

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on April 20, 2005, at 6:00 p.m., Room 241, County Office Building, McIntire Road, Charlottesville, Virginia.

PRESENT: Mr. David P. Bowerman (arrived at 6:05 p.m.), Mr. Kenneth C. Boyd, Mr. Lindsay G. Dorrier, Jr., Mr. Dennis S. Rooker, Ms. Sally H. Thomas and Mr. David C. Wyant.

ABSENT: None.

OFFICERS PRESENT: County Executive, Robert W. Tucker, Jr., County Attorney, Larry W. Davis, Assistant County Attorney, Greg Kamptner, Director of Community Development, Mark Graham, County Planner, V. Wayne Cilimberg, and Senior Deputy Clerk, Debi Moyers.

Agenda Item No. 1. The meeting was called to order at 6:00 p.m., by the Chairman, Mr. Dorrier.

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Agenda Item No. 2. Pledge of Allegiance.  
Agenda Item No. 3. Moment of Silence.

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Agenda Item No. 4. Other Matters Not Listed on the Agenda from the Public.

There were none.

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Agenda Item No. 5. Consent Agenda. **Motion** was offered by Mr. Wyant, **seconded** by Mr. Boyd, to approve Items 6.1 and 6.2, and to accept the remaining items for information. (Discussion on individual items are included with that agenda item.) Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Rooker, Ms. Thomas, Mr. Wyant, Mr. Boyd and Mr. Dorrier.

NAYS: None

ABSTAINED: Mr. Bowerman.

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Item 5.1. Approval of Minutes: June 9N, 2004 and January 12N, 2005.

Mr. Bowerman read his minutes of June 9, 2004, pages 15(Item 8) – end, and found them to be in order.

Mr. Dorrier read his minutes of January 12(N), 2005, and found them to be in order.

The remaining minutes that were not read were pulled and carried forward to the next regular Board meeting.

**By the above recorded vote, the minutes were approved as read.**

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Item 5.2. Revisions to Personnel Policies P-80 "Absences" and P-85 "Sick Leave/Acceptable Attendance".

The executive summary states that Human Resources Department, assisted by the County Attorney's Office, has been reviewing the County's Personnel Policy Manual in order to update existing policies in a number of areas. There are no major substantive changes in these policies; they are simply clarifications of existing policies and practices. At this point, staff is proposing revisions to the following specific policies: Absences (P-80) and Sick Leave (P-85).

Highlights of changes to the policies are as follows.

Absences (P-80):

1. Includes notification that bereavement leave is covered under sick leave
2. Court time is more clearly defined to exclude when employees are involved in private legal actions
3. The language on acceptable attendance was moved from the Sick Leave policy to be included in the Absences policy.

Sick Leave (P-85):

1. Bereavement Leave is more clearly defined as allowing 5 days of sick leave to be used for the death of an immediate family member
2. Sick Bank requirements are more clearly defined to ensure that employees understand when it starts, ends and how they become eligible again after utilizing all 45 days of the sick bank
3. The language on acceptable attendance was moved to the Absences policy so that acceptable attendance is not solely dependent on absences due to illness.

Staff recommends adoption of the attached Resolution, which will approve the proposed changes to personnel policies P-80 and P-85.

**By the above recorded vote, the Board adopted the following resolution as requested by staff:**

## RESOLUTION

**WHEREAS**, the County of Albemarle Personnel Policy Manual has been adopted by the Board of Supervisors; and

**WHEREAS**, the proposed Personnel Policy Manual changes clarify 1) leave provisions and requirements for bereavement of immediate and non-immediate family members; 2) pay and leave provisions and requirements for employees who serve on jury duty, who are subpoenaed to court in their capacity as County employees, and who must be absent from work due to private legal actions; 3) terms of Workers' Compensation payments; 4) provision of lunch time to full-time employees; 5) department heads' responsibilities in maintaining acceptable attendance in his department; and 6) provisions and requirements for use of the Sick Leave Bank.

**WHEREAS**, the Board of Supervisors desires to adopt these Personnel Policy revisions;

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board of Supervisors of Albemarle County, Virginia, hereby amends the following sections of the County of Albemarle Personnel Policy Manual:

**By Amending:**

Section P-80 Absences  
Section P-85 Sick Leave/Acceptable Attendance

**Section P-80 ABSENCES**

The Board strives to keep attendance of employees at a maximum and absences at a minimum. The Board recognizes, however, that absences are unavoidable and allows certain absences and absence payments. The Board will establish policies that are meant to maintain the highest possible efficiency.

Allowance will be made to permit bona fide absences, and prevent employees who have been ill from becoming a hazard to other employees by returning to work too soon.

A. It will remain the right of the department head/designee and the County Executive or designee to:

1. Authorize, or refuse to authorize in exceptional cases, the advance request of an employee for permission to be absent.
2. Investigate absences.
3. Deny leave payment for absences in violation of any Board policy.
4. Impose reasonable disciplinary penalties upon employees who have abused their leave privileges and who violate the provisions of the "Responsibilities of Employees" section of this policy.

B. Responsibilities of Employees

Every employee of the County has the following obligations and responsibilities concerning absence:

1. Request for Leave – When the need for being absent from work is known in advance, the employee must notify his immediate supervisor as far in advance as possible on the Leave Form provided by the Department of Human Resources.
2. Notice of Unexpected Absence – When an employee who has not given advance notice finds that he cannot report to work, the employee must notify his supervisor prior to starting time or within thirty (30) minutes of the regular starting time unless the department has established other guidelines for notification. Employees should be aware of the notification requirements of their departments. Upon returning to work, the employee must complete a Leave Form as a record of absence.
3. Failure to Give Notice – Failure to give the notice required shall constitute cause for a reasonable disciplinary penalty including cause for denial of absence pay allowance. Unless an absence has been authorized in advance or an absence is unavoidable, every employee shall be expected to be present and on time for his scheduled work.

C. Employees Returning to Work After Illness

Before an employee returns to work after an absence due to illness, the employee may be requested to submit a medical release certifying the illness and that he is well enough to return to work. This medical release shall be from the employee's physician or, if required by the department head, a physician designated by the Human Resources Department. In all instances, the employee will be advised of the requirement prior to the employee being authorized to return to work.

- D. Absences for urgent personal business, bereavement, or illness will be granted at the discretion of the immediate supervisor and in compliance with Board policy. Sick Leave may be used for bereavement leave for immediate family members. (See also Sick Leave, P-85) Bereavement leave for non-immediate family members shall be covered by compensatory time, Annual Leave or Unpaid Leave. (See also Annual Leave, P-84 and Unpaid Leave, P-82)
- E. The Board recognizes the duty of every citizen to serve on a jury when requested and will allow payment from the court for serving on jury duty. Employees serving jury duty will receive full salary as well as retain compensation received from the court. Employees are expected to give notice of jury duty and to report to work when jury is not in session. Employees who are subpoenaed to appear as witnesses in legal proceedings in their capacity as County employees will be entitled to treat time spent in such proceedings as compensable working time. However, employees who initiate or are otherwise involved in private legal actions of any kind (excluding employee grievance proceedings), whether such actions involve the County or not, will not be permitted to treat time spent during working hours in connection with such actions as compensable working time. Such employees will be required to use accrued compensatory time, Annual Leave or Unpaid Leave for all hours spent in connection with such actions that occur during working hours.
- F. Workers' Compensation will be paid in accordance with law, i.e., at two-thirds (2/3) salary after the first seven (7) calendar days from the date of injury. These first seven (7) days may be covered by the employee's own Sick Leave. In the event that an employee has no leave to cover the first seven (7) calendar days, Sick Leave can be advanced and paid back to the County as it is accrued. If incapacity continues for a period of more than three (3) weeks (twenty-one (21) calendar days), then Workers' Compensation shall be allowed retroactive to the first day of such incapacity. The Board will, however, pay the additional one-third (1/3) of a day's salary with no charge to the employee's Sick Leave for up to one (1) year from the date of incident assuming the claim is compensable under Workers' Compensation. If the claim is deemed not compensable, the employee will reimburse the Board of the salary for one-third (1/3) of the day (i.e., through Annual, Sick or Sick Bank Leave or leave without pay).
- G. Military leave of absence will be granted by the Board in accordance with existing state and federal statutes. (See also Military Leave, P-83)
- H. Breaks: There is no formal break time provided by Albemarle County. However, reasonable time shall be provided for personal care and refreshments during the workday.
- I. Lunch Time: A lunch period of at least thirty (30) minutes shall be provided to each full-time employee and, unless prior supervisory approval is received, employees may not forego the lunch period in order to shorten the workday. (See also Overtime/Compensatory Time, P-61/62)
- J. Acceptable Attendance:
- Acceptable attendance is a minimum expectation of all County employees. Department Heads are responsible for monitoring attendance within their departments. Except as noted, when an employee's absenteeism exceeds four percent (4%) of available work time for Sick Leave, Unpaid Leave, and/or unplanned use of compensatory time or Annual Leave, his department head is responsible for investigating the absenteeism and taking appropriate action as necessary. Leave taken under FMLA and/or Workers' Compensation shall not be considered when determining acceptable attendance. However, nothing shall prohibit the County from determining an employee's eligibility to return to employment once FMLA has been exhausted.

