

## **CHAPTER 21. SUBDIVISION OF LAND**

### **ARTICLE I. In General**

- § 21-1. Purpose.
- § 21-2. Definitions.
- § 21-3. Compliance with chapter required.
- § 21-4. By whom subdivision plat may be prepared.
- § 21-5. Administration.
- § 21-6. Compliance with Chapter 25 required.
- § 21-7. Water and sewer generally.
- § 21-8. Fees.
- § 21-9. Repealed.
- § 21-9.1. Streets and Street Connections.
- § 21-10. Public street design, construction and addition.
- § 21-11. Private street design, construction and maintenance.
- § 21-12. Subdivision and street names.
- § 21-13. Erection of street signs.
- § 21-14. Removal or relocation of utilities.
- § 21-15. Monuments to be installed.
- § 21-16. Drainage.

### **ARTICLE II. Minor Subdivisions**

- § 21-20. Limitations and exceptions.
- § 21-21. Submission of plat.
- § 21-22. Plat requirements.
- § 21-23. Area to be shown on the plat.
- § 21-24. Plat approval and recordation.

### **ARTICLE III. Procedure for Approval of Major Subdivisions**

- § 21-31. In general.
- § 21-32. Submission of preliminary plat.
- § 21-33. Consideration of the preliminary plat.
- § 21-34. Submission of final plat.
- § 21-35. Consideration of the final plat.
- § 21-36. Bonds required for final approval of final plat.
- § 21-37. Final approval and recordation of final plat.
- § 21-38. Periodic partial release of bonds.
- § 21-39. Final release of bonds.
- § 21-40. Additional maintenance and indemnifying bond.

#### **ARTICLE IV. Preliminary Plats for Major Subdivisions**

- § 21-41. Compliance with minimum standards and procedures for land boundary surveys required.
- § 21-42. Contents of the preliminary plat.
- § 21-43. Other requirements.
- § 21-44. Copies of preliminary plat to be submitted.

#### **ARTICLE V. Final Plats of Major Subdivisions**

- § 21-51. Compliance with minimum standards and procedures for land boundary surveys required.
- § 21-52. Compliance with Virginia Public Records Act required.
- § 21-53. Contents of the final plat.
- § 21-54. Copies of final plat to be submitted.
- § 21-55. Documents and other matters to accompany final plat.

#### **ARTICLE VI. Enforcement**

- § 21-61. Approval of subdivision plat prerequisite to recordation.
- § 21-62. Variances.
- § 21-63. Proceedings to prevent, etc., violation of chapter.
- § 21-64. Building permits.
- § 21-65. Penalty.
- § 21-66. Severability.

#### **ARTICLE VII. Transition**

- § 21-71. Validity of previously approved master plans and plans of development.

## CHAPTER 21. SUBDIVISION OF LAND

### ARTICLE I. In General

#### § 21-1. Purpose.

The purpose of this chapter is to assure the orderly subdivision of land and its development.

State law reference—Virginia Code § 15.2-2240.

#### § 21-2. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Adjacent. Having a common boundary other than across a street, road or alley.

Alley. Alley means, solely for purposes of this chapter, where a lot has frontage on a public or private street, a private way not more than thirty (30) feet in width affording a means of access to such lot by means other than such public or private street.

Block. The property abutting one side of a street and lying between the two (2) nearest intersecting streets or nearest street and railroad right-of-way, unsubdivided acreage, river or live stream or between any of the foregoing and any other barrier to the continuity of development.

Cul-de-sac. The turnaround at the end of a dead-end street.

Department. The Community Development Department of the County.

Director. The Director of the Community Development Department of the County.

Interparcel travelway. A private street providing access among adjacent lots, parcels or tracts, but not including driveways.

Lot, new. Any lot, tract or parcel resulting from the division of a lot, tract or parcel into two or more lots, tracts or parcels, except a “parent lot” as defined herein.

Lot, parent. In General Agriculture (GA) Districts only, the largest lot, tract or parcel of land resulting from the division of a lot, tract or parcel into two (2) lots, tracts or parcels. Where the resulting lots are equal in size, no lot shall be deemed the parent lot.

Mutatis mutandis. To the same effect, while substituting different words and phrases as appropriate.

Onsite sewage disposal system. A sewerage system or treatment works.

Plat. Plat includes map, plan or plot, including preliminary plats.

Sewage dispersal area. A surface or subsurface drainfield, spray area or other area receiving effluent from an onsite sewage disposal system.

Street. Street means a road or street, whether public or private, which affords a principal means of access to abutting property.

Street, private. Private street means, solely for the purpose of this chapter, any road or street which affords a principal means of access to two or more abutting properties, and is not a public street, as defined by this chapter.

Street, public. Public street means, solely for the purpose of this chapter, a road or street which affords a principal means of access to abutting property and is maintained by the Commonwealth of Virginia as a part of the primary or secondary system of state highways.

Subdivision. A division of a parcel of land into two or more lots, tracts or parcels for any purpose. The term includes resubdivision and boundary line adjustments.

Subdivision agent. The Director of the Department, or his designees. The Director may designate more than one subdivision agent to perform separate functions under this chapter.

Subdivision, major. Major subdivision means any subdivision of land that does not fall within the definition of minor subdivision.

Subdivision, minor. Minor subdivision means any subdivision of land which is a division of a lot or parcel of land into no more than three lots, parcels or tracts for any purpose and, in each case, the subdivision of land:

- (a) does not involve the creation or extension of public streets; and
- (b) does not involve the creation or extension of public water systems or public sewer systems.

State law reference—Virginia Code § 15.2-2201.

### **§ 21-3. Compliance with chapter required.**

No tract, lot, piece or parcel of land situated within Augusta County shall be subdivided unless and until the owner or subdivider shall cause a plat of such subdivision

with reference to monuments, as prescribed in § 21-15 herein, to be made, submitted and approved pursuant to the terms of this chapter, unless specifically provided otherwise in this chapter.

State law reference—Virginia Code § 15.2-2254.

**§ 21-4. By whom subdivision plat may be prepared.**

Every plat which is intended for recording shall be prepared by a certified professional engineer or land surveyor, duly licensed by the Commonwealth of Virginia.

State law reference—Virginia Code § 15.2-2262.

**§ 21-5. Administration.**

A. The board of supervisors may establish reasonable administrative rules and regulations for the administration of this chapter.

B. Each subdivision agent is delegated the authority and power to administer this chapter, and in so acting, each subdivision agent shall be considered the agent of the board of supervisors. The subdivision agent shall perform his duties with respect to subdivisions in accordance with this chapter.

State law reference—Virginia Code § 15.2-2255.

**§ 21-6. Compliance with Chapter 25 required.**

A. All lots shall be of sufficient size, shape and dimension to meet all the applicable requirements of Chapter 25 of this Code.

B. No new lots shall be created in Floodplain Overlay Districts except in full compliance with § 25-474.1 of this Code. (Ord. 09/13/11)

C. Where it is not readily apparent from a submitted plat that a lot complies with the applicable development standards, the subdivision agent may require that the applicant submit a site plan of such lot in accordance with Chapter 25 of this Code. (Renumbered by Ord. 09/13/11)

D. Every final plat submitted pursuant to this chapter shall contain a written certification by the preparer that all lots are in compliance with the provisions of Chapter 25 of this Code applicable to frontage, width and area. (Renumbered by Ord. 09/13/11)

State law reference—Virginia Code § 15.2-2241.

**§ 21-7. Water and sewer generally.**

A. All required water and sewer facilities shall be designed and constructed to the current standards of the Augusta County Service Authority, the Virginia Department of Health, or the Virginia Department of Environmental Quality and the requirements of this chapter.

B. Except in cluster subdivision in General Agriculture (GA) districts, all lots in major and minor subdivisions shall have service by a public sewer system when available, as determined by Section 24-1 of the County Code or a private individual onsite sewage disposal system approved by the Virginia Department of Health when a public sewer system is not available. Except in cluster subdivision in General Agriculture (GA) districts, private sewer systems serving multiple lots shall not be permitted.

C. When private individual onsite sewage disposal systems approved by the Virginia Department of Health are utilized:

1. Each system shall have another sewage dispersal area reserved for use in the event of failure of the initial sewage dispersal area.

2. The reserve sewage dispersal area shall be sufficient to accommodate one hundred percent (100%) of the capacity of the initial sewage dispersal area.

