



**CITY OF WAYNESBORO PLANNING COMMISSION**  
**Regular Meeting, Tuesday, May 17, 2022**  
**7:00 pm**

Council Chambers, 503 West Main Street, Waynesboro Virginia 22980

**PLANNING  
COMMISSIONERS**

Shannon Boyle  
*Chair*

Stephen Arey  
*Vice-chair*

Michael Gibson

Council Rep: Bobby  
Henderson

Shari Lambert

W. Lowrie Tucker

Nick Zawhorodny

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**FUTURE SCHEDULED  
MEETINGS:**

City Council  
Business Meeting  
Monday, May 23, 2022  
7:00 pm

Planning Commission  
Regular Meeting/  
Public Hearing  
Tuesday, June 21, 2022  
7:00 pm

**AGENDA**

1. Call to order. Pledge of allegiance.
2. Adoption of agenda.
3. Review and approval of minutes of meeting held April 19, 2022.
4. Public comment period for items not on the agenda.
5. Public hearing on amendments to the subdivision ordinance:
  - a. An amendment to City Code Chapter 74, Divisions 1 and 3 (General Procedures and Major Subdivision Procedures) in accordance with §15.2-2260 of the Code of Virginia, requiring submission of a preliminary plat for subdivisions of more than 50 lots and for submission of a preliminary plat at the option of the landowner for subdivisions of 50 or fewer lots.
  - b. An amendment to City Code Chapter 74, Sections 74-37 and 74-38 relating to preliminary plat procedures in accordance with §15.2-2260 of the Code of Virginia, requiring the planning commission to act on a preliminary subdivision plat and removing the requirement for a preliminary plat to be forwarded to the City Council for final approval.
6. Other Business/Commissioners' Correspondence and Communication.
7. Adjournment.

\*\*Members of the public who do not wish to appear in person should submit written comments beforehand to be read during the public hearing. Citizens can also stream the meeting live via the City's YouTube channel and call 540.241.2375 once the hearing is opened: <https://www.youtube.com/c/WaynesboroVAcity/>

Thank you for attending. Citizen comments are invited and welcomed during the meeting's citizen comment period. For those with special needs, please contact the Planning Department at 540.942.6604 for any accommodations required at least 3 days prior to the meeting you wish to attend. Assistive listening devices available.



Mr. Arey asked about the number of lots approved in the other subdivisions located around Waynesboro and commented that there are several hundred lots yet to be built on in the new subdivisions including many zoned RS-7 and RG-5. Mr. Juday agreed and said that he looked to the market to indicate what is needed in terms of housing. The city's preference would be to have more houses built closer to the city center than on the periphery because it is more efficient to deliver public services to houses closer in than farther out.

Mr. Henderson verified that the RS-7 zone complied with the comprehensive plan. Mr. Juday confirmed it did and clarified how the residential zoning districts fit within the comprehensive plan's designations of low, medium, and high-density residential.

Mr. Gibson asked if the difference between the RS-12 and RS-7 zoning for the subject parcel was about 20 lots. Mr. Juday confirmed that it was approximately 20 lots. Mr. Gibson said that there was a good demarcation between the current RS-12 and RS-7 zones around the subject parcel. Mr. Juday agreed. Mr. Gibson inquired about how many lots were in the Silver Creek subdivision. Mr. Juday said there were probably about 90 lots platted and about 40 built. Mr. Gibson asked about the number of lots in the Creekwood subdivision. Mr. Juday said that Creekwood had about 200 lots. Mr. Gibson said that there were about 300 lots to the west of the subject parcel. Mr. Juday agreed.

Mr. Tucker asked if there was a concept for the RS-7 zoning. Mr. Juday said that the concept shown during the presentation was for RS-7 and that for RS-12, the road layout would be about the same but that they would need to show 75-feet of road frontage for each of the lots.

Ms. Boyle opened the public hearing.

Ms. Boyle invited the applicant to approach the podium.

Steve Driver with Terra Engineering, 2334 Stuarts Draft Hwy, Stuarts Draft, VA, was representing the applicant, came forward. Mr. Driver handed out a simplified concept plan showing the roads, lots, and building sites. Mr. Driver clarified that the difference in the number of lots between the RS-12 and RS-7 zoning would be 18 lots. He explained how the development would enhance the overall neighborhood including reducing the current stormwater issues present in the area, improving connectivity, and removing the transite water pipe. Because of the shape of the parcel, many of the proposed lots would be wider than the required 60-feet. Mr. Driver said the development should also improve the water pressure and flow rates in the neighborhood and that there should not be a problem with the sewer line due to slope or capacity. Finally, he explained that the RS-7 zoning would be more conducive to development because of the encumbrances the property has including the Columbia Gas easement that runs along the northern property boundary and some rock outcropping that may require excavation.

Mr. Juday read into the record three comments received via email. The comments are attached to the end of these minutes.

1. Jane Painer, 2308 Belvue Road, Waynesboro. Opposed the rezoning due to increased traffic and crowded neighborhoods.
2. John Lynn, 2242 Belvue Road, Waynesboro. Opposed the rezoning due to the increase in traffic, impact on the local schools, and the destruction of wildlife habitat.

3. Robert Alman, 2417 Belvue Road, Waynesboro. Opposed the rezoning due to the increase in traffic and resulting safety concerns, lack of infrastructure, loss of green space, and the continued construction on Route 340 adding to traffic congestion.

Marcia Berg, 2316 Belvue Road, Waynesboro. Opposed the rezoning due to the karst topography of the subject property, the existing stormwater problems, the increase in impervious surfaces, and the loss of wildlife habitat.

Ron Brower, 616 Sumter Road, Waynesboro. Opposed the rezoning due to the increase in traffic, the style homes, the smaller lots, and the average cost of the homes.

Ingrid Meadows, 600 Sumter Road, Waynesboro. Opposed the rezoning due to the increase in traffic and air, noise, and light pollution; the strain on the city's infrastructure; and the impact on local wildlife habitat. The rezoning is incompatible with the existing neighborhood. Ms. Meadows presented a signed petition from the neighborhood objecting to the rezoning to the Planning Commission.

Dan Meadows, 600 Sumter Road, Waynesboro. Opposed the rezoning. Appreciated the questions the Planning Commissioner had asked during the presentation. He said that there were 108 signatures on the petition that Ms. Meadows had presented. The proposed rezoning is incompatible with the existing neighborhood. He also had concerns about traffic safety issues once Robert E. Lee Avenue was connected to Carmen Avenue.

John Fiske, 612 Vedette Avenue, Waynesboro. Opposed the rezoning. He had concerns about traffic safety once Robert E. Lee Avenue was connected to Carmen Avenue.

Janice Gibson, 2216 Belvue Avenue, Waynesboro. Opposed the rezoning. She said that the proposed zoning is incompatible with the surrounding neighborhood, and did not want to have ongoing construction in the neighborhood.

Andy Kerney, 608 Vadette Avenue, Waynesboro. Opposed the rezoning. Preferred that the neighborhood kept the larger yards and the current zoning.

Ms. Boyle asked that Mr. Driver, the applicant's representative, come forward again to respond to questions.

Mr. Arey asked what the width of the Columbia Gas easement was. The width of the easement was 25-feet. He then inquired what engineering had been done to address the stormwater concerns. Mr. Driver responded that they looked at ways to mitigate the stormwater coming onto the property and the stormwater the development would generate. They would be required to manage all that stormwater onsite by state code. Referring to one of the comments about the karst topography, Mr. Driver said that in his experience, the development will change the groundwater flow and dry up the surface as a result, and he confirmed that any necessary studies would be done to ensure the viability of the development.

Mr. Arey asked if the plan for the subdivision would be submitted before any final plats would be recorded. Mr. Driver confirmed the plan would go through city review and that they have already done a lot of research on the property. Many of the lots would be larger than the minimum required for an RS-7

lot due to the shape of the subject parcel, and the additional 18 lots the RS-7 would allow would bring the price point down.

Mr. Henderson asked if the 61 lots were the minimum that would be placed on the property. Mr. Driver responded that 61 lots would be a maximum and 43 lots by right. Mr. Juday clarified that the 61 lots was not a city requirement, but that the 61 lots were the maximum that could be configured for the sited. Mr. Driver agreed.

Gary Gibson, 2216 Belvue Road, Waynesboro – Opposed the rezoning, and commented that the stormwater runoff would have to be managed regardless of the property being zoned RS-7 or RS-12 in order to be developed.

Julie Danich, 2408 Belvue Road, Waynesboro – Opposed the rezoning. She was concerned about traffic safety and had general complaints about the city's maintenance of the existing alley.

Valerie Hancock, 608 Sumter Road, Waynesboro – Opposed the rezoning, the potential tree clearing the development would bring, and the loss of wildlife habitat.

Madison Karm, 2332 Belvue Road, Waynesboro – Opposed the rezoning and commented that they have trail cams set up in the backyard and have caught a lot of wildlife on them but no homeless people.

Mike Bailey, 2500 Davis Road, Waynesboro – Opposed the rezoning, and pointed out the clear divide between the existing RS-12 and the adjoining RS-7 and RG-5 areas to the west. Said that he has not seen any homeless on the subject property and he objected to the additional density the RS-7 zoning would bring.

Ms. Boyle invited the applicant forward again.

Mr. Driver commented on his current and past work for the homeless population in the area and that there have been signs of homeless being on the property, but that it did not mean they were a danger to the public.

Ms. Boyle asked that Mr. Driver respond to a question asked by Marcia Berg, 2316 Belvue Road, about if the property would be correctly surveyed prior to development. Mr. Driver said yes, and that adjacent properties will be partially surveyed, including alleys, rights-of-way, and easements.

Ms. Boyle closed the public hearing.

Mr. Tucker asked if there was any kind of size limitation on the houses that could be placed on the lots. Mr. Juday responded that there were no size restrictions. Mr. Tucker asked where the park was approved in the subdivision to the west. Mr. Juday responded that the area in question was along Pratts Run in the RG-5 district that the developer for Creekwood Village dedicated to the city, but has not deeded over. The city can request it be turned over at any time and it would be turned into a public recreation space. Mr. Henderson added that the owner is maintaining that area and would give it to the city anytime, but the city does not see the benefit of taking ownership of that area now due to maintenance costs. Mr. Juday commented that the RS-7 area to the west of the subject parcel is all platted homes with a small recreation area closer to Bookerdale Road.

Mr. Arey asked about the planned future extension of Tiffany Drive to eventually connect it to Rosser and if it would impact the subject parcel. Mr. Juday responded a couple different road connections are being thought about, including a proposed Lew Dewitt and Rosser connector that is unlikely to be funded, and also the possibility of extending Tiffany Drive north and ROW was platted for this possible extension, and that this is the more likely connection of the two but not likely to happen for another decade or so.

Mr. Henderson commented that there's been a lot of discussion about the need for housing in Waynesboro, and the new Amazon facility and the number of employees they will need, Waynesboro needs affordable housing and needs to use the land wisely. This is one of the reasons the RS-7 lots were approved on Ivy Street. RS-7 is attractive because you can add more houses without losing additional land.

Mr. Arey said that his concern lies in the fact these prior rezonings have been on the periphery of the city, not in the core. The other rezonings have been farmland and have not impacted existing neighborhoods.

Mr. Henderson agreed, and after seeing the map and how the subject parcel fits into the existing neighborhood, the current zoning fits.

Mr. Gibson commented that there was a clear demarcation of the RS-12 neighborhood and the proposed rezoning of the subject parcel messes that up.

Ms. Boyle asked if there was a motion on the rezoning.

Mr. Arey brought the motion that the Planning Commission recommend to City Council the approval of the request by Wells Enterprises Construction, agent for Valley Covenant Church of God, owner, to rezone 0 Stonewall Drive, Waynesboro, Virginia (Tax Map No. 42-12-8) from RS-12 (Single-Family Residential - large lot) to RS-7 (Single-Family Residential - small lot).

The motion was seconded by Mr. Gibson.

Ms. Boyle called for a roll-call vote.

**Mr. Tucker: Aye**

Mr. Tucker commented that denying the additional 18 lots the access to services and the ability to walk to school was a heavy thing and that he wished there was a connection to the Silver Spring subdivision.

**Mr. Henderson - Nay**

**Mr. Arey - Nay**

**Mr. Gibson - Nay**

**Ms. Boyle - Nay**

The vote was 4-1 to recommend to City Council the denial of the request by Wells Enterprises Construction, agent for Valley Covenant Church of God, owner, to rezone 0 Stonewall Drive, Waynesboro, Virginia (Tax Map No. 42-12-8) from RS-12 (Single-Family Residential - large lot) to RS-7 (Single-Family Residential - small lot).