Amended: August 4, 1993, April 20, 2005

#### **Section P-85 SICK LEAVE**

Albemarle County recognizes that its employees may need time away from work due to personal illness, and/or illness or death in their immediate families. The immediate family is defined as the employee's spouse or the employee's or spouse's children, parents, siblings, and grandparents. The County provides a program of paid leave to cover such circumstances. It is necessary, however, for employees to realize that absenteeism problems hinder the efficient operation of a County department and its delivery of services to the public.

Disciplinary actions regarding absenteeism will be determined by examining patterns and/or frequency of occurrence. Unacceptable attendance will be handled through the normal performance evaluation and disciplinary procedures of the County.

The purpose of Sick Leave is to provide for paid time in the event of absences due to personal illness and/or illness or death in the family. All employees shall earn Sick Leave days at the rate of one (1) day per month of employment (regular, full-time) or a major fraction thereof (regular, part-time) with no maximum on accumulation.

Bereavement Leave: Employees may be permitted to use up to five (5) days of accrued Sick Leave in the event of the death of a member of the employee's immediate family. Any additional time

required by the employee in such event shall be covered by Annual Leave, compensatory time or Unpaid Leave, as may be applicable. In the event of the death of a non-immediate family member, employees will be required to use Annual Leave, compensatory time or Unpaid Leave, as may be applicable.

#### Sick Leave Bank

The County will maintain a Sick Leave Bank to be used when a member of the Bank becomes incapacitated by long-term illness (defined as more than twenty (20) days) or injury as long as one-third (1/3) of the eligible members agree to participate in accordance with the terms contained herein.

Membership in the Sick Leave Bank shall be voluntary and open to all eligible employees who accrue Sick Leave.

Each employee of the Board who accumulates Sick Leave is eligible for membership and may become a member by donating one day of Sick Leave upon joining and an additional day thereafter whenever an assessment is required.

Requests for leave time from the Bank must be made in writing by the employee (or his representative if the employee is unable to submit the request) in advance of the absence for which the extra days are to be granted. Requests cannot be made retroactively except in the case of absences that were presumed to be covered by Workers' Compensation, but were subsequently denied.

Requests must be supported by a medical doctor's certificate acceptable to the County. The County reserves the right to require additional medical documentation to support the request.

Failure to meet applicable requirements set forth in this policy will result in the rejection of the employee's Sick Leave Bank application.

Employees should also be aware of Policy P-90, Family and Medical Leave, and how it relates to use of Sick Leave and Sick Leave Bank Leave.

The Director of Human Resources is designated as the administrator of the Sick Leave Bank.

#### A. Enrollment Procedures

An eligible employee may enroll within the first thirty (30) days of employment. An employee who does not enroll when first eligible may do so during any subsequent Benefits Open Enrollment period by making application and providing satisfactory evidence of good health to the Board. Membership in the Bank may be earned by contributing one (1) day of Sick Leave upon joining and an additional day thereafter whenever an assessment is required. The donated days of leave will be deducted from the donor's accumulated days of Sick Leave.

#### B. Rules for Use

1. The first twenty (20) consecutive working days of an illness or disability will not be covered by the Bank, but must be covered by the member's own accumulated paid leave or leave without pay. This requirement may be met in cases in which twenty (20) days of absence for the same illness/injury, although not consecutive, occur within thirty (30) working days.
2. Requests for use of the Sick Leave Bank must be submitted in writing by the employee (or representative if the employee is unable to submit the request) prior to the twentieth (20th) day of absence except in the case of Workers' Compensation claims that were denied.
3. Eligible employees may take a maximum of forty-five (45) working days from the Sick Leave Bank in any rolling year (defined as a three hundred sixty-five (365) day period beginning with the first day of Sick Leave Bank usage). For example, if an eligible employee begins Sick Leave Bank usage on March 1st, he would be entitled to take up to forty-five (45) working days from the Sick Leave Bank in the three hundred sixty-five (365) day period beginning on that date.
4. Days drawn from the Bank for any one period of eligibility must be consecutive, except additional periods of disability resulting from recurrence or relapse of the original illness which will be covered fully on a continuing basis up to the annual maximum of forty-five (45) days. Once a member has used all forty-five (45) days of Sick Leave Bank, he must return to work and must meet the requirements of Section B.1 before becoming eligible to utilize Sick Leave Bank benefits again.
5. A member of the Bank will not be able to use Sick Leave Bank benefits until the employee's Sick Leave balance declines to zero. Sick Leave and/or Sick Leave Bank Leave will run concurrently with FMLA where applicable.
6. Members of the Bank will be assessed additional days of Sick Leave at such time as the Bank is depleted to two hundred (200) days, unless they choose not to participate

further in the Bank. Members who have no Sick Leave to contribute at the time of assessment will be assessed one (1) day and allowed to temporarily maintain a negative balance.

7. Members utilizing Sick Leave days from the Bank will not have to replace these days except as a regular contributing member of the Bank.
8. The Sick Leave Bank request form must be signed by a medical doctor (M.D.) acceptable to the County. The County reserves the right to require additional medical documentation supporting the request.

C. Termination

Upon termination of employment or membership in the Sick Leave Bank, a participating employee may not withdraw the days he has contributed to the Bank.

Extraordinary Sick Leave

In certain circumstances such as a long period of illness or recuperation, an employee may not have a sufficient Sick Leave or Sick Leave Bank balance to cover the period of absence. In such circumstances, employees may be eligible for an unpaid leave of absence, as outlined in Policy P-82, Unpaid Leave.

Amended: August 4, 1993; August 23, 1993; August 7, 1996, April 20, 2005

Item 5.3. Powell Creek Drive Sidewalk - Authorize County Executive to sign deed dedicating right-of-way.

The executive summary states that the County has been actively pursuing the completion of public improvements along Powell Creek Drive between the Hollymead and Forest Lakes communities. These improvements consisted of a roundabout at the Powell Creek Drive/Shadybrook Trail intersection and the construction of a sidewalk across the front of two large parcels on the east side of Powell Creek Drive. The roundabout and a portion of the sidewalk have been constructed. The remaining portion of the sidewalk will provide a pedestrian link between the Hollymead school complex and the Forest Lakes community. Completion of this part of the sidewalk requires additional right of way, which the property owner has agreed to provide.

The plat and quitclaim deed and agreement dedicating the last portion of right-of-way, which is needed to complete the sidewalk, have been signed by the owner and all the preparations for recordation have been completed. The final step is to have the County Executive sign the quitclaim deed and agreement. This signature requires authorization from the Board of Supervisors.

Staff recommends that the Board accept the proposed dedication and authorize the County Executive to sign the quitclaim deed and agreement on behalf of the County.

**By the above recorded vote, the Board accepted the proposed dedication and authorized the County Executive to sign the quitclaim deed and agreement on behalf of the County.**

This deed was prepared by the Albemarle County Attorney  
Tax Map 46, Parcel 26B2  
This deed is exempt from taxation under Virginia Code §§ 58.1-811(A)(3).

**QUITCLAIM DEED AND AGREEMENT**

THIS QUITCLAIM DEED AND AGREEMENT (this "Deed"), made this 19th day of April, 2004, by and between **NHP HOLLYMEAD L.P.** ("Grantor"), a Delaware limited partnership, and **THE COUNTY OF ALBEMARLE, VIRGINIA** ("Grantee"), a political subdivision of the Commonwealth of Virginia.

W I T N E S S E T H:

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby quitclaim, release, and convey, unto the Grantee any and all right, title and interest Grantor may possess in and to that certain parcel of land situate, lying and being in the County of Albemarle, Commonwealth of Virginia, and more particularly described on Exhibit A attached hereto as (the "Property") solely for purposes of construction and maintenance of a sidewalk for passage of pedestrians.

SUBJECT TO all easements, rights-of-way, declarations, covenants, conditions and restrictions of record, to the extent the same by their terms affect title to the Property.

Grantor, by executing this Deed makes no representation or warranty of any kind with respect to ownership of the Property or accuracy of the plat attached hereto. Grantee hereby accepts the Property in its "AS-IS" condition WITH ALL FAULTS AND AT GRANTEE'S OWN RISK and Grantor hereby expressly disclaims any and all express and implied warranties, including, without limitation, any warranty of merchantability, title, quality or fitness for a particular purpose.

At all times, including, but not limited to, during any periods of construction, Grantee shall maintain and shall not inhibit any driveway, point of entry or access, ingress or egress to and from any property of Grantor and shall not inhibit visibility of any sign identifying the property of Grantor adjacent to the Property ("Grantor's Property"). Grantee shall maintain regular contact with the site manager of the Grantor's property regarding any construction concerns or scheduling. The Grantee shall maintain at its expense all public improvements on the Property in its sole discretion and subject to appropriation of funds for such maintenance by Grantee's Board of Supervisors. Upon completion of construction, Grantee shall restore any portion of the Grantor's Property (without implying any right to use any portion of the Grantor's Property), including, but not limited to, any driveways, curb cuts, signs and access points to their original grade, condition and utility and shall restore and replace any landscaping, trees and improvements on the Grantor's Property that are damaged or destroyed in connection with the construction, operation and maintenance of the sidewalk. The Grantor shall have no obligation to maintain the public improvements under any circumstances.