3. The location of all offsite sewage dispersal areas and reserve sewage dispersal areas and the easements required for their construction, use and maintenance shall be shown on the plat.

4. The type of each system shall be shown on the plat.

5. No system shall be designed to result in a point source discharge.

6. Where applicable, each system shall be subject to the provisions of Article II of Chapter 11 of this Code.

D. All lots in major and minor subdivisions shall have service by a public water system when available, as determined by Section 24-1 of the County Code.

E. The recordation of a deed of dedication, subdivision and easement or plat approved pursuant to the provisions of this chapter shall operate to transfer to the Augusta County Service Authority any easements shown on the plat for public pipelines and related facilities utilized for the supply, conveyance and distribution of water or for the collection, conveyance and disposal of sewage. The provisions of this paragraph shall not affect any right of the subdivider validly reserved on the plat, nor shall the provisions of this paragraph affect the obligation of the subdivider to install pursuant to paragraph A above.

F. Adequate fire hydrants will be installed by the developer and/or builder. Placement of hydrants and adequacy of fire flow, unless waived by the Board of Supervisors, shall be designed in accordance with §24-2 of the County Code.

(Ord. 11/26/13)

State law reference—Virginia Code § 15.2-2241.

### **§ 21-8. Fees.**

A. No plat shall be accepted for review or approved unless and until the appropriate fees as prescribed in Chapter 19 of this Code have been paid.

B. Where a previously submitted plat has been accepted for review and denied for failing to meet the technical requirements of this chapter, no revised plat shall be accepted for review or approved unless and until the appropriate fees as prescribed in Chapter 19 of this Code have been paid.

C. A plat may be withdrawn by the applicant at any time; provided, however, that there shall be no refund of any fee paid if the subdivision agent has commenced review of the plat, or if the planning commission or the board of supervisors has approved or disapproved the plat.

State law reference—Virginia Code § 15.2-2241.

### **§ 21-9. Site plans, master plans and plans of development.**

Repealed (Ord. 9/28/11)

#### **§ 21-9.1. Streets and Street Connections.**

A. Unless otherwise provided herein, new public or private streets, except private streets in General Agriculture (GA) Districts, alleys and interparcel travelways, created to serve the lots, tracts or parcels in any subdivision shall be designed and constructed in accordance with standards and procedures of the current Virginia Department of Transportation subdivision street requirements for addition into the secondary system of state highways. In addition, the following minimum design standards shall apply:

1. Temporary turnarounds. Provisions shall be made for a temporary turnaround where streets terminate at property boundaries if required by the standards of the Virginia Department of Transportation.

2. Angle of street intersections. Street intersections shall be as near ninety degrees as possible.

3. Lining up of streets. When possible, all streets and alleys shall line up with existing opposite state highways and city or subdivision streets.

4. Cul-de-sacs. Dead-end streets shall be provided with a turnaround if required by the standards of the Virginia Department of Transportation.

5. Curbs and gutters. Curbs and gutters in accordance with the standards of the Virginia Department of Transportation shall be provided where new streets are extensions of, or intersect or connect with, existing streets with curbs and gutters or where the subdivision adjoins a subdivision where the streets have curbs and gutters.

6. Pavement. Except for cluster subdivisions in General Agriculture (GA) Districts, the surfaces of all streets shall be paved with a minimum of two inches (2") of bituminous concrete as specified and approved by the Virginia Department of Transportation.

B. Except for cluster subdivisions in General Agriculture (GA) Districts, street layout should be designed to provide adequate access to adjacent property.

1. Where such adjacent property is a subdivision which is the subject of an approved master plan, preliminary plat or final plat, or such adjacent property is the subject of an approved site plan, the street layout should be coordinated with existing or planned streets or access points, as shown on such approved master plan, preliminary plat, final plat or site plan, to facilitate street connections between developments.

2. Where such adjacent property is not a subdivision or other development, but is located in an area designated in the Comprehensive Plan as Urban Service Area or Community Development Area, the street layout should provide for the extension of streets to the subdivision boundary to facilitate the continuity of possible adjacent development.

3. Exceptions to this requirement may be granted by the Director if he finds that the required connection is not feasible due to the presence of limiting features such as existing development patterns, railroads, limited access highways, streams or rivers, or in the case of extreme topographic differences.

4. For private streets developed under the provisions of section 21-11 of this ordinance, the requirements above may be waived by the Board of Supervisors, as provided below.

a) Prior to considering a request to modify or waive, fifteen (15) days written notice shall be provided to the owner of each abutting property from the property which is the subject of the request. The written notice shall identify the nature of the request and the date and time the board of supervisors will consider the request.

b) A waiver may be granted by the board of supervisors after review by, and recommendation from, the Department of Transportation and upon finding that granting the waiver would not cause or contribute to an unsafe traffic condition.

c) A safety analysis, performed by a transportation planner or engineer or other professional qualified to perform such analyses, which indicates that the road layout without the interconnection to adjacent properties results in no adverse impact on adjacent properties, the traveling public, and the ability to provide emergency services to the development, shall be submitted with the waiver request. Such analysis shall be considered by the Board of Supervisors in determining whether to require interconnection or to grant a waiver.

d) No waiver may be granted if, by the granting of said waiver, any other provision of this chapter or the zoning ordinance would be violated, including specifically the requirement for two points of access required by this section.

e) No waiver may be granted unless it is shown by the developer, in consultation with the Virginia Department of Transportation, that the adjoining property owner of undeveloped property can be granted at least a right in, right out access to his or her property independent of the property subject of the waiver request.

C. In any zoning district except General Agriculture (GA), no new lots may directly access existing public streets designated as arterial or collector streets as defined by the Virginia Department of Transportation. Instead, access must be provided from an existing entrance location or a new or existing public or private street. Lots created in residentially zoned subdivisions must access a subdivision street or an internal road system.

D. A single street connection may not serve more than 100 dwelling units. When more than 100 dwelling units are to be served, at least one additional street connection shall be provided. Where such additional connection is not feasible, a boulevard entrance, with ingress and egress lanes separated by at least a four (4) ft median, shall be provided and connections to the boulevard entrance may not serve more than 100 dwelling units each and the boulevard entrance may not serve more than 200 dwelling units in total. Financial considerations, standing alone, shall not be deemed sufficient to render an additional connection not feasible.

E. No changes to facilities designed and constructed in accordance with this section shall be made without the prior written approval of the subdivision agent.

State law reference—Virginia Code § 15.2-2241. (Ord. 6/26/13)

**§ 21-10. Public street design, construction and addition.**

A. Public street rights-of-way shall be dedicated in fee simple and shall be a minimum of:

1. forty (40) feet in width, if permitted by the Virginia Department of Transportation, provided curb and gutter and sidewalks are constructed to the applicable standards of the Virginia Department of Transportation, or

2. fifty (50) feet in all other cases

B. Upon completion of the construction of the streets, the subdivider shall request that the streets be inspected for compliance with the standards and procedures in § 21-9.1. Until the streets are officially added to the secondary system, their maintenance and construction or reconstruction, as necessary for addition, shall be the responsibility of the subdivider. At such time after completion of construction and when sufficient public service is provided by the streets, the subdivider shall satisfy the requirements of the Virginia Department of Transportation with respect to surety and maintenance fees as required for the addition of the streets to the secondary system.

C. As used in this section, “maintenance” shall be deemed to mean maintenance of the streets, sidewalks, 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 streets reasonably open for public usage.

State law reference—Virginia Code § 15.2-2241.

**§ 21-11. Private street design, construction and maintenance.**

A. Private streets shall be allowed only when authorized by Chapter 25 of this Code, for certain minor subdivisions in General Agriculture (GA) Districts, Attached Residential (AR) Districts, General Business (GB) Districts, General Industrial (GI) Districts, Planned Unit Development (PUD) districts, and for interparcel travelways.

B. In General Agriculture (GA) Districts as defined in Chapter 25 of this Code, thirty feet (30') shall be the minimum width of any private right-of-way or easement created after October 1, 1995, which affords a principal means of access to one or more lots, tracts or parcels.

C. All alleys shall be designed and constructed in accordance with a design standard issued by the Department.

D. All interparcel travelways shall be designed and constructed in accordance with standards and procedures of the current Virginia Department of Transportation subdivision street requirements for addition into the secondary system of state highways,

except that the minimum pavement width of an interparcel travelway shall be eighteen feet (18').

