

## Chapter 19 SUBDIVISIONS<sup>1</sup>

### ***ARTICLE I. IN GENERAL***

#### **Sec. 19-100. Title of chapter.**

This chapter shall be known and may be cited as the "Subdivision Ordinance of Franklin County, Virginia," or simply as the "Subdivision Ordinance." It has been prepared and adopted by Franklin County pursuant to the requirements of chapter 22, article 6.2 of the Code of Virginia.

( Ord. of 05-12-2019(1) , 5-21-19)

#### **Sec. 19-102. Applicability.**

The provisions of this chapter shall apply to all property within Franklin County, Virginia, excluding any property within the incorporated town of Boones Mill, Virginia and the incorporated town of Rocky Mount, Virginia.

( Ord. of 05-12-2019(1) , 5-21-19)

#### **Sec. 19-104. Filing and recordation of ordinance.**

Upon adoption of this chapter, or amendments thereto, a certified copy of the ordinance and any and all amendments thereto shall be filed in the office of the Franklin County clerk to the board of supervisors and in the office of the clerk of the circuit court.

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<sup>1</sup>Editor's note(s)—Ord. of 05-12-2019(1) , adopted May 21, 2019, repealed the former Ch. 19, §§ 19-1—19-6, 19-21—19-26, 19-41—19-45, 19-61—19-67, 19-81—19-87, 19-98, 19-99, 19-109, 19-110, 19-114—19-117, 19-141—19-145, 19-161—19-168, 19-175—19-178, and enacted a new Ch. 19 as set out herein. The former Ch. 19 pertained to similar subject matter and derived from the Ord. of 11-28-79, §§ 16-1—16-22, 16-25—16-30, 16-33—16-36, 16-40—16-43, 16-46—16-57; Ord. of 7-27-81, § D; Ord. of 11-21-83; Ord. of 10-1-87; Rev. of 4-17-89; Ord. of 3-27-07(2); Res. No. 24-06-90, adopted June 18, 1990; Res. No. 22-12-91, adopted Dec. 17, 1991; Res. No. 24-06-91, adopted June 18, 1991; Res. No. 30-05-91, adopted May 22, 1991; Res. No. 23-11-92, adopted Nov. 17, 1992; Res. No. 18-05-93, adopted May 18, 1993; Res. No. 21-10-94, adopted Oct. 18, 1994; Res. No. 33-08-97, adopted Aug. 19, 1997; Ord. of 6-16-98; Res. No. 26-11-98, adopted Nov. 17, 1998; Res. No. 19-01-99, adopted Jan. 19, 1999; Res. No. 18-12-2001, adopted Dec. 18, 2001; Amend. of 12-17-02(3); Res. No. 12-03-2003(1), adopted Mar. 18, 2003; Ord. of 6-15-04(1); Ord. of 2-15-05(2); Ord. of 3-27-07(4); and Res. No. 22-11-2011, adopted Nov. 15, 2011.

Cross reference(s)—Subdivision disclaimer, § 1-16; planning commission, § 2-66 et seq.; building regulations, Ch. 5; erosion and sediment control, Ch. 7; floodplain management, Ch. 9; mobile homes not in a park or court subject to subdivision regulations, § 10-7; sewers and sewage disposal, Ch. 17; PUD District Ordinance, App. A.

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( Ord. of 05-12-2019(1) , 5-21-19)

### **Sec. 19-106. Purpose and objectives.**

- (a) The purpose of this chapter is to establish procedures and regulations for the subdivision of land within the limits of Franklin County, and to accomplish the objectives listed below:
- (b) Per section 15.2-2240 of the Code of Virginia to assure the orderly subdivision of land and its development through reasonable standards of design and procedures for subdivision and resubdivision of land and ensure proper legal description.
- (c) To ensure that the purchasers of new lots or acreage created in accord with these regulations are buying a commodity that is suitable for development and use in accordance with the laws and regulations of Franklin County, Virginia.
- (d) To protect and provide for the public health, safety and general welfare of all citizens.
- (e) To guide future growth and development in accordance with the policies of the Franklin County Comprehensive Plan, applicable zoning regulations, and other adopted policy documents of the county.
- (f) To coordinate proposed public facilities and streets in new subdivisions with existing public facilities and streets in a manner that promotes appropriate land design, the efficient use of land resources, and minimizes adverse effects on adjacent or nearby properties and neighborhoods.
- (g) To reduce and prevent water pollution and flooding.
- (h) To ensure appropriate development with regard to natural resources and open space, which will contribute to the beauty of the community and value of the land.

( Ord. of 05-12-2019(1) , 5-21-19)

### **Sec. 19-108. Definitions.**

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

*Agent.* The representative of the board of supervisors who has been appointed to serve as the agent of the board in administering and enforcing this chapter including the review and approval of subdivision plats.

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

*Building setback.* The minimum distance which a building must be set back from a street, access right-of-way, or access easement upon which the lot abuts.

*Commission.* The Franklin County Planning Commission.

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

*Distances and measurements.* Measurements in a horizontal plane, except as they may refer to height.

*Dry hydrant.* A non-pressurized pipe system permanently installed in a water source such as a lake, pond or stream for the purpose of providing a suction supply of water in rural areas where public water may not be available to supply/refill a fire department tank truck.

*Easement.* A right expressed in writing, given by the owner of land to another party of specific limited use of that land (i.e., access, pedestrian, greenway, drainage, water, sewer, public utility).

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*Engineer.* A professional engineer licensed for practice in the Commonwealth of Virginia under chapter 4, title 54.1 Code of Virginia.

*Family division.* A division of land, approved by the agent, for the sale or gift to an immediate family member of the land owner subject to the rules and standards contained in this chapter, Code of Virginia, §§ 15.2-2244 and 15.2-2244.1, and section 19-366 of the Franklin County Code.

*Family (immediate).* For the purposes of this chapter, immediate family shall include any person who is a natural or legally defined offspring, stepchild, spouse, sibling, grandchild, grandparent aunt, uncle, niece, nephew or parent of the owner.

*Front yard.* The required portion of a lot between the dwelling structure and a street, access right-of-way, or access road.

*Health official.* The health officer or sanitarian of the Virginia Department of Health.

*Highway engineer.* The residency administrator or residency engineer employed by the Virginia Department of Transportation.

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

*Lot.* A numbered and recorded portion of a subdivision intended for transfer of ownership or for building development of a single building and its accessory buildings. The word "lot" shall be construed to include "parcel."

*Lot area.* The area of a lot, measured in square feet or acres, that is not covered by water or flowage easements.

*Lot, corner.* A lot abutting two (2) or more streets at their intersection. On a corner lot, the shortest 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, depth of.* The mean horizontal distance between the front and rear lot lines.

*Lot, double frontage.* An interior lot having frontage on two (2) streets.

*Lot, exempt.* Any lot greater than fifteen (15) acres.

*Lot, interior.* A lot other than a corner lot.

*Lot, pipe stem.* A "panhandle" or "flag" shaped lot with its widest point set back from the road at the rear of another lot.

*Lot of record.* A lot which has been recorded in the office of the clerk of the circuit court.

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

*Performance guarantee.* A financial guarantee in the form of cash, certified check or insurance surety, deposited with the local government, and guaranteeing the completion of required improvements or maintenance of required facilities.

*Plat.* 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."

*Plat, final.* The plat of a proposed subdivision of land that has been approved and signed by the agent, and subsequently recorded or to be recorded with the clerk's office.

*Plat, preliminary.* A survey drawing of a proposed subdivision submitted for the purpose of obtaining provisional approval prior to the submittal of a final plat.

*Property.* Any tract, lot, parcel or several of the same collected together for the purpose of subdividing.

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*Right-of-way.* A legally established area or strip of land on which an irrevocable right of passage has been or is to be recorded and which may be occupied or intended to be occupied by a street, utility service, water main, sanitary or storm sewer main, or other similar use or facility.

*Street.* The principal means of vehicular access to abutting properties.

*Street, private.* A vehicular way owned, operated, provided and maintained by an individual, developer, homeowner's association or any other entity other than a local, state or federal government.

*Street, public.* A vehicular way owned, operated, provided and maintained by a local, state or federal government.

*Street, service drive.* A public right-of-way generally parallel and contiguous to a major highway, primarily designed to promote safety by eliminating promiscuous ingress and egress to the right-of-way by providing safe and orderly points for public travel, including roadways, curbs, gutters, sidewalks and planting strips.