Grantee shall pay any of Grantor's costs and expenses in obtaining the consent of any lender or holder of a deed of trust or mortgage with respect to the Property and for the preparation, delivery and recording of a partial release thereof, if necessary.

Grantee represents and warrants that the Property may be legally and validly conveyed to Grantee as herein provided in compliance with all applicable laws, rules, ordinances and regulations, including, without limitation, subdivision laws, and if any platting, replatting, permitting, filing, recording or obtaining authorization is required, Grantee shall cause the same to be completed, filed, recorded or obtained at Grantee's sole cost and expense.

The grantee, acting by and through its County Executive, duly authorized by resolution of the Board of Supervisors of the County of Albemarle, Virginia, does hereby accept the real property interests conveyed by this deed, as evidence by the signature below.

WITNESS the following signatures and seals:

GRANTOR:

NHP Hollymead L.P., a Delaware Limited Partnership

BY: NHP-HDV Ten, Inc.

Its: General Partner

By: \_\_\_\_\_ (Signed)  
Keith Dodds, Vice President

GRANTEE:

COUNTY OF ALBEMARLE, VIRGINIA

By: \_\_\_\_\_ (Signed)  
Robert W. Tucker, Jr., County Executive

Exhibit A

The following is a metes and bounds description of Lot X, a portion of Tax Map 46 Parcel 26B2, shown and designated on the plat of Timothy Miller, dated May 19, 2003 and last revised March 10, 2004, entitled "Plat Showing Right of Way Dedication of Tax Map 46 Parcel 26B-2 NHP Hollymead L.P.," which plat is attached hereto and recorded herewith:

Beginning at an Iron Found in the southern Right-of-Way for Powell Creek Drive; THENCE South 01 degrees 20 minutes 36 seconds East for a distance of 18.06 feet to an Iron Set; THENCE along a curve to the right having a radius of 865.00 feet and an arc length of 399.09 feet, being subtended by a chord of South 68 degrees 22 minutes 06 seconds West for a distance of 395.56 feet to an Iron Set; THENCE along a curve to the right having a radius of 515.00 feet and an arc length of 47.79 feet, being subtended by a chord of South 83 degrees 42 minutes 09 seconds West for a distance of 47.77 feet to an Iron Set; THENCE North 07 degrees 48 minutes 36 seconds East for a distance of 15.31 feet to a point in the Right-of Way; THENCE along a curve to the left having a radius of 500.00 feet and an arc length of 43.35 feet, being subtended by a chord of North 83 degrees 31 minutes 42 seconds East for a distance of 43.34 feet to a point in the Right-of Way; THENCE along a curve to the left having a radius of 850.00 feet and an arc length of 402.28 feet, being subtended by a chord of North 68 degrees 02 minutes 13 seconds East for a distance of 398.54 feet to the Point of Beginning; said property contains 0.154 acres (6,693 square feet) more or less.

Item 5.4. Authorize County Executive to sign deed of easement to accept dedication of drainage easement and improvements – Blenheim View Estates Subdivision.

The executive summary states that the County has been acquiring easements in new subdivisions for drainage and stormwater control for several years, as approved by the Board at its April 5, 2000 meeting. The purpose of this program is to assure that the County has the ability to enter such easements to construct and maintain drainage required drainage improvements. The shift from privately to publicly maintained drainage systems was an acknowledgment that public maintenance of drainage systems serving public improvements was necessary in most situations. Experience has shown that private interests, including homeowners' associations, often do not possess the technical and financial capabilities to repair and maintain drainage systems.

The final subdivision plat for Blenheim View Estates Subdivision is ready for approval, pending approval of the drainage easement presented for the Board's consideration and the approval of a riparian buffer easement by the Thomas Jefferson Soil and Water Conservation District, to be considered by the District board in late April. The proposed drainage easement (see the attached plat) is required to serve the Subdivision's new access road, Malolactic Road, off of Blenheim Road. The drainage easement is located outside of the Subdivision, directly across Blenheim Road from Malolactic Road, on Tax Map 102 Parcel 37P, owned by Kluge Estate Winery & Vineyard, LLC.

The proposed deed of easement sets forth the rights and responsibilities of the County and the owner with respect to the lands within the drainage easement, including the County's rights and obligations to maintain the improvements within the drainage easement. The form and substance of the deed is based on a template deed prepared by the County Attorney's Office and it is acceptable.

Staff recommends that the Board approve the proposed deed dedicating a drainage easement and any improvements thereon, and authorize the County Executive to sign the deed on behalf of the County after it has been approved by the County Attorney with any necessary changes.

**By the above recorded vote, the Board approved the proposed deed dedicating a drainage easement and any improvements thereon, and authorized the County Executive to sign the deed on behalf of the County after it has been approved by the County Attorney with any necessary changes.**

#### DEED OF EASEMENT

**THIS DEED OF EASEMENT** is made this 22nd day of March, 2005 by and between **KLUGE ESTATE WINERY AND VINEYARD** (the "Grantor"), and the **COUNTY OF ALBEMARLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the "Grantee"), whose address is 401 McIntire Road, Charlottesville, VA 22902.

#### WITNESSETH:

R-1. Grantor owns that certain real property located in Albemarle County, Virginia (the "Property"), more particularly described as follows: That certain real property shown and designated as TMP 102-37P on the Plat of Kirk Hughes and Associates dated February 8, 2005, a copy of which is attached hereto to be recorded with this deed (the "Plat") being the same property conveyed to Grantor by deed of Patricia M. Kluge to House and Garden Company, L.L.C. dated June 2, 2003, recorded in the Clerk's Office of the Circuit Court of Albemarle County on June 4, 2003. The name of House and Garden Company, L.L.C. was changed to Kluge Estate Winery and Vineyard, L.L.C. on February 23, 2004. Reference is made to the Plat for a more particular description of the easement conveyed herein.

R-2. Grantor desires to dedicate a permanent drainage easement in the location shown on the Plat as "20' Drainage Easement" (the "Easement") to public use in accordance with the terms of this Deed of Easement, including all stormwater management facilities, ditches, pipes and other improvements and appurtenances within the Easement (hereinafter collectively referred to as the "Improvements," whether referring to Improvements to be established by the Grantor or those to be established in the future by the Grantee) required to be established under Chapter 18, Subdivisions, of the Albemarle County Code.

NOW THEREFORE, in consideration of the premises and TEN DOLLARS (\$10.00), cash in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Grantor does hereby GRANT, CONVEY and DEDICATE to public use with GENERAL WARRANTY and ENGLISH COVENANTS OF TITLE unto the Grantee, its successors and assigns, a perpetual, exclusive easement as shown on the Plat and as referred to herein as the Easement.

FURTHER, pursuant to the consideration described herein, the Grantor does hereby GRANT, CONVEY, and DEDICATE to public use the Improvements.

The Easement shall be subject to the following:

1. Right to construct, reconstruct, install, maintain, repair, change, alter and replace the Improvements. Grantee shall have the right to construct and install Improvements as reasonably necessary and appropriate. The Grantee also shall have the right to reconstruct, install, maintain, repair, change, alter and replace existing and future Improvements (hereinafter collectively referred to as "inspecting, maintaining and operating" or derivations thereof) for the purposes of collecting stormwater and transmitting it through and across the Easement, protecting property from flooding, protecting water quality, and otherwise controlling stormwater runoff. Nothing herein shall excuse the Grantor from its obligation to establish the Improvements as required under Chapter 18, Subdivision, of the Albemarle County Code.

2. Ownership of the Improvements. All Improvements within the Easement, whether constructed or installed by Grantor or Grantee, shall be and remain the property of the Grantee.

3. Access Easement. Grantee shall have the right and easement of ingress and egress over the lands of the Grantor adjacent to the Easement between any public or private roads and the Easement, to inspect, maintain and operate the Improvements, all at reasonable times and without inconvenience to Grantor.

4. Right to inspect, maintain and operate the Improvements. The Grantee may enter the Easement to inspect, maintain and operate the Improvements, all at reasonable times and without inconvenience to Grantor.

5. Right of Grantee to disturb and maintain the Easement premises. The Grantee shall have the right within the Easement to trim, cut or remove any trees, brush or shrubbery, remove fences, structures or other obstructions, and take other similar action reasonably necessary to provide adequate and fully functioning Improvements; provided, however, that the Grantee, at its own expense, shall restore as nearly as possible, the Property to its original condition. This restoration shall include the backfilling of trenches, the replacement of fences and shrubbery, the reseedling or resodding of lawns or pasture areas, and the repair or replacement of structures and other facilities located outside of the Easement that were damaged or destroyed by the Grantee. However, the Grantee shall not be required to repair or replace any structures, trees or other facilities located within the Easement, but shall be required only to repair or replace groundcover within the Easement that was disturbed, damaged or removed as a result of installing or maintaining any of the Improvements. In addition, the Grantee shall remove from the Easement all trash and other debris resulting from the installation, maintenance or operation of the Improvements, and shall restore the surface thereof to its original condition as nearly as reasonably possible. Notwithstanding the foregoing, the Grantee shall not be required to repair or replace anything identified in this paragraph if to do so would be inconsistent with the proper maintenance or operation of the Improvements. In addition, neither the Grantee nor any other public agency, including the Virginia Department of Transportation, shall be responsible for conducting routine maintenance as described in paragraph 6 hereof except as expressly provided in this paragraph.

