

# COUNTY OF CHARLOTTE

## APPENDIX B

### SUBDIVISION

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Adopted November 4, 2014

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Sec. 5-1. Definitions

**Article 1. Title and Purpose**

Sec. 1-1. Title and Authority

This ordinance shall hereafter be known, cited and referred to as the “Subdivision Ordinance.” This Subdivision Ordinance is enacted pursuant to the authority granted by the Code of Virginia, Title 15.2, Chapter 22, §§ 15.2-2200 et seq., including but not limited to §§ 15.2-2240 to 15.2-2279.

Sec. 1-2. Applicability

This chapter shall apply to all divisions, re-divisions, and consolidations of land, the vacation of recorded subdivision plats or parts thereof, and the relocation of boundary lines within the county. This chapter does not apply to divisions of land resulting from an order entered by a court of jurisdiction requiring that land be partitioned, or from the exercise of the power of eminent domain by any public agency.

Sec. 1-3. Purpose

The purpose of this Subdivision Ordinance, and the regulations set forth herein, is to assure the orderly subdivision of land and its development, and the public health, safety and general welfare.

Sec. 1-4. Severability

It is the intention of the board of supervisors of the county that the provisions of this ordinance be severable in accordance with the following:

1. If any court of competent jurisdiction shall adjudge any provision of this ordinance to be invalid, such judgment shall not affect any other provision of this ordinance.
2. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this ordinance to a particular subdivision of land, such order shall not affect the application of said provision to any other subdivision of land not specifically included in said order.

Sec. 1-5 Violation and Penalties; Requirements after effective date.

After the adoption of this subdivision ordinance, the following provisions shall be effective, in accordance with Sec. 1-2:

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1. No person shall subdivide land without making and recording a plat of the subdivision and without fully complying with the provisions of this subdivision ordinance and other applicable regulations of the county and VDOT as applicable.
2. No plat of any subdivision shall be recorded unless and until it has been submitted to and approved by the planning commission or subdivision agent in accordance with Article 3 and VDOT as applicable.
3. No person shall sell or transfer any land of a subdivision, before a plat has been duly approved and recorded as provided herein, unless the subdivision was lawfully created prior to the adoption of the applicable subdivision ordinance. However, nothing herein contained shall be construed as preventing the recordation of the instrument by which such land is transferred or the passage of title between the parties to the instrument.
4. Any person violating the foregoing provisions of this section shall be subject to a fine of not more than \$500 for each lot or parcel of land so subdivided, transferred or sold and shall be required to comply with all provisions of the subdivision ordinance and other applicable regulations of the county. The description of the 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 the penalties or remedies herein provided.
5. No clerk of any court shall file or record a plat of a subdivision until the plat has been approved as required herein.

Sec. 1-6. Non-Conforming Lot

Any action or procedure taken under the provisions of this ordinance shall not result in any new violation of this ordinance or of the Zoning Ordinance. Specific information regarding regulations for non-conforming lots is located in the Zoning Ordinance.

Sec. 1-7. Effective Date

The effective date of this ordinance shall be from the date of its enactment, and each of its provisions shall be in force thereafter until amended or repealed.

Sec. 1-8. Repeal.

Upon the adoption of this ordinance, all subdivision ordinances heretofore adopted by board of supervisors, are hereby repealed.

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**Article 2. Administration**

Sec. 2-1. Generally.

*Sec. 2-1-1. The board of supervisors.* The administration and enforcement of the subdivision ordinance shall be vested with the board of supervisors. The board of supervisors shall administer and enforce the ordinance itself, and with the assistance of the planning commission or other agent.

*Sec. 2-1-2. The planning commission.* The planning commission shall review and determine whether a preliminary subdivision plat meets all applicable requirements of the ordinance.

*Sec. 2-1-3. The subdivision agent.* The subdivision agent or administrator, shall be an employee of the county appointed by the Board of Supervisors. The subdivision agent shall have the following authority, duties and responsibilities:

- a. To accept the filing of proposed subdivision plats, and to collect all information and fees required in connection with the review of such plats;
- b. To determine the date on which a proposed subdivision plat has been officially submitted for approval. The term “officially submitted for approval” shall refer to a fully completed application package, including all information, submissions and fees required by this ordinance.
- c. To refer a preliminary subdivision plat that has been officially submitted for approval to the planning commission, and to state agencies and authorities whose review is required, for action within the time period(s) referenced in Code of Virginia §15.2-2259.
- d. To prepare all written notices and determinations required as a result of the county’s action on the application, and to sign such notices and determinations as the board’s agent;
- e. To review and approve proposed plats of family subdivisions and minor subdivision plats;
- f. To review and approve final subdivision plats;
- g. To sign an approved final subdivision plat as the county’s agent, certifying that such plat has been approved in accordance with this ordinance;
- h. To initiate and prosecute all actions necessary for the enforcement of this ordinance and the requirements of the county’s approved subdivision plats.

*Sec. 2-1-4. The County Health Department.* The County Health Department shall review the water supply and sewage disposal facilities to be provided on all plats referred to it by the subdivision agent.

*Sec. 2-1-5. The Virginia Department of Transportation (VDOT).* VDOT shall review all proposed subdivision plats showing proposed public streets and any connections of private streets or access easements to the public right-of-way. Upon

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receipt of a proposed subdivision plat from the county's subdivision agent, VDOT shall complete its review within the time period(s) referenced within Code of Virginia §15.2-2259.

Sec. 2-2. Interpretation

*Sec. 2-2-1. Requirements.* In their interpretation and application, the provisions of this ordinance shall be applied to serve the ends referenced in the Code of Virginia §15.2-2200, and to promote the public health, safety, and general welfare.

*Sec. 2-2-2. More restrictive standards govern.* Where the conditions imposed by any provisions of this ordinance upon the subdivision of land are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this ordinance or of any other applicable law, ordinance, resolution, rule, or regulation, the regulations that are more restrictive or impose higher standards or regulations shall govern.

*Sec. 2-2-3. Requirements govern easements.* No easement, covenant, or any other private agreement shall supersede the requirements of this ordinance.

Sec. 2-3. Fees and Charges.

Fees and charges for the examination of every subdivision plat shall be based on a fee schedule set forth and periodically updated within an ordinance enacted by the board of supervisors in accordance with the Code of Virginia §15.2-107.

Sec. 2-4. Transfers, Sales and Permits to Build

No property in a subdivision shall be transferred or offered for sale, nor shall a permit be issued for a structure thereon, until a final plat of such subdivision shall have been approved, as stated herein, and recorded within the land records of the Circuit Court of Charlotte County.

Sec. 2-5. Exemptions

*Sec. 2-5-1. General.*

The creation of a subdivision shall in no way exempt the land included within it from the requirements set forth by other ordinances or laws, including but not limited to the Zoning Ordinance.

*Sec. 2-5-2. Large lots.*

The creation and recordation of lots of twenty (20) acres or larger in area are exempt from the requirements of this subdivision ordinance.

Sec. 2-6. Administrative review of certain plats

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The subdivision agent is hereby delegated the authority to receive, review and approve or disapprove plats of family divisions and subdivisions of three (3) or fewer lots as described in Sec.2-6-2.