*Subdivision.* To divide a parcel of land into two (2) or more lots or parcels, for the purpose of transfer of ownership or building development. The term subdivision includes resubdivision. The transfer of ownership of land to the Commonwealth of Virginia or a political subdivision thereof and the division of lands by court order or decree shall not be deemed a subdivision as otherwise defined herein.

*Subdivider.* Any person or persons, corporations, partnerships or any combination thereof owning any tract, lot or parcel of land being subdivided as defined in this section.

*Subdivision, large lot.* Any parcel of land containing five (5) acres or more, but not over fifteen (15) acres which parcel does not adjoin a public street which is part of the state highway system.

*Subdivision, major.* Any subdivision resulting in ten (10) or more lots.

*Subdivision, minor.* Any subdivision resulting in less than ten (10) lots.

( Ord. of 05-12-2019(1) , 5-21-19)

## **Sec. 19-110. Administration of chapter; agent powers and duties.**

- (a) The agent is hereby delegated to administer and enforce this chapter. In so acting, the agent shall be considered the agent of the board of supervisors and approval or disapproval by the agent shall constitute approval or disapproval by the board.
- (b) The agent shall perform all duties as regards subdivisions and subdividing in accordance with this chapter and state law.
- (c) In the performance of duties the agent may call for opinions or decisions, either verbal or written, from other departments in considering details of any submitted plat. This authority by the agent shall have particular reference to the resident highway engineers, the health officer and the Franklin County Department of Public Safety.
- (d) In addition to the regulations contained in this chapter for the platting of subdivisions, the agent may, from time to time, establish any reasonable additional administrative procedures deemed necessary for the proper administration of this chapter.

( Ord. of 05-12-2019(1) , 5-21-19)

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## **Sec. 19-112. Agent authority to grant waivers; appeal process.**

- (a) In cases of unusual situations or where strict adherence to the general regulations in this chapter would result in a substantial injustice or hardship to the subdivider, the agent may waive any of the county standards in this chapter, under the terms, procedures, and conditions established in this section. A waiver may be permitted if, in the opinion of the agent, exceptional topographic conditions or other extraordinary or unusual conditions necessitate such. No waiver shall be granted which would be illegal, in contravention of any mandatory provisions of state or federal laws or regulations, or prejudicial to the health and safety of county citizens.
- (b) If a violation or error that is not in accordance with the approved standards is noted during the plat review process, the subdivider will be notified through the normal review procedure. The subdivider shall submit any request for a waiver, in writing, within sixty (60) days of the date of such notification. If the subdivider requests a waiver the agent may establish that the subdivision plat review process will cease until the waiver process is finalized.
- (c) The subdivider shall submit to the agent, with the appropriate application fee, a written request for a waiver of a requirement or standard stating the requested relief and the reasons the request should be granted. The subdivider shall examine and submit to the agent alternative methods to attempt to comply with the intent of that requirement. Any supportive drawings, maps, plans, or other information necessary to review the request must be submitted to the agent. The agent will consider the application with the supporting documentation and will take action on a waiver request within thirty (30) days of the waiver request and all required supporting materials being submitted.
- (d) The agent shall preserve and record the application for a waiver and the basis for granting or denying any request. The agent may grant the waiver with such additional or alternative conditions as deemed appropriate.
- (e) The subdivider may appeal any decision of the agent on a waiver request to the board of supervisors. Written notice of the appeal must be filed with the clerk to the board of supervisors within thirty (30) days of the decision by the agent.
- (f) Consideration of the appeal shall be placed on the board of supervisor's agenda for consideration and public hearing as soon thereafter as all notice and other requirements herein may be complied with, but in no event later than sixty (60) days from date the notice of appeal was filed. Notice of the public hearing shall be given by publication and by mailing as set forth in Code of Virginia, § 15.2-2204 (1950, as amended). The costs for notice shall be the responsibility of the party appealing the agent's decision.
- (g) The clerk to the board of supervisors shall transmit to the board of supervisors the subdivider's request, together with all supporting documentation, from the records of the agent and any additional pertinent information and documentation that may be available for consideration at the hearing.
- (h) The board of supervisors shall make and record its decision in accordance with the criteria set forth in section 19-112(a) of this chapter. Approval of the subdivider's request for a waiver shall be by majority vote of the board members present at the hearing and the board may impose such additional or alternative conditions, as it may deem appropriate.

( Ord. of 05-12-2019(1) , 5-21-19)

## **Sec. 19-114. Effect of chapter on easements, covenants, contracts, etc.**

This chapter bears no relation to any private easement, covenant, agreement or restriction, nor is any county or public official responsible for enforcing such private easement, covenant, agreement or restriction. When this

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chapter calls for more restrictive standards than are required by private contract, the provisions of this chapter shall control.

( Ord. of 05-12-2019(1) , 5-21-19)

**Sec. 19-116. Compliance with chapter; penalties for violation.**

- (a) No person shall subdivide any tract of land that is located within the county, except in conformity with the provisions of this chapter.
- (b) Any person who shall violate or fail to comply with any provision of this chapter shall, upon conviction, be punished by a fine of not more than five hundred dollars (\$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 remedies herein provided.

( Ord. of 05-12-2019(1) , 5-21-19)

**Secs. 19-117—19-199. Reserved.**

**ARTICLE II. PROCEDURE FOR MAKING AND RECORDING PLATS**

**Sec. 19-200. Plat required; recordation; appeal on disapproval by agent.**

Any owner or subdivider of any tract of land situated within the county who subdivides such tract 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 circuit court. All drawn plats proposed for recordation shall contain monuments sufficient in number and location to establish all existing and new street and property lines. No such plat 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 in any such subdivision before the plat shall have been recorded. If the agent disapproves a plat and the subdivider contends that the disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, the subdivider may appeal to the circuit court having jurisdiction of such land and the court shall hear and determine the case as soon as may be, provided that the subdivider's appeal is filed with the circuit court within sixty (60) days of the written disapproval by the agent.

( Ord. of 05-12-2019(1) , 5-21-19)

**Sec. 19-202. Who may prepare; certification; outlines of tracts.**

Every such plat shall be prepared by a surveyor duly licensed by the state, who shall endorse upon each plat a signed certificate setting forth the source of the title of the land subdivided and the place of record of the last instrument in the chain of title. When the plat is of land acquired from more than one (1) source of title, the outlines of the several tracts shall be indicated upon such plat, within an insert block or by means of a dotted boundary line upon the plat.

( Ord. of 05-12-2019(1) , 5-21-19)

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### **Sec. 19-204. Owner's statement of approval.**

Every such plat, or the deed of dedication to which such plat is attached, shall contain, in addition to the surveyor's or civil engineer's certificate, 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, which shall be signed by the owners, proprietors and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgments of deeds, and when thus executed and approved as herein specified, shall be filed and recorded in the office of the clerk of the circuit court and indexed under the names of the land owners signing such statement and under the name of the subdivision.

(Ord. of 05-12-2019(1), 5-21-19)

### **Sec. 19-206. Approval by agent, changes, etc., pursuant to approval.**

The agent shall not approve any plat until all other signatures required by law or this chapter have been executed on the plat. These signatures include the surveyor's or engineer's certification and source of title, and the owner's statement of consent. No change, erasure 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.

(Ord. of 05-12-2019(1), 5-21-19)

### **Sec. 19-208. Relation to zoning.**

When the intended use of all or part of the platted area, as indicated by the preliminary plat and as shown on that plat, would put the land in a more restrictive category than that which then exists, such shall be considered a petition for the rezoning of the platted area to the higher classification.

(Ord. of 05-12-2019(1), 5-21-19)

### **Sec. 19-210. Plat review fee.**

- (a) There shall be a charge for the examination and approval, or disapproval of every plat reviewed by the agent in accordance with the fees as adopted in chapter 27, land use development, of the Franklin County Code. The fee is payable at the time of submission of the initial subdivision plat for review.
- (b) Subdivisions consisting entirely of exempt lots shall not be subject to this review fee.

(Ord. of 05-12-2019(1), 5-21-19)

### **Secs. 19-211—19-299. Reserved.**

## **ARTICLE III. REGULATIONS AND PROCEDURES**

### **DIVISION 1. GENERALLY**

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### **Sec. 19-300. Mutual responsibility of subdivider and county.**

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.