6. Grantor shall maintain the Easement premises. The Grantor shall have the right to perform routine maintenance of the Easement premises, including the removal of trash and landscaping debris, mowing and manicuring lawns and groundcovers, and making any other aesthetic improvements desired by the Grantor that are not inconsistent with the rights herein conveyed, and which do not adversely affect the proper operation of any Improvement. The right to maintain the Easement premises does not include the right to maintain the Improvements.

7. Temporary construction easement. The Grantee shall have a temporary construction easement on the Property in order to inspect, maintain, repair or operate an Improvement, all at reasonable times and without inconvenience to Grantor. This temporary construction easement shall expire upon completion of the work.

8. Exclusivity; Restrictions. The Easement conveyed herein is an exclusive easement. Neither the Grantor nor any person acting under the Grantor's express or implied consent shall modify, alter, reconstruct, interfere with, disturb or otherwise change in any way the land within the Easement or any Improvement located within the Easement; and further provided that such persons shall not construct or maintain any roadway, or erect any building, fence, retaining wall or other structure within the Easement.

9. Grantee's right to assign. The Grantee shall have the right to assign this Easement as its interests may require.

10. Binding effect. The Easement and the rights and obligations established herein shall run with the land in perpetuity, and shall be binding upon Grantor, Grantee and their respective successors and assigns. All references herein to the "Grantor" and the "Grantee" include their respective successors and assigns. All references to the "Grantee," when exercising any right or obligation herein, includes the Grantee's officers, employees and agents.

11. Counterparts. This Deed of Easement may be executed in two or more counterparts, each of which shall be an original and all of which together shall constitute a fully-executed instrument.

The Grantee, acting by and through its County Executive, duly authorized by resolution of the Board of Supervisors of Albemarle County, does hereby accept the Easement and the Improvements conveyed by this deed.

WITNESS the following signatures and seals:

GRANTOR:	KLUGE ESTATE WINERY AND VINEYARD, L.L.C., a Virginia limited liability company (Signed) _____
	By: William J. Moses Its: Managing Director
GRANTEE:	COUNTY OF ALBEMARLE, VIRGINIA (Signed) _____
	By: Robert W. Tucker, Jr. Its: County Executive

Item 5.5. Resolution to accept road(s) in Church Hill Subdivision, Section 2-C, into the State Secondary System of Highways.

**Having received a request from the County Roads Engineer, by the above recorded vote, the Board adopted the following resolution:**

The Board of County Supervisors of Albemarle County, Virginia, in regular meeting on the 20<sup>th</sup> day of April 2005, adopted the following resolution:

R E S O L U T I O N

WHEREAS, the street(s) in **Church Hill Subdivision** described on the attached Additions Form SR-5(A) dated **April 20, 2005**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised the Board that the street(s) meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the road(s) in **Church Hill Subdivision** as described on the attached Additions Form SR-5(A) dated **April 20, 2005**, to the secondary system of state highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements; and

BE IT FURTHER RESOLVED that the Board guarantees a clear and unrestricted right-of-way, as described, exclusive of any necessary easements for cuts, fills and drainage as described on the recorded plats; and

FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

The road(s) described on Additions Form SR-5(A) is:

- 1) **Church Plains Drive (State Route 1267)** from the intersection of Route 240 (Three Notch'd Road) to the cul-de-sac, as shown on plat recorded 06/30/2001 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 245, pages 297-313, with a 40-foot right-of-way width, for a length of 0.10 mile.

Total Mileage - 0.10 mile.

**Having received a request from the County Roads Engineer, by the above recorded vote, the Board adopted the following resolution:**

The Board of County Supervisors of Albemarle County, Virginia, in regular meeting on the 20<sup>th</sup> day of April 2005, adopted the following resolution:

R E S O L U T I O N

WHEREAS, the street(s) in **Church Hill West Subdivision** described on the attached Additions Form SR-5(A) dated **April 20, 2005**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised the Board that the street(s) meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the road(s) in **Church Hill West Subdivision** as described on the attached Additions Form SR-5(A) dated **April 20, 2005**, to the secondary system of state highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements; and

BE IT FURTHER RESOLVED that the Board guarantees a clear and unrestricted right-of-way, as described, exclusive of any necessary easements for cuts, fills and drainage as described on the recorded plats; and

FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

The road(s) described on Additions Form SR-5(A) is:

- 1) **Plains Drive (State Route 1268)** from the intersection of Route 240 (Three Notch'd Road) to the cul-de-sac, as shown on plat recorded 06/30/2001 in the office the

Clerk of Circuit Court of Albemarle County in Deed Book 2149, pages 258-275, with a 50-foot right-of-way width, for a length of 0.13 mile.

Total Mileage - 0.13 mile.

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Item 5.6. Resolution to accept roads in Western Ridge Subdivision, Phase 4A, into the State Secondary System of Highways.

**Having received a request from the County Roads Engineer, by the above recorded vote, the Board adopted the following resolution:**

The Board of County Supervisors of Albemarle County, Virginia, in regular meeting on the 20<sup>th</sup> day of April 2005, adopted the following resolution:

RESOLUTION

WHEREAS, the street(s) in **Western Ridge Subdivision, Phase 4-A**, described on the attached Additions Form SR-5(A) dated **April 20, 2005**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised the Board that the street(s) meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the road(s) in **Western Ridge Subdivision, Phase 4-A**, as described on the attached Additions Form SR-5(A) dated **April 20, 2005**, to the secondary system of state highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements; and

BE IT FURTHER RESOLVED that the Board guarantees a clear and unrestricted right-of-way, as described, exclusive of any necessary easements for cuts, fills and drainage as described on the recorded plats; and

FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

\* \* \* \* \*

The road(s) described on Additions Form SR-5(A) is:

- 1) **Clearfields Court (State Route 1377)** from the intersection of Route 1376 (Clearfields Lane) to the cul-de-sac, as shown on plat recorded 04/29/1988 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 1698, pages 116-122, with a 50-foot right-of-way width, for a length of 0.10 mile.
- 2) **Clearfields Lane (State Route 1376)** from Route 1251 (Lake Tree Lane) to the intersection of Route 1377 (Clearfields Court), as shown on plat recorded 04/29/1988 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 1698, pages 116-122, with a 50-foot right-of-way width, for a length of 0.08 mile.
- 3) **Clearfields Lane (State Route 1376)** from the intersection of Route 1377 (Clearfields Court) to the cul-de-sac, as shown on plat recorded 04/29/1988 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 1698, pages 116-122, with a 50-foot right-of-way width, for a length of 0.06 mile.
- 4) **Lake Tree Lane (State Route 1251)** from the end of state maintenance of Route 1251 (Lake Tree Lane) to the intersection of Route 1376 (Clearfields Lane), as shown on plat recorded 04/29/1988 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 1698, pages 116-122, with a 50-foot right-of-way width, for a length of 0.06 mile.
- 5) **Lake Tree Lane (State Route 1251)** from the intersection of Route 1376 (Clearfields Lane) to the end of state maintenance, as shown on plat recorded 04/29/1988 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 1698, pages 116-122, with a 50-foot right-of-way width, for a length of 0.01 mile.

Total Mileage - 0.31 mile.

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Item 5.7. Resolution to accept roads in Western Ridge Subdivision, Phases 4B & 5A, into the State Secondary System of Highways.

**Having received a request from the County Roads Engineer, by the above recorded vote, the Board adopted the following resolution:**

The Board of County Supervisors of Albemarle County, Virginia, in regular meeting on the 20<sup>th</sup> day of April 2005, adopted the following resolution:

R E S O L U T I O N

WHEREAS, the street(s) in **Western Ridge Subdivision, Phase 4B & 5A**, described on the attached Additions Form SR-5(A) dated **April 20, 2005**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised the Board that the street(s) meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the road(s) in **Western Ridge Subdivision, Phase 4B & 5A**, as described on the attached Additions Form SR-5(A) dated **April 20, 2005**, to the secondary system of state highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements; and

BE IT FURTHER RESOLVED that the Board guarantees a clear and unrestricted right-of-way, as described, exclusive of any necessary easements for cuts, fills and drainage as described on the recorded plats; and

FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

\* \* \* \* \*

The road(s) described on Additions Form SR-5(A) is:

- 1) **Fairwinds Court (State Route 1379)** from the intersection of Route 1378 (Fairwinds Lane) to the cul-de-sac, as shown on plat recorded 04/29/1988 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 1698, pages 126-130, with a 50-foot right-of-way width, for a length of 0.06 mile.
- 2) **Fairwinds Lane (State Route 1378)** from Route 1251 (Lake Tree Lane) to the intersection of Route 1379 (Fairwinds Court), as shown on plat recorded 04/29/1988 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 1698, pages 126-130, with a 50-foot right-of-way width, for a length of 0.09 mile.
- 3) **Fairwinds Lane (State Route 1378)** from the intersection of Route 1379 (Fairwinds Court) to the cul-de-sac, as shown on plat recorded 04/29/1988 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 1698, pages 126-130 with a 50-foot right-of-way width, for a length of 0.08 mile.
- 4) **Lake Tree Lane (State Route 1251)** from the end of state maintenance to the intersection of Route 1378 (Fairwinds Lane), as shown on plat recorded 04/29/1988 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 1698, pages 126-130, with a 50-foot right-of-way width, for a length of 0.07 mile.
- 5) **Lake Tree Lane (State Route 1251)** from the intersection of Route 1378 (Fairwinds Lane) to the end of state maintenance, as shown on plat recorded 04/29/1988 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 1698, pages 126-130, with a 50-foot right-of-way width, for a length of 0.01 mile.

