

Accomack County, Virginia Chapter 78 SUBDIVISIONS*

Draft Amendments through 2-17-06 are shown as underlined and ~~strike-through~~
Draft Amendments through 2-24-06 are shown as double underlined and ~~double strike-~~
~~through~~

Draft Amendments through 2-28-06 Planning Commission Meeting are shown as double underlined and ~~double strike-through~~

***Cross references:** Buildings and building regulations, ch. 18; community development, ch. 26; environment, ch. 38; roads and bridges, ch. 66; utilities, ch. 94; vegetation, ch. 98; waterways, ch. 102; zoning, ch. 106; subdivision review fees, app. A, § 13.

State law references: Planning, subdivision of land and zoning, Code of Virginia, § 15.2-2200 et seq.; land subdivision and development, Code of Virginia, § 15.2-2240 et seq.

Sec. 78-1. Adoption.

In accordance with ~~article 6 of the Virginia Planning Act as found in~~ Code of Virginia, § 15.2-2240 et seq., the board of supervisors hereby adopts this chapter for the subdivision of all land except the territory of the incorporated towns within the jurisdiction of the county. This chapter shall not apply to either de facto or de jure subdivisions recorded prior to May 1, 1973.

(Ord. of 3-21-1973)

Sec. 78-2. Purpose.

The purpose of this chapter is to establish certain subdivision standards and procedures for the county and such of its environs as come under the jurisdiction of the board of supervisors, as provided for by the Code of Virginia, in order to guide and facilitate the orderly beneficial growth of the community and to promote the public health, safety, convenience, comfort, prosperity and general welfare.

(Ord. of 3-21-1973, § 1-1)

Sec. 78-3. Definitions.

~~For the purpose of this chapter, e~~Certain words and terms used in this chapter shall be interpreted or defined as follows: Words used in the present tense include the future, words in the singular number include the plural and the plural the singular, unless the natural construction of the word indicates otherwise; the word "lot" includes the word "parcel"; the word "shall" is mandatory and not discretionary; the word "approve" shall be considered to be followed by the words "or disapprove"; any reference to this chapter includes all ordinances amending or supplementing this chapter; all distances and areas refer to measurements in a horizontal plane.

Agent means the representative of the board of supervisors who has been appointed to serve as the Agent of the board in approving the subdivision plats, or the Agent's ~~his or her~~ officially appointed designee.

Applicant means the owner, subdivider or developer seeking to subdivide land.

Building means any structure having a roof supported by columns or walls, for the housing or

enclosure of persons, animals or chattels.

Day, business means any day, Monday through Friday, except local or state government holidays.

Developer means an owner of property being subdivided, whether or not represented by his agent.

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

Engineer means an engineer licensed by the commonwealth.

Health official means the district health director or sanitarian for the county.

Jurisdiction means the area or territory subject to the legislative control of the board of supervisors.

Large lot subdivision means any subdivision of land into three or more parts of at least three acres each that creates either a public street or a private street.

Lot means a numbered and recorded portion of a subdivision intended for transfer of ownership, lease, rental or for building development.

Lot, corner means a lot abutting upon two or more streets at their intersection; the shorter side fronting upon a street shall be considered the front of the lot, and the longest side fronting upon a street shall be considered the side of the lot.

Lot, flag means a lot that does not meet the required frontage at the setback line, due to being configured with a narrow panhandle or pipestem ~~providing portion forming an~~ access ~~corridor~~ to the bulk of the lot, which is located behind the bulk of other lots or parcels.

Lot, width of means the mean horizontal distance between the side lot lines.

Plat means and includes the terms: map, plan, plot, replat, or replot; a map or plan of a tract or parcel of land which is to be, or which has been subdivided. When used as a verb "plat" is synonymous with "subdivide."

Private street means a street owned by one or more persons, restricted in use, and not maintained by the ~~state~~ Virginia Department of Transportation, and not intended by the subdivider for acceptance into the secondary system of state highways.

Property means any tract, lot, parcel or several tracts, lots, or parcels collected together for the purpose of subdividing.

Public street means a street maintained by the ~~state~~ Virginia Department of Transportation or one intended by the subdivider for acceptance into the secondary system of state highways and approved by the resident engineer as meeting ~~state~~ the Virginia Department of Transportation's current subdivision street requirements.

Resident engineer means the resident engineer employed by the ~~state~~ Virginia Department of Transportation.

Resubdivision means the further division or relocation of lot lines of any lot within a subdivision previously made and approved or recorded according to law; or, the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law, but does not include conveyances so as to combine existing lots by deed or other instrument.

Street means the principal means of access to abutting properties.

Street, public use of means the unrestricted use of a specified area or right-of-way for ingress and egress to two or more abutting properties.

Street width means the total width of the strip of land dedicated or reserved for travel, including roadway, curbs, gutters, sidewalks and planting strips.

Subdivider means an individual, corporation or registered partnership, owning any tract, lot or parcel of land to be subdivided, or a group of two or more persons owning any tract, lot or parcel of land to be subdivided, who have given their power of attorney to one of their group or to another individual to act on their behalf in planning, negotiating for, in representing or executing the legal requirements of the subdivision.

Subdivision means the division of any tract, lot or parcel of land into three or more parts, or any division of a tract, lot or parcel of land in which a new street is created, regardless of whether the individual parts are sold, leased or rented. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or the land subdivided, except that the following divisions of land shall not be considered subdivisions, provided the division does not create or extend either a public street or private street or, if such a street is created, the street is subject to the same deed and plat restrictions as set out in subsection 78-6(c)(1) or subsection 78-9(g)(6) unless it is intended for and constructed to standards for addition to the secondary system of state highways, further provided that an easement or right-of-way not over 20 feet in width shall not be considered a public or private street for purposes of defining these exemptions:

- (1) Division ordered by a court of competent jurisdiction;
- (2) Divisions made solely for agricultural or timber purposes;
- (3) Division by deed of gift or will;
- (4) Divisions whereby a parcel is separated in order to become a permanent part of an adjoining tract (changing the location of a parcel boundary line);
- (5) Division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner, provided the lot satisfies the minimum lot size requirements of this chapter, including section 78-12, and of the applicable regulations of chapter 106.

