewer or other town facilities or services be connected with any subdivision for which a final plat is required to be approved until all construction has been completed and the final plat has been approved by the Biltmore Forest Board of Commissioners. Pursuant to G.S. 47-30.2, no final plat shall be recorded without the certification of the appropriate Review Officer.

Section 701. Subdivision Administrator

The town Board of Commissioners shall appoint a subdivision regulations administrator who shall be responsible for assisting in the administration and enforcement of the ordinance. The administrator shall initially receive all plats, plans and other information in order to prepare the material for review by the Planning Commission and the Board of Commissioners. The administrator shall be responsible for transmitting all engineering plans for streets, water and sewer systems, drainage, and sedimentation control to the town's consulting engineer and town departments for review and recommendation prior to preliminary plat approval. When the developer's engineering plans are required to be reviewed by a state agency, county government, or other organization, the developer/Subdivider shall be responsible for transmitting such plans to the appropriate agency and obtaining necessary approvals so that such approvals may be submitted along with the preliminary plat.

Section 702. Pre-Application Procedure.

Every subdivision applicant is required to meet the Subdivision Administrator or his designee in a pre-application conference prior to the submittal of a subdivision plat. The purpose of this conference is to provide clarification and assistance in the preparation and submission of plats for approval. The sketch plan, if provided, shall be presented for staff review during the conference.

Section 703. Sketch Plan.

Prior to preliminary plat application, the Subdivider may submit a sketch plan of the proposed subdivision to the Biltmore Forest Planning Commission. The purpose of submitting the sketch plan is to afford the Subdivider an opportunity to obtain the advice and assistance of the Planning Commission in order to facilitate the subsequent preparation and approval of the preliminary plat. This procedure does not require formal application or fee. The sketch plan shall be submitted to the chairman of the Planning Commission at least fourteen (14) days prior to a regularly scheduled planning Commission meeting or to a meeting specially called by said chairman to consider such plan. Although not required, it is suggested that a sketch plan be submitted for all subdivisions to ensure that preliminary ideas and plans are consistent with the regulations of this ordinance prior to preparing extensive engineering details.

703.1 Contents Required.

A simple sketch plan shall be drawn at a scale of no less than one hundred (100) feet to one (1) inch and shall show the proposed street layout with approximate pavement width; approximate right-of-way width; proposed lot layout and approximate number of lots; the location of existing and proposed water and sewer lines; existing physical features including streets, structures and utilities; significant natural features including wooded areas, ponds, streams and marshes; sketch view of any proposed drainage facilities; proposed use of land; tract boundary; total acres; sub divider's name and address; subdivision name; north point; and a sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads and waterways.

703.2 Sketch Plan Review Procedure.

The Planning Commission shall review and either approve, approve conditionally, or disapprove each sketch plan and record such decision in the minutes of the Planning Commission. First consideration of said plan shall be at the first regularly scheduled meeting or special meeting called by the chairman after the sketch plan is submitted in accordance with this ordinance. The Planning Commission shall take action on the sketch plan at its first consideration or within thirty-two (32) days of its first consideration, and provide advice that will be helpful to the Subdivider in the preparation of the preliminary plat.

Section 704. Preliminary Plat.**704.1 General.**

For **all** subdivisions the Subdivider shall submit the preliminary plat, containing all required information to the chairman of the Planning Commission at least fourteen (14) days prior to the regularly scheduled Planning Commission meeting or to a meeting specially called by the chairman to consider such plat. Five (5) copies of said preliminary plat shall be required, provided that additional copies

may be required by the subdivision administrator. A subdivision fee shall be paid to the Town of Biltmore Forest prior to submission of the preliminary plat to the Planning Commission and shall be based upon the schedule of fees as adopted by the Board of Commissioners.

The subdivision filing fees shall be used by the town to pay for the administrative and consulting engineering expenses involved in reviewing proposed subdivisions.

704.2 Contents Required.

The preliminary plat shall be clearly and legibly drawn at a scale of not less than one hundred (100) feet to one (1) inch, and shall be drawn on a sheet eighteen (18) inches by twenty-four (24) inches, or twenty-four (24) inches by thirty-six (36) inches, or such other size acceptable to the Register of Deeds of Buncombe County. The preliminary plat shall be prepared by a registered land surveyor and shall contain the following information:

- (1) Title Block: Subdivision name, sub divider's name, north arrow, scale (denoted graphically, and numerically), date of plat preparation, location of subdivision (township, county and state), name and seal of registered surveyor preparing plat.
- (2) The boundaries of the tract or portion thereof to be subdivided, with all bearings and distances accurately shown.
- (3) Property lines and owners' names of adjoining properties and/or adjoining subdivisions of record.
- (4) Significant natural features including wooded areas, marshes, major rock outcrops, lakes or streams, soils information, and other natural features affecting the site, and the 100-year floodplain where applicable.
- (5) Existing physical features including buildings, streets, railroads, power lines, drainage ways, sewer- and water-lines, utility easements, and town limit lines both on or adjacent to the land to be subdivided.
- (6) Topographic contour lines at five foot intervals when the area to be subdivided exceeds two (2) acres or has proposed streets which will exceed eight hundred (800) lineal feet.
- (7) A sketch vicinity map showing the location of the subdivision in relation to the surrounding area.
- (8) All proposed lot and street right-of-way lines with approximate dimensions, lot and block numbers, all easements, designation of any dedication or

reservations to be made, building setback lines, and proposed use of land if other than single-family residences.

- (9) Proposed streets showing pavement widths, right-of-ways, curbing (if any), a street profile, proposed street names, and the location of any required street lights.
- (10) A review of proposed street plan. A letter shall accompany the preliminary plat indicating that street plans have been reviewed in the following manner:

Prior to preliminary plat approval, street plans for all subdivisions within the Town of Biltmore Forest shall be reviewed by the Town's consulting engineer and a recommendation provided to the Planning Commission and Board of Commissioners indicating whether the proposed street plans meet the street requirements as specified in Section 902.

- (11) Sketch view of public utilities. Proposed water and sewer system layouts shall show the location of lines, line sizes, approximate location of manholes, pumps, hydrants, force mains, and the connection of the proposed system(s) with the existing system(s). A typical trench section view and relationship to roadway shall be provided for water, sewer, telephone, gas and electricity.
- (12) A "letter of approval" for proposed sanitary sewer and water distribution. "Letters of approval" shall accompany the preliminary plat indicating that plans for proposed public sewer and water systems have been reviewed and approved by the town Public Works Department, the Metropolitan Sewerage District, and the appropriate state agency (see Section 905). Water and sewer plans shall be reviewed by the town's consulting engineer with a recommendation provided to the Planning Commission and Board of Commissioners prior to preliminary plat approval.

