SUBDIVISION REGULATIONS

TRANSYLVANIA COUNTY, NORTH CAROLINA

ARTICLE I

SHORT TITLE

This Ordinance shall be known and cited as the Subdivision Control Ordinance of Transylvania County, North Carolina, and may be referred to as the Subdivision Regulations. [Sec. 16-40]

ARTICLE II

AUTHORITY AND ENACTMENT CLAUSE

Pursuant to the authority and provision conferred by the General Statutes of the State of North Carolina (Chapter 153A, Article 18), the Board of County Commissioners of the County of Transylvania hereby ordain and enact into law these Articles and Sections. [Sec. 16-41]

ARTICLE III

JURISDICTION

This Ordinance shall apply to every subdivision or development in Transylvania County which is located outside the planning jurisdiction of a municipality, as established pursuant to G.S. Section 160A-360. The power to review plans shall be treated as if it were a power authorized by Article 19 of Chapter 160A. Municipalities within Transylvania County may elect to allow this ordinance to be effective within their corporate limits or their extraterritorial jurisdictions. [Sec. 16-42]

ARTICLE IV

PURPOSE

The purpose of this Ordinance shall be:

1. To guide and regulate the subdivision and development of land in such a manner as to meet ... the following requirements for orderly and harmonious growth: land to be subdivided shall be of such character that it can be used safely without danger to health or peril from fire, flood, erosion, air and/or water pollution, or other menace.

Proper provisions shall be made for drainage, water supply, sewerage, High Quality Water legislation, sedimentation control, and other appropriate utilities. The proposed roads shall 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 access for emergency vehicles and services. Land should be subdivided and developed with due regard to topography so that the natural beauty of the land and vegetation shall be protected.

2. To provide the County Commissioners, Planning Board, Planning Department, and other local government agencies and officials with information regarding land development taking place in Transylvania County. This information will assist county officials in projecting the need for various public programs and facilities, in estimating population growth, and in projecting revenues and expenditures. [Sec. 16-43]

ARTICLE V

DEFINITION OF TERMS

SECTION 1: Subdivision Defined - 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 involving the dedication of a new road or a change in existing roads; and includes any unified residential development; however, the following are not included within this definition and are not subject to any regulations enacted pursuant to this Part: [16-44(a)]

1.1 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; [Sec. 16-44(a)(1)]

1.2 The division of land into parcels greater than 10 acres if no road right-of-way dedication is involved; [Sec. 16-44(a)(2)]

1.3 The public acquisition by purchase of strips of land for widening or opening roads; [Sec. 16-44(a)(3)]

1.4 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 road 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; [Sec. 16-44(a)(4)]

1.5 The division of land for the purpose of conveying a single lot or parcel to each tenant in common, all of whom jointly inherited the land by intestacy or by will; [Sec. 16-44(a)(5)]

1.6 The division of land into no more than two (2) parcels for the purpose of conveying at least one (1) of the resulting lots to a grantee(s) who would have been an heir(s) of the grantor if the grantor had died intestate immediately prior to the conveyance; [Sec. 16-44(a)(6)]

1.7 The division of land pursuant to an order of a court of the General Court of Justice; [Sec. 16-44(a)(7)]

1.8 The division of land for cemetery lots or burial plots; and [Sec. 16-44(a)(8)]

1.9 The division of land for the purpose of changing the boundary line(s) between adjoining property owners and no new road right-of-way dedication is involved. [Sec. 16-44(a)(9)]

SECTION 2: <u>Other Definitions</u> - For the purpose of this Ordinance, certain words or terms used herein are defined as follows: [Sec. 16-44(b)]

2.1 <u>All-Weather Surface Road</u> - A roadbed that supports vehicular traffic and has a minimum thickness of six inches (6") of compacted crushed rock or stone, including dust, that does not exceed eighteen percent (18%) grade. If a road serves less than 4 lots, a minimum thickness of four inches (4") of compacted crushed rock or stone is required.

2.2 <u>Bridge –</u> a structure spanning and providing vehicular passage over a waterway, highway, railroad or other obstacle.

2.3 <u>Curve Radius</u> – the length of the line between the center of a circle formed by the center line of the curved section of a road and any point on that section.

2.4 <u>Develop</u> - To convert land to a new purpose so as to use its resources, or to use the land for residential, commercial, or industrial purposes.

2.5 <u>Developer</u> - Any person, firm, corporation, or duly authorized agent who develops land as defined herein.

2.6 <u>Dwelling</u> Unit - A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

2.7 <u>Easement</u> - A grant by the property owner for the use by the public, corporation, or person(s) of a strip of land for specified reasons.

2.8 <u>Final Plat</u> - A complete and exact plan of a development or subdivision prepared for final official review which, if approved, will be submitted to the Transylvania County Register of Deeds for recording.

2.9 <u>Floodplain</u> – Lands subject to a one per-cent or greater chance of flooding in any given year and identified in the latest FEMA/NC flood maps.