*Sec. 2-6-1. Family divisions.*

a. 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”. Only one (1) such division is to be allowed per family member, and shall not be for the purpose of circumventing this subsection. For the purposes of this subsection a member of the immediate family is defined as any person who is a natural or legally defined offspring, stepchild, spouse, grandchild, grandparent, sister or brother or parent of the owner. Such a division shall be called a “family division”. The applicant shall submit three (3) copies of said family division plat to the county for review and approval. Within 60 days of official submission, the plat shall be approved or disapproved by the subdivision agent. The applicant shall be responsible for recording the plat in the land records of the circuit court within six (6) months of approval or it will become invalid. The family division plat shall clearly show the following information:

- 1) Every plat which is intended for recording shall be prepared by a certified professional engineer or land surveyor, who shall endorse upon each such plat a certificate signed by him or her setting forth the source of title of the owner(s) of the land(s) involved in the family division and the place of record of the last instrument(s) in the chain of title;
- 2) Date of plat;
- 3) Scale;
- 4) North arrow;
- 5) Adjoining property owners;
- 6) Bearings and distances of all lines surveyed as part of the family division;
- 7) Name and signature of owner(s) notarized;
- 8) Acreage of conveyed property;
- 9) The acreage and frontage width of the remainder or a statement certifying the surveyor's knowledge that the remainder of the property meets the minimum acreage and frontage width requirements;
- 10) Tax map section and parcel number;
- 11) Plat clearly labeled FAMILY DIVISION by the surveyor;
- 12) Name(s) of family member grantee;
- 13) Sufficient dedicated easement and right-of-way to meet VDOT standards when a lot fronts on a state maintained road;

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- 14) Signature block for county official;
  - 15) All family subdivisions not fronting on a public road shall provide for the conveyance of a right-of-way at least 20 feet in width.
- b. A family division is permitted for a sale or gift to a member of the immediate family of the property owner, subject only to the express requirements contained in the Code of Virginia, and the following provisions:
- 1) No previous transfer from the same source tract under this provision has been granted to the grantee in the county;
  - 2) The grantee is at least 18 years of age and able to hold title to real estate under Virginia law;
  - 3) The property owner must place a restrictive covenant on the subdivided property that would prohibit the transfer of the property to a nonmember of the immediate family for a period of five (5) years. Upon application, the subdivision agent may reduce or provide exceptions to the five-year retention period when changed circumstances so require, including but not limited to, foreclosure, death, judicial sale, condemnation, bankruptcy or permanent relocation by the owner out-of-state. Additionally, the subdivision agent may approve the transfer of property between eligible family members within the five-year retention period. Any such relief granted by the administrator shall be in the form of an instrument that the applicant shall record against the parcel in the land records of the circuit court; and
  - 4) All proposed plats for family subdivision shall include an affidavit which shall be signed by the grantor and grantee under oath and penalty of perjury that identifies the subdivision as being for the purposes of conveyance to a qualifying family member and identifies the receiving family members and their relationship to the grantor.
  - 5) In the event the subdivision agent determines that a family division has been used to circumvent the Subdivision Ordinance, he shall initiate the vacation of all or part of the plat or plats of the original lot or parcel to the extent necessary to correct the violation.
- c. The approved family subdivision plat shall be recorded in the land record of the circuit court within six (6) months.

*Sec 2-6-2. Minor subdivisions.* A subdivision not exceeding three (3) lots may be approved by the subdivision agent provided no new public street, public water or public sewerage facilities are involved; the required certifications have been approved by the appropriate agent(s); no variances or modifications are involved; and all the requirements set forth herein are met. The applicant shall submit three

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(3) copies of said minor division plat to the county for review and approval. Within 60 days of official submission, the plat shall be approved or disapproved by the subdivision agent. The applicant shall be responsible for recording the plat in the land records of the circuit court within six (6) months of approval or it will become invalid. A minor subdivision may be served by a private access easement, which need not meet the construction requirements for public or private streets. Any subdivision of four (4) or more lots, but less than ten (10) lots must be served by a private street as defined herein, including a property owners association or other acceptable mechanism for long-term maintenance. Any subdivision of ten (10) or more lots must be served by a public street acceptable to VDOT.

Sec. 2-7. Floodplains

Such land within the subdivision shall be set aside 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. All floodplains shall be delineated on a proposed subdivision plat, based on a soil survey, a 100-year frequency and the balance of energy concept of computing water surface profiles (engineering method), or delineated by flood zone designation as shown on HUD Flood Boundary Maps for Charlotte County. This shall be furnished by the subdivider.

Sec. 2-8. Development in dam break inundation zone

1. The owner of each impounding structure in the county shall prepare a map of the dam break inundation zone for the impounding structure and submit the map to the subdivision and the State Department of Conservation and Recreation (DCR).
2. For any subdivision containing three (3) or more residential units or any business or industrial use other than agricultural production proposed within the boundaries of a mapped dam break inundation zone, the subdivision agent shall review the dam break inundation zone map, notify the dam owner, and, within 10 days, forward a request to DCR to make a determination of the potential impacts of the proposed subdivision on the spillway design flood standards required of the dam. Upon receipt of the determination by DCR or if the county has not received comments within 45 days of the DCR's receipt of the county's request, the subdivision agent shall complete the county's review of the proposed subdivision.
3. If DCR determines that a proposed subdivision is wholly or partially within a dam break inundation zone and would change the spillway design flood standards of an impounding structure, the subdivider must submit an engineering study meeting state standards to DCR prior to final approval of the subdivision, and provide a copy to the subdivision agent. Following the

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completion of the engineering study, and prior to any development within the dam break inundation zone, the subdivider shall change the proposed subdivision so that it does not alter the spillway design flood standards of the dam or shall pay 50 percent of the contract-ready costs for necessary upgrades to an impounding structure attributable to the subdivision, together with administrative fees required by state law. Payment shall be made to the Virginia Dam Safety, Flood Prevention and Protection Assistance Fund as provided by state law.

4. Dam break inundation zone maps are only required for dams that meet the requirements for an impounding structure. The requirements of this subsection shall not apply to any subdivision proposed downstream of a dam for which a dam break inundation zone map is not on file with the county at the time of the official submission of a subdivision plat to the county. However, the subdivision agent may map the dam break inundation zone and recover the costs of such mapping from the owner of an impounding structure for which a dam break inundation zone map is not on file with the county and a map has not been prepared by the impounding structure's owner.
5. Following completion of any subdivision in a dam break inundation zone, the subdivider shall provide the dam owner and the subdivision agent with information necessary for the dam owner to update the dam break inundation zone map to reflect the new development.

### Sec. 2-9. Exceptions

*Sec. 2-9-1. Conditions.* In cases of unusual situations, or when strict adherence to the general regulations would result in substantial injustice or hardship, the planning commission or the subdivision agent (for family subdivisions) may grant exceptions to the general regulations of the ordinance. In making decisions on whether an exception should be granted, the planning commission or subdivision agent shall consider the following:

- a. The granting of the exception will not be detrimental to the public safety, health, or welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
- b. The conditions upon which the request for an exception is based are unique to the property for which the exception is sought, and are not applicable, generally, to other property.
- c. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.
- d. Cost to the subdivider of strict or literal compliance with the regulations shall not be the sole reason for granting the exception.
- e. In recommending exceptions to the standards of the ordinance, the subdivision

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agent or commission may require such conditions as will, in their judgment, secure substantially the objectives of the standards or requirements of the ordinance.