*WHEREAS, upon a Zoning Map Amendment (rezoning) application by Wells Enterprises Construction, agent for Valley Covenant Church of God, owner, the Waynesboro Planning Commission finds that the request to rezone certain property consisting of one (1) lot containing 18.536 acres, more or less, located at 0 Stonewall Drive, Tax Map Number 42-12-8, from RS-12, Single-Family Residential, to RS-7, Single-Family Residential, is not consistent with good planning and zoning practice; is not justified by the public necessity, convenience, and general welfare; and is not in accord with the comprehensive plan of this City;*

*NOW, THEREFORE, BE IT RESOLVED by the Waynesboro Planning Commission, by a vote of 4-1, that a recommendation be forwarded to City Council that the request of Wells Enterprises Construction, agent for Valley Covenant Church of God, owner, be denied.*

Mr. Wells, owner of Wells Enterprises Construction, asked if he could make a comment, Ms. Boyle allowed it. Mr. Wells introduced himself and explained a little about what he hoped to accomplish with the development.

**6. Other Business/Commissioners' Correspondence and Communications.**

Mr. Gibson inquired about the status of appointing two new members to the planning commission to fill the vacancies left by Ms. Owen and Ms. Severs. Mr. Henderson said that the two new members were going to be appointed at the April 25 council meeting.

**7. Adjournment.**

Mr. Henderson made a motion to adjourn the meeting. Mr. Gibson seconded. The vote was 5-0 in favor.

The meeting was adjourned at 8:34 P.M.



**CITY OF WAYNESBORO, VIRGINIA  
STAFF REPORT  
SUBDIVISION ORDINANCE UPDATES  
MAY 17, 2022**

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**SUMMARY SHEET**

<b><i>Applicant:</i></b>	Staff requests Planning Commission initiate this ordinance amendment
<b><i>Affected Properties</i></b>	This change affects all future subdivisions throughout the City.
<b><i>Action Requested:</i></b>	Amend Chapter 74, Subdivisions of the City Code
<b><i>Attachments:</i></b>	1. Proposed ordinance
<b><i>Summary Recommendations:</i></b>	City staff recommends Planning Commission recommend the following ordinance changes to the City Council.

**1. Background**

City Staff requests that Planning Commission recommend to the City Council a revision to the Subdivision Ordinance (City Code Chapter 74). These revisions include procedural changes for major subdivisions to bring City Code in line with Virginia State Code. The Subdivision Ordinance regulates and controls the division of land within the City of Waynesboro. The current Subdivision Ordinance was adopted on November 27, 2000, when the previous ordinance was repealed in its entirety and replaced. The last major revision to the Subdivision Ordinance was in 2017.

**2. Current Process:**

Subdivisions in Waynesboro are classified into “major” and “minor” subdivisions. A minor subdivision can be reviewed and approved administratively by staff. To qualify as a minor, the subdivision must:

- a. Front on an existing improved public street, require no extension of public utilities, and include no dedication of public right of way
- b. Require no waivers (all lots must comply with minimum area standards in the zoning ordinance)
- c. Result in no more than 6 lots (including the original “parent” tract).

The most significant criterion in this list is the first one. Major subdivisions generally involve construction of public infrastructure which must be inspected or bonded prior to the applicant receiving their subdivision. The City uses a three-stage process.

- a. Preliminary Plat: this is a plat showing the overall layout including lots and locations of public streets and other infrastructure. It must be approved by both Planning

- Commission and City Council and involves public hearings. Developments often progress in phases once a preliminary plat is approved.
- b. Public Improvement Plan: these are detailed construction plans for all infrastructure that must be built. They are usually only submitted for a single phase. Once the Public Improvement Plan is approved, the applicant can begin construction.
  - c. Final Plat: once the infrastructure has been completed and inspected – or if the applicant has submitted a bond to the City for completion of the infrastructure – the Final Plat can be approved. This is the legal document that is recorded with the Circuit Court and which allows the owner to sell the lots.

### **3. State Law**

Recently, a change to state law barred localities from requiring applicants to go through the preliminary plat stage if their subdivision has 50 or fewer lots. For some localities, this was not a change. Applicants could submit the public improvement plan and final subdivision plat directly. For Waynesboro, however, this law requires significant changes. Most recently, the City approved a plat for the Waynesboro Marketplace development that included public infrastructure, but created fewer than 50 new lots. Because the owner of the property was not required to submit a preliminary plat, Planning Commission and Council did not see this subdivision.

### **4. Proposed Process**

Staff recommends that the major subdivision process be amended to require preliminary plats for subdivisions with 51 or more lots in accordance with state code. Subdivisions with 50 or fewer lots may submit a Preliminary Plat or they may proceed directly to submission of a Public Improvement Plan and review of the Final Plat. Because phasing is made possible through a phasing plan in the Preliminary Plat, subdivisions which do not include a Preliminary Plat must be built in their entirety before the Final Plat can be released.

This means that far fewer subdivisions will be subject to public hearings and public process. The City could reverse this change by requiring *all Final Plats* to be approved by Council or Planning Commission, but this would be a significant step backwards. Most localities in our region do not require the same level of Council approval that Waynesboro does.

Instead, staff proposes that the ordinance be changed so that Preliminary Plats do not go to Council. Instead, preliminary plats will require only one public hearing and a final vote by Planning Commission.

There are three major reasons for this change. First, in light of the changes to state code, it will speed up approval of Preliminary Plats and decrease the disincentive to submit a Preliminary Plat. Without this change, applicants will likely do everything in their power to avoid a Preliminary Plat, including subdividing smaller sections at once to stay under the 50 lot maximum.

Second, sending Preliminary Plats to Council makes it nearly impossible to meet the state code's review deadlines for acting on subdivisions. This is an ongoing problem for the City and has been discussed in the past. Violating review deadlines opens up the possibility of an applicant suing to have their subdivision approved by a court.

Third, it is bad practice to make by-right approvals subject to a public hearing and a vote by elected officials. Applicants are entitled to approval of a by-right development if they meet all the standards of the City Code. By the time the application reaches Council, both staff and Planning Commission have certified that the applications meets the ordinance and Council is obligated to approve the application. Denying an application for a by-right development after the City's staff and Planning Commission have certified that it meets City Code is also excellent grounds for a lawsuit to overturn a Council's decision.

Holding a public hearing suggests to members of the public that the decision is discretionary and that their input can influence the outcome. This is deceptive to the public and risky for the City and elected officials who may be tempted to vote no on an application which meets the standards of the City's ordinance.

## **5. Proposed Ordinance**

### **Article II, Division 1 (General Procedures), Sec. 74-21 and Division 3 (Major Subdivision Procedures)**

The proposed change to Division 1 (General Procedures) and Division 3 (Major Subdivision Procedures) removes the requirement for a submission of a Preliminary Plat for subdivisions of 50 lots or less. For subdivisions of 51 lots or fewer, the submission of a Preliminary Plat will become optional. However, if a subdivision includes public infrastructure, a Public Improvement Plan and a Final Plat will be required.

This change is in accordance with Virginia State Code Section §15.2-2260, which prohibits localities from requiring the submission of a preliminary plat for subdivisions of 50 lots or less.

### **Article II, Division 3 (Major Subdivision Procedures), Sec. 74-37, (f) and (g) and Sec. 74-38**

The proposed change to Sections 74-37 and 74-38 of the Ordinance relates to the procedures for review and approval of a preliminary plat. This change will remove the requirement that the preliminary plat will be forwarded to City Council for final approval based on a recommendation by the Planning Commission. This change will mean that Planning Commission will consider, hold a public hearing, and approve a submitted preliminary.

This change is also in accordance with Virginia State Code Section §15.2-2260.

## **6. Recommendations**

City Staff recommends these ordinance amendments be approved.

cc: Todd Wood, Assistant City Manager, Operations  
Laura Martin, Zoning Administrator

## Chapter 74 SUBDIVISIONS<sup>1</sup>

### **ARTICLE 1. IN GENERAL**

#### **Sec. 74-1. Short title.**

This chapter shall be known, cited and referred to as "The Subdivision Ordinance of the City of Waynesboro, Virginia."

(Ord. No. 2017-039 , 8-28-17)

#### **Sec. 74-2. Purposes.**

This chapter is adopted to establish subdivision standards and procedures for the City of Waynesboro, Virginia, and for the general purpose of promoting the health, safety, convenience, and general welfare of the public. To these ends, this chapter is designed to:

- (1) Assist in the orderly development of land by establishing reasonable standards of design and procedures for subdividing and resubdividing land and by insuring the proper legal description and marking of subdivided land.
- (2) Provide for the coordination of existing streets and public utilities with new facilities in areas to be subdivided.
- (3) Ensure that proper provisions will be made for drainage and flood control, water supply, sewerage, and other necessary improvements.
- (4) Provide for the orderly extension of community services at a minimum cost and at a maximum level of service in a safe, adequate, and efficient manner.
- (5) Ensure the equitable handling of all subdivision applications by providing uniform procedures and standards for the subdivision of land.
- (6) Prevent the pollution of air and streams, encourage natural resource and open space conservation and management throughout the city, in order to preserve the integrity, stability and beauty of the city in general and residential neighborhoods in particular.
- (7) Guide and facilitate the orderly and economically beneficial growth of the community as established by the city's adopted comprehensive plan and capital improvements program.

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<sup>1</sup>Editor's note(s)—Ord. No. 2017-039 , adopted August 28, 2017, repealed ch. 74, §§ 74-1—74-8, 74-20—74-24, 74-36—74-49, 74-61—74-65, 74-81—74-88, 74-116—74-128 and enacted a new chapter 74, §§ 74-1—74-9, 74-21—74-29, 74-36—74-40, 74-46, 74-47, 74-51—74-54, 74-61—74-65, 74-71—74-75, 74-81—74-88, 74-101, 74-102 and 74-111—74-115 as set out herein. Former chapter 74 pertained to chapter 74 and derived from the Code of 1964; Ord. No. 1994-20, adopted June 27, 1994; Ord. No. 1994-23, adopted June 27, 1994; and Ord. No. 1995, adopted November 27, 1995; and Ord. No. 2000-56, adopted November 27, 2000.

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- (8) Ensure that the purchasers of lots are buying a commodity that is suitable for a viable use and that each lot has a building site or other practical use reasonably free of hazard as may be created by steep topography, flood, geologic instability or other risk.

(Ord. No. 2017-039 , 8-28-17)

### **Sec. 74-3. Applicability of chapter.**

- (a) This chapter shall constitute the comprehensive regulations governing all subdivisions of land within the corporate limits occurring on or after September 1, 2017. No subdivision plat shall hereafter be approved which does not conform to the provisions of this chapter; provided, that nothing in this chapter shall be deemed to nullify any of the following:
  - (1) Any final subdivision plat validly approved and recorded under prior subdivision ordinances or regulations;
  - (2) Any final subdivision plat validly approved under the subdivision regulations in effect before the adoption of this chapter and recorded after the adoption of this chapter but before the expiration date of such approval; or
  - (3) Any final subdivision plat validly approved before the adoption of this chapter but not recorded before the expiration date of such approval, if city council by resolution reapproves such subdivision plat without alteration except as to date.
- (b) In any event, where a preliminary subdivision plat has been approved before September 1, 2017, the final plat of such subdivision, or any section thereof, shall be subject to review under the prior ordinance if the application for such final approval is filed with all supporting data required by this code on or before six months from September 1, 2017.

Unless such final plat and supporting documents have been submitted to the satisfaction of the city on or before six months from September 1, 2017, such final plat approval shall be subject to review and approval under the subdivision ordinance then in effect.

(Ord. No. 2017-039 , 8-28-17)

### **Sec. 74-4. Administration and enforcement of chapter.**

The city council and city manager hereby delegate primary responsibility for the administration and enforcement of the provisions of this chapter to the subdivision agent.

(Ord. No. 2017-039 , 8-28-17)

### **Sec. 74-5. Official copies of chapter.**

Certified copies of this chapter and any subsequent amendments thereto shall be kept on file in the offices of the planning department and city attorney, inspections and public works and engineering, and in the offices of the city manager and the clerk of city council, as well as the office of the clerk of the circuit court of the city as required by law.

(Ord. No. 2017-039 , 8-28-17)

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## **Sec. 74-6. Interpretation.**

In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted.

- (1) *Public provisions.* These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law except as provided in these regulations. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, the provision which is more restrictive or imposes higher standards shall control.
- (2) *Private provisions.* These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive or standards that are higher than the requirements of these regulations, or the determinations of the city in approving a subdivision or in enforcing these regulations, and the private provisions are not inconsistent with these regulations or the determinations made under these regulations, then the private provisions shall be operative and supplemental to these regulations and the determinations made under the regulations.

(Ord. No. 2017-039 , 8-28-17)

## **Sec. 74-7. Separability.**

If any part or provision of these regulations or the application of these regulations to any person or circumstances is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered and it shall not affect or impair the validity of the remainder of these regulations or the application of them to other persons or circumstances. The city council hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application which is judged to be invalid.