E. All private streets that are not constructed in accordance with standards and procedures of the current Virginia Department of Transportation subdivision street requirements for addition into the secondary system of state highways shall be privately maintained and shall not be eligible for acceptance into the secondary system of state highways unless improved to current Virginia Department of Transportation standards with funds other than those appropriated by the General Assembly and allocated by the Commonwealth Transportation Board.

F. All private streets shall be constructed in accordance with approved erosion and sediment control plans.

G. All private streets, except private streets in General Agriculture (GA) Districts, shall be constructed in accordance with approved construction plans. The final approval of such plats containing one or more private streets shall be conditioned on compliance by the subdivider with the performance guarantee requirements set forth in § 21-36 below, *mutatis mutandis*. The bond or other performance guarantee shall be released upon submission of a certificate from a duly licensed engineer or surveyor stating that the subdivision street construction has been completed and properly maintained and meets all of the requirements in subparagraphs A through D above.

H. In any subdivision where one or more streets are private streets, and any of such private streets are not to be constructed in accordance with standards and procedures of the current Virginia Department of Transportation subdivision street requirements for addition into the secondary system of state highways, the plat of such subdivision, every deed of subdivision and every deed of conveyance of any lot or parcel of land not having the required frontage on a public street within such subdivision, shall contain a statement as follows:

The streets in this subdivision do not meet the standards necessary for inclusion in the secondary system of state highways and shall not be maintained by the Virginia Department of Transportation or the county and are not eligible for rural addition funds or any other funds appropriated by the General Assembly and allocated by the Commonwealth Transportation Board.

I. In any subdivision where one or more streets are private streets, and all of such streets are constructed in accordance with standards and procedures of the current Virginia Department of Transportation subdivision street requirements for addition into the secondary system of state highways, the plat of such subdivision, every deed of subdivision and every deed of conveyance of any lot or parcel of land not having the required frontage on a public street within such subdivision, shall contain a statement as follows:

The streets in this subdivision are not intended for inclusion in the secondary system of state highways and shall not be maintained by the Virginia Department of Transportation or the county and are not eligible for rural addition funds or any other funds appropriated by the General Assembly and allocated by the Commonwealth Transportation Board.

State law reference—Virginia Code § 15.2-2242.

**§ 21-12. Subdivision and street names.**

A. Subdivision names shall not duplicate existing subdivision names in the City of Staunton, the City of Waynesboro, the Town of Craigsville, the Town of Grottoes or Augusta County, except that the board of supervisors may require that a subdivision adjacent to an existing subdivision bear the same name as the existing subdivision.

B. Once a subdivision name has been approved in accordance with this chapter, such name may not be changed without the approval of the board of supervisors.

C. Street names shall not duplicate existing street names in the City of Staunton, the City of Waynesboro, the Town of Craigsville, the Town of Grottoes or Augusta County, except that streets that are a continuation of present or existing streets shall bear the same name.

**§ 21-13. Erection of street signs.**

Street signs shall be erected at every intersection of a public street or private street intended to serve three or more residences.

**§ 21-14. Removal or relocation of utilities.**

Whenever the board of supervisors shall determine that any pipes, cable, poles, equipment, or other facilities installed by or for any utility after the recordation of a plat in any street right of way or stormwater management easement shown on the plat must be relocated or removed, the owner or operator of such facilities shall relocate or remove the same at its expense in accordance with the order of the board.

**§ 21-15. Monuments to be installed.**

A. In all subdivisions, subdivision lot monuments, in accordance with county design standard 80-2, shall be set at all corners and changes in direction of the boundary of each lot.

B. In major subdivisions, concrete subdivision monuments, in accordance with county design standard 80-1, or an alternate approved by the county engineer, shall be set at all corners and changes in direction of the original boundary of the subdivided tract; provided, however, where two monumented points are visible to each other when

measured at a height of three and one-half feet above the adjacent grade, additional monuments need not be set in between such points.

C. In major subdivisions, subdivision street monuments, in accordance with county design standard 80-3, shall be set at all street curve points and street intersection points at the center of rights of way; provided, however, where two monumented points are visible to each other when measured at a height of three and one-half feet above the adjacent grade, additional monuments need not be set in between such points.

D. Notwithstanding anything to the contrary contained in this section, in connection with a major subdivision, where a subdivision contains or is adjacent to a public street identified by the Virginia Department of Transportation as an arterial or collector street, concrete subdivision monuments, in accordance with county design standard 80-1, or an alternate approved by the county engineer, shall be offset to the edge of the right of way at all street curve points and street intersection points of the right of way within or adjacent to the subdivision; provided, however, where two monumented points are visible to each other when measured at a height of three and one-half feet above the adjacent grade, additional monuments need not be set in between such points.

E. Upon completion of subdivision streets, sewers and other public improvements, the subdivider shall make certain that all monuments required by this chapter or shown on the plat are installed and are clearly visible for inspection and use and shall provide certification of such from a duly licensed professional engineer or surveyor; provided, street monuments shall be installed prior to the installation of the final surface coat of pavement.

State law reference—Virginia Code § 15.2-2241.

#### **§ 21-16. Drainage.**

A. Major and minor subdivisions shall be subject to the requirements of Chapter 9 of this Code, to the extent applicable.

B. In all Residential Districts, except Rural Residential Districts, as defined in Chapter 25 of this Code, stormwater conveyance systems shall be located, to the extent practicable, parallel and adjacent to lot lines.

C. In all Residential Districts, except Rural Residential Districts, as defined in Chapter 25 of this Code, where a storm drainage system is required under Chapter 9 of this Code, the system shall be comprised of underground stormwater management facilities under the following conditions:

1. where necessary to convey stormwater within the minimum right-of-way required by this chapter or the Virginia Department of Transportation, in accordance with the requirements of Chapter 9 of this Code; or

2. where a drainage easement is required by the county in accordance with the requirements of Chapter 9 of this Code, and an easement twenty feet (20') or less in width is insufficient to permit the aboveground conveyance of stormwater across lots or parcels.

D. Where underground stormwater management facilities are not required under subsection (C), and aboveground stormwater management facilities are constructed in the right-of-way, additional drainage easements adjacent to the right-of-way shall be permitted only to the extent necessary to facilitate the transition from such aboveground stormwater management facilities in the right-of-way to other drainage easements on a lot.

E. Where underground stormwater management facilities are required under subsection (C), (i) all such facilities shall be installed underground, except such facilities which are, under accepted engineering practices, normally installed above ground, such as inlet structures and stormwater detention and retention facilities, and (ii) additional drainage easements adjacent to the right-of-way shall be permitted for such facilities.

**§ 21-17 through § 21-19. Reserved.**

## **ARTICLE II. Minor Subdivisions**

**§ 21-20. Limitations and exceptions.**

A. No lot or parcel of land or any portion thereof may be subdivided to create more than two new lots under this chapter more than once in any twelve month period, except in General Agriculture (GA) Districts, which shall be subject to the provisions of Chapter 25 of this Code. A lot shall be deemed to have been created as of the date of recordation of the duly approved plat.

B. Exception for divisions for deeds of trust. In General Agriculture (GA) Districts only, the agent may permit a division of land conveying a parcel in trust for the sole purpose of securing an indebtedness to a regulated commercial lender. Only one (1) such division of any parcel identified by a separate tax map number shall be permitted at any time. In the event of default, the holder of the note secured by the deed of trust shall have authority to enforce the lien of such deed of trust in any manner permitted by the laws of the Commonwealth of Virginia.

1. Prior to recordation, the plat and deed shall be submitted for approval to the subdivision agent, and such approval shall indicate that excepting the required frontage, the execution and delivery of the deed of trust does not violate any requirements of the county's zoning ordinance. In its title, the plat shall state that the conveyance is for deed of trust purposes.

2. The landowner shall obtain a separate tax map designation and tax billing from the commissioner of the revenue and notify the commissioner of the revenue and the subdivision agent upon the satisfaction and release of any such deed of trust.

3. A division of land approved under this paragraph (B) shall not constitute a subdivision of land until there is a conveyance by or to the holder of the note or its trustees and only upon default.