None of the exemptions in subsections (1) through (5) of this section shall be used for the purpose of circumventing this chapter.

The word "subdivision" and any derivative thereof shall have reference to the term "subdivider" as defined in this section.

Surveyor means a surveyor licensed by the commonwealth.

(Ord. of 3-21-1973, §§ 2-1--2-4, 2-6--2-19; Ord. of 6-18-1980; Ord. of 11-20-1996)

Cross references: Definitions generally, § 1-2.

State law references: Similar provisions, Code of Virginia, § 15.2-2244(A).

Sec. 78-4. Administration.

- (a) *Administrator.* The Agent appointed by the board of supervisors is hereby delegated to administer this chapter. In so doing, the Agent shall be considered the agent of the board of supervisors, and approval or disapproval by the Agent shall constitute approval or disapproval as though it were given by the board of supervisors. The Agent shall also consult with the planning commission on matters contained in this chapter.
- (b) *Review.* In the event that a plan for a subdivision is disapproved by the Agent, the subdivider may appeal his subdivision plan directly to the board of supervisors. All appeals must be made within 60 days of the date of disapproval or the subdivider will forfeit the right to have his subdivision plan reviewed.
- (c) *Duties.* The Agent shall perform his duties regarding subdivisions and subdividing in accordance with this chapter and the Land Subdivision and Development Act (Code of Virginia, § 15.2-2240 et seq.)
- (d) *Consultation.* In the performance of his duties the Agent may call for opinions or decisions, either verbal or written, from other departments in considering details or any submitted plat. This authority by the Agent shall have particular reference to the resident engineer and the health officer.
- (e) *Additional authority.* In addition to the regulations contained in this chapter for the platting of subdivisions, the Agent may, from time to time, establish any additional reasonable administrative procedures deemed necessary for the proper administration of this chapter.

(Ord. of 3-21-1973, § 3)

Cross references: Administration, ch. 2.

Sec. 78-5. Procedure for making and recording plats.

- (a) *Platting required.* Any owner or developer of any tract of land situated within the county who subdivides such tract of land shall cause a plat of such subdivision, with reference to known or permanent monuments, to be made and recorded in the office of the clerk of the appropriate court within six (6) months after final approval or the approval shall be withdrawn and the plat marked void and returned to the agent. No such plat of subdivision shall be recorded unless and until it shall have been submitted, approved, and certified by the

agent in accordance with the regulations set forth in this chapter. No lot shall be sold, leased or rented in any such subdivision before the plat of the whole subdivision shall have been recorded. Preliminary plats may be drawn so as to constitute two or more groups of lots (sections or phases) which may then be recorded as final approved plats in two or more sequential phases, not more than six months apart. Such phases must be clearly marked on the plat, showing which lots are in each phase and the sequence in which the phases will be recorded. The planning commission may approve extensions of the six-month time limit for ~~phasing~~ recording of final plats as part of a phased development.

- (b) *No exemptions.* No person shall subdivide any tract of land that is located within the county except in conformity with the provisions of this chapter.
- (c) *Necessary changes.* No changes, erasures, or revision shall be made on any preliminary or final plat, nor on accompanying data sheets after approval of the agent has been endorsed in writing on the plat or sheets, unless authorization for such changes has been granted in writing by the agent.
- (d) *Fees.* All fees for administration of this chapter shall be adopted and regulated by the board of supervisors. The fees may, from time to time, be amended, supplemented, changed or repealed by the board of supervisors.

(Ord. of 3-21-1973, § 4; Ord. of 8-15-1979; Ord. of 6-18-1980)

Sec. 78-6. Improvements.

- (a) *Subdivider's responsibility.* All physical improvements in a subdivision shall be installed by the subdivider at his cost, except that the subdivider shall not be required to install individual septic tanks and individual wells where private water and sewer systems are intended for each lot. In cases where specifications for improvements have been established either by the ~~state Virginia Department of Health department~~ for central water and central sewer systems, or by the ~~state Virginia~~ Department of Transportation or this chapter for streets and drainage facilities, such specifications shall be followed in the design and construction of these improvements with the following being the only exception: In subdivisions where private streets are permitted, streets and drainage facilities shall not be required to conform to ~~state Virginia~~ Department of Transportation specifications.
- (b) *~~state Virginia Department of Hhealth department.~~* All plans for water and sewerage facilities in a subdivision must be approved by the ~~state Virginia Department of Hhealth department,~~ the Virginia Department of Environmental Quality and/or the State Water Control Board, as applicable before the final subdivision plat can be ~~recorded~~ approved.

(1) *Central water facilities.*

- a. Where central water is available from a municipality or a public authority, or is intended to be furnished by the subdivider, the service shall be extended to all lots within a subdivision.

