

ORDINANCE NO. 20-38

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, SUBDIVISIONS OF THE CODE OF THE COUNTY OF SPOTSYLVANIA, VIRGINIA.

BE IT ORDAINED by the Board of Supervisors of the County of Spotsylvania, Virginia, that Chapter 20, Subdivisions, is hereby amended and reordained as follows:

Chapter 20

SUBDIVISIONS*

* **Editors Note:** Ord. No. 20-8, adopted October 24, 1995, repealed former Ch. 20, §§ 20-1--20-10, 20-31--20-36, 20-51--20-54, 20-71--20-78, 20-96--20-102, 20-121--20-125; 20-141--20-154, 20-171--20-173, 20-191--20-204, 20-221--20-223, 20-236--20-240, 20-261--20-271, 20-291, 20-292, 30-306--20-310 relative to subdivisions, and re-enacted the present sections to read as herein set out. The provisions of former Ch. 20 derived from the substantive provisions of Ch. 16 of Code 1980 and from ordinances listed in the Code Comparative Table as amendatory of former Ch. 20. See the various Code Comparative Tables for a complete derivation of these former provisions.

Cross References: Dogs running at large in subdivisions, § 4-33; buildings and building regulations, Ch. 5; erosion and sediment control, Ch. 8; discharging firearms or gas or air guns in subdivisions, § 14-8; accumulations of debris and growth of weeds in subdivisions, § 14-9; water, sewers and sewage disposal, Ch. 22; zoning, Ch. 23.

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ARTICLE 1.

PURPOSE AND APPLICABILITY*

* **State Law References:** Subdivision ordinance to provide for administrative and enforcement, Code of Virginia, § 15.2-2241.

Sec. 20-1.1.1. Title.

This chapter of the county code shall be known as the "Subdivision Ordinance of Spotsylvania County, Virginia."
(Ord. No. 20-8, 10-24-95)

Sec. 20-1.1.2. General purposes and authority.

These regulations establish standards and procedures to assure the orderly subdivision and development of land within Spotsylvania County, to further the goals and objectives of the Spotsylvania County Comprehensive Plan and to implement the Chesapeake Bay Preservation Act. The regulations set forth in this chapter are adopted in accordance with the provisions of the Code of Virginia, including but not limited to the following statutory authority:

- (a) Virginia Local Planning, Subdivision and Zoning legislation, title 15.2, chapter 11, of the Code of Virginia (1950) as amended; and
- (b) The Chesapeake Bay Preservation Act, title 10.1, chapter 21, of the Code of Virginia (1950) as

amended.

Any section of the Code of Virginia cited herein shall include any subsequent amendment to such section.

(Ord. No. 20-8, 10-24-95)

Sec. 20-1.1.3. Jurisdiction and applicability.

This chapter shall apply to all divisions of land within Spotsylvania County unless specifically exempted in this chapter. No person shall subdivide or resubdivide any tract of land which does not conform to this chapter.

(Ord. No. 20-8, 10-24-95)

Sec. 20-1.1.4. Transitional rules and vested rights.

(a) *Pending applications.* Except as provided in this section, this chapter shall govern applications for subdivision approval which are pending on the effective date of this chapter.

(b) *Previously approved preliminary plats.* Where a preliminary plat has been approved prior to the effective date of this chapter, the applicant shall be entitled to subdivide the property according to the approved final preliminary plat provided that:

- (1) A record plat for a section of the subdivision shown on the preliminary plat must be recorded within twelve (12) months of the date of preliminary plat approval.
- (2) Record plats for all sections of the subdivision shown on the preliminary plat must be recorded within three (3) years of the date of recordation of the first section for subdivisions of less than three hundred (300) lots, or within five (5) years of the date of recordation of the first section for subdivisions of three hundred (300) or more lots.
- (3) The transitional screening requirements of article 5, division 5 of chapter 23, the erosion and sediment control requirements of Article 1 of the Design Standards Manual, and the stormwater management requirements of Article 4 of the Design Standards Manual are satisfied to the maximum extent possible.
- (4) For the purposes of this subsection and subsection 23-1.1.5(h), a "section" shall contain at least thirty (30) lots or fifty (50) percent of the total lots in the subdivision, whichever is less.

(c) *Previously filed site plans.* Where a bona fide site plan has been filed in accordance with chapter 6A of the code prior to the effective date of this chapter, the applicant shall be entitled to develop the property in accordance with the approved site plan provided that:

- (1) The site plan is approved within sixty (60) days of the effective date of this chapter.
- (2) A building permit for a building, or buildings, containing at least fifty (50) percent of the total gross floor area shown on the site plan is issued within twelve (12) months of the date of site

plan approval or within twelve (12) months of the effective date of this ordinance, whichever is later, and construction of such building, or buildings is completed within the period of validity of such building permit.

- (3) The transitional screening requirements of article 5, division 5 of the zoning ordinance are satisfied to the maximum extent possible.

(d) *Revisions to grandfathered plats and plans.* Revisions to grandfathered preliminary subdivision plats or site plans made during the period of validity of such plats or plans will be grandfathered provided the revisions do not increase any nonconformities. Such revisions, however, will not extend the due diligence requirements.

(Ord. No. 20-8, 10-24-95)

ARTICLE 2.

DEFINITIONS AND RULES OF CONSTRUCTION

Sec. 20-2.1.1. General rules of construction and interpretation.

The following rules shall apply for construing or interpreting the terms and provisions of this chapter:

Conflicts. In the event of any conflict in this chapter the more restrictive provision shall apply. In the event of a conflict between the text of this chapter and any caption, figure, illustration, table, or map contained herein, the text shall control.

Definitions. In the event a term is not defined in section 20-2.1.3, the definitions of Chapter 23 (Zoning) of the County Code shall control. The words "shall", "must", and "will", are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The word "may" is permissive in nature. Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender.

Minimum requirements. The provisions of this chapter shall be held to be the minimum requirements for the promotion and protection of the public health, safety, and general welfare, and shall be liberally construed to achieve the purposes for which this chapter is adopted.

(Ord. No. 20-8, 10-24-95)

Cross References: Definitions and rules of construction generally, § 1-2.

Sec. 20-2.1.2. Conflict or inconsistency with other public laws or with private covenants and restrictions.

This chapter is not intended to abrogate any other law, ordinance, or existing permit requirement. However, where this chapter is either more restrictive or less restrictive than comparable standards imposed by any other law or ordinance, the provisions which are more restrictive or which impose higher standards or requirements shall govern. Nor is this chapter intended to abrogate any easement, covenant, or other private agreement. Nothing in this chapter shall modify or repeal any private covenant or deed restriction and no such covenant or restriction shall excuse a failure to comply with this chapter.

(Ord. No. 20-8, 10-24-95)

Sec. 20-2.1.3. Definitions.

When used in this chapter, the following words and terms shall have the meaning set forth in this section, unless other provisions of this chapter specifically indicate otherwise:

Agent: See *Subdivision Agent*, below.

Alley means a permanent service way providing a secondary means of access to abutting properties.

Applicant means any person submitting any application required or permitted pursuant to any of the provisions of this chapter, including his successors and assigns.

Buildable lot, means any lot that has at least ten thousand (10,000) s.f. of contiguous buildable area exclusive of steep slopes greater fifteen (15) percent, wetlands, RPA's, floodplains, reservoir protection overlay district buffer, river protection overlay district buffer, and drainfield.

Common areas means land, buildings, and features held in common ownership for the joint use of the occupants of the subdivision.

Completeness Review is the review of an application to confirm that all required supporting materials have been submitted so that formal review of the application for compliance may commence.

Common ownership means any shared interest in real property.

County means Spotsylvania County, Virginia.

Cul-de-sac. A street with only one (1) outlet and having an appropriate turnaround for safe and convenient reverse traffic movement.

Day means a calendar day.

Design standards. The County Design Standards Manual, adopted concurrently with this chapter, as the same may be amended from time to time, and incorporated by reference in this chapter.

Developer: See *applicant*, above.

Dedication means an act transferring land or interest thereto.

DOD. Department of Defense.

Durable monument means any object, whether natural or man-made, which is comprised of a weather resistant material and is suitable to permanently mark a particular location on a lot.

Easement means a grant by a lot owner of the use of land for a specific purpose.

Engineer means an engineer licensed by the state.

Expressway or limited access highway means a highway with limited entrances, ramps or intersections.

Final Plat means a plat which shows the boundaries and dimensions of lots to be created by way of the non-residential subdivision process. The recordation of the final plat by the Clerk of the Circuit Court commits the boundaries to the land record and establishes new parcels of land.

Geodetic control monument means Survey Control Stations of at least Second Order Class II Accuracy, placed in accordance with specifications and documented according to the Blue Book Format of the Federal Geodetic Control Committee (FGCC).

Global positioning system (GPS) means Global Positioning System as administered by the Department of Defense (DOD).

Health official means an authorized agent of the Commonwealth of Virginia Department of Health.

Highway engineer means The Virginia Department of Transportation Resident Engineer.

Impervious cover or surface means a surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to: roofs, buildings, streets, driveways, parking areas, patios and any concrete, asphalt, or compacted gravel surface.

Improvement means any man-made immovable item which becomes part of, is placed upon, or is affixed to, real estate.

Infrastructure Plan is a plan or schematic representation which demonstrates that all required infrastructure is feasible within the proposed subdivision and that shows the location of all property lines, topography and monuments and the possible locations of rights of way, water and sewer lines and vehicle and pedestrian access for the purposes of determining that each lot within the proposed subdivision has the potential to conform with all applicable ordinances, statutes and regulations. The Infrastructure Plan is the precursor to a preliminary or final subdivision plat, site plan or plan of development as those terms are used in §15.2-2307 of the Virginia Code. Approval of an Infrastructure Plan does not constitute final acceptance of the proposed location or design of the improvements described therein.

Lot means an area of land legally described or subdivided as a single unit of land.

Lot line means a line defining the ownership boundary of a lot.

Lot line, front means a street line which forms the boundary of a lot; or, in the case where a lot does not abut a street other than by its driveway, or is a through lot, that lot line which faces the principal entrance of the main building.

Corner lots shall be considered to have two (2) fronts and are subject to front yard requirements for both fronts. Rear yard requirements shall apply to the yard opposite the primary or main entrance of a building; the remaining yard shall be considered a side yard and will be subject to side yard

requirements.

Lot line, rear means that lot line that is most distant from, and is most nearly parallel with, the front lot line. If a rear lot line is less than ten (10) feet in length, or if the lot comes to a point at the rear, the rear lot line shall be deemed to be a ten (10) foot line parallel to the front lot line, lying wholly within the lot for the purpose of establishing the required minimum rear yard.

Lot line, side means a lot line which is neither a front lot line nor a rear lot line as defined herein.

Major drainage facility means a drainage facility that serves a larger area than an individual subdivision.

Mapping office means the Geographic Information System (GIS), Addressing, Mapping, Department of Spotsylvania County.

Open space means that area within the boundaries of a lot that is intended to provide light and air, and is designed for either scenic or recreational purposes. Open space shall, in general, be available for entry and use by the residents or occupants of the development, but may include a limited proportion of space so located and treated as to enhance the amenity of the development by providing landscaping features, screening for the benefit of the occupants or those in neighboring areas, or a general appearance of openness. Open space may include, but need not be limited to lawns, decorative planting, walkways, active and passive recreation areas, children's playgrounds, fountains, swimming pools, undisturbed natural areas, agriculture, wooded areas, water bodies and those areas where landscaping and screening are required by the provisions of chapter 23, article 5, division 5; provided, however, that the area required for interior parking lot landscaping shall not comprise more than twenty-five (25) percent of the total required open space; and provided further, however, that the area within wetlands, resource protection areas, floodplains and slopes greater than fifteen (15) percent shall not comprise more than fifty (50) percent of the total required open space. Open space shall not include driveways, parking lots, or other vehicular surfaces, any area occupied by a building, nor areas so located or so small as to have no substantial value for the purposes stated in this definition. Within a residential subdivision, open space shall be composed of only those areas not contained in individually owned lots.

Parcel: See *Lot*.

Performance bond means the date on which the developer has guaranteed, in the subdivision agreement, the completion of all necessary public improvements.

Person means an individual, fiduciary, corporation, firm, partnership, association, organization, or any other entity or combination thereof.

Planning commission means the planning commission of the county.

Plat is a map, plan, plot, re-plat or re-plot, prepared by a registered surveyor, licensed engineer or certified landscape architect, in accordance with Titles 15.2 and 54.1 of the Code of Virginia and regulations governing those professions, which delineates the property lines of a lot that is to be or that has been subdivided, the location and boundaries of easements and rights of way and the location of any monuments used to identify the property. When used as a verb the word 'plat' is synonymous with the word 'subdivide'.

Primary road: See *Road, primary*.

Public sewer means a sewer system which is owned and operated by a municipality, county, service authority or sanitary district, approved by the county's board of supervisors, licensed by the State Corporation Commission if required by law, and approved by the Commonwealth of Virginia Department of Health and the State Water Control Board where appropriate.

Public water means a water system which is owned and operated by a municipality, county or service authority, approved by the county's board of supervisors, licensed by the state corporation commission if required by law, and approved by the Commonwealth of Virginia Department of Health and the State Water Control Board where appropriate.

Required improvements mean all private, public and quasi-public utilities and facilities including, but not limited to, streets, sanitary sewers, waterlines, stormwater management and erosion control facilities, electrical service, monuments, and sidewalks required by this chapter.

Resubdivide means to divide any properly recorded subdivision (whether approved and recorded as provided in the county subdivision ordinance or recorded prior to the applicability of such subdivision ordinance) including the relocation or alteration of boundary lines.

Right-of-way means the total strip of land dedicated or proposed to be dedicated for public travel, measured from lot line to lot line, including land area for pavement, utilities, ditches, drainage facilities, curbs, gutters, pipes, sidewalks, shoulders and planting strips.

Road means the principal means of access to abutting lots.

Road maintenance means maintenance of the streets, curb, gutter, drainage facilities, utilities or other street improvements, including the correction of defects or damages and the removal of snow, water or debris, so as to keep such road reasonably open for public usage.

Road, primary means a public right-of-way designated as a primary road in the Spotsylvania County Comprehensive Plan, including Route 1, Route 2, Route 3, Route 17, Route 208 and Route 522.

Road, secondary means a public right-of-way designated as a secondary road by the Virginia Department of Transportation and usually numbered in the 700's or below.

SC means Spotsylvania County.

Service drive means a public right-of-way generally parallel and contiguous to a primary road, primarily designed to promote safety by limiting the number of points of access to the highway.

Street: See *Road*.

Street, half means a single lane or any portion of a street.

Structure means any improvement upon land, other than the land itself, the use of which requires more or less permanent location on the ground or attachment to something having a permanent location on the ground, including, but not limited to buildings, signs, and impervious surfaces.

Subdivide means the division of a lot, tract or parcel of land into two (2) or more lots, tracts, parcels or other divisions of land for transfer, sale or development. However, for purposes of these regulations the term "subdivide" shall not include divisions of land:

- A. Which consolidate existing lots or parcels by plat.
- B. Which divide a parcel of land in the RU, A-1, A-2, A-3, resort agricultural (RA) and resort residential (RR) districts for the purpose of sale or gift to a member of the immediate family of the property owner (as defined in Section 15.2-2244 of the Code of Virginia, Provisions for subdivision of a lot for conveyance to a family member: a member of the immediate family is defined as any person who is a natural or legally defined offspring, spouse, sibling, grandchild, grandparent, parent of the owner), and is first held in ownership by the family member, pursuant to a recorded deed restriction for five (5) years from the date of transfer to the following standards:
 - (1) Minimum lot size shall be two (2) acres including the remainder parcel;
 - (2) Lots shall have a scenic buffer strip thirty-five (35) feet in width along the existing secondary or primary road frontage, in which the existing vegetation and contours of the land will not be disturbed or altered. Nothing in this section shall be construed to prohibit ingress/egress on the secondary or primary road where permitted by the standards of this chapter and VDOT, nor to prohibit the placement of fences or the planting of additional landscaping within the scenic buffer strip;
 - (3) All plats of division submitted under this provision shall be accompanied by a signed and notarized affidavit indicating the date of transfer from parent(s) to the immediate family with instrument number or deed book and page number of the original transfer from parent(s) to immediate family;
 - (4) Any subsequent division(s) of the parcels created pursuant to this exemption shall conform to the provisions of the Spotsylvania County Subdivision Ordinance for cluster or conventional divisions;
 - (5) The number of lots created under the family exempt provisions shall not exceed one (1) lot per family member and the residential lot yield cannot exceed ten (10) lots from the parent parcel which existed on February 12, 2002.
- C. Which divide a parcel of land in the A-2, or A-3 zoning district using the following Annual Division standards:
 - (1) Minimum lot size shall be three (3) acres including the remainder parcel;

- (2) Lots shall have a scenic buffer strip thirty-five (35) feet in width along the existing secondary or primary road frontage, in which the existing vegetation and contours of the land will not be disturbed or altered. Nothing in this section shall be construed to prohibit ingress/egress on the secondary or primary road where permitted by the standards of this chapter and VDOT, nor to prohibit the placement of fences or the planting of additional landscaping within the scenic buffer strip;
- (3) Any subsequent division(s) of the parcels created pursuant to this exemption shall conform to the provisions of the Spotsylvania County Subdivision Ordinance for cluster or conventional divisions;
- (4) The number of lots created under this provision shall not exceed one (1) lot per each 365 day period and the residential lot yield cannot exceed six (6) lots from the parent parcel which existed on February 12, 2002. A maximum of 100 annual division lots may be approved in the County in each 365 day period from the adoption of this ordinance (March 10, 2009).