Where individual systems are permitted (see Section 905), a "letter of approval" from the Buncombe County Health Department shall be submitted with the preliminary plat indicating that each lot has adequate land area and soil conditions to accommodate the proposed methods of water supply and sewage disposal.

- (13) An approved Sedimentation Control Plan shall be submitted with the preliminary plat when there are plans for a land disturbing activity of one acre or more (see Section 907) plan must be reviewed by the town's consulting engineer with a recommendation provided to the Planning Commission and Board of Commissioners prior to preliminary plat approval.
- (14) Drainage System: Sketch view of proposed, drainage ways, storm sewers, culverts, retaining ponds, or areas where water is to be diverted through

grading; and other evidence necessary to assure that the proposed method of drainage will meet the objectives of Section 906. Drainage provisions must be reviewed by the town's consulting engineer with a recommendation provided to the Planning Commission and Board of Commissioners prior to preliminary plat approval.

- (15) Other Improvements: Proposed location and description of any other improvements including, but not limited to, pedestrian or bikeways, reserved open space or recreational facilities, commercial areas, or buffer strips.
- (16) Site Data: Total acreage in tract to be subdivided; smallest lot size; total number of lots; lineal feet in streets; and zoning district.

704.3 Preliminary Plat Review Procedure.

- (1) The Planning Commission shall review and shall recommend the Board of Commissioners either approve, approve conditionally, or disapprove each preliminary plat. First consideration of the preliminary plat shall be at the next regularly scheduled Planning Commission meeting or special meeting called by the chairman of the Planning Commission that follows at least fourteen (14) days after the plat is submitted. The planning Commission shall take action on the preliminary plat at its first consideration or within thirty-two (32) days of its first consideration. Should the Planning Commission fail to act on the preliminary plat within the prescribed period, the Subdivider may seek preliminary plat approval at the next regularly scheduled meeting of the Board of Commissioners.
- (2) Before making final review of the preliminary plat, the planning Commission may refer copies of the plat and any accompanying material to those public agencies concerned with new development, provided that failure of the Planning Commission to receive comment shall not delay Planning Commission action on said plat within the prescribed time limit. Said agencies could include, but are not limited to: 1) District Highway Engineer, 2) County Health Department, 3) Superintendent of Schools, and 4) the Soil Conservation Service.
- (3) If the Planning Commission recommends approval of the preliminary plat, such approval shall be indicated on four (4) copies by the chairman or other authorized member of the Planning Commission. One (1) copy shall be transmitted to the subdivision administrator, one (1) copy shall be returned to the Subdivider, one (1) copy shall be retained by the Planning Commission, and one (1) copy transmitted to the town Board of Commissioners for their review.

- (4) If the Planning Commission recommends disapproval or conditional approval of said plat, the reasons for such action shall be stated in writing and entered in the records of the Planning Commission, and such recommendations shall be attached to four copies of the plat with copies distributed in the same manner as specified in 704.3(3) .If the preliminary plat is disapproved, the Subdivider may make changes and submit a revised plat which revision shall be submitted, reviewed and acted upon by the Planning Commission pursuant to this section (704.3) , or the Subdivider may seek approval from the Board of Commissioners.
- (5) Within forty-five (45) days from receiving the Planning Commission recommendation, the Board of Commissioners shall approve, approve conditionally, or disapprove the preliminary plat and the reasons for such action shall be stated in writing and entered in the board's minutes. If the board approves the preliminary plat, such approval shall be indicated on four (4) copies by the subdivision administrator with one copy transmitted to the Subdivider, one copy transmitted to the Planning Commission, one copy retained by the subdivision administrator. If the Board of Commissioners disapproved or approves conditionally the preliminary plat, the reasons for such action or references to conditions shall be stated in writing and attached to four copies of the plat with copies distributed in the same manner as stated above. If the plat is disapproved by the board, the Subdivider may make changes but must resubmit the plat for review and recommendation by the Planning Commission and approval by the Board of Commissioners in accordance with the procedures outlined in this section (704.3).
- (6) Approval of the preliminary plat shall be valid for one (1) year unless a written extension is granted by the Board of Commissioners 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 said approval of the preliminary plat shall be null and void.
- (7) Preliminary plat Certificates

This certifies that the Biltmore Forest Planning Commission recommends approval of the preliminary plat for the _____ subdivision at its meeting on the ____ day of _____, 20__.

Chairman,
Biltmore Forest Planning Commission

Date _____

This certifies that the Board of Commissioners of the Town of Biltmore Forest approve the preliminary plat of the _____ subdivision at its meeting on the ____ day of _____, 20__.

Subdivision Administrator

Date _____

Section 705. Begin Construction.

Upon approval of the preliminary plat by the town Board of Commissioners, the Subdivider may proceed with the installation or arrangement for roads, utilities and other improvements as required. If and when a building permit is required, then such permit may be obtained only after the approval of the preliminary plat by the Board of Commissioners.

The Subdivider/developer shall be responsible for notifying the subdivision administrator at least three days in advance of the actual construction of roads or the installation of water and sewer lines and other major improvements so that the subdivision administrator and the town's consulting engineer may inspect the materials and construction practices utilized during construction.

Section 706. Improvements Installation or Guarantees.

Upon approval of the preliminary plat by the Board of Commissioners, the Subdivider may proceed with the preparation of the final plat, and the installation 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 Subdivider shall have installed improvements specified in this ordinance. However, if the Subdivider is confronted with adverse conditions or unusual circumstances which would likely be overcome if a delay in the installation of said improvements was permitted, which conditions and circumstances are found to exist by the Board of Commissioners, and, further, that it should appeal to the Board of Commissioners that a requested delay would serve the interests of the town and the subdivision, then the Subdivider shall guarantee the installation of the specified improvements as provided below.

706 .1 Improvements Guarantees.

- 1) Agreement and Security Required. In lieu of requiring the completion, installation and dedication of all improvements prior to final plat approval, the Town of Biltmore Forest may enter into an agreement with the Subdivider whereby the Subdivider shall agree to complete all required improvements. Once said agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the Board of Commissioners. To secure this agreement, the Subdivider shall provide, subject to the approval of the Board of Commissioners, the following guarantees, not exceeding 1.25 times the entire cost

of installing all required improvements as specified on the approved preliminary plat for that portion of the subdivision to be shown on the final plat. The estimate of the cost of improvements shall be prepared by the Subdivider and submitted to the Subdivision Administrator for approval. The Board of Commissioners shall determine the method of improvements guarantees.