Total Mileage - 0.31 mile.

Item 5.8. Resolution to accept roads in Forest Lakes Subdivision, Willow Bend, Block N, into the State Secondary System of Highways.

**Having received a request from the County Roads Engineer, by the above recorded vote, the Board adopted the following resolution:**

The Board of County Supervisors of Albemarle County, Virginia, in regular meeting on the 20<sup>th</sup> day of April 2005, adopted the following resolution:

R E S O L U T I O N

WHEREAS, the street(s) in **Forest Lakes Subdivision, Willow Bend, Block N**, described on the attached Additions Form SR-5(A) dated **April 20, 2005**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised the Board that the street(s) meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the road(s) in **Forest Lakes Subdivision, Willow Bend, Block N**, as described on the attached Additions Form SR-5(A) dated **April 20, 2005**, to the secondary system of state highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements; and

BE IT FURTHER RESOLVED that the Board guarantees a clear and unrestricted right-of-way, as described, exclusive of any necessary easements for cuts, fills and drainage as described on the recorded plats; and

FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

\* \* \* \* \*

The road(s) described on Additions Form SR-5(A) is:

- 1) **Bristlecone Lane (State Route 1782)** from the intersection of Route 1670 (Ashwood Boulevard) to the intersection of Route 1783 (Rustic Willow Lane), as shown on plat recorded 09/25/2001 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 2083, pages 565-579, with a 40-foot right-of-way width, for a length of 0.06 mile.
- 2) **Bristlecone Lane (State Route 1782)** from the intersection of Route 1783 (Rustic Willow Lane), to the cul-de-sac, as shown on plat recorded 09/25/2001 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 2083, pages 565-579, with a 40-foot right-of-way width, for a length of 0.08 mile.
- 3) **Rustic Willow Lane (State Route 1783)** from the intersection of Route 1782 (Bristlecone Lane), to the cul-de-sac, as shown on plat recorded 09/25/2001 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 2083, pages 565-579, with a 40-foot right-of-way width, for a length of 0.22 mile.

Total Mileage - 0.36 mile.

Item 5.9. Resolution to accept roads in Forest Lakes Subdivision, Ravenswood, Block T, into the State Secondary System of Highways.

**Having received a request from the County Roads Engineer, by the above recorded vote, the Board adopted the following resolution:**

The Board of County Supervisors of Albemarle County, Virginia, in regular meeting on the 20<sup>th</sup> day of April 2005, adopted the following resolution:

#### R E S O L U T I O N

WHEREAS, the street(s) in **Forest Lakes Subdivision, Ravenswood, Block T**, described on the attached Additions Form SR-5(A) dated **April 20, 2005**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised the Board that the street(s) meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the road(s) in **Forest Lakes Subdivision, Ravenswood, Block T**, as described on the attached Additions Form SR-5(A) dated **April 20, 2005**, to the secondary system of state highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements; and

BE IT FURTHER RESOLVED that the Board guarantees a clear and unrestricted right-of-way, as described, exclusive of any necessary easements for cuts, fills and drainage as described on the recorded plats; and

FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

\* \* \* \* \*

The road(s) described on Additions Form SR-5(A) is:

- 1) **Ravenswood Court, East (State Route 1781)** from the intersection of Route 1780 (Ravenswood Lane) to the east cul-de-sac, as shown on plat recorded 05/09/2000 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 1916, pages 583-593, with a 50-foot right-of-way width, for a length of 0.06 mile.

- 2) **Ravenswood Court, West (State Route 1781)** from the intersection of Route 1780 (Ravenswood Lane) to the west cul-de-sac, as shown on plat recorded 05/09/2000 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 1916, pages 583-593, with a 50-foot right-of-way width, for a length of 0.06 mile.
- 3) **Ravenswood Lane (State Route 1780)** from the intersection of Route 1670 (Ashwood Boulevard) to the intersection of Route 1781 (Ravenswood Court), as shown on plat recorded 05/09/2000 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 1916, pages 583-593, with a 50-foot right-of-way width, for a length of 0.04 mile.

Total Mileage - 0.16 mile.

Item 5.10. Resolution to accept roads in Forest Lakes Subdivision, Pleasant Ridge, Block N, into the State Secondary System of Highways.

**Having received a request from the County Roads Engineer, by the above recorded vote, the Board adopted the following resolution:**

The Board of County Supervisors of Albemarle County, Virginia, in regular meeting on the 20<sup>th</sup> day of April 2005, adopted the following resolution:

#### RESOLUTION

WHEREAS, the street(s) in **Forest Lakes Subdivision, Pleasant Ridge, Block O**, described on the attached Additions Form SR-5(A) dated **April 20, 2005**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised the Board that the street(s) meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the road(s) in **Forest Lakes Subdivision, Pleasant Ridge, Block O**, as described on the attached Additions Form SR-5(A) dated **April 20, 2005**, to the secondary system of state highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements; and

BE IT FURTHER RESOLVED that the Board guarantees a clear and unrestricted right-of-way, as described, exclusive of any necessary easements for cuts, fills and drainage as described on the recorded plats; and

FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

\* \* \* \* \*

The road(s) described on Additions Form SR-5(A) is:

- 1) **Broadleaf Way (State Route 1787)** from the intersection of Route 1786 (Pleasant Place) to the cul-de-sac, as shown on plat recorded 05/31/2000 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 1922, pages 403-411, with a 40-foot right-of-way width, for a length of 0.04 mile.
- 2) **Pleasant Place (State Route 1786)** from the intersection of Route 1784 (Pleasant Ridge Road) to the south cul-de-sac, as shown on plat recorded 05/31/2000 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 1922, pages 403-411, with a 40-foot right-of-way width, for a length of 0.05 mile.
- 3) **Pleasant Place (State Route 1786)** from the intersection of Route 1784 (Pleasant Ridge Road) to the intersection of Route 1787 (Broadleaf Way), as shown on plat recorded 05/31/2000 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 1922, pages 403-411, with a 40-foot right-of-way width, for a length of 0.07 mile.
- 4) **Pleasant Place (State Route 1786)** from the intersection of Route 1787 (Broadleaf Way) to the cul-de-sac, as shown on plat recorded 05/31/2000 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 1922, pages 403-411, with a 40-foot right-of-way width, for a length of 0.06 mile.
- 5) **Pleasant Ridge Road (State Route 1784)** from the intersection of Route 1670 (Ashwood Boulevard) to the intersection of Route 1785 (Pleasant Ridge Court), as shown on plat recorded 05/31/2000 in the office the Clerk of Circuit Court of

Albemarle County in Deed Book 1922, pages 403-411, with a 40-foot right-of-way width, for a length of 0.07 mile.

- 6) **Pleasant Ridge Road (State Route 1784)** from the intersection of Route 1785 (Pleasant Ridge Court) to the intersection of Route 1786 (Pleasant Place), as shown on plat recorded 05/31/2000 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 1922, pages 403-411, with a 40-foot right-of-way width, for a length of 0.06 mile.

Total Mileage - 0.35 mile.

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Item 5.11. Copy of letter of correction dated April 7, 2005 from John Shepherd, Manager of Zoning Administration, to S. Barkley Rives or Agnes R. Burke, **re: Official Determination of Development Rights and Parcels – Tax Map 65, Parcels 93A1, 94, 95, 95A & 121 (property of S. Barkley Rives or Agnes R. Burke) - Section 10.3.1., was received for information.**

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Agenda Item No. 6. **Public hearing** on Housing Choice Voucher 5-Year Plan. (Advertised in the Daily Progress on April 4 and April 11, 2005.)

Mr. Ron White, Director of Housing said the Albemarle County Office of Housing is the designated local agency for the administration of the Housing Choice Voucher Program (hereinafter referred to as the program), formerly known as Section 8 Rental Assistance Program. The Office is a part of the executive branch of local government and not a public housing authority. However, with respect to the program, the Office must comply with requirements of the U.S. Department of Housing and Urban Development (HUD) regarding activities as a Public Housing Agency (PHA) including the development of a 5-year PHA Plan and Annual Plans.

The Office of Housing last submitted a Five-Year Plan July 2001 for FY 2000-2004 and an Annual Plan every year thereafter. The next Five-Year Plan covers fiscal years 2005 to 2009.