D. All land divisions and/or consolidations as described in the preceding paragraphs above shall be termed "exempt divisions" and shall be exempt from this chapter provided that all proposed lots or parcels:

- (1) Generally conform to section 20-5.1.9 of this chapter;
- (2) Meet all requirements of Chapter 23, Articles 6 and 7 of the Spotsylvania County Zoning Ordinance;
- (3) Comply with Chapters 6A, 8 and 19A of the Spotsylvania County Code;
- (4) Front on an existing public road or are provided with a minimum of twenty-five (25) foot wide access easement to an existing public road; with the approval of the Subdivision Agent this requirement may be reduced to a minimum eighteen (18) foot easement. Easements existing prior to December 4, 1995, and no less than ten (10) feet in width may be grandfathered. At no such time shall any access easement be less than ten (10) feet. However, if the exempt division of property will create not more than ten (10) lots, then any access to those lots shall be a minimum of twenty-five (25) feet in width; and
- (5) Share entrances on the existing public road to the maximum extent possible.
- (6) Any access created for new divisions (exempt) created under these provisions shall be limited to two thousand five hundred (2,500) feet in length with no extensions off of this road to adjacent properties unless owner can demonstrate no other means of access to a state maintained road exists at which time a waiver can be requested of the Subdivision Agent. Roads greater than three hundred (300) feet in length are required to end in a cul-de-sac or "T" turnaround per the DSM Plate 5-6 if serving more than three (3) lots.

Number of Lots Served by Road	Easement width	Width of Travel Way	Depth of Base	Surface Treatment of Road	Sight Distance (Lot to Private Lane)
2 lots	25 feet	12 feet, (3 foot shoulders)	4" of #25, 26, or 21A stone	Not required	100 feet
3-10 lots	25 feet	12 feet (3 foot shoulders)	6" of #25, 26, or 21A stone	Entrance paved 25 feet from edge of paved public road	100 feet

- (7) All plats, contracts of sale and deeds for a lot in a subdivision in which private lanes, roads or streets are allowed shall contain language which clearly discloses to a potential purchaser the following minimum information;
- (a) The lot is served by a privately maintained road and will not be maintained by the state or county. Any costs necessary to bring the road to a condition qualifying it for acceptance as part of the secondary system of state highways shall be sustained from resources other than those administered by the Virginia Department of Transportation and the County of Spotsylvania or any other public agency;
 - (b) School bus service shall not be provided by the county along private roads, lanes or streets; unless approved by the Spotsylvania County School Board;
 - (c) United States Postal Service shall not be provided along private roads, lanes or streets; unless approved by the United States Postal Service;
 - (d) The expense and responsibility for maintaining the roads within the development shall be paid for and borne by the lot owners and/or developer, as the case may be; and
 - (e) It shall be the responsibility of the developer for the initial construction and subsequent maintenance, if any, of the roads. If the roads are to be maintained by a property owners association or other legal entity, the disclosure must clearly so inform the buyer.
- (8) Prior to recordation all such exempt divisions shall be submitted to the county planning office for review and approval on a plat prepared by a licensed surveyor with application information as may be required by the Subdivision Agent.

Where the public (either Spotsylvania County or a superior sovereign) acquires right-of-way in fee title crossing a lot, upon application of the owner, the resulting lands on either side of such right-of-way may be approved administratively as separate lots upon the Subdivision Agent's determination that either (i) at the time of the right-of-way acquisition, or (ii) at the time of application, each portion of such land so divided satisfied all ordinance requirements for approval as separate lots within the meaning hereof.

Subdivider: See Applicant, above.

Subdivision means land which has been or is being subdivided or resubdivided.

Subdivision Agent means the county administrator or his designee.

Subdivision, major means any subdivision containing ten (10) or more single-family residential lots.

Subdivision, minor means any subdivision containing less than ten (10) single-family residential lots.

Subdivision, non-residential means any subdivision that is not residential.

Subdivision, residential means any subdivision that is residential.

Surveyor means a surveyor licensed by the state.

VCS 1983 means The Virginia State Plane Coordinate System of 1983, North Zone.

Wetlands means tidal and non-tidal wetlands, as defined in the County's Chesapeake Bay Preservation Ordinance.

(Ord. No. 20-8, 10-24-95; Ord. No. 20-9, 4-22-97; Ord. No. 20-10, 8-12-97; Ord. No. 20-14, 9-8-98; Ord. No. 20-21, 10-24-00; Ord. No. 20-23, 2-27-01; Ord. No. 20-25, 6-10-03; Ord. No. 20-26, 12-14-04; Ord. No. 20-27, 12-14-04; Ord. No. 20-28, 7-12-05; Ord. No. 20-53, 7-12-05; Ord. No. 20-30, 9-12-06; Ord. No. 20-32, 10-9-07)

Cross References: Definitions and rules of construction generally, § 1-2.

ARTICLE 3.

DECISION-MAKING, ADVISORY, AND ADMINISTRATIVE OFFICERS AND BODIES

DIVISION 1.

PURPOSE

The purpose of this article is to describe the roles, responsibilities and duties of decision-making and administrative officers and bodies in regard to this chapter. The enumeration of roles, responsibilities and duties in this article is not intended to limit the powers or authority of such officers and bodies under state law or county ordinance.

(Ord. No. 20-8, 10-24-95)

DIVISION 2.

SUBDIVISION AGENT

Sec. 20-3.2.1. Designation and qualifications of Subdivision Agent.

A Subdivision Agent shall be appointed by the board of supervisors and may hold another office in the

county.
(Ord. No. 20-8, 10-24-95)

Sec. 20-3.2.2. Powers and duties.

The Subdivision Agent shall have the following powers and duties to be carried out in accordance with the requirements of this chapter:

- (a) To administer this chapter;
- (b) To approve or disapprove record plats for minor and major residential subdivisions and final plats for non-residential subdivisions;
- (c) To call for the opinions and comments, either verbal or written, of any government agency in considering any plat;
- (d) To designate members of the development review committee in addition to those members set out in section 20-3.3.2 of this chapter;
- (e) To establish any reasonable additional administrative procedures deemed necessary for the proper administration of this chapter;
- (f) To delegate any and all authority established under this section to one or more persons in the employ of the county.

(Ord. No. 20-8, 10-24-95)

DIVISION 3.

DEVELOPMENT REVIEW COMMITTEE

Sec. 20-3.3.1. Established.

A development review committee is hereby established for the purpose of coordinating the review of applications.

(Ord. No. 20-8, 10-24-95)

Sec. 20-3.3.2. Membership.

The development review committee shall include the following members or their designees and such other members for such terms as the Subdivision Agent determines are appropriate:

- (a) The zoning administrator;
- (b) The director of planning;
- (c) Environmental engineer;

- (d) Transportation planner;
- (e) The director of utilities;
- (f) The fire marshal;
- (g) Virginia Department of Transportation;
- (h) Virginia Department of Health; and

(i) Two (2) members of the planning commission as designated by the planning commission.
(Ord. No. 20-8, 10-24-95; Ord. No. 20-27, 12-14-04)

Sec. 20-3.3.3. Powers and duties.

The development review committee shall have the following powers and duties:

- (a) To review and comment on all applications referenced in this chapter upon the request of the director of planning or the Subdivision Agent;
- (b) To review and submit written recommendations to the planning commission in regard to final preliminary plats for major subdivisions;
- (c) To exercise such additional powers or duties as may be set forth in this chapter, or as directed by the county administrator and/or board of supervisors, from time to time.

(Ord. No. 20-8, 10-24-95)

DIVISION 4.

PLANNING DEPARTMENT

Sec. 20-3.4.1. Powers and duties.

The planning department shall have the following powers and duties:

- (a) To forward any application referenced in this chapter or other pertinent information to state and county agencies for review and comment, as appropriate;
- (b) To approve or disapprove conceptual preliminary plats.
- (c) To approve or disapprove preliminary plats for minor subdivisions or refer such plats to the planning commission if appropriate.

(Ord. No. 20-8, 10-24-95)

DIVISION 5.

PLANNING COMMISSION

Sec. 20-3.5.1. Powers and duties.

The planning commission shall have the following powers and duties:

- (a) To review and submit comments on conceptual preliminary plats if requested by the director of planning;
- (b) To review and make decisions on plats for minor subdivisions, when requested by the director of planning;
- (c) To review and approve or disapprove final preliminary plats for major subdivisions; and
- (d) To call for the opinions and comments, either verbal or written, of any government agency in considering any plat.

(Ord. No. 20-8, 10-24-95)

ARTICLE 4.

SUBDIVISION APPROVAL PROCEDURES

DIVISION 1.

GENERAL PROVISIONS

Sec. 20-4.1.1. Who may file; payment of fees.

- (a) An application for subdivision approval shall be signed by the owner of the lot, which is to be subdivided, or by an agent authorized in writing by the owner to sign such application.
- (b) All applications shall be accompanied by the payment of fees to defray the cost of reviewing the application.

(c) Such fees shall be included in a unified fee schedule to be entitled "Fee Schedule (Land Use and Building)", adopted by the Board of Supervisors, and thereafter amended from time to time by ordinance, in accordance with section 1-6(7), of the Code of Spotsylvania County.

(Ord. No. 20-8, 10-24-95; Ord. No. 20-11, 1-13-98; Ord. No. 20-20, 7-11-00; Ord. No. 20-24, 7-24-01)

State Law References: Authority for above fees, Code of Virginia, § 15.2-2241.

Sec. 20-4.1.2. Determination of completeness.

Within ten (10) working days after receiving an application for subdivision approval, the director of planning shall determine whether the application is complete. If the director of planning determines that the application and plat are not complete, the Director shall mail or give to the applicant written notice of any

necessary revisions and shall take no further steps to process the application until the applicant completes the necessary revisions.

(Ord. No. 20-8, 10-24-95; Ord. No. 20-23, 2-27-01)

Sec. 20-4.1.3. Review and report by staff.

Once an application for subdivision approval is determined to be complete, the director of planning shall, as appropriate, forward the application to the development review committee or planning commission and representatives of other government agencies for review and comment. In the case of a major subdivision, the director of planning shall assemble any comments received and submit them with his written report to the planning commission.

(Ord. No. 20-8, 10-24-95)

Sec. 20-4.1.4. Standards of review.

No preliminary plat or record plat may be approved unless all requirements of duly adopted ordinances, regulations or other laws of the county, the State of Virginia and the United States are met. Satisfaction of the requirements of the zoning ordinance shall be based on facts and circumstances in existence at the time of the decision to approve or disapprove an application for subdivision approval.

(Ord. No. 20-8, 10-24-95)

Sec. 20-4.1.5. Exceptions.

(a) A request for an exception to the provisions of article 5 of this chapter may be submitted to the director of planning. The director shall review such request and submit a recommendation to the planning commission within ten (10) days of receipt of the request.

(b) Within 45 days after submittal to the planning department, the planning commission shall consider the request for an exception and the recommendation of the director of planning and either approve, approve with conditions or disapprove the request for an exception. An exception may be approved if the applicant demonstrates that application of the provisions of article 5 of this chapter would result in substantial injustice or hardship.

(Ord. No. 20-8, 10-24-95)

Sec. 20-4.1.6. Overview of review processes.

Review of a subdivision shall involve a two-step process:

(a) *Preliminary plat review:*

(1) *Major subdivision:*

(i) Preapplication conference (article 4, division 2);

(ii) Conceptual preliminary plat review (article 4, division 3);

(iii) Final preliminary plat review (article 4, division 4).

(2) *Minor subdivisions:*

(i) Optional preapplication conference (article 4, division 2);

(ii) Optional conceptual preliminary plat review (article 4, division 3);

(iii) Final preliminary plat review (article 4, division 4).

(b) *Record plat review:* (article 4, division 6).

(Ord. No. 20-8, 10-24-95; Ord. No. 20-10, 8-12-97)

DIVISION 2.

PREAPPLICATION CONFERENCE

Sec. 20-4.2.1 Conference required for major subdivisions; optional for minor subdivisions.

(a) *Major subdivisions.* Applicants for major subdivision plat approval shall meet with the director of planning and/or the development review committee to discuss the proposed preliminary plat in order to become familiar with the applicable requirements and approval procedures of the county and the comments and advice of county staff.

(b) *Minor subdivisions.* Applicants for minor subdivision plat approval are encouraged to meet with the director of planning and/or the development review committee to discuss the proposed preliminary plat in order to become familiar with the applicable requirements and approval procedures of the county and the comments and advice of county staff.

(Ord. No. 20-8, 10-24-95; Ord. No. 20-10, 8-12-97)

DIVISION 3.

CONCEPTUAL PRELIMINARY PLAT*

* **State Law References:** Authority of county to require preliminary plat, Code of Virginia, § 15.2-2258.

Sec. 20-4.3.1. Application required for major subdivisions; optional for minor subdivisions.

(a) *Major subdivisions.* After the preapplication conference, applicants for major subdivision plat approval shall submit a conceptual preliminary plat to the director of planning for review and comment prior to the submission of a final preliminary plat.

(b) *Minor subdivisions.* Applicants for minor subdivision plat approval are encouraged to submit a conceptual preliminary plat to the director of planning for review and comment prior to the submission of a final preliminary plat.

(Ord. No. 20-8, 10-24-95; Ord. No. 20-10, 8-12-97)

Sec. 20-4.3.2. Required conceptual preliminary plat information.

(a) *Required submittals.* An application for conceptual preliminary plat review shall contain or be accompanied by the following information and plans:

- (1) If the proposed subdivision is part of a larger lot, a map of such lot and a narrative description of the development plans for such lot;
- (2) A sketch plan, drawn to scale of 1" = 200' for tracts over 50 acres and 1" = 100' for smaller parcels, on a sheet(s) no larger than twenty-four (24) by thirty-six (36) inches, including the following information unless otherwise agreed to by director of planning:
 - (i) Proposed name of subdivision;
 - (ii) Name, address of owner and applicant;
 - (iii) Name, signature, license number, seal and address of individual involved in plat preparation;
 - (iv) Title block denoting type of application, tax map sheet, lot number, street location, and date of original;
 - (vi) A vicinity map at a scale of 1" = 2,000' showing location of lot with reference to surrounding properties, streets, municipal or county boundaries, etc., within one-half mile;
 - (vii) A list of revisions and dates;
 - (viii) Signature block for the director of planning;
 - (ix) Total acreage of lot to be subdivided (or square feet, if less than an acre);
 - (x) The general location of any required or proposed improvements or easements.
 - (xi) Size and location of any existing structures, applicable setbacks and building lines;
 - (xii) Conceptual phasing plan of development, if any;
 - (xiii) Topographic contours with a minimum of ten (10) foot contours from USGS map or other more accurate source;
 - (xiv) Water bodies and USGS perennial and intermittent streams;
 - (xv) Approximate location of watershed boundaries;

- (xvi) Approximate location of wetlands boundaries;
 - (xvii) General location of historic landmarks, historic district boundaries, Virginia Natural Heritage sites, and known historic features, including without limitations, Civil War resources, such as, earthworks, trace roads, stonewalls and fences;
 - (xiii) Graves, objects or structures marking a place of burial;
 - (xix) Approximate location of one-hundred-year floodplain boundaries as shown on FEMA maps, dated December 1, 1987 or latest maps or revisions.
 - (xx) Approximate location and description of wooded areas, hedgerows and tree lines, including individual freestanding trees greater than eight (8) inch caliper and individual trees greater than fifteen (15) inch caliper in hedgerows and woodlands, and significant physical features;
 - (xxi) Approximate location of slopes steeper than twenty-five (25) percent;
 - (xxii) Approximate location of any buffer area required under the County's Chesapeake Bay Act Ordinance;
 - (xxiii) Approximate location of existing and proposed street layout;
 - (xxiv) General description of water supply system;
 - (xxv) Description and approximate location of proposed sewer system;
 - (xxvi) Approximate location of existing and proposed easements, rights-of-way or land reserved for or dedicated to public use and/or areas to be held in common ownership;
 - (xxvii) Approximate location of existing and proposed points of connection with public water and sewer;
 - (xxix) Approximate location of any sewage disposal site, including required reserve areas;
 - (xxx) A schedule of applicable zoning districts and requirements, including lot area, width, depth, setbacks, building coverage, open space, parking, etc.;
 - (xxxi) Soils data, indicating at a minimum the existence of any highly erodible, highly permeable, high shrink/swell or hydric soils based on county soils map; and
- (3) If the application involves a residential subdivision, the conceptual preliminary plat shall contain the following additional information:
- (i) Approximate location of area to be subdivided into lots;

- (ii) Approximate location of any common open space and other amenities;
- (iii) Total number of lots to be created and minimum and average area of lots in square feet (or acres for lots of greater than one (1) acre).

(Ord. No. 20-8, 10-24-95)

Sec. 20-4.3.3. Review by other agencies.

The director of planning may forward copies of a conceptual preliminary plat to the development review committee and other representatives of state or county agencies, as appropriate, for review and comment. In the case of a major subdivision, the director of planning may refer the conceptual preliminary plat to the planning commission for comments.

(Ord. No. 20-8, 10-24-95)

Sec. 20-4.3.4. Comments on conceptual preliminary plat.

Within ten (10) working days after an application for conceptual preliminary plat review is determined to be complete, the applicant shall be given written comments on the plat.

(Ord. No. 20-8, 10-24-95; Ord. No. 20-23, 2-27-01)

Sec. 20-4.3.5. Effect of conceptual preliminary plat comments.

The effect of conceptual preliminary plat comments is to authorize submission of a final preliminary plat for review under article 4, division 4.