2.10 Floodway - The channel of a river or other watercourse and the adjacent land areas which must be reserved in order to discharge the base flood (100-year flood) without cumulatively increasing the water surface elevation.

2.11 Land-Disturbing Activity – Any use of the land related to the establishment of a subdivision including establishment of roads, drainage ditches, water and sewer systems, driveways, building sites, and other disturbances of land resulting in a change in the natural cover or topography. For the purpose of this ordinance, this does not include agriculture, forestry, or any other use of the land not related to the establishment of a subdivision.

Those land disturbing activities for which the NC Sedimentation Control Commission is authorized to exercise exclusive regulatory jurisdiction pursuant to G.S. Section 113A-56(a) are not included within this definition and are not subject to any regulations enacted pursuant to this act.

2.12 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 "plot", "parcel", or "tract" or “camp”.

2.13 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 Transylvania County prior to 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.

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

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

2.16 Private Driveway - A shared right-of-way or easement for access to no more than two (2) lots in a subdivision.

2.17 Road - A dedicated public or private right-of-way for vehicular traffic.

2.171 Cul-de-Sac - Local roads with one (1) end open for vehicular access and the other end terminating in a vehicular turnaround. The length of the cul-de-sac road shall be measured along the center line from its intersection with the center line of the road from which it runs to the center of the cul-de-sac turnaround.

2.18 Site Plan - A development layout showing the location of all improvements and land disturbing activities proposed as part of the development.

2.19 Sub-divider - Any person, firm, or corporation who subdivides or develops any land deemed to be a subdivision.

2.20 Unified Residential Development - A development consisting of multi-family dwelling unit(s) including town homes, condominiums and apartments. Notwithstanding any provision of G.S. 153A-331, no county subdivision ordinance development standard shall apply to a unified residential development except insofar as such a standard pertains to a direct access road(s) that will serve such development(s). By definition the direct access road(s) end at the point the parking lot begins. This in no way supersedes present or future fire code regulations.

ARTICLE VI

APPROVAL OF SUBDIVISION PLATS

SECTION 3: Approval of Subdivision Plats Required – Preliminary and final plats shall be prepared and approved pursuant to the provisions of this Ordinance whenever land is subdivided or unified residential developments are proposed.

No land disturbing or construction activity carried out in conjunction with the development shall be commenced until the preliminary plat or plan is approved by the Transylvania County Planning Department. A building permit for work done in conjunction with a development or a lot in a subdivision shall not be issued until the final plat or plan is approved by the Planning Board of Transylvania County or the Transylvania County Planning Department. The Register of Deeds shall not file or record a plat of a subdivision or development subject to this Ordinance that has not been approved in accordance with these provisions, and the Clerk of Superior Court shall not order or direct the recording of a plat if the recording would be in conflict with this Ordinance. [Sec. 16-45(a)]

SECTION 4: Procedure for Review of Subdivisions

4.1 Preliminary Plat Submission and Review - The procedure for obtaining preliminary plat approval is as follows. [Sec. 16-45(b)(1)]

4.11 A predevelopment conference is required between the developer and the planning department prior to the submission of a preliminary plat. [Sec. 16.45(b)(1)a]

4.12 The subdivider shall submit to the Transylvania County Planning Department two (2) copies of a preliminary plat containing the requested information required in Section 7 of this Ordinance. [Sec. 16-45(b)(1)b]

4.13 The Planning Department may request that the developer or property owner provide reports from the Transylvania County Health Department, the Transylvania County Inspections Department, The Transylvania County Soil

and Water Conservation District, and other county or state officials or agencies as deemed necessary. [Sec. 16-45(b)(1)c]

4.14 The Planning Department shall review the preliminary plat for general compliance with the requirements of this Ordinance and any other applicable County or State regulations; and shall discuss with the developer or his agent any changes deemed advisable in the proposed development, or any additional information necessary for approval of the subdivision. [Sec. 16-45(b)(1)d]

4.15 The Planning Department shall approve, approve conditionally, or disapprove the preliminary plat and shall notify the developer, in writing, of its decision regarding approval within ten (10) working days after the preliminary plat is submitted for review. [Sec. 16-45(b)(1)e]

4.2 Final Plat Submission and Review - Upon approval of the preliminary plat by the Planning Department, the developer may proceed with the preparation of the final plat and the installation of or arrangement for required improvements such as roads and utilities in accordance with the approved preliminary plat and the requirements of Article VII of this Ordinance. Prior to approval of the final plat, the subdivider shall have installed the improvements specified in this Ordinance or guaranteed their installation as provided herein. [Sec. 16-45(b)(2)]

4.21 The developer shall submit five (5) copies of the final plat (3 if less than 4 lots) to the Planning Department. One (1) copy of the final plat shall be on reproducible permanent material, which will be returned to the developer with the stamp of approval affixed to the said plat, and the remaining copies shall be prints.