- b. The installation of adequate fire hydrants in a subdivision at locations approved by the agent may be required, provided necessary central water is available. The agent shall consult with the proper authority before approving such location.
- (2) *Central sewerage facilities.* Where central sewerage facilities are available from a municipality or public authority, or are intended to be furnished by the subdivider, the service shall be extended to all lots within a subdivision, and septic tanks will not be permitted.
- (3) *Individual water and/or sewer.*
- a. Nothing in this regulation shall prevent the installation of privately owned individual water and/or sewer facilities in areas where central water and/or sewerage facilities are not available, provided, however, that installations meet the requirements of the state water control board, the ~~state~~ Virginia Health Department and any other state or local regulation having authority over such installation.
 - b. After ~~general~~ approval of the preliminary subdivisions plat, but prior to approval of the final plat, each lot for which an individual sewage system is proposed must further be evaluated by the local health department for suitability of the type of sewage disposal proposed for that lot and a ~~sewage permit~~ letter of certification must be obtained ~~according to the rules and regulations of~~ from the state Virginia Department of ~~H~~health department.
 - c. For any subdivision of greater than 10 lots, which does not have central water facilities, one or more dry hydrants must be provided at locations approved by the Agent. The Agent may consult with the appropriate authority before approving such locations.
- (4) *Lot sizes.* Lot sizes shall conform to the area requirements specified in the applicable district regulations of chapter 106.
- (5) *Exceptions to lot size rules.* Greater lot areas may be required where individual septic tanks and/or individual wells are used if the health official determines that there are factors of drainage, soil condition, population density or other conditions to cause potential health problems. The Agent shall require that soil evaluation and any tests necessary be conducted under the health director's supervision to determine the adequacy of the proposed systems. Such test information shall be submitted with the preliminary plat when greater lot areas are required.
- (6) *Compliance with zoning regulations.* In addition to all the requirements of this chapter, the developer ~~of mobile home parks in which lots are rented or sold~~ shall comply with all the requirements of chapter 106.
- (7) *Reservation of open space for mobile home park or travel trailer park.* The developer of a mobile home park or travel trailer park shall reserve ten feet of open space abutting all the adjoining property owners before establishing lots within the park.
- (8) *Travel trailer parks to comply with state requirements.* The developer of a travel trailer

park in which lots are sold or rented shall comply with all the requirements of the state Virginia Health Department and bureau of tourism and submit written approval to the agent.

(9) Regional Stormwater Facilities. Any subdivision that is adjacent to an existing regional stormwater management facility, or adjacent to ~~such~~ a proposed regional stormwater management facility, that is shown on the County's Comprehensive Plan shall provide utility easements on the plat, which shall be designed and configured so as to allow drainage connections to such facility.

(c) *Department of transportation.* All plans for streets and drainage facilities in subdivisions where public streets are required or intended shall be in accordance with the requirements of the state Virginia Department of Transportation's secondary highway specifications and subdivision street requirements. Such plans shall be approved by the state Virginia Department of Transportation (VDOT) before the final subdivision plat can be recorded-approved. Plans for streets that are not intended for addition as part of the secondary system of state highways shall be submitted to the state Virginia Department of Transportation for review and approval of connections to the highway systems under that agency's jurisdiction and for the issuance of appropriate state Virginia Department of Transportation permits.

(1) *Private streets.* ~~Private Streets not constructed to meet VDOT standards in subdivisions~~ are allowed only in large lot subdivisions. For all subdivisions in which private streets are allowed (whether or not they are constructed to meet VDOT Standards), the subdivision plat and all approved deeds of subdivision, or similar instruments, must contain a statement advising that the streets in the subdivision ~~do not meet state standards and~~ will not be maintained by the state Virginia Department of Transportation or the county unless and until such time as such streets have been accepted into the state system by the ~~constructed to meet the prevailing subdivision street requirements of the state Virginia~~ Department of Transportation. ~~using funds other than those administered by that agency.~~ Grantors of any subdivision lots to which such statement applies must include the statement on each original deed of conveyance thereof.

- a. *Private streets--Width.* Except along sections where narrowness of right-of-way through adjoining property makes it impossible, the width of private streets shall comply with the state Virginia Department of Transportation's subdivision street requirements. The Agent shall consult the resident engineer to determine what width would have been required had the street been intended for dedication as a public street.
- b. *Private streets--Construction.* All private subdivision streets shall conform with the standards for construction road stabilization, as specified in the state erosion and sediment control handbook.

(2) *Adjacent subdivisions.* Where a developer or subdivider seeks to plat a subdivision adjacent to an existing subdivision and any private street in the existing subdivision is intended for use in providing access to any street in the planned subdivision, then the planned subdivision, for purposes of determining whether private streets will be permitted, shall be deemed to contain a number of lots totaling the sum of those in the existing subdivision and those in the planned subdivision. The foregoing requirements shall also apply when a developer or subdivider seeks to plat a subdivision adjacent to a proposed subdivision which is under review.

(Ord. of 3-21-1973, § 5; Ord. of 5-17-1978; Ord. of 10-19-1983; Ord. of 8-17-1994; Ord. of 11-20-1996)

Sec. 78-7. Insuring performance on improvements; security.

- (a) *Generally.* Before the Agent will give final approval to any subdivision plat, the ~~subdivider~~ ~~or~~ developer or subdivider shall be required to insure his performance in accordance with specifications and construction schedules established on certain planned improvements. Performance security in an amount determined by the Agent to be sufficient to pay the total cost of the improvements being secured shall be required in all subdivisions for public streets and accompanying drainage construction and for central water and/or sewer, including survey monuments as required in this chapter. In determining the costs for various improvements the Agent may consult an engineer, who shall prepare written construction cost estimates for the Agent, or the Agent may require that bona fide cost estimates for improvements be furnished by the developer or subdivider. The developer or subdivider may elect to secure all improvements requiring security with one performance security mechanism, or he may elect to utilize two mechanisms simultaneously: one mechanism securing improvements requiring ~~state~~ Virginia Health Department approval and one mechanism securing improvements requiring ~~state~~ Virginia Department of Transportation approval. Upon receipt of a written request from the subdivider or developer, the agent, after conferring with the county attorney, may waive elements of the bonding requirements of this Ordinance. The agent's decision shall be final.
- (b) *Performance Agreements and Guarantees security in lieu of construction.* An agreement supported by a form of security guarantee is required on all projects. This agreement and security guarantee shall obligate the developer or subdivider to construct legally required improvements on approved site plans or subdivision plats in a timely manner and in accordance with applicable standards.

All such security mechanisms guarantees must be provided by the developer or subdivider in a form acceptable to the county attorney. The ~~bond~~ security is designed to guarantee the County a fund for completion of required improvements in the event the developer or subdivider fails to discharge the obligations of ~~his or her~~ the performance agreement. The shared obligation of all ~~bonds~~ security guarantees is ~~by the~~ payment of the designated funds on demand. The Agent shall approve and may amend from time to time, after conferring with the county attorney, standard forms which may be used for any performance agreement and ~~bond~~ security guarantee.