- a) Cash or Equivalent Security. The Subdivider shall deposit cash or other instrument readily convertible into cash at face value, either with the town or in escrow with a financial institution designated as an official depository of the town. The use of any instrument other than cash shall be subject to the approval of the Board of Commissioners.
- b) Surety Performance Bond(s). The Subdivider shall obtain a performance bond(s) from a surety bonding company authorized to do business in North Carolina. The bond(s) shall be payable to the Town of Biltmore Forest. The duration of the bond(s) shall be until such time as the improvements are approved by the Board of Commissioners. The Board of Commissioners shall not give said approval until it has been satisfied that all required improvements have been installed.
- c) Letter of Credit. A satisfactory, irrevocable letter of credit as approved by the Town Attorney and Board of Commissioners, and deposited with the Town Clerk, shall be submitted. When a letter of credit is submitted, the following information shall be contained in said letter:
 - shall be entitled "Irrevocable Letter of Credit;"
 - shall indicate that the Town of Biltmore Forest is the sole beneficiary;
 - the amount (of the Letter of Credit) as approved by the Town;
 - account number and/or credit number that drafts may be drawn on;
 - list of improvements that shall be built that the letter is guaranteeing;
 - terms in which the Town of Biltmore Forest may make drafts on the account;
 - expiration date of the letter.

If cash or other instrument is deposited in escrow with a financial institution as provided above, then the Subdivider shall file with the Board of Commissioners an agreement between the financial institution and himself guaranteeing that the escrow account shall be held in trust until released by the Board of Commissioners and may not be used or pledged by the Subdivider for any other matter during the term of escrow.

- (2) Default. Upon default, meaning failure on the part of the Subdivider to complete the required improvements, then the Board of Commissioners may require the Subdivider or the financial institution holding the escrow account to pay all or any portion of the bond or escrow account fund to the Town of Biltmore Forest. Upon payment, the Board of Commissioners, in its

discretion, may expend all or such portion of said funds, as it deems necessary to complete all or any portion of the required improvements.

- (3) **Release of Guarantee Security.** The Board of Commissioners may release a portion of any security posted as the improvements are completed and recommended for approval by the subdivision administrator within thirty-two (32) days after receiving the subdivision administrator's recommendation, the Board of Commissioners shall approve or not approve said improvements. If the Board of Commissioners approves said improvements, then it shall immediately release any security posted.

Section 707. Final Plat.

707.1 General. The final plat shall constitute only that portion of the preliminary plat, which the Subdivider proposed to record and develop at the time of submission. No final plat shall be approved unless and until the Subdivider shall have installed in that area represented on the final plat all improvements required by this ordinance, or shall have guaranteed their installation as provided for in Section 706. The Subdivider shall submit four (4) copies and one (1) original of the final plat to the chairman of the Planning Commission no less than fourteen (14) days prior to a regularly scheduled Planning Commission meeting or to a meeting specially called by the chairman of the Planning Commission to consider the plat.

707.2 Contents Required. The original of the final plat shall be prepared on linen or Mylar film, drawn on a sheet eighteen (18) inches by twenty-four (24) inches, or twenty-four (24) inches by thirty-six (36) inches, or such other size acceptable to the Register of Deeds of Buncombe County and at a scale of not less than one hundred (100) feet to one (1) inch, and shall conform substantially to the preliminary plat as approved. The plat shall conform to the provisions of the North Carolina General Statutes, Section 47-30 as amended. The final plat shall be prepared by a registered land surveyor and shall include the following information:

- (1) Subdivision name; north arrow; scale denoted graphically and numerically; date of plat preparation; and township, county and state in which the subdivision is located; and the name(s) of the owner(s) and the registered land surveyor (including the seal and registration number of the registered land surveyor).
- (2) The exact boundary lines of the tract to be subdivided fully dimensioned by lengths and bearings, and the location of intersecting boundary lines of adjoining lands.
- (3) The names and deed references (when possible) of owners of adjoining properties and adjoining subdivisions of record (proposed or under review)

- (4) All visible and apparent rights-of-way, watercourses, utilities, roadways, and other improvements shall be accurately located where crossing or forming any boundary line of the property shown.
- (5) Sufficient engineering data to determine readily and reproduce on the ground every straight or curved boundary line, street line, lot line, right-of-way line, easement line, and setback line, including dimensions, bearings or deflection angles, radii, central angles, and tangent distances for the center-line of curved streets and curved property lines that are not the boundary of curved streets.
- (6) The accurate locations and descriptions of all monument markers and control points.
- (7) The blocks numbered consecutively throughout the entire subdivision and the lots numbered ~ consecutively throughout each block.
- (8) Minimum building setback lines.
- (9) Street names and right-of-way lines of all streets and the location and width of all adjacent streets and easements. Designation shall be made as to whether said streets are to be designated as public or private.
- (10) The location and dimensions of all rights-of-way, utility or other easements, natural buffers, pedestrian or bicycle paths, and areas to be dedicated to public use with the purpose of each stated.
- (11) Design Engineer Certification. A letter from the design engineer certifying to the town that the facilities and improvements were installed in accordance with the plans and specifications approved with the preliminary plat by the Board of Commissioners.
- (12) Forms for final certification. The following certificates shall be lettered and inked on the original of the final plat in such a manner as to ensure that said certificates will be legible on any prints made therefrom.

(a) Certificate of Approval by the Planning Commission

I _____ chairman of the Planning Commission, hereby certify that said commission recommends approval of the final plat of the subdivision entitled _____ on the ____ day of _____, 20 ____.

Chairman,
Biltmore Forest Planning Commission

(b) *Certificate of Ownership and Dedication

I (We) hereby certify that I am (we) the owner(s) of the property shown and described hereon and that I (we) hereby adopt this plan of subdivision with my (our) free consent, establish minimum building lines, and dedicate all streets, sewers, water lines, walks, parks and other sites to public or private use as noted. Further, I (we) certify the land as shown hereon is within the Town of Biltmore Forest, North Carolina.

Date _____
_____ Owner

_____ Owner

(c) Surveyor Certificate as Required by G.S. 47-30 as amended

(d) *Certification of Approval of the Installation and Construction of Streets, Utilities and Other Required Improvements

I hereby certify that streets, utilities, and other required improvements have been installed in an acceptable manner and according to town specifications and standards in the subdivision entitled _____, or that a guarantee of the installation of the required improvements in an amount satisfactory to the Town of Biltmore Forest has been received.