(Ord. No. 20-8, 10-24-95)

DIVISION 4.

FINAL PRELIMINARY PLAT REVIEW

Sec. 20-4.4.1. Required final preliminary plat information.

(a) *Required submittals for all residential subdivisions.* Unless modified by the director of planning in accordance with subsection (b) below (applicable to minor subdivisions only), a final preliminary plat shall contain or be accompanied by the following information and plans: (the applicant may choose to submit the preliminary plat and site plan as one (1) submission, entitled "Residential Development Plan" and shall contain the minimum submission requirements as detailed in the site plan application checklist as well as the preliminary plat application and checklist).

- (1) If the proposed subdivision is part of a larger lot, a map of such lot and a narrative description of the development plans for such lot;
- (2) A final preliminary plat, drawn to scale of 1 = 200 for tracts over fifty (50) acres and 1 = 100 for smaller parcels, on a sheet(s) no larger than twenty-four (24) by thirty-six (36) inches, prepared by an engineer or surveyor, in a standard format prescribed by the planning commission and

including the following information unless otherwise agreed by the director of planning:

- (i) Proposed name of subdivision;
- (ii) Name, address of owner and applicant;
- (iii) Name, signature, license number, seal and address of engineer or surveyor, as applicable, involved in plat preparation;
- (iv) Title block denoting type of application, tax map sheet, lot number, street location, and date of original;
- (v) A vicinity map at a scale of 1 = 2,000 showing location of lot with reference to surrounding properties, streets, municipal or county boundaries, etc., within one-half mile;
- (vi) A list of revisions and dates;
- (vii) Signature block for the director of planning;
- (viii) Preparer's certification blocks;
- (ix) Boundary survey showing bearings and distances with error of closure that meets current surveying practices as administered by the state;
- (x) Total acreage of lot to be subdivided (or square feet, if less than an acre);
- (xi) The location of any required or proposed improvements or easements.
- (xii) Size and location of any existing structures, applicable setbacks and building lines;
- (xiii) Conceptual phasing plan of development, if any;
- (xiv) Topographic contours with a minimum of ten (10) foot contours from USGS map or other more accurate source, except for lots less than two (2) acres, a minimum of two (2) foot contours shall be shown;
- (xv) Water bodies and USGS perennial and intermittent streams;
- (xvi) Watershed boundaries;
- (xvii) Wetlands boundaries based on a field delineation in accordance with Federal standards.
- (xviii) Historic landmarks, historic district boundaries, Virginia natural heritage sites, and known historic features, including without limitations, Civil War resources, such as, earthworks, trace roads, stonewalls and fences;

- (xix) Cemeteries, Graves, objects or structures marking a place of burial shall be delineated clearly within a conservation easement and a minimum of a ten (10) foot access easement.
- (xx) One-hundred-year floodplain boundaries as shown on FEMA maps, dated December 1, 1987 or latest maps or revisions;
- (xxi) Approximate location and description of wooded areas, hedgerows and tree lines, including individual freestanding trees greater than eight (8) caliper and individual trees greater than fifteen (15) caliper in hedgerows and woodlands, and significant physical features;
- (xxii) The location and area of any buffer area required under the County's Chesapeake Bay Act Ordinance;
- (xxiii) Existing and proposed street layout;
- (xxiv) Existing and proposed street names and widths;
- (xxv) General description of water supply system;
- (xxvi) Description and approximate location of proposed sewer system;
- (xxvii) Existing and proposed easements, rights-of-way or land reserved for or dedicated to public use and/or areas to be held in common ownership;
- (xxiii) Existing and proposed points of connection with public water and sewer;
- (xxix) The approximate location and area of any sewage disposal site, including required reserve areas, and confirmed by a field investigation by a soil scientist together with the approximate location of the house site, and two (2) copies of the soil reports prepared by a soil scientist with the AOSE certification number and original signature or VDH certification letter, provided engineering has been complete.
- (xxx) Areas with slopes exceeding fifteen (15) percent based on existing topographic data.
- (xxxi) A schedule of applicable zoning districts and requirements, including lot area, width, depth, setbacks, building coverage, open space, parking, etc.;
- (xxxii) Lot lines, zoning and principal uses of all existing lots or parcels within one hundred (100) feet identified on the most recent tax map sheet;
- (xxxiii) Soils data, indicating at a minimum the existence of any highly erodible or highly permeable, moderate and/or high shrink/swell or hydric soils. Shrink/Swell soils data shall include a report prepared by a soils professional in accordance with the County's

Shrink/Swell Soils Testing Policy;

(xxxiv)Chesapeake Bay Preservation Area data required by Chapter 6A.

- (3) If the application involves a residential subdivision, the final preliminary plat shall contain the following additional information:
 - (i) Lot layout including lot numbers and setback lines and, if greater than one (1) acre, approximate sizes;
 - (ii) Minimum lot width at street;
 - (iii) Total number of lots to be created and minimum and average area of lots in square feet (or acres for lots of greater than one (1) acre);
 - (iv) Table of minimum yard requirements.

(b) *Minimum submittal requirements for minor subdivisions.* The director of planning is authorized to waive requirements for preliminary plats for minor subdivisions except that all applications for subdivision approval shall include at least:

- (1) A boundary survey, including bearings and distances with error of closure that meets current surveying practices as administered by the state;
- (2) Total area of the lot to be subdivided;
- (3) Lot layout including lot numbers and approximate dimensions and sizes and total number of lots to be created;
- (4) Minimum and average lot areas;
- (5) Chesapeake Bay Preservation Area features.

(c) The director of planning shall base a decision to waive information requirements for minor subdivisions on the character, location and potential impact of the proposed subdivision of land and the information needed to determine compliance with the minimum requirements of this chapter.

(d) *Required submittals for all nonresidential subdivision submitted pursuant to Article 4 of this chapter.* A final preliminary plat shall contain or be accompanied by the following information and plans:

- (1) A boundary survey, including bearings and distances with error of closure that meets current surveying practices as administered by the state;
- (2) Total area of the lot to be subdivided;
- (3) The location of any required or proposed improvements or easements and an indication of

whether the easements will be private or dedicated to public use. This shall include rights-of-way, lands reserved for public use, and any areas to be owned by an owners or tenants association or otherwise held in common ownership;

- (4) Conceptual phasing plan of development; if any;
- (5) Water bodies, wetlands, and USGS perennial and intermittent streams;
- (6) Existing and proposed street layout including widths and proposed names. Include all travel ways.

(Ord. No. 20-8, 10-24-95; Ord. No. 20-10, 8-12-97; Ord. No. 20-15, 9-8-98; Ord. No. 20-27, 12-14-04)

Sec. 20-4.4.2. Decision on final preliminary plat.

Within thirty-five (35) days of receipt of the approvals from all state agencies or within ninety (90) days after an application for final preliminary plat approval is determined to be complete, less the conceptual preliminary plat review time, whichever first occurs, the final preliminary plat shall either be approved or disapproved based on the standards of review established in section 20-4.1.4 of this chapter.

The applicant shall be given written notice of the decision, and in the case of disapproval, shall be given the reasons for such disapproval and what corrections and modifications are necessary for approval.
(Ord. No. 20-8, 10-24-95)

Sec. 20-4.4.3. Effect of final preliminary plat approval.

The effect of final preliminary plat approval is to authorize:

- (a) Land-disturbing activities if the following have been obtained: (i) a permit from the erosion and sediment control program administrator under the requirements of Chapter 8 of the County Code, (ii) Chesapeake Bay Preservation Ordinance approval under Chapter 6A of the County Code and, (iii) site plan approval under Chapter 23 of the County Code;
- (b) After preliminary plat approval and prior to final record plat, a construction plan (subdivision site plan) shall be submitted and approved. The plan shall include the infrastructure and overall development of the site as shown on the approved preliminary plat.
- (c) The submission of an application for approval of a record plat (only after a site plan has been approved) for the entire subdivision or a section of the subdivision in accordance with the provisions of article 4, division 5, provided that:
 - (1) Except as provided below, the complete application for record plat approval is filed within twelve (12) months,
 - (2) The planning commission may consider an extension to final preliminary plat approval beyond the twelve-month timeframe, as provided below:

- (a) One (1) extension to an approved preliminary plat may be granted by the planning commission for a period not to exceed six (6) months only when the applicant has demonstrated a good faith effort to diligently pursue site plan approval; and
- (b) The request shall be made in writing not less than thirty (30) days prior to expiration of the final preliminary plat to the director of planning. The request shall fully describe the need for the extension and provide reasonable justification for granting the extension. The director of planning shall review such request and submit a recommendation to the planning commission within twenty (20) days of receipt of the request; and
- (c) Prior to expiration of the final preliminary plat, the planning commission shall consider the request for an exception and the recommendation of the planning director and either approve a specific time extension or disapprove the request for an extension.

(3) If record plat approval is sought for only a section of the subdivision, such section must contain the following minimum number of lots:

Lots Shown on Preliminary Plat	Required Minimum
Less than 100	10 Lots
Over 100	10 percent or twenty-five lots, whichever is less; and

- (4) If record plat approval is sought for only a section of the subdivision, the subdivider shall have the right to record the remaining sections shown on the preliminary plat for a period of five (5) years from the recordation date of the first section; or for such longer period as the planning commission may, at the time of approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development any extension beyond five (5) years may be granted provided that:
 - (a) The applicant has provided a statement and request to the planning commission in conjunction with the preliminary plat application that sets forth the duration of approval sought for the subdivision, based on its size and phasing.
 - (b) Persons holding preliminary plats approved prior to the effective date of this section may apply to the planning commission prior to the expiration of any such plats for determination by the planning commission of what, if any, additional duration may be granted for such preliminary plats.
 - (c) Any applicant aggrieved by a decision of the planning commission concerning the length of time as prescribed in this section may appeal to the board of supervisors for review of such decision.
- (5) The subdivider's right to record the remaining sections shown on the preliminary plat shall be subject to the engineering and construction standards and zoning requirements in

effect at the time that each remaining section is recorded, unless the sections are grandfathered under subsection 20-1.1.4(b).

- (6) For non-residential subdivisions submitted pursuant to Article 4 of this chapter, the submission and approval of additional data required under the provisions of subsection 20-4.3.1(a) above not previously submitted and approved (unless waived by the director of planning), land disturbance as provided in subsection 20-4.3.3(a), construction as provided in subsection 20-4.3.3(b), and the submission of an application for record plat approval pursuant to subsection (c) provided that the minimum number of lots shall not apply.

(Ord. No. 20-8, 10-24-95; Ord. No. 20-22, 12-12-00; Ord. No. 20-27, 12-14-04; Ord. No. 20-33, 10-9-07)

Cross References: Erosion and sediment control, Ch. 6A.

DIVISION 5.

TECHNICAL CHANGES AND AMENDMENTS TO APPROVED PLATS.

Sec. 20-4.5.1. Reserved.

Sec. 20-4.5.2. Technical changes to approved final preliminary plats.

(a) Except for the following technical changes, which may be approved by the director of planning upon request, any change to an approved final preliminary plat for subdivisions, or accompanying data sheets, shall require review of the plat under the procedures of this chapter for original review and approval. Technical changes are changes that do not alter the basic design or layout of the subdivision, the functional interrelationship of the individual features of the subdivision to each and surrounding properties and which comply with the provisions of this chapter in effect at the time of final preliminary plat approval:

- (1) Changes to correct demonstrated errors;
- (2) Changes to the name of the subdivision or the name of a street;
- (3) Adjustment of the location of lot lines;
- (4) Removal of lot lines to combine lots;
- (5) Relocation, addition or removal of utility easements;
- (6) Changes in response to amendments to county ordinances; or
- (7) Other changes which are clearly of a similar technical nature.

(b) A request for approval of a technical change shall be made in writing to the director of planning. The request shall fully describe the change and provide reasonable justification for granting the change.

(c) The director of planning shall either approve or disapprove the change within ten (10) working days of receipt of the request. Changes, which are approved, shall be in writing or by the signature of the

director of planning, or designee, on the face of the revised plat. The director of planning shall, upon request, forward a copy of each approval or disapproval to members of the planning commission and Virginia Department of Transportation (VDOT).
(Ord. No. 20-8, 10-24-95; Ord. No. 20-23, 2-27-01; Ord. No. 20-27, 12-14-04)

DIVISION 6.

RECORD PLATS

Sec. 20-4.6.1. Record plat requirements.

An application for record plat approval shall be prepared in accordance with the standards for plats under Section 42.1-82 of the Code of Virginia, shall be drawn to the size and scale specified by the Subdivision Agent and shall contain or be accompanied by such information, plans and number of copies as required by the Subdivision Agent. At a minimum, the application shall be accompanied by:

- (a) A record plat containing a current boundary survey or reference to a boundary survey:
 - (1) A certificate signed by the surveyor or engineer responsible for preparation of the plat, the state highway engineer where compliance with Virginia Department Of Transportation standards are an issue, and the county health official if individual wells and on-site wastewater facilities are to be used;(shall provide two (2) copies of the soil reports prepared by a soil scientist with a valid AOSE certification and shall have an AOSE certification signature block completed by the AOSE on record plat).
 - (2) A signed and notarized owner's consent and certificate indicating the source of title of the owner of the land subdivided, and the place of record of the last instrument in the chain of title.
 - (3) Approval certificates for the director of planning and the Subdivision Agent;
 - (4) In bold type the following notices:

NOTICE: THIS PLAT SHALL BECOME NULL AND VOID AND BE OF NO FURTHER FORCE AND EFFECT IF THE PLAT IS NOT RECORDED IN ACCORDANCE WITH THE SUBDIVISION ORDINANCE OF SPOTSYLVANIA COUNTY WITHIN SIX (6) MONTHS OF THE DATE OF APPROVAL.

APPROVAL AND/OR RECORDING OF THIS PLAT DOES NOT CONSTITUTE ASSURANCE THAT PUBLIC SEWER OR PUBLIC WATER SERVICE WILL BE AVAILABLE TO SERVE THE LAND DESCRIBED ON THIS PLAT AT ANY PARTICULAR TIME

- (5) When the plat is of land acquired from more than one (1) source of title, the outline and area of each of the several tracts shall be indicated upon the plat, within an insert block, or by means of a dotted boundary line upon the plat;

- (6) A notation by the preparer of the plat specifying which of the lots shown thereon contains moderate or high potential shrink/swell soils, based upon the soils analysis and results thereof depicted on the preliminary plat;
- (b) Executed covenants and restrictions for common areas as required under article 7 of this chapter;
- (c) The articles of incorporation or other organizational documentation for the homeowners' association;
- (d) The by-laws of the homeowners' association;
- (e) A fiscal program for a minimum of ten (10) years, including adequate reserve funds for the maintenance and care of all lands, streets, facilities, and uses under the purview of the homeowners' association;
- (f) A recommended time schedule for the maintenance of major facilities, including streets, street signs, pools, sidewalks, parking areas and buildings;
- (g) A copy of the proposed notice that will be given to prospective buyers regarding the organization, assessments and fiscal program;
- (h) A copy of the deed of conveyance and a title certificate or, at the discretion of the director of planning, a commitment for a policy of title insurance issued by an insurance company authorized to do business in the Commonwealth of Virginia, assuring unencumbered title for all lands proposed to be conveyed to the county, other appropriate governmental agency, or other organization, including the homeowners' association;
- (i) An executed deed of dedication and easement conveying to the county land in fee simple and easements for public/county purposes which are depicted on the record plat; and
- (j) An executed subdivision agreement and improvement guarantees as required under article 6 of this chapter.

(Ord. No. 20-8, 10-24-95; Ord. No. 20-16, 9-8-98; Ord. No. 20-27, 12-14-04)

Sec. 20-4.6.2. Review of record plat.

Once an application for record plat approval is determined to be complete, the director of planning shall forward any improvement guarantees and covenants and restrictions to the county attorney for review and approval.

The Subdivision Agent shall review the application and accompanying documents to determine whether the proposed record plat is in compliance with the requirements of section 20-4.6.1, the approved preliminary plat and this chapter. Within sixty (60) days after an application for record plat approved is determined to be complete, if the Subdivision Agent determines that the record plat is in compliance, he or she shall sign the plat, or if the Subdivision Agent determines that the record plat is not in compliance, he shall disapprove it and notify

the applicant of the changes necessary for approval.
(Ord. No. 20-8, 10-24-95)

Sec. 20-4.6.3. Recording of plat.

Upon receipt of evidence of posting of the approved performance guarantees, as evidenced by the signature of the Subdivision Agent, the developer shall record the approved plat, deed of dedication and easement and covenants and restrictions with the clerk of the circuit court. A record plat shall be void if not recorded within six (6) months after approval.

(Ord. No. 20-8, 10-24-95)

State Law References: Similar provisions, Code of Virginia, § 15.2-2254.

DIVISION 7.

CHANGES TO RECORDED PLAT

Sec. 20-4.7.1. Amendments to recorded plat.

Any change to a recorded plat, including resubdivisions, shall require review and approval under the procedures and standards of this chapter or section 15.2-2272 of the Code of Virginia as amended and required, except that boundary lines may be adjusted as provided for in section 15.2-2275 of the Code of Virginia.

(Ord. No. 20-8, 10-24-95; Ord. No. 20-27, 12-14-04)

Sec. 20-4.7.2. Vacation of recorded plat.

Where no lot has been sold the recorded plat or part thereof may be vacated in accordance with section 15.2-2271 of the Code of Virginia.

In cases where any lot has been sold, the plat or part thereof may be vacated in accordance with section 15.2-2272 of the Code of Virginia.

(Ord. No. 20-8, 10-24-95)

Sec. 20-4.7.3. Reserved.

ARTICLE 5.