( Ord. of 05-12-2019(1) , 5-21-19)

### **Sec. 19-302. Suitability of land for purposes intended.**

The agent shall not approve any subdivision of land if, from adequate investigations conducted by all public agencies concerned, it has been determined that, in the best interest of the public, the site is not suitable for platting and development purposes of the kind proposed.

( Ord. of 05-12-2019(1) , 5-21-19)

### **Sec. 19-304. Land subject to flooding or topographically unsuitable.**

Land subject to flooding and land deemed to be topographically unsuitable shall not be platted for residential occupancy, or for such other uses as may increase danger to health, life or property or aggravate erosion or flood hazard. Such land shall be designated on the plat for such uses as shall not be endangered by periodic or occasional inundation or shall not produce conditions contrary to public welfare.

( Ord. of 05-12-2019(1) , 5-21-19)

### **Sec. 19-306. Elevation and flood profiles of building site.**

To ensure that residents will have sufficient land to construct structures which are flood free, the agent may require the subdivider to provide elevation and flood profiles sufficient to demonstrate the land to be subdivided is completely free of the danger of floodwaters.

( Ord. of 05-12-2019(1) , 5-21-19)

### **Sec. 19-308. Sketch plan required; future subdivision intended.**

Whenever part of a tract is proposed for platting and it is intended to subdivide additional parts in the future, a sketch plan for the entire tract shall be submitted with any required preliminary plat.

( Ord. of 05-12-2019(1) , 5-21-19)

## *DIVISION 2. IMPROVEMENTS*

### **Sec. 19-310. General requirements.**

(a) The cost of all required or proposed improvements shown on an approved subdivision plat or plans shall be the responsibility of the subdivider. In cases where specifications have been established, either by the Virginia Department of Transportation for streets, curbs, etc., or by local ordinances and codes, such specifications shall be followed. The subdivider's performance bond shall not be completely released until construction has been inspected and approved by the appropriate engineer. All improvements shall be in accordance with the following requirements:

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(1) *Lot size—General requirements.*

- a. In areas of the county governed by the Franklin County Zoning Ordinance, the applicable lot size, lot width, and lot frontage requirements shall prevail. In areas of the county not governed by the zoning ordinance, the minimum lot size shall be thirty-five thousand (35,000) square feet. On VDOT secondary highways the minimum road frontage shall be one hundred twenty-five (125) feet. On VDOT primary highways the minimum road frontage shall be one hundred fifty (150) feet.
- b. In the A-1, agricultural zoning district, alternative lot size, lot width and lot frontage requirements are allowed for residential lots and required open space lots within residential cluster developments, pursuant to section 25-189 of the Franklin County Zoning Ordinance.
- c. Deviations to minimum lot sizes, lot widths, and/or lot frontages may be provided for in the RPD, residential planned unit development district in those areas regulated by the Franklin County Zoning Ordinance, provided that such deviations are shown on the concept plan approved by the board of supervisors.
- d. Deviations to minimum lot sizes, lot widths, and/or lot frontages may be provided for in the PCD, planned commercial development district in those areas regulated by the Franklin County Zoning Ordinance, provided that such deviations are shown on the concept plan approved by the board of supervisors.
- e. Deviations to minimum lot sizes, lot widths, and/or lot frontages may be provided for in accordance with the Franklin County Planned Unit Development Ordinance in those areas of the county that are not regulated by the Franklin County Zoning Ordinance, provided that such deviations are shown on the concept plan approved by the board of supervisors.

(2) *Lot size and frontage—Exceptions.*

- a. Greater lot areas may be required where individual septic tanks or individual wells are used if VDH officials determine that there are factors of drainage, soil condition, or other conditions that could cause potential health problems. The agent shall require that data from percolation tests be submitted as a basis for approving subdivisions dependent upon septic tanks as a means of sewage disposal.
- b. The agent shall permit a single parcel separation from another tract without compliance with the lot size or lot frontage requirements found elsewhere in this chapter or chapter 25, zoning when it is for the purpose of providing a site for uses such as, but not limited to, utility pump stations, water tank lots, well lots, storm water management facilities or family cemeteries.
- c. Any lot located within the perimeter of a cul-de-sac bulb shall have a minimum of thirty (30) feet of road frontage, with a median lot width of one hundred (100) feet between lot lines.

(3) *Public water and sewer systems—General requirements.*

- a. Any public water and/or public sewer system developed to serve more than two (2) lots must, in addition to the requirements of the Virginia Department of Health, meet the standards and requirements of chapter 22 of the Franklin County Code.

( Ord. of 05-12-2019(1) , 5-21-19)

**Sec. 19-312. Easements for utilities and drainage.**

- (a) The agent may require that adequate easements for drainage through adjoining property be acquired and provided by the subdivider.

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- (b) Public utility easements shall be established by the subdivider in any location where future demand for public utilities is expected. Priority areas include the Ferrum, Boones Mill, Rocky Mount and Western Virginia Water Authority service areas and all village and unincorporated town areas as described in the Franklin County Comprehensive Plan.
- (c) Adequate easements shall be provided for drainage and all utilities. The minimum easement width for public sewer lines shall be twenty (20) feet. The minimum easement width for public water lines shall be twenty (20) feet. Combination easements established for both water and sewer lines shall have a minimum width of thirty (30) feet. Where multiple structures or pipes are installed, the edge of the easement shall be five (5) feet clear of the outside edge of the pipes. Where easements do not follow the established or proposed lot lines, the nearest edge of any easement shall be a minimum of five (5) feet from any building intended for occupancy.

( Ord. of 05-12-2019(1) , 5-21-19)

#### **Sec. 19-314. Suitability of subdivision; subsurface sewage disposal.**

- (a) In those portions of the county where public sewer is not required or available, the Virginia Department of Health shall certify in writing prior to plat approval by the agent, that all lots proposed to be created pursuant to these subdivision regulations, including family division lots, shall be suitable for the installation of subsurface sewage disposal systems. If in the opinion of the VDH, a proposed lot is not suitable for any type of subsurface system, said lots shall not be platted, but may be combined with another adjacent lot within the proposed subdivision, if any, that has been determined by VDH to be suitable for the installation of a subsurface sewage disposal systems.
- (b) Notwithstanding (a) above, no exempt lot, as defined in this chapter, and proposed as a part of a preliminary or final subdivision plat, shall require a Virginia Department of Health certification that the lot is suitable for the installation of a subsurface sewage disposal system.

( Ord. of 05-12-2019(1) , 5-21-19)

#### **Sec. 19-316. Extension of public water service, where available.**

Where county public water is available within the provisions of Franklin County Code sections 22-36(c) and 22-36(d), the service shall be extended to all lots within a subdivision, except as exempted by section 22-36(c)(7). All new structures, facilities, developments, and subdivisions shall meet the provisions of sections 22-36(c) and 22-36(d). All new water systems shall meet the requirements of Franklin County Code chapter 22, the Virginia Department of Health, and other regulatory agencies. These provisions shall not prevent the installation of privately owned water distribution systems or sewage collection and treatment facilities that meet all applicable regulations including chapter 22, the Virginia Department of Health, and other regulatory agencies, if any such new water system is offered for ownership, dedication, and transfer to Franklin County or its assigns according to the provisions of chapter 22 and it is not accepted for public ownership by Franklin County or its assigns. Any water source, water treatment system, water storage, water distribution system, sewage collection and treatment facilities installed in Franklin County must meet all requirements of the State Water Control Board, the State Health Department, Franklin County or its assigns, and any other state or local regulation promulgated by anybody having authority in the premises.

( Ord. of 05-12-2019(1) , 5-21-19)

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### **Sec. 19-318. Fire hydrants.**

The installation of adequate fire hydrants in a subdivision at locations approved by the agent may be required, provided necessary public water is available. The agent shall consult with the proper authority before approving such locations.

When a major subdivision is proposed in an area of the county where a public water supply is not available or adequate to meet the fire protection needs of the proposed dwellings, the agent may, after consultation with the Franklin County Department of Public Safety, require the subdivider to install one (1) or more dry hydrants to enhance fire protection in the proposed subdivision. Dry hydrants shall only be required when a suitable water supply (lake, farm pond, stream, etc.,) is available within or directly adjacent to the proposed subdivision.