Date _____
_____ Subdivision Administrator

(e) *Certificate of Completion and Warranty

The undersigned certifies that he is an officer, to wit: **(title of officer)** of **(name of corporation)**, a corporation, and that he has been authorized to execute this certificate pursuant to authority granted by resolution of the board of directors of **(name of corporation)**, copy of which resolution is attached hereto.

- a. **(Name of corporation)**, through the undersigned, hereby certifies that all improvements required under the authority of the Biltmore Forest Subdivision Regulations have been installed and completed (or guaranteed pursuant to section 706 of said regulations) in accordance

with the approved preliminary plat and engineering plans for subdivision, and that said improvements are in compliance with the minimum construction standards specified by said regulations. (

(**Name of corporation**), through the undersigned, further certifies that it knows of no defects from any cause and will fully warrant said improvements to be free from defects in material and workmanship for a period of either one year from the date of final plat approval when such improvements are completed and installed prior to final plat approval, or one year from the date of the Board of Commissioners' approval of completed guaranteed improvements, whichever event last occurs. In the event defects are discovered in any of said improvements during the one-year period (**name of corporation**) will replace and/or repair the defective improvements at its own expense. Furthermore the (**name of corporation**) shall post a bond by an approved surety company, or other approved method of security, for this one year period in an amount acceptable to the town, to assure that the funds are available to replace and/or repair the defective improvements.

NAME OF CORPORATION

Attest:

By:

Secretary

Date

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, _____ Notary Public of said state and county certify that _____ personally came before me this day and acknowledged that (s) he is _____ Secretary of _____, a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its _____ President, sealed with its corporate seal, and attested by self as its _____ Secretary.

Witness my hand and notorial seal, this the ____ day of _____, 20 ____.

Notary Public

My Commission Expires _____

(f) Certificate of Approval for Recording Plat

This certifies that the Board of Commissioners of the Town of
Biltmore Forest approved the final plat of the _____
subdivision at its meeting on the ____ day of _____,
20 ____.

Date _____
Subdivision Administrator

*Certificates b, c, d and e above must be presented on the final plat and signed by the designated person prior to Planning Commission review and recommendation

707. 3 Final Plat Review Procedure

- (1) The Subdivider shall submit the final plat to the Planning Commission within one year of the date of preliminary plat approval (unless an extension was granted), and at least fourteen (14) days prior to a regularly scheduled Planning Commission meeting or to a meeting specially called by the chairman of the Planning Commission to consider the plat, and shall submit at least four (4) copies of the final plat and one (1) original of the final plat. Additional copies may be requested by the subdivision administrator.
- (2) Before acting on the final plat, the Planning Commission may request reports from any person or agency directly affected by the proposed development. Such reports shall certify compliance with or note deviations from the approved preliminary plat and the requirements of this ordinance.
- (3) First consideration of the final plat shall be at the next regularly scheduled Planning Commission meeting or special meeting called by the chairman of the Planning Commission that follows at least fourteen (14) days after the final plat is submitted. The Planning Commission shall recommend approval or disapproval of the final plat at its first consideration or within thirty-two (32) days of its first consideration. If the Planning Commission fails to act on the final plat within the prescribed period, the Subdivider may seek final approval of the plat at the next regularly scheduled meeting of the Board of Commissioners. Prior to the final plat approval, certificates b, c, d and e of Section 707.2(12) must be presented on the final plat and signed by the designated person.

- (4) If the Planning Commission recommends approval of the final plat, such approval shall be indicated on the original and each copy of the final plat by certificate a from section 707.2(12) upon recommending approval of the final plat, the Planning Commission shall submit, with recommendations, said plat to the Board of Commissioners, and copies of the plat with recommendations shall be distributed in the same manner as set forth below in (5).
- (5) If the Planning commission recommends disapproval of the final plat, the planning Commission shall find in writing the provisions of this ordinance with which the plat does not comply and the facts constituting noncompliance with said provision(s) .One (1) copy of said findings shall be sent to the Subdivider within five (5) days of disapproval, one (1) copy shall be retained by the Planning Commission as a part of its proceedings, one (1) copy shall be transmitted to the Board of Commissioners, and one (1) copy shall be filed with the subdivision administrator. If the final plat ~ is disapproved, the Subdivider may make such changes as needed to bring the plat into compliance with the provisions of this ordinance and resubmit the same for reconsideration by the Planning Commission pursuant to the procedures set forth in this section (707.3), or the Subdivider may seek approval from the Board of Commissioners.
- (6) The Board of Commissioners shall approve or, disapprove the final plat within forty-five (45) days after receiving the final plat and the Planning Commission's recommendation.
- (7) If the final plat is approved by the Board of Commissioners, such approval shall be indicated (certificate f, section 707.2(12)) on the original tracing and on each copy of the final plat. The original tracing of the final plat shall be recorded by the Subdivider with the Buncombe County Register of Deeds within thirty (30) days after the date of Board of Commissioners approval. One (1) print and the original of the plat shall be returned to the Subdivider, one (1) print shall be filed with the planning commission, one (1) print shall be filed with the subdivision administrator, and one (1) print shall become a permanent record of the Board of Commissioners.
- (8) If the final plat is disapproved by the Board of Commissioners, the reasons for such disapproval shall be stated in writing, specifying the provision(s) of this ordinance with which the final plat does not comply. One (1) copy of such reasons shall be retained by the Board of Commissioners as a part of its proceedings, one (1) copy shall be transmitted to the Planning Commission, one (1) copy shall be transmitted to the Subdivider, and one (1) copy shall be retained by the subdivision administrator. If the final plat is disapproved, the Subdivider may make such changes as will bring the final plat into compliance with this ordinance and resubmit the final plat for review and approval in accordance with the procedures outlined in section 707.3.

Section 707. Recording of the Final Plat.

Within thirty (30) days after the final plat has been approved by the Board of Commissioners it shall have been recorded with the Register of Deeds of Buncombe County. Should the thirty (30) day time limit expire before the plat is recorded, it must be resubmitted to the Planning Commission for reprocessing. Upon adoption of this ordinance, the Register of Deeds shall not thereafter file or record a final plat of a subdivision located within the Town of Biltmore Forest until said plat has been approved by the town. Without the approval of the Board of Commissioners, the filing or recording of a subdivision plat shall be null and void.