### *Sec. 2-9-2. Procedures.*

- a. A petition for any such exception shall be submitted in writing by the subdivider at the time when the preliminary subdivision plat is officially submitted for review. The petition shall state fully the grounds for the exception and all of the facts taken into consideration by the petitioner.
- b. Exceptions requiring planning commission approval will be considered only after notice has been published, and a public hearing held, in accordance with Code of Virginia § 15.2-2204.
- c. A petition for any exception of the street design and/or construction provisions of this ordinance shall first be submitted to the Virginia Department of Transportation, and must receive approval from that agency before the County or its agent will consider such exception.
- d. The decision of the planning commission or the subdivision agent shall be set forth in writing and communicated promptly to the subdivider.

### *Sec. 2-10. Adoption of the Subdivision Ordinance*

Pursuant to the Code of Virginia § 15.2-2251, the planning commission shall prepare and recommend the subdivision ordinance and transmit it to the board of supervisors. The board shall approve and adopt the subdivision ordinance only after notice has been published, and a public hearing held, in accordance with the Code of Virginia § 15.2-2204.

### *Sec. 2-11. Amendments*

1. For the purpose of promoting the orderly subdivision of land, public health, safety, and general welfare, the board of supervisors may from time to time amend the regulations imposed by this ordinance. Public hearings on all proposed amendments shall be held by both the planning commission and the board of supervisors as set forth in Sec. 2-10.
2. All approved residential and commercial subdivisions will be subject to the subdivision ordinance in effect on the date of recordation. Any new division of property will be subject to current ordinances.

**Article 3. Process for Approval of Plats**

Sec. 3-1. Platting required

*Sec. 3-1-1. Plat to be prepared.* Each subdivision plat shall be prepared by a surveyor duly licensed by the Commonwealth of Virginia, who shall endorse upon each plat a certificate setting forth the source of title of the land subdivided and the place of record of the last instrument in the chain of title.

*Sec. 3-1-2. Recordation of plat and its effect.* A final plat shall be recorded in the office of the clerk of the circuit court (land records). No property in a subdivision can be transferred unless and until a final plat of said subdivision shall have been prepared, approved and recorded, as provided for herein, and until all other requirements specified in this ordinance shall have been met. Penalties for noncompliance with this subsection are provided for in Sec. 1-5.

Sec 3-2. Vacation of plats

Any proposed vacation of an approved final subdivision plat that has been recorded shall be subject to the provisions of Code of Virginia § § 15.2-2271 and 15.2-2272, as applicable.

*Sec. 3-2-1. Vacation of plats with no lots sold.* Where no lots have been sold, any plat, or part thereof, recorded under the provisions of this article may be vacated with the approval of the planning commission, as the agent of the board of supervisors, by the owners, proprietors, and trustees, if any, who signed the Certificate of Owner's Consent to Subdivision, declaring same to be vacated by a written instrument, duly executed, acknowledged, and recorded in the office of the clerk of the circuit court (land records) wherein the plat to be vacated is recorded. The execution and recording of such instrument shall operate to destroy the force and effect of the recording of the plat so vacated and to divest all public rights, and reinvest such owners, proprietors, and trustees, if any, with the title to the streets, alleys, easements for public passage, and other public areas described in such plat.

*Sec. 3-2-2. Vacation of plats after lots sold.* In cases where any lot has been sold, a plat or part thereof may be vacated according to either of the following methods:

- a. 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 governing body of the locality in which the land shown on the plat or part thereof to be vacated lies for

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the purpose of showing the approval of the vacation by the governing body. 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 governing body 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 clerk’s office of any court in which the plat is recorded.

- b. By ordinance of the board of supervisors on motion of one (1) of its members or an application of any interested person, after notice and public hearing in accordance with requirements of Code of Virginia § 15.2-2204, as amended. An appeal from the adoption of the ordinance may be filed within 30 days with the circuit court of the county. Upon such 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 30 day time period or upheld on appeal, a certified copy of the ordinance of vacation shall be recorded in the office of the clerk of court (land records) wherein the plat to be vacated is recorded.

*Sec. 3-2-3. Effects of vacation after lots sold.* The recordation of the instrument of vacation shall operate to destroy the force and effect of the recording of the plat or part thereof so vacated, and to vest fee simple title to the centerline of any streets, alleys, or easements for public passage so vacated in the owners of abutting lots free and clear of any rights of the public or any owners of lots shown on the plat, but subject to the rights of the owners of any public utility installation which have been previously erected therein. If any such street, alley, or easement for public passage is located on the periphery of the plat, such title for the entire width thereof shall vest in such abutting lot owners. The fee simple title to any portion of the plat so vacated as was set apart for other public use shall be reinvested in the owners, proprietors and trustees, if any, who signed the Certificate of Owner's Consent to Subdivision, free and clear of any rights of public use in the same.

*Sec. 3-2-4. Appeals.* An appeal from the adoption of the ordinance may be filed within 30 days with the circuit court of the county. Upon such 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 30 day time period or upheld on appeal, a certified copy of the ordinance of

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vacation shall be recorded in the office of the clerk of court (land records) wherein the plat to be vacated is recorded.

Sec. 3-3. Preparation of preliminary plat

*Sec. 3-3-1. Preliminary plat requirements.* A preliminary plat is required for any subdivision of fifty (50) or more lots. Subdivisions of fewer than fifty (50) lots may submit a combined preliminary and final plat in accordance with the provisions of Sections 3-4, 3-5, and 3-6-5. The preliminary plat shall be legibly drawn in accordance with the following requirements:

- a. Pursuant to Code of Virginia § 15.2-2262, plats shall be prepared by a certified professional engineer or land surveyor.
- b. One (1) or more sheets may be used, each to be numbered as "page (number) of (total number of pages)"; if two (2) or more sheets are used, each sheet shall show the name of the subdivision and match lines shall be provided to indicate where sheets join.
- c. The scale shall not be less than one (1) inch equals 100 feet. The subdivision agent may accept a scale which is sufficient to clearly show all required details on the plat.
- d. Where the complete plat cannot be shown on one sheet, an index map shall be provided on a separate sheet at a reduced scale.

*Sec. 3-3-2. Preliminary plat information.* The preliminary plat shall include the following information:

- a. Date of plat and name of surveyor preparing it, shown on each sheet;
- b. Scale and north meridian, designated "true" or "magnetic" and oriented to the top of each sheet, where practical;
- c. The name and signature of the owner, shown on the first sheet;
- d. Space for signature of approval of the subdivision agent and planning commission;
- e. An execution of the owner's consent to subdivision, in accordance with Code of Virginia § 15.2-2264;
- f. Show any restrictive covenants, reservations, and dedications applicable to the proposed subdivision, giving an outline of the terms proposed and acreage involved;
- g. Sources of data used in preparing the plat, including the deed book and page number of the last instrument in the chain of title;
- h. Locations, lengths, and bearings of lines of the proposed subdivision, with names of all adjoining property owners and the location of each of their common boundaries including established streets and waterways; and adjoining streets with their names;