(Ord. No. 2017-039 , 8-28-17)

## **Sec. 74-8. Violations of chapter; penalties.**

- (a) No person shall subdivide land without making and recording a plat of such subdivision and without fully complying with the provisions of this chapter.
- (b) No such plat of any subdivision shall be recorded unless and until it shall have been submitted to and approved, as required by the procedures established in Article 2 of this chapter, by the planning commission or the subdivision agent.
- (c) No person shall sell or transfer any land of a subdivision before the applicable plat has been duly approved and recorded as provided herein, unless such subdivision was lawfully created prior to the adoption by the city council of this chapter or under any previous subdivision ordinance or otherwise in accordance with section 74-3 hereof; provided, that nothing herein contained shall be construed as preventing the recordation of the instrument by which such land is transferred or the passage of title as between the parties to the instrument.

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- (d) Any person violating any of the provisions of this section shall be subject to a fine of not more than one thousand dollars (\$1,000.00) for each lot or parcel of land so subdivided or transferred or sold; the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided.
- (e) No clerk of any court shall file or record a plat of a subdivision required by this article to be recorded until the plat has been approved as required herein. The penalties provided by Virginia Code §17.1-223 shall apply to any failure to comply with the provisions of this subsection.

(Ord. No. 2017-039 , 8-28-17)

## **Sec. 74-9. Definitions.**

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

*Applicant* means the owner, or owner's agent, of land proposed to be subdivided or his representative. Both the applicant and/or the owner shall be referred to as the "subdivider" within this chapter.

*Block* means a tract of land bounded by streets or by a combination of streets and railroad rights-of-way, the corporate limits of the city or shorelines of watercourses. The length of a block shall be measured along its principal street between intersecting streets from centerline to centerline.

*Bond* means any form of security including a cash escrow, surety bond, certified check or letter of credit in an amount satisfactory to the director of public works and form approved by the city attorney.

*Building* means a structure enclosed within exterior walls and a roof, built, erected and framed of component structural parts, designed for the housing, shelter, enclosure and support of individuals, animals or property of any kind.

*Caliper* means a measurement of the size of a tree equal to the diameter of its trunk measurement at four and one-half feet above natural grade. If a tree splits into two or more trunks below four and one-half feet, then the trunk is measured at its most narrow point below the split. For newly planted tree the caliper measurement will be taken six inches above natural grade.

*Developer* means the owner(s) of land proposed to be subdivided or their representative who is responsible for any undertaking that requires review and/or approval under these regulations. See "subdivider."

*Easement* means a grant by a property owner of the use of designated land by another for a specified purpose.

*Frontage* means that side of a lot abutting on a street right-of-way.

*Grade* means the slope of a road, street or other public way, expressed as a percentage.

*Lot* means a tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership, or possession, or for building development.

*Lot, corner* means a lot abutting upon the intersection of two or more street rights-of-way.

*Lot, double frontage* means a lot having frontages on two nonintersecting street rights-of-way, as distinguished from a corner lot.

*Owner* means the record owner of the fee, including any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land to be subdivided.

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*Phased subdivision* means a preliminary plat is approved for the entire property, and for which two or more final plats, individually pertaining to less than the entire property, are submitted sequentially for review and approval.

*Plat* means a map or drawing upon which the plan for a subdivision, waiver subdivision, right-of-way, or easement is presented for approval and in final form for recording.

*Resubdivision* means a change in a plat of an approved or recorded subdivision that affects any street layout, area reserved for public use or lot line on such plat.

*Right-of-way* means a strip of land occupied or reserved for occupancy by a street, walkway, railroad, electric transmission line, utility lines, sanitary or storm drainage line or other public facility.

*Setback* means the required distance between a structure and the property line, as defined in City Code Chapter 98, Zoning Ordinance.

*Street, alley* means a thoroughfare, whether dedicated to public use or privately owned, which affords only a secondary means of access to abutting property and is not intended for general traffic circulation.

*Street, arterial* means a road intended to move through traffic to and from major attractions such as the central business districts, regional shopping centers, major places of employment, and educational and public facilities.

*Street, collector* means a road designed to collect traffic from local roads and carry it to arterial streets. A collector street generally serves a neighborhood or large subdivision.

*Street, cul-de-sac* means a local street with only one outlet and an appropriate terminal for the safe and convenient reversal of traffic movement.

*Street, local* means a road designed to provide access from individual properties to collector streets or to other local streets.

*Subdivider* means any person who:

- (1) Having an interest in land, causes it, directly or indirectly to be subdivided; or
- (2) Acquires the interest of a subdivider in all or part of its subdivision; or
- (3) Engages directly or through an agent in the business of selling, leasing, developing or offering for sale, lease or development a subdivision or any interest, lot, parcel site, unit, or plat in a subdivision in the course of development or in which public improvements have not been finally approved by the city and security has not been released.

*Subdivision* means division of any lot into two or more parcels.

*Subdivision agent* means an appointee of the city manager charged with the administration of subdivision application review as described herein.

(Ord. No. 2017-039 , 8-28-17; Ord. No. 2018-44 , 6-25-18)

## **Sec. 74-10. Waiver or variance of subdivision regulations by council.**

Any requirements of this chapter may be waived or varied by the city council, in whole or in part, upon a determination that:

- (1) A waiver or variation of any provision of this chapter best satisfies the overall purposes set forth in section 74-2 hereof; or

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- (2) An applicant has shown that the requirement being waived or varied would cause a substantial injustice or hardship.

Any variance or waiver thus authorized shall be entered into the minutes of the city council along with a statement of the reason upon which the waiver or variance was granted.

(Ord. No. 2018-43 , 6-25-18)

**Secs. 74-11—74-20. Reserved.**

**ARTICLE II. SUBDIVISION PROCEDURES**

**DIVISION 1. GENERAL PROCEDURES**

**Sec. 74-21. Establishment of procedures for dividing real estate.**

- (a) Real estate may be lawfully divided within the city by either of the following two procedures minor subdivisions or major subdivisions. The rules for entering into these procedures shall be as follows:
- (1) *Minor subdivisions (including boundary line adjustment and lot line vacation plats).* A subdivider may utilize the minor subdivision procedure described in Article II, Division 2, if the subdivision can meet all of the following criteria:
- a. As a result of the plat, no more than a total of fifty (50) lots will be created, including the original lot;
  - b. All lots shall comply with the minimum area and other requirements of the city's zoning ordinance, chapter 98;
  - c. All lots shall front on an existing developed public street that extends across the entire frontage of the lot;
  - d. Each lot created by the subdivision is served by public water and sewer or does not require the extension of public utilities;
  - e. The subdivision is neither located within a regulated dam inundation area nor on known karst features, and
  - f. No parent tract or subsequent division may be divided by minor subdivision more than once in any one-year period.
- (2) *Major subdivision.* A subdivider shall use the major subdivision procedure described in Article II, Division 3 for all other divisions of real estate that cannot meet the criteria for a minor subdivision.

(Ord. No. 2017-039 , 8-28-17)

**Sec. 74-22. Period of validity.**

- (a) *Minor plat.* Unless a plat is recorded in the office of the city clerk of court within one year after final approval, such approval shall be deemed withdrawn and the plat shall be marked void and returned to the subdivision agent.

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- (b) *Preliminary plat.* Once a preliminary subdivision plat is approved, it shall be valid for a period of five years, as specified within Virginia Code § 15.2-2260(F), provided the subdivider (i) submits a final subdivision plat or final site plan for all or a portion of the property within one 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 or final site plan. "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.
- (1) No sooner than three years following such preliminary subdivision plat approval, and upon 90 days' written notice by certified mail to the subdivider, the commission or other agent may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the final subdivision plat.
  - (2) Once an approved final subdivision plat for all or a portion of the property is recorded pursuant to Virginia Code § 15.2-2261, the underlying preliminary plat shall remain valid for a period of five 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.
- (c) *Public improvement plans.* An approved final public improvement plan shall be valid for a period of not less than five years from the date of approval thereof or for such longer period as the planning commission or the director of public works may, at the time of approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development.
- (d) *Final plat.* Once a final subdivision plat is approved and the subdivider has recorded the plat, it shall be valid for not less than five (5) years from the date of plat approval, as specified within Virginia Code § 15.2-2261, and subject to the provisions thereof. Unless a plat is recorded in the office of the city clerk of court within one year after final approval, such approval shall be deemed withdrawn and the plat shall be marked void and returned to the subdivision agent; however, if construction of any facilities to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the city, the time for plat recordation shall be extended to one year after final approval, or the time limit specified in the approved surety agreement, whichever is greater.
- (e) *Extensions.* By application of the subdivider filed prior to expiration of a final recorded plat, one or more extensions of its approval for additional periods may be granted by the subdivision agent, in the case of a minor plat, or the planning commission, in the case of a major plat. The extensions shall be valid for such period as the authority may, at the time the extension is granted, determine to be reasonable in accordance with the provisions of Virginia Code § 15.2-2261.
- (f) *Changes, revisions.* By application of the subdivider, during the period of validity of an approved or recorded plat, the subdivision agent may approve minor modifications to such plat, including, without limitation, any modification that eliminates, relocates or otherwise alters one or more lot lines; provided, however, that the proposed modification shall not involve the relocation or alteration of any streets, alleys, easements for public passage or other public areas, and provided further that no utility easements or rights-of-way shall be relocated or altered. An application for any such modification made during the period of validity of the plat shall not constitute a waiver of any rights of the subdivider existing on the date of approval of the final plat, and the approval of any such modification shall not extend the period of validity of the original final plat. A modified final plat shall be signed by the owner(s) of all land that is the subject of such plat. Nothing in this paragraph limits the right of an owner to apply to vacate a subdivision plat or any part thereof, or to apply for a boundary line adjustment as authorized by this chapter.

(Ord. No. 2017-039 , 8-28-17)

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### **Sec. 74-23. Effect of recordation.**

- (a) The recordation of a minor or final subdivision plat shall operate to transfer in fee simple to the city such portion of the premises platted on such plat as set apart for streets, alleys or other public uses, and to transfer to the city any easement indicated on such plat to create a public right of passage over the same; but nothing contained in this chapter shall affect any right of such subdivider heretofore validly reserved.
- (b) Where the planning commission or subdivision agent approves a plat or resubdivision in accordance with this chapter, upon recording of such plat or resubdivision in the clerk's office of the circuit court, all rights-of-way, easements or other interests of the city in the land included in the plat or resubdivision, except as included thereon, shall be terminated and extinguished; except, that any interest acquired by the city by condemnation or by purchase for valuable consideration and evidenced by a separate instrument of record, or streets, alleys or easements for public passage subject to the provisions of Virginia Code § 15.2-2271 and § 15.2-2272, shall not be affected thereby.

(Ord. No. 2017-039 , 8-28-17)

### **Sec. 74-25. Vacation of plats.**

- (a) Owner-initiated plat vacation:
  - (1) Any recorded plat or any part thereof may be vacated, with the consent of the city council, by the owners, proprietors and trustees, if any, who signed the statement required by Virginia Code § 15.2-2271, at any time before the sale of any lot therein, by a written instrument, declaring the same to be vacated, duly executed, acknowledged, or proved and recorded in the clerk's office of the circuit court or courts where the plat is recorded. 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 such 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 such plat.
  - (2) In cases where any lot has been sold, a subdivision plat or part thereof may be vacated according to Virginia Code §15.2-2272 (1).
- (b) Government-initiated plat vacation:
  - (1) *General conditions.* The city council, on its motion, may vacate the plat of an approved subdivision when:
    - a. No lots within the approved subdivision have been sold within five years from the date that the plat was signed by the mayor and chair of the planning commission;
    - b. The developer has breached a subdivision improvement agreement and the municipality is unable to obtain funds with which to complete construction of public improvements, except that the vacation shall apply only to lots owned by the developer or its successor;
    - c. The plat has been of record for more than five years and the city council determines that the further sale of lots within the subdivision presents a threat to public health, safety and welfare, except that the vacation shall apply only to lots owned by the developer or its successor.
  - (2) *Procedure.* Upon any motion of the city council to vacate the plat of any previously approved subdivision, in whole or in part, the council shall publish notice in a newspaper of general circulation and provide personal notice to all property owners within the subdivision and shall also provide notice to the governing body. The notice shall state the time and place for a public hearing on the motion to vacate the subdivision plat. The public hearing shall be no sooner than 30 and no later than 45 days

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from the date of the published and personal notice. The city council shall approve the resolution effecting the vacation only if the criteria set forth herein are satisfied.