Section 708. Effect of Plat Approval on Dedications

The approval of a final plat shall not be deemed to constitute or effect the acceptance by the town of the dedication of any street, public utility line, or other public facility shown on the plat. However, the Board of Commissioners shall pass a resolution to actually accept any dedication made to the public of lands or facilities for streets, parks, public utility lines, or other public purposes. The Board of Commissioners shall pass a resolution formally accepting dedicated improvements no sooner than (a) one year from the date of final plat approval when such improvements are completed prior to final plat approval, or (b) no sooner than one year from the date of the Board of Commissioners approval of completed guaranteed improvements, whichever event, (a) or (b) last occurs.

Section 709. Re-subdivision Procedures

For any replatting or resubdivision of land, which has been previously platted or subdivided, the same procedures and requirements shall apply as prescribed in this ordinance for an original subdivision.

**ARTICLE VIII
GENERAL REQUIREMENTS**

Section 800. Conformity to Surrounding Development and Street Extensions / Street Connections to Existing Town Streets.

The proposed street layout shall be coordinated with the street system of the surrounding area. Where possible, existing principal streets shall be extended.

All proposals for street extensions or proposals for connecting a street to an existing town street shall require a street permit from the Town of Biltmore Forest. In order to receive such a permit, all proposals for street extensions or proposals for connections to any existing town streets shall be reviewed and approved by the Biltmore Forest Board of Commissioners. If the proposal is part of a subdivision plan, the application for the permit should be made with the preliminary plat and the street permit shall be issued when the Board of Commissioners approve the preliminary plat for the subdivision. All other street extensions or street connections to an existing street not involving a subdivision shall require a permit and application for a new street permit shall be made at the Town Hall. Persons making such proposals shall prepare and present street plans and ~ traffic generation data to demonstrate the impact upon the town's existing street system. All street plans shall be prepared by a registered engineer. All proposed streets shall meet the requirements and standards of the N.C. Department of Transportation, Division of Highways' "Subdivision Roads Minimum Construction Standards" (latest edition as revised), as specified in Section 902 of this ordinance. The Board of Commissioners shall require the street plans to be reviewed and a recommendation provided to the board by the Planning Commission, and the town's consulting engineer. The Board of Commissioners shall either approve or disapprove each application for a new street permit. If the Board of Commissioners determine that the proposal will either cause traffic congestion or impair traffic safety, or be detrimental to the existing surrounding neighborhoods, or be detrimental to the health, safety or welfare of its citizens, the Biltmore Forest Board of Commissioners shall have the authority to prohibit the extension or connection to any existing town street by disapproving the new street permit. The board shall state the reasons for applying or disapproving each application.

Section 801. Access to Adjacent Properties.

Where, in the opinion of the Board of Commissioners, it is desirable to provide for street access to an adjoining property, proposed streets shall be extended by dedication to the boundary of such property and a temporary turn-around shall be provided.

Section 802. Large Tracts or Parcels

Where land is subdivided into large parcels than ordinary building lots, such parcels shall be arranged so as to allow for the opening of future streets and logical further re-subdivision.

Section 803. Alleys

Alleys shall be provided to the rear of all lots used for other than residential purposes. Alleys are prohibited in residential blocks unless such are approved by the Board of Commissioners. All dead end alleys shall be provided with a turn-around.

Section 804 Street Names

Proposed streets, which are obviously in alignment with existing streets, shall be assigned the same name of the existing street. For all other proposed streets, in order to avoid confusion for emergency vehicles, the name of proposed streets shall not duplicate an existing street name in Buncombe County. It is the responsibility of the subdivider to contact the County Street Addressing Office to obtain approval of the street name.

Section 805. Surveying and Placements of Monuments.

"The Standards of Practice for Land Surveying," as adopted by the North Carolina Board of Registration for Professional Engineers and Land Surveyors, under provisions of Chapter 89 of the North Carolina General Statutes, shall apply when conducting surveys.

Section 806. Final Plats

All final plats to be recorded in the county Register of Deeds shall meet all the mapping requirements set forth in G. S. 47-30, as amended.

Section 807. Preparation of Plans by a Registered Engineer

All plans for streets, drainage, water and sewer systems, and sedimentation control, as required in this ordinance, shall be prepared by a registered engineer. The engineer's seal shall be affixed to such plans. As specified in the ordinance, the town's consulting engineer shall review these plans and provide recommendations to the Planning Commission and Board of Commissioners as to the suitability of the proposed systems.

Section 808. Natural Assets.

In any subdivision due consideration will be given to preserving natural features such as trees, ponds, streams, rivers, lakes and for any historical sites which are of value not only to the subdivision but to the Town as a whole."

ARTICLE IX IMPROVEMENTS REQUIRED AND MINIMUM STANDARDS OF DESIGN

Section 900. 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 Subdivider. Each subdivision shall adhere to the minimum standards of design established by this article. All public utilities, streets, and other improvements shall be inspected during construction by the design engineer, and the design engineer shall certify to the town that the facilities were installed in accordance with the plans and specifications approved by the Board of Commissioners, and such certification shall be submitted with the final plat. All improvements shall be warranted by the developer for a period of (a) one year from the date of final plat approval when such improvements are completed and installed prior to final plat approval, or (b) one year from the date of the Board of Commissioners' approval of completed guaranteed improvements, whichever event, (a) or (b) last occurs.

Section 901. Suitability of Land.

Where land to be subdivided is found by the Board of Commissioners 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 Subdivider shall take measures necessary to correct said conditions and to eliminate said dangers.

Section 902. Streets and Roads.

All lots to be platted shall have access to a street, and all proposed streets shall be installed in accordance with the requirements set forth below prior to final plat approval unless otherwise permitted pursuant to Section 705. All proposed streets shown on the final plat shall be designated as either public or private streets. For all "private streets, the Subdivider shall prepare a "subdivision streets disclosure statement" to be issued to a prospective buyer. The subdivision streets disclosure statement shall include an explanation of the consequences and responsibility for maintenance of the private street. All streets and roads in the Town of Biltmore Forest shall be designed and built in accordance with existing policies and standards of the N.C. Department of Transportation, and all subdivision streets and roads shall be designed and built in accordance with the requirements as set forth by the Department of Transportation, Division of Highways' "subdivision Roads Minimum Construction Standards," (latest edition as revised) with only the following variations:

- (1) All pavement widths shall be at least twenty (20) feet wide. All street rights-of-way shall be forty (40) feet; but with the advance written consent and agreement of the town's Department of Public Works, there may be selected areas within the right-of-way that certain sound and healthy trees may be left standing, upon the determination by the Department of Public Works that the placement and maintenance of utilities will not be adversely affected.