4. Upon such default, any such conveyance by or to the holder of the note or its trustee shall be reported, before recordation, to the subdivision agent; and no subsequent division of the land so conveyed shall be permitted under this chapter until a waiting period of three (3) years has been satisfied.

C. Exception for divisions for partition in kind. Real property which passes in the estate of a decedent and pursuant to which passage either a court ordered partition or a bona fide partition in kind by agreement occurs shall be exempted from the requirements of this chapter as to the original partition; except, that such division shall not create any parcel that does not meet the requirements for lot frontage, width or area in the zoning district in which the real property exists. The lot frontage requirement may be exempted if the division is for the purpose of a Family Member division under §21-22 F, and all requirements of that section are met.

#### **§ 21-21. Submission of plat.**

Eight (8) copies of a minor subdivision plat, together with the name and address of the subdivider, shall be submitted to the subdivision agent. A preliminary plat shall not be required.

#### **§ 21-22. Plat requirements.**

The following shall be required of all minor subdivision plats:

A. A minor subdivision plat shall contain or be drawn in accordance with the following:

1. On sheets eighteen inches (18") by twenty-four inches (24"), eleven inches (11") by seventeen inches (17"), eight and one-half inches (8-1/2") by eleven inches (11") or eight and one-half inches (8-1/2") by fourteen inches (14"). In cases where more than one sheet is required they shall be match marked. All copies shall bear the original signature of the preparer and shall be on white paper with black lines.

2. The name of the recorded owner and identification of the plat, the source of title of the recorded owner and the place of record of the last instrument in the chain of title.

3. The tax map sheet, section and parcel number of each tract being subdivided.

4. The exact layout, including all dimensions, both linear and angular, for locating lots, adjoining public streets, proposed and existing private streets and easements. The linear dimensions shall be expressed in feet and hundredths of a foot and the angular measurements shall be expressed by bearings or angles in degrees, minutes and seconds. Each curve shall be defined by its chord bearing, chord length, radius, central angle, tangent length and arc length. Survey accuracy shall result in an error of closure of one in ten thousand or better.

5. Approved "subdivision lot monuments," in accordance with county design standard 80-2.

6. Date and all revision dates, north point and scale.

7. The area of each lot or parcel and the total area of the subdivision.

8. Name and license of the land surveyor or professional engineer preparing the plat.

9. The location of all buildings which are at least in part within fifty feet (50') of any newly created lot lines, including the square footage of such buildings and the distance from such buildings to the newly created lot lines.

10. The boundaries of any Overlay District on the property, as designated in Division H of Chapter 25 "Zoning", of this code, including any sub-designations within such overlay district.

11. The boundaries of any dam break inundation zone required by §10.1-606.2 and on file with the Virginia Department of Conservation and Recreation and the Department of Community Development.

12. The location of any grave, object or structure marking a place of burial, or a note indicating that none were located.

13. Approval signature panel.

B. A minor subdivision plat shall be accompanied by written confirmation from the appropriate officials that:

1. In accordance with § 21-7, a sewer connection is available for each lot less than twenty (20) acres in area shown on the plat to be served by a public sewer system and an onsite sewage disposal system can be approved for each such lot shown on the plat not to be served by a public sewer system.

2. A highway entrance permit can be obtained for each lot having the required road frontage, including a parent lot not shown on the plat if less than twenty (20) acres in area. Each lot without the required public street frontage, including a parent lot not shown on the plat if less than one hundred (100) acres in area, shall have confirmation that its access to a public street meets all of the regulations of the Virginia Department of Transportation for entrances.

C. The requirements of subsection (B) above shall not apply to:

1. A boundary line adjustment where no new lots are created, unless a lot is reduced in acreage from twenty (20) acres or more to less than twenty (20) acres.

2. A subdivision which will result in lots on which dwellings exist as of the effective date of subdivision, provided that such lots have previously approved means of sewage disposal and highway entrances, and provided further, the plat contains a certification by the preparer that neither will be disrupted as a result of the subdivision.

3. A division for a deed of trust in accordance with §21-20 (B).

D. The requirements of subsection B.1 above shall not apply to a subdivision lot that was created in a Floodplain Overlay District pursuant to §25-474.1 with the restriction against building on the lot. (Renumbered by Ord. 09/13/11)

E. Every plat shall contain in addition to the professional engineer's or land surveyor's certificate a statement as follows: (Renumbered by Ord. 09/13/11)

The platting or dedication of the following described land [here insert a correct description of the land subdivided] is with the free consent and in accordance with the desire of the undersigned owners, proprietors and trustees, if any.

The statement shall be signed by such persons and duly acknowledged before some officer authorized to take acknowledgment of deeds.

F. Where appropriate, a minor subdivision plat shall show on its face written certification by the preparer that: (Renumbered by Ord. 09/13/11)

1. When the area subdivided lies within an Urban Service Overlay District, that the requirements of Article L, "Urban Service Overlay (USO) Districts," of Chapter 25 "Zoning," of this Code have been met or that appropriate arrangements, acceptable to the subdivision agent, have been made to ensure that they will be met.

2. When existing buildings are present on either a newly created or parent lot, that those existing buildings, which may or may not be shown on the plat, unless already non-conforming, meet the requirements of either the permitted uses

or accessory uses section of the underlying zoning classification of Chapter 25, “Zoning” of this code, or that a Special Use Permit has been issued, remains valid, and the building is in compliance with the provisions of such Special Use Permit.

G. A minor subdivision plat may be submitted in accordance with § 25-77.4 of this Code, to establish a “family member exception lot.” When a minor subdivision plat is submitted for such purpose, the plat shall show on its face written certification by the grantor: (Renumbered by Ord. 09/13/11)

1. of the names of the grantor and grantee of the proposed lot and their familial relationship;
2. that the lot is not created for the purpose of the circumvention of this chapter;
3. that at least one grantee is a member of the immediate family of the grantor;
4. that such grantee has not been the prior recipient of any portion of a family member exception lot in Augusta County\*;
5. that the grantor has not received previously from such grantee any portion of a family member exception lot in Augusta County\*; and

\* For example, in the case of a lot owned by a husband and wife, the husband or the husband and wife can convey a lot to the wife but she cannot then convey a lot to the husband.

6. that the lot created shall be titled in the name of such grantee, as the owner of at least a fifty percent (50%) interest in such lot, for a period of no less than three (3) years unless the earlier conveyance of such lot is permitted under § 25-77.4 of this Code.

Each initial deed of conveyance of any family member exception lot shall contain a similar certification by the grantor.

H. A minor subdivision plat submitted for approval shall be accompanied by the fees prescribed in Chapter 19 of this Code. (Renumbered by Ord. 09/13/11)

State law reference—Virginia Code § 15.2-2241.

**§ 21-23. Area to be shown on the plat.**

- A. All new lots must be shown on the plat.

B. Any parent lot must be shown on the plat unless exempted by this section.

C. A parent lot need not be shown on the plat if the following requirements are met:

1. The plat is accompanied by written confirmation from a licensed surveyor or engineer that the lot or parcel not shown is in compliance with the provisions of Chapter 25 applicable to frontage, width and area, and

2. If such lot or parcel does not have the required frontage on a public street, every deed of conveyance of such lot or parcel shall contain the statement specified in § 15.2-2242(3) of the Code of Virginia, (1950), as amended, and

3. Such lot or parcel exceeds five (5) acres in area.

D. The requirements of §21-22 Paragraph B Number 2 must be met, unless exempted, regardless of whether or not the parent lot is required to be shown on the plat.

#### **§ 21-24. Plat approval and recordation.**

A minor subdivision plat shall be reviewed in accordance with the following procedures:

A. Consideration of the proposed plat shall be completed in accordance with the provisions of § 15.2-2259 of the Code of Virginia (1950), as amended.

B. A minor subdivision plat shall be reviewed by a subdivision agent. Upon the subdivision agent's determination that the plat is in conformance with the requirements of this chapter, the subdivision agent shall sign the plat. Approval by the subdivision agent shall have the same force and effect as approval by the board of supervisors. Consideration by the planning commission and the board of supervisors shall not be required.

C. If the subdivision agent determines that the plat does not meet the requirements of this chapter, the agent will retain one copy of the plat, and the remaining copies shall be returned to the applicant with a written explanation of the deficiencies.

D. The plat shall be either approved or the written explanation of deficiencies shall be forwarded to the applicant within ten (10) working days of receipt of the plat.