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- i. All pertinent natural and historical features and landmarks; including existing and finished contour lines as needed for review of drainage and sewer facilities, and including watercourses, marshes, lakes, impoundments, and areas of significant vegetation;
- j. Total acreage of the proposed subdivision and the acreage remaining in the original tract, if any;
- k. The location of existing buildings in and within 100 feet of the subdivision, and the location and description of all existing markers;
- l. The proposed locations, widths, and names of all streets and alleys;
- m. Proposed lot lines with proposed dimensions, building lines and easements, and the proposed use of each lot and other areas, including significant natural features, and those areas to be used for parking, open space, recreation, commercial purposes, or public or governmental use, and existing and proposed utility installations;
- n. If the proposed subdivision consists of land acquired from more than one source of title, the outlines of the several tracts shall be shown and identified on the index map;
- o. If a subdivision borders a lake, the name shall be noted and bearings of the ordinary high-water mark of such lake must be established. If an active watercourse, including a periodic stream, lies adjacent to or transverses the property, its name shall be noted, and said stream shall be shown on the plat in its proper location when the property or portion of the property lies within the 100-year floodplain as shown by HUD Flood Boundary Maps for Charlotte County. The extent of the floodplain and its corresponding zone designation shall be shown on the plat;
- p. When any part of the land proposed for subdivision lies in a drainage district such fact shall be set forth on the plat;
- q. When any grave, object or structure marking a place of burial is located on the land proposed for subdivision, the grave, object or structure shall be identified on the plat;
- r. Per Code of Virginia § 15.2-2258, when any part of the land proposed for subdivision lies in a mapped dam break inundation zone such fact shall be set forth on the plat;
- s. Indicate current zoning of the parcel of land to be subdivided as provided herein;
- t. All private waste disposal systems, including their reserve areas, shall be located on the same property as the building site that the private waste disposal system benefits;
- u. The location of all on-site wastewater system areas and reserve areas shall be shown on the plat of the subdivision and if pretreatment is proposed for the on-site wastewater system, such proposal must be clearly stated on the plat.

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Sec. 3-4. Preparation of final plat

*Sec. 3-4-1. Final plat requirements.* The final plat shall be legibly drawn and submitted in accordance with the following requirements:

- a. Pursuant to Code of Virginia § 15.2-2262, plats shall be prepared by a certified professional engineer or land surveyor.
- b. One (1) or more sheets may be used, each to be numbered as "page (number) or (total number of pages)"; if two (2) or more sheets are used, each sheet shall show the name of the subdivision, and match lines shall be provided to indicate where the several sheets join;
- c. Sheet size shall be a maximum of 11 x 17 inches;
- d. The scale shall not be less than one (1) inch equals 100 feet. The subdivision agent may accept a scale which is sufficient to clearly show all required details on the plat;
- e. Where the complete plat cannot be shown on one (1) sheet, an index map shall be provided on a separate sheet at a reduced scale.

*Sec. 3-4-2. Final plat information.* The final plat shall include the following information:

- a. All of the information required for preliminary plats in Section 3-3-2;
- b. Bearings, lengths, widths, centerlines, easements and right-of-way of every street and alley within the proposed subdivision; data for all curves and angles in streets and alleys; location or iron pipes marking street corners, angles in streets, and the beginning (marked "PC") and end ("PT") of each curve in streets;
- c. Building setback lines, with distance to street right-of-way and length of the setback line for each lot;
- d. Location, bearings, and dimensions of all lot lines with location of markers shown;
- e. Areas to be dedicated or reserved for streets, alleys, parking areas, or other public use, or for common use of future property owners in the subdivision;
- f. All restrictive covenants or references to where such covenants are filed;
- g. An execution of the owner's consent to subdivision, in accordance with Code of Virginia § 15.2-2264;
- h. A certificate signed by the surveyor setting forth:
  - i. The source of title of the owner of the land subdivided;
  - ii. The place of record of the last instrument in the chain of title;
  - iii. All markers are shown and described in the plat and are in place as shown.

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- iv. Space for signature of approval of the subdivision agent, planning commission, VDOT, Charlotte County Health Department and E-911.

*Sec. 3-4-3. Items to accompany final plat.* The following items shall accompany the final plat at the time of submission to the subdivision agent:

- a. A statement signed by the administrator of the Erosion and Sedimentation Control Ordinance of the county certifying approval of the Soil Erosion and Sedimentation Control Plan submitted by the subdivider, as provided for in the Soil Erosion and Sedimentation Control Ordinance.
- b. A performance bond in accordance with Sec. 4-11 herein.

**Sec. 3-5.** Acceptance of improvements

The subdivider shall dedicate to the county, where applicable, all land required for streets, easements and alleys and other public facilities as required in this ordinance. The county will request VDOT to accept and maintain the improvements. The subdivision agent and VDOT, where applicable, shall make such inspections during and after final installation of the improvements required herein as shall be deemed necessary, and no installation shall be accepted as completed until approved by the zoning administrator or his duly designated agent, and VDOT, where applicable, except as otherwise provided for in Sec. 4-11 (bonds) herein.

**Sec. 3-6.** Plat submittal and review process

Whenever any subdivision of land is proposed, the subdivider shall apply for and secure approval of such proposed subdivision in accordance with the following procedure.

*Sec. 3-6-1. Filing of the preliminary plat.* The subdivider shall submit a preliminary subdivision plat which conforms to the regulations of this ordinance, and to the rules and regulations of the Virginia Health Department concerning the sewage plan, the water plan, and the solid waste plan. In accordance with Sec. 3-3-1, preliminary plats for subdivisions of fewer than 50 lots may be subsumed into a combined final plat which will be reviewed by the Planning Commission in accord with the procedures for preliminary plats as set forth in Section 3-6-2 and 3-6-3, in which case, the approval by the Planning Commission of the combined final plat constitutes final approval of the subdivision.

*Sec. 3-6-2. Application.* Any person desiring to subdivide property within the county shall file an application to subdivide with the subdivision agent.

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*Sec. 3-6-3. Action by the planning commission.* The planning commission shall review preliminary plats as required by state law. A preliminary plat shall be deemed submitted when it contains all the information required by this chapter.

If state agency review is not required, the planning commission shall hold a public hearing and act within 60 days of submission. If state agency review is required, the subdivision agent shall forward the plat within ten business days of submission to each state agency which must review it under state law. Upon receipt of approvals from all reviewing agencies, the planning commission shall hold a public hearing and act on the preliminary plat within 45 days of approval. In every case, the planning commission or the subdivision agent shall identify all deficiencies in the plat in writing by reference to specific duly adopted ordinances, regulations, or policies and shall identify modifications or corrections that will permit approval of the plat. The planning commission shall not be required to approve a preliminary plat in less than 60 days from submission, and all actions on the preliminary plat shall be completed within 90 days of submission unless the VDOT requires additional time for review as provided in Code of Virginia § 15.2-2222.1. The applicant may request an extension of these timelines.

*Sec. 3-6-4. Effects of approval.* Unless the preliminary and final plats are submitted as a combined plat under the provisions of Sec. 3-3-1, approval of a preliminary plat does not constitute or guarantee approval of the final plat. It approves the layout of the preliminary plat for use in preparation of the final plat, and the final plat must conform to the preliminary plat as approved. Once a preliminary plat is approved, it shall be valid for a period of five (5) years, provided the subdivider submits a final subdivision plat for all or a portion of the property within one (1) year of such approval or such longer period allowed by the subdivision agent or the planning commission, and thereafter diligently pursues approval of the final subdivision plat. The term "diligent pursuit of approval" means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications thereto. However, no sooner than three (3) years following such preliminary subdivision plat approval, and upon 90 days' written notice by certified mail to the subdivider, the planning commission may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the final subdivision plat.

*Sec. 3-6-5. Filing of the final plat.* The subdivision agent shall review all final subdivision plats as required by state law, except that the Planning Commission will also review final plats when they are submitted as combined preliminary and final plats as provided for in Sec 3-3-1 and 3-6-1. A final plat shall be deemed submitted when it contains all the information required by this chapter. If state agency review is required, the subdivision agent shall forward the final plat within 10 business days of submission to each state agency, which must review it under state law.