4.22 The Planning Department shall approve, conditionally approve subject to modifications, or disapprove the final plat and shall notify the developer, in writing, of its decision regarding final approval within ten (10) working days after the plat is submitted for review. [Sec. 16-45(b)(2)b]

4.23 The final plat shall be prepared by a professional land surveyor currently licensed in the State of North Carolina by the NC State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in G.S. 47-30 as amended, and as set forth in the Standards of Practice for Land Surveying in North Carolina, and in Section 7 of this Ordinance. [Sec. 16-45(b)(2)c]

4.3 Failure of the Planning Department to act, in writing, on the preliminary or final plat within the specified response time shall be deemed as a basis for appealing to the Transylvania County Planning Board. [Sec. 16-45(b)(3)]

4.4 At the Planning Director's discretion, or at the developer's request, a preliminary or final plat may be submitted to the Transylvania County Planning Board for its review and consideration. [Sec. 16-45(b)(4)]

SECTION 5: Expansion of Subdivisions

5.1 A subdivision shall be deemed to be expanded when an adjacent parcel of land is subdivided and the access to the newly divided parcel is through and across roads in a previously divided parcel. [Sec. 16.45(c)(1)]

5.2 Expansion of a subdivision may require road upgrades if the number of lots served by that road increases. Refer to Section 11 for road design standards. [Sec. 16.45(c)(2)]

SECTION 6: Certificates for Subdivision Plats - The following signed certificates shall be shown on the original tracing and all copies of the final plat.

6.1 Certificate of Ownership and Dedication

I (we) hereby certify that I am (we are) the owner(s) of the property located within the subdivision-regulation jurisdiction of Transylvania County as shown and described hereon, and that I (we) hereby adopt this plan of subdivision with my (our) free consent, and dedicate all roads and other sites and easements to public or private use as noted in the Disclosure of Private Roadways, where applicable. [Sec. 16-45 (d)(2)g1]

_____ _____

DATE OWNER(s)

6.2 Certification of Private Roads (if applicable)

The roads in this subdivision are private. The property owners are responsible for maintaining and repairing the roads as well as paying the costs thereof. Municipal and other governmental services may be restricted or not be furnished to the property of owners using private roads for access. [Sec. 16-45 (d)(2)g2]

6.3 Certificate of Survey and Accuracy

State of North Carolina, _____ County, I, _____, certify that this plat was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book (File) ____, Page ____ (Slide) ____, etc.) (other); that the precision of the survey before adjusting was one (1) part in ___ as calculated by latitudes and departures, and that this map was prepared in accordance with G.S. 47-30, as amended. Witness my original signature, license number, and seal this _____ day of _____, 20___. [Sec. 16-45(d)(2)g3]

Official Seal

_____ _____
Professional Land Surveyor License Number

6.4 Certification of Road Grades and Suitability (if applicable)
State of North Carolina, _____ County, I _____, certify that the newly constructed or proposed road grades and slopes were (calculated by me) (calculated under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) and do not exceed eighteen percent (18%). Witness my original signature, license number, and seal this _____ day of _____ , 20___. [Sec. 16-45(d)(2)g4]

Official Seal

_____ _____
Professional Land Surveyor or Professional Engineer License Number

6.5 Certificate of Approvals
I, _____ , Director of the Transylvania County Planning Department, certify that this final plat complies with the Subdivision Control Ordinance of Transylvania County. [Sec. 16-45(d)(2)g5]

Date _____

6.6 Such approval shall be **VOID** unless the final plat is offered for filing and recording in the Office of the Register of Deeds of Transylvania County within thirty (30) working days from the date of approval.

6.7 If the Planning Department fails to act on the preliminary or final plat, in writing, within ten (10) working days the subdivider may seek approval of the preliminary or final plat at the next regularly scheduled meeting of the Planning Board.

SECTION 7: Specifications for Preliminary and Final Plats - The preliminary and final plats shall depict or contain the following information. Where "proposed/actual" is noted, the proposed information shall be shown on the preliminary plat and the actual information shall be shown on the final plat. Preliminary and final plats shall be clearly and legibly drawn at a scale of not less than two hundred feet (200') to one inch (1") and shall be drawn on a sheet size of mylar acceptable to the Register of Deeds of Transylvania County. An "*" indicates that the information is not required for preliminary plat approval. [Sec. 16-45(e)]

7.1 Title Block [Sec. 16-45(e)(1)]
- name and address of owner of record
- name of subdivision (4 or more lots)
- location (township, county, state)

- date(s) of survey(s)
- graphic scale and written scale
- name, address, registration number, and seal of land surveyor (*)
- tax parcel identification number

7.2 Roads [Sec. 16-45(e)(2)]
- existing and platted roads on abutting properties and in the proposed subdivision
- right-of-ways, location and dimensions (proposed/actual)
- road name(s)
- road and cul-de-sac cross section(s)

7.3 Utilities [Sec. 16-45(e)(3)]
- utility and other easements of record on and abutting to the subdivision
- transmission lines(*)
- approximate location of natural gas lines(*)
- sanitary sewers, location and size if community systems are proposed (proposed/actual)
- water lines, location and size, if community systems are proposed (proposed/actual)
- storm sewers, culverts, detention ponds, and other drainage facilities, if any (proposed/actual)