( Ord. of 05-12-2019(1) , 5-21-19)

### **Sec. 19-320. Reserved.**

### **Sec. 19-322. Authority to require environmental assessments.**

The agent shall have the authority to require, and may require, a phase I environmental site assessment for any property proposed for subdivision based on the anticipated use of the property proposed for subdivision. The assessment shall conform to generally accepted national standards for such assessments, such as those developed by the American Society for Testing and Materials. Phase II environmental site assessments, that also meet accepted national standards, such as, but not limited to, those developed by the American Society for Testing and Materials, may be required, if the agent deems such to be reasonably necessary, based on findings in the phase I assessment. A Phase II environmental assessment shall be prepared in accordance with regulations of the United States Environmental Protection Agency and the American Society for Testing and Materials. A reasonable fee may be charged for the review of such environmental assessments. Such fees shall not exceed an amount commensurate with the services rendered, taking into consideration the time, skill, and administrative expense involved in such review.

( Ord. of 05-12-2019(1) , 5-21-19)

### **Sec. 19-324. Subdivider's bonds.**

(a) Before any final subdivision plat is approved by the agent, the subdivider shall furnish a performance bond in the amount of one hundred ten (110) percent of the amount calculated by the subdivider's engineer and approved by the agent to secure the required improvements in a workmanlike manner and in accordance with specifications and construction schedules established or approved by the appropriate engineer, which bond shall be payable to and held by the board of supervisors. This bond may be in the form of a letter of credit or a cashier's check made payable to the board of supervisors which may be placed in an escrow account whereby the subdivider may draw interest from the account. If a cashier's check is provided as a performance bond, the subdivider/owner shall pay a fee of one hundred dollars (\$100.00) for the establishment and maintenance of the escrow agreement. All escrow accounts will be established and/or maintained with the consent of the Franklin County Treasurer. The following language must be a part of all newly issued letters of credit:

"This irrevocable letter of credit shall remain in full force for a period of one (1) year from the effective date hereof and shall automatically renew itself from year to year thereafter unless and until the (issuing bank name) shall give ninety (90) days' prior written notice to the County of Franklin, Virginia, by certified mail, return receipt requested, of its intent to terminate the same at the expiration of the ninety-day period.

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During the last thirty (30) days during which the letter of credit is in full force and effect, the county may draw up to the full amount available under the letter of credit with a draft accompanied by a document stating that (applicant name) has not completed the improvements and has not provided an acceptable substitute irrevocable letter of credit and that the drawing is for the explicit purpose of guaranteeing and/or providing for the completion of the improvements."

- (b) The agent shall not renew any performance bond except for good cause. In the event of a renewal, the amount of the performance bond shall be recalculated in accordance with subsection (a) of this section.
- (c) The agent shall require the subdivider to furnish the county with a maintenance and indemnifying bond, in the form of credit or a cashier's check made payable to the board of supervisors, with surety satisfaction to the board of supervisors, in an amount sufficient for and conditioned upon the maintenance of roads, when such roads, due to factors other than the quality of construction, are not acceptable into the state highway system. This bond shall be extended automatically until such time as the roads are accepted into the state highway system. If a cashier's check is provided as the maintenance and indemnifying bond, the subdivider/owner shall pay a one hundred dollar (\$100.00) fee for the establishment and maintenance of an escrow agreement. All escrow accounts will be established and maintained by the county treasurer.
- (d) It will be the private sector's responsibility to maintain streets to the Virginia Department of Transportation standards until acceptance into state highway system. Construction of roads to state standards does not necessarily mean the road system will be accepted by Virginia Department of Transportation.

( Ord. of 05-12-2019(1) , 5-21-19)

### **Sec. 19-326. Periodic or partial release of performance bonds.**

- (a) The agent shall authorize a periodic partial or final complete release of any bond, escrow, letter of credit, or other performance guarantee required by the Franklin County Board of Supervisors under this chapter within thirty days after receipt of written notice by the subdivider of completion of part or all of any public facilities required to be constructed hereunder unless the agent notifies the subdivider in writing of non-receipt of approval by an applicable state 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 public facilities shall be based solely upon conformance with the terms and conditions of the performance agreement and the approved design plan and specifications for the facilities for which the performance guarantee is applicable, and shall not include the approval of any person other than an employee of the board of supervisors, its administrative agency, the Virginia Department of Transportation or other political subdivision or a person who has contracted with the board of supervisors, its administrative agency, the Virginia Department of Transportation or other political subdivision.
- (b) If no such action is taken by the agent within the thirty-day time frame specified above, the request shall be deemed approved, and a partial release granted to the subdivider. No final release shall be granted until after expiration of such thirty-day period and there is an additional request in writing sent by certified mail return receipt to the county administrator. The agent shall act within ten (10) working days of receipt of the written request; then if no action is taken the request shall be deemed approved and final release granted to the subdivider.
- (c) If the agent takes no action within the times specified above and the subdivider files suit in the local circuit court to obtain partial or final release of a bond, escrow, letter of credit, or other performance guarantee, as the case may be, the circuit court, upon finding the board of supervisors, or its agent was without good cause in failing to act, shall award such subdivider his reasonable costs and attorneys' fees.
- (d) The board of supervisors or its agent shall not refuse to make a periodic partial or final release of a bond, escrow, letter of credit, or other performance guarantee for any reason not directly related to the specified

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defects or deficiencies in construction of the public facilities covered by said bond, escrow, letter of credit or other performance guarantee.

(e) Upon written request by the subdivider, the agent shall be required to make periodic partial releases of such bond, escrow, letter of credit, or other performance guarantee in a cumulative amount equal to no less than ninety (90) percent of the original amount for which the bond, escrow, letter of credit, or other performance guarantee was taken, and may make partial releases to such lower amounts as may be authorized by the agent based upon the percentage of public facilities completed and approved by the board of supervisors, local administrative agency, or state agency having jurisdiction. Requests for periodic partial releases shall be accompanied by a new cost estimate, prepared by an engineer, that estimates costs to complete remaining improvements shown on the approved plans. Periodic partial releases may not occur before the completion of at least thirty (30) percent of the public facilities covered by any bond, escrow, letter of credit, or other performance guarantee. The agent shall not be required to execute more than three (3) periodic partial releases in any twelve-month period. Upon final completion and acceptance of the public facilities, the agent shall release any remaining bond, escrow, letter of credit, or other performance guarantee to the subdivider. For the purpose of final release, the term "acceptance" means: when the public facility 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 operating such public facility upon acceptance.

(f) For the purposes of this section, a certificate of partial or final completion of such public facilities from either a duly licensed professional engineer or land surveyor, as defined in and limited to Code of Virginia § 54.1-400, or from a department or agency designated by the locality may be accepted without requiring further inspection of such public facilities.

( Ord. of 05-12-2019(1) , 5-21-19)

### **Sec. 19-328. Prints of plans and specifications for required improvements.**

Five (5) copies of the plans and specifications for all required physical improvements to be installed shall be prepared by a certified surveyor or engineer licensed to practice in Virginia and shall be submitted to the agent for approval or disapproval. The agent shall have sixty (60) days to approve or disapprove the plans. If approved, one (1) copy bearing certification of such approval shall be returned to the subdivider. If disapproved, all papers shall be returned to the subdivider with the reason for disapproval in writing. In the event no action is taken in sixty (60) days, such prints shall be deemed approved.

( Ord. of 05-12-2019(1) , 5-21-19)

## *DIVISION 3. LOTS*

### **Sec. 19-330. Arrangement, design and shape.**

The lot arrangement, design and shape shall be such that lots will provide satisfactory and desirable sites for buildings, be properly related to topography and conform to the requirements of this chapter. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage of area. The agent shall have the authority to require the subdivider to provide maximum building envelope information on the final plat to demonstrate that any or all lots are of sufficient size and shape to allow a buildable footprint with consideration of minimum setbacks required by the zoning ordinance.

( Ord. of 05-12-2019(1) , 5-21-19)

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### **Sec. 19-332. Pipe stem lots (flag lots).**

Pipe stem (flag) lots shall only be permitted provided the average horizontal distance between side lot lines for any single pipe stem lot proposed equals or exceeds the minimum required lot frontage for the zoning district within which the lot is located. For lots that front on cul-de-sac turn-a-rounds or lots within the non-zoned portions of the county the minimum required frontage for these lots shall be thirty (30) feet.

( Ord. of 05-12-2019(1) , 5-21-19)

### **Sec. 19-334. Extra width for corner lots.**

Corner lots shall have extra width sufficient for maintenance of any required building lines on both streets, as determined by the agent.

( Ord. of 05-12-2019(1) , 5-21-19)

### **Sec. 19-336. Side lot lines.**

Side lines of lots shall be approximately at right angles, or radial to the street line.