The developer or subdivider ~~in lieu of construction~~ shall furnish the board of supervisors one or ~~both~~ more of the following as acceptable performance security mechanisms guarantees for improvements requiring security, which are the only forms of guarantee (~~bond~~) acceptable to the County:

- (1) Cash to be held in escrow and deposited in the county treasury, which shall bear no interest;

- (2) Corporate Surety Bond made payable to the board of supervisors;
- (3) A contract for construction, with the contractor's bond;
- (4) A bank or savings and loan association's letter of credit.

State law references: Similar provisions, Code of Virginia, § 15.2-2241(5).

(c) *Discontinuing performance security.*

- (1) When the developer has completed, in compliance with the standards of this chapter, all of the improvements secured by either performance security mechanism, the Agent shall cancel the performance security ~~mechanism guarantee~~ securing ~~the completed completion of the~~ improvements. Where the security was a bond, the Agent shall release the developer ~~of from his the~~ bond. Where the security was cash, deposited with the Agent at the time of the recording, the Agent shall return it to the developer, their devisees, or assigns.
- (2) Before the Agent may cancel any performance security ~~mechanism guarantee~~, ~~he~~ the Agent shall receive written notice from the appropriate official that the secured improvements have been completed according to specifications. The health official shall confirm the completion of all secured improvements requiring ~~state Virginia Department of Health Department~~ approval. The resident engineer shall confirm the completion of all secured improvements requiring ~~state Virginia d~~Department of ~~t~~Transportation approval.

(Ord. of 3-21-1973, § 6; Ord. of 11-20-1996)

(d) Bond Extensions

- (1) When an ~~applicant developer or subdivider~~ enters into an agreement with the County, the necessary physical improvements shall be completed in the period of time specified in the agreement (the performance date). If the noted improvements are not completed within this time period, and an extension has not been obtained, or a replacement agreement and bond has not been submitted and approved with a new expiration date, the agreement is deemed in default. The Agent shall follow the procedures set forth in subsection (g) below.
- (2) Prior to the expiration of the performance date, the ~~applicant developer or subdivider~~ may submit a written request to the Agent for an extension of the expiration date. The Agent will act to approve, approve with conditions, or deny the request. If the extension is approved, the developer or subdivider shall sign an addendum to the performance agreement reflecting the extension.
- (3) In the event the developer or subdivider does not request and gain approval of an extension, and the project is not completed by the expiration date, the matter shall be reviewed by the Agent for appropriate action, including the possibility of referral to the board of ~~County~~ supervisors for its action.

(e) Bond Reductions

- (1) Once at least thirty percent (30%) of the improvements covered by the **performance agreement and security** guarantee are completed, any form of guarantee subject to this policy may be partially released periodically (i.e. reduced) to an amount not less than the actual cost of completion, plus permitted allowances.
 - (2) Reduction requests shall not be approved if the performance agreement is in default.
 - (3) **An applicant Developer or subdivider**, seeking partial release of any bond or other form of guarantee shall submit **to the Agent** a written **bond security** reduction request ~~to the agent~~, **current price list identifying status of completion and items to be completed, and a copy of any proffers or special use permit conditions.**
 - (4) The Agent shall approve, approve with modification, or disapprove all reduction requests submitted within ~~thirty~~ 30 days of receipt. If a request is disapproved, the developer or subdivider shall be notified in writing of the specific reasons for the disapproval.
- (f) *Bond and Performance Agreement* A final bond release shall be authorized by the Agent, provided the following criteria have been met:
- (1) Acceptance of all public facilities by the appropriate state or local government agency, or public authority.
 - (2) Acceptance of as-built plans.
 - (3) Payment by the **developer or subdivider applicant** of all required fees.
- (g) *Default and Evaluation Procedures.* If the developer or subdivider fails to complete the required site improvements in the period of time specified in the agreement or any approved extension, the developer **or subdivider** is in default. In such instances, the Agent shall forward a recommendation to the Board of Supervisors that the project be formally declared in default, together with a recommendation for a course of action in response to default. Such recommendations may include, without limitation, using funds obtained from the **security** guarantee of the defaulted performance agreement to complete required public improvements, vacation of all or a portion of the subdivision, subject to the defaulted performance agreement, requiring successors in interest to the original developer **or subdivider** to provide a substitute performance agreement, and/or requiring lot owners to post a right of entry bond prior to the issuance of building permits.

State law reference: Code of Virginia § 15.2-2245.

Sec. 78-8. Miscellaneous general regulations.

- (a) *Mutual responsibility.* There is a mutual responsibility between the subdivider and the county to divide the land so as to improve the general use pattern of the land being subdivided.
- (b) *Easements.* The Agent shall require easements of not less than 12 feet through subdivision property for power lines, water, sewer and other utilities when providing these utilities is

planned and would be made difficult without easements.

(c) *Lots.* In addition to the area and width requirements already specified, lots shall be arranged in order that the following considerations are satisfied:

- (1) *Shape.* The lot arrangement, design and shape shall be such that lots will provide satisfactory and desirable sites for buildings, will be properly related topographically and will conform to requirements of this chapter. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage of area which would be unusable for normal purposes. Flag lots as defined herein shall be permitted only if such a lot is three (3) acres or greater in area.
- (2) *Location.* Each lot shall abut on a public or private street identified on the subdivision plat, or on an existing publicly dedicated street.
- (3) *Corner lots.* Corner lots shall have extra width sufficient for maintenance of any required utility lines on both streets as determined by the agent. Of the two sides of a corner lot, the front shall be deemed to be the shortest of the two sides fronting on streets. Each corner lot shall have a minimum width at the setback line of 150 feet or more. The minimum side yard on the side facing the side street shall be 35 feet or more for both main and accessory buildings.
- (4) *Side lines.* Side lines of lots shall be approximately at right angles or radial to the street line.
- (5) *Remnants.* All remnants of lots below minimum size 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 parcels.
- (6) *Business or industrial lots.* Business or industrial lots intended for business or industrial use shall be designed specifically for such purpose with adequate space set aside for off-street parking and delivery facilities.
- (7) *Lots abutting upon existing public streets.* If a subdivider seeks to plat a subdivision containing any lot which will abut upon an existing public street with a right-of-way of less than fifty (50) feet in width, before the agent may approve the subdivision for recording, the subdivider shall be required to dedicate for public road purposes, along each lot abutting upon the public street, a strip of land the width of which shall be determined by the ~~state~~ Virginia Department of Transportation.