The Annual Plan provides an outline for the implementation of the Housing Choice Voucher Program, including information on current needs from the Consolidated Plan for the Thomas Jefferson HOME Consortium, the makeup of the County's existing waiting list, and the proposed funding available for activities during the program year. Much of the Plan is developed based on federal requirements with little or no opportunity for local discretion, although the County does have options in areas of setting preferences and minimum tenant rents. The County currently provides preference for those applicants who live and/or work in Albemarle County. The County's current minimum tenant rent is \$25/month, but this plan proposes raising the minimum to \$50/month, the maximum allowed by HUD. All tenants are required to pay thirty percent (30%) of their income toward housing costs. The minimum tenant rent only impacts those with little or no income or, in some cases, the elderly on fixed incomes with high medical costs.

The proposed change to minimum tenant rent is a result of changes to HUD's funding for the program. Prior to calendar year 2005, HUD provided a reimbursement based on the actual cost of assistance. For this year, and the current proposal for next year, HUD provides a fixed budget that the County must manage to insure maximum utilization of funds without exceeding the annual budget. The result of this change is that fewer families will be served as rents increase and/or more lower-income families seek assistance. The increase in the minimum tenant rent could provide savings sufficient to help one or two additional families.

In addition to revisions to program funding, HUD did not renew the grant that paid for a Family Self-sufficiency Coordinator. As a result, that position has been eliminated in the Office of Housing reducing staffing to eight persons.

The Plan has been available in the Office of Housing for a 45-day review period. The Housing Committee members have received a copy of the Plan and the Plan's Executive Summary. At their March meeting, they endorsed the Plan as proposed. Any comments received during the public review period and comments received at the public hearing will be included as a part of the final submission to HUD along with action taken on the comments.

Mr. White said staff recommends that the Board of Supervisors conduct a public hearing for input on the proposed Housing Choice Voucher Five-Year and Annual Plan. Staff also recommends that the Board authorize the County Executive to sign the PHA Certifications of Compliance as part of the Plan submission.

Ms. Thomas said that she was hoping with the seeming surplus of rental properties, there might be less pressure to raise rents.

Mr. White replied that rents are staying fairly stable, although he acknowledged the rents are at the high end of the range, at 110 percent of market value. For the most part, once they get a landlord into the program, the rents are staying reasonably stable. He stated that HUD is not reimbursing on actual costs anymore, but is giving localities an annual budget that must be worked within.

Mr. Rooker asked who sets the fair market value standard. Mr. White responded that HUD sets it at the 40<sup>th</sup> percentile rent.

Mr. Rooker opened the public hearing for comment. There was no public comment, and the matter was placed before the Board. Mr. Rooker noted that the recommendation from staff is to approve the plan and authorize the County Executive to sign it.

**Motion** was made by Mr. Bowerman, **seconded** by Ms. Thomas, to authorize the County Executive to sign the PHA Certifications of Compliance as part of the Annual Plan submission.

Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Rooker, Ms. Thomas, Mr. Wyant, Mr. Bowerman, Mr. Boyd and Mr. Dorrier.

NAYS: None

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Agenda Item No. 7. **ZMA-2004-09. Cottages at Jefferson Heights (Sign #88). Public hearing** on a request to rezone .759 acs from R-1 to PRD to allow 4 dwelling units (4 single family attached). TM78, P55A3. Loc on Pantops Mountain Rd w/in Jefferson Heights Development at NE corner of Pantops Mountain Rd & Rt 250 E. (The Comp Plan designates this property as Urban Density, recommended for 6-34 du/ac in Neighborhood Three.) Rivanna Dist. (Advertised in the Daily Progress on April 4 and April 11, 2005.)

Mr. Cilimberg reported that the rezoning of this property would be from R-1 to Planned Residential Development, and would add approximately three-fourths of an acre to the previously approved Pantops Place PRD, now known as Cottages at Jefferson Heights. He noted that the applicant is requesting approval of a four-unit condominium building located to the southeast of Westminster Canterbury. Mr. Cilimberg said that the entire development including all three phases would have a density of almost 11 dwelling units per acre, which is in compliance with the density called for in the Comprehensive Plan.

He noted that staff has mentioned several aspects of the project in their report, including how it relates to principles of the Neighborhood Model and other Comp Plan objectives. Mr. Cilimberg reported that staff has found factors favorable to the request, namely: the proposal provides for a higher density than the existing zoning; residential uses are supported by a pedestrian network in close proximity to shopping and employment; and the applicant has proffered to protect a mature hedgerow and fieldstone wall along the east side of the parcel, preserving the historic character and providing screening from the Entrance Corridor. He indicated that staff has recommended approval, as did the Planning Commission at its meeting on March 29, 2005. At the time the Commission saw the application, the proffers were not finalized, but were promised and are now in-hand.

Ms. Thomas asked about the connection of walkways in the area, including a sidewalk along Richmond Road. Mr. Cilimberg replied that there is a provision being made for the potential of a future sidewalk, but it is not part of the current project. He noted that this future plan is referred to under Proffer #3, including grading.

Ms. Thomas commented on the increased pedestrian traffic in the area, and asked why the proffers are only now being received. Mr. Cilimberg said that the law requires the proffers to be signed before the Board takes action.

Mr. Rooker said that it would be helpful to have Mr. Kamptner point out the changes to the proffers.

Mr. Kamptner said the changes are:

- delete Proffer #1 which references the application plan because the plan is part of the zoning;
- clarify Proffer #2 which deals with the number of independent living cottages to indicate that no other types of dwelling units are allowed on the parcel;

- revise Proffer #3 that addresses sidewalks;
- add new proffer language similar to that which staff has recommended for the North Pointe proffers;

- the proffer dealing with grading of the right-of-way has been clarified so that if sidewalk is constructed on the applicant's property, temporary construction easements would be reserved at the time of the construction;

- Proffer #4 addresses the buffer along the common property line shared with Glenorchy Subdivision and is virtually identical to the original proffer;

- Proffer #5 refers to the covenants applied to the remainder of the Planned Development; and
- Proffer #6 is unchanged from the previous proffer and deals with the architectural design.

Mr. Kamptner added that there was a proffer in Attachment C pertaining to reservation of a right-of-way for the owner to adjust a common property line between Tax Map 78, Parcel 55 A-3 and 55 A-7.

Mr. Rooker asked if there were any revisions to the previous Proffer #6. Mr. Kamptner replied that that proffer was deleted because the proffer that existed for the remainder of the Planned Development was not needed since the property does not have the same impacts as the other parcels.

Mr. Cilimberg pointed out that some of the proffers were replicated from the original rezoning of the parcels involved in this project, and those that were not needed were removed.

Mr. Kamptner added that the proffer that applied to buffers from service areas would not apply to this parcel, as additional screening is not needed.

Mr. Cilimberg said that the hedgerows are part of the mature area that staff does want preserved, because of their inherent aesthetic value and the additional screening they provide.

Mr. Wyant asked if the applicant would have to replace this if it were removed or damaged. Mr. Cilimberg responded that the proffer terminology is "ensure preservation" of the hedgerow and fieldstone, so it should not be lost.

Mr. Rooker asked if the changes to proffers were made at staff's request. Mr. Kamptner replied that staff asked for proffers to be clarified and for unnecessary proffers to be deleted.

Mr. Cilimberg mentioned that staff noted at the Planning Commission meeting that they would be doing that.

Mr. Wyant asked if the reference to sidewalks along Richmond Road was deleted because there are none there at the present time. Mr. Cilimberg replied that what is provided there is the grading to ultimately allow a sidewalk to be built, and any reservation of right of way to be dedicated in the event that it is a public project.

Mr. Rooker suggested looking at whether a sidewalk should be put there instead of along State Farm Boulevard, noting that there is a limited amount of money for sidewalks. He commented that State Farm Boulevard is a fairly safe road to walk without a sidewalk, compared to Route 250. Mr. Rooker noted that most of the businesses being utilized right now are on the north side of Route 250 – Westminster Canterbury, apartments, the pancake house, the drug store, townhouses, etc. – and is more residential.

At this time, the Chairman opened the public hearing.

The applicant's representative, Hunter McCardle of McKee Carson, addressed the Board on behalf of Weather Hill Homes. He stated that he did not have any additional comments to add.

Ms. Thomas asked why it took three weeks to develop the proffers. Mr. McCardle replied that there was some internal confusion because of the multi-phased nature of the project, and proffers that were a part of the original application that did not apply to this parcel.

There being no further public comment, the public hearing was closed, and the matter was placed before the Board.

**Motion** was then offered by Mr. Boyd to approval ZMA-2004-09, as proffered.

Ms. Thomas indicated that she would vote against the ZMA because it is "bad public policy" to vote on something when proffers are received during the meeting. She said she thinks it is simply poor form for the Board to hold public hearings when the public has no chance to see the proffers. In this particular case, the proffers may be okay, but it is a bad precedent, and a bad way for the Board to do business.

Mr. Rooker said that he agreed with Ms. Thomas in principle, but noted that the changes that were made to the proffers are virtually identical except for some requests made by staff. He emphasized that this is not a case where the applicant has interposed different proffers and they are fairly straightforward and easy to understand.