- (2) All pavement surfaces shall be asphalted and all asphalt paving material, including aggregate base course, bituminous base and surface courses, and prime and tack coats shall meet the requirements of the applicable sections of the latest edition of the North Carolina Department of Transportation "Standard Specifications for Roads and Structures." Bituminous concrete base course shall be Type HB and bituminous concrete surface course shall be Type I-2. Prime and tack coats grades shall be specified with the job mix formula.
- (3) Cul-de-sac streets shall be designed according to DOT standards; however, permanent dead end streets shall be no longer than nine hundred (900) feet in length.
- (4) All roadways shall be constructed of a minimum of eight (8) inches compacted aggregate base course, and two (2) inches of bituminous surface course Type I-2.
- (5) All pavements shall be designed by a licensed professional engineer with such design being based on the load bearing capabilities of the proposed sub grade material in accordance with the California Bearing Ratio (CBR) design method. The design shall also be based on the traffic loadings and volumes anticipated for the proposed pavement, including temporary construction vehicles. The calculations, traffic data and other design information including the soils testing data shall be submitted to the town prior to and as a condition for the preliminary plat approval by the town's engineer.
- (6) Fill material shall meet the requirements of the classifications in accordance with the Unified Soil Classification Systems as follows:
 - (a) Acceptable Classifications: GW, GP, GM, SW, SP, SC, SM, ML and CL.
 - (b) Unacceptable Classifications: PT, OH, OL, CH and MH.
- (7) Fill material for sub grade shall have a minimum laboratory dry weight, ASTM 1557, of at least 100 pounds per cubic foot unless specifically exempted from this requirement by the town engineer.
- (8) The required thickness of the aggregate base course and the asphalt base and surface courses shall be compacted thicknesses.
- (9) The standard Proctor method of moisture density relationship test, ASTM D-698, shall be used to determine the maximum laboratory dry density and the optimum moisture content of the material, which is used for fill.
- (10) The upper two (2) feet of the soil sub grade in paved areas shall be compacted until its density is not less than 98% of the maximum dry density of the same material. Fill beneath the pavement below a depth of two (2) feet and fill used to construct

the roadway shoulders shall be compacted to a minimum of 95% of the maximum laboratory dry density.

- (11) Each layer of the aggregate base course material shall be compacted to a density equal to at least 100% of the maximum laboratory dry density. The bituminous concrete base and surface courses shall be compacted to a density of at least 95% of the maximum theoretical density as determined by the Marshall method test.
- (12) Non-bituminous bases beneath a bituminous pavement of four (4) inches or less in thickness and non-bituminous bases beneath any bituminous pavement on roadways with grades of fifteen percent (15%) or greater shall receive a prime coat treatment. Tack coat treatment shall be applied to side slopes with grades of 1:1 or steeper. Prime and tack coats shall be applied in accordance with NC DOT specifications.
- (13) The N.C. Department of Transportation's "Subdivision Roads Minimum Construction Standards," contain the necessary design and construction criteria for subdivision streets, including requirements for right-of-way, pavement width, shoulder width, cut and fill slopes, design speed, minimum site distance, intersection design, etc., with the specific exception that the right-of-way width for subdivision streets with shoulder section shall be forty (40) feet, and the pavement width with shoulder sections shall be at least twenty (20) feet as referred to in section (1) above.

902.1 Review of Subdivision Road Plans. Street plans for all subdivisions within the Town of Biltmore Forest shall be reviewed by the town's consulting engineer and a recommendation provided to the Planning Commission and Board of Commissioners indicating whether the proposed street plans meet the street requirements as specified in Section 902 prior to preliminary plat approval.

902.2 The plans for all streets shall be prepared by a registered engineer.

902.3 Proposals for street extensions or connections to an existing town street shall require a new street permit (see Section 800).

Section 903. Pedestrian Ways

Streets shall be designed or walkways provided to assure safe and reasonable access to parks, playgrounds, and other places of public assembly.

Section 904. Blocks

The length, width and shape of blocks shall be reasonably designed to provide for the following: adequate building sites for the proposed use, vehicular and pedestrian circulation, and control and safety of traffic.

Section 905. Water and Sewer Systems.

The preliminary subdivision plat must be accompanied by satisfactory evidence as to the proposed method and system of water supply and sanitary sewage collection and disposal. The installation of all said systems (except for individual systems septic tanks, wells) shall be required prior to final plat approval, unless otherwise permitted pursuant to section 706.

905 .1 Public Systems. All lots shall be provided with direct access to the town's public water and sewer systems, unless otherwise approved by the Board of Commissioners, and when occupied shall be connected to these public water and sewer systems. The water and sewer systems shall be installed according to town and Metropolitan Sewerage District (MSD) specifications and standards and designed by a registered engineer, and plans for such systems must be reviewed and approved by the town Public Works Department, MSD, and the appropriate state agency (see Note). Letters of approval for such plans from the town Public Works Department, MSD, and the appropriate state agency shall be submitted with the preliminary plat. Water and sewer plans shall also be reviewed by the town's consulting engineer and a recommendation provided to the Planning Commission and Board of Commissioners stating the suitability of such proposed systems prior to preliminary plat approval.

NOTE: The plans and specifications for public water supply systems serving fifteen (15) or more connections or more than twenty- five (25) year-round residents shall be approved by the State Division of Water Quality. Plans and specifications for water supply systems serving less than fifteen (15) connections shall be approved by the Buncombe County Health Department. Plans for public sewer system extensions serving two (2) or more connections shall be approved by the State Division of Water Quality.

905.2 Individual Systems. Individual water and sewer systems shall not be permitted in any proposed subdivision unless otherwise approved by the Board of Commissioners due to topographic and engineering difficulties or other extremely extenuating circumstances involved in extending the public water and/or sewer systems to the lot(s) in the proposed subdivision. Where individual systems are allowed, such systems shall be reviewed in compliance with Title 10, Chapter 10, Sections .1900 and .1700 of the North Carolina Administrative Code by the County Sanitarian, and a written statement or letter of approval from the Buncombe County Health Department shall be submitted with the preliminary plat indicating that each lot has adequate land area and soil conditions suitable to accommodate the proposed methods of water supply and sewage disposal. The statement from the Health Department shall be, based upon a field investigation and such statement shall be submitted with the preliminary plat.

905.3 Fire Hydrants. Where a water line six (6) inches or greater in diameter is required in the public system, fire hydrants shall be installed on said line. The hydrants shall be spaced so that coverage to all building sites along said line may be provided with not more than five hundred (500) feet of hose and shall be located to facilitate access, hose laying and drainage.

Section 906. Storm Water Drainage.