7.4 Site Calculations [Sec. 16-45(e)(4)]
- acreage in total tract to be subdivided
- total number of lots
- linear feet in roads
- area of each lot in acres

7.5 Other Details [Sec. 16-45(e)(5)]
- sketch vicinity map showing the relationship between the proposed subdivision and surrounding area
- exact boundaries of the tract, shown with bearings and distances as required by G.S. 47-30, as amended (proposed/actual)
- north arrow
- the location and name of all water courses, as identified on U.S.G.S. 7.5 minute series (topographic) maps
- any natural features affecting the site
- the location of the flood hazard, floodway, and flood fringe boundaries, if applicable, or a note that the property is not in a flood hazard area.
- note provisions for water and sewer (community or individual)
- the location of any cemetery
- existing buildings or structures, railroads, and bridges on the land to be subdivided
- approximate lot lines and distances, and lot numbers
- lot lines with bearings and distances and lot numbers(*)
- building footprint(s) for unified residential developments
- names of adjacent property owners
- the existing uses of the land within the proposed subdivision

- proposed parks or open spaces
- location of control corners(*)
- the accurate location and description of all monuments, reference markers and property and lot corners(*)

7.6 A written statement from the NC Department of Environment and Natural Resources permitting plans for the community sanitary sewer system, if applicable. [Sec. 16-45(e)(6)]

7.7 A written statement from the NC Department of Environment and Natural Resources approving and permitting plans for a community water system, if applicable. [Sec. 16-45(e)(7)]

7.8 A copy of the erosion control plan and a written statement from the NC Department of Environment and Natural Resources stating that an erosion control plan has been submitted and approved for the project, if applicable. [Sec. 16-45(e)(8)]

7.9 A written statement from the District Engineer of the Division of Highways of NC Department of Transportation certifying approval of any proposed road and highway plans, if applicable. [Sec. 16-45(e)(10)]

7.10 Any other information considered by the subdivider, the Planning Board, and/or Planning Director to be pertinent to the review of the plat. [Sec. 16-45(e)(11)]

7.11 All certifications required in Section 6 of this Ordinance, if applicable(*) [Sec. 16-45(e)(12)]

SECTION 8: <u>Phased Development</u> - If a developer proposes that a subdivision will be constructed in phases, the following procedure shall apply. [Sec. 16-45(f)]

8.1 A master plan showing the entire proposed subdivision and the phases of development, proposed density, proposed type and location of utilities, and proposed development timetable shall be submitted to the Planning Department ten (10) working days prior to the presentation of the master plan at a regular meeting of the Planning Board for their review. The Planning Board shall approve, conditionally approve or disapprove the master plan. [Sec. 16-45(f)(1)]

8.2 Each phase of development shall be preceded by submission and approval of a preliminary plat. The master plan may be submitted prior to or simultaneously with submission of the preliminary plat for the first phase of development. [Sec. 16-45(f)(2)]

8.3 As each phase is completed, a final plat must be submitted to and approved by the Planning Department for that phase. [Sec. 16-45(f)(3)]

8.4 Approval of the master plan need not be renewed unless significant design changes or density increases are proposed. [Sec. 16-45(f)(4)]

SECTION 9: <u>Resubdivision Procedures</u> - For any replatting or resubdivision of land, the same procedures, rules, and regulations shall apply as prescribed in Section 4. [Sec. 16-45(g)]

ARTICLE VII

<u>DEVELOPMENT STANDARDS</u>

SECTION 10: <u>General Requirements</u> [Sec. 16-46(a)]

10.1 <u>Conformity to Existing Maps or Plans</u> - The plat of a subdivision shall conform to any official map or plan adopted by the Board of County Commissioners, existing on the date of enactment of this Ordinance, or thereafter adopted. [Sec. 16-46(a)(1)]

10.2 <u>Continuation of Adjoining Road Systems</u> - The proposed road or road layout shall be coordinated with the existing road system of the surrounding area. Where possible, proposed roads shall be the extension of existing roads. [Sec. 16-46(a)(2)]

10.3 <u>Road Names</u> - Proposed roads which are obviously in alignment with existing roads should be given the same name. In assigning new names duplication shall be avoided and in no case shall the proposed name be phonetically similar to existing names irrespective of the use of a suffix such as road, drive, place, court, etc. All proposed road names and signs shall be in accordance with the Transylvania County Road Naming Ordinance. [Sec. 16-46(a)(3)]

10.4 <u>Private Roads</u> - Private roads may be platted in any subdivision and shall conform to the standards set forth in this Ordinance. Private roads shall be set out in protective covenants, deeds, or on plats or any combination of those methods, and shall clearly state that the State and/or County will not be obligated to take over or maintain the road. [Sec. 16-46(a)(4)]

10.5 <u>Lots</u> - Lot size shall be regulated only to the extent required by the Transylvania County Health Department. [Sec. 16-46(a)(5)]

10.6 <u>Flood Damage</u> - All subdivision proposals shall be consistent with the need to minimize flood damage as provided for in the Transylvania County Flood Damage Control Ordinance. [Sec. 16-46(a)(6)]

10.7 <u>Erosion and Sedimentation Control</u> – Land disturbing activity shall be in compliance with the Sedimentation Pollution Control Act of 1973 as amended (North Carolina General Statutes Chapter 113A, Article 4).