(d) *Monuments.* All lot corners shall be marked with concrete markers four inches by four inches by 30 inches or by an iron pipe or iron bar not less than one-half inch in diameter and 30 inches long and driven so as to be flush with the finished grade.

(e) *Continuity and connectivity of the public street system.* All streets within the subdivision, whether public or private, proposed for addition to the secondary system of state highways shall either connect directly to, or connect to another such street that connects to, or be a continuation of a network of public streets, the maintenance of which has been officially

accepted by the ~~state~~ Virginia Department of Transportation or the maintenance of which has been officially accepted by the city, town or county within which it is located. Each subdivision, whether the streets are public or private, must, where determined practicable by the Agent, provide multiple points of connection between the subdivision street system and the existing and planned surrounding street network. ~~The planning commission may waive or modify this requirement if it determines that the public purposes of this chapter would be better achieved by such waiver or modification.~~

- (f) *Street names.* Street names shall be indicated on the preliminary and final subdivision plat and shall be approved by the agent. In no case shall the names of proposed streets duplicate existing street names in the county.

(Ord. of 3-21-1973, § 7; Ord. of 10-19-1983; Ord. of 11-20-1996)

- (g) *Street Access.* For any subdivision plat creating ~~ten (10)~~ or more lots, all such newly created lots must have frontage and driveway access onto a newly constructed, internal street, rather than onto **an** existing public street, except that lots which share at least one boundary with an existing public street may be served by a common driveway that creates not more than one new entrance onto such public street for every five (5) new such lots.

Sec. 78-9. Submission and approval of plats and specifications.

- (a) *Request for approval.* Request for approval of a proposed subdivision shall be made to the Agent by the subdivider or by his agent in writing, on an application form provided by the County, and no lot shall be sold until a final plat for the subdivision shall have been approved **by the County** and recorded in the manner provided in this section. The Agent shall have 10 ~~working~~ business days in which to determine and inform the subdivider in writing whether an application is complete. The timeline for review of a subdivision application will commence on the day it is deemed by the Agent to be a complete application. To be deemed a complete application, all of the information called for in Section 78-9 (a), (b) and (c) shall be provided, including payment in full of any submission fees that may be required by the County.

~~The conceptual preliminary plat required in Section 78-9 (b) may be submitted prior to the formal submission of the application and detailed preliminary plat required in Section 78-9 (c); however, the official timeline for review will not begin until the full application is submitted and deemed to be complete by the Agent.~~

- (b) *Conceptual Preliminary Plat sketch.* Prior to submission of a preliminary plat for 10 or more lots, a subdivider shall submit a conceptual preliminary plat to the Agent and shall meet with the Agent to review said conceptual preliminary plat. The subdivider ~~may, if he so chooses, shall~~ submit to the Agent six (6) ~~twelve (12)~~ paper copies of a conceptual preliminary plat, and a digital copy in PDF or other format acceptable to the Agent, sketch of the proposed subdivision. ~~prior to or at the same time as submitting an his preparing engineered, detailed preliminary and final plats.~~ The purpose of such conceptual preliminary plat, and meeting, sketch is to permit the Agent to advise the subdivider whether his plans in general are in accordance with the requirements of this chapter. The Agent, upon submission of any conceptual preliminary plat sketch, shall study it, and advise the subdivider wherein it appears that changes would be

necessary. The Agent may mark the conceptual preliminary plat sketch indicating necessary changes. ~~and~~ The subdivider shall return any such marked plat sketch ~~shall be returned~~ to the Agent with the detailed preliminary plat.

(1) The conceptual preliminary plat sketch shall:

- a. Be drawn ~~on white paper or~~ on a print of a topographic map of the property which also shows the environmental information shown on the Existing Resources/Site Analysis Map as required in Section 78-9 (b) (1) e;
- b. Be drawn to a scale of not more than 100 feet to the inch;
- c. Show the name, location and approximate area of all proposed streets, lots, parks, playgrounds and other proposed uses of the land to be subdivided; ~~and~~
- d. Include the approximate dimensions of existing and proposed features;
- e. Be accompanied by an Existing Resources/Site Analysis Map which shows major environmental features, including but not limited to, woodlands, floodzones, hedgerows, fences, vernal pools, perennial streams, wetlands, soil types, historic and cultural features (including cemeteries and military earthworks), power lines, underground pipes, geologic features, and areas of the property that are visible from any adjacent public right-of-way;
- f. Show all areas which are proposed to be disturbed by clearing, grading or construction, Such areas must not cause and the methods used to prevent significant damage or disturbance to the major environmental features identified in Section 78-9 b. (1) e.;
- g. Show the proposed location of building sites, and septic drainfield sites and wells, where applicable, on each lot.

(2) Whenever part of a tract is proposed for platting ~~and it is intended to subdivide additional parts in the future,~~ a conceptual preliminary plat sketch plan for the entire tract shall be submitted ~~with the preliminary plat.~~ This plat sketch is merely for informational purposes and is not binding on the subdivider or the board of supervisors. ~~In the event that the subdivider has not determined the highest and best use of any remaining land, he may inform the agent that future use has not been determined.~~ The Agent may mark the conceptual preliminary plat indicating necessary changes. The subdivider shall return any such marked plat to the Agent with the detailed preliminary plat.