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- a. *The subdivision agent shall act on a final plat within 45 days of the receipt of approvals from all state agencies or, if state review is not required, within 60 days of submission.* The reasons for disapproval may be given in a separate document or may be written on the plat itself. The reasons for disapproval shall identify deficiencies in the plat by reference to specific duly adopted ordinances, regulations or policies and shall identify the modifications or corrections necessary for approval. The subdivision agent shall act on a proposed plat he has previously disapproved within 45 days after the plat has been modified, corrected and resubmitted for approval. The applicant may request an extension of these timelines.
- b. *Final plat may constitute all or a portion of the approved preliminary plat.* A final plat constituting only a portion of the area contained in the preliminary plat, but in which improvements constructed in the area covered by the plat are sufficient by and of themselves to accomplish a proper development and to provide adequately for the health, safety, convenience of the proposed residents therein and for adequate access to contiguous areas may be approved.

Sec. 3-7. Recordation

1. The subdivider shall submit three (3) copies of the final subdivision plat using the recording medium and inscription standards specified by the subdivision agent.
2. After the subdivision agent has given final approval and signed the final plat, the subdivider shall file the plat for recordation in the clerk's office of the circuit court (land records) within 12 months of final approval, or such approval shall become null and void and the plat marked void and returned to the subdivision agent unless the subdivision agent has granted an extension. However, in any case where construction of improvements to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the county, or where the subdivider has furnished surety to the county by certified check, cash escrow, bond or letter of credit in the amount of the estimated cost of construction of such facilities, the time for plat recordation shall be extended to the time limit specified in the surety agreement approved by the county if greater than 12 months after final approval.

Sec. 3-8. Validity of an approved plat

Once an subdivision plat for all or a portion of the property is approved, the plat shall remain valid for a period of five (5) years from the date of the latest approved plat of subdivision for the property.

Upon application by a developer made prior to expiration of the period of validity of an approved final subdivision plat, the board of supervisors may grant one or

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more extensions of such approval for additional periods, as the board may determine to be reasonable, taking into consideration the size and phasing of the proposed development and the laws, ordinances and regulations in effect at the time of the request for an extension.

An approved final subdivision plat that has been recorded, from which any part of the property subdivided has been conveyed to third parties (other than to the developer or local jurisdiction), shall remain valid for an indefinite period of time unless and until any portion of the property is subject to a vacation action

Sec. 3-9. Petition to Circuit Court

1. If the subdivision agent fails to approve or disapprove the final plat within 90 days after it has been officially submitted for approval, the subdivider, after 10 days' written notice to the commission, may petition the circuit court to decide whether the plat should or should not be approved.
2. If the planning commission or subdivision agent disapproves a preliminary or final plat and the subdivider contends that such disapproval was not properly based on this ordinance, or was arbitrary or capricious, he may appeal to the circuit court within 60 days of the written disapproval.

Sec. 3-10. Changes to an approved plat

No change or erasure or revision shall be made on a final plat, nor accompanying data sheets after final approval by the subdivision agent has been endorsed in writing on the plat or sheets, unless authorization for such changes has been granted in writing by the planning commission.

**Article 4. Improvements and Standards**

Sec. 4-1. Developer's responsibility

All physical improvements in a subdivision shall be installed by the developer at his cost, except that the developer 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 Virginia Department of Health (VDH) for central water and central sewer systems, or by VDOT, 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 VDOT, but the subdivision plat and the deeds of conveyance must contain a statement that any such street is private and will not be maintained by, or included in, the VDOT system unless and until said street is upgraded to minimum VDOT standards for subdivision streets, and that no public funds may be used for maintenance or improvement of said driveway or street.

Sec. 4-2. Dedication and reservation

Each subdivision plat shall include dedication for public use of any right-of-way located within any subdivision or section thereof, which has constructed or proposed to be constructed within the subdivision or section thereof: any street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, waterline as part of a public system or other improvement dedicated for public use, and to be maintained by the county, the Commonwealth, or other public agency following construction.

In accordance with Code of Virginia § 15.2-2241(A)(5), each subdivision plat shall also include the provision of site-related improvements required by any county ordinance, for vehicular ingress and egress, including traffic signalization and control, for public access streets, for structures necessary to ensure stability of critical slopes, and for storm water management facilities, financed or to be financed, in whole or in part, by private funds.

Sec. 4-3. Lots and building sites

Lots shall be arranged in order that the following considerations are satisfied:

*Sec. 4-3-1. Minimum acreage.* Every lot shall comply with the minimum acreage requirements set forth within the zoning district regulations for the district within which the lot is situated.

*Sec. 4-3-2. Shape.* The lot arrangement, design and shape shall be such that lots will

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provide satisfactory and desirable sites for buildings, and be properly related to topography, and conform to the requirements of this ordinance and the zoning ordinance. Lots shall not contain perpendicularly shaped elongations solely to provide necessary square footage of area that would be unusable for normal purposes.

*Sec. 4-3-3. Location.* In cases where lots abut on a street dedicated by the subdivision plat, or on an existing publicly dedicated street, or on a street that has become public by right of use, the developer shall make provisions in the deeds to all lots and on the subdivision plat for all buildings to be constructed so as to permit the widening by dedication of such roads or streets to a right-of-way width of 50 feet, if the existing streets are not at least that width.

*Sec. 4-3-4. Remnants.* All remnants of lots below minimum size left over after subdividing of a tract must be added to adjacent lots, or otherwise disposed of rather than allowed to remain as unusable parcels.

*Sec. 4-3-5. Separate ownership.* 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. Said deed is to be recorded in the clerk's office of the circuit court (land records), at the same time as the plat.

*Sec. 4-3-6. Parcels without access.* No parcel of land shall be divided in such a way as to leave a portion or portions thereof without direct access to a public road or street.

*Sec. 4-3-7. Flag lots.* When topographic features or other unique physical characteristics of the land cause difficulty in making best use of otherwise good building sites that do not have sufficient lot width on a public road, flag lots may be created, but not more than five (5) such lots or not more than 10% of the total lots in the subdivision may be flag lots, whichever is the greater number. The elongated portion of a flag lot shall not be used in computing the necessary lot area needed for sanitation facilities; shall be a minimum width of 50 feet; and shall be no more than 500 feet in length. No structure shall be built on the elongated or "stem" portion of a flag lot which is for access only. In the case of two (2) or more adjacent flag lots, only one (1) driveway or street from all the lots to a public road is permitted. A covenant must be included stating that said driveway or street will not be maintained by, or included in, the VDOT system unless and until said street is upgraded to minimum VDOT standards for subdivision streets, and that no public funds may be used for maintenance or improvement of said driveway or street. All developers must provide a suitable mechanism and procedure for maintaining said driveway or street, including, but not limited to, providing for snow removal.

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Sec. 4-4 Monuments

All lot corners shall be marked with concrete markers four (4) inches by four (4) inches by 30 inches or by an iron pipe or iron bar not less than five-eighths (5/8) inch in diameter and 30 inches long and driven so as to be flush with the finished grade.

The replacement of any monuments removed or destroyed during the development of the subdivision shall be the responsibility of the developer.

Upon completion of subdivision streets, sewers and other improvements, the developer shall make certain that all monuments required by this ordinance are clearly visible for inspection and use. Such monuments shall be inspected and approved by the subdivision agent before any improvements are accepted by the board of supervisors.