- (3) *Recordation of notice.* If the city council adopts a resolution vacating a plat in whole, it shall record a copy of the resolution in the clerk's office of the city. If the council adopts a resolution vacating a plat in part, it shall record a copy of the resolution as described above and cause a revised final subdivision plat to be recorded which shows that portion of the original subdivision plat that has been vacated and that portion that has not been vacated.

(Ord. No. 2017-039 , 8-28-17)

### **Sec. 74-26. Verification of current tax status.**

Prior to final approval of a subdivision plat, the city's agent shall require the subdivider to produce satisfactory evidence that any delinquent real estate taxes, liens and any other charges owed to the city have been paid.

(Ord. No. 2017-039 , 8-28-17)

### **Sec. 74-27. Time limits for consideration of plats; appeals to circuit court.**

- (a) The planning commission (or subdivision agent, as the case may be) shall act on any proposed preliminary plat, final plat or minor subdivision plat, within 60 days after it has been officially submitted, by either approving or disapproving such plat in writing and giving with the latter specific reasons therefore. Specific reasons for disapproval may be contained in a separate document or may be written on the plat itself, and shall relate in general terms such modifications or corrections as will permit approval of the plat. If the applicant makes requested modifications and resubmits a previously rejected plat, a new 60 day period for review and consideration shall begin on the resubmission date. If any state agency is involved in the review of a subdivision plat, the planning commission shall indicate approval or disapproval of all preliminary subdivision plats received for consideration within 90 days of its official submission. The planning commission or subdivision agent shall have 45 days to complete action on any plat that has been resubmitted with corrections or modifications.
- (b) If the subdivision agent or planning commission fails to approve, modify or disapprove the final plat within 90 days from the date of the official submission, the applicant may after ten days written notice to the subdivision agent request immediate approval by the circuit court; provided, that approval of a final plat shall not be finally effective until the subdivider has complied with the requirements of this chapter relative to making provisions for the installation of required improvements in accordance with applicable specifications of the city, and such fact is certified on the final plat by the clerk of city council.
- (c) If the planning commission or subdivision agent disapproves a plat after it has been officially submitted for approval, and the applicant contends that such disapproval was not properly based on this chapter or was arbitrary or capricious, the applicant after ten days' written notice to the planning commission or the subdivision agent, may petition the circuit court of the city to decide whether or not the plat should be approved, provided that such appeal is filed with the circuit court within 60 days of the written disapproval by the planning commission or subdivision agent. The court shall hear the matter and make and enter such order as it deems proper, which may include directing approval of the plat.

(Ord. No. 2017-039 , 8-28-17)

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**Sec. 74-28. Fees relating to plats.**

Before any action is taken upon any plat filed in connection with this chapter, whether for petition for plat vacation; simple, waiver, preliminary, or final subdivision plat review and approval; erosion and sediment control plan review; storm water management plan review; public improvements plan review; or, as required by this chapter or elsewhere in this code, for site plan review, erosion and sediment control reviews and inspections, storm water management plan reviews and inspections, public improvement plan reviews and inspections, utility systems analysis; traffic analysis; or alley or street vacation as provided for by the City Charter; or any other action required, the applicant shall pay to the city treasurer the applicable fees currently in effect for the same service as listed on the fee schedules lawfully adopted by resolution of city council, after due public hearing as required by law, as the same may be likewise amended in such manner from time to time hereafter. Such current fee schedules shall be available during regular business hours in the building and zoning office, the department of public works, the planning office, and the office of the clerk of city council. The failure of either the city planning commission, the subdivision agent, or the city council to approve the application or petition shall not be reason for refunding any fee or cost paid by the applicant.

(Ord. No. 2017-039 , 8-28-17)

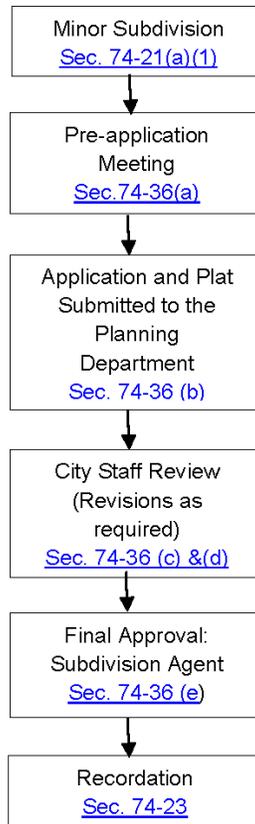
**Sec. 74-29. Amendments to approved plats.**

- (a) The subdivision agent may approve all amendments to minor plats according to section 74-22(f).
- (b) The subdivision agent may approve minor amendments to major plats according to section 74-22(f). Any proposed amendment to an approved major plat which would result in any of the following shall be considered a major amendment and shall follow the procedures in the initial approval and the provisions of this chapter:
  - (1) Relocation or alteration of any streets, alleys, easements for public passage or other public areas;
  - (2) Relocation or alteration of utility easements or rights-of-way;
  - (3) A change to the general layout or design which would substantively affect issues or concerns raised by the planning commission during the major plat's initial approval;
  - (4) An increase in density.

(Ord. No. 2017-039 , 8-28-17)

**Secs. 74-30—74-35. Reserved.***DIVISION 2. MINOR SUBDIVISION PROCEDURES***Sec. 74-36. Minor subdivision procedures.**

The procedure for the submittal, review, revision and approval of minor subdivision plats shall be as follows:



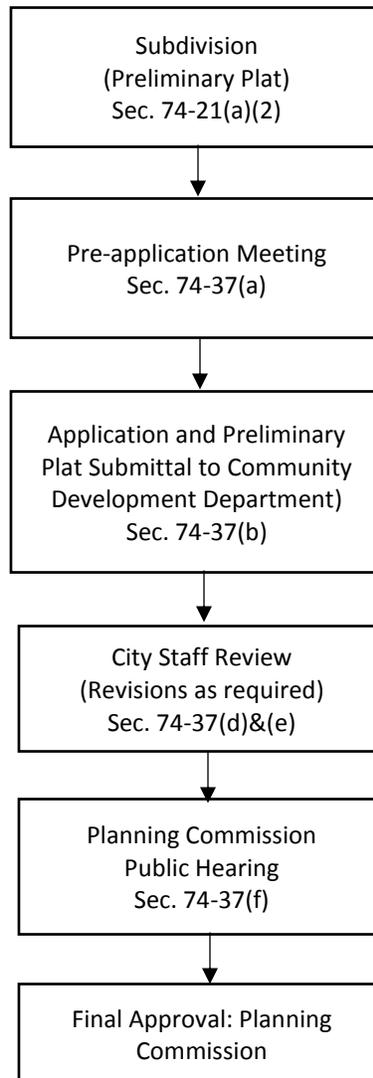
- (1) *Pre-application meeting.* It is strongly suggested that the subdivider or their agent schedule a meeting with the subdivision agent prior to submittal of the plat to discuss individual issues that may arise from during the review and approval of the plat.
- (2) *Plat submittal.* minor subdivision plats shall be developed in accordance with section 74-47 and submitted to the city's subdivision agent through the planning department along with a completed subdivision application and payment of fees.
- (3) *Completeness review.* The subdivision agent shall review all plats and applications for completeness and is authorized to reject a plat application if, in the opinion of the subdivision agent, it has significant deficiencies relative to the requirements of this code. Plat applications which are found to be deficient are not considered officially submitted until deficiencies are properly addressed and remedied.
- (4) *Plat review and revisions.* The subdivision agent shall review the plat for conformance with the standards of this chapter and other applicable regulations. When deemed necessary, the subdivision agent may request review and comment from other city departments or outside agencies. If the subdivision agent finds that the plat does not conform to the standards of this chapter, then the plat shall be returned to the applicant with a written explanation of deficiencies and necessary revisions. Such information may be described either on the plat itself or by separate document.
- (5) *Final approval.* Once all the deficiencies have been revised to the satisfaction of the subdivision agent, a final approval will be issued and the completed plat shall be signed and dated by the subdivision agent.
- (6) *Recordation.* The subdivider, or their agent, shall record the plat with the city clerk of the court in accordance with the general procedures of this chapter, Article II, Division 1.

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(7) *Report.* The subdivision agent or his designee shall report to the planning commission, at its next regular meeting, all minor subdivision applications acted upon since the previous meeting.

(Ord. No. 2017-039 , 8-28-17)

### *DIVISION 3. MAJOR SUBDIVISION PROCEDURE*



For subdivisions of 51 lots or more, there are three principal steps: approval of the preliminary plat, approval of the public infrastructure plans, and approval of the final plat. Subdividers with an approved preliminary plat may construct public improvements and dedicate final plats in phases, subject to approval of a phasing plan.

For subdivisions of 50 lots or fewer, the subdivider shall have the option to submit a preliminary plat. Major subdivision applications without a preliminary plat must include both a public improvement plan and a final plat.

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ARTICLE II. - SUBDIVISION PROCEDURES  
DIVISION 3. MAJOR SUBDIVISION PROCEDURE

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Upon notice from the director of public works, or his designee, that all public improvements necessary for the subdivision have been satisfactorily completed or a subdivision performance guarantee has been provided in accordance with section 74-23(b), the final plat may be approved by the subdivision agent.

**Sec. 74-37. Preliminary plat procedures.**

- (a) *Pre-application Meeting.* It is strongly suggested that the subdivider or their agent schedule a meeting with the subdivision agent prior to submittal of the plat to discuss individual issues that may arise during the review and approval of the plat.
- (b) *Plat submittal.* Preliminary subdivision plats shall be developed in accordance with section 74-46 and submitted to the city's subdivision agent through the planning department along with a completed subdivision application and payment of fees.
- (c) *Requested waivers.* The subdivider shall bear the responsibility of requesting, in writing, any waivers to the subdivision ordinance as permitted in section 74-24. Typically, waiver requests should be made at the time of plat submittal.
- (d) *Completeness review.* The subdivision agent shall review all plats and applications for completeness and is authorized to reject a plat application if, in the opinion of the subdivision agent, it has significant deficiencies relative to the requirements of this code. Plat applications found to be deficient will not be considered officially submitted until deficiencies are properly addressed and remedied.
- (e) *Plat review and revisions.* The subdivision agent, other city departments, and/or outside agencies shall review the plat for conformance with the standards of this chapter, the city's comprehensive plan, capital improvements program as well as the best practices for land development and other applicable regulations. The subdivision agent may require the assistance of a third party to review certain aspects of a plat for a wide variety of reasons, such as, but not limited to: impacts to environmental or historic resources, environmental contamination, traffic impacts, etc. The subdivider shall be required to bear any costs associated with these third-party reviews.

If the subdivision agent finds that the plat does not conform to the applicable regulations, then the plat shall be returned to the applicant with a written explanation of deficiencies and necessary revisions. Such information may be described either on the plat itself or by separate document.

- (f) *Planning commission public hearing.* Based upon staff review and any subsequent plat revisions, the subdivision agent shall prepare and submit a consolidated staff report on the proposal with recommendations to the planning commission. The planning commission shall hold a public hearing in accordance with section 74-38, and, upon determining that the plat is in conformity with the comprehensive plan and provisions of this chapter, may approve the preliminary plat by resolution.. If the planning commission finds that the plat does not conform to the standards of this chapter then the plat shall be returned to the applicant with a written explanation of deficiencies that shall state what corrections or modification will permit approval. Such information may be described either on the plat itself or by separate document.
- (h) *Approval.* Once a preliminary subdivision plat is approved, it shall be signed and dated by the subdivision agent and the chair of the planning commission. A copy of the approved preliminary plat shall be kept in the planning department until the recordation of a final plat for all remaining sections of the subdivision or until the subdivision is determined to be invalid in accordance with section 74-22.

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(Ord. No. 2017-039 , 8-28-17)

**Sec. 74-38. Public notice prior to preliminary plat review.**

The planning commission shall take no official action on a preliminary subdivision plat until after public notice has been given.

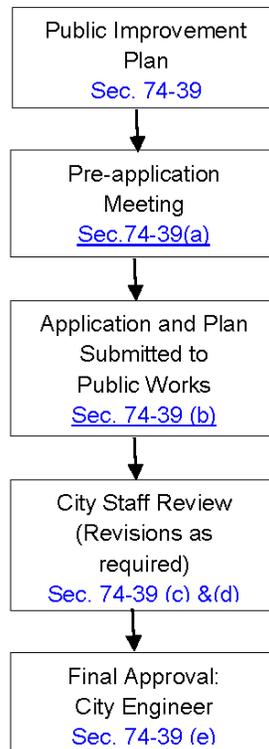
Notice of such hearing shall be published once a week for two consecutive weeks in a newspaper having general circulation within the city. The public hearing shall be held not less than six nor more than 21 days after the second advertisement appears. The notices shall specify the time and place of hearing at which persons affected by the subdivision may appear and present their views. The advertisement shall contain a reference to the place or places within the city where copies of the proposed subdivision plat may be examined.