E. An applicant may appeal the decision of the subdivision agent by filing a written request in the office of the board of supervisors within thirty (30) days of the decision of the subdivision agent. Upon appeal, the board of supervisors shall consider the plat at the earliest possible date and the decision of the governing body shall supersede the decision of the subdivision agent.

F. The approved plat shall be filed for recordation in the office of the Clerk of the Circuit Court of Augusta County within six (6) months of the date of approval by the subdivision agent. If the plat is not filed for recordation within six (6) months after final approval, such approval shall be withdrawn and the plat shall be void.

State law reference—Virginia Code § 15.2-2241.

**§ 21-25 through § 21-30. Reserved.**

### **ARTICLE III. Procedure for Approval of Major Subdivisions**

**§ 21-31. In general.**

A. Any owner of land within Augusta County wishing to subdivide the same into lots, where said subdivision does not qualify as a minor subdivision under this chapter, shall follow the procedures and requirements of this article.

B. Except for cluster subdivisions, no major subdivisions shall be permitted in General Agriculture (GA) Districts as defined in Chapter 25 of this Code.

C. The subdivider or his representative shall be present at each meeting when an appeal of a subdivision agent's decision regarding a plat is considered by the planning commission or the board of supervisors.

**§ 21-32. Submission of preliminary plat.**

A. The subdivider shall cause to be prepared a preliminary plat of all subdivisions establishing more than 50 lots in accordance with the requirements of Article IV of this chapter.

B. The preliminary plat shall include all of the property owned or controlled by the applicant subdivider which is adjacent to or considered to be contiguous to the proposed subdivision.

C. The preliminary plat, together with such supplementary material as may be required by Article IV of this chapter, shall be submitted to the Department with a written application for approval and payment of any applicable fees.

D. No preliminary plat shall be required where a master plan or plan of development has been approved and remains valid pursuant to Chapter 25 of this Code. The final plat shall be in substantial conformity with such approved master plan or plan of development.

E. No preliminary plat shall be required for cluster subdivisions in General Agriculture (GA) districts.

F. The subdivider may voluntarily cause to be prepared a preliminary plat of subdivisions establishing 50 or fewer lots. Such preliminary plat shall be prepared in accordance with the requirements of Article IV of this chapter.

(Ord. 8/27/14)

State law reference—Virginia Code § 15.2-2260.

**§ 21-33. Consideration of the preliminary plat.**

A. Upon receipt of a proposed preliminary plat which complies with the requirements of Article IV of this chapter and payment of any required fees, the preliminary plat shall be forwarded by the subdivision agent in accordance with § 21-43, for review as provided therein.

B. Following receipt of comments from the reviewing agencies, the proposed preliminary plat shall be approved by the subdivision agent once he finds that the plat meets the technical requirements of this chapter.

C. Consideration of the proposed preliminary plat shall be completed in accordance with the provisions of § 15.2-2260 of the Code of Virginia (1950), as amended.

D. Once a preliminary plat is approved, it shall be valid for a period of five (5) years from the date of approval by the agent, or for such longer period as the agent may, at the time of the approval, determine to be reasonable, taking into consideration the size and phasing of the proposed subdivision, provided the subdivider:

1. submits a final plat for the major subdivision of all or a portion of the property shown in the preliminary plat, together with such documents as are required under subsections (B) through (F) of § 21-55, within two (2) years of such approval; and
2. thereafter diligently pursues approval of the final plat.

As used in this section “diligent pursuit of approval” means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final plat or modifications thereto.

Editor’s Note: The Code of Virginia was amended effective March 27, 2009, (§15.2-2209.1. Extension of approvals to address housing crisis) and provides that any subdivision plat valid under §15.2-2260 and outstanding as of January 1, 2009 shall remain valid until July 1, 2014, or such later date provided for by the terms of the locality’s approval, local ordinance, resolution or regulation, or for a longer period as agreed to by the locality.

E. If a final plat is submitted within two (2) years of approval of a preliminary plat by the agent, but such final plat has not been approved within three (3) years of such approval, the subdivision agent may revoke such approval of the preliminary plat upon a specific finding of facts that the subdivider has not diligently pursued approval of the final plat. Such finding and revocation shall be communicated by written notice sent to the subdivider and the owner by certified mail return receipt at least ninety (90) days prior to the effective date of such revocation.

F. If no final plat for a major subdivision is submitted within two (2) years of approval, the approval of the preliminary plat shall be null and void and no final plat for a major subdivision shall be accepted until the preliminary plat is reapproved pursuant to the procedures set forth in this article. The subdivision agent may, on written request of the subdivider received at least fifteen (15) working days prior to expiration of the preliminary plat and for good cause shown, grant one (1) six-month extension of the deadline for submission of a final plat.

G. Upon the expiration of five (5) years from the date of approval of a preliminary plat, or such longer period as is approved by the agent pursuant to subsection (D), or upon the expiration of a period of five years from the date of the latest recorded plat of subdivision for the property, whichever is later, no further final plats shall be accepted until a preliminary plat is approved pursuant to the procedures set forth in this article.

H. No portion of the property shown on an approved preliminary plat which remains in effect may be the subject of a minor subdivision.

#### **§ 21-34. Submission of final plat.**

A. The subdivider shall submit a written request for final plat approval to the Department, together with payment of applicable fees.

B. If a preliminary plat has been submitted by the subdivider, the final plat shall be in substantial conformity with the approved and valid preliminary plat, but need not include all of the territory shown on the preliminary plat.

C. The final plat shall be in compliance with Article V of this chapter, and its submission shall be accompanied by such supplementary materials as may be required by said article.

(Ord. 8/27/14)

#### **§ 21-35. Consideration of the final plat.**

A. Consideration of the proposed plat shall be completed in accordance with the provisions of § 15.2-2259 of the Code of Virginia (1950), as amended.

B. A final plat shall be reviewed by a subdivision agent and shall be acted upon by the subdivision agent within fifteen (15) working days of the receipt of submissions required by Article V of this chapter, including, without limitation, the documents and other matters to accompany the final plat, as provided in § 21-55.

C. Upon the subdivision agent's determination that the final plat or the accompanying submission is not in conformance with the requirements of this chapter, the agent will retain one copy, and the remaining copies of the final plat shall be returned to the applicant with a written explanation of the deficiencies. An applicant may appeal the decision of the subdivision agent by filing a written request in the office of the board of supervisors within thirty (30) days of the decision of the subdivision agent. Upon appeal, the board of supervisors shall consider the final plat at the earliest possible date and the decision of the governing body shall supersede the decision of the subdivision agent.

D. Upon the subdivision agent's determination that the final plat is in conformity with the requirements of this chapter but is not in substantial conformance with the approved preliminary plat if one was submitted, the final plat shall be scheduled for consideration by the board of supervisors at the earliest possible time in accordance with the established policies and the applicant shall be notified in advance of the time and place for such consideration. The board of supervisors shall, in such event, consider and take final action on the final plat pending compliance with the requirements of § 21-36 below.

E. When a final plat is approved that is not in substantial conformance with an approved preliminary plat if one was submitted, the subdivider shall file in the Department a revised preliminary plat reflecting the changes resulting from the approved final plat. Provided the revisions to the approved preliminary plat address only the nonconformity of the approved final plat with the approved preliminary plat, the revised preliminary plat may be approved by the Director, in his capacity as a subdivision agent, and need not be reviewed by the planning commission or approved by the board of supervisors.

F. For purposes of this section, circumstances in which a final plat shall be deemed "not in substantial conformance" with an approved preliminary plat shall include, but not be limited to, increases in the proposed number or density of lots in the subdivision, alterations of proposed street connections in the subdivision, or additions of streets to the subdivision.