SUBDIVISION DEVELOPMENT STANDARDS*

* **State Law References:** Subdivision ordinance to provide for plat details, Code of Virginia, § 15.2-2241.

This article is divided into three (3) divisions: General standards which apply to all subdivisions, additional residential standards, and additional non-residential standards.

(Ord. No. 20-8, 10-24-95)

DIVISION 1.

GENERAL STANDARDS

Sec. 20-5.1.1. Water and sewage.

(a) *Fire hydrants.* If a proposed subdivision will be served by a public or central water supply, adequate fire hydrants shall be provided in the subdivision at locations recommended by the fire marshal and approved by the planning commission or Subdivision Agent, to ensure that adequate public water is available to control fires in the subdivision.

(b) *Private systems.* Privately owned water distribution systems or sewage collection systems and treatment facilities are prohibited unless expressly authorized under Chapter 22 (Water, Sewers and Sewage Disposal) or Chapter 23 (Zoning) of the County Code and unless such systems and facilities meet all of the requirements of the Department of Environmental Quality, the Virginia Health Department and any other state or local governmental agency having authority over such installations.

(c) *Public systems.* Except as provided in this section, no application for subdivision plat approval shall be approved unless all lots within the subdivision connect to the public water and sewer system.

(d) *Septic systems.* If public sanitary sewer service is not available or required under the provisions of chapter 22, the Subdivision Agent shall only approve the subdivision if the Subdivision Agent receives in writing from the Virginia Health Department a statement that confirms that the lots within the subdivision are generally satisfactory for the installation of septic systems, and that they will not, so far as can be determined, create hazards to public health. Approval by the Subdivision Agent in this instance shall be deemed to require that septic systems must be approved on an individual lot-by-lot basis by the Virginia Health Department.

(e) *Wells.* If public water is not available or required under the provisions of chapter 22, each lot shall be suitable to be serviced by an individual well. All individual wells shall be approved by the health official in accordance with applicable state and county standards.

(f) *Off-lot drainfields and wells in cluster subdivisions.* In cluster subdivisions, individual or common drainfields and/or wells may be located off-lot in common areas if approved by the Virginia Health Department.

(Ord. No. 20-8, 10-24-95)

Cross References: Water and sewer facilities for subdivisions, § 22-5.

Sec. 20-5.1.2. Utility easements.

(a) *Applicability.* Appropriate easements shall be provided by the subdivider for water, sewer, drainage, and other county/public purpose which shall include the right of ingress and egress for installation and maintenance of such use.

(b) *Utilities to be outside paved areas if possible.* Utility easements shall be located outside pavement areas if possible.

(c) *Offsite.* The Subdivision Agent may require that easements through adjoining land be provided by the subdivider where necessary to serve the proposed subdivision.

(d) *Underground.* All utilities, including, but not limited to lines, wires, cables, pipes, conduits for electricity, telephone, gas, cable television or similar service, shall be placed underground. Where distribution lines currently traverse the property proposed for subdivision, the developer will not be required to place such lines underground. All utilities shall be installed underground in accordance with standards of utility practice for underground construction. Those standards shall be furnished to the director by the utility company and shall be in accordance with standards furnished to and regulations issued by the applicable regulatory authority.

(e) *Use.* No person shall modify, alter, obstruct, or otherwise interfere with a county easement or the improvements therein without the written approval of the Subdivision Agent.

(f) *Conveyance to public service corporations.* In appropriate cases, the county may require the subdivider to convey easements to public service corporations, furnishing cable television, gas, telephone and electric service to a proposed subdivision.

(g) *Width.* Utility easements shall be of sufficient width for the specified use, in no case less than ten (10) feet.
(Ord. No. 20-8, 10-24-95)

Sec. 20-5.1.3. Site analysis.

To the maximum extent practical, subdivisions shall be designed to preserve the natural features of the site, to avoid areas of environmental sensitivity, and to minimize negative impacts and alteration of natural features.
(Ord. No. 20-8, 10-24-95)

Sec. 20-5.1.4. Tree cover requirement standards.

(a) All subdivisions except single-family detached subdivisions shall include the preservation and planting of trees on the site to the extent that, at maturity of twenty (20) years, minimum tree cover shall be provided as follows:

Zoning Districts Cover	Percentage
Office, Commercial, Industrial, and PDC;	Ten percent (10%)
R-12, PDH-12, and PDH-16	Fifteen percent (15%)
R-8 and PDH, except single-family detached at a density of ten (10) or less d.u.a.	Twenty percent (20%)

(b) The tree cover requirement shall be calculated in accordance with the requirements located in Article 6 of the Design Standards Manual and shown on the landscaping plan.

(c) Compliance with these requirements by the approval of a landscape plan and subsequent

issuance of an occupancy permit shall be deemed to meet the requirement of tree cover at a maturity of twenty (20) years.

(Ord. No. 20-8, 10-24-95)

Sec. 20-5.1.5. Tree preservation credit.

(a) Existing trees which are to be preserved may be included to meet all or part of the tree cover requirements if the existing trees are identified on the landscape plan and the trees meet the standards of desirability and life-year expectancy specified in the Design Standards Manual.

(b) The credit provided per freestanding tree or cluster of trees will be 1.50 multiplied by the area defined by the boundaries of the existing drip line of a freestanding tree or group of trees as surveyed in the field and delineated on the plan. A credit of up to 2.5 may be granted by the director for trees of outstanding size and quality.

(c) The minimum size tree to be allowed for tree preservation credit shall be as follows:

- (1) *Large and medium deciduous trees.* A minimum caliper of at least three (3) inches measured six (6) inches from the ground.
- (2) *Compact and small deciduous trees.* A minimum height of eight (8) feet measured from the ground elevation after planting.
- (3) *Evergreen trees.* A minimum height of at least eight (8) feet measured from the ground elevation after planting.

(Ord. No. 20-8, 10-24-95)

Sec. 20-5.1.6. Tree planting credit.

(a) Planted trees that may qualify for tree cover credit shall include the trees in interior parking lot landscaping, peripheral parking lot landscaping, foundation planting, transitional screening, landscaping open space, revegetation, tree supplementation, tree replacement and other trees that are planted on the site.

(b) The planting of trees shall be done in accordance with the landscape specifications located in Article 6 of the Design Standards Manual.

(c) The minimum size planted tree that will qualify for tree cover credit shall be as follows:

- (1) *Large and medium deciduous trees.* A minimum caliper of at least two (2) inches measured size (6) inches from the ground.
- (2) *Compact and small deciduous trees.* A minimum height of six (6) feet measured from the ground elevation after planting.
- (3) *Evergreen trees.* A minimum height of at least six (6) feet measured from the ground elevation after planting.

(Ord. No. 20-8, 10-24-95)

Sec. 20-5.1.7. Modifications, waivers and exceptions.

(a) The tree cover requirements may be modified by the director for areas comprised of the following features, provided those areas are identified and delineated on the site plan:

- (1) Floodplains and wetlands;
- (2) Non-wooded developed recreation areas, such as athletic fields, tennis courts, multi-use courts, playgrounds and tot lots.

(b) Tree cover requirements may also be modified or waived by the director where the strict provision thereof would reduce the usable area of a lot due to lot configuration or size to a point which would preclude a reasonable use of the lot.

(c) An exception to the tree cover requirements may be approved by the Director for areas comprised of the following features, provided those areas are identified and delineated on the site plan:

- (1) Lakes and retention ponds, based on the normal water surface elevation and swimming pools.
- (2) Lands under active commercial production or management of agricultural, horticultural or forest crops; landfills and quarries.
- (3) Major utility distribution easements of twenty-five (25) feet or more in width.
- (4) Absorption fields and seepage pits for on-site sewage disposal systems.

(Ord. No. 20-8, 10-24-95)

Sec. 20-5.1.8. Streets.

(a) *Alignment.* Proposed streets that will intersect another street shall be laid out to intersect directly opposite each other or to be offset by at least one hundred twenty-five (125) feet.

(b) *Approach angle.* Roads within subdivisions shall approach other roads at an angle of not less than eighty (80) degrees, unless the planning commission, after recommendation of the director of planning, approves an approach of not less than sixty (60) degrees for reasons of contour, terrain or matching of existing patterns.

(c) *Cul-de-sac.* The right-of-way of a cul-de-sac street turnaround shall be as required in the Design Standards Manual.

(d) *Curb and gutters.* Curb and gutter shall be installed on sides of arterial, collector, local streets and interior medians, if applicable, that provide frontage to lots within subdivisions where the minimum lot size is twenty-five thousand (25,000) square feet or less or within one (1) mile of a Spotsylvania County School (per Design Standards Manual).

(e) *Dedication.* Subdivision streets shall be public, dedicated to Spotsylvania County and accepted into the Virginia Department of Transportation secondary roadway system, except that private streets shall be allowed in accordance with subsection 20-5.1.8(i) of this section.

(f) *Design.* Except as provided in subsection 20-5.1.8(i) of this section, all streets shall be designed and constructed in conformance with the current standards and specifications of the Virginia Department of Transportation and this chapter. The road system shall be designed:

- (1) To permit the safe, efficient, and orderly movement of traffic;
- (2) To meet, but not exceed the needs of the present and future population served;
- (3) To have a simple and logical pattern;
- (4) To respect natural features and topography; and
- (5) To present an attractive streetscape.

(g) *Half streets.* Half streets along the boundary of land proposed for subdivision shall not be permitted.

(h) *Names.* Streets within proposed subdivisions that are reasonably aligned with existing named streets shall bear the same name as the existing street. In no case shall the names of proposed streets duplicate or be confusingly similar to existing street names except for the use of the words street, avenue, boulevard, drive, way, place, lane, and court. Street names shall be indicated on preliminary and record plats, and shall be approved by the planning commission or director of planning. Names of existing streets shall not be changed except by approval of the board of supervisors.

(i) *Private streets.*

- (1) *Applicability.* Private streets may be allowed in commercial, industrial and multiple family and single family attached dwelling developments. With the approval of the director of planning, private streets may be allowed in (i) the resort residential district (RR), (ii) the planned development housing district (PDH) where the proffers provide for a gated community and at least eighty (80) percent of the units are occupied by at least one (1) person fifty-five (55) years of age or older per unit, and (iii) the planned development housing district (PDH) where an existing gated community seeks to extend existing private streets in order to complete development of the community in general conformance with the density and the area of development shown on the preliminary plat.

(2) *General standards.*

- (i) *Length and geometric design.* The length and geometric design of the street shall be subject to the approval of the director of planning who shall consider means of access to adjoining properties, traffic movement and volume through the development, access for

emergency and maintenance vehicles, parking, economy of development, and proposed provisions for maintenance and preservation of natural features of the property;

- (ii) *Construction standards.* Private streets shall be designed and constructed in accordance with the Design Standards. Prior to final release of the surety required under article VI of this chapter, the subdivider's engineer shall inspect and certify to the county that the private streets have been completed.
- (3) *Ingress and egress easements.* Ingress and egress easements for public emergency and maintenance vehicles shall be granted to the county over all private streets within a development.
- (4) *Ownership, care and maintenance.* The record plat, all deeds of subdivision, the restrictive covenants and conditions and similar instruments, and each deed of conveyance of any subdivision lot must contain the following statement in bold type:

ALL STREETS IN THIS SUBDIVISION ARE PRIVATE AND WILL NOT BE MAINTAINED BY EITHER THE COUNTY OR THE STATE DEPARTMENT OF TRANSPORTATION. THEY SHALL BE MAINTAINED BY OWNERS OF THE LOTS OR THE OWNERS OF THE DWELLINGS LOCATED IN THE SUBDIVISION. PRIOR TO ANY FUTURE REQUEST FOR THEIR ADDITION TO THE STATE SECONDARY HIGHWAY SYSTEM, THEY MUST BE DEVELOPED IN FULL COMPLIANCE WITH THE STATE DEPARTMENT OF TRANSPORTATION SUBDIVISION STREET REQUIREMENTS IN EFFECT AT THAT TIME. ANY SUCH DEVELOPMENT SHALL BE AT THE EXPENSE OF THE OWNERS OF THE LOTS OR THE OWNERS OF THE DWELLINGS LOCATED IN THE SUBDIVISION.

- (j) *Reserve strips.* There shall be no reserve strips (spite strips) controlling access to streets.
- (k) *Sidewalks.* Sidewalks shall be required as follows and shall be constructed in accordance with the state subdivision street requirements as required for acceptance by the state and shall be located adjacent to the street right-of-way in a manner so as to maximize safety and convenience:
 - (1) Subdivisions located in the village district;
 - (2) All subdivisions involving multifamily or attached dwellings;
 - (3) Along all streets in residential subdivisions where curb and gutters are provided;
 - (4) Sidewalks may also be required by the director of planning, in the case of a minor subdivision, or the planning commission where necessary to continue another sidewalk or pedestrian walkway on an existing street, to link areas within a proposed subdivision or to other areas of planned significant development or to link subdivisions to schools and/or recreational areas.
 - (5) Sidewalks not eligible for VDOT maintenance:
 - (i) *Ownership and maintenance.* Sidewalks not eligible for VDOT maintenance shall be

constructed by the developer within the right-of-way and maintained by the homeowners' association. Sidewalks shall be provided as shown on Plate 5-9 of the Design Standards Manual.

- (ii) *Outside VDOT right-of-way.* If approved by the planning director, sidewalks not eligible for VDOT maintenance may be located within a sidewalk maintenance easement adjacent to the VDOT right-of-way. The sidewalk shall be constructed prior to issuance of any occupancy permit on the adjacent street. The sidewalks shall be constructed as shown on Plate 5-9 of the Design Standards Manual and modified to allow a four-foot pavement width located within a six-foot sidewalk maintenance easement. The sidewalks shall be maintained by the homeowners association.
- (iii) *Within VDOT right-of-way.* In lieu of providing the sidewalk within an easement adjacent to the VDOT right-of-way, if VDOT agrees, the developer may construct the sidewalk as described in subsection 20-5.1.8(j)(5)(ii) above and shall provide a cash escrow for the total estimated construction cost of the sidewalk, which may be used by the homeowner's association for sidewalk maintenance.

(l) *Street lights.* Street lighting shall be provided on all preliminary plats and site plans in accordance with the Design Standards Manual.

(m) *Turn lanes.* Left turn lanes shall be provided at entrances to all major subdivisions on streets with route numbers below 600.
(Ord. No. 20-8, 10-24-95; Ord. No. 20-12, 4-28-98; Ord. No. 20-13, 7-28-98; Ord. No. 20-18, 4-27-99; Ord. No. 20-27, 12-14-04)

Sec. 20-5.1.9. Lots.

(a) *Building site.* The arrangement, design and shape of lots shall be such that lots will provide satisfactory access and desirable sites for buildings, and will be properly related to the topography of the lot. Single-family detached lots shall contain a minimum of ten thousand (10,000) contiguous square feet of buildable area exclusive of floodplains, wetlands, resource protection areas, steep slopes greater than fifteen (15) percent, reservoir protection overlay district buffers, river protection overlay district buffers, and drainfields. "Lots created without soil reports shall be stamped "not approved for sewage." In order to remove this stamp from a lot, a replat of subdivision of the lot(s) shall be required with submittal of soil reports. A standard note shall also be structured and placed on the plat which states, "Lots stamped as "not approved for sewage" are considered unbuildable until a replat is subsequently filed and approved administratively by Spotsylvania County according to current subdivision regulations." Lots created without soil reports apply to family subdivisions only.

(b) *Corner lots.* On corner lots no obstruction which is higher than three (3) feet above the road level shall be permitted within the sight triangle, provided however, that the restriction in this subsection shall not apply to trees having trunks (but no branches or foliage) which are less than twelve (12) inch diameter at breast height or fire hydrants, public utility poles, street markers, governmental signs and traffic control devices.

(c) *Stormwater management lots.*

1. *Residential.*

- (i) All stormwater management facilities, excluding low-impact development (LID) integrated management practices, located in residential subdivisions shall be located on separate parcels conveyed to and maintained by a homeowners association.
- (ii) All stormwater management facilities including LID facilities shall have a stormwater management easement located around the facility in accordance with the Spotsylvania County Code [Code] and Design Standards Manual.
- (iii) Stormwater management easements surrounding the stormwater management facility which is located on a separate parcel shall be fully contained within the parcel.
- (iv) Low-impact development integrated management practices shall be permitted on residential building lots in accordance with the provisions of Chapter 19A of the County Code.
- (v) All subdivisions including those containing on lot LID integrated management practices must provide restrictive covenants stating that the homeowners association is responsible for any maintenance of the facilities and that in the event of default by the homeowners association all lot owners are equally responsible for the maintenance.

2. *Non-residential.* All stormwater management facilities may be placed on the same parcel as the development.

(d) *Uncontrolled intersections.* In the event an intersection does not have a traffic control device that requires stopping, each leg along the leg of the triangle along which uncontrolled travel is allowed shall be increased to the minimum spacing requirements as determined by the director according to the permitted speed limit on the leg of the roadway.

(e) *Elongations.* Lots shall not contain peculiarly shaped elongations which would be unusable for normal purposes in order to provide the minimum area required under the zoning ordinance, and the depth (length) of a lot shall not exceed five (5) times its width or the width shall not exceed five (5) times its length.

(f) *Lot lines, side.* Unless the planning commission or the Subdivision Agent determine that the topography of the site warrants different configurations in particular instances, side lot lines shall be approximately at right angles to or radial to curves of the right-of-way.

(g) *Lot lines through water bodies.* Lot lines shall not extend below the normal pool elevation of a lake, pond, reservoir or other water impoundment.