Sec. 4-5. Streets

All public and private streets in the proposed subdivision shall be designed and constructed in accordance with the following minimum requirements by the developer at no cost to the county.

*Sec. 4-5-1. Construction requirements for public streets.*

- a. No developer shall commence the construction of any such improvements without first submitting plans and specifications and obtaining the written approval of VDOT for acceptance into the state secondary road system in accordance with the current VDOT Secondary Street Acceptance Requirements, as hereinafter provided, except for private streets as provided for in Sec. 4-5-2.
- b. All proposed streets shall be constructed at the expense of the developer to meet the applicable minimum standards of VDOT for hard-surfaced roads. In cases where VDOT specifications are less restrictive than the requirements of this ordinance, this ordinance shall prevail. The design of streets submitted on subdivision plans shall be approved by the subdivision agent upon recommendation of VDOT prior to final action by the subdivision agent.

*Sec. 4-5-2. Construction requirements for private streets.* Private Streets shall be permitted only for subdivisions of less than ten (10) lots and shall meet the following criteria:

- a. Such streets shall be clearly designated as private streets on the subdivision plat with a 50 foot designated right-of-way, and a minimum surface width of 16-feet. Such streets shall be constructed in accordance with VDOT construction standards for low-volume roads.

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- b. For subdivisions with private streets, the following statement shall be included on the subdivision plat and each deed of conveyance thereof:

*The streets in this subdivision that do not meet state standards will not be maintained by VDOT or the County.*

*Sec. 4-5-3. Construction requirements for private access easements.* Private access easements shall be permitted for minor subdivisions (not more than 3 lots) and shall have a right-of-way width of at least 20 feet.

*Sec. 4-5-4. Connectivity.* The arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in adjoining areas. The street arrangement must be such as to cause no unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. Where, in the opinion of the subdivision agent, it is desirable to provide for street access to adjoining property, proposed streets shall be extended by dedication to the boundary line of such adjoining property. Half streets along the boundary of land proposed for subdivision shall not be permitted.

Streets shall be designed and laid out in a manner coordinated with other existing or planned streets in the general area, as to location, widths, grades and drainage, including, without limitation, coordination with existing or planned streets in existing or future adjacent and contiguous subdivisions.

The subdivision street network shall provide at least two (2) external connections, one of which must be to a publicly maintained highway and the other providing a connection to a different highway or a stub out to an adjoining property. Local street stub outs may not exceed 500 feet in length. If a stub out is constructed, the applicant shall post a sign in accordance with VDOT standards that indicates that such stub out is a site for a future roadway connection. Nothing in this ordinance shall be construed as to prohibit a stub out from providing service to lots within a development, however, a road stub will not be accepted for VDOT maintenance until it has three (3) houses fronting the stub and meets VDOT criteria for a turnaround. Waivers of, or modifications to this connectivity requirement may be made by VDOT if one or more of the following situations renders the provision of such connection impracticable:

- a. The adjoining property is completely built out, its state is such that re-development within 20 years is unlikely, and there is no stub out (either constructed or platted) to the property served by the network addition;
- b. The adjoining property is zoned for a use whose traffic is incompatible with the development being served by the network addition, providing, however, that in no case shall retail, residential, or office uses be considered incompatible with other retail, residential or office uses; or

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- c. There is no reasonable connection possible to adjoining property or adjacent highways due to a factor outside the control of the developer of the network addition, such as the presence of conservation easements not put in place by the developer of the network addition, water features such as rivers or lakes, jurisdictional wetlands, grades in excess of 15% whose total elevation change is greater than five (5) feet, limited access highways, railroads or government property to which access is restricted.

*Sec. 4-5-5. Street names and signs.* Proposed streets that 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 the suffix “street,” “avenue,” “boulevard,” “drive,” “way,” “lane,” or “court.” Street names shall be indicated on the preliminary and final subdivision plats and shall be subject to county approval. Street identification signs of a design approved by the subdivision agent shall be installed at all intersections.

*Sec. 4-5-6. Alignment.* Wherever possible, streets shall intersect at right angles. Subdivision streets shall intersect with major streets at an angle of not less than 80 degrees, unless the subdivision agent, upon recommendation of VDOT, shall approve a lesser angle of approach for reasons of contour, terrain or matching of existing patterns.

*Sec. 4-5-7. Minimum widths.* The minimum right-of-way width of proposed public streets, measured from lot line to lot line, shall be 50 feet. For family subdivisions, all lots of less than five (5) acres shall have reasonable private right-of-way of not less than 10 feet or more than 20 feet providing ingress and egress to a dedicated recorded public street or thoroughfare.

*Sec. 4-5-8. Cul-de-sacs and turnarounds.*

- a. An adequate turnaround facility shall be provided at the end of each cul-de-sac to permit the safe and convenient maneuvering by service vehicles. All cul-de-sacs and turnarounds shall be in accord with VDOT standards for acceptance into the state highway system. Additional right-of-way shall be provided as required by the design of the turnaround. Stormwater management facilities may be provided in the nontraveled areas of a cul-de-sac, provided all other VDOT requirements are met.
- b. For circular turnarounds, a well-defined, identifiable street segment, equal to the minimum lot width along the intersected street that serves the cul-de-sac, or 50 feet, whichever is greater, shall extend from the intersected street to the turning area.
- c. A minimum radius of 45 feet, measured to the edge of pavement or face of curb, shall be used for circular turnarounds on residential cul-de-sac streets serving

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more than 25 dwellings and greater than 1,320 feet in length. For circular turnarounds on lower volume, residential streets, the agent may reduce the minimum radius to 35 feet in consultation with local emergency service authorities and VDOT.

- d. For public residential streets designed for acceptance into the state system, alternative types of turnarounds, including “T” or “Branch” types are permitted, subject to approval of VDOT.

*Sec. 4-5-9. Alleys.* Dead-end alleys shall be provided with adequate turnaround facilities as determined by the subdivision agent.

*Sec. 4-5-10. Maintenance of streets.*

- a. Street maintenance is the responsibility of the developer until such streets are taken into the state highway system. One such mechanism may be a viable property owners association, membership in which is mandatory for all lot owners. A property owners association is mandatory when private streets are created. The property owners association shall be empowered to assess lot owners such sums of money as may be necessary to properly maintain the streets including, but not limited to, a provision for snow removal. The covenants shall provide that delinquent lot assessments shall constitute a lien against the applicable lot. Voting membership in the association shall initially be comprised of two (2) classes, the developer and the property owners, to ensure the developer proportionate representation and control over the project during construction.
- b. A restrictive covenant shall set forth the method of assessment for street maintenance. Such covenants shall become a part of the deed to each lot or parcel with the subdivision. All covenants and bylaws of the property owners association shall be approved as to form by the county attorney and shall be record simultaneously with the final subdivision plat.

Sec. 4-6. Water and sewerage service

Every subdivision shall contain facilities for the provision of water and sanitary sewer which are adequate to meet the needs of every lot and are consistent with the county’s Comprehensive Plan with respect to provision of such facilities. No subdivision plat shall receive final approval unless and until the Health Department verifies that the proposed water and sewer facilities meet state requirements and will be adequate to serve the proposed number of connections.

*Sec. 4-6-1. Public water and sewer.* For any lot created as part of a subdivision of a larger tract that abuts or adjoins a public water or sewer system or main, the lot shall be connected to that public water or sewer system or main subject to the provisions of Code of Virginia § 15.2-2121 and relevant policies contained in the county’s Comprehensive Plan.