( Ord. of 05-12-2019(1) , 5-21-19)

### **Sec. 19-338. Disposal of remnants otherwise not suitable for platting.**

All remnants of lots below the required minimum lot size must be added to adjacent lots or otherwise disposed of, rather than allowed to remain as unusable parcels.

( Ord. of 05-12-2019(1) , 5-21-19)

### **Sec. 19-340. Location and placement.**

All lot corners shall be marked with an iron pin or solid iron rod, or other suitable ferrous material, which shall be a minimum of one-half (½) inch in diameter and a minimum of eighteen (18) inches in length.

( Ord. of 05-12-2019(1) , 5-21-19)

### **Sec. 19-342. Procedure when property ownership line divides lot.**

Where the land covered by a subdivision includes two (2) or more parcels in separate ownership, and lot arrangement is such that a property ownership line divides one (1) or more lots, the land in each lot so divided shall be transferred by deed to single ownership, simultaneously with the recording of the final plat. Such deed shall be deposited with the agent and held with the final plat until the subdivider is ready to record it, and they both shall then be recorded together.

( Ord. of 05-12-2019(1) , 5-21-19)

### **Sec. 19-344. Reserved.**

## *DIVISION 4. BLOCKS*

### **Sec. 19-346. Orientation with respect to major road.**

Where a proposed subdivision will adjoin a VDOT secondary highway, the agent shall require that the greater dimension of the block shall front or back upon such major thoroughfare to avoid unnecessary ingress or egress.

( Ord. of 05-12-2019(1) , 5-21-19)

### **Sec. 19-348. Special requirements for business or industrial blocks.**

Blocks intended for business or industrial use shall be designed specifically for such purposes, with adequate space set aside for off-street parking and delivery facilities.

( Ord. of 05-12-2019(1) , 5-21-19)

## *DIVISION 5. STREETS*

### **Sec. 19-350. Public streets required; when private access is allowed.**

- (a) Any lot proposed to be created by the act of subdivision pursuant to this chapter that is less than five (5) acres in size, shall be required to have frontage on an existing or proposed state-maintained public street. The state-maintained public street shall have a publicly dedicated right-of-way with a minimum width of fifty (50) feet where provisions are made for construction to state standards and acceptance into the state highway system pursuant to other provisions of the Franklin County Subdivision Ordinance and the Code of Virginia. If existing street rights-of-way are not fifty (50) feet in width, the subdivider shall be required to acquire additional right-of-way and make provisions in the deeds to the lots for all buildings to be so constructed as to permit the widening by dedication of such streets to a width of fifty (50) feet.
- (b) The public street requirements presented above shall apply to all lots in both minor and major subdivisions.
- (c) Lots in large lot subdivisions shall be required to have frontage on a right-of-way with an unrestricted right of public access with a minimum width of fifty (50) feet or an access easement of a minimum width of fifty (50) feet. Existing private roads (through adjacent properties) with previously recorded rights-of-way of less than fifty 50 feet which serve the subject property being subdivided may be used. However, the minimum right-of-way width for private roads created after the effective date of this chapter, and for any existing private road within the bounds of the subject property being subdivided shall be fifty (50) feet. When newly created lots abut on both sides of the right-of-way, the center line of the right-of-way shall be the property line between lots. The fifty (50) foot right-of-way shall be designated both a private access and utility easement.
- (d) Lots in minor or major subdivisions that are greater than fifteen (15) acres shall not be required to have frontage on either a right-of-way or access easement

( Ord. of 05-12-2019(1) , 5-21-19)

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## **Sec. 19-352. Construction and design requirements for streets.**

Subdivision streets shall be constructed, and plans submitted in accordance with the current Virginia Department of Transportation subdivision street requirements when new streets are created to serve the lots, tracts or parcels in the subdivision.

( Ord. of 05-12-2019(1) , 5-21-19)

## **Sec. 19-354. Service drives.**

Whenever a proposed subdivision contains or is adjacent to a limited access highway or expressway, provision shall be made for a service drive approximately parallel to such right-of-way at a distance suitable for an appropriate use of the land between such of the minimum distance required for ingress and egress to the main thoroughfares. The highway or expressway shall be of adequate width to provide for the cuts or fills required for any future separation of grades.

( Ord. of 05-12-2019(1) , 5-21-19)

## **Sec. 19-356. Sidewalks.**

Where a lot or parcel on an existing street in a village area or unincorporated town as described in the adopted franklin county comprehensive plan is being subdivided, and adjacent property on either side has an existing sidewalk, the county may require the dedication of land for, and construction of, a sidewalk on the property being subdivided or developed, to connect to the existing sidewalk. Nothing in this paragraph shall alter in any way any authority of localities or the department of transportation to require sidewalks on any newly constructed street or highway.

( Ord. of 05-12-2019(1) , 5-21-19)

## **Sec. 19-358. Alleys.**

The agent may allow alleys to be incorporated as a secondary means of access to abutting properties. Dead-end alleys are not permissible.

( Ord. of 05-12-2019(1) , 5-21-19)

## **Sec. 19-360. Private streets.**

- (a) Any and all streets that are not included in the system of state highways will be privately maintained and will not be eligible for acceptance into the system of state highways unless improved to current Department of Transportation standards with funds other than those appropriated by Franklin County or the general assembly and allocated by the Commonwealth Transportation Board.
- (b) Any subdivision plat depicting lots accessed by private roads shall have the following statement written thereon prior to recordation in the Franklin County Circuit Court Clerk's Office:

"The streets in the subdivision hereon depicted do not meet the standards necessary for inclusion in the system of state highways and will not be maintained by the Virginia Department of Transportation or Franklin 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."

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( Ord. of 05-12-2019(1) , 5-21-19)

**Sec. 19-362. Street names.**

Proposed streets which are obviously in alignment with other already existing and named streets shall bear the names of the existing streets. In no case shall the names of proposed streets duplicate existing street names, irrespective of the use of the suffix street, avenue, boulevard, drive, way, place, lane or court. Street names shall be indicated on the preliminary and final plats and shall be approved by the agent. Names of existing streets shall not be changed, except by approval of the board of supervisors.

( Ord. of 05-12-2019(1) , 5-21-19)

**Sec. 19-364. Identification signs.**

- (a) Street identification signs of the same design as required to meet the Virginia Department of Transportation standards, as amended, shall be installed at all intersections prior to the release of any road performance bonds held by the agent. The cost of all signs and sign installation shall be the responsibility of the subdivider.
- (b) Street signs shall also be required at the intersection to any private road or right-of-way created or modified as a part of an approved subdivision plan. The cost of all private street signs and sign installation shall be the responsibility of the subdivider.

( Ord. of 05-12-2019(1) , 5-21-19)

***DIVISION 6. FAMILY DIVISION SUBDIVISIONS***

**Sec. 19-366. Family divisions allowed.**

- (a) The agent shall allow a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner in accordance with process and standards listed below:
  - (1) For the purposes of this section, the immediate family of the property owner shall be any person who is a natural or legally defined offspring, stepchild, spouse, sibling, grandchild, grandparent, parent, aunt, uncle, niece or nephew of the owner.
  - (2) A plat and deed of any proposed family division shall be submitted and reviewed as provided for in these family division regulations.
  - (3) The family division shall be limited to a single parcel of land, and the subdivider shall certify that there has been no other family division lot transferred, in Franklin County, by sale or gift to the same family member.
  - (4) The required plat and deed shall state that the family division is for the housing needs of the grantee.
  - (5) Any family division lot proposed to be created shall have a minimum lot size of thirty-five thousand (35,000) square feet and shall have Virginia Department of Health (VDH) approval of a water supply and a sewage disposal system prior to Franklin County's approval of the proposed lot.
  - (6) The remainder of the parent tract from which the lot is created shall meet the minimum lot area requirements as specified in the Franklin County Zoning or if in a non-zoned portion of the county, shall have a minimum lot size of thirty-five thousand (35,000) square feet.