(Ord. 8/27/14)

**§ 21-36. Bonds required for final approval of final plat.**

The final approval of a final plat shall be conditioned on compliance by the subdivider with the following requirements:

A. Within six (6) months of the date of action under § 21-35 above by the subdivision agent or the board of supervisors, the subdivider shall submit for approval by the subdivision agent an itemized cost estimate of the work to be done to construct, install or furnish public facilities and improvements, including installation of required concrete subdivision monuments and subdivision street monuments. The estimate shall contain unit costs, quantities of each work element and total cost. In addition, the subdivider shall do at least one of the following:

1. Certify to the subdivision agent that the construction of all such facilities and improvements has been completed, that such facilities and improvements have been accepted for maintenance by the appropriate public agencies and that the construction costs have been paid to the persons constructing such facilities and improvements; or
2. Furnish to the subdivision agent a certified check or cash escrow in the amount of the estimated costs of construction plus ten percent (10%) of said estimated costs as a reasonable allowance for administrative costs, inflation and potential damage to existing roads or utilities as well as maintenance of such facilities and improvements until maintenance is assumed by the appropriate public agencies; or
3. Furnish to the subdivision agent a corporate or property bond, with surety satisfactory to the subdivision agent, in an amount sufficient for and conditioned upon the construction of such facilities and improvements plus ten percent (10%) of said estimated costs as a reasonable allowance for administrative costs, inflation and potential damage to existing roads or utilities as well as maintenance of such facilities and improvements until maintenance is assumed by the appropriate public agencies; or
4. Furnish to the subdivision agent a contract for the construction of such facilities and improvements and the contractor's bond, with surety satisfactory to the subdivision agent, in an amount sufficient for and conditioned upon the construction of such facilities and improvements plus ten percent (10%) of said estimated costs as a reasonable allowance for administrative costs, inflation and potential damage to existing roads or utilities as well as maintenance of such facilities and improvements until maintenance is assumed by the appropriate public agencies; or
5. Furnish to the subdivision agent a bank or savings institution's letter of credit on certain designated funds satisfactory to the subdivision agent as to the bank or savings institution and as to form and in an amount sufficient for the construction of such facilities and improvements plus ten percent (10%) of said estimated costs as a reasonable allowance for administrative costs, inflation and potential damage to existing roads or utilities as well as maintenance of such facilities and improvements until maintenance is assumed by the appropriate public agencies. Any such letter of credit must be able to be drawn in absentia, or at a branch office located within Augusta County, including the cities of Staunton and Waynesboro, or a within a contiguous locality, including any independent cities or towns therein.

“Such facilities and improvements” as used in this section means those facilities and improvements specifically provided for in this section.

B. In the event the subdivider submits to the subdivision agent a bond, letter of credit, cash escrow or other performance guarantee, in compliance with this section, the subdivider shall enter into an agreement with the county to complete the construction of all facilities and improvements required within a period of time determined by the subdivision agent. The form of the agreement shall be acceptable to the subdivision agent and be approved by the county attorney.

C. Any bond, letter of credit, cash escrow or other performance guarantee submitted in compliance with this section must be valid for the period of time established in the agreement between the subdivider and the county and must guarantee the installation and satisfactory completion of the facilities and improvements no later than the expiration of such period.

(Ord. 10/28/15)

State law reference—Virginia Code § 15.2-2241.

**§ 21-37. Final approval and recordation of the final plat.**

A. Approval signature by the subdivision agent will be affixed on the final plat and other documents submitted in accordance with subsections (B) through (F) of § 21-55 only after (1) the requirements of § 21-36 above have been met, and (2) the subdivision agent has received written confirmation from the Augusta County Service Authority that sewer connections are available for each lot to be served by a public sewer system, and that capacity has been reserved for each such lot, if reservation of capacity is required by the Service Authority. (Ord. 3/27/19)

B. Final approval and recordation of the final plat and other documents submitted in accordance with subsections (B) through (F) of § 21-55 shall be deemed acceptance of the dedication for public use of any public area or improvement or any right-of-way located within the subdivision which has been or is proposed to be constructed, including, but not necessarily limited to: any street, curb, gutter, sidewalk, bicycle trail, drainage system, sewer line, waterline or other improvement dedicated for public use and to be maintained by the county, the Commonwealth of Virginia or other public agency. They shall also be deemed acceptance of provisions for other site-related improvements required by county ordinances for vehicular ingress and egress, including traffic signalization and control, for public access streets, for structures necessary to ensure stability of critical slopes and for stormwater management facilities, financed or to be financed in whole or in part by private funds.

C. The approved final plat and other documents submitted in accordance with subsections (B) through (E) of § 21-55 shall be filed for recordation in the office of the Clerk of the Circuit Court of Augusta County within six (6) months of the date of approval by the subdivision agent.

D. If the final plat and other documents submitted in accordance with subsections (B) through (E) of § 21-55 are not filed for recordation within six (6) months after final approval, such approval shall be withdrawn and the final plat and deed of dedication, subdivision and easement and such other documents shall be void, except that in any case where construction of facilities to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the county, or where the developer has furnished surety to the county by certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of such facilities, the time for plat recordation shall be extended to one (1) year after final approval or to the time limit specified in the surety agreement approved by the county, whichever is greater.

State law reference—Virginia Code § 15.2-2241.

#### **§ 21-38. Periodic partial release of bonds.**

A. A periodic partial release of any bond, escrow, letter of credit, or other performance guarantee required by § 21-36 above shall be granted within thirty (30) days after receipt of written notice by the subdivider or developer of completion of part or all of any facilities or improvements required to be constructed hereunder unless the subdivision agent notifies said subdivider or developer in writing of non-receipt of approval by an applicable public agency, or of any specified defects or deficiencies in construction and suggested corrective measures prior to the expiration of the thirty-day period. Any inspection of such facilities or improvements shall be based solely upon conformance with the terms and conditions of the agreement required by subsection (B) of § 21-36, if any, and the approved design plan and specifications for the facilities or improvements for which the performance guarantee is applicable, and shall not include the approval of any person other than an employee of the county, its administrative agency, the Virginia Department of Transportation or other political subdivision or a person who has contracted with the county, its administrative agency, the Virginia Department of Transportation or other political subdivision.

B. If no such action is taken by the subdivision agent within the time specified above, the request shall be deemed approved, and a partial release granted to the subdivider or developer.

C. Neither the board of supervisors nor the subdivision agent shall refuse to make a periodic partial release of a bond, escrow, letter of credit, or other performance guarantee for any reason other than a reason directly related to the specified defects or deficiencies in construction of the facilities or improvements covered by said bond, escrow, letter of credit or other performance guarantee.

D. Upon written request by the subdivider or developer, accompanied by approval letters from applicable public agencies, the subdivision agent shall make periodic partial releases of such bond, escrow, letter of credit, or other performance guarantee based upon the percentage of facilities or improvements completed and approved by the applicable public agency. The cumulative amount of such partial releases shall not exceed ninety percent (90%) of the original amount for which the bond, escrow, letter of credit, or other performance guarantee was taken.

E. Periodic partial releases may not occur before the completion of at least thirty percent (30%) of the facilities or improvements covered by any bond, escrow, letter of credit, or other performance guarantee.

State law reference—Virginia Code § 15.2-2241 and § 15.2-2245.

### **§ 21-39. Final release of bonds.**

A. A final complete release of any bond, escrow, letter of credit, or other performance guarantee required by § 21-36 above shall be granted within thirty (30) days after receipt of written notice by the subdivider or developer of completion of part or all of any facilities or improvements required to be constructed hereunder unless the subdivision agent notifies said subdivider or developer in writing of non-receipt of approval by an applicable public agency, or of any specified defects or deficiencies in construction and suggested corrective measures prior to the expiration of the thirty-day period.

B. If no such action is taken by the subdivision agent within the time specified above, the subdivider or developer may file an additional request in writing sent by certified mail return receipt to the County Administrator. The County Administrator or the subdivision agent shall act within ten (10) working days of receipt of the request. If no action is taken the request shall be deemed approved and final release granted to the subdivider or developer.

C. Upon final completion and acceptance of required facilities and improvements, the board of supervisors or the subdivision agent shall release any remaining bond, escrow, letter of credit, or other performance guarantee to the subdivider or developer. For the purpose of final release, the term “acceptance” is deemed to mean: when said public facility or improvement is accepted by and taken over for operation and maintenance by the state agency, local government department or agency, or other public authority which is responsible for maintaining and for operating such facility upon acceptance.

D. A certificate of final completion of such facilities or improvements from any applicable public agency shall be required before the final complete release of any bond, escrow, letter of credit or other performance guarantee. In addition, a certificate of final completion of such facilities or improvements in full conformity with the final plat and

accompanying construction plans from either a duly licensed professional engineer or land surveyor shall be required before any such release.