(h) *Numbers.* Section numbers and lot numbers within each section shall be numbered in a logical spatial arrangement. Section numbers shall run consecutively based on date of recordation. Lot numbers shall run consecutively within each recorded section of the subdivision.

(i) *Pipe stems.* Pipe stem lots shall not be allowed except as provided in Chapter 23 or upon approval by the planning commission for lots fronting on lakes, waterbodies or golf courses.

(j) *Remnants.* All remnants of lots below minimum size which are left over after the subdividing of a tract must be added to adjacent lots or otherwise disposed of rather than allowed to remain as unusable lots. Regardless of size, there shall be no remnants left solely to avoid compliance with the standards of this chapter when such remnants would otherwise be an integral part of the area to be subdivided.

(k) *Scenic buffer strip.* Lots in the A1, A2, A3 Ru, RR and RA districts shall have a scenic buffer strip one hundred (100) feet in width along the existing secondary or primary road frontage, in which the existing vegetation and contours of the land will not be disturbed or altered. Nothing in this section shall be construed to prohibit driveway cuts on the secondary or primary road where permitted by the standards of this chapter and VDOT, nor to prohibit the placement of fences or the planting of additional landscaping within the scenic buffer strip.

(Ord. No. 20-8, 10-24-95; Ord. No. 20-26, 12-14-04; Ord. No. 20-27, 12-14-04; Ord. No. 20-029, 6-13-06; Ord. No. 20-31, 10-10-06)

Sec. 20-5.1.10. Driveways.

(a) *Clear sight triangle.* The driveway of any lot and the street line, measured in each direction along the driveway edge and street line for fifteen (15) feet from the intersection of the triangle and on the third side by the diagonal line connecting the ends of the fifteen-foot sides shall be clear of any structure, fence, plant, sign or other object of any kind that could obstruct cross-visibility. Provided however, that the restriction in this subsection shall not apply to trees having trunks (but not branches or foliage) which are less than six (6) inches diameter at breast height or fire hydrants, street markers, governmental signs and traffic control devices.

(b) *Construction.* Driveways shall be constructed in accordance with the Design Standards Manual and the Subdivision Street Requirements published by the State of Virginia Department of Transportation. At a minimum, driveways, except for driveways serving single-family dwellings, shall be smoothly graded, adequately drained and constructed with suitable subgrade, base and surfacing to be durable under the use and maintenance contemplated.

(c) *Location.* Driveways shall not intersect a street corner radius, nor encroach into any required clear sight triangle.

(Ord. No. 20-8, 10-24-95)

DIVISION 2.

RESIDENTIAL STANDARDS

Sec. 20-5.2.1. Frontage.

(a) Each single-family detached lot shall access on a public street dedicated by the subdivision plat or on a street which has become public by right of use; provided, however, no lot shall access on a secondary or primary highway. The subdivider shall make provisions in the deed of dedication, the restrictive covenants and conditions, clearly labeled on the record plat, and similar instruments, if any, and each deed of conveyance the

following information: that THE OWNERS OF THE LOT(S) SHALL NOT BE ALLOWED TO ACCESS THE SECONDARY OR PRIMARY HIGHWAY DIRECTLY FROM THEIR LOTS, BUT MUST USE THE INTERNAL SUBDIVISION PUBLIC STREET ON WHICH SUCH LOT FRONTS FOR ACCESS TO THE SECONDARY OR PRIMARY HIGHWAY. Nothing contained in this section shall be construed as prohibiting the rear or side lot line of any such lot from abutting a secondary or primary highway. Neither shall any condition contained herein prevent a subdivision of no more than three (3) lots from accessing a primary or secondary public highway so long as all three (3) lots front on such highway.

(b) In the resort residential (RR) and the agricultural 3 (A-3) districts, a maximum of two (2) lots per parent parcel may be approved that have direct frontage on an existing primary or secondary road, but shall access the internal subdivision road or private access easement, whereby, the plat will clearly designate that "no lot shall have direct access to the primary or secondary highway, Route # xxx." (Ord. No. 20-8, 10-24-95; Ord. No. 20-19, 2-22-00; Ord. No. 20-27, 12-14-04)

Sec. 20-5.2.2. Streets.

(a) *Alleys.* Alleys in subdivisions may be provided only where deemed appropriate by the director of planning. Dead-end alleys shall be provided with adequate turnaround facilities as determined by the director of planning.

(b) *Continuation.* The arrangement of streets in new residential subdivisions shall provide for the continuation of any existing or planned network of public streets in adjoining areas and shall consider the future development of adjacent lots.

(c) *Cul-de-sac.* No more than five (5) lots shall front on the turnaround bulb of a cul-de-sac, except within the resort residential (RR) district and in cluster subdivisions, where no more than eight (8) lots may front on the turnaround bulb of a cul-de-sac.

(d) *Through traffic.* Except as provided in Article 5 of the Design Standards Manual, internal streets shall be designed to minimize through traffic. (Ord. No. 20-8, 10-24-95; Ord. No. 20-27, 12-14-04)

Sec. 20-5.2.3. Blocks.

Blocks in residential subdivisions shall be wide enough to allow two (2) tiers of lots of minimum depth. However, if topographical conditions or size of the lot, or when lots back up to primary roads, railroads or waterways, make it impractical to accommodate two (2) tiers, a single tier of lots of minimum depth may be approved. (Ord. No. 20-8, 10-24-95)

DIVISION 3.

NON-RESIDENTIAL STANDARDS

Sec. 20-5.3.1. Access.

Commercial, institutional and industrial building sites or lots are to be designed so that the sites or lots will not have direct access to a road numbered in the 600s or below, but will be served by an internal circulation system. Whenever a development abuts a road numbered in the 600s or below, a service drive extending for the full length of the development along such road, and providing limited access thereto, shall be provided except when a reverse frontage concept is utilized such that no lot has direct ingress and/or egress to a road numbered in the 600s or below. The service drive construction shall conform to the standards set forth in the Design Standards Manual. Alternatively, the planning director may approve a system of combined access drives and shared entrances for the overall development, in order to limit potential traffic hazards on the highway. Nothing in this section shall be construed as prohibiting the principal entrance of a structure from facing a road numbered in the 600s or below.

(Ord. No. 20-8, 10-24-95)

Sec. 20-5.3.2. Entrances.

Subdivision street intersections and entrances to major commercial and industrial developments (with traffic volumes over 3000 VPD), that tie into existing or future divided highways, shall be located at existing crossovers or other approved locations that meet all design criteria for crossover locations.

(Ord. No. 20-8, 10-24-95)

ARTICLE 6.

SUBDIVISION OR INFRASTRUCTURE AGREEMENT AND IMPROVEMENT GUARANTEES FOR RESIDENTIAL AND NON-RESIDENTIAL SUBDIVISIONS*

* **State Law References:** Guaranty of provisions of subdivision ordinance, Code of Virginia, § 15.2-2243.

Sec. 20-6.1.1. General.

No record plat developed under Article 4 of this chapter shall be recorded or site plan for lots created under Article 13 of this chapter approved until the form of a subdivision or infrastructure agreement and adequate surety for subdivision improvements have been approved in accordance with this article. The purpose of this requirement is to guarantee timely installation and maintenance of subdivision improvements required by this chapter and/or in accordance with the approved subdivision plat and plans; and to ensure that resources are available to the county for installation and maintenance of such improvements should the subdivider fail to provide them in the manner and within the time period provided for in this chapter.

For purposes of Article 6, any reference to ‘subdivider’ shall also include the landowner or other person or entity responsible for construction and completion of improvements for a non-residential subdivision approved pursuant to Article 13 of this Chapter.

(Ord. No. 20-8, 10-24-95)

Sec. 20-6.1.2. Subdivision or Infrastructure agreement.

(a) In regard to residential subdivisions and non-residential subdivisions submitted for review pursuant to Article 4 of this Chapter, subdividers shall execute a subdivision agreement providing for construction of all required improvements, including any off-site improvements necessary for providing adequate access, water and sewer service in accordance with the subdivision record plat or infrastructure plan application. The agreement shall be supported by an approved form of surety. The maximum period for performance by the subdivider landowner under the agreement shall be twenty-four (24) months, although extensions may be made in accordance with this article. The agreement shall be between the subdivider and the Spotsylvania County Board of Supervisors and shall be substantially the same as the form found in Appendix A, Form A of this article.

(b) In regard to non-residential subdivisions which have been approved pursuant to Article 13 of this Chapter, owners of lots within the subdivision shall execute an infrastructure agreement providing for construction of required improvements to serve the lot under development, including any off-site improvements necessary for providing adequate access, water and sewer service in accordance with the site plan application. The agreement shall be supported by an approved form of surety. The maximum period for performance by the subdivider or landowner under the agreement shall be twenty-four (24) months, although extensions may be made in accordance with this article. The agreement shall be between the subdivider and the Spotsylvania County Board of Supervisors and shall be substantially the same as the form found in Appendix A, Form B of this article.

(c) If the person or entity posting the surety is not the landowner, the entity posting the surety and the landowner must both sign the subdivision or infrastructure agreement.
(Ord. No. 20-8, 10-24-95; Ord. No. 20-27, 12-14-04)

Sec. 20-6.1.3. Surety.

(a) Surety for subdivision or infrastructure improvements shall be equivalent to one hundred ten (110) percent of the estimated engineer's cost of the improvements as determined by the county. The subdivider or landowner shall present to the county an estimate of said costs calculated by an engineer for consideration by the county. In addition, surety shall include funds to maintain any temporary facility or device, such as a temporary cul-de-sac or detention pond.

(b) In the event that the subdivider, landowner, or entity responsible for construction and completion of improvements within the subdivision has constructed all or part of the improvements prior to submission of the record or final plat application for subdivision, the amount of the surety shall be the greater of the amount determined under subsection (a) of this section for the remaining improvements or ten (10) percent of the total cost of all the improvements as determined under subsection (a) of this section.
(Ord. No. 20-8, 10-24-95; Ord. No. 20-27, 12-14-04)

Sec. 20-6.1.4. Forms of surety.

The following types of surety guarantees may be used to satisfy the requirements of this article:

(a) *Corporate surety bond* means a surety bond signed by an insurance company licensed to transact fidelity and surety insurance business in Virginia guaranteeing installation and maintenance of the improvements. The surety, when notified of the subdivider or landowner's default, shall elect

either to perform in the subdivider or landowner's stead or to pay the face amount of the bond, or any lesser amount determined by the county. The surety shall agree to provide said funds to the county prior to performance of the work, based upon the county's estimate of the funds required.

- (b) *Cash account* means a cashier's check, certified check or cash to be deposited with the Treasurer of Spotsylvania County. Interest accruing on such funds shall be for the benefit of the county.
- (c) *Irrevocable letter of credit* means an instrument provided by a lending institution guaranteeing payment to the county in the event the subdivider or landowner defaults in performance under its subdivision agreement and which meets the following minimum conditions:
 - (1) That the lending institution shall guarantee payment of funds in an amount equal to the estimated cost of completing all required improvements and as otherwise required by this article;
 - (2) That in case of failure on the part of the subdivider or landowner to complete the specified improvements within the required time period, the lending institution shall pay to the county immediately and without further action such funds as are necessary to finance the completion of those improvements, up to the limit of credit stated in the letter;
 - (3) That the letter of credit may not be withdrawn or reduced in amount until released by the Subdivision Agent;
 - (4) That the lending institution must be insured by the FDIC or FSLIC and be rated at least 20(c) in the latest publication of the Sheshunoff Quarterly Ratings for Banks and Savings and Loan Associations; and
 - (5) That the subdivision agreement involved must contain a performance date which is a minimum of one (1) month prior to expiration of the letter of credit. The letter of credit must be irrevocable during any such period.
 - (6) These requirements shall apply to new and amended letters of credit.
- (d) *Cash escrow accounts*:
 - (1) The subdivider or landowner shall deposit cash or an instrument readily convertible into cash at face value, either with the county or in escrow with a financial institution approved by the county and insured by FDIC or FSLIC. The use of an instrument rather than cash shall be subject to the approval of the Subdivision Agent.
 - (2) The escrow account shall be held in trust until released by the Subdivision Agent and may not be used or pledged by the subdivider or landowner as security in any other matter during that period.
 - (3) In the case of a failure on the part of the subdivider or landowner to complete the improvements, the agreement shall provide that the financial institution shall immediately

make the funds in the account available to the county for use in the completion of those improvements.

(Ord. No. 20-8, 10-24-95)

Sec. 20-6.1.5. Standard forms.

All surety agreements shall be substantially the same as the standard forms found in Appendix B of this article. No deviations shall be accepted unless approved by the county attorney for conformity with this policy and all applicable requirements. Only those surety companies that are acceptable to the county may secure surety agreements.

(Ord. No. 20-8, 10-24-95)

Sec. 20-6.1.6. Extensions and rebonding of agreements.

(a) When a subdivider or landowner enters into a subdivision agreement with the county, it is understood that all the necessary physical improvements shall be completed in the specified period of time unless the developer obtains from the county a written extension of time and provides an extension of surety. If all improvements are not satisfactorily completed within this time period, and no extension granted, the subdivider or landowner shall be deemed in default. Thereafter, the county may avail itself to those remedies available at law and in equity.

(b) No less than thirty (30) days prior to performance date, the subdivider or landowner may file a written request for an extension of the performance date in its subdivision agreement for a maximum period of one (1) year. The subdivider or landowner shall include in this request the reasons and conditions which have precluded it from completing the required physical improvements, and a timetable for completion. The subdivider or landowner will also be required to rebond the remaining improvements with the extension request.

(c) The subdivider or landowner must submit a signed and sealed professional engineers estimate indicating all required improvements completed, or if partially completed, the percentage of improvements completed with an estimated cost to complete; and state that the required improvements have been completed in compliance with the applicable standards for their construction. The cost for the remaining improvements shall be determined based on the current material and labor costs at the time of submittal plus twenty-five (25) percent.

(d) The county's Subdivision Agent, in their sole discretion, may, after considering all circumstances involved, either grant or deny the requested extension.

(e) If the county grants the requested extension, the subdivider or landowner shall execute an amended subdivision agreement and provide a written surety extension, each of which shall be in a form acceptable to the county.

(Ord. No. 20-8, 10-24-95; Ord. No. 20-27, 12-14-04)

Sec. 20-6.1.7. Release, partial release, or forfeit of bond or other guarantee.

(a) The subdivision agreement shall specify the time period within which development of all required improvements shall be completed. The time period shall not exceed two (2) years from the date of the

recording of the record plat. The time period may be extended for additional one (1) year periods at the discretion of the Subdivision Agent where the subdivider or landowner presents a substantial and credible reason for doing so.

(b) If any portion of the required improvements shall fail to be accepted within the allocated time period, either for reason of non-completion, substandard construction, or inadequate maintenance, then the Subdivision Agent may declare whatever security has been pledged as a guarantee to be forfeited. Upon receipt of the funds from these securities, the county shall use the funds to finance the completion of the improvements or the rebuilding of such improvements to proper specifications. Unused portions of these funds shall be returned to the subdivider or landowner, bonding company, or crediting institution, as is appropriate.

(c) Upon completion of a portion of the improvements for which a partial release is requested or upon final completion of all improvements required, the subdivider or landowner shall file with the Subdivision Agent, in accordance with standard forms provided by the county attorney, the following:

- (1) A signed and sealed statement by a professional engineer that all required improvements are complete, or if partially completed, the percentage of improvements completed; and that the required improvements have been completed and in compliance with the applicable standards for their construction. Requests for partial release shall also include a certification by a professional engineer itemizing the nature and corresponding costs of the work remaining, together with a projected timetable for completion; and
- (2) A certified statement from the subdivider or landowner that no known defects exists in those improvements from any cause.

(d) Upon written request by the subdivider or landowner, in accordance with (c) above, the Subdivision Agent shall make periodic partial releases of the guarantee in a cumulative amount not to exceed ninety (90) percent of the original amount of the guarantee and may make partial releases of such lower amounts based upon the percentage of the improvements completed, that are subsequently inspected, and approved by the Subdivision Agent or representative, service authority or state agency having jurisdiction. Periodic partial releases shall not occur before the completion of at least thirty (30) percent of all the improvements and facilities required by any guarantee. The Subdivision Agent shall not be required to execute more than three (3) periodic partial releases in any twelve (12) month period. In the event that the subdivider or landowner has constructed all or part of the improvements prior to submission of its application for subdivision, cumulative releases shall not reduce the surety below ten (10) percent of the total cost of all improvements as determined under subsection (a) of section 20-6.1.3 of this article. However, in no circumstances shall any periodic partial release reduce the remaining guarantee to less than one hundred twenty-five (125) percent of the total costs necessary to complete the remaining improvements and maintain such improvements until acceptance by the appropriate authority.

(e) Within thirty (30) days after receipt of written notice by the subdivider or landowner of completion of part or all of the improvements required to be constructed, in accordance with (c) above, the Subdivision Agent shall notify the subdivider or landowner in writing of denial of approval by any applicable State agency or of any defects or deficiencies in construction and provide suggested corrective measures. If no action is taken by the Subdivision Agent within the thirty (30) day period, the request for reduction of the guarantee shall be deemed approved and a partial release granted to the subdivider or landowner in accordance

with (d) above.

(f) Upon final completion and acceptance of said improvements, the Subdivision Agent shall release any remaining guarantee to the subdivider or landowner upon inspection and approval by the Subdivision Agent or representative, service authority or state agency having jurisdiction. No final release shall be granted until after expiration of such thirty (30) day period in (e) above and there is an additional request in writing sent by certified mail to the Subdivision Agent. The Subdivision Agent shall act within ten (10) working days of receipt of this request. If no action is taken, the request shall be deemed approved and final release granted to the subdivider or landowner. For the purpose of final release, the term "acceptance" is deemed to mean when said public improvements are accepted by and taken over for operation and maintenance by the state agency, county government, department or agency, or other public authority which is responsible for maintaining and operating such public improvements upon acceptance.