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- (7) If the remainder of the parent tract from which the lot is created is less than five (5) acres, such tract must meet the minimum state maintained road frontage requirements as specified in the zoning ordinance, or in the non-zoned portions of the county as specified herein.
- (8) Any family division lot created pursuant to these provisions shall have direct access to a state maintained road or shall have use of a right-of-way with a minimum width of twenty (20) feet to provide ingress and egress to a state maintained road. If an existing private right-of-way through adjacent properties is less than twenty (20) feet in width, and is at least ten (10) feet in width, that right-of-way may be used to provide access to a state maintained road however all rights-of-way within or adjacent to the family division lot being created shall be of a minimum width of twenty (20) feet.
- (9) No lot created by these family division provisions may be transferred other than to a member of the immediate family of the subdivider for a period of three (3) years from the recordation date creating the family division lot, except for the purposes of securing any purchase money and or construction loan including bona fide refinancing. These restrictions on transfer shall be noted in any deed of transfer of the property.

( Ord. of 05-12-2019(1) , 5-21-19)

## ***DIVISION 7. RESERVATION OF LAND FOR PUBLIC USES***

### **Sec. 19-368. Purchase of land reserved for public purposes.**

Subdividers shall not be required to reserve land for public purposes other than streets, drainage, parks and playgrounds, except on a reimbursement basis. They shall be reimbursed by the jurisdiction or agency requiring the land. They shall not be required to hold the land longer than eighteen (18) months following the recording of the plat for such purchase. If the land is not purchased within such eighteen (18) months, it may be sold as lots for the same purposes for which the subdivision was platted. To facilitate such possible eventual sale of reserved land as separate lots, the subdivider shall show on his final plat, by dotted numbers, the area and dimensions of lots to be recreated within the boundaries of any such reserved land, and may sell such lots, after the expiration date of the reservation, by lot number without filing an amended plat.

( Ord. of 05-12-2019(1) , 5-21-19)

### **Sec. 19-370. Divisibility of reserved lands.**

The agent shall make certain that lands so reserved are divisible in the same manner as the remainder of the subdivision, so that the subdivider will not be required to reserve an unusable portion of the subdivision.

( Ord. of 05-12-2019(1) , 5-21-19)

### **Sec. 19-372. Restriction as to reserving land for commercial purposes.**

Nothing herein shall be construed to mean that land may be set aside for commercial purposes in a residential district without the land so required for commercial use being zoned appropriately in accordance with the county zoning ordinance.

( Ord. of 05-12-2019(1) , 5-21-19)

### **Secs. 19-373—19-399. Reserved.**

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(Supp. No. 44)

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## **ARTICLE IV. APPROVAL OF PLATS**

### **Sec. 19-400. Application for approval; approval required before sale of lot.**

- (a) Whenever any subdivision of land is proposed and before any permit for the erection of a structure shall be granted, the subdivider shall apply in writing to the agent for the approval of the proposed subdivision. Application for the approval of a subdivision plat shall be in accordance with the following provisions and standards contained in this article.
- (b) No subdivision plat shall be recorded with the clerk of the circuit court until such time that the agent has reviewed and approved said plat as being in accordance with all applicable provisions of this chapter.

( Ord. of 05-12-2019(1) , 5-21-19)

### **Sec. 19-402. Preliminary sketch; option to submit.**

- (a) The subdivider may submit to the agent a preliminary sketch of the proposed subdivision prior to preparing engineered preliminary and final plats. The purpose of such preliminary sketch is to permit the agent to advise the subdivider whether plans, in general, are in accordance with the requirements of this chapter. The agent, upon submission of any such preliminary sketch, by the subdivider, shall study it and advise the subdivider wherein it appears that changes may be necessary. The agent shall mark the preliminary sketch indicating necessary changes, and any such marked sketch shall be returned to the subdivider.
- (b) Any preliminary sketch submitted for review shall be drawn to a scale of one hundred (100) feet to the inch. It shall show the name, location and dimensions of all streets entering the property, adjacent to the property or terminating at the boundary of property to be subdivided. It shall show the location of all proposed streets, lots, parks, playgrounds and other proposed uses of the land to be subdivided and shall include the approximate dimensions of all proposed lots and facilities.
- (c) Subdividers are encouraged to submit a preliminary plat and plans for all proposed subdivisions.
- (d) For any proposed subdivision that contains more than fifty (50) lots the subdivider shall be required to present to the agent five (5) copies of a preliminary plat and plans at a scale of one hundred (100) feet to the inch. The preliminary plat shall include, at a minimum, the following information:
  - (1) Name of subdivision, owner, subdivider, surveyor or engineer, date of drawing, number of streets, true north point and scale.
  - (2) Location of the proposed subdivision by an inset map at a scale of not less than two (2) inches equal one (1) mile, showing adjoining roads, their names and numbers, towns, subdivisions and other landmarks.
  - (3) The boundary survey or existing survey of record; provided, that such survey shows a closure with an accuracy of not less than one (1) in two thousand five hundred (2,500); total acreage, acreage of subdivided area, zoning designation of all land within the limits of the proposed subdivision and all parcels adjacent to the subdivision, number and approximate area and frontage of all building sites, 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.

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- (4) All existing, platted and proposed streets, their names, numbers and widths; existing utility or other easements, public areas and parking spaces; culverts, drains and watercourses, their names and other pertinent data.
- (5) All parcels of land to be dedicated for public use and the conditions of such dedication.
- (6) Topography at intervals satisfactory to the agent, if required.
- (7) Elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the centerline of streets, together with proposed grade lines connecting therewith.
- (8) Proposed connections with existing sanitary sewers and existing water supply or alternate means of sewage disposal and water supply.
- (9) Storm water management plans and calculations as required by the agent and the Commonwealth of Virginia.
- (10) Address numbers as assigned by the county (by lot).
- (11) Location of utilities, including, but not limited to, water, sewer, underground electrical and underground telephone.
- (12) Detail sheets (available from county) completely filled out and signed.

The submittal of a preliminary plat and plans is encouraged, but not required for proposed subdivisions containing fifty (50) lots or less.

( Ord. of 05-12-2019(1) , 5-21-19)

#### **Sec. 19-404. Notice to subdivider of additional requirements for approval.**

- (a) The agent or his appointed representative shall discuss the preliminary plat with the subdivider in order to determine whether or not his preliminary plat generally conforms to the requirements of this chapter and of the county zoning ordinance, when applicable. The subdivider shall then be advised in writing within sixty (60) days, which may be by formal letter, email or by legible markings on a copy of the preliminary plat, concerning any additional data that may be required, the character and the extent of public improvements that will have to be made.
- (b) The agent shall also require the subdivider to provide an estimate of the cost of construction or improvements and the amount of the performance bond (letter of credit or cashier's check) which will be required as a prerequisite to approval of the final subdivision plat. In reviewing the cost of required improvements and the amount of the performance bond, prepared and provided by the subdivider, the agent may consult with a duly licensed engineer or any other professional knowledgeable of land development, construction costs, and development finance, who shall prepare this data for the agent.
- (c) Approval by the agent of the preliminary plat does not constitute a guarantee of approval of the final plat.

( Ord. of 05-12-2019(1) , 5-21-19)

#### **Sec. 19-406. Final plat; time limit for filing.**

Once a preliminary subdivision plat is approved, it shall be valid for a period of five (5) years, provided the subdivider (i) submits a final subdivision plat for all or a portion of the property within one (1) year of such approval or such longer period as may be prescribed by local ordinance, and (ii) thereafter diligently pursues approval of the final subdivision plat. "Diligent pursuit of approval" means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications

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thereto. However, no sooner than three (3) years following such preliminary subdivision plat approval, and upon ninety (90) days' written notice by certified mail to the subdivider, the agent may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the final subdivision plat.

( Ord. of 05-12-2019(1) , 5-21-19)

### **Sec. 19-408. Same; form and contents.**

(a) The subdivision plat submitted for final approval shall be clearly and legibly drawn. The agent shall advise the subdivider on the required scale of the proposed final plat and plans, and the sheet size required.

In addition to the requirements of the preliminary plat, the final plat shall include the following:

- (1) A blank oblong space four (4) inches by seven (7) inches shall be reserved for the use of the approving authority.
- (2) Certificates signed by the surveyor or engineer, 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.
- (3) A statement to the effect that the subdivision, as it appears on this plat, is with the free consent and in accordance with the desires of the owners, proprietors and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgments of deeds.
- (4) When the subdivision consists of land acquired from more than one (1) source of title, the outlines of the various tracts shall be indicated by dash lines, and identification of the respective tracts shall be placed on the plat.
- (5) The accurate location and dimensions by bearings and distances with all curve data on all lots and street lines and centerlines of street; boundaries of all proposed or existing easements, parks, school sites or other public areas; the number and area of all building sites; all existing public and private streets, their names, numbers and widths; existing utilities and those to be provided, such as sanitary sewers, storm drains, water mains, manholes and underground conduits, including their size and type; watercourses and their names; names of owners and their property lines; both within the boundaries of the subdivision and adjoining such boundaries.
- (6) Distances and bearings must balance and close with an accuracy of not less than one (1) in ten thousand (10,000). All dimensions shall be shown in feet and decimal parts of feet.
- (7) The data of all curves along the street frontages shall be shown in detail at the curve or in a curve data table containing the following: Delta, radius, arc, and tangent, chord and chord bearings.