E. Neither the board of supervisors nor the subdivision agent shall refuse to make a final release of a bond, escrow, letter of credit, or other performance guarantee for any reason other than a reason directly related to the specified defects or deficiencies in construction of the facilities or improvements covered by said bond, escrow, letter of credit or other performance guarantee.

State law reference—Virginia Code § 15.2-2241 and § 15.2-2245.

**§ 21-40. Additional maintenance and indemnifying bond.**

A. In the event the subdivision agent has accepted the dedication of a road for public use and such road due to factors other than its quality of construction has not been accepted into the secondary system of state highways, then, prior to the release of any remaining bond, escrow, letter of credit, or other performance guarantee required by § 21-36 above, the subdivision agent may require the subdivider or developer to furnish the county with a maintenance and indemnifying bond, with surety satisfactory to the subdivision agent, 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.

B. In lieu of such bond, the subdivision agent may accept a bank or savings institution's letter of credit on certain designated funds satisfactory to the subdivision agent as to the bank or savings institution, the amount and the form, or accept payment of a negotiated sum of money sufficient for and conditioned upon the maintenance of such road until such time as it is accepted into the secondary system of state highways and assume the subdivider's or developer's liability for maintenance of such road. Any such letter of credit must be able to be drawn in absentia, or at a branch office located within Augusta County, including the cities of Staunton and Waynesboro, or a within a contiguous locality, including any independent cities or towns therein.

C. "Maintenance of such road" shall be deemed to mean 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.

D. "Correction of defects" shall include the correction of defects which occur because of changes in standards required by the Virginia Department of Transportation as well as defects occurring for other reasons.

State law reference—Virginia Code § 15.2-2241.

## **ARTICLE IV. Preliminary Plats for Major Subdivisions**

### **§ 21-41. Compliance with minimum standards and procedures for land boundary surveys required.**

Preliminary plats for major subdivisions shall be prepared in accordance with the minimum standards and procedures for boundary surveys set forth in Title 18 of the Virginia Administrative Code (18 VAC § 10-20-370).

### **§ 21-42. Contents of the preliminary plat.**

A. The preliminary plat shall contain or be drawn in accordance with the following:

1. Be drawn on sheets no larger than twenty-four inches (24") by thirty-six inches (36"), at a scale no less than 1 inch equals 100 feet. Where the proposed subdivision cannot be drawn on a single sheet at a scale of 1 inch equals 100 feet, the preliminary plat shall be submitted with an overview sheet at a smaller scale, which shows on a single sheet the proposed subdivision in its entirety.
2. The name of the proposed subdivision.
3. A vicinity map oriented to the north which indicates the location of the proposed subdivision in relation to main traffic arteries.
4. The name of the recorded owner, the source of title of the recorded owner and the place of record of the last instrument in the chain of title.
5. The tax map sheet, section and parcel number of each tract being subdivided.
6. The name of the subdivider and designer.
7. Anticipated land uses from the comprehensive plan including densities of all residential areas. (Ord. 09/28/11)
8. A proposed layout of streets, street names, lots and lot numbers.
9. The tax map sheet, section and parcel number of each adjacent property, the source of title of the owner thereof and the place of record of the last instrument in the chain of title.
10. Any tracts or lots proposed to be platted or dedicated for recreation, open space or public use and a statement of the public use intended and the conditions under which the dedication is tendered.

11. Complete existing exterior boundary information.
12. Preliminary water supply and sewage disposal plan including:
  - a. general location of lines;
  - b. proposed line sizes and materials;
  - c. calculations of pressures required for fire suppression and anticipated land uses;
  - d. locations of proposed pump stations, storage tanks, fire hydrants and manholes;
  - e. the type of each private individual onsite sewage disposal system, if any; and
  - f. designation of each lot to be served by a public sewer system or confirmation that onsite sewage disposal systems have been approved for each other lot.
13. All watercourses and preliminary storm drainage, to include locations of bridges and culverts,
14. The boundaries of any Overlay District on the property as designated in Division H of Chapter 25 “Zoning”, of this code, including any sub-designations within such overlay district.
15. The boundaries of any dam break inundation zone required by §10.1-606.2 and on file with the Virginia Department of Conservation and Recreation and the Department of Community Development.
16. General locations of soil classifications and descriptions of the characteristics of the identified soil classifications. Such descriptions shall include depth to bedrock, depth to seasonal high water table, erodibility, permeability and shrink-swell potential.
17. Proposed connections to existing state highways or city streets.
18. Contours at vertical intervals of five feet. Contours may be omitted where no roads, streets or drainage conditions are involved.
19. Estimated grades of streets and alleys and typical cross section.
20. The location of any grave, object or structure marking a place of burial, or a note indicating that none were located.

21. Anticipated uses of adjacent properties, if known.
22. Date and all revision dates, legend, north point and scale.
23. Approval signature panel.

B. The preliminary plat shall contain in addition to the professional engineer's or land surveyor's certificate a statement as follows:

The platting or dedication of the following described land [here insert a correct description of the land subdivided] is with the free consent and in accordance with the desire of the undersigned owners, proprietors and trustees, if any.

The statement shall be signed by such persons and duly acknowledged before some officer authorized to take acknowledgment of deeds.

State law reference—Virginia Code § 15.2-2264.

**§ 21-43. Other requirements.**

The preliminary plat shall also be forwarded by the subdivision agent to the following for further review and comment:

A. The Augusta County Service Authority, where applicable, or its designee, which shall advise the subdivision agent whether the proposed water and sewer facilities and related utilities are in conformity with the relevant sections of this Code, the rules, policies and regulations of the Authority, and the rules, policies and regulations of the Virginia Department of Health and the Virginia Department of Environmental Quality, as applicable. (Ord. 09/28/11)

B. The Virginia Department of Health, where applicable, or its designee, which shall advise the subdivision agent whether the proposed water and sewer facilities and related utilities are in conformity with the relevant sections of this Code and rules, policies and regulations of the Virginia Department of Health. (Ord. 09/28/11)

C. The Chief of Fire-Rescue, or his designee, who shall advise the subdivision agent concerning the provision of emergency services, including, but not limited to, emergency vehicle access and fire protection. (Ord. 09/28/11)

D. The Virginia Department of Transportation, or its designee, which shall advise the subdivision agent whether the proposed streets and related improvements are in conformity with the relevant sections of this Code and rules, policies and regulations of the Virginia Department of Transportation. (Ord. 09/28/11)

E. Any other public officials or agencies as the subdivision agent may deem appropriate.

**§ 21-44. Copies of preliminary plat to be submitted.**

A. The request for approval of a preliminary plat shall be accompanied by eight (8) copies of the preliminary plat which shall be on white paper with black lines.

B. Each copy shall contain originals of all signatures required.

C. One full size copy of the preliminary plat, without topographical features, shall also be submitted. (Ord. 09/28/11)

D. Once approved, a copy of the preliminary plat in CAD/GIS format shall be submitted. (Ord. 09/28/11)

**§ 21-45 through § 21-50. Reserved.**

**ARTICLE V. Final Plats of Major Subdivisions**

**§ 21-51. Compliance with minimum standards and procedures for land boundary surveys required.**

Final plats of major subdivisions shall be prepared in accordance with the minimum standards and procedures for boundary surveys set forth in Title 18 of the Virginia Administrative Code (18 VAC § 10-20-370).

**§ 21-52. Compliance with Virginia Public Records Act required.**

Final plats of major subdivisions shall contain plat details which shall meet the standards for plats as adopted under § 42.1-82 of the Virginia Public Records Act (Virginia Code §§ 42.1-76 *et seq.*)

State law reference—Virginia Code § 15.2-2241.

**§ 21-53. Contents of the final plat.**

A. The final plat shall contain the following:

1. The name or identifying title under which the subdivision is to be recorded, and the name of the recorded owner, the source of title of the recorded owner and the place of record of the last instrument in the chain of title.