(g) A certificate stating partial or final completion of such facilities according to the site plan and in compliance with the applicable standards from either a duly licensed professional engineer or from a department or agency originated by the county may, in the Subdivision Agent's sole discretion, be accepted without requiring further inspection of such facilities.

(h) The Subdivision Agent shall not refuse to make a periodic partial release or final release of guarantee for any reason not directly related to the specified defects or deficiencies in the construction of the improvements covered by the guarantee.

(i) Upon receipt from the Virginia Department of Transportation (VDOT) or other acceptable authority, of a written notice indicating that all improvements under their jurisdiction have been satisfactorily completed, the following steps will be taken:

- (1) The subdivider or landowner shall request a resolution from the board of supervisors for acceptance of the streets into the state highway system and for acceptance of other improvement by the appropriate authority. For acceptance of water and/or sewer facilities, a request shall be made pursuant to subsection 22-5(f) of the County Code.
- (2) In the case of roadways, the Transportation Board of the Commonwealth of Virginia must formally accept the roadways into the state highway system. Thereafter, upon written request of the subdivider or landowner, the county will conduct a bond release inspection, and shall release said surety within sixty (60) days of satisfactory inspection.

(Ord. No. 20-8, 10-24-95; Ord. No. 20-27, 12-14-04)

Sec. 20-6.1.8. Snow removal bond.

A separate bond, from the most current adopted fee schedule at time of application, shall be payable to the county to guarantee snow removal on publicly dedicated streets prior to acceptance of the streets into the state highway maintenance system. If the snow bond is used to hire a contractor for snow removal, the developer shall be required to replenish the bond to the original required amount or legal action shall be taken to collect the balance.

(Ord. No. 20-8, 10-24-95; Ord. No. 20-27, 12-14-04)

Sec. 20-6.1.9. Maintenance guarantee.

(a) *General.* The subdivider or landowner shall repair or replace any of said public improvements, including required landscaping, which, during the one (1) year period after acceptance, shall become damaged or deficient due to defective materials, workmanship, or other causes.

(b) *Conditions of guarantee.* To guarantee its obligation under subsection (a) of this section, the subdivider or landowner shall provide to the county, prior to county acceptance of any public improvements a corporate surety bond, letter of credit, or cash account in accordance with the requirements of this article, in the amount of ten (10) percent of the final construction costs of all public improvements, except public streets. The guarantee shall remain in force for the aforesaid one (1) year maintenance period and shall be for use by the county to effect such repairs deemed necessary for public convenience or safety, and which the subdivider or landowner has neglected to repair for ten (10) days after notification, or such lesser time after notification as determined by the director in the case of an emergency.

(c) *Additional maintenance requirements.* In the event the county has accepted the dedication of a road for public use and such road due to facts other than its quality of construction is not acceptable into the secondary system of state highways and the subdivider or landowner desires to be released from its surety guarantee imposed under section 20-6.1.3 of this article, then the subdivider or landowner shall furnish the county with a maintenance and indemnifying corporate surety bond, letter of credit or cash account in accordance with the requirements of this chapter. The bond shall be in an amount sufficient for and conditioned upon the maintenance of such road until such time as it is accepted into the secondary system of state highways. (Ord. No. 20-8, 10-24-95)

Sec. 20-6.1.10. Default and evaluation procedures.

(a) Failure by the subdivider or landowner to complete or maintain the required physical improvements or to remove snow in the period of time specified in the subdivision agreement or any approved extension, or as otherwise required by this chapter, shall constitute default of the subdivision agreement and/or a violation at the subdivision ordinance.

(b) Thereafter, the county may avail itself of any and all available remedies of law and in equity. (Ord. No. 20-8, 10-24-95)

ARTICLE 7.

DEDICATIONS, HOMEOWNERS' ASSOCIATIONS AND RESTRICTIVE COVENANTS

Sec. 20-7.1.1. Dedication and conveyance of improvements.

Common areas provided by the subdivider or developer shall be either dedicated to the county or conveyed to a homeowners' association created for the subdivision in accordance with the requirements of section 20-7.1.2 of this chapter. Private streets shall be conveyed to such homeowners' association. (Ord. No. 20-8, 10-24-95)

Sec. 20-7.1.2. Creation of entities to accept and maintain common features.

(a) A homeowners' or property owners' association, which shall be a Virginia nonstock corporation, shall be created whenever necessary to accept the dedication of and maintenance of improvements, common areas, common open space, or private streets. Such association shall be subject to restrictive covenants and easements approved by the Subdivision Agent and recorded with the record or final plat. The covenants and easements shall provide for the establishment of a homeowners' or property owner's association, if applicable, before any lots are sold, where:

- (1) Membership in the association is mandatory for each home buyer and any successive buyer, or in the case of non-residential land, for each owner, tenant or successive tenant;
 - (2) The association is responsible for assessing fees for liability insurance, local taxes and maintenance of common areas and private streets;
 - (3) Any fees levied by the association that remain unpaid will become a lien on the individual lot; and
 - (4) The association is authorized to adjust assessments as necessary to meet changing needs.
- (b) The covenants and restrictions of the homeowners' or property owners' association shall ensure the continued maintenance of any required open space and active recreational areas and prohibit the future development of these areas except in accordance with the approved plat.
- (c) In regard to non-residential subdivisions, the subdivider or developer may choose to provide for the maintenance of subdivision improvements, such as common areas, common open space, private streets, or storm water management facilities by other forms of agreements, covenants, declarations, and restrictions imposed upon property owners within the subdivision.

(Ord. No. 20-8, 10-24-95)

Sec. 20-7.1.3. Dedication of streets and right-of-way.

(a) Upon completion of the construction of subdivision public streets, the subdivider or landowner shall place such streets into the system of state secondary highways.

(b) If existing road rights-of-way within the subdivision do not meet the minimum width requirements required by the Virginia Department of Transportation, the subdivider or landowner shall dedicate sufficient land to meet the required right-of-way width.

(c) If existing road rights-of-way abutting the subdivision do not meet the minimum width requirements required by the Virginia Department of Transportation, the subdivider or landowner shall dedicate sufficient land to provide at least one-half of the right-of-way necessary to comply with the minimum right-of-way requirements.

(Ord. No. 20-8, 10-24-95)

Sec. 20-7.1.4. Off-site road improvement costs.

A subdivider or landowner may voluntarily contribute and the county may accept funds for off-site road

improvements.
(Ord. No. 20-8, 10-24-95)

Sec. 20-7.1.5. Ownership and maintenance of stormwater management facilities.

(a) *Lakes, ponds, and drainage facilities.* When lakes, ponds or drainage facilities are incorporated within a subdivision as part of a stormwater management system, ownership and maintenance responsibility shall be that of the homeowners' or property owners' association, if applicable, or determined by reference to any agreements, covenants, declarations, and restrictions that have been imposed upon property owners within the subdivision. An access easement for inspection and maintenance shall be dedicated to the county.

(b) *Single ownership areas.* Swales and other drainage facilities not in common areas shall be maintained in private single ownership, with appropriate drainage or flowage easements provided as necessary.

(c) *Streets and common area.* Stormwater management facilities that are incorporated into street right-of-way, open space areas, or similar common facilities, or which lead from such facilities to retention/detention areas or major drainage ways shall be the responsibility of the owner of the lot on which such lakes and ponds are located or set forth in subsection A, above. If required, the subdivider or landowner shall dedicate flowage easements and access easements to the County for right of use, inspection and emergency maintenance.

(Ord. No. 20-8, 10-24-95)

ARTICLE 8.

CONSTRUCTION OF IMPROVEMENTS

Sec. 20-8.1.1. Responsibility for installation of improvements.

All improvements required under this chapter, the Zoning Ordinance (Chapter 23 of the County Code), or the Design Standards Manual shall be installed at the cost of the subdivider or landowner.

(Ord. No. 20-8, 10-24-95)

Sec. 20-8.1.2. Monuments.

All lot corners not covered by section 20-8.1.3 shall be marked with a durable monument.

(Ord. No. 20-8, 10-24-95)

Sec. 20-8.1.3. Geodetic control monuments.

(a) For a proposed subdivision any part of which is located within one (1) mile of any second order geodetic control monuments, the following requirements shall apply:

- (1) *Monumentation.* Every final plat shall reference at least two concrete monuments at the subdivision corners to the VCS 1983. The bearings shown on the plat shall be referenced to the

VCS 1983. The geodetic control monument from which the coordinate reference is derived shall be referenced including the identifier and VCS 1983 coordinates. It is the surveyor's responsibility to ascertain existence of geodetic control monuments of second order class II accuracy to be utilized in his or her surveys. Assistance will be provided by the office of mapping to the extent of granting access to its records on geodetic control data.

- (2) *North arrow.* Every preliminary and final plat shall provide a north arrow annotated in accordance with the meridian to which the plat bearings are referenced as required by the following:
 - a. VCS 1983, as represented by the SC geodetic monument network, for subdivisions or resubdivisions as indicated in subsection (1) of this section.
 - b. True north for subdivisions or resubdivisions not subject to subsection (1) of this section.
- (3) *Notation on plat.* The following note shall appear on every final plat and the plat shall be prepared in accordance with the note:

The plat of the land shown hereon is referenced to the Virginia Coordinate System of 1983 as computed from a field survey which ties this subdivision boundary to (SC or DOD) monument (insert number and name of monument).

The grid factor (elevation factor \times scale factor) which has been applied to the field distance to derive the referenced coordinates is (insert complete grid factor). Unless otherwise stated the plat distances shown are intended to be horizontal distances measured at the mean elevation of the subdivision.

The bearings shown are referenced to VCS 1983 Grid North. The foot definition used for conversion of the monument coordinates is the "U.S. Survey Foot" or 1 foot = 1200/3937 meter.

- (4) *Easements.* Geodetic control monuments shall be located within suitable easements.

(b) For a proposed subdivision no part of which is located within one (1) mile of any second order geodetic control monuments, the surveyor shall contact the office of mapping to obtain alternate ground control coordinates. Additionally, the plat shall state: "No suitable geodetic control was found within one mile of any part of this subdivision."

- (1) *Monumentation.* As required by section 20-8.1.2, Monuments.

- (2) *North Arrow.* As required by section 20-8.1.3, Geodetic control monuments, subsection (a), paragraph (2), North Arrow.

(Ord. No. 20-8, 10-24-95; Ord. No. 20-17, 4-13-99)

Sec. 20-8.1.4. Visibility of monuments for inspection.

Upon completion of subdivision streets, sewers and other improvements, the subdivider or landowner

shall make certain that all monuments required by sections 20-8.1.2 and 20-8.1.3, above, are clearly visible for inspection and use and shall provide a certificate signed by an engineer or surveyor that the monuments have been properly installed.

(Ord. No. 20-8, 10-24-95)

Sec. 20-8.1.5. Street identification signs.

Street identification signs of a design meeting Virginia Department of Transportation standards and approved by the Subdivision Agent shall be installed at all intersections in subdivisions. Prior to the issuance of an occupancy permit, all street signs in the section in which the structure is located shall be installed.

(Ord. No. 20-8, 10-24-95)

Sec. 20-8.1.6. Subdivision infrastructure (streets, sidewalks, trails, and tot lots) required prior to sale or occupancy.

(a) Before a structure in a subdivision may be occupied, the streets, sidewalks, trails, tot lots and any other physical improvements or infrastructure as provided for on the approved plat must be constructed as shown on the construction plans or infrastructure plan for that approved section where such structure is located. If the street is dedicated as a public street, it shall have, at a minimum, an asphalt base course constructed as required by the Virginia Department of Transportation specifications current at the time of construction before any house can be occupied. This street construction requirement shall extend to the nearest public street that has already been accepted into the State highway system.

(b) In a residential subdivision, if the street in front of the house has not been taken into the state highway system prior to the sale or occupancy of the home then the developer shall have a Professional Engineer certify to Spotsylvania County and Spotsylvania County School Board Transportation Department that the street is safe for school buses to travel to pick up and discharge students.

(Ord. No. 20-8, 10-24-95; Ord. No. 20-27, 12-14-04)

Sec. 20-8.1.7. Snow removal responsibility in a residential subdivision.

Snow plowing of streets not accepted into the state system shall be provided by subdividers in subdivisions under construction. Snow plowing shall commence when there has been an accumulation exceeding four (4) inches and continue until streets are cleared to a maximum depth of four (4) inches. Failure to provide snow plowing of streets as required by this section shall result in the board of supervisors using County equipment or the hiring of a private contractor to provide snow removal and causing the same to be a charge upon the subdivider.

(Ord. No. 20-8, 10-24-95)

ARTICLE 9.

PRO RATA CONTRIBUTIONS FOR OFF-SITE SEWER, WATER AND DRAINAGE COSTS*

* **Cross References:** Water and sewer facilities for subdivisions, § 22-5.

Sec. 20-9.1.1. Applicability.

The subdivider or landowner shall be required to pay a pro rata share of the cost of providing reasonable and necessary sewer, water or drainage improvements located outside of the limits of the land proposed to be subdivided, provided that:

- (a) The director of planning determines that such off-site improvements are necessitated at least in part by the construction or improvement of the subdivision;
- (b) The board of supervisors has established a general sewer, water or drainage improvement program for an area having related and common water, sewer and drainage conditions;
- (c) The subdivider's or landowner's land is located within the designated area covered by the program;
- (d) The estimated cost of the total water, sewer or drainage improvement program has been determined; and
- (e) The estimated water flow, sewage flow or stormwater run-off has been established for the designated area served by such program.

(Ord. No. 20-8, 10-24-95)

Sec. 20-9.1.2. Determination of pro-rata share.

The subdivider's or landowner's share of the above-estimated cost of improvements shall be limited to the proportion of such estimated cost which the increased water and sewage flow or increased volume and velocity of stormwater runoff to be actually caused by his subdivision bears to the total estimated volume and velocity of such water, sewage or runoff from such area in its fully developed state.

(Ord. No. 20-8, 10-24-95)

Sec. 20-9.1.3. Use of payment and bond in lieu of payment.

Such payment received by the county shall be expended only for construction of those facilities for which the payment was required, and until so expended shall be held in a separate account for each of the individual improvement programs until such time as they are expended for the improvement program; provided, however, that, in lieu of such payment, the county may permit the subdivider or landowner to post a bond with surety satisfactory to the county conditioned on payment at commencement of such construction.

ARTICLE 10.

AMENDMENTS TO SUBDIVISION ORDINANCE

This chapter may be amended only by the board of supervisors. Amendments shall be considered and adopted in accordance with the provisions of the Code of Virginia, section 15.2-2253.

(Ord. No. 20-8, 10-24-95)

ARTICLE 11.

ENFORCEMENT AGAINST VIOLATIONS*

* **State Law References:** Penalty for violation of subdivision ordinance, Code of Virginia, § 15.2-2254.

Sec. 20-11.1.1. Enforcement responsibilities.

The terms and requirements of this chapter shall be enforced by the Subdivision Agent as the agent of the board of supervisors.
(Ord. No. 20-8, 10-24-95)

Sec. 20-11.1.2. Penalties for violations.

(a) Any person who subdivides, records, transfers or sells any lot in violation of any provision of this chapter shall be subject to a fine of not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00) for each lot so subdivided or transferred or sold.

(b) Each day of a continuing violation of this chapter shall constitute a separate violation subject to the penalties and remedies set forth in this article.
(Ord. No. 20-8, 10-24-95)

Sec. 20-11.1.3. Notice of violation and citation procedure.

(a) *Notification.* If upon inspection the Subdivision Agent determines that a violation of this chapter exists, then he shall notify the owner in writing, describing the violation and the corrective action, which would be required to eliminate the violation.

(b) *Warrant.* If the violation is not corrected within seven (7) days after the date of the notice of violation or such longer period of time set forth in the notice, depending on the nature of the violation, the Subdivision Agent shall swear out a warrant to the clerk of the proper court, citing the violation and forward a copy of all information in the case to the county attorney.

(c) *Permits.* No building permits shall be issued for the lot, which is in violation of this chapter, except to correct such violation, until the violation is corrected.
(Ord. No. 20-8, 10-24-95; Ord. No. 20-27, 12-14-04)

ARTICLE 12.

SEVERABILITY

Sec. 20-12.1.1. Severability.

If any court of competent jurisdiction adjudges any provision of this chapter to be invalid, then such judgment shall not affect the validity and continued enforcement of any other provision of this chapter. If any court of competent jurisdiction adjudges the application of any provision of this chapter to be invalid, then such

judgment shall not affect the application of that provision to any other lot, building, structure, or use not specifically included in that judgment.
(Ord. No. 20-8, 10-24-95)

(Ord. No. 20-8, 10-24-95)

ARTICLE 13.

NON-RESIDENTIAL SUBDIVISION APPROVAL PROCEDURES

DIVISION 1.

GENERAL PROVISIONS

Sec. 20-13.1.1. Who may file; payment of fees.

(a) An application for non-residential subdivision approval shall be signed by the owner of the lot, which is to be subdivided, or by an agent authorized in writing by the owner to sign such application.

(b) All applications shall be accompanied by the payment of fees to defray the cost of reviewing the application.

(c) Such fees shall be included in a unified fee schedule to be entitled "Fee Schedule (Land Use and Building)", adopted by the Board of Supervisors, and thereafter amended from time to time by ordinance, in accordance with section 1-6(7), of the Code of Spotsylvania County.