( Ord. of 05-12-2019(1) , 5-21-19)

### **Sec. 19-410. Same, conditions prerequisite for approval.**

- (a) The plat shall not be approved until the subdivider has complied with the general requirements and minimum standards of design in accordance with this chapter and has made satisfactory arrangements for performance bond, cash or cash bond to cover the cost of necessary improvements, in lieu of construction, to the satisfaction of the agent. Approval of the final plat shall be written on the face of the plat by the agent, who shall authorize the recordation of the plat.
- (b) Once an approved final subdivision plat for all or a portion of the property is recorded pursuant to Code of Virginia, § 15.2-2261, the underlying preliminary plat shall remain valid for a period of five (5) years from the date of the latest recorded plat of subdivision for the property. The five-year period of validity shall extend from the date of the last recorded plat.

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( Ord. of 05-12-2019(1) , 5-21-19)

**Sec. 19-412. Critical dates and time frames.**

- (a) The agent shall act on any proposed plat within sixty (60) days after it has been officially submitted for approval by either approving or disapproving the plat in writing. The agent shall thoroughly review the plat and shall make a good faith effort to identify all deficiencies, if any, with the initial submission. If the agent disapproves the plat, the specific reasons for disapproval shall be provided to the subdivider. The reasons for disapproval shall identify deficiencies in the plat that cause the disapproval by reference to specific duly adopted ordinances, regulations, or policies and shall identify modifications or corrections as will permit approval of the plat.
- (b) If approval of a feature or features of the plat by a state agency or public authority authorized by state law is necessary, the agent shall forward the plat to the appropriate state agency or agencies for review within ten (10) business days of the agent's receipt of such plat. The state agency or public authority shall respond in accord with the requirements set forth in Code of Virginia, § 15.2-2222.1, which shall extend the time for action by the agent. Specific reasons for disapproval shall be contained either in a separate document or on the plat itself. The agent shall act on any proposed plat that has been previously disapproved within forty-five (45) days after the plat has been modified, corrected and resubmitted for approval.
- (c) Any final plat approved by the agent shall be valid and eligible for recordation for a period of six (6) months from the date of approval by the agent. If a final plat approved by the agent is not recorded within six (6) months or such longer period as may be approved by the board of supervisors, the agent's approval shall be withdrawn, and the plat marked void and returned to the agent.
- (d) Notwithstanding the above, 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 board of supervisors or its agent, or where the subdivider has furnished surety to the board of supervisors or its agent 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 board of supervisors or its agent, whichever is greater.
- (e) If a subdivider records a final plat which may be a section of a subdivision as shown on an approved preliminary subdivision plat and furnishes to the board of supervisors a certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of the facilities to be dedicated within said section for public use and maintained by the locality, the Commonwealth, or other public agency, the subdivider shall have the right to record the remaining sections shown on the preliminary subdivision plat for a period of five (5) years from the recordation date of any section, or for such longer period the agent may, at the approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development, subject to the terms and conditions of this subsection and subject to engineering and construction standards and zoning requirements in effect at the time that each remaining section is recorded.

( Ord. of 05-12-2019(1) , 5-21-19)

**Sec. 19-414. Approved plat and plans; digital copy required after approval.**

The subdivider shall provide the agent a digital copy of all approved plats and plans associated with an approved subdivision plat. The digital data shall be in a .DWG format compatible with Franklin County's geographic information system.

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( Ord. of 05-12-2019(1) , 5-21-19)

**Secs. 19-415—19-499. Reserved.**

**ARTICLE V. VACATION OF PLATS AND RELOCATION OF BOUNDARY LINES**

**Sec. 19-500. Vacation of interests granted to a locality.**

(a) Any interest in streets, alleys, easements for public rights of passage, easements for drainage, and easements for a public utility granted to Franklin County as a condition of the approval of a site plan may be vacated according to either of the following methods:

- (1) By a duly executed and acknowledged written instrument of the owner or owners of the land which has been or is to be developed in accordance with the site plan, declaring the interest or interests to be vacated, provided the board of supervisors or authorized agent of Franklin County consents to the vacation. The instrument shall be recorded in the office of the clerk of the circuit court wherein is recorded the written instrument describing the interest in real property to be vacated. The execution and recordation of the instrument shall operate to divest all public rights in, and to reinvest the owner with the title to the interests which formerly were held by Franklin County; or
- (2) By ordinance adopted by the board of supervisors, provided that no interest shall be vacated in an area in which facilities, for which bonding is required pursuant to Code of Virginia, §§ 15.2-2241 through 15.2-2245, have been constructed.
  - a. The ordinance shall not be adopted until after notice has been given as required by Code of Virginia, § 15.2-2204. The notice shall clearly describe the interest to be vacated by reference to the recorded instrument on which it was created and state the time and place of the meeting of the board of supervisors at which the adoption of the ordinance will be voted upon. Any person may appear at the meeting for the purpose of objecting to the adoption of the ordinance. An appeal from the adoption of the ordinance may be filed within thirty (30) days of the adoption of the ordinance with the circuit court having jurisdiction of the land over which the board of supervisors interest is located. Upon appeal, the court may nullify the ordinance if it finds that the owner of the property, which has been developed or is to be developed in accordance with the approved site plan, will be irreparably damaged. If no appeal from the adoption of the ordinance is filed within the time above provided or if the ordinance is upheld on appeal, a certified copy of the ordinance of vacation may be recorded in the county clerk's office of any court in which the instrument creating the governing body's interest is recorded.
  - b. The execution and recordation of an ordinance of vacation shall operate to destroy the effect of the instrument which created the board of supervisors interest so vacated and to divest all public rights in and to the property and vest title in the streets, alleys, easements for public rights of passage, easements for drainage, and easements for a public utility as may be described in, and in accordance with, the ordinance of vacation.

( Ord. of 05-12-2019(1) , 5-21-19)

**Sec. 19-502. Vacation of plat before sale of lot therein; ordinance of vacation.**

(a) Where no lot has been sold, a recorded plat, or part thereof, may be vacated according to either of the following methods:

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- (1) With the consent of the County Board of Supervisors, or its authorized agent, by the owners, proprietors and trustees, if any, who signed the statement required by Code of Virginia, § 15.2-2264 at any time before the sale of any lot therein, by a written instrument, declaring the plat to be vacated, duly executed, acknowledged or proved and recorded in the same office of the clerk of the circuit court wherein the plat to be vacated is recorded and the execution and recordation of such writing shall operate to destroy the force and effect of the recording of the plat so vacated and to divest all public rights in, and to reinvest the owners, proprietors and trustees, if any, with the title to the streets, alleys, easements for public passage and other public areas laid out or described in the plat; or
- (2) By ordinance of the Franklin County Board of Supervisors provided that no facilities for which bonding is required pursuant to Code of Virginia, §§ 15.2-2241 through 15.2-2245 have been constructed on the property and no facilities have been constructed on any related section of the property located in the subdivision within five (5) years of the date on which the plat was first recorded.

The ordinance shall not be adopted until after notice has been given as required by Code of Virginia, § 15.2-2204. The notice shall clearly describe the plat or portion thereof to be vacated and state the time and place of the meeting of the board of supervisors at which the adoption of the ordinance will be voted upon. Any person may appear at the meeting for the purpose of objecting to the adoption of the ordinance. An appeal from the adoption of the ordinance may be filed within thirty (30) days of the adoption of the ordinance with the circuit court having jurisdiction of the land shown on the plat or part thereof to be vacated. Upon appeal the court may nullify the ordinance if it finds that the owner of the property shown on the plat will be irreparably damaged. If no appeal from the adoption of the ordinance is filed within the time above provided or if the ordinance is upheld on appeal, a certified copy of the ordinance of vacation may be recorded in the clerk's office of any court in which the plat is recorded.