Mr. Wyant and Mr. Boyd agreed, noting that the policy of advanced proffer submission should be followed more strictly in the future.

Mr. Tucker acknowledged that the policy has been to have the proffers in advance, and the Board could defer it to a future Consent Agenda.

Mr. Boyd said that because the changes were minor and no public opposition to the application arose, this ZMA should move forward. However, he agreed that future applications should have the final proffers submitted by the time the packets go to the Board prior to their meetings.

Mr. Cilimberg stated that staff could certainly inform applicants of that, although it might create some problems with timing.

Mr. Boyd suggested using the Board deferral mechanism instead.

Mr. Tucker said that that would serve as "punishment," as it would be two weeks until the item was considered by the Board again.

Ms. Thomas indicated that telling staff the Board feels strongly about getting the proffers in advance would probably carry more weight.

Mr. Rooker pointed out that he feels a little differently about this application because the changes were requested by staff, and were not particularly substantive.

Mr. Dorrier **seconded** the motion.

Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Rooker, Mr. Wyant, Mr. Bowerman, Mr. Boyd and Mr. Dorrier.

NAYS: Ms. Thomas.

**(The proffers are set out below:)**

**PROFFER FORM**

Date: April 20, 2005

ZMA # 2004-0009

Tax Map and Parcel Number(s) 78/55A3

0.757Acres to be rezoned from R-1 to PRD

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance, the owner, or its duly authorized agent, hereby voluntarily proffers the conditions listed below which shall be applied to the property, if rezoned. These conditions are proffered as a part of the requested rezoning and it is agreed that: (1) the rezoning itself gives rise to the need for the conditions; and (2) such conditions have a reasonable relation to the rezoning request.

1. The maximum number of Independent Living Cottages on Tax Map 78 Parcel 55A3 (hereinafter, the "Property") shall be 4 units. No other dwelling units shall be permitted on the Property.
2. Sidewalks as shown on the Application Plan shall be installed and maintained by the owner in accordance with County or VDOT standards.
3. During construction the owner shall perform grading in the right-of-way for Route 250 or immediately adjacent to this right-of-way to facilitate the future installation of a sidewalk by others which would be part of any reconfiguration of Route 250 to an "urban cross-section" roadway. If the grading for the sidewalk would result in the sidewalk being on the Property, it shall be dedicated for public use upon request by the County. The owner shall grant all necessary temporary construction easements for installation of the sidewalk.
4. The owner shall provide a 15-ft wide buffer upon the property along its entire common boundary with the Glenorchy Subdivision as shown on the Application Plan. The buffer shall be provided when the improvements are constructed on the Property. The purpose of this buffer will be to ensure the preservation of an existing mature hedgerow and fieldstone wall along this common boundary line. No plant removal, other than dead, diseased or noxious vegetation, shall take place in this area. Only limited grading as shown on the approved site plans, and only that which does not require the removal of trees, shall be permitted. New beneficial plant material may be sensitively introduced to augment the efficacy of the hedgerow as a screening element. Pedestrian access to this area shall not be restricted.
5. The Owner confirms that the Property is subject to the Pantops Place Planned Residential Development Declaration of Covenants, Conditions, Restrictions and Easements filed in the Clerk's Office of the Circuit Court of Albemarle County, Virginia in Deed Book 2761 Page 711 (the "Declaration"), including all maintenance obligations set forth therein. Pursuant to the Declaration, a community association will be formed for ownership and maintenance of all areas outside of the building envelopes. Owners of the development shall be members of this community association.
6. The Architectural Design shall be in general accord with Sheet A1 "Building Elevations, The Cottages at Jefferson Heights, Albemarle County, Virginia, Tax Map 28 [sic] Parcel 55A3" by Vito Cetta, Architect, Dated June 21, 2004.

Signatures of All Owners  
(Signed)

Printed Names of All Owners  
Weather Hill Homes, Ltd.

Date

By: Marc C. Powell, Vice President  
Owner TMP 78 Parcel 55A3

April 20, 2005

Agenda Item No. 8. **STA-2001-08. Comprehensive revision of the Subdivision Ordinance.** **Public hearing** on an Ordinance to amend Chapter 14, Subdivision of Land, of the Albemarle County Code, to comprehensively revise the subdivision regulations by amending most existing regulations, repealing or adding other regulations, and reorganizing Chapter 14 and renumbering many existing regulations. The regulations being amended and added pertain to general provisions (including but not limited to the purposes of Chapter 14 and its applicability; prohibited acts; and definitions); administration and procedure (including but not limited to application requirements for various types of land divisions,

boundary line adjustments and easement plats; procedures for reviewing such plats; conditions of approval for family divisions; periods of validity of approved plats; and when and how private streets may be authorized and considerations relevant thereto); plat requirements and required documents (including but not limited to the form, style and content of plats; and the documents required to be submitted therewith including groundwater assessment information; and overlot grading plans); and onsite improvements and design (including but not limited to lots and blocks, including appropriate lot location to allow access from lots onto streets or shared driveways; the coordination of streets; street standards; water, sewer and other improvements including sidewalks, planting strips and pedestrian walkways; dedications and reservations; and surety in lieu of completion of improvements). The regulations being repealed pertain to administrative procedure (matters considered in conjunction with a request for authorization to construct private roads; review of determination of consistency with comprehensive plan); plat requirements and required documents (submittal of drainage control information; sketch plans for utilities, bridges and culverts; statements of availability of services; evidence of approved erosion and sediment control plans or lack of need therefor; and previously approved plans and existing features and improvements); and onsite improvements and design (list of required on-site improvements; the reservation of land for future right-of-way; configuration of lots; lot size; determining applicable standards for public streets; and drainage control). The regulations will impose different requirements for subdivisions, depending on whether the subdivision is within the development areas or the rural areas as identified in the Albemarle County Comprehensive Plan. The different requirements pertain to: determining which regulations apply to a subdivision; circumstances when private streets may be authorized in the rural areas or in the development areas; documents to be submitted with requests for private streets; authority to establish alleys in the development areas; the requirement that a note be added to final plats regarding parent parcel access for subdivisions in the rural areas; the requirement for overlot grading plans for certain residential subdivisions in the development areas; locations of reasonable access from a lot onto a street; the coordination and extension of streets within the development areas; the requirement for streets in the development areas to be constructed with curb, curb and gutter, sidewalks and planting strips, and when the requirement may be waived; and standards for private streets. The regulations also will impose a ninety-five dollar (\$95.00) fee for the review of plats for family divisions, resubdivisions, boundary line adjustments and easement plats. The purpose of these fees is to reimburse the County for its services in reviewing the plats. These are the same fees presently imposed for the review of plats for family divisions and rural divisions. The proposed imposition of these fees is authorized by Virginia Code § 15.2-2241(9). The regulations also would clarify the action triggering a certain fee from "waiver, variation or substitution of subdivision requirements" to "waiver after approval of preliminary plat," and would delete the fee for requesting an indefinite deferral of action on a plat. (Advertised in the Daily Progress on March 28 and April 4, 2005.)

The Board of Supervisors has held ten work sessions on the proposed subdivision text amendment since it was recommended for approval by the Planning Commission on April 6, 2004. The last work session was held on March 2, 2005. Major discussion revolved around the proposed overlot grading provisions and the opposition by the Blue Ridge Homebuilders (BRHBA) to some of the proposed requirements. A public hearing was set for April 20, 2005. The Board also asked that staff meet with interested developers between now and the public hearing, and email alternative language for overlot grading to the Board members.

Between March 2 and the writing of this executive summary, staff has discussed potential changes with members of the BRHBA. At the time this summary was prepared, BRHBA members indicated they were still working on alternative language, but staff has yet to receive a response. As such, it is not possible to include that alternative language or offer any comments on any changes to the language. As a result, no changes to the overlot grading section have been made by staff. Staff does believe, however, that if agreement on this section is all that is outstanding with the subdivision ordinance, the overlot grading section could be set aside for additional work. Given the concern expressed with the overlot grading section, staff would support adopting the ordinance without the overlot grading section with the understanding that staff would work further with all interested parties, including the BRHBA, to see if consensus can be reached. As part of that process, staff believes other changes that could expedite the review process can also be considered.

Staff indicated at the March 2 meeting that changes would be made to catch grammatical errors and assure consistency within the document. Attachment A is the latest draft Subdivision Text Amendment which incorporates those changes. Attachment B contains the list of changes made since the February 23 version.

Staff recommends approval of the Subdivision Text Amendment with an effective date of 60 days from adoption of the ordinance. The effective date 60 days in the future allows for subdivisions under review at this time to be approved under the existing ordinance. Preliminary subdivision plats approved later than 60 days after the date of approval of the Subdivision Text Amendment would be approved under the new subdivision regulations regardless of when the plat was submitted.

Mr. Graham said the Planning Commission held 10 work sessions, and the DISC II Committee has met 18 times on the matter, along with innumerable staff hours, to bring this ordinance amendment forward. Mr. Graham said that the proposed ordinance reflects what is needed for an urbanizing locality, and is consistent with what other localities have done as they get to the urban form of development. He noted that there have been questions on his overlot grading comments, and staff does recognize there is concern with this section. Mr. Graham emphasized that staff would be willing to pull that section and have workgroup sessions to revisit it.