State Law References: Authority for above fees, Code of Virginia, § 15.2-2241.

Sec. 20-13.1.2. Determination of completeness.

Within ten (10) working days after receiving an application for subdivision approval, the director of planning shall determine whether the application is complete. If the director of planning determines that the application and plat are not complete, the Director shall mail or give to the applicant written notice of any necessary revisions and shall take no further steps to process the application until the applicant completes the necessary revisions.

Sec. 20-13.1.3. Review and report by staff.

Once an application for subdivision approval is determined to be complete, the director of planning shall, as appropriate, forward the application to the development review committee or planning commission and representatives of other government agencies for review and comment.

Sec. 20-13.1.4. Standards of review.

No final plat may be approved unless all requirements of duly adopted ordinances, regulations or other laws of the county, the State of Virginia and the United States are met. Satisfaction of the requirements of the

zoning ordinance shall be based on facts and circumstances in existence at the time of the decision to approve or disapprove an application for subdivision approval.

Sec. 20-13.1.5. Exceptions.

(a) A request for an exception to the provisions of article 5 of this chapter may be submitted to the director of planning. The director shall review such request and submit a recommendation to the planning commission within ten (10) days of receipt of the request.

(b) Within 45 days after submittal to the planning department, the planning commission shall consider the request for an exception and the recommendation of the director of planning and either approve, approve with conditions or disapprove the request for an exception. An exception may be approved if the applicant demonstrates that application of the provisions of article 5 of this chapter would result in substantial injustice or hardship.

Sec. 20-13.1.6. Overview of review process.

The review of a non-residential subdivision shall either follow the residential process as outlined in § 20-4.1.6 or a single-step process involving the review and recordation of a final plat, outlined in this article. It is the applicant's discretion as to which process is used:

(a) If the applicant for a non-residential subdivision chooses to use the process for residential subdivisions, bonding and/or installation of infrastructure for the non-residential subdivision must be posted prior to the recordation of the final plat.

(b) If the applicant chooses to use the single-step process for non-residential subdivisions, the bonding of infrastructure must be posted prior to or with the approval of the first site plan located within the recorded subdivision.

DIVISION 2.

PREAPPLICATION CONFERENCE

Sec. 20-13.2.1 Conference encouraged for non-residential subdivisions.

Applicants for a non-residential subdivision are encouraged to meet with the director of planning and/or the development review committee to discuss the proposed final plat in order to become familiar with the applicable requirements and approval procedures of the county and the comments and advice of county staff.

20-13.2.2 Required materials for pre-application conference.

The Subdivision Agent shall schedule the pre-application conference when the following materials are provided by the applicant for subdivision:

(a) A completed pre-application form (as provided by the Subdivision Agent) which, at a minimum, provides the following information:

- (1) Proposed name of subdivision;
- (2) Type of application (Construction Plan or Final Plat);
- (3) Name, address, phone number of applicant;
- (4) Name, address, phone number of engineer or surveyor;
- (5) Tax map number; and,
- (6) Site location, and if known, site address.

(b) A conceptual plan of the project (in the number of copies as designated on such forms and policies as established by the Subdivision Agent) which provides general information, including:

- (1) The general layout of the proposed division; and,
- (2) Identification of the zoning district and proof that the project meets the general development standards for the district.

Subdivision Agent

DIVISION 3.

FINAL PLATS

Sec. 20-13.3.1 Purpose

The purpose of a final plat is to show the boundaries and dimensions of lots to be created by way of the non-residential subdivision process. The recordation of the final plat by the Clerk of the Circuit Court commits the boundaries to the land record and establishes new parcels of land. Any public easements and right-of-way dedicated to public street purposes will be conveyed to Spotsylvania County or the Commonwealth of Virginia by recordation of the final plat.

Sec. 20-13.3.2. Required Final Plat Information

An application and final plat shall be prepared in accordance with the standards for plats under The Public Records Act (42.1- 76 et seq.) of the Code of Virginia, and shall be drawn to the size and scale specified by the Subdivision Agent and shall contain or be accompanied by such information, plans and number of copies as designated on such forms and policies as established by the Subdivision Agent. At a minimum, the application shall be accompanied by:

(a) A final plat containing a current boundary survey or reference to a boundary survey which provides:

- (1) A certificate signed by the surveyor or engineer responsible for preparation of the plat;
- (2) Where applicable, a certificate signed by:
 - (i.) the state highway engineer where compliance with Virginia Department of Transportation standards are an issue; and,
 - (ii) the official required by the Code of Virginia to approve wells and on-site wastewater facilities if such facilities are to be used; the applicant shall provide two copies of the soil reports prepared by a soil scientist
- (3) A surveyor's or engineer seal with original signature and date as of the latest revision, indicating the surveyor or engineer as a licensed professional;
- (4) A signed and notarized owner's consent and certificate indicating the source of title of the owner of the land subdivided, and the place of record of the last instrument in the chain of title.
- (5) An approval certificate for the Subdivision Agent;
- (6) In capitalized, **bold**, 14 point type the following notices:

NOTICE: THIS PLAT SHALL BECOME NULL AND VOID AND BE OF NO FURTHER FORCE AND EFFECT IF THE PLAT IS NOT RECORDED IN ACCORDANCE WITH THE SUBDIVISION ORDINANCE OF SPOTSYLVANIA COUNTY WITHIN SIX (6) MONTHS OF THE DATE OF APPROVAL.

APPROVAL AND/OR RECORDING OF THIS PLAT DOES NOT CONSTITUTE ASSURANCE THAT PUBLIC SEWER OR PUBLIC WATER SERVICE WILL BE AVAILABLE TO SERVE THE LAND DESCRIBED ON THIS PLAT AT ANY PARTICULAR TIME.

BONDING OF PUBLIC INFRASTRUCTURE WILL BE REQUIRED AT THE TIME OF SITE PLAN APPROVAL

IT IS THE RESPONSIBILITY OF EACH LOT OWNER TO ACQUIRE THE NECESSARY EASEMENTS FOR DEVELOPMENT OF THE LOT.

- (7) When the plat is submitted without an infrastructure plan already approved, it shall have the following notices (in capitalized, **bold**, 14 point type):

THIS SUBDIVISION WAS APPROVED WITHOUT AN INFRASTRUCTURE PLAN REVIEW BY SPOTSYLVANIA COUNTY.

**ANY SITE PLAN SUBMITTED FOR THE DEVELOPMENT OF
INDIVIDUAL LOTS MUST SHOW THE PROVISION FOR PUBLIC
WATER, SEWER AND ACCESS TO EACH LOT IN THE SUBDIVISION.**

(8) When the plat is of land acquired from more than one source of title, the outline and area of each of the several tracts shall be indicated upon the plat, within an insert block, or by means of a dotted boundary line upon the plat;

(b) In the case of a final plat for land with existing improvements, a supplemental sheet (not to exceed the dimensions of the final plat) shall be prepared and submitted with the plat that provides, at a minimum:

- (1) The proposed lot lines and boundaries;
- (2) Requirements of the zoning ordinance, including structures, setbacks, parking, landscaping;
- (3) Building Code Requirements
- (4) Locations and dimensions of extant water and sewer lines and their accompanying easements (including land record numbers); and,
- (5) A statement indicating compliance with the Zoning and Subdivision Ordinance signed by the surveyor or engineer.

(c) Executed covenants and restrictions for any common areas as required under article 7 of this chapter;

(d) The articles of incorporation or other organizational documentation for any proposed property owners' association, or;

(e) The by-laws of any proposed property owners' association; and,

(f) A copy of the deed of conveyance and a title certificate or, at the discretion of the Subdivision Agent, a commitment for a policy of title insurance issued by an insurance company authorized to do business in the Commonwealth of Virginia, assuring unencumbered title for all lands or easements proposed to be conveyed to the county, other appropriate governmental agency, or other organization, including the property owners' association; and,

(g) An executed deed of dedication and easement conveying to the county land in fees simple and easements for public/county purposes which are depicted on the final plat.

Sec. 20-13.3.3. Review of final plat.

Once an application for final plat approval is determined to be complete, the Subdivision Agent shall forward copies of the final plat to the development review committee and other representatives of county, state, federal, departments and agencies as appropriate, for review and comment.

The Subdivision Agent shall review the application and accompanying documents to determine whether the proposed record plat is in compliance with the requirements of this section and in conformance with the previously approved construction plan (if required). Within 60 days after an application for final plat is determined complete, the Subdivision Agent shall either approve or disapprove the plat.

The applicant shall be given written notice of the approval or disapproval. In the case of disapproval the notice shall identify to the greatest extent practicable all deficiencies with the initial submission and shall identify the modifications or corrections that will permit approval of the plat

Sec. 20-13.3.4. Resubmission of Revised Non-residential Final Plat

Upon receipt of notice from the Subdivision Agent or his agent that a final plat and/or associated documents have not been approved the applicant shall submit a revised final plat within sixty (60) days of the date of notice, addressing all deficiencies identified in the notice.

The resubmitted proposed plat and associated documents shall be reviewed and approved or disapproved within 45 days after the plat has been modified, corrected and resubmitted for approval. (The applicant may request a resubmission extension, in writing, for a period not to exceed sixty (60) days. A second extension may be requested, in writing, for a period not to exceed thirty (30) days.)

The required resubmission timeline may be waived by the Subdivision Agent in extenuating circumstances. The waiver shall be requested, in writing to the Subdivision Agent, by the applicant for subdivision review and approval at least fifteen days prior to the last extension period ending. The request shall fully describe the circumstances related to the failure to resubmit and provide reasonable justification for granting the waiver. No period of extension shall exceed six months.

Failure to resubmit a revised final plat in accordance with this section shall render the application null and void.

Sec. 20-13.3.5 Recordation of Final Plat

The applicant shall record the approved plat, any deeds of dedication and easement, and declarations of covenants and restrictions, as applicable, with the clerk of the Circuit Court.

An approved final plat shall be void if not recorded within six months of approval.

DIVISION 4.

INFRASTRUCTURE PLANS

Sec. 20-13.4.1 Purpose

The purpose of an infrastructure plan is to demonstrate that all required infrastructure is feasible within the proposed subdivision. The plan is not a construction document for a specific project and is non-binding.

Sec. 20-13.4.2. Requirements for an infrastructure plan.

An infrastructure plan is required when a final plat has been recorded and the subdivider or any landowner within the subdivision desires to apply for a site plan for individual site development. The infrastructure plan must be approved prior to or concurrently with the approval of the individual site plan for lot development. The infrastructure plan must provide the design for all required infrastructure for the entirety of the subdivision.

An infrastructure plan may be submitted concurrently with an application for site plan review; however, site plan approval is contingent upon approval of the infrastructure plan application.

Sec. 20-13.4.3. Required infrastructure plan information.

A complete application for an infrastructure plan review shall contain or be accompanied by the following documents, information, and plans:

- (a) If the proposed subdivision is part of a larger lot, an overall layout plan of such larger lot and a narrative description of the development plan for any phasing proposed;
- (b) An infrastructure plan, drawn to a scale of 1 inch = 200 feet for tracts over fifty acres and 1 inch = 100 feet for smaller parcels, on a sheet(s) no larger than 24 inches by 36 inches, prepared by a licensed engineer or surveyor, in a standard format prescribed by the Subdivision Agent that provides the following information:

(1) General Requirements:

- i. Subdivision Agent Proposed name of subdivision;
- ii. Name, address of owner and applicant;
- iii. Name, original signature, license number, original seal (dated no earlier than the date of the last revision) and address of the licensed engineer or surveyor, as applicable, involved in plan preparation to comply with all laws, ordinances and regulations governing the preparation, signing and sealing of such plan;
- iv. Title block denoting type of application ("Infrastructure Plan"), tax map number, street location, and date of original;
- v. A vicinity map at a scale of one (1) inch = two thousand (2,000) feet showing location of lot with reference to surrounding properties, streets, municipal or County boundaries, etc., within one-half mile;
- vi. A list of revisions and dates;
- vii. Signature block for the Subdivision Agent;
- viii. Preparer's certification blocks;
- ix. Boundary survey showing bearings and distances with error of closure that meets current surveying practices as administered by the state;
- x. Total acreage of lot to be subdivided (or square feet, if less than an acre);
- xi. The location of any existing or proposed improvements and/or easements;

- xii. Size and location of any existing structures, applicable setbacks and building lines;
- xiii. Topographic contours with a minimum of ten (10) foot contours from USGS map or other more accurate source, except for lots less than two (2) acres, a minimum of two (2) foot contours shall be shown;
- xiv. Water bodies and USGS perennial and intermittent streams;
- xv. Wetlands boundaries based on county maps;
- xvi. Historic landmarks, historic district boundaries, Virginia natural heritage sites, and any known historic features, including Civil War resources, such as, earthworks, trace roads, stonewalls and fences shall be delineated;
- xvii. Any known cemeteries, graves, objects or structures marking a place of burial shall be delineated;
- xviii. One-hundred-year floodplain boundaries as shown on FEMA maps, dated December 1, 1987 or latest maps or revisions;
- xix. Approximate location and description of wooded areas, hedgerows and tree lines,;
- xx. Existing and proposed easements, rights-of-way or land reserved for or dedicated to public use and/or areas to be held in common ownership;
- xxi. Existing and proposed points of connection with public water and sewer;
- xxii. The approximate location and area of any sewage disposal site.,
- xxiii. A schedule of applicable zoning districts and requirements, including lot area, width, depth, setbacks, building coverage, open space, parking, etc.;
- xxiv. Chesapeake Bay Preservation Area data required by Chapter 6A.
- xxv. Lot layout including lot numbers and setback lines and, if greater than one (1) acre, approximate sizes;
- xxvi. Minimum lot width at street;

(2) Street Requirements:

- i. Existing and proposed street layout;
- ii. Existing and proposed street names and widths;
- iii. Typical section of all streets, including pavement structure proposed and typical grading;
- iv. Trail and sidewalk plan and section, including pavement structure proposed ;
- v. Traffic projections and analysis where necessary to estimate warrants for signalization, turn lanes, and other related features to satisfy the requirements of the Virginia Department of Transportation; and,

(3) Utility Requirements:

- I. General description of water supply system;

- II. Water plan, including material, size, cover and utility crossings, of existing and proposed water mains, including any off-site improvements necessary to serve the subdivision;
- III. Fire flow and water pressure calculations, in consultation with the Utilities Engineer and Fire Marshal;
- IV. Description and approximate location of proposed sewer system;
- V. Sewer plan including material, size, cover, structures, , including any off-site improvements necessary to serve the subdivision;
- VI. Vertical sewer feasibility study which shows any known, buried structures;
- VII. Downstream sewer capacity analysis;
- VIII. Any information, details or design, as necessary, to demonstrate or achieve compliance with the standards of this ordinance.

(4) Stormwater Management and Erosion and Sediment Control Requirements:

- i. Approximate location and general design of proposed storm water management facilities.

Sec. 20-13.4.4. Review of infrastructure plan.

Once an application for infrastructure plan approval is determined to be complete, the Subdivision Agent shall forward copies of the infrastructure plan to the development review committee and other representatives of county, state, federal, departments and agencies as appropriate, for review and comment.

The Subdivision Agent shall review the application and accompanying documents to determine whether the proposed infrastructure plan is in compliance with the requirements of this section and in conformance with the requirements and ordinances of this chapter and chapter 23. Within 60 days after an application for an infrastructure plan is determined complete, the Subdivision Agent shall either approve or disapprove the plan.

The applicant shall be given written notice of the approval or disapproval. In the case of disapproval, the notice shall identify to the greatest extent practicable all deficiencies with the initial submission and shall identify the modifications or corrections that will permit approval of the plan.

Sec. 20-13.4.5. Resubmission of infrastructure plan.

Upon receipt of notice from the Subdivision Agent or his agent that an infrastructure plan and/or associated documents have not been approved, the applicant shall submit a revised infrastructure plan within sixty (60) days of the date of notice, addressing all deficiencies identified in the notice.

The resubmitted proposed infrastructure plan and associated documents shall be reviewed and approved or disapproved within 45 days after the plat has been modified, corrected and resubmitted for approval. The

applicant may request a resubmission extension, in writing, for a period not to exceed sixty (60) days. A second extension may be requested, in writing, for a period not to exceed thirty (30) days.

The required resubmission timeline may be waived by the Subdivision Agent in extenuating circumstances. The waiver shall be requested, in writing to the Subdivision Agent, by the applicant for infrastructure plan review and approval at least fifteen days prior to the last extension period ending. The request shall fully describe the circumstances related to the failure to resubmit and provide reasonable justification for granting the waiver. No period of extension shall exceed six months

Failure to resubmit a revised final plat in accordance with this section shall render the application null and void.

Sec. 20-13.4.6. Effect of infrastructure plan approval.

The effect of infrastructure plan approval is to enable approval of site plans for lots created under this chapter. Infrastructure plan approval does enable construction of infrastructure.

APPENDIX A – FORM A

COUNTY OF SPOTSYLVANIA SUBDIVISION AGREEMENT

This agreement, made this _____ day of _____, 20_____, by and between _____, and all successors in interest, party(ies) of the first part, hereinafter referred to as "OWNER", and the COUNTY OF SPOTSYLVANIA, VIRGINIA, a Political Subdivision, party of the second part, hereinafter referred to as "COUNTY".