The execution and recordation of the ordinance of vacation shall operate to destroy the force and effect of the recording of the plat, or any portion thereof, so vacated, and to divest all public rights in and to the property and reinvest the owners, proprietors and trustees, if any, with the title to the streets, alleys, and easements for public passage and other public areas laid out or described in the plat.

( Ord. of 05-12-2019(1) , 5-21-19)

#### **Sec. 19-504. Vacation of plat after sale of lot.**

- (a) In cases where any lot has been sold, the plat or part thereof may be vacated according to either of the following methods:
  - (1) By instrument in writing agreeing to the vacation signed by all the owners of lots shown on the plat and also signed on behalf of the Franklin County Board of Supervisors for the purpose of showing the approval of the vacation by the board of supervisors. In cases involving drainage easements or street rights-of-way where the vacation does not impede or alter drainage or access for any lot owners other than those lot owners immediately adjoining or contiguous to the vacated area, the board of supervisor shall only be required to obtain the signatures of the lot owners immediately adjoining or contiguous to the vacated area. The word "owners" shall not include lien creditors except those whose debts are secured by a recorded deed of trust or mortgage and shall not include any consort of an owner. The instrument of vacation shall be acknowledged in the manner of a deed and filed for record in the county clerk's office.
  - (2) By ordinance of the governing body of the locality in which the land shown on the plat or part thereof to be vacated lies on motion of one (1) of its members or on application of any interested person. The ordinance shall not be adopted until after notice by ordinance of the board of supervisors, on motion of one (1) of its members or on has been given as required by Code of Virginia, § 15.2-2204. The notice shall clearly describe the plat or portion thereof to be vacated and state the time and place of the

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meeting of the board of superiors at which the adoption of the ordinance will be voted upon. Any person may appear at the meeting for the purpose of objecting to the adoption of the ordinance. An appeal from the adoption of the ordinance may be filed within thirty (30) days with the circuit court having jurisdiction of the land shown on the plat or part thereof to be vacated. Upon appeal the court may nullify the ordinance if it finds that the owner of any lot shown on the plat will be irreparably damaged. If no appeal from the adoption of the ordinance is filed within the time above provided or if the ordinance is upheld on appeal, a certified copy of the ordinance of vacation may be recorded in the clerk's office of any court in which the plat is recorded.

Roads within the secondary system of highways may be vacated under either of the preceding methods and the action will constitute abandonment of the road, provided the land shown on the plat or part thereof to be vacated has been the subject of a rezoning or special exception application approved following public hearings required by Code of Virginia, § 15.2-2204 and provided the Commissioner of Highways or his agent is notified in writing prior to the public hearing, and provided further that the vacation is necessary in order to implement a proffered condition accepted by the governing body pursuant to Code of Virginia, §§ 15.2-2297, 15.2-2298 or 15.2-2303 or to implement a condition of special exception approval. All abandonments of roads within the secondary system of highways sought to be affected according to either of the preceding methods before July 1, 1994, are hereby validated, notwithstanding any defects or deficiencies in the proceeding; however, property rights which have vested subsequent to the attempted vacation are not impaired by such validation. The manner of reversion shall not be affected by this section.

( Ord. of 05-12-2019(1) , 5-21-19)

### **Sec. 19-506. Road maintenance agreements.**

- (a) Any proposed large lot subdivision shall be depicted on a plat prepared, approved and recorded in accordance with requirements of this chapter.
- (b) All large lot subdivision lots and private rights-of-way serving such lots recorded after the adoption date of this chapter shall be subject to the provisions of a perpetual road maintenance agreement or obligation as hereinafter set forth which obligations are hereby made legally binding upon the owners of such large lot subdivision lots. The maintenance agreement shall be recorded with and take effect with the recording of any large lot subdivision plat when and in the event that three (3) or more large lots are served by a private right-of-way. The fact that only one (1) or two (2) large lots are initially served by a private right-of-way shall in no way exempt or exclude such lots from the provisions and obligations of the road maintenance agreement or obligation and such obligations shall fully and in all ways apply to such lots when a private right-of-way begins to serve the third or more lots in addition to the original one (1) or two (2) hereinabove referenced.
- (c) Each lot owner whose land is served by such private street or right-of-way shall pay his/her pro rata share of the reasonable costs of upkeep, repair and maintenance of said private street/road. The share of each lot may be determined by the total reasonable costs being divided by the total number of lots (each lot pays the same amount) or by prorating the cost for each lot based on the length of the road required to serve each lot (lots at the rear would pay more than lots at the front). Should the same person own more than one (1) lot, he/she shall be responsible for more than one (1) pro rata share which is determined on a per lot basis. If the subdivider does not determine the method of proration of the costs a majority of the lot owners shall be able to do so.
- (d) "Reasonable costs of upkeep, repair and maintenance" shall include measures necessary to keep the road in usable condition, including (but not necessarily limited to) the costs of snow removal, minor grading, ditching, application of gravel or stone, roadside soil stabilization and installation of drainage pipe as may be necessary to prevent continuing damage to the right-of-way. Private roads which existed prior to the

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enactment of the provisions of this chapter are not subject to the road maintenance agreement requirement, but nothing in this article shall preclude lot owners on existing private roads which are being extended from participating in the road maintenance agreement.

- (e) Existing private roads (through adjacent properties) with previously recorded rights-of-way of less than fifty (50) feet which serve the subject property being subdivided may be used. However, the minimum right-of-way width for private roads created after the effective date of this article and for any existing private road within the bounds of the subject property being subdivided shall be fifty (50) feet. When newly created lots abut on both sides of the right-of-way, the centerline of the right-of-way shall be the property line between lots. The fifty (50) foot right-of-way shall be designated as both a private access and utility easement.
- (f) Prior to approval of the plat for any large lot subdivision of three (3) or more large lots served by a private road, the owner of property shall either present a valid commercial entrance permit for the entrance of the private road serving the large lot subdivision onto the state maintained highway, or present a letter from the VDOT Resident Engineer/Administrator recommending approval of a waiver of the requirement for a commercial entrance.

( Ord. of 05-12-2019(1) , 5-21-19)

### **Sec. 19-508. Required statements.**

- (a) Any subdivision plat depicting large lots accessed by private roads which will not be constructed to meet the standards necessary for inclusion in the secondary system of state highways shall have the following statement written thereon prior to recordation in the Franklin County Circuit Court Clerk's Office:

"The private roads in the large lot subdivision hereon depicted do not meet state standards, are not intended for inclusion in the system of state highways, will not be maintained by the Virginia Department of Transportation nor the County of Franklin and are not eligible for rural addition funds or any other funds appropriated by the General Assembly and allocated by the Commonwealth Transportation Board. The maintenance of the private roads shown hereon shall be the mutual responsibility of the landowners whose lots are served by said private roads. The County of Franklin encourages participation in the private road maintenance agreement to be recorded in conjunction with this large lot subdivision plat but will not participate in any provisions of the maintenance agreement or obligation or any action to enforce any provisions of the maintenance agreement or obligation."
- (b) The grantors in any deed of conveyance of any subdivision lot to which the above statement applies shall contain the following statement in such deed:

"The private roads in the large lot subdivision hereon depicted do not meet state standards, are not intended for inclusion in the system of state highways, will not be maintained by the Virginia Department of Transportation nor the County of Franklin and are not eligible for rural addition funds or any other funds appropriated by the General Assembly and allocated by the Commonwealth Transportation Board. The maintenance of the private roads shown hereon shall be the mutual responsibility of the landowners whose lots are served by said private roads. The County of Franklin encourages participation in the private road maintenance agreement to be recorded in conjunction with this large lot subdivision plat but will not participate in any provisions of the maintenance agreement or obligation or any action to enforce any provisions of the maintenance agreement or obligation."

( Ord. of 05-12-2019(1) , 5-21-19)

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**Sec. 19-510. Relocation of boundary lines.**

The agent may, relocate or otherwise alter the boundary lines of any lot or parcel of land as a part of an otherwise valid and properly recorded plat of subdivision or resubdivision previously approved as provided in this chapter, the subdivision ordinance, and executed by the owner or owners of such land as provided in Code of Virginia, § 15.2-2275, provided, however, that such action for relocation, or alteration, does not involve the relocation or alteration of streets, alleys, easements for public passage or other public areas; and provided further, that no easements or utility rights-of-way shall be relocated or altered without the express consent of all the persons holding any interest therein.

( Ord. of 05-12-2019(1) , 5-21-19)