The method of providing for storm water drainage shall be Consistent with the Department of Transportation's drainage requirements as stated in "Subdivision Roads Minimum Construction Standards," and furthermore, it shall be the responsibility of the developer to provide a drainage system, which is designed by a registered engineer and will meet the following objectives:

- (1) Connect onto an existing storm sewer system, where feasible.
- (2) Provide for adequate drainage from all roads, parking lots, and other developed areas.
- (3) Provide a suitable building area on each lot intended for building development, which is safe from inundation, erosion or subsidence.
- (4) Prevent both the unnecessary impoundment of natural drainage ways and the creation of areas of standing water.
- (5) Ensure that existing drainage ways serving adjacent properties are maintained.
- (6) Ensure that natural runoff levels are not substantially increased in order to prevent harmful flooding downstream and to maintain desirable groundwater levels.
- (7) Prevent inundation of surface water into sanitary sewer systems.
- (8) Protect all roads, driveways, utilities and other types of development from damages caused by improper drainage control.

Prior to preliminary plat approval, drainage plans for all subdivisions shall be reviewed by the town's consulting engineer and a recommendation provided to the planning Commission and the Board of Commissioners indicating whether the proposed drainage plan meets the above objectives. Said drainage system shall be arranged prior to final plat approval, unless otherwise permitted pursuant to Section 706.

Section 907. Sedimentation Control.

In order to prevent soil erosion and sedimentation pollution of streams, springs, flat water bodies or other drainage networks, and when there are plans for a land disturbing activity of one (1) acre or more, the Subdivider shall show proof with the preliminary plat of an erosion and sedimentation control plan which has been approved by the state agency having jurisdiction in accordance with the North Carolina Administrative Code, Title 15, Chapter 4, as adopted by the North Carolina Sedimentation Control Commission, June 5, 1981, as amended. Prior to preliminary plat approval, the sedimentation control plan shall be reviewed by the town's consulting engineer and a recommendation provided to the planning Commission and Board of

Commissioners indicating whether the plan has provided for adequate sedimentation control measures.

Section 908. Lots.

The district requirements of the Biltmore Forest Zoning Ordinance shall govern minimum lot size, lot widths, and building setbacks. These requirements are found in Article VII, page 15 of the Biltmore Forest Zoning Ordinance.

Section 909. Easements.

909.1 Utility easements. Easement for utilities shall be provided, preferably centered on rear or side lot lines and shall be at least ten (10) feet in width.

909. 2 Drainage Easements. An easement shall be reserved by the Subdivider or otherwise provided conforming with the lines of any drainage way into which natural drainage has been diverted. Said drainage way shall be of sufficient width to carry storm water runoff from a ten-year storm.

909. 3 Buffer Strips. A buffer strip at least twenty, (20) feet in width may be required by the Board of Commissioners adjacent to a major street or a commercial development. This strip shall be reserved for the planting of trees and shrubs by the Subdivider.

Section 910. Street Lighting.

Street lights of a design and materials meeting reasonable specifications of the town shall be provided and installed at approved locations at the developer's expense at all intersections within new subdivisions and at intersections of such new streets with existing streets in the town.

Section 911. Final Development Plans.

Upon the final construction and installation of water and sewer lines, streets and drainage, the design engineer shall submit to the Town Public Works Director a set of final development plans showing the above improvements as constructed and installed. Any variations from the approved engineering plans submitted with the preliminary plat shall be noted and explained.

ARTICLE X
EXCEPTIONS: RESIDENTIAL PLANNED UNIT DEVELOPMENTS

In compliance with the town zoning ordinance and in specified zoning districts the standards and requirements of this ordinance may be modified in the case of a plan for a residential planned unit development (see definition in Section 600). Residential planned unit developments shall be reviewed as a conditional use under the zoning ordinance and approved by the Zoning Board of Adjustment. It is the intent of this section to encourage flexibility and innovation in the design of structures and land development, and to provide an opportunity to develop land areas in a manner different from the standards arrangement of one principal building on one lot. It is further intended that a residential planned unit development will be in harmony with the character of the zoning district in which it is located, and that adequate standards will be maintained to assure the public health, safety and general welfare. Residential planned unit developments shall be prepared and submitted in accordance with the Biltmore Forest Zoning Ordinance.

ARTICLE XI
AMENDMENTS

Section 1100. Amendment Procedures

This ordinance may be amended from time to time by the Board of Commissioners. Before taking any action on a proposed amendment to the ordinance, the Board of Commissioners shall request the Planning Commission to provide a recommendation on each proposed amendment. The Planning Commission shall have thirty-two (32) days after the proposed amendment has been presented to them to submit its recommendations to the Board of Commissioners. Failure of the Planning Commission to submit recommendations within the thirty-two (32) day period shall constitute a favorable recommendation.

Section 1101. Public Hearing

Before enacting any amendment to this ordinance, the Board of Commissioners shall hold a public hearing. A notice of such public hearing shall be published in a newspaper of general circulation in Buncombe County once a week for two (2) successive weeks, the first publication shall not appear less than ten (10) days Or more than twenty-five (25) days prior to the date fixed for the public hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included. The notice shall include the time, place and date of the hearing and include a description of the change or amendment to the ordinance.

ARTICLE XII LEGAL PROVISIONS

Section 1200. Penalties for Violation

After the effective date of this ordinance, any person who, being the owner or agent of the owner of any land located within the Town of Biltmore Forest, thereafter subdivides his land in violation of this ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the terms of this ordinance and recorded in the Buncombe County Register of Deeds, shall be guilty of a 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 Town of Biltmore Forest through its attorney or other official designated by the Board of Commissioners, may enjoin illegal subdivision, transfer, or sale of land by action for injunction. Further, violators of this ordinance shall be guilty of a misdemeanor and shall be subject to the penalties as provided for in G.S. 14-4. Each day of violation shall be considered a separate offense.

Section 1201. 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 1202. Abrogation.

This ordinance shall neither repeal, abrogate, annul, impair, nor interfere with any existing subdivisions, the plats of which are properly recorded in the office of the Register of Deeds prior to the effective date of this ordinance, nor with existing easements, covenants, deed restrictions, agreements or permits previously adopted or issued pursuant to law, prior to the effective date of this ordinance.

Section 1203. Effective Date.

This ordinance shall take effect and be in force from and after its adoption by the Board of Commissioners of the Town of Biltmore Forest, the 17th day of July 1984.

NOTE: since the original adoption of this ordinance, the ordinance has been amended on May 19, 1987, June 13, 1989, March 19, 1991, November 29, 1994 and January 26, 1995. All amendments are included herein and are a part of this ordinance text.