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*Sec. 4-6-2. Subsurface sewage disposal systems.* Every applicant for approval of a subdivision or site plan shall furnish a preliminary opinion from the Health Department regarding the suitability of a subdivision for installation of subsurface sewage disposal systems where such method of sewage disposal is to be utilized in the development of a subdivision or site plan.

*Sec. 4-6-3. Connections.* For any subdivision in which public water or sewerage facilities are proposed to be established or extended to serve three (3) or more connections, the public water and/or sewerage facilities shall be reviewed by the board of supervisors in accordance with Code of Virginia §§ 15.2-2126 and 15.2-2127 and 15.2-2149 through 15.2-2151.

Sec. 4-7. Stormwater

*Sec. 4-7-1. Storm drain facilities.* Every subdivision plat shall include information detailing contour intervals, drainage plans, and proposed flood control devices.

*Sec. 4-7-2. Stormwater management plan.* Every subdivision plat for a proposed development shall include a stormwater management plan meeting the minimum design specifications and requirements set forth within Code of Virginia § 10.1-603 et seq.

*Sec. 4-7-3. Stormwater easements.* An easement of not less than 20 feet in width is required for drainage of storm water through adjoining property all the way to a free flowing stream whenever practical. Easements of not less than 10 feet in width shall be conveyed by reference in the final plat by the developer for power lines and other service utilities in the subdivision when determined by the subdivision agent to be necessary to provide normal service facility connections.

*Sec. 4-7-4. Regional stormwater management facilities.* Any subdivision that is adjacent to an existing regional stormwater management facility or adjacent to 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.

Sec. 4-8. Utility easements, plans and specifications.

Easements of not less than 12 feet shall be provided through the subdivision property for power lines, water, sewer and other utilities when providing these utilities is planned and would be made difficult without easements. If the owners of any subdivision desire to construct in, on or under any streets or alleys located in such subdivision any gas, water, sewer or electric light or public works, pipes, wires, fixtures or systems, they shall present plans or specifications therefore to the subdivision agent for approval in accordance with Code of Virginia § 15.2-2269.

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Sec. 4-9. Facilities outside the subdivision

Pursuant to Code of Virginia § 15.2-2243 the developer of land shall pay the pro rata share of the cost of providing reasonable and necessary sewerage, water, and drainage facilities, located outside the property limits of the land owned or controlled by the developer but necessitated or required, at least in part, by the construction or improvement of the subdivision or development. However, no such payment shall be required until such time as the county has established a general sewer, water and drainage improvement program for an area having related and common sewer, water, and drainage conditions and within which the land owned or controlled by the developer is located. The board of supervisors, at the time of the development of the improvement program, shall set forth and establish reasonable standards to determine the proportionate share of total estimated cost of ultimate sewer, water and drainage facilities required adequately to serve a related and common area, when and if fully developed, in accordance with the county's Comprehensive Plan, that shall be borne by each developer within the area. Such share shall be limited to the proportion of such total estimated cost which the increased sewage flow, water flow, and/or increased volume and velocity of storm water runoff to be actually caused by the subdivision or development bears to total estimated volume and velocity of such sewage, water, and/or runoff from such area in its fully developed state. Each such payment received shall be expended only for the construction of those facilities identified in the established sewer, water and drainage program; however, in lieu of such payment the board of supervisors may provide for the posting of a personal, corporate or property bond, cash escrow or other method of performance guarantee satisfactory to it, conditioned on payment to commencement of such construction. The payments received shall be kept in a separate account for each of the individual improvement programs until such time as they are expended for the improvement program.

Sec. 4-10. Physical improvements

Each subdivision shall include the improvements and facilities provided for in this ordinance. The developer shall construct and install such improvements at the developer's cost.

Sec. 4-11. Insuring performance of improvements; security

*Sec. 4-11-1. General provisions.*

Before the subdivision agent will give final approval to any subdivision plat, the developer shall insure his performance in accordance with specifications and construction schedules established on certain planned improvements, in accordance with Virginia Code §§ 15.2-2241(A)(5) and 15.2-2245. Performance security in an amount determined by the subdivision agent to be sufficient to pay the total cost of the improvements being secured shall be provided for public streets and accompanying drainage construction and for central water and/or sewer, including survey monuments as required in this ordinance. In determining the costs for

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various improvements the subdivision agent may consult an engineer, who shall prepare written construction cost estimates for the agent. If the agent chooses not to seek such consultation, the developer shall provide the agent with bona fide cost estimates for improvements. The developer may elect to secure all improvements requiring security with one (1) performance security mechanism, or he may elect to utilize two (2) mechanisms simultaneously: one mechanism securing improvements requiring Virginia Health Department approval and one mechanism securing improvements requiring VDOT approval. Upon receipt of a written request from a developer, the subdivision agent, after conferring with the county attorney, may waive technical elements of the security guarantee requirements of this ordinance if adequate security is provided to secure completion of the required improvements.

### *Sec. 4-11-2. Performance agreements and security guarantees.*

An agreement supported by a form of security guarantee is required for all projects. This agreement and security guarantee shall obligate the developer to construct legally required improvements shown on approved site plans or subdivision plats in a timely manner and in accordance with applicable standards. Only features shown on such approved plans and plats shall be subject to these performance security guarantee requirements.

All such performance security guarantees must be provided by the developer in a form acceptable to the county attorney. The security is designed to guarantee the county a fund for completion of required improvements in the event the developer fails to discharge the obligations of the performance agreement. The shared obligation of all performance security guarantees is the payment of the designated funds on demand. The subdivision 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 security guarantee.

The developer shall furnish the subdivision agent one (1) or more of the following as acceptable performance security guarantees for improvements requiring security, which are the only forms of guarantee 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.

The developer shall be required to furnish to the county with such performance guarantees only for facilities to be dedicated for public use within each section of the development only at such time as construction plans are submitted for the section in which such facilities are to be located.

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

### *Sec. 4-11-3. Discontinuing performance security; releasing bonds.*

The subdivision agent shall approve a partial or final complete release of any performance security guarantee within 30 days after receipt of written notice by the developer of completion of part or all of any public facilities required to be constructed under the guarantee unless the agent, within the 30 day period, determines that an applicable state agency has not approved the construction or there are defects or deficiencies in the construction, in which case the agent shall suggest corrective measures. No final release shall be granted until after expiration of such 30 day period and there is an additional request in writing sent by certified mail return receipt to the subdivision agent of the county. The agent shall act within 10 working days of receipt of the request; if no action is taken the request shall be deemed approved and final release granted to the developer.

Release of the final 10% of a performance guarantee will not be approved until the applicable subdivision improvements are accepted for maintenance by VDOT.

Upon written request by the developer, the subdivision agent shall make periodic partial releases of such performance guarantee in a cumulative amount equal to no more than 90 percent of the original amount for which the performance guarantee was taken, and may make partial releases to such lower amounts based upon the percentage of public facilities completed and approved by the board of supervisors, local administrative agency, or state agency having jurisdiction. Periodic partial releases may not occur before the completion of at least 30 percent of the public facilities covered by the performance guarantee. The county 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 guarantee to the developer. 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, county department or agency, or other public authority which is responsible for maintaining and operating such public facility upon acceptance.

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 county may be accepted without requiring further inspection of such public facilities.

### *Sec. 4-11-4. Bond extensions.*

- a. When a developer 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

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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 subdivision agent shall follow the procedures set forth in subsection 4-11-6 below.