(c) Detailed Preliminary Plat. The subdivider shall present to the Agent ~~four fifteen (15)~~ copies prints of a detailed preliminary plat layout at an appropriate scale of not more than 100 feet to the inch. ~~as a preliminary plat, which~~ In addition to the information shown, and the standards met for the conceptual preliminary plat, the detailed preliminary plat shall include the following information for that portion of the tract intended for initial subdivision:

(1) Name of subdivision, owner, subdivider, surveyor or engineer, date of drawing, number

of sheets, north point and scale. If true north is used, the method of determination must be shown.

- (2) Location of proposed subdivision by an insert map at a scale of not less than two inches equal one mile showing adjoining roads, their names and numbers, towns, subdivisions and other landmarks.
- (3) A metes and boundary description or existing survey of records showing total acreage of the original tract, acreage of the area proposed for the subdivision subdivided area, number and approximate area and frontage of all building ~~sites~~ lots, existing buildings within the boundaries of the tract, names of owners and their property lines within the boundaries of the tract and adjoining such boundaries. In case only a part of a tract of land is proposed for subdivision, the Agent may require the detailed preliminary plat to show a proposed future subdivision of such remaining acreage or a part thereof, to make certain that proper orientation of future streets can be developed with the platted streets. Approval of the detailed preliminary plat will not constitute approval of the proposed subdivision for the remaining acreage.
- (4) All existing and proposed streets showing width, existing utility or other easements, public areas and parking areas, storm drainage facilities and other pertinent data.
- (5) Proposed connections with existing sanitary sewers and existing water supply or alternate means of sewage disposal and water supply, including the location of proposed drainfields and wells.
- (6) All parcels of land to be dedicated for public use and the condition of such dedication.
- (7) The subdivider, if he chooses, may submit with the detailed preliminary plat, plans and specifications for improvements requiring performance securities, in order that the appropriate approving authorities may render preliminary opinions and suggest changes in the final plat.
- ~~(8) The planning commission may establish additional requirements for detailed preliminary plats and, in special cases, may waive modify a particular requirement if, in its opinion, the public purposes of this chapter would be better achieved by such modification. inclusion of that requirement is not essential.~~
- (9 8) When a residential subdivision is proposed in or adjacent to any agricultural zoning district, the following statement shall be clearly visible on the preliminary plat, and on any final plat subsequently approved and recorded: "These residential building lots are located in an area and zoning district specifically designated for agricultural activities, including horticulture and the raising of animals. Residents may expect the use of herbicides, pesticides, and fertilizers on adjacent agricultural fields, as well as other general agricultural activities, including plowing, spraying, pruning, and harvesting, which may occasionally, generate dust, smoke, noise, and odor, and may also include changes from one specific agricultural activity to another." Such statement shall likewise be included on any individual plats of lots or parcels within such subdivisions subsequently and separately surveyed and recorded.

~~(10~~ 9) When all or part of the subdivision is located in the A or V zones, as specified on National Flood Insurance Program Flood Insurance Rate Maps, the boundary of those zones shall be depicted on the plat. If none of the subdivision is in the A or V zone, a statement to that effect should be made on the plat.

~~(11~~ 10) Description and general location of any structures and facilities required for stormwater management according to applicable county ordinances.

~~(12~~ 11) For any subdivision plat creating ~~five~~ 50 or more lots, the subdivider shall provide a traffic impact study to determine the proper design and configuration of new streets and public road entrances. ~~The County may, from time to time, at its discretion, establish specific technical procedures and methods for conducting such studies. Such studies shall include the following elements, each of which may be modified or waived if the agent determines that a particular element is not applicable.~~

a. Clearly-stated assumptions.

b. A summary table or tables listing each type of land use, the number and type of dwelling units proposed, the trip rates used (daily as well as peak periods), and the resultant trip generation.

c. A site map showing the location within the site of each type of proposed land use and of all dwelling units.

d. Existing and projected traffic volumes (including turning movements), facility geometry (including storage lengths), and traffic controls where appropriate, including A.M. and P.M. peak hour site traffic, A.M. and P.M. peak hour total traffic, total daily traffic, distribution and assignment of trips generated by the project, and projected level of service (LOS) and warrant analyses, including existing conditions and cumulative conditions at build-out. Projections will be for five (5) years following the date of proposed project build-out. The base volume for non-site traffic shall be the latest forecasts available from the Virginia Department of Transportation. The source for trip generation rates shall be "Trip Generation" published by the Institute of Transportation Engineers (ITE), most recent edition.

e. Mitigation phasing plan, including dates of proposed mitigation measures.

f. All final submittals for traffic impact studies must be signed and sealed by a Virginia Registered Civil Engineer.

~~13~~ (12). A statement summarizing proposed restrictive covenants and reservations.

~~14~~ (13). A check payable to the County of Accomack to cover the required fees as established by the Board of Supervisors.

(d) Procedure. The following procedures apply to subdivision applications.

1. Upon receipt of an application for subdivision, the Agent shall review it to determine if it

is complete, including all applicable items set forth in Section 78-9 (a), (b) and (c). Within 10 business days of receiving the application, the Agent shall inform the applicant in writing as to whether the application is deemed complete, and if it is not complete, what items need to be added or corrected in order for it to be deemed complete. Once the Agent has deemed the application complete, the Agent ~~he~~ shall notify the applicant in writing, at which time the review process and timeline for review and action on the application, as set forth herein, shall officially begin.

2. For subdivisions of less than 10 lots, the Agent, or his appointed representative, shall ~~discuss~~ determine whether the detailed preliminary plat ~~with the subdivider in order to determine whether or not his detailed preliminary plat~~ generally conforms to the requirements of this chapter and of chapter 106, if any. The subdivider shall be advised ~~within 60 days in writing within 60 days of the application being deemed to be complete,~~ either by formal letter or legible markings on ~~his~~ the subdivider's copy of the detailed preliminary plat or physical improvement plans, if submitted, concerning any additional data that may be required, and the character and extent of any changes that will have to be made. The Agent shall provide such written notification to the applicant within 60 days of the application being deemed to be complete, unless the Agent submits the application to any state agency for referral, in which case the Agent shall have ninety (90) days from the date of official acceptance of the application to approve or deny the plat.