2. The tax map sheet, section and parcel number of each tract being subdivided.

3. The name of the subdivider.
4. The numerical section number if the plat includes only a portion of a larger tract.
5. The exact layout, including all dimensions, both linear and angular, for locating lots, adjoining public streets, proposed and existing private streets and easements. The linear dimensions shall be expressed in feet and hundredths of a foot and the angular measurements shall be expressed by bearings or angles in degrees, minutes and seconds. Each curve shall be defined by its chord bearing, chord length, radius, central angle, tangent length and arc length. Survey accuracy shall result in an error of closure of one in ten thousand or better.
6. The location of all buildings which are at least in part within fifty (50) feet of any newly created lot line, including the square footage of such buildings and the distance from such buildings to the newly created lot lines.
7. The boundaries of any Overlay District on or adjacent to the property as designated in Division H of Chapter 25 “Zoning”, of this code, including any sub-designations within such overlay district. Within the Floodplain Overlay District (FPO), such areas shall include the 100 year backwater of any stormwater management facility outside a dedicated right-of-way or easement
8. The boundaries of any dam break inundation zone required by §10.1-606.2 and on file with the Virginia Department of Conservation and Recreation and the Department of Community Development.
9. The location of any grave, object or structure marking a place of burial, or a note indicating that none were located.
10. Numerical block and lot numbers.
11. Location and description of all “subdivision lot monuments,” “concrete subdivision monuments” and “subdivision street monuments” in accordance with county design standards 80-1, 80-2 and 80-3.
12. Date and all revision dates, legend, north point and scale.
13. The area of each lot or parcel, in square feet, the area to be dedicated for public street purposes, the area to be reserved for private street purposes, and the total area of the subdivision.
14. Approved street names.
15. Approval signature panel.

B. Every final plat shall contain in addition to the professional engineer's or land surveyor's certificate a statement as follows:

The platting or dedication of the following described land [here insert a correct description of the land subdivided] is with the free consent and in accordance with the desire of the undersigned owners, proprietors and trustees, if any.

The statement shall be signed by such persons and duly acknowledged before some officer authorized to take acknowledgment of deeds.

C. Every final plat which establishes drainage easements shall contain a statement as follows:

By restrictive covenant an obligation shall be imposed on the owners of lots [here insert a correct description of the lots] which shall be a covenant running with the land, to keep debris removed from the drainage easements and to keep plant growth within the drainage easements mowed so that it never exceeds the height limitation imposed in § 15-22 of the Augusta County Code, or is maintained in accordance with the approved maintenance plan in the case of a required Best Management Practice installed pursuant to the requirements of Chapter 9 of this Code. Said obligation by its terms shall inure to the benefit of the County of Augusta and shall permit the County, in the event of failure of the owner of said property to comply, to enter said property and remove the debris and mow the plant growth. In such event, the cost or expenses thereof plus a \$100 administrative fee shall be chargeable to and paid by the owner of said property and may be collected by the County as taxes and levies are collected. (10/28/15)

D. Every final plat shall further address common or shared easements as follows:

1. The final plat shall provide for the conveyance of common or shared easements to franchised cable television operators furnishing cable television and public service corporations furnishing cable television, gas, telephone and electric service to the subdivision.

2. Once a developer conveys an easement that will permit electric, cable or telephone service to be furnished to a subdivision, the developer shall, within thirty (30) days after written request by a cable television operator or telephone service provider, grant an easement to that cable television operator or telephone service provider for the purpose of providing cable television and communications services to that subdivision, which easement shall be geographically coextensive with the electric service easement, or if only a telephone or cable service easement has been granted, then geographically coextensive with that telephone or cable service easement; however, the developer and franchised cable television operator or telephone service provider may mutually agree on an alternate location for an easement.

3. Every final plat containing such easements shall contain the following statement:

Whenever the board of supervisors shall determine that any pipes, cables, poles, equipment, or other facilities installed by or for any utility after the recordation of this plat in any street right-of-way or stormwater management easement shown on this plat must be relocated or removed, the owner or operator of such facilities shall relocate or remove the same at its expense in accordance with the order of the board.

4. If the final plat is recorded and does not include conveyance of a common or shared easement as provided herein, the subdivision agent shall not be responsible to enforce the requirements of this subsection (D).

E. When the area subdivided lies within an Urban Service Overlay District, a final plat shall show on its face written confirmation by the preparer that the requirements of ARTICLE L, "Urban Service Overlay (USO) Districts," of Chapter 25, "Zoning" of this Code have been met or that appropriate arrangements, acceptable to the subdivision agent, have been made to ensure that they will be met.

State law reference—Virginia Code § 15.2-2264.

**§ 21-54. Copies of final plat to be submitted.**

A. The request for approval of a final plat shall be accompanied by eight (8) copies of the final plat which shall be on white paper with black lines.

B. Each copy shall contain originals of all signatures required.

C. An approved version of the final plat in CAD/GIS format shall also be submitted.

D. Final plats shall be drawn on sheets eighteen inches (18") by twenty-four inches (24"), eleven inches (11") by seventeen inches (17") or eight and one-half inches (8½") by fourteen inches (14"). In cases where more than one sheet is required, they shall be matched marked.

**§ 21-55. Documents and other matters to accompany final plat.**

The final plat shall be accompanied by:

A. Detailed construction plans for all required streets, water and sewer systems and storm drainage facilities.

B. Written confirmation from the appropriate officials that the construction plans have been approved by the Virginia Department of Transportation, the Augusta County Service Authority, the Virginia Department of Health or other agency as appropriate.

C. A deed of dedication, subdivision and easement, in a form approved by the county attorney, properly executed and ready for recordation, to convey to the county or the Augusta County Service Authority, as applicable, any property and on-site easements to be dedicated by the final plat within the boundaries of the subdivision.

D. A legal stormwater agreement, in a form approved by the county attorney, properly executed and ready for recordation, to allocate responsibility of the subdivider and his successors for maintenance of stormwater management facilities and drainage easements.

E. A deed of easement, in a form approved by the county attorney, properly executed and ready for recordation, to convey to the county or the Augusta County Service Authority, as applicable, all required off-site easements.

F. An agreement in the form required by subsection (B) of § 21-36 concerning the construction of public facilities and improvements.

G. An approved erosion and sediment control plan in accordance with the requirements of Chapter 9 of this Code.

State law reference—Virginia Code § 15.2-2241.

**§ 21-56 through § 21-60. Reserved.**

## **ARTICLE VI. Enforcement**

**§ 21-61. Approval of subdivision plat prerequisite to recordation.**

It shall be unlawful to submit to the Clerk of the Circuit Court of Augusta County, Virginia for recordation a plat or other document required by this chapter unless and until it shall have been submitted to and approved by the board of supervisors or its subdivision agent and such approval is shown on the plat or other document by the signatures required by this chapter.

**§ 21-62. Variances.**

The board of supervisors may by separate resolution authorize variations in or exceptions to the general regulations of this chapter in cases of unusual situations or when strict adherence to the general regulations would result in substantial injustice or hardship.

State law reference—Virginia Code § 15.2-2241.

**§ 21-63. Proceedings to prevent, etc., violation of chapter.**

In case of violation of the provisions of this chapter, the board of supervisors or its subdivision agent may institute such proceedings as are necessary to prevent, restrain, correct or abate such violation.

**§ 21-64. Building permits.**

Upon finding that the developer is in default with any provision of this chapter, the board of supervisors or its subdivision agent may request that the building official withhold building permits or certificates of occupancy for construction on any lot or lots in the subdivision.

**§ 21-65. Penalty.**

Any person, firm or corporation violating any provision of this chapter shall, upon conviction thereof, be punished in accordance with the provisions of § 15.2-2254 of the Code of Virginia (1950), as amended.

State law reference—Virginia Code § 15.2-2254.

**§ 21-66. Severability.**

Should any section, subsection, paragraph, sentence, clause or phrase of this chapter be declared invalid by a court of competent jurisdiction, such decision, for any reason whatsoever, shall be of no effect on the remainder of its provisions which shall remain in full effect and to this end the provisions of this chapter are declared to be severable.

**§ 21-67 through § 21-70. Reserved.**

**ARTICLE VII. Transition**

**§ 21-71. Validity of previously approved master plans and plans of development.**

Nothing contained in this chapter shall be deemed to affect the validity of any master plan approved prior to January 1, 2007, in accordance with Chapter 21 of this Code, as it existed on December 31, 2006, or any plan of development approved prior to January 1, 2007, in accordance with Division D or Article XLI of Division G, both of Chapter 25 of this Code, as they existed on December 31, 2006. As the context may require, references in this chapter to “preliminary plat,” “master plan” or “plan of development” shall be deemed to refer respectively to a master plan or plan of development approved prior to January 1, 2007.