In addition to such advertisement, written notice shall be given at least five days before the hearing to the adjacent property owners, their agent, or the occupant of each parcel involved, and to the owners, their agents or the occupants, of all abutting property and property immediately across the street or alley from the property affected. Notice shall be sent to the last known address of such owner, as shown on the current real estate tax assessment books, by registered or certified mail; first class mail may be used if the planning commission or its official representative shall make an affidavit that such mailings have been made and file such affidavit with the papers in the case.

Additionally, the subdivision agent shall post signage on the property in question advertising the public hearing for such preliminary subdivision at least one week prior to the hearing.

(Ord. No. 2017-039 , 8-28-17)

**Sec. 74-39. Public improvement plan procedures.**



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(Supp. No. 65, Update 3)

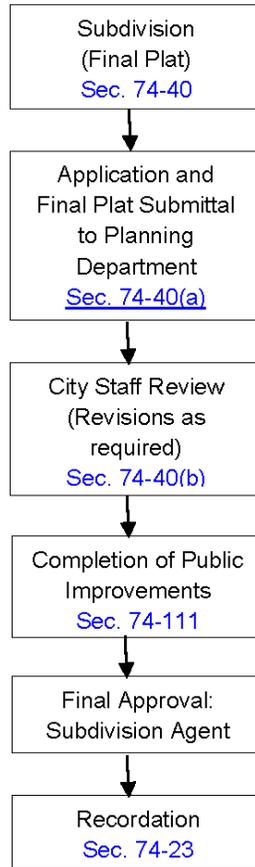
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- (a) *Pre-application meeting.* It is strongly suggested that the subdivider or their agent schedule a meeting with the department of public works prior to submittal of any public improvement plans to discuss individual issues that may arise during the review and approval of the plans.
  - (b) *Plan submittal.* Public improvement plans shall be developed in accordance with Article IV and V of this chapter and submitted to the department of public works along with a completed public improvement plan application. Fees for the review of public improvement plans will be assessed based upon a schedule established by the department of public works and then billed to the subdivider accordingly.
  - (c) *Completeness review.* Department of public works shall review the public improvement plans and application for completeness and is authorized to reject plans or application if they have significant deficiencies relative to the requirements of city code, state code, or other applicable design standards. Public improvement plans that are found to be deficient are not considered officially submitted until deficiencies are properly addressed and remedied.
  - (d) *Plan review and revisions.* The department of public works, other city departments, and, where applicable, outside agencies shall review the plans for conformance with the standards of this chapter and other applicable regulations. If the plans do not conform to the standards of this chapter, then the plans shall be returned to the applicant with a written explanation of deficiencies and necessary revisions. Such information may be described either on the plans or by separate document.
  - (e) *Final approval.* Once all the deficiencies have been revised to the satisfaction of the department of public works, a final approval will be issued and the completed plans shall be signed and dated by the city engineer or his designee.
  - (f) *Phased subdivisions.* Public improvement plans for phased subdivisions shall designate which public improvements will be constructed as part of each phase. At the request of the applicant and for good cause shown, the subdivision agent may approve changes to the phasing of public improvements, provided that any such change shall not materially delay the completion of road or utility connections or the construction of major public improvements that serve prior-constructed phases of the subdivision.

(Ord. No. 2017-039 , 8-28-17; Ord. No. 2018-44 , 6-25-18)

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**Sec. 74-40. Final plat procedures.**



- (a) *Plat submittal.* Before expiration of the validity of the preliminary plat, final subdivision plats shall be developed in accordance with section 74-47 and submitted to the city's subdivision agent through the planning department along with a completed subdivision application and payment of fees.
- (b) *Plat review and revisions.* The subdivision agent and other appropriate staff shall determine if the final plat is in general conformity with the preliminary plat and if the proposed improvements within the proposed subdivision are in compliance with applicable standards and specifications of the city. The subdivision agent shall respond either by approving the final plat or by returning the submitted plat to the subdivider with written notice of deficiencies. Such information may be described either on the plat itself or by separate document.
- (c) *Completion of public improvements.* The subdivider shall be notified upon a determination by the subdivision agent that the final plat is in regulatory compliance. At that time, the subdivider shall have either elected to complete all of the public improvements to the requirements of section 74-111(1) or provided a subdivision performance guarantee for the completion of the public improvements as allowed for in section 74-111(2).
- (d) *Final approval.* The director of public works, or his designee, shall notify the subdivision agent that either the public improvements have been satisfactorily completed or a subdivision performance guarantee has been provided in accordance with section 74-23(b). The subdivider shall then provide a sufficient number of fully executed copies of the final plat for signature by the subdivision agent.

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- (e) *Recordation*. The subdivider, or their agent, shall record the plat with the city clerk of the court in accordance with the general procedures of this chapter, Article II, Division 1.
  - (f) *Reporting*. The subdivision agent shall report to the planning commission, at its next regular meeting, on all final plats acted upon since the previous meeting.

(Ord. No. 2017-039 , 8-28-17)

**Secs. 74-41—74-45. Reserved.**

### **ARTICLE III. STANDARDS FOR SUBDIVISION PLATS**

#### **Sec. 74-46. Standards for major subdivision preliminary plats.**

- (a) A surveyor, civil engineer, land planner, architect, landscape architect or other person having training or expertise in subdivision planning design shall prepare the preliminary plat.
- (b) The preliminary plat shall be drawn at a scale of 100 feet to the inch, unless a different scale allows a better representation of the preliminary plan.
- (c) The preliminary plat shall contain:
  - (1) The title under which the subdivision is to be recorded and the names and addresses of the owner(s) of record, subdivider, and holders of any encumbrances or easements against the property.
  - (2) A vicinity sketch showing the relation of the proposed subdivision to adjoining property and the city.
  - (3) A topographic map derived from aerial topographic surveys or, where required by the director of public works, from actual field surveys, with a contour interval of four feet referred to city data, showing the boundary lines of the tract to be subdivided.
  - (4) The location, width and names of all existing or platted streets or other public ways within or adjacent to the subdivision, easements, railroad rights-of-way, and land lot lines.
  - (5) The location and dimensions of proposed streets, alleys, lots, building lines, and easements.
  - (6) Existing city real property tax map and parcel numbers for the property being subdivided.
  - (7) All parcels of land intended to be dedicated or reserved for public use or to be reserved in the deed for the common use of property owners in the subdivision.
  - (8) Preliminary sketch plans indicating the proposed method of accomplishing stormwater drainage, water supply and sanitary sewage collection or disposal. Approval of such preliminary plans does not constitute approval of final utility plans required as a part of the final plat.
  - (9) Preliminary street profiles and approximate grades.
  - (10) The location of existing zoning district lines and the proposed uses of the property being subdivided.
  - (11) Date, true north point and scale.
  - (12) Location of all trees greater than ten inches in caliper, with designation of which trees are to be removed. However, thickly wooded areas may be designated by symbols showing their extent and location.
  - (13) Floodplain boundaries, water courses and other essential geographic boundaries.

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- (14) Other reasonable information may be required by the subdivision agent or the director of public works as deemed necessary. This information may include but is not limited to:
    - Mapped dam inundation zone;
    - Any grave, object or structure marking a place of burial;
    - Any land lying wholly or partially within an area subject to the joint control of more than one locality.
  - (15) The name, address and phone number of the plat preparer.
  - (16) Existing utilities.
  - (17) The proposed location of all public and private utilities.
  - (18) For phased subdivisions, the preliminary plat shall show a phasing plan designating the order and scope of each phase of the project and designating which public improvements will be constructed as part of each phase.

(Ord. No. 2017-039 , 8-28-17; Ord. No. 2018-44 , 6-25-18)

### **Sec. 74-47. Standards for minor plats and major subdivision final plats.**

- (a) The plat shall be prepared by a land surveyor or certified professional engineer licensed by the state.
- (b) The plat shall be drawn at a scale of 100 feet to the inch unless a different scale allows a better representation of the plat. Final plats shall be on sheets measuring not less than  $8\frac{1}{2} \times 11$  inches nor more than  $18 \times 24$  inches. Enlargements, at applicant's expense, may be required by the city when necessary for detailed review as required in this chapter or in exceptional circumstances where required by the clerk of circuit court for recording purposes.
- (c) The plat shall contain:
  - (1) The title under which the subdivision is to be recorded and the name or number of the section if a part of a larger tract.
  - (2) Every plat, or deed of dedication to which the plat is attached, shall contain in addition to the professional engineer's or land surveyor's certificate a statement as follows: "The platting or dedication of the following described land (here insert a correct description of the land subdivided) is with the free consent and in accordance with the desire of the undersigned owners, proprietors, and trustees, if any." The statement shall be signed and duly acknowledged before an officer authorized to take acknowledgment of deeds.
  - (3) The boundary lines of the area being subdivided with accurate distances and bearings. The boundaries shall be determined by an accurate field survey.
  - (4) An engineer's or land surveyor's endorsement of the accuracy of data shown thereon; certification of the source of title of the owner of the land to be subdivided; and the place of record of the last instrument in the chain of title.
  - (5) The exact layout in general conformity with the approved preliminary plat, including street names. Names of new streets shall not duplicate existing or platted street names unless the new street is a continuation of the existing or platted street. All dimensions, both linear and angular, for locating lots, streets, alleys, public easements and private easements shall be clearly shown. The linear dimensions shall be expressed in feet and hundredths of a foot, and all angular measurements shall be expressed by bearings or angles to the nearest second. All curves shall be defined by their radius, central angle, chord distances, chord bearing and arc lengths. Such curve data shall be expressed by a curve table lettered on the face of the plat, each curve being tabulated and numbered to correspond with the

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respective numbered curves shown throughout the plat. The error of closure for property boundary shall not exceed 1:15,000.

- (6) Lots numbered in numerical order and block identifications.
- (7) The location of all minimum building setback lines.
- (8) The location and material of all permanent reference monuments.
- (9) All parcels of land intended to be dedicated or reserved for public use or for the common use of all property owners within the subdivision.
- (10) A definite bearing and distance tie between not less than two permanent monuments on the exterior boundary of the subdivision and to existing street intersections where possible and reasonably convenient.
- (11) Date, true north point and scale.
- (12) Private restrictions and their period of existence. Should these restrictions be of such length as to make their lettering on the plat impracticable and thus necessitate the preparation of a separate instrument, reference shall be made thereto on the plat.
- (13) A resolution of approval and signature panel for the mayor and the subdivision agent for major subdivision final plat. A resolution of approval and signature panel for the subdivision agent for minor plat.
- (14) Temporary turnarounds where required. When one or more temporary turnarounds are shown, the following note shall be included on the plat:

"The area on this plat designated as 'temporary turnaround' will be constructed and used as other streets in the subdivision until (name of street) is extended to (end point), at which time the land in the temporary turnaround area will be abandoned for street purposes and will revert to adjoining lot owners."
- (15) Location and method of lighting for private driveways, streets, and parking areas, if needed and included in initial planned improvements.
- (16) Bearings and distances for all utility easements where not parallel to lot lines.
- (17) The location of waste, such as fill dirt, brick, or block, whether buried or not. Waste materials such as stumps, logs and other materials regulated under the Virginia Department of Environmental Quality's solid waste management program shall not be buried on site.
- (18) The following supporting data shall accompany the final plat:
  - a. Stormwater management plans.
  - b. Soil erosion and sediment control plans.
  - c. Street plans including cross sections and profiles and other necessary data relating to Article IV, Division 3.
  - d. Natural gas, water supply and sewage disposal plans including drainage courses, existing sewers, water and gas mains and culverts and other underground structures, showing pipe sizes, invert elevations and grades.
  - e. Landscape and tree protection plan as required.
- (19) The proposed location of all public and private utilities.
- (20) For a minor plat, existing utilities with proof that no public utilities shall require extension.

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(Ord. No. 2017-039 , 8-28-17)

**Secs. 74-48—74-50. Reserved.**

## ***ARTICLE IV. SUBDIVISION DESIGN***

### ***DIVISION 1. IN GENERAL***

#### **Sec. 74-51. Conformity to applicable requirements.**

All subdivision plats, public improvement plans, and supporting materials shall be in accordance with the following regulations, as applicable:

- (1) The provisions of the Code of Virginia, title 15.2, chapter 22, article 6 (Va. Code §§ 15.2-2240—15.2-2279).
- (2) Chapter 30 of the Code of the City of Waynesboro, Article II (Erosion and Sediment Control) and Article III (Stormwater Management).
- (3) Chapter 34 of the Code of the City of Waynesboro, Article III (Fire Prevention Code)
- (4) Chapter 86 of the Code of the City of Waynesboro (Utilities).
- (5) Chapter 98 of the Code of the City of Waynesboro (Zoning ordinance).
- (6) The City of Waynesboro Standard Details and Approved Product Manual.
- (7) Other applicable laws, ordinances, policies and requirements, including, without limitation, the other standards set forth within this article.