- b. Prior to the expiration of the performance date, the developer may submit a written request to the subdivision 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 shall sign an addendum to the performance agreement reflecting the extension.
- c. In the event the developer 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 subdivision agent for appropriate action, including the possibility of referral to the board of supervisors for its action.

### *Sec. 4-11-5. Bond release.*

A final bond release shall be authorized by the subdivision agent, provided the following criteria have been met:

- a. Acceptance of all public facilities by the appropriate state or local government agency, or other public authority.
- b. Acceptance of as-built plans.
- c. Payment by the developer of all required fees.

### *Sec. 4-11-6. Default procedures.*

If the developer fails to complete the required site improvements in the period of time specified in the agreement or any approved extension, the developer is in default. In such instances, the subdivision 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 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.*

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**Article 5. Definitions**

Sec. 5-1. Definitions.

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Alley.* A thoroughfare, whether dedicated to public use or privately owned, that provides access for persons and vehicles to the rear and/or side lot lines of properties from abutting public streets or private roads.

*Approve.* The word "approve" shall be considered to be followed by the words "or disapprove."

*Approved base.* For the purpose of street construction, a type of material, as defined or approved by the VDOT, that will meet regulations.

*Approved drainage.* For the purpose of street construction, grading and ditching to effectuate removal of water from the street and convey to an acceptable outfall or receiving channel.

*Building.* Any structure having a roof supported by columns or walls, for housing or enclosure of persons, animals, or goods.

*Building setback line.* A line establishing the minimum required distance between the wall of a building and the nearest adjacent lot line (or centerline of the road for front setbacks).

*Board.* The Board of Supervisors of Charlotte County, Virginia.

*Clerk.* The Clerk of the Circuit Court of Charlotte County, Virginia.

*Commission.* The Planning Commission of Charlotte County, Virginia.

*County.* Charlotte County, Virginia.

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

*Developer.* Any person or other legal entity who owns property being subdivided and is thus responsible for the completion of required improvements of the subdivision.

*Development.* A tract of land developed or to be developed as a unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three (3) or more residential dwelling units. The term "development" shall not be construed to include any property which will be principally devoted to agricultural production.

*Easement.* An interest in land owned by another that entitles its holder to specific limited use. (*also see "right of way" and "easement, access"*)

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*Easement, access.* An interest in land owned by another that entitles its holder to traverse the property in order to reach a public street right of way.

*Engineer.* An engineer, licensed as such by the Commonwealth of Virginia.

*Family, immediate.* Any person who is a natural or legally defined offspring, stepchild, spouse, sibling, grandchild, grandparent, or parent of a property owner.

*Family subdivision.* A single division of a lot or parcel of land for the purpose of sale or gift to a member of the immediate family of the property owner.

*Frontage.* The minimum width of a lot measured from one side lot line to the other along a straight line parallel to the street or if curved, parallel to the tangent to the curve of the street, on which no point shall be farther away from the street upon which the lot fronts than the building setback line as defined and required herein.

*Governing body.* The Board of Supervisors of Charlotte County, Virginia.

*Health official.* The health officer of Charlotte County, Virginia, or his representative.

*Highway engineer.* An engineer designated by and representing the Virginia Department of Transportation (VDOT).

*Highway, primary.* Any highway so designated by the Virginia Department of Transportation. In Charlotte County, they are Routes 15, 40, 47, 59, 92, and 360. Exact requirements can be obtained from VDOT, Lynchburg District.

*Highway, secondary.* Any road so designated by the Virginia Department of Transportation.

*Jurisdiction.* The area of territory subject to the legislative control of the governing body, here the county board of supervisors.

*Lot.* A parcel of land either shown on a plat of record within the land records of the Circuit Court of Charlotte County, or described by metes and bounds or other legal description within a deed of records.

*Lot, corner.* A lot abutting on two or more streets at their intersection. Of the two sides of a corner lot the front shall be deemed to be the shorter of the two sides fronting on a street.

*Lot, depth of.* The average horizontal distance between the front and rear lot lines.

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

*Lot, flag.* A lot that is in compliance with the minimum requirements for lot area but does not meet the required frontage at the setback line, due to being configured with a narrow panhandle, flag or

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pipestem providing access to the bulk of the lot, which is located behind the bulk of one (1) or more other lots or parcels.

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

*Lot of record.* A lot whose boundaries are described within a plat or deed recorded in the Office of the Clerk of the Circuit Court of Charlotte County (land records).

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

*May.* The word "may" is permissive.

*Parent tract.* A separate lot, tract, or parcel of land conveyed by deed, devised by will, or passing pursuant to the law of descent and distribution, the boundaries of which are shown by a plat or described by metes and bounds, and recorded in the Office of the Clerk of the Circuit Court of Charlotte County (land records). For the purposes of this definition, the Charlotte County Tax Map may be used to identify parent tracts. Lots, tracts, or parcels separated by either preexisting secondary or primary highways are considered to be separate parent tracts for purposes of this ordinance.

*Person.* An individual, a partnership, a corporation, or any other legal entity by whatever term customarily known.

*Physical improvements.* Any structure such as drainage structures, central water systems, central sewage disposal systems, bridges, etc., and such other improvements as the subdivision agent may designate.

*Plat; plat of subdivision.* The schematic representation of land divided or to be divided and information in accordance with the provisions of this ordinance and in accordance with Code of Virginia §§ 15.2-2241, 15.2-2242, 15.2-2258, 15.2-2262, and 15.2-2264, and other applicable statutes.

*Plat, proposed.* A subdivision plat that has been submitted to the county in accordance with this ordinance.

*Right-of-way (private).* A strip of land owned by a corporation, an individual or group for their intended use.

*Right-of-way (public).* A strip of land dedicated to "Charlotte County for public use."

*Shall.* The word "shall" is mandatory and not discretionary.

*Street.* The principal means of to any lot in a subdivision. The term "street" shall include road, lane, drive, place, avenue, highway, boulevard, or any other thoroughfare used for a similar purpose. Any and all streets that are not constructed to meet the standards necessary for inclusion in the state highway system will be privately maintained (see Sec. 4-5).

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*Street, private.* A street owned by one (1) or more people, which may be restricted for the exclusive use by the owners of the subdivided land or their guests, and not maintained by the Virginia Department of Transportation.

*Street, service drive.* A public right-of-way generally parallel and contiguous to a major highway, primarily designated to promote safety by eliminating promiscuous ingress and egress to the right-of-way by providing safe and orderly points of access to the highway.

*Street, public.* A street maintained by VDOT or one intended by the subdivider for acceptance into the state's secondary highway system.

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

*Subdivider.* Any person, firm or corporation owning any tract, lot or parcel of land to be subdivided or a group of two (2) or more persons acting in concert, or who has or have given his power of attorney to one of his group or to another individual to act on his behalf, in planning, negotiating for, in representing or executing the legal requirements of this ordinance.

*Subdivision.* The division of a parcel of land into two (2) or more lots or parcels for the purpose of transfer of ownership or building development, or, if a new street is involved in such division, any division of a parcel of land. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided, and, solely for the purpose of recordation of any single division of land into two (2) lots or parcels, a plat of such division shall be submitted for approval in accordance with Code of Virginia § 15.2-2258.

*Surveyor.* A land surveyor licensed to do business in Commonwealth of Virginia.

*VDOT.* The Virginia Department of Transportation.