WHEREAS, the party(ies) of the first part is (are) the owner of a certain tract of land located in the County of Spotsylvania, Virginia; and

WHEREAS, the said parcel of land is being subdivided by the Owner into the subdivision known and designated as:

and the Owner has caused a plat of said subdivision dated _____, _____, to be prepared by _____, Certified Land Surveyors, or Civil Engineers, which said plat the Owner desires to admit to record in the Clerk's Office of the Circuit Court for the County of Spotsylvania, Virginia; and

WHEREAS, the Owner agrees to construct and locate all physical improvements in said subdivision, as required by the Subdivision Ordinance of the County of Spotsylvania, Virginia, or shown on the development plans approved by the Agent of the Subdivision Ordinance, hereinafter to as "AGENT"; and

Whereas, the Owner has posted sufficient bond, letter of credit or certified check, pursuant to existing

ordinances, approved as to form by the County Attorney, and with surety satisfactory to the County in the amount of \$ _____ (\$ _____) guaranteeing the installation of the aforementioned improvements before _____; and

WHEREAS, the County of Spotsylvania has agreed that it will permit the recordation of the plat of said subdivision upon the execution of this agreement.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That for and in consideration of the premises and the approval of said subdivision and the covenants and agreements herein contained, the parties hereto agree as follows:

1. The Owner does covenant and agree that it will, without cost to the County, before _____, construct to the approval of the County all physical improvements as required by the Subdivision Ordinance of the County, or shown on the development plans approved by the Agent. If, in the sole judgment of the County, circumstances beyond the control of the Owner prevent the owner from completing the improvements in the time set forth herein, then the County may at its sole discretion grant an extension of time for completion of said improvements and in such instance the County shall require an amended bond, letter of credit, or certified check, approved as to form by the County Attorney, and with surety satisfactory to the county in an amount to guarantee the installation of the aforementioned improvements.

2. It is mutually understood and agreed that in the event the Owner fails to properly complete the physical improvements provided hereinabove, the County may complete, or cause to have completed, the same and render a bill therefore to the Owner who shall be liable to the county for all property costs so incurred by the County or the County may draw the amount necessary from the surety to complete or cause to have completed the same.

3. It is mutually understood and agreed that this agreement does not relieve the Owner of any responsibilities or requirements placed upon them by the various ordinances of the County applicable to such subdivision and development of the property, and the subdivision and development of the property will be done in strict accordance with such ordinances.

4. It is mutually understood and agreed that if the Owner shall faithfully execute each and all requirements of the said Subdivision Ordinance and the provisions of this agreement, and shall indemnify, protect and save harmless the County of Spotsylvania from all loss, damage, expense or cost by reason of any claim, suite or action instituted against the County of or its agents or employees thereof, on account of, or in consequence of any breach on the part of the Owner, then the aforementioned bond, letter of credit, or certified check, shall be released by the County to the Owner.

5. The Owner does hereby agree to indemnify, protect and save harmless the County from and against all losses and physical damages to property, and bodily injury or death to any person or persons, which may arise out of or be caused by the construction, maintenance, presence or use of the streets, utilities and public easements required by, and shown on, the development plans and the subdivision plat until such time as the said streets shall be accepted as part of the Virginia Department of Transportation's system and utilities and public easements shall be accepted as a part of the county's system. To insure such indemnification, the county may require and the owner shall provide upon request a Certificate of Public Liability Insurance in an amount approved by the County Attorney as sufficient, including a governmental endorsement thereto, naming the

county as an insured, issued by an insurance company licensed to do business in the Commonwealth of Virginia.

6. It is mutually understood and agreed, that the approval on final plat or plats of this subdivision, or section thereof, shall not be deemed to be an acceptance by the County of any street, alley, public space, sewer or other physical improvements shown on the plat or plats for maintenance, repair or operations thereof, and that the Owner shall be fully responsible therefore and assume all of the risks and liabilities therefore. Nor shall approval on final plat or plats of this subdivision be deemed to guarantee public water or sewer service or available capacity.

	COUNTY OF SPOTSYLVANIA, VIRGINIA
	BY: ____ COUNTY ADMINISTRATOR
	OWNER:
	____ (print) (owner)
	BY: ____ (name)
	ITS: ____ (title)
APPROVED AS TO FORM:	
____ COUNTY ATTORNEY	
STATE OF ____	
CITY/COUNTY OF _____,	to-wit:

The foregoing subdivision agreement was acknowledged this the _____ day of _____, 200_____, by _____ who is the (title) of the corporation.

Notary Public

My Commission Expires:

STATE OF VIRGINIA
COUNTY OF SPOTSYLVANIA, to-wit:

The foregoing subdivision agreement was acknowledged this the _____ day of _____, 200_____, by _____ County Administrator of the County of Spotsylvania.

Notary Public

My Commission Expires:
(Ord. No. 20-8, 10-24-95; Ord. No. 20-27, 12-14-04)

APPENDIX A – FORM B

Please complete the Infrastructure Agreement as instructed, below.

COUNTY OF SPOTSYLVANIA INFRASTRUCTURE AGREEMENT

THIS AGREEMENT, made this ____ day of _____, 20__, by and between _____, [fill in one of the following: a _____ (fill in name of state of incorporation) corporation, partnership or LLC or husband and wife, or individually], and all successors in interest, the party(ies) of the first part ("OWNER"), and the COUNTY OF SPOTSYLVANIA, VIRGINIA, a political subdivision of the Commonwealth of Virginia, the party of the second part, ("COUNTY"). *[If an individual or entity other than the Owner is providing the bonding of the improvements, add the following language: _____, a (name of state of incorporation) corporation, partnership or LLC or husband and wife, or individually, and all successors in interest, the party(ies) of the third part join in this agreement.]*

WHEREAS, the party(ies) of the first part is (are) the owner(s) of a certain tract of land known and described as _____, located in the County of Spotsylvania, Virginia; and

[If an individual or entity other than the Owner is providing the bonding of the improvements, add the following paragraph: WHEREAS, the party(ies) of the ____ part is (are) the developer(s) of the tract of described herein; and]

WHEREAS, the said parcel of land is part of that subdivision known and designated as: _____, as shown on a plat of said subdivision titled _____, dated _____, as last revised, prepared by _____, Certified Land Surveyors or Civil Engineers, and recorded as LR# _____ in the Clerk's Office of the Circuit Court for the County of Spotsylvania, Virginia; and,

WHEREAS, the Owner agrees [or "the Owner and Developer agree"] to locate and construct all physical improvements on Owner's lot or parcel and on such other lots or parcels as may be required by the Subdivision and Zoning Ordinances of the County of Spotsylvania, Virginia, or as shown on the site plan or plan of development entitled _____ by _____, dated _____, or as last revised, and approved by the County and such state agencies as may pertain thereto; and

WHEREAS, the Owner has posted [or "the Developer has posted"] sufficient bond, letter of credit or certified check, pursuant to existing ordinances, approved as to form by the County Attorney, and with surety satisfactory to the County in the amount of _____ and 00/100 Dollars (\$ _____) guaranteeing the installation of the aforementioned improvements before _____; and

WHEREAS, the County of Spotsylvania has agreed that it will permit the approval of the site plan or plan or development of said parcel(s) upon the execution of this agreement.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That for and in consideration of the premises and the approval of said site plan or plan of development and the covenants and agreements herein contained, the parties hereto agree as follows:

1. The Owner does covenant and agree that it will, without cost to the County, before _____, construct to the approval of the County all physical improvements as required by the Subdivision and Zoning Ordinances of the County, or shown on the site plan or plan of development approved by the County and such state and federal agencies as may be required to give their approval. If, in the sole judgment of the County, circumstances beyond the control of the Owner [and Developer] prevent the Owner [and Developer] from completing the improvements in the time set forth herein, then the County may at its sole discretion grant an extension of time for completion of said improvements and in such instance the County shall require an amended bond, letter of credit, or certified check, approved as to form by the County Attorney, and with surety satisfactory to the County in an amount to guarantee the installation of the aforementioned improvements.

2. It is mutually understood and agreed that in the event the Owner [and Developer] fail(s) to properly complete the physical improvements provided hereinabove, the County may complete, or cause to have completed, the same and render a bill therefore to the Owner [and Developer] who shall be jointly and severally liable to the County for all proper costs so incurred by the County or the County may draw the amount necessary from the surety to complete or cause to have completed the same.

3. It is mutually understood and agreed that this agreement does not relieve the Owner [and Developer] of any responsibilities or requirements placed upon them by the various ordinances of the County applicable to such subdivision and development of the property, and the subdivision and development of the property will be done in strict accordance with such ordinances.

4. It is mutually understood and agreed that if the Owner [and Developer] shall faithfully execute each and all requirements of the said Subdivision and Zoning Ordinances and the provisions of this agreement, and shall indemnify, protect and save harmless the County of Spotsylvania from all loss, damage, expense or cost by reason of any claim, suit or action instituted against the County of Spotsylvania or its agents or employees thereof, on account of, or in consequence of any breach on the part of the Owner [and Developer], then the aforementioned bond, letter of credit, or certified check, shall be released by the County to the party who posted the bond, letter of credit or certified check.

5. The Owner [and Developer] does [do] hereby agree to indemnify, protect and save harmless the County from and against all losses and physical damages to property, and bodily injury or death to any person or persons, which may arise out of or be caused by the construction, maintenance, presence or use of the streets, utilities and public easements required by, and shown on, the development plans and the subdivision plat until such time as the said streets shall be accepted as part of the Virginia Department of Transportation's system and utilities and public easements shall be accepted as a part of the County's system. To insure such indemnification, the county may require and the owner shall provide upon request a Certificate of Public Liability Insurance in an amount approved by the County Attorney as sufficient, including a governmental endorsement thereto, naming the County as an insured, issued by an insurance company licensed to do business

in the Commonwealth of Virginia.

6. It is mutually understood and agreed, that the approval of final plat or plans of this subdivision, or portion thereof, shall not be deemed to be an acceptance by the County of any street, alley, public space, sewer or other physical improvements shown on the plat or plans for maintenance, repair or operations thereof, and that the Owner [and Developer] shall be fully responsible therefore and assume all of the risks and liabilities therefore. Nor shall approval on final plat or plans of this subdivision, or any part thereof, be deemed to guarantee public water or sewer service or available capacity.

SIGNATURES ON FOLLOWING PAGES

(Type the name of corporation, partnership or LLC)

By: _____
(Type the name of the person authorized to sign for the corporation, partnership or LLC)

Its: _____
(Type the title of the person authorized to sign for the corporation, partnership or LLC)

STATE OF _____

CITY/COUNTY OF _____, to-wit:

The foregoing document was acknowledged this the ____ day of _____, 200__, by _____ who is the _____ (title) of _____ [Type the name of the corporation, partnership or LLC, if applicable.]

Notary Public

My Commission Expires: _____

Registration number: _____

(Type name of individual owner)

(Type name of individual owner)

STATE OF _____

CITY/COUNTY OF _____, to-wit:

The foregoing document was acknowledged this the ____ day of _____, 200__, by _____ (individual owners)

Notary Public

My Commission Expires: _____

Registration number: _____

COUNTY OF SPOTSYLVANIA, VIRGINIA

By: _____
C. Douglas Barnes
County Administrator

STATE OF VIRGINIA

COUNTY OF SPOTSYLVANIA, to-wit:

The foregoing document was acknowledged this the ____ day of _____, 200_, by C. Douglas Barnes, who is the County Administrator of Spotsylvania County.

Notary Public

My Commission Expires: _____

Registration number: _____

APPROVED AS TO FORM:

COUNTY ATTORNEY

APPENDIX B - FORM A

COUNTY OF SPOTSYLVANIA, VIRGINIA SURETY BOND

Bond No. _____

KNOW ALL MEN BY THESE PRESENTS: That we, _____ as Principal, and _____ a _____ corporation, authorized to transact business in the Commonwealth of Virginia, as Surety, are held and firmly bound unto the County of Spotsylvania, Virginia, a political Subdivision, as Obligee in the penal sum of _____ (\$ _____) lawful money of the United States, for payment of which, well and truly made, the said Principal and Surety bind themselves, their respective heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has received approval for recordation of the plat of the subdivision [or, if applicable, approval of the site plan] known as _____ County of Spotsylvania, Virginia, dated _____, and has entered into an agreement with the County of Spotsylvania, dated _____, providing for the installation of certain improvements in said subdivision.

NOW, THEREFORE, the condition of the obligation is such that, if the Principal shall satisfactorily complete the subdivision improvements in accordance with the plans approved by and on file with the County of Spotsylvania, the aforesaid agreement, in accordance with the Subdivision Ordinance of the County of Spotsylvania, Virginia, and shall fully indemnify and save harmless the Obligee from all costs and damages which the Obligee may suffer by reason of the Principal's failure to do so, then this obligation shall be void; otherwise, to remain in full force and effect.

PROVIDED FURTHER, that this is a continuous bond and the Surety hereby waives notice of any extension hereunder granted by Obligee to Principal.

IN WITNESS WHEREOF, the Principal and the Surety have caused their respective names to be hereunto subscribed and their seals to be hereunto affixed, this _____ day of _____, 19_____, duly authorized.

CORPORATION:

(Impress Corporate Seal here)	_____
(Print)	Corporate Name
	By: _____ (Signature) Name
	Its: _____ (Print) Title
ATTEST:	
By: _____	

INDIVIDUAL OR PARTNERSHIP:

	____ (Print) Name of Partnership
	By: ____ (Signature)
	____ (Print) Title
	____ Individual Owner
	____ Individual Owner
(Impress Corporate Seal here)	
	____ Surety
____ Witness	By: ____ Attorney in Fact
Name & Address of Resident Agent	Address of Home Office

POWER OF ATTORNEY MUST BE ATTACHED

APPENDIX B - FORM B

Date

Board of Supervisors

Spotsylvania County

Spotsylvania, Virginia 22553

This is to certify that _____ has deposited _____ in account number _____ to guarantee construction and installation of improvements on the development known as _____ as designated in the agreement between _____ and Spotsylvania County, dated _____. These funds shall not be released for any purpose without the written approval of Spotsylvania County.

Upon certification to _____ by the County that improvements have not been completed as required under the terms of said agreement these funds shall be made available to the County for completion or rebuilding of _____

the required improvements. In no case shall the funds released to the County exceed _____.

	____ (Name of Bank)
	____ (By)

SEAL:

APPENDIX B - FORM C

Date

Board of Supervisors

Spotsylvania County

Spotsylvania, Virginia 22553

We hereby establish an irrevocable and unconditional LETTER OF CREDIT in your favor for a sum or sums not exceeding _____ available by your draft or drafts on us at sight. This credit is available and drafts must be drawn hereunder for the amount of _____ for improvements to be installed and constructed in the development known as _____ as designated in the agreement between _____ and Spotsylvania County, dated _____.

All drafts drawn hereunder must be marked "drawn under LETTER OF CREDIT" number

_____ of _____, dated _____." Drafts drawn pursuant to this LETTER OF CREDIT must be accompanied by a certification from the County that improvements have not been completed in accordance with the terms and conditions of the agreement, dated _____ between _____ with Spotsylvania County.

We hereby agree that drafts under and in compliance with the terms of this letter of credit will be duly honored when presented at _____ on or before _____.

	____ (Name of Institution)
	____ (By)

SEAL:

APPENDIX B - FORM D

Date

Board of Supervisors

Spotsylvania County

Spotsylvania, Virginia 22553

Re: Construction of Public Streets, Water and Sewer Lines and Drainage Improvements, _____ Magisterial District, Spotsylvania County, Virginia.

Please be advised that the lender _____ and borrower _____ hereby agree to allocate the sum of (allocated funds) from established loan commitments, for the construction of public streets, water and sewer lines, and drainage improvements as such construction work is described in the engineering estimate submitted by _____ dated _____, a copy of which is attached to this agreement.

If for any reason the borrower shall default under the terms of this agreement with the lender and lender terminates its obligation to make further advances of loan proceeds then, notwithstanding such default and termination of lender's obligations with respect to the borrower the Spotsylvania County Authority (designee of the Board of Supervisors) shall have the right to continue disbursement of the allocated funds for construction work under the procedure specified in this agreement.

Borrower agrees to proceed promptly with the construction of said streets, water and sewer lines and drainage improvements and finally complete all construction work within the time period set forth in the Spotsylvania Subdivision Performance Bond executed by the borrower _____.

The allocated funds shall be advanced by the lender only after compliance by the borrower with the conditions established in this agreement.

Prior to each advance, borrower shall have furnished to lender, a duly executed request for advance, in form approved by lender, joined in and executed by the County Attorney to evidence their inspection, approval and acceptance of that portion of the improvements of which an advance is being requested, and setting forth such details concerning construction of the improvements as lender may require. Each such request shall contain a certification by the borrower and the County Authority to the effect that construction is in strict accordance with the submitted plans.

In cases whereas a request for an advance involves completed improvements, such request shall be accompanied by a copy of a certificate issued by the County Attorney which states that such improvement is fully completed and accepted for public maintenance.

In the event that the borrower fails to complete the construction work to the satisfaction of the County Authority all remaining allocated funds shall be available to the County Authority to complete the construction work in accordance with the submitted plans.

Notwithstanding anything contained in this letter agreement, the County Authority shall be under no obligation to repay any of the funds disbursed for the construction work.

The borrower joins in this letter agreement to indicate its agreement with and consent to all the procedures set forth:

Please indicate your acceptance and approval of the terms of this letter agreement by countersigning.

Sincerely,	
____ Attest:	
(Lender)	
By: ____ (Title)	____ (Title)

The undersigned designee of the Board of Supervisors of Spotsylvania County, Virginia, hereby accepts the terms and conditions of this letter agreement this day _____ of _____, 20 _____.

BOARD OF SUPERVISORS OF SPOTSYLVANIA COUNTY, VIRGINIA	
By: ____ (Title)	

(Ord. No. 20-8, 10-24-95; Ord. No. 20-27, 12-14-04)