(Ord. No. 2017-039 , 8-28-17)

#### **Sec. 74-52. Obligation to pay for improvements.**

All public and private improvements, amenities and features required to be installed within a subdivision under this chapter shall be made at the subdivider's or developer's sole cost and expense, and at no cost to the city. Further, nothing in this chapter shall be construed as creating an obligation upon the city to pay for grading or paving of streets, or for sidewalks, sewers or drainage facilities, curb and gutter improvements, utility lines or construction of any other facilities or the testing and replacement of materials, except as city council may specifically authorize in an individual case.

(Ord. No. 2017-039 , 8-28-17)

#### **Sec. 74-53. Voluntary off-site road improvements.**

If a subdivider or developer makes an advance of payments for construction of reasonable and necessary road improvements located outside the property limits of the land owned or controlled by him, the need for which is substantially generated and reasonably required by the construction or improvement of his subdivision or development, and such advance is accepted, the city council may agree to reimburse the subdivider or developer. Such funds as the city council may make available for such purpose from time to time for the cost of such advance

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together with interest shall be excludable from gross income for federal income tax purposes, at a rate equal to the rate of interest on bonds most recently issued by the city council on the following terms and conditions:

- (1) The city council shall determine or confirm that the road improvements were substantially generated and reasonably required by the construction or improvement of the subdivision or development and shall determine or confirm the cost thereof, on the basis of a study or studies conducted by qualified traffic engineers and approved and accepted by the subdivider or developer.
- (2) The city council shall prepare, or cause to be prepared, a report accepted and approved by the subdivider or developer, indicating the governmental services required to be furnished to the subdivision or development and an estimate of the annual cost thereof for the period during which the reimbursement is to be made to the subdivider or developer.
- (3) The city council may make annual reimbursements to the subdivider or developer from funds made available for such purpose from time to time, including, but not limited to, real estate taxes assessed and collected against the land and improvements on the property included in the subdivision or developments in amounts equal to the amount by which such real estate taxes exceed the annual cost of providing reasonable and necessary governmental services to such subdivision or development.

(Ord. No. 2017-039 , 8-28-17)

#### **Sec. 74-54. Materials and methods of construction for improvements.**

Materials and methods of construction of all public and private improvements required in subdivisions shall be constructed and installed in accordance with approved plans as well as applicable local, state, and federal laws, regulations and policies.

#### **Secs. 74-55-74-60. Reserved.**

(Ord. No. 2017-039 , 8-28-17)

### *DIVISION 2. GENERAL LAYOUT*

#### **Sec. 74-61. Blocks.**

- (a) Where possible, blocks shall have sufficient width to accommodate two tiers of lots of appropriate depth.
- (b) Where possible, and where blocks do not adjoin a major artery, the maximum length of a residential block (adjacent to lot frontages) shall be 1,000 feet and the minimum length shall be 500 feet. Design criteria and exceptions to be considered in determining length, width and shape of blocks shall include:
  - (1) Provision for adequate building sites suitable to the needs of the type of use contemplated;
  - (2) Zoning requirements as to lot sizes, setbacks, and dimensions;
  - (3) Needs for convenient access, circulation, control and safety of street traffic; and
  - (4) Limitations and opportunities of topography and/ or environmental features.
- (c) Where blocks adjoin a major artery, the greatest dimension of the block should be parallel to such major artery. Where practical, such blocks shall not be less than 1,000 feet in length.
- (d) The city may require the reservation of an easement through a long block or cul-de-sac to accommodate utilities, drainage facilities, bicycle or pedestrian traffic.

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(Supp. No. 65, Update 3)

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(Ord. No. 2017-039 , 8-28-17)

**Sec. 74-62. Lots.**

- (a) All lots intended for development shall contain a satisfactory building site that meets the requirements of the zoning ordinance (chapter 98 of this Code).
- (b) Side lines of lots shall be perpendicular to straight street lines and radial to curved street lines, unless a variation from this regulation will provide a better street or lot layout.
- (c) Double frontage or reserved frontage lots shall be avoided except where essential to provide separation of residential development from major thoroughfares or to overcome disadvantage of topography.
- (d) Lots should not contain elongations which are designed solely to provide necessary square footage of area or frontage on a public road and which would be unusable for normal purposes.
- (e) All lots shall have a minimum width and area as required by chapter 98 "Zoning" of this Code.
- (f) Each lot shall front on a public street having a right-of-way that meets the minimum requirement in section 74-71. The street shall extend across the entire frontage of the lot.
- (g) No plat shall be approved on which a lot is bisected by the corporate limits of the city.

(Ord. No. 2017-039 , 8-28-17)

**Sec. 74-63. Parks, schools and other public land.**

In subdividing property, consideration should be given to suitable sites for parks, schools, recreation facilities and resource conservation areas and other areas for public use as contained in the city's comprehensive plan. Such planned location for parks, schools or other public land should be indicated on the preliminary plat to allow for the determination of when and in what manner such areas will be dedicated to, reserved for or acquired by the appropriate governing body for that use. This regulation shall not be construed to preclude the dedication of property for public use not included in the comprehensive plan, provided such property is acceptable to the city for dedication and maintenance.

(Ord. No. 2017-039 , 8-28-17)

**Sec. 74-64. Preservation of natural features and amenities.**

- (a) *Generally.* Existing natural features that would add value to residential development or to the city as a whole, such as trees, watercourses, historic sites, and similar irreplaceable assets shall be protected wherever practicable in the design of the subdivision.
- (b) *Site cover requirements.*
  - (1) Any subdivision development shall meet site cover and landscaping requirements as specified in chapter 98 "Zoning" of this Code.
  - (2) The applicant shall consult with the city horticulturist as to trees planted to satisfy canopy requirements stated therein.
  - (3) To curtail the spread of disease or insect infestation in a plant species, when more than five trees are required to be planted on a site, no more than 50 percent of those trees shall be of one type. When more than 20 trees are required on a site, no more than 25 percent of the required trees shall be of a single species.

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(Ord. No. 2017-039 , 8-28-17)

**Sec. 74-65. Manufactured home subdivisions and planned unit developments.**

Design standards for manufactured home subdivisions and planned unit developments shall be as specified in chapter 98 "Zoning" of this Code.

**Secs. 74-66—74-70. Reserved.**

*DIVISION 3. STREETS*

**Sec. 74-71. Design standards for new streets and alleys.**

- (a) *Layout.* Local streets shall be laid out to conform as much as possible to the topography, to encourage energy conservation, to provide vehicular, bicycle and pedestrian interconnections within the subdivision and existing or future development on adjoining lands, to permit efficient drainage and utility systems and to require the minimum number of streets necessary to provide for safe, convenient access to property.
- (b) *Intersection.* No more than two streets shall intersect at one point. Intersections shall be laid out so as to intersect as nearly as possible at right angles. A 75-degree angle shall be the least acceptable angle between two intersecting streets.
- (c) *Alignment.* Streets that do not align with existing streets shall have an offset of not less than 150 feet between centerlines.
- (d) *Surface.* All public streets shall be designed in conformity to the requirements set forth in the most current version of the VDOT Road Design Manual and the City of Waynesboro Standard Details and Approved Product Manual.
- (e) *Right-of-way.* The minimum width of right-of-way shall be sufficient to accommodate all roadway elements, including pedestrians, multiuse trails, bicyclist, shared use paths and the clear zone and extend at least one foot behind any feature intended to be maintained by City as part of the roadway. However, the minimum width of right-of-way shall be no less than 50 feet. No right-of-way shall be used for street trees when less than 60 feet of right-of-way is provided.
- (f) *Adjacent easement.* Adjacent easement refers to an area five feet in width on either side of the dedicated right-of-way which shall not be deemed to be conveyed to the city in fee simple, but over which the city shall be deemed to have a perpetual easement for public purposes, including but not limited to location of city utility lines, poles and meters, planting of shade trees, installation of traffic signs or signals, bus stops or benches and clearing and cutting to preserve visibility at driveways and intersections. The developer shall grade the areas subject to such easements in the same manner as the dedicated right-of-way, and such easements shall be shown on preliminary and final plats. The reservation of such easements shall not be deemed to deny the property owner rights of ingress and egress which would otherwise accrue to him, nor to deny the developer or owner the right to include the area subject to the easement in calculating lot sizes to fulfill minimum area requirements in the city zoning ordinance (chapter 98 "Zoning" of this Code).

On arterial streets, no adjacent easements are required; instead, additional right-of-way is to be dedicated in fee simple to permit future widening of the paved surface. In the case of a new subdivision bounded on only one side by an existing arterial street, the planning commission may only require the dedication of one-half of the amount of additional right-of-way required to increase the total right-of-way.

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- (g) *Cul-de-sacs.* No cul-de-sac street shall exceed 500 feet in length, excluding the turnaround. The planning commission may waive this maximum length standard if it can be demonstrated the protection of existing terrain or environmental features would be better served by a longer cul-de-sac as opposed to an interconnected system of streets or if previous development precludes interconnected streets. Where deemed necessary by the city engineer or subdivision agent, adjacent cul-de-sacs shall have a 20-foot limited access easement connecting the cul-de-sacs.
  - (h) *Temporary turnarounds.* Streets that terminate temporarily and thereby take on the character of a dead-end street shall be provided with a temporary turnaround as specified in the VDOT Road Design Manual.
  - (i) *Grades.* The maximum allowed street grade without special approval shall be six percent. The planning commission may allow grades in excess of six percent where it determines that such a street grade will permit better lot arrangements with less adverse environmental impact.
  - (j) *Street names.* Where a street is planned as a continuation of an existing street, such street will bear the same name. New street names shall be sufficiently different from existing street names in the city or Augusta County to avoid confusion. The subdivision agent shall ratify all street names.
  - (k) *Sidewalks.* A concrete sidewalk at least five feet wide exclusive of curbing and constructed to city standards shall be provided on both sides of all local, collector, and arterial streets. In all instances the dedicated right-of-way shall be sufficient to permit installation of sidewalk at some point in the future.
  - (l) *Sidewalk buffer.* A planted buffer strip at least three feet wide shall be placed between the sidewalk and the roadway. Where unique circumstances are present or where a narrower strip would result in a better design, the subdivision agent may reduce the 3-foot minimum.
  - (m) *Multi-use path.* A multi-use path may be constructed on one side of the street in lieu of sidewalks. Multi-use path along streets shall comply with AASHTO design standards and shall have a preferred minimum width of ten feet, though a minimum width of eight feet may be approved by the subdivision agent.
  - (n) *Alleys.* Private alleys of not less than 20 feet in width may be provided in the rear of all business and industrial district lots. No dead-end alleys shall be permitted.
  - (o) *Accessways.* As defined in chapter 98 section 5.3.2, accessways shall be provided in blocks over 800 feet in length or at the end of cul-de-sacs to allow for pedestrian connectivity to existing or future schools, parks, greenways, trails, bikeways, or streets.
  - (p) *Signs.* Street name identification signs and traffic control signs shall be installed of a design and in locations as specified in the VDOT Road Design Manual.
  - (q) *Traffic devices.* Traffic signals, speed bumps or traffic calming devices shall be installed, at the subdivider's expense, as required by the city engineer or by a traffic impact analysis if warranted.
  - (r) *Street lights.* Fully shielded, downward-facing street lights in accordance with the standards of chapter 98 sections 5.5.3 shall be installed, at the developer's expense, in order to promote the general health, safety and welfare and to enhance general subdivision quality and aesthetic character. Streetlighting should be of scale and character befitting the overall development plan. Driveway lighting and other alternative lighting may be considered by the subdivision agent in lieu of streetlights.
  - (s) *Reserve strips.* Reserve strips restricting access to streets or alleys shall not be permitted.
  - (t) *Reverse curb and gutter.* Reverse curb and gutter shall not be allowed within the public right-of-way.
  - (u) For phased subdivisions, street and utility capacity and connectivity for each phase shall provide an acceptable level of service to the initial phase(s) of the subdivision. The city engineer or his designee may require a traffic impact analysis for one or more phases.