SECTION 11: <u>Road and Design Standards</u> - The Subdivision Roads Minimum Construction Standards are as set forth in this Ordinance and as shown in Schedule I. [Sec. 16-46(b)]

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

11.1 <u>Road Standards</u> - Subdivision roads may be designated public or private. [Sec. 16 46(b)(1)]

11.11 Public subdivision roads shall be built to minimum construction standards of the NC Department of Transportation as required by G.S. 136-102.6. [Sec. 16-46(b)(1)a]

11.12 All subdivision roads shall have approved road name signs installed by the developer and maintained by the developer or the homeowners association. All subdivision roads intersecting a state maintained road shall have a stop sign that conforms to NC Department of Transportation specifications, installed by the developer and maintained by the developer or homeowners association. After NC Department of Transportation accepts the subdivision road(s), the developer or homeowners association shall not be responsible for the maintenance of road name and stop signs. [Sec. 16-46(b)(1)b]

11.13 Private subdivision roads shall be built to minimum construction standards set forth in Schedule I of this Ordinance. Road standards vary based on the number of lots or dwelling units served by that road. [Sec. 16-46(b)(1)c]

11.14 No road in an area subject to flooding shall be approved if it is more than two feet (2') below the elevation of a 100 year flood. The Planning Department may require, where necessary, profiles and elevations of roads for areas subject to flooding. Fill may be used for roads provided such fill does not unduly increase flood heights. Drainage openings for roads in areas subject to flooding shall be provided and shall be so designed as to not restrict the flow of water and unduly increase flood heights. [Sec. 16-46(b)(1)d]

11.15 Every road shall be designed to accommodate a ten (10) year storm water run-off by natural or artificial means. [Sec. 16-46(b)(1)e]

11.2 <u>Road Design</u> - Private subdivision roads shall meet the following minimum road design standards. [Sec. 16-46(b)(2)]

11.21 <u>New Road Right-of-Way Width</u> - All subdivision roads shall have a minimum right-of-way of forty-five feet (45'). NOTE: 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. [Sec. 16-46(b)(2)a]

11.22 Previously Platted Road Right-of-Way Width - Where a right-of-way less than forty-five feet (45') was recorded or platted prior to the adoption of this Ordinance and a forty-five foot (45') 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. [Sec. 16-46(b)(2)b]

11.221 The developer or his assignee shall submit a copy of the recorded plat or deed describing and identifying the right-of-way. [Sec. 16-46(b)(2)b1]

11.222 The access road shall meet the minimum road design standards found in this section. [Sec. 16-46(b)(2)b2]

11.223 A disclosure statement shall be placed on the final plat stating "This subdivision is accessed by a road which does not have a forty-five foot (45') minimum right-of-way. Transylvania County Emergency vehicles and public utility access to homes 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)." [Sec. 16-46(b)(2)b3]

11.23 Cul-de-Sacs - The required turnaround on a dead-end road in a subdivision shall have an unobstructed roadway radius of not less than thirty-five feet (35'). If the road length does not exceed fifteen hundred feet (1,500') and if construction difficulties will not permit a cul-de-sac, or a road serves less than 4 lots, the use of a modified "Y" or a "T" turnaround is permitted. One (1) extension shall be at least thirty-five feet (35’) long and the other a minimum of fifty feet (50') which will allow a vehicle with a wheel base of at least twenty-five feet (25') to complete a turnaround with a maximum of one (1) backing movement. Extensions shall be no longer than one hundred feet (100’) and shall have a radius at the intersection with the road to facilitate turning. [Sec. 16-46(b)(2)c]

11.24 Road Grades - Maximum road grades shall be eighteen percent (18%). In extreme cases, where the terrain prohibits a lesser grade to attain access to a nearby area, a maximum grade of twenty percent (20%) is permissible. No variance shall be granted for any road grade exceeding twenty percent (20%). For any road containing grade(s) exceeding eighteen percent (18%), the following minimum standards shall be met by the developer. [Sec. 16-46(b)(2)d]

11.241 The developer shall submit a report by a professional engineer, with civil engineering qualifications, a professional surveyor or a professional landscape architect currently licensed in the State of

North Carolina by the NC State Board of Registration for Professional Engineers and Land Surveyors, stating that there are no reasonable alternative routes to access the adjacent area which do not exceed eighteen percent (18%) grade. [Sec. 16-46(b)(2)d1]