3. Detailed Preliminary Plats for subdivisions creating 10 or more lots, or any subdivision requiring a new private or public road, shall be submitted to the planning commission for review. The planning commission ~~will~~shall review the detailed preliminary plat at a public meeting which shall be advertised in accordance with section 15.2-2204 ~~of the Code of~~ Virginia Code Ann. In addition, the subdivider shall post a notice of intent to subdivide on the property, in a location clearly visible from the road, for at least ~~ten~~ 10 days prior to the planning commission meeting. The planning commission shall take action to recommend approval, conditional approval, or denial of the preliminary plat within 60 ~~forty five (45)~~ days of official acceptance of the application if the Agent does not submit the application to any state agencies for review and shall not be required to approve the plat in less that 60 days from the date of official acceptance. If the agent submits the application to state agencies, the planning commission shall make its recommendations to the agent within ~~seventy five (75)~~ 45 days after receiving comments from all state agencies. ~~of official acceptance and the agent shall have ninety (90) from the date of official acceptance of the application to approve or deny the plat.~~ the first public meeting at which the plat is considered. However, all actions of the Agent or planning commission, and state agencies, on a preliminary subdivision plat shall be completed within 90 days.

The planning commission's recommendation shall be forwarded to the Subdivision Agent, who will then approve or deny the plat and notify the applicant in writing.

4. During ~~Upon~~ official acceptance of the subdivision application, ~~the review of the detailed preliminary plat,~~ the Agent shall submit copies for comment and advice to any local, state or federal agencies or boards that the Agent deems necessary for the Agent to determine whether the application meets the requirements of this Ordinance, including but not

limited to the Virginia Department of Transportation, the Virginia Department of Health, and the Virginia Department of Conservation and Recreation. Such agencies shall provide comments to the Agent within forty-five (45) days after the Agent submits such a referral request.

- (e) *No guarantee.* Approval by the Agent of the detailed preliminary plat does not constitute a guarantee of approval of the final plat.
- (f) *Twelve months limit.* The subdivider shall have not more than 12 months, after receiving official notification **of approval** concerning the detailed preliminary plat, to file with the Agent a final subdivision plat in accordance with this chapter. Failure to do so shall make preliminary approval null and void. The Agent may, on **timely** written request by the subdivider, grant an extension of this time limit.
- (g) *Final plat submission requirements.* Four (4) copies of the final subdivision plat shall be submitted to the Agent for final approval and subsequent recording. The final plat shall be submitted on sheets having a size of 17 1/2 inches by 22 inches and shall be a clear, legible, and reproducible print of a boundary survey of the area to be subdivided, (such survey shall show a closure with an accuracy of not less than one in ~~2,500~~ 10,000). The final plat shall be accompanied by approved, engineered plans and specifications for all improvements requiring performance security. Plans for public streets and drainage facilities shall have been approved by the state Virginia Department of Transportation; plans for water and sewerage facilities shall have been approved by the state Virginia **Department of Health department**. A digital copy of the final plat shall also be submitted to the Agent in a format acceptable to the Agent, such as PDF.

The final plat shall include all requirements of the detailed preliminary plat in detail form and also shall include the following:

- (1) A blank oblong space to be reserved for the use of the approving authority.
- (2) Certificates signed by the surveyor or engineer preparing the final plat setting forth the source of title of the owners of the land subdivided and the place of record of the last instrument in the chain of title. Each plat shall also contain a statement to the effect that, "the above and foregoing subdivision of (here insert correct description of the land subdivided) as appears in this plat 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 an** officer authorized to take acknowledgment of deed.

~~State law references: Similar provisions, Code of Virginia, § 15.2-2264.~~

- (3) Identification of the respective tracts from which a subdivision was assembled, if the subdivision consists of land acquired from more than one source of title.
- (4) The accurate location and dimensions by bearings and distances with all curve data on all lots, street lines, centerlines of streets, and boundaries of all proposed or existing easements.

- a. Distances and bearings must balance and close with an accuracy of not less than one in 10,000.
 - b. The data of all curves along the street frontage shall be shown in detail on the curve data table containing the following: Delta, radius, arc, tangent, chord and chord bearings.
- (5) In accord with Section 78-7 (a) of this chapter, the subdivider shall submit, to the Agent, a cost estimate for improvements requiring performance security based on the final approved plans. The subdivider shall be notified at this time of the total amount of performance security for improvements that will be required as a prerequisite to final plat approval.
- (6) For a subdivision with streets that will not be constructed to the standards necessary for inclusion in the secondary system of state highways, the final plat shall include the following statement: "The streets in the subdivision hereon depicted do not meet state standards and will not be maintained by the state department of transportation or the county until such time as such streets have been constructed to meet the prevailing subdivision street requirements of the state department of transportation using funds other than those administered by that agency."
- (h) *Final plat; approval and recording.* Within sixty (60) days after a final plat and the accompanying documents required by this chapter have been officially accepted by the Agent. ~~After~~ the Agent determines ~~that~~ *whether* the subdivider has or has not complied with all the requirements of this chapter. If the Agent disapproves a plat, all copies of the plat and accompanying documents will be returned to the subdivider and the Agent will provide written notification to the subdivider stating the reasons for disapproval. Following approval, the Agent shall indicate his approval of the final plat in writing upon the face of the plat. The subdivider shall record the approved plat within 60 days following the date of approval and shall immediately notify the Agent in writing with evidence of the recordation. The county clerk shall record the approved plat when it is submitted by the subdivider. If the subdivider fails to have the plat recorded within ~~60 days~~ 6 months following the date of approval, the Agent shall mark the plat "VOID" and return the plat to the subdivider.

(Ord. of 3-21-1973, § 8; Ord. of 8-15-1979; Ord. of 8-18-1994; Ord. of 11-20-1996; Ord. of 10-20-2004)

State law references: Similar provisions, Code of Virginia, § 15.2-2264.