(Ord. No. 2017-039 , 8-28-17; Ord. No. 2018-44 , 6-25-18)

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### **Sec. 74-72. Improvements of existing public streets, sidewalks and right-of-way.**

- (a) The applicant for a subdivision fronting on an existing public right-of-way that contains a substandard street or sidewalk shall make the following improvements:
  - (1) If such subdivision fronts on a street with a requirement for additional front yard setbacks as prescribed by chapter 98 "Zoning" of this Code, the subdivider shall dedicate an additional right-of-way according to the standards in section 74-71(e).
  - (2) If a subdivision with three or more new lots fronts on an existing city street without a sidewalk or with a sidewalk determined by the city engineer to be substandard along its frontage, the subdivider shall improve the existing sidewalk as deemed necessary by the city engineer or construct a new sidewalk in accordance with the requirements of this Code. If a subdivision creates two or fewer new lots fronting on an existing city street without a sidewalk and would otherwise qualify as a minor subdivision, the subdivider shall not be required to improve an existing sidewalk or construct a new sidewalk unless the city engineer deems it necessary to do so.
  - (3) If a subdivision fronts on a dedicated right-of-way which is unimproved, the subdivider shall construct such streets as may be deemed necessary by the city engineer according to the standards set forth in this section. Streets shall be constructed across the entire frontage of the lot.

(Ord. No. 2017-039 , 8-28-17)

### **Sec. 74-73. Private streets**

Private streets are prohibited except pursuant to City Code Chapter 98 (Zoning) Section 5.2.1.C.

(Ord. No. 2017-039 , 8-28-17)

### **Sec. 74-74. Provisions for bus stops, bicycle trails, greenway.**

- (a) Where the proposed subdivision fronts on an arterial street which has bus routes, the planning commission may require that adequate land be dedicated to permit installation of a turnout lane or bus stop and a bench or shelter.
- (b) Where the proposed subdivision fronts on a street which is designated as a potential bicycle route in any bicycle plan or greenway plan subsequently approved by the city council, at the time of such application the applicant shall provide sufficient additional right-of-way to accommodate the development of a bike lane, bicycle trail or greenway.
- (c) Where there is a bicycle trail or greenway shown in the bicycle plan or greenway plan subsequently adopted by the city council, which crosses through a proposed subdivision, the applicant, shall show such route on the preliminary plat. The applicant and the city shall mutually determine the location of such route, and the final plat shall provide a 12-foot bicycle and/or pedestrian easement for such route. To the maximum practicable extent, such easements shall be adjusted to follow lot lines and not bisect individual lots.
- (d) The planning commission may require the reservation of rights-of-way for additional trails in new subdivisions where such trails or greenway are necessary for access to routes shown in the bicycle plan or greenway plan approved by the city.

(Ord. No. 2017-039 , 8-28-17)

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**Sec. 74-75. Monuments.**

- (a) Permanent monuments of concrete shall, with a center brass or aluminum punched plate (per city design standards), be placed at all intersections of centerline, at the points of curvature and tangency, at all corners in the exterior boundary of the subdivision, and at such other points as may be designated by the director of public works. The location and character of all such monuments shall be clearly designated on the final plat. The centerline monument boxes shall be set flush with the proposed final grade of the road. The subdivision boundary monument boxes shall be set flush with final grade. Monuments and boxes shall be constructed in accordance with the City of Waynesboro's "Standard Details and Approved Products Manual," Details R-1 and R-2. Monuments should have a clear line of sight from one to the next.
- (b) The applicant shall have a licensed surveyor certify in writing that the monuments have been accurately placed throughout the subdivision as required before the streets may be accepted for maintenance or the performance bond or other guaranty released.
- (c) All permanent monuments of concrete that are placed shall be noted on the final plat with northing and easting designation according to the State Plane Coordinate System listed below and with elevation listed according to NAVD88.

**State Plane Coordinate System**

This is the state plane coordinate system that is used by the departments within the City of Waynesboro:

NAD\_1983\_StatePlane\_Virginia\_North\_FIPS\_4501\_Feet

Projection: Lambert\_Conformal\_Conic

False Easting: 11482916.666667

False Northing: 6561666.666667

Central Meridian: -78.500000

Standard\_Parallel\_1: 38.033333

Standard\_Parallel\_2: 39.200000

Latitude\_Of\_Origin: 37.666667

Linear Unit: Foot\_US

GCS\_North\_American\_1983

Datum: D\_North\_American\_1983

**Secs. 74-76—74-80. Reserved.**

*DIVISION 4. UTILITIES*

**Sec. 74-81. Requirements for the provision of water and sanitary sewer.**

All lots shall be served by public water and sewer facilities, except as follows:

- (1) All lots shall be provided with a public sanitary sewer where such sanitary sewer is within 200 feet of the applicant property prior to subdivision.

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- (2) Lots not served by either sanitary sewer or water lines shall contain at least 30,000 square feet and the installation of a water system and/or a sewage disposal method shall be approved by the Virginia Department of Health. In the event of unusual soil conditions or other physical factors which may impair the health and safety of the neighborhood, the Virginia Department of Health may require a larger lot. Additionally, lots served by individual private septic systems shall be of sufficient area to accommodate an alternate drainfield as required by subsection (3).
  - (3) Where private individual septic systems approved by the health department are utilized, each system shall have another septic drainfield area reserved for use in the event of failure of the initial drainfield. The reserve drainfield area shall be sufficient to accommodate 100 percent of the capacity of the original drainfield. The location of drainfields and reserve areas and easements required for their construction, use and maintenance shall be shown on the plat.
  - (4) The planning commission may increase the lot area required in subsection (2) of this section where it determines that unusual soil conditions or other physical factors may impair the health and safety of the occupant, property owner or neighborhood.
  - (5) If a sanitary sewerage system is not available, the applicant shall submit to the director of public works satisfactory proof that such lots meet the requirements of the health department, as determined by tests or inspections of soil conditions conducted by an officer of the health department.

(Ord. No. 2017-039 , 8-28-17)

#### **Sec. 74-82. Construction of water, sewers and gas relative to road construction.**

- (a) Where required by the director of public works and prior to the installation of roadway base materials, the subdivider shall install water and sanitary sewer mains with laterals to the property line of each platted lot. Gas mains with laterals to the property line of each platted lot shall also be installed prior to the installation of the roadway base materials. Installation of the foregoing shall be in strict accordance with the city's standards and specifications and the plans approved by the planning commission.
- (b) Installation of public improvements shall be inspected by the director of public works or his designee in accordance with applicable specifications of the city.

(Ord. No. 2017-039 , 8-28-17)

#### **Sec. 74-83. Sanitary sewers.**

- (a) An applicant for a subdivision proposing to utilize a public sanitary sewer system shall submit plans, profiles and specifications for sewer mains to the director of public works for review. The director shall review such plans and specifications for their conformity with generally accepted engineering practice and city construction standards. Upon approval of the construction plans, the applicant may then contract with a private contractor for installation of such mains according to the approved plans and specifications, with the cost apportioned as provided in subsection 74-52; provided, that the city shall have the right to inspect and supervise such installations at all times during construction. The applicant shall ensure that the contractor, at no cost to the city, shall provide all materials, equipment and labor to vacuum test all manholes and pressure test all mainline segments, under the supervision of a city engineering office representative. All water mains and appurtenances installed for the development and to be accepted by the city must pass the aforementioned tests.
- (b) Sanitary sewer mains shall be located within street or alley rights-of-way unless topography dictates otherwise. When such mains are located on private property, permanent access shall be provided to all manholes and sewer mains through the dedication of easements.

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(Ord. No. 2017-039 , 8-28-17)

**Sec. 74-84. Water supply.**

- (a) Where public water supply is not available, the applicant shall provide a suitable source of potable water to every lot within the subdivision. The health department shall approve such water supply system and water quality.
- (b) Applicants for subdivision proposing to utilize public water supply shall submit plans, profiles and specifications for water mains to the director of public works for review. The director shall review such plans and specifications for their conformity with generally accepted engineering practice and city construction standards. Upon approval of the construction plans the applicant may then contract with a private contractor for installation of such mains according to the approved plans and specifications, with the cost apportioned as provided in section 74-52; provided, that the city shall have the right to inspect and supervise such installations at all times during construction. The applicant shall ensure that the contractor, at no cost to the city, shall provide all materials, equipment and labor to conduct and pass a pressure test, chlorine test and a bacterial analysis on all mainline segments, under the supervision of a city engineering office representative. All mainlines installed for the development and to be accepted by the city must pass the aforementioned tests.
- (c) Water mains shall be located within street or alley rights-of-way unless topography dictates otherwise. When such mains are located on private property, permanent access shall be provided to all water mains and appurtenances through the dedication of easements.

(Ord. No. 2017-039 , 8-28-17)

**Sec. 74-85. Drainage.**

- (a) The right is reserved to disapprove any subdivision which is subject to periodic flooding or which is inadequately drained.
- (b) The stormwater drainage system in any subdivision shall be separate and independent of any sanitary sewer system. All necessary drainage facilities, including underground pipe, inlets, catch basins or open ditches to provide for the adequate disposal of surface water and to maintain any natural drainage course, shall be installed according to plans approved by the director of public works or his designee. All pipe installed in connection with the construction of streets and sidewalks shall be reinforced concrete pipe or such other type as required by the director of public works and shall meet the standards of the Virginia Department of Transportation.
- (c) All drainage facilities installed in the subdivision shall be sized to accommodate run-off from all developed land and potential run-off from undeveloped land upstream within the same watershed based upon present zoning, whether inside or outside the subdivision. The applicant shall consult the director of public works or his designee concerning this requirement.
- (d) The director of public works or his designee shall examine the impact of the proposed subdivision on adjacent properties and areas downstream and shall determine whether any on-site retention is required to protect the public health, safety and welfare, in accordance [with] the requirements set forth in Chapter 30 of this Code. On-site or off-site retention will not be required for subdivisions with a total area of less than 10,000 square feet.
- (e) The subdivider or developer shall grade the land shown on the plat or plan in accordance with the approved grading plan and construct such improvements as required by the director of public works in order to

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(Supp. No. 65, Update 3)

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eliminate the collection of surface water in any low spot and to take care of the drainage of any water course or other area where water accumulates as a result of the grading of any street, lot, or other improvement.

(Ord. No. 2017-039 , 8-28-17)

### **Sec. 74-86. Natural gas.**

Installation of gas mains shall be governed by the rules and procedures established by the private natural gas company and the Commonwealth of Virginia. The developer shall notify the private natural gas company of the layout and location of the proposed subdivision, and have the natural gas company determine whether natural gas can be supplied to the proposed subdivision. In subdivisions where gas is being used, easements for mains shall be shown on the preliminary and final plats. All private utilities installed within the public right-of-way shall be shown on as-built plans as required by section 74-113.

(Ord. No. 2017-039 , 8-28-17)

### **Sec. 74-87. Other utilities.**

- (a) All other public utility facilities, including but not limited to electric power, telephone, and CATV cables, shall be located underground throughout all new subdivisions, excluding subdivisions on existing dedicated, accepted, and constructed street rights-of-way.
- (b) It shall be the responsibility of the applicant to arrange with appropriate electric power, telephone, and CATV companies for the installation of such facilities. Where such facilities are to be located in existing or newly dedicated street rights-of-way, the applicant shall submit plans and specifications to the director of public works. Additionally, where service lines are located in street rights-of-way, the developer, contractor, or utility company installing the facilities shall install an individual service lateral to the street property line of each lot in the subdivision to minimize later disruption of pavement. The director of public works may waive this requirement where two or more lots are to be developed for a single use or for other good cause demonstrated. Where utilities are not to be located in street rights-of-way, they shall be placed within the general utility easements along lot lines, described in section 74-88, or in other duly recorded easements. The applicant shall provide the director of public works with a set of as-built plans showing these utilities before release of his bond furnished under section 74-113.
- (c) Private utilities, installed within the public right-of-way, shall be shown on as-built plans as required by section 74-113.

(Ord. No. 2017-039 , 8-28-17)

### **Sec. 74-88. Utility easements.**

- (a) All utility easements shall have a width that is a minimum of 20 feet or equal to twice the depth of the utility, whichever is greater, and centered over the utility. All access easements shall be a minimum of 20 feet in width, though a wider access easement may be required at the discretion of the director of public works. Drainage easements shall be a minimum of 20 feet wide, or as wide as determined in the review of the storm water management plan, by the city engineering office.
- (b) All easements for private utilities shall be granted only after all right-of-way and easements for the city have been recorded in the circuit court for the city.
- (c) All easements shall be specified by naming the utility that the easement is provided for.

(Ord. No. 2017-039 , 8-28-17)

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**Secs. 74-89—74-100. Reserved**

***DIVISION 5. ENVIRONMENTAL PROTECTION STANDARDS***

**Sec. 74-101. Soil erosion and sediment control.**

- (a) The applicant shall submit a soil erosion and sediment control plan to be approved in accordance with the provisions of chapter 30 "Environment" of this Code. Soil erosion and sediment control plans shall include measures to control soil erosion both during and after construction.
- (b) In order to stabilize grade areas, grass shall be re-seeded on cleared areas in accordance with chapter 30 of this code. Sod may be used to comply with this requirement.
- (c) Except as otherwise provided herein, no cut trees, timber, debris, junk, rubbish, or other waste materials of any kind shall be left deposited on any lot or street at the time of issuance of a certificate of occupancy. Removal of debris and waste shall be considered a prerequisite for the issuance of a certificate of occupancy. No debris shall be left or deposited in any area of the subdivision at the time of expiration of any subdivision improvement agreement or dedication of public improvements, whichever is sooner.