11.242 Any road exceeding eighteen percent (18%) grade shall meet NC Department of Transportation minimum construction and paving (bituminous) specifications for the length exceeding eighteen percent (18%) grade plus an additional three hundred feet (300') on each side of the length exceeding eighteen percent (18%) grade. A professional engineer with civil engineering qualifications, a professional land surveyor or a professional landscape architect currently licensed in the State of North Carolina by the NC State Board of Registration for Professional Engineers and Land Surveyors shall identify on the plat(s) the road(s) which have grades exceeding eighteen percent (18%), the point(s) where the eighteen percent (18%) grade begins and terminates, and the additional three hundred foot (300') segments to be paved on each side. [Sec. 16-46(b)(2)d2]

11.243 A disclosure statement shall be placed on the final plat stating "This subdivision contains roads which exceed eighteen percent (18%) grade(s). Transylvania County Emergency vehicles and public utility access to homes 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)." [Sec. 16-46(b)(2)d3]

11.3 Connections with State Road System - If a new subdivision road (to be dedicated as public or private) 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 of the NC Department of Transportation having jurisdiction in this area. [Sec. 16-46(b)(3)]

11.4 Intersections - When a new subdivision road connects to a state maintained road, the design standards of the NC Department of Transportation for intersections shall be required. [Sec. 16-46(b)(4)]

11.5 Bridges – Bridges proposed for private roads shall comply with NCDOT minimum design and construction criteria for subdivision roads for drainage, hydraulics, minimum live load and vertical clearance. The travel way width across the proposed bridge must not be less than the travel way width of the road on either side of the proposed bridge. Prior to final plat approval, the applicant must submit a copy of the as built drawings of the bridge with certification from a NC Registered Professional Engineer that the bridge meets the standards required in this section.

11.6 Centering and curve radius – Roads shall be centered in the road right-of-way. The curve radius shall be measured from the road centerline to a fixed point inside the curve.

11.7 Hydrant – When public water is available the subdivider shall provide one hydrant per 1,000 feet of linear road distance.

11.8 For any subdivision, ten (10) lots or more, without a fire suppression rated water system that has access to an adequate permanent surface water supply (100,000 gallon storage in a 50 year drought) the subdivider shall be required to install a dry hydrant system, the design and location of which is to be approved by the Fire Marshall and shall include an all weather road access and turnaround.

11.9 One-way Roads - Short distances (300 ft or less) of parallel one way roads in subdivisions of 4 or more lots shall be approved only if topography or natural features create construction difficulties that will not permit the building of a 16' or 18' road . Minimum one way road width shall be twelve feet (12') with one foot (1') shoulders.

SCHEDULE I

DESIGN CRITERIA

	24 or more lots *	**4 to 23 lots ***	**< 4 lots ***
Minimum Road Right of Way Width - Shoulder Section (1)	**45'**	**45'**	**45'**
Minimum Road-Bed Width Shoulder Section	**18'**	**16'**	**12'**
Maximum Grade (NC DOT Classification-Hill Terrain)	**18%**	**18%**	**18%**
Maximum Cut and Fill Slopes	**1.5:1**	**1.5:1**	**1.5:1**
Minimum Shoulder Width Shoulder Section	**4'**	**2'**	**1'**
Minimum Cul-de-Sac Radius Right of Way Shoulder Section	**50'**	**50'**	**50'**
Minimum Cul-de-Sac Radius Turning Radius Shoulder Section	**35'**	**35'**	**35'**
Minimum Turn Radius – Centerline (2)	**90'**	**70'**	**50'**
Gravel Thickness	**6"**	**6"**	**4"**
*** or dwelling units**			

(1) Reductions in the road right-of-way width may be permitted in unified residential developments to no less than thirty feet (30') upon approval by the Planning Board. Reductions allowed shall be based on community character, sound engineering principles and public safety considerations.
(2) Reductions in the turn radius may be permitted in unified residential developments upon approval by the Planning Board. Reductions allowed shall be based on community character, sound engineering principles and public safety considerations.

SECTION 12: Erosion and Sedimentation Control

This Section shall apply to land disturbing activity related to the establishment of a subdivision including establishment of roads, drainage ditches, water and sewer systems, driveways, building sites, and other disturbances of land.

Best management practices shall be installed to control erosion and prevent off site sedimentation and sedimentation pollution of streams, springs, water bodies, drainage networks, or other surface waters. The owner shall be responsible to select and install best management practices as needed to control erosion and sedimentation and to contain any sediment on the portion of the property being disturbed and to prevent sedimentation in water-bodies and on adjoining properties.

A North Carolina Department of Environment and Natural Resources approved erosion and sedimentation control plan is required for disturbances of one acre or greater. A Transylvania County Erosion/Sediment Control Permit is required for disturbances greater than 4000 (four thousand) square feet but less than one acre.

12.1 Permit Required – No person shall undertake any land disturbing activity subject to this ordinance without first obtaining a permit from the State of North Carolina or Transylvania County. Transylvania County Erosion/Sedimentation Control Permits may be obtained from the Planning Department.