**APPENDIX A
PRELIMINARY PLAT CHECKLIST**

The preliminary plat shall be clearly and legibly drawn at a scale of not less than one inch to two hundred feet (1" = 200'), and may be drawn on a sheet eighteen (18) by twenty-four (24) inches or twenty-four (24) by thirty-six (36) inches, or such other size acceptable to the Register of Deeds of Buncombe County. A fee in accordance with this ordinance shall be paid to the town upon submission of the preliminary plat. The preliminary plat shall be prepared by a registered land surveyor and shall include the following information:

Name of Subdivision _____
 Date Submitted _____
 Location _____
 Subdivider _____
 Address _____ Tel. _____
 Surveyor _____
 Address _____ Tel. _____

Checklist:

Copies:

_____ Five (5) copies submitted to Planning Commission.

Title Block:

_____ Subdivision name, sub divider's name, north arrow, scale (denoted graphically and numerically) , date of plat preparation, location of subdivision (township, county and state) , name and seal of registered land surveyor preparing the plat.

Vicinity Map:

_____ A sketch vicinity map showing the location of the subdivision in relation to the surrounding area.

Tract Boundaries:

_____ The boundaries of the tract or portion thereof to be subdivided, with all bearings and distances accurately shown

Property Lines:

_____ Property lines and owner's names of adjoining properties and/or adjoining subdivision of record.

Natural Features :

_____ Significant natural features including wooded areas, marshes, major rock outcrops, lakes or streams, soils information and other natural features affecting the site, and the 100-year floodplain, where applicable.

Existing Physical Features:

_____ Existing physical features including buildings, streets, railroads, power lines, drainage ways, sewer and water lines, utility easements, and town limit lines both on or adjacent to the land to be subdivided.

Topographic Lines:

_____ Topographic contour lines at five foot intervals when the area to be subdivided exceeds two (2) acres or has proposed streets which will exceed eight hundred (800) lineal feet.

Proposed Lot Layout:

_____ All proposed lot and street right-of-way lines with approximate dimensions, lot and block numbers, all easements, designation of any dedication or reservations to be made, building setback lines and proposed use of land If other than single family residences.

Street Layout:

_____ Proposed streets showing pavement widths, right-of-ways, curbing if any, a street profile, and proposed street names. A review of proposed street plan. street plans shall be submitted to the town's consulting engineer for review and recommendation to the Planning commission and Board of Commissioners prior to preliminary plat approval.

Water and Sewer Layout:

_____ Sketch view of proposed water and sewer system layouts showing location of lines, line sizes, approximate location of manholes, pumps, hydrants, force mains or treatment facilities, and the connection of the proposed system(s) with existing systems. Atypical trench section shall be shown.

_____ "Letters of approval" for the plans for the proposed sanitary sewer and water distribution systems from the appropriate agencies (see Section 905)

_____ Water and sewer plans shall be submitted to the town's consulting engineer for review and recommendation to the Planning Commission and Board of Commissioners prior to preliminary plat approval.

Drainage System:

_____ Sketch view of 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 , and any other evidence necessary to assure the Board of Commissioners that the proposed method of drainage meets the objectives of Section 906.

_____ Drainage provisions shall be submitted to the town's consulting engineer for review and recommendation to the Planning Commission and Board of Commissioners prior to preliminary plat approval.

Sedimentation Control:

_____ An approved sedimentation control plan (see Section 907)

_____ Sedimentation plan shall be submitted to the town's consulting engineer for review and recommendation to the Planning Commission and Board of Commissioners prior to preliminary plat approval.

Other Improvements:

_____ Proposed location and description of any other improvements including, but not limited to, pedestrian or bike ways, reserved open space or recreational facilities, commercial areas, or buffer strips.

Site Data:

_____ Total acreage in tract to be subdivided, smallest lot size (square feet), total number of lots, lineal feet in streets, and zoning district.

**APPENDIX B
FINAL PLAT CHECKLIST**

The final plat shall meet the following requirements prior to any review of the plat by the Planning Commission.

Date Final Plat Submitted _____

Date Preliminary Plat Approved _____

Name of Subdivision _____

Location _____

Subdivider _____

Address _____ Tel. _____

Surveyor _____

Address _____ Tel. _____

ADMINISTRATIVE REQUIREMENTS

_____ Notice from the subdivision administrator approving required improvements.

_____ Submitted within twelve (12) months of preliminary plat approval, unless an extension has been granted by the Board of Commissioners.

_____ Final plat is either eighteen (18) inches by twenty-four (24) inches, or twenty-four (24) inches by thirty-six (36) inches, or such other size acceptable to the Register of Deeds of Buncombe County, and is a scale of at least one inch equals two hundred feet (1" = 200').

_____ Four (4) copies submitted and one (1) reproducible.

REQUIRED DATA

Title Block:

_____ Subdivision name, north arrow, scale denoted graphically and numerically, date of plat preparation, and township, county and state in which the subdivision is located, and the name(s) of the owner(s) and the registered surveyor responsible for the subdivision (including the seal and registration number of the registered surveyor).

Tract Boundaries:

_____ The exact boundary lines of the tract to be subdivided fully dimensioned by lengths and bearings, and the location of intersecting boundary lines and adjoining lands.

Adjoining Property Owners:

_____ The names and deed references of owners of adjoining properties and adjoining subdivisions of record (proposed or under review).

Location of Improvements:

_____ All visible and apparent rights-of-way, watercourses, utilities, roadways, and other such improvements shall be accurately located where crossing or forming any boundary line of the property shown .

Engineering Data:

_____ Sufficient engineering data to determine readily and reproduce on the ground every straight or curved boundary line, street line, lot line, right-of-way line, easement line and setback line, including dimensions, bearings or deflection angles, radii, central angles, and tangent distances for the centerline of curved streets and curved property lines that are not the boundary of curved streets .

Monuments:

_____ The accurate locations and descriptions of all monument, markers and control points.

Lot and Block Numbers:

_____ The blocks numbered consecutively throughout the entire subdivision, and the lot numbered consecutively throughout each block.

Setback Lines:

_____ Minimum building setback lines.

Streets:

_____ Street names and right-of-way lines of all streets and the location and width of all adjacent streets and easements. Designation shall be made as to whether said streets are to be designated as public or private.

Right-of-Way:

_____ The location and dimensions of all rights-of-way, utility or other easements, natural buffers, pedestrian or bicycle paths, and areas to be dedicated to public use with the purpose of each stated.

Certificates:

_____ The certificates as required in section 706.2 (12) of this ordinance.

Design Engineer Certification:

_____ A letter as required in Section 706.2 (11) of this ordinance.