(Ord. No. 2017-039 , 8-28-17)

**Sec. 74-102. Easements along streams.**

Whenever any stream or important surface drainage course is located in the area being subdivided, provision shall be made for an adequate easement along each side of the stream or drainage course for the purpose of widening, deepening, relocating, improving, or protecting the stream for drainage purposes, stream bank stability, and resource protection. Such easements shall not be considered part of a required street width.

(Ord. No. 2017-039 , 8-28-17)

**Secs. 74-103—74-110. Reserved**

***ARTICLE V. PROCEDURES AND STANDARDS FOR THE COMPLETION OF PUBLIC IMPROVEMENTS AND SURETY***

**Sec. 74-111. Completion of public improvements required.**

Upon approval of public improvement plans in accordance with section 74-39, and once the erosion and sediment, stormwater management, and all other applicable local, state, and federal permits have been obtained, a subdivider shall ensure either:

- (1) *Completion of the public improvements prior to final plat.* All required public improvements as specified in the approved public improvement plans and in the final plat as approved, including but not limited to streets, sidewalks, utility lines, storm drainage installations, traffic and street signals, street lights or signs, street trees, and bicycle trails shall be accepted by the city as specified in section 74-111; or
- (2) *Provision of a subdivision performance guarantee.* As an alternative to completing improvements prior to the final plat, a subdivider may provide a surety that the public improvements will be completed

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with a subdivision performance guarantee. This performance guarantee must be accepted by the city before the subdivision agent can sign and date the final plat. The following process shall govern the subdivision performance guarantee acceptance:

- a. One of the following shall constitute an appropriate subdivision performance guarantee:
  1. A bond with corporate or personal surety;
  2. A certified check, an irrevocable letter of credit;
  3. Assignment of loan proceeds;
  4. A cash escrow agreement if, in the judgment of the director of public works, such arrangements will provide a substantially similar guaranty of performance of the applicant's obligations; or,
  5. Other performance guarantee required as may be approved by the city manager.
- b. The value of the subdivision performance guarantee shall be based on the estimated cost of the improvements represented in the approved plans, which shall be determined either from bids from three different contractors, or a stamped estimate from a professional engineer. The highest bid or estimate plus 25 percent of the bid or estimate shall be the required amount for the subdivision performance guarantee.
- c. The director of public works shall determine that the subdivision performance guarantee satisfactorily covers the estimated cost of the public improvements and the city attorney shall determine that the subdivision performance guarantee is legally sufficient. Upon these findings, the subdivision agent shall be notified that the plat may be signed and released to the subdivider for recordation in accordance with article II of this chapter.
- d. The city shall provide periodic partial release, and final complete release of any bond, escrow, letter of credit, or other performance guarantee required by the city under this article, within 30 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 director of public works notifies the subdivider in writing, prior to the expiration of the thirty-day period, of any grounds preventing the city's approval or acceptance of the facilities and of any specified defects or deficiencies in construction and suggested corrective measures.

Request for partial or final release(s) of performance guarantee shall be processed by the city in accordance with the requirements of Virginia Code §15.2-2245 and section 74-114.

If the agent fails to take written action within the thirty-day period on a request for partial release, the request shall be deemed approved and a partial release shall be granted. No final release shall be granted until after expiration of the thirty-day period and an additional request in writing is sent by certified mail return receipt to the city manager. The agent shall act within ten working days of receipt by the city manager of any such request; if the agent fails to act, then the request shall be deemed approved and final release shall be granted to the subdivider.

(Ord. No. 2017-039 , 8-28-17)

### **Sec. 74-112. Construction.**

During the construction of the subdivision and associated public improvements, the following regulations shall apply:

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- (1) Prior to commencing construction of any physical improvement of facilities, the subdivider or developer will obtain, or cause any and all subcontractors to obtain, proper construction permits for the performance of all work.
  - (2) Where the work is carried out in or adjacent to any street or public place, the subdivider or developer shall at its own expense furnish and erect such barricades, fences, lights, and danger signals; shall provide such watchmen; and shall take any other precautionary measures for the protection of persons or property in accordance with state and federal temporary traffic control requirements, as approved by the director of public works. The subdivider or developer will be responsible for all damage to the work, persons, or property due to failure of such barricades, signs, lights, and watchmen needed to render effective protection. The subdivider or developer's responsibility for the maintenance of barricades, signs, and lights, and for providing watchmen, shall not cease until the director of public works has accepted the improvements in writing.
  - (3) The subdivider or developer agrees that all materials, installation, construction practices, and completed improvements shall be:
    - a. Free from structural defects, so as to pass without objection in the trade;
    - b. Constructed in a workmanlike manner, so as to pass without objection in the trade; and
    - c. In compliance with all city and VDOT construction standards and specifications. The more restrictive standards and specifications shall apply.

The term "structural defects" shall mean a defect or defects which reduce the stability or safety of the structure below accepted standards or which restrict the normal use thereof. Approval of the subdivision or development plans by the city does not absolve the subdivider or developer from any liability for damages or injuries to adjacent property owners and others because of errors made.

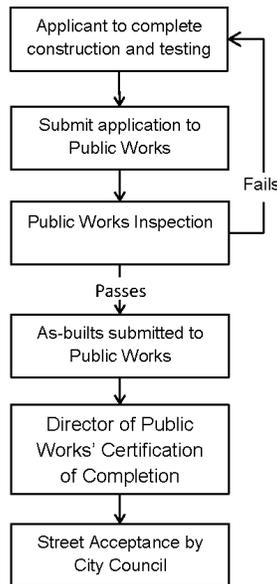
- (4) The subdivider or developer shall indemnify and hold harmless the city, adjacent property owners, and others from any and all damages of any nature whatsoever arising out of the performance of work required of the subdivider or developer under this chapter.
- (5) Within a period of seven working days after the receipt of notice from the director of public works (or as soon thereafter as the director agrees is reasonable or practical), without expense to the city, the subdivider or developer shall proceed to remove and replace all unsatisfactory work and/or materials with suitable materials and equipment, shall make such repairs, and shall perform such maintenance work as directed.
- (6) Failure by the subdivider or developer to proceed with or complete in a reasonable time any requirement of this chapter shall be sufficient reason for the city to have the defects or deficiencies corrected or the unfinished work completed. The subdivider or developer and its surety shall be liable for all expenses incurred by the corrections.
- (7) If, in the opinion of the city manager or director of public works or their designees, an emergency arises that jeopardizes the continuity of any public service and/or threatens the public health, welfare, or safety of the public, and the subdivider or developer is unable to remedy the situation with satisfactory immediacy, the city reserves the right to take whatever steps may be necessary to have the situation immediately remedied. The subdivider or developer and his surety shall be liable for all expenses incurred in making emergency repairs. Any provisions of this chapter for written notice of time periods will be dispensed with when such an emergency is determined by the city to exist, and any notice to subdivider or developer otherwise required shall be waived.
- (8) If at any time the director of public works determines that it is necessary to remedy dust conditions on the construction site, the director of public works or his designee shall notify the subdivider or

developer. If the situation is not corrected within 24 hours, the city shall perform such corrections as may be necessary and bill the subdivider or developer for time and materials incurred, which must be paid to the city before any final approval is given.

- (9) The subdivider or developer shall construct, when required to do so by the director of public works and within 30 days after written notice to subdivider or developer, temporary drainage swales, ditches, and waterways as per specifications, drawings, or instructions from the director of public works, to eliminate the ponding of water or the accumulation of water and mud in the area.

(Ord. No. 2017-039 , 8-28-17)

### Sec. 74-113. Acceptance of public improvements.



The following actions shall be completed before the acceptance of any public improvements or, as necessary, release of the subdivision performance guarantee, partially or in total:

- (1) The subdivider shall complete a final inspection application with the department of public works and provide all fees and information as required by this application.
- (2) The department of public works, and other city departments as required, shall inspect the public improvements. If the inspection determines deficiencies in a system that prevent acceptance, the subdivider shall be provided with a written list of these deficiencies.
- (3) The subdivider shall correct the list of deficiencies and schedule an additional final inspection.
- (4) Once the public utility is properly constructed, the department of public works shall notify the subdivider that the project is ready for acceptance.
- (5) Upon notice that the project is ready for acceptance, the subdivider shall provide a single hard copy and a digital copy of as-built plans that have been completed to the following standards:
  - a. Public improvements and private improvements within the right-of-way shall be provided to the director of public works within 60 days of final acceptance in the form of one paper set of as-builts and one digital copy of as-builts in the most recent version of AutoCAD.
  - b. Private utilities shall be shown in conformance with section 74-86 and 87.

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- (6) The director of public works shall certify to the city manager that the public improvements have been inspected and satisfactorily completed, the as-built plans have been satisfactorily completed, and the public improvements are free of liens and encumbrances. The director of public works shall advise the subdivider of the acceptance by the city of all public facilities except for streets, which shall be accepted into the city system by action of the city council.
  - (7) Upon certification of public street completion from the director of public works, the city manager shall draft a resolution of street acceptance for consideration and action by the city council.

(Ord. No. 2017-039 , 8-28-17)

**Sec. 74-114. Release of subdivision performance guarantee.**

- (a) All required subdivision improvements shall run with the land and bind all successors, heirs, and assignees of the subdivider, developer, or owner until the improvements have been accepted in accordance with section 74-111 and released under the provisions of this section.
- (b) The subdivider or developer shall guarantee all work, materials, and installations of public improvements against defects resulting from the use of inferior materials, equipment, or workmanship for a period of one year from the date of the director of public works' certification of completion as specified in section 74-111(f).
- (c) The subdivider or developer shall, during the life of this guarantee, make all repairs to or changes to the guaranteed work, materials, and installation which, in the sole discretion of the director of public works, are necessary or are the result of the use of material, equipment, or workmanship which are inferior or defective or which are not in accordance with the original or substituted plans and specifications.
- (d) On or before the actual date that the city accepts the required public improvements and releases the contract and performance bond, certified check, or other form of security previously approved by the city for the required public improvements, the subdivider or developer shall post a subsequent bond, certified check, or other form of security as approved by the city in the amount of five percent of the cost of the actual public improvements, including all work, materials, and installations, to ensure the faithful performance of the one-year guarantee specified in section 74-114(b).
- (e) Any or all special guarantees by the subdivider or developer applicable to definite parts of work, equipment, grading, or other actions performed or items supplied by the subdivider or developer shall also continue during the first year of life of such work, equipment, grading, or items supplied.
- (f) After the individual public water and sewer systems are certified by the director of public works to be functional and capable of standalone operations, the performance guarantee shall be released, except for five percent of the guarantee which will be held for a one year warranty period to ensure that the systems continue to function as intended.
- (g) Landscaping guarantees shall not be partially released but shall be held for a warranty period of one year from the director of public works' certification as established in section 74-113(f). The landscaping guarantee shall be released after this warranty period expires and after the city horticulturist certifies that the landscaping is healthy and viable.
- (h) The release of erosion and sediment and stormwater guarantees shall be in accordance with Chapter 30.
- (i) The subdivider is responsible for requesting the release of the remaining performance guarantee after the warranty period expires.

The director of public works may approve partial releases based upon completion of the water system, sanitary sewer system, street system, or stormwater management system where they find that such release will

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not reduce the remaining bond to an insufficient level. Completion of a major system shall be defined such that each is a standalone and complete system.

(Ord. No. 2017-039 , 8-28-17)

**Sec. 74-115. Issuance of certificates of occupancy.**

No certificate of occupancy for any building in the subdivision shall be issued until:

- (1) The public streets are completed and accepted or, where the public streets remain incomplete but are covered by a performance guarantee, the director of public works, the building official, the chiefs of police and fire, and the director of emergency service, at their sole discretion, jointly determine that adequate access for the building occupants, emergency response equipment, and the general public can reasonably and safely be provided for until the completion of the corresponding public improvements;
- (2) All road signs are installed;
- (3) Public water and sewer facilities have been provided to the occupants and are fully operational in accordance with approved public improvement plans or, where applicable, the subdivider has provided evidence of the Virginia Department of Health's final approval of any private sewer or water system;
- (4) The subdivider or developer agrees to convey in fee simple or dedicate to the city, without cost, all such physical improvements or facilities as indicated on the approved final plat;
- (5) The subdivider or developer provides evidence that the final plat has been recorded in accordance with section 74-23; and
- (6) Chapter 30 requirements have been met and deemed acceptable by the city engineer or his designee or are covered by a performance guarantee.

(Ord. No. 2017-039 , 8-28-17)