Sec. 78-10. Advertising standards; subdivider's responsibility.

A subdivider, when advertising a subdivided tract of land, shall:

- (1) State whether officially approved water and sewage facilities are available or not.
- (2) State on the plat whether roads and streets are public or private, as provided in subsection 78-6(c)(1).

- (3) State on plats that contain new streets not proposed for addition to the secondary system of state highways that the streets do not meet the standards of the state department of transportation and will not be maintained by that agency or the county until such time as such street or streets have been constructed to meet the prevailing subdivision street requirements of the state department of transportation using funds other than those administered by that agency.
- (4) Not advertise any attractions for the sale of that property that will be negated in any instrument or conveyance of that property, be it contract of sale, land contract, deed, etc. (Ord. of 3-21-1973, § 9; Ord. of 11-20-1996)

Sec. 78-11. Effectual clauses.

- (a) *Exception.* Where the subdivider can show that a provision of these standards would cause unnecessary hardship if strictly adhered to, and where, because of topographical or other conditions peculiar to the site, in the opinion of the agent, a departure may be made without destroying the intent of such provisions, the Agent may authorize an exception. Any exception thus authorized is to be stated in writing in the report of the Agent, with the reasoning, on which the departure was justified, set forth. No such variance may be granted by this chapter which is opposed in writing by the resident engineer or health official. Any exception involving standards for roads must be submitted to the resident engineer for review prior to authorization of the exception.
- (b) *Penalties.* Any person violating the provisions of this chapter shall be subject to a fine of not more than \$500.00 for each lot or parcel of land so subdivided or transferred or sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies provided in this chapter.

~~State law references: Similar provisions, Code of Virginia, § 15.2-2254.~~

- (c) *Injunction.* In addition to the foregoing penalties for violation of this chapter, the judge of the circuit court of the county, whether there be a criminal conviction therefore or not, shall, upon a bill in equity, filed by an attorney for the county, award an injunction enjoining any violation of this chapter by any person found by the court in such suit to have violated this chapter or causing this chapter to be violated, when made a party defendant to such suit.
- (d) *Validity.* Should any article, section, subsection or provision of this chapter be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of this chapter as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.
- (e) *Repeal.* All ordinances or portions of ordinances in conflict with this chapter are hereby repealed to the extent of their conflict.

- (f) *Amendments.* This chapter may be amended in whole or in part by the board of supervisors provided that any such amendment shall either originate with or be submitted to the planning commission for recommendation; and further provided that no such amendment shall be adopted without a public hearing having been held by the board of supervisors in accordance with ~~the Code of Virginia~~, § 15.2-2204 *Virginia Code, Ann.* Notice of the time and place of the hearing shall have been given at least once a week for two successive weeks, and the last notice at least six but not more than 21 days prior to the hearing.
(Ord. of 3-21-1973, § 10; Ord. of 11-20-1996)

State law references: Similar provisions, Code of Virginia, § 15.2-2254.

Sec. 78-12. Family Subdivisions

- (a) ~~Only~~ Not more than one family subdivision, as defined herein, such division shall be allowed per immediate family member. For the purpose of this chapter, the term "immediate family member" is defined as any person who is a natural or legally defined offspring, spouse, sibling, grandchild, grandparent, or parent of the owner. All family divisions of less than five acres shall have a minimum easement or right-of-way of not less than 15 feet or more than 20 feet to provide ingress and egress to a dedicated recorded public street or thoroughfare. The approved family subdivision plat and deed or deeds of sale or gift, filed as part of the family subdivision application and approved in conjunction with the plat, shall be recorded within six (6) months after the date of approval of the plat by the Agent. Such approval shall automatically terminate with respect to any such family subdivision plat if such approved plat and approved deed or deeds of sale or gift have not been recorded within such six (6) months and, thereafter, such plat shall be null and void. A note to this effect must be placed conspicuously upon the family subdivision plat before it may be approved.
- (b) If a family subdivision grantee conveys a lot or parcel received pursuant to an approved family subdivision within ~~one~~ three (± 3) years after the date of approval of the family subdivision plat, such family subdivision grantee shall be presumed to have intended at the time of the approval of the family subdivision to circumvent this chapter or other chapters of the Accomack County Code. It is the intent of this Ordinance that no application for further subdivision of any lot or parcel created and conveyed pursuant hereto shall be filed within ~~one~~ three (± 3) years after the date of approval of the family subdivision plat. Such conveyance shall entitle the Agent to take any reasonable actions necessary to ameliorate the effect of such circumvention, including without limitation recommending to the board of supervisors the adoption of an ordinance vacating said subdivision in whole or in part as provided in Section 15.2-2272 of the Code of Virginia Code, Ann. A note to this effect must be placed conspicuously upon the family subdivision plat before it may be approved. This paragraph shall not apply to a conveyance made to secure an obligation nor pursuant to the foreclosure of a lien provided the recordation of such lien against such lot or parcel occurs after the recordation required by paragraph (a) above, nor shall it apply to the lot or parcel retained by the subdivider.
- (c) No zoning permit nor building permit shall be issued for any lot or parcel with respect to which any of the foregoing provisions of this section has been violated unless and until correction of such violation has been accomplished to the satisfaction of the Agent. No

zoning permit nor building permit shall be issued for any lot or parcel created pursuant to a family subdivision plat unless evidence of the required recordation* has been supplied to the Agent.

(d) Upon satisfactory evidence of a conveyance as described in paragraph (b) above or other action constituting a circumvention or violation of any provision of this ordinance, the board of supervisors may adopt an ordinance vacating in whole or in part any such family subdivision plat in accordance with Section 15.2-2272 of the Code of Virginia Code, Ann. ~~It is the intent of this Ordinance that no application for further subdivision of any lot or parcel created and conveyed pursuant hereto shall be filed within one (1) year after the date of approval of the family subdivision plat.~~