12.2 Sketch Plan Required – A sketch plan is required to obtain a Transylvania County Erosion/Sediment Control Permit. The sketch plan shall be submitted on 8.5” x 11” paper or larger and shall show: the property to be disturbed and adjacent property; existing and proposed structures, streets and drives; drainage ditches, streams or other bodies of water; the proposed land disturbance area including its dimensions, and measures to be installed to control erosion, sedimentation pollution, and storm-water run-off.

12.3 Best Management Practices – Control measures for each land disturbance such as: wire reinforced silt fences; silt socks; berms or diversions; check dams; catch basins; buffer zones; temporary gravel entrances; establishment of vegetation, compost and mulch blankets or other groundcover; and any other North Carolina Department of Environment and Natural Resources approved Best Management Practices found in the North Carolina Erosion and Sediment Control Planning and Design Manual shall be selected by the property owner and listed on the Transylvania County Erosion/Sediment Control Permit.

12.4 Stabilization - The disturbed site shall be stabilized through the use of permanent vegetation, mulch, compost or other groundcover before final subdivision approval is conferred.

12.5 Effectiveness – If the control measures selected by the applicant are not effective as evidenced by sedimentation in water bodies or neighboring properties originating from

the disturbed area subject to this regulation, the applicant shall be required to correct the failure and install additional control measures to effectively control erosion and sedimentation.

ARTICLE VIII

INSTALLATION OF IMPROVEMENTS

SECTION 13: Permanent Reference Points - Prior to the approval of the final plat, permanent reference points shall have been placed in accordance with G.S. 39-32.1, 39-32.2, 39-32.3, and 39-32.4, as amended. [Sec. 16-47(a)]

SECTION 14: Improvements - Approval of the final plat shall be subject to the subdivider's having guaranteed, to the satisfaction of Transylvania County, the installation of said improvements. Transylvania County reserves the right to inspect, reject, stop, or otherwise cease the construction of all service facilities or improvements in the event the same are not being constructed in accordance with the plans, specification standards, policies, or other requirements of Transylvania County. [Sec. 16-47(b)]

14.1 Grading - All roads shall be graded to their required roadbed width and for the required shoulder on each side of the roadbed. Finished grade, cross section, and profiles shall be approved by a professional land surveyor or professional engineer, with civil engineering qualifications, currently licensed in the State of North Carolina by the NC State Board of Registration for Professional Engineers and Land Surveyors. [Sec. 16-47(b)(1)]

14.11 Preparation - Before grading is started, the required roadbed width area shall be first cleared of all stumps, roots, brush, and other objectionable materials. [Sec. 16-47(b)(1)a]

14.12 Cuts - All tree stumps, boulders, and other obstructions within the proposed roadbed width shall be removed to a depth of one foot (1') below the subgrade. [Sec. 16-47(b)(1)b]

14.13 Fill - All suitable material from roadbed cuts may be used in the construction of fills, approaches, or at other places as needed. The fill shall be installed and compacted and free of organic material. [Sec. 16-47(b)(1)c]

14.14 If cut and fill slopes are greater than 1.5:1, then they must be certified as stable by a professional civil engineer, licensed in North Carolina.

14.2 Installation of Utilities - All public or private water and sewerage systems shall be installed and shall meet the requirements of the Transylvania County Health

Department or other governmental authorities having jurisdiction thereof. [Sec. 16-47(b)(2)]

14.3 Gravel- After preparation of the subgrade, the roadbed shall be surfaced with material of no lower classification than crushed rock, stone, or gravel. The size of the crushed rock or stone shall be from one and one-half inches (1 1/2") down, including dust. Spreading of the stone shall be done uniformly over the area to be covered by means of appropriate spreading devices and shall not be dumped in piles. The stone shall be thoroughly compacted. The compacted thickness of the stone roadbed shall be no less than six inches (6"). [Sec. 16-47(b)(3)]

SECTION 15: Storm Water Drainage - The subdivider shall provide disposal of surface water by natural or artificial means subject to the following standards of the NC Department of Transportation, as reflected in Handbook for the Design of Highway Surface Drainage Structures, (1973) subject to review by the Planning Board:
[Sec. 16-47(c)]

15.1 No surface water shall be channeled or directed into a sanitary sewer. [Sec. 16-47(c)(1)]

15.2 Where feasible, the subdivider shall connect to an existing storm drainage system. [Sec. 16-47(c)(2)]

15.3 Where an existing storm drainage system cannot feasibly be provided for the subdivision, a surface drainage system shall be provided to protect the development and adjoining property from water damage. [Sec. 16-47(c)(3)]

15.4 Anyone constructing a dam or impoundment within the subdivision must comply with the NC Dam Safety Law of 1967 and the NC Administrative Code Title 15, Subchapter 2K. [Sec. 16-47(c)(4)]

15.5 In all areas of special flood hazards, all subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage. [Sec. 16-47(c)(5)]

SECTION 16: Guarantee of Improvements - Where the required roadbed and 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 subdivider guaranteeing the installation of the improvements within a period of time specified by the Planning Director after consulting with the developer or his engineer(s). [Sec. 16-47(d)] (Amended 8/27/2012)

16.1 Depositing or placing in escrow, a certified check or cash in an amount equal to one hundred twenty-five percent (125%) 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. Portions of the deposit may be released as work progresses as specified by the Planning Director after consulting with the developer or his engineer. [Sec. 16-47(d)(1)] (Amended 8/27/2012)

16.2 Financial guarantees shall be deposited and claims made within Transylvania County. [Sec. 16-47 (d)(2)] (Amended 8/27/2012)

ARTICLE IX

LEGAL PROVISIONS

SECTION 17: General Procedure for Plat Approval - After the effective date of this Ordinance, no plat of a subdivision of land within Transylvania County's jurisdiction shall be filed or recorded until it has been submitted to and approved by the Transylvania County Planning Board and/or the Planning Director or designee, and until this approval is entered in writing on the face of the plat by the Chairman of the Planning Board or the Planning Director or designee.

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

Approval of a preliminary subdivision plat by either the Planning Department or the Planning Board shall be effective for a period not to exceed one (1) year and thereafter expire and be considered null and void. A six (6) month extension may be granted by the Planning Department or Planning Board when reasonable cause is shown. [Sec. 16-48(a)]

SECTION 18: Administrator - The Transylvania County Planning Department through and by the Transylvania County Planning Director or designee is hereby designated a planning agency pursuant to G.S. 153A-Article 18 and is appointed to serve as the subdivision administrator. [Sec. 16-48(b)]

SECTION 19: Administration Fee - A fee for reviewing and approving subdivisions shall be established by the County Commissioners and posted in the Planning Department. [Sec. 16-48(c)]

SECTION 20: Variances - 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 Planning Board may authorize a variance, if such variance can be made without destroying the intent of this Ordinance. Any variance thus authorized is required to be entered in writing in the minutes of the meeting of the Planning Board and the reasoning on which the departure was justified set forth. [Sec. 16-48(d)]

SECTION 21: <u>Penalties for Violation</u> - After the effective date of this Ordinance, any person who, being the owner or agent of the owner of any land located within the planning jurisdiction of Transylvania County, 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 land before the plat has been properly approved under the terms of this Ordinance and recorded in the Office of the Transylvania 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 transactions from this penalty**. Transylvania County through its attorney or other official designated by the Board of County Commissioners may enjoin illegal subdivision, transfer, or sale of land by action for injunction. Further, violators of this Ordinance shall be subject, upon conviction, to fine and/or imprisonment as provided by G.S. 14-4. Each day that said plat or property is not in compliance with this Ordinance shall constitute a separate and distinct offense. [Sec. 16-48(e)]

SECTION 22: <u>Amendments</u> - The Board of County Commissioners may from time to time amend the terms of this Ordinance, but no amendment shall become effective unless it shall have been proposed by or shall have been submitted to the Planning Board for review and recommendation. The Planning Board shall have thirty (30) working days from the time the proposed amendment is submitted to it within which to submit its recommendation to the County Commissioners. If the Planning Board fails to submit a report within the specified time, it shall be deemed to have recommended approval of the amendment.

No amendment shall be adopted by the Board of County Commissioners until they have held a public hearing on the amendment. Notice of the hearing shall be published in a newspaper of general circulation in Transylvania County at least once a week for two (2) successive calendar weeks prior to the hearing. [Sec. 16-48(f)]

SECTION 23: <u>Validity</u> - 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 this Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid. [Sec. 1-13]

SECTION 24: <u>Abrogation</u> - It is not intended that this Ordinance repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern. [Sec. 1-10]

SECTION 25: <u>Repeal of Existing Subdivision Control Ordinance</u> - This Ordinance in part carries forth by re-enactment some of the provisions of the Subdivision Control Ordinance of Transylvania County, previously adopted, and it is not the intention to repeal but rather re-enact and continue in force such existing provisions so that all rights and liabilities that have accrued there under are preserved and may be enforced. All provisions of the Subdivision Control Ordinance, which are not re-enacted herein are hereby repealed. All suits at law or in equity

and/or all prosecutions resulting from the violation of the Subdivision Control Ordinance heretofore in effect, which are now pending in any courts of the State of North Carolina or United States of America, shall not be abated or abandoned by reason of the adoption of this Ordinance, but shall be prosecuted to their finality the same as if this Ordinance had not been adopted; and all violations of the existing Ordinance, prosecutions for which have not been instituted, may be hereafter construed as to abandon, abate, or dismiss any litigation or prosecution now pending and/or which may heretofore have been instituted or prosecuted. [Sec, 1-11]

Passed and adopted by the Transylvania County Commissioners this 25th day of February, 1991. Amended March 9, 1992, July 11, 1994, June 9, 1997, July 26, 1999, February 27, 2006, February 11, 2008, April 27, 2009, August 27, 2012.