Mr. Rooker commented that the summary of the proposed changes provided for the Board's review is "exceptionally well done."

Mr. Dorrier asked if an agreement had been reached on the waiver process and interconnectivity of streets. Mr. Graham replied that the DISC II recommendations are included, and the waiver policy reflects their suggestions.

Ms. Elaine Echols added that there were so many different scenarios that could arise, the waiver section tries to address case-by-case situations to be dealt with by the Planning Commission.

Mr. Boyd said that he was under the impression that the development community still did not embrace the wording in the interconnectivity requirements set forth in the proposed ordinance.

Mr. Graham replied that he believes they still take exception to the interconnectivity requirement, noting that that section is intended to replace one that had been removed from the ordinance. He mentioned that interconnectivity is a fundamental part of the Neighborhood Model – to be able to provide for street networks – and staff is not supportive of removing the section.

Mr. Boyd commented that he thought the issue was with the road type required to be built. Mr. Graham responded that the issue is whether the subdivider builds the road as part of their subdivision, whether the adjoining property would do an offsite improvement, or whether the county would construct those additional improvements. He pointed out that staff's recommendation is that that infrastructure should be constructed by the subdivision developer.

Mr. Rooker said that connectivity is extremely important and must be provided, and everyone who has evaluated the county's transportation network has agreed with that premise. He noted that the "free-rider" situation really depends on having a pipestem development situation, where one development has to go through another to get out to a major road. Mr. Rooker said those circumstances are extremely rare and he cautioned against having the ordinance bend to these exceptions.

Mr. Boyd stated that perhaps the wording could be done so that it is more acceptable to the development community. He said that there were several references to removing cul-de-sac, and having it replaced with "turnaround."

Ms. Echols responded that they are trying to de-emphasize the use of cul-de-sacs as interconnectivity is fostered, and "not every dead-end road has to be a bulb." She emphasized that there are other shapes acceptable to VDOT.

Mr. Boyd said that the cul-de-sac has been a very important feature in neighborhoods, including his own.

Mr. Rooker noted that the language recognizes that there are a number of ways the road can dead end, and there is not a requirement that any particular form be used.

Ms. Thomas commented it actually adds flexibility.

Ms. Echols confirmed that a cul-de-sac is encompassed in the term turnaround.

Mr. Graham pointed out that at the last Board meeting, it was asked if anyone had alternative language to suggest for the interconnectivity, and none was presented to staff.

Mr. Dorrier asked if the primary objection has been the costs associated with a developer having to pay for a road that might be used by other developers.

Mr. Graham responded that the provision does call for a reduction in the amount of the connection that would actually have to be constructed, and does consider a contribution toward the cost of completing that.

Mr. Dorrier asked if staff would be in the position of deciding what the cost division would be.

Mr. Graham replied that it could mean staff would have to make that decision. He added that interconnection has to be done by either the onsite developer, offsite developer, or county.

Mr. Rooker emphasized that the ordinance stipulates that each party would need to build the connection to their property line. He noted that there have been 10 work sessions and a year of review, along with numerous comments and dialogue. Mr. Rooker said that the Blue Ridge Homebuilders had 15 or so issues, and managed to agree with all but a couple, including the interconnectivity piece. He stated that staff concluded – without any better alternate suggestions coming forward – that each party should be required to build the connection to their property line, and staff has a waiver provision for dealing with circumstances in a fair manner.

Ms. Thomas pointed out that staff has spent a lot of time working with VDOT to change their standards so that this issue could be dealt with, and the first subdivision has to build the first road to the standards that would take care of the subdivision. She thinks that is a problem, and she wants the public to realize the Board has not just shrugged its' shoulders. Staff has spent a lot of time trying to get VDOT to change that type of provision, but have not succeeded. It is not for lack of trying at the state level to get this change.

Mr. Rooker emphasized that it is only in rare circumstances that the first development would have to build its road to a higher standard.

Mr. Wyant asked how it would be determined what road type is needed if the density is not known.

Ms. Echols responded that staff uses the Land Use Plan as a gauge, as well as the property's zoning. She added that VDOT is not as concerned about a single point of access in the oversize requirements, and they have backed off of the large road requirements if a second point of access can be shown.

Mr. Rooker said the waiver process would come in if there were an unfair situation.

The Chairman opened the public hearing.

Mr. Kenneth Lee addressed the Board, stating that he has lived in Albemarle for almost 50 years, and he has never lived in a neighborhood with sidewalks and curbs, noting that it would destroy the character of non-city developments. He stated that the costs would have to be added to the price of the lots and housing, and would impose additional upkeep that would have to be paid for with a utility fee. Mr. Lee asked why the County is trying to make a semi-rural county into a city-like area. He urged the Board to vote against the ordinance.

Mr. Josh Goldschmidt addressed the Board, noting that he has been a part of the work sessions on this ordinance. He said that as a member of the Housing Committee, he believes the discussions on this ordinance and affordable housing need to be considered at the same time. Mr. Goldschmidt stated that he would like to have focus groups work on the overlot grading and interconnectivity issues so that the ordinance can move forward with density bonuses and more affordable housing.

Mr. Jamie Spence, President of the Blue Ridge Homebuilders Association, addressed the Board, stating that they are opposed to the amendment as it is currently written. He noted that they are opposed to the overlot grading and street extension sections, and feel that further analysis is necessary to determine regulations that meet the concerns of the County government and also serve the needs of citizens as well.

Mr. Ron Keaney, architect for Keaney & Co. Architects, addressed the Board. He stated that as a local design professional, he deals with administrative issues and debates related to single words with the zoning text that were not thought of in context at the time they were written. Mr. Keaney urged the Board to adopt the changes slowly, on a trial basis, to give everyone time to put the amendment in place and apply them to specific projects. He asked that they take their time and get it right. He cited the 60-day grace period for adoption, noting that that is an incredibly short amount of time.

Mr. Don Franco addressed the Board. He stated that the waiver section for interconnections does meet the DISC Committee recommendations, but that group was concerned about the equitable share cost for the roads. He indicated that the proposed ordinance does not deal with that aspect. Mr. Franco said that it has been difficult for developers because they have been asked to build along standards that have not been officially adopted by the County yet.

Mr. Rooker asked Mr. Franco if there have been suggestions brought to staff to address the issue of cost-sharing for roads.

Mr. Franco replied that there should be a compromise, and he is "not at the table" in any capacity at this point. The way this is currently written, the only guy who has to pay for it is the first guy in, so it is not going to be a fair negotiation, and it is not going to be a fair discussion, because there is nothing that encourages any of the other parties to come to that table to help resolve that situation.

Mr. Rooker asked if there was anything from DISC in their 18 meetings to recommend how the ordinance would be changed to make it fairer.

Mr. Franco said that they got bogged down, but there was a service authority model recommended with a fund to pay for this, which would require a change in the state code. He stated that perhaps the cost of the roads could be counted towards cash proffers.

Mr. Boyd asked Mr. Franco if he concurred with Mr. Rooker's contention that it would be rare that the required interconnection due to single access points was the only time this was a problem.

Mr. Franco replied that it hasn't been dealt with that much in the past, but becomes a bigger deal when curb and gutter are put in. He said that in this type of urban road, it's hard to pick up the curb and gutter and raise everything up, so it would have to happen from the very start. Mr. Franco noted that it will be a common occasion, not rare, as the urban development form moves forward.

Mr. Rooker emphasized that if a subdivision has its own point of access, the interconnecting roads would not have to be built to a higher standard.

Mr. Franco said that he did not agree, because additional anticipated traffic would generate the need for wider roads. He emphasized that what would make the negotiation reasonable is the ability of the county to condemn the land if it is encumbered with right-of-ways and easements. If he does not negotiate reasonably with the adjacent developer, the county can come back and condemn that property and step in and be the referee at that point. So, the mechanism is there.

Mr. Don Wagner addressed the Board, noting that he served on the DISC meeting. He stated that the Neighborhood Model is a wonderful model, but it is just one model, and he believes that most who

served on that committee agree, although a few disagreed. Mr. Wagner said that he is concerned that the county is going to adopt a model that is "the" model for the development area, and that is going to be a problem. Mr. Wagner also pointed out that he had had a concern with family divisions, which staff worked on to make clearer.

Mr. Kelly Strickland of Rivanna Engineering addressed the Board on behalf of his employer, Tim Miller. Mr. Strickland stated that they would like the overlot grading plan to be taken out of the ordinance, as it creates "an undue hardship both on the engineers doing the plans and on the staff doing the review of those plans." He also said that the 60-day time limit was difficult to work within, and recommended that each change should be taken individually rather than in one lump. Mr. Strickland emphasized that the equity issue of interconnection cost-sharing should be addressed, and that section should be removed and worked on.

Mr. Neil Williamson of the Free Enterprise Forum addressed the Board, referencing a memo he had previously distributed to the Board. He mentioned that several sources including the National Homebuilders statistics show that 20 percent or more of homebuyers would consider purchasing a home in a "new urbanist" setting, and lot size turned out to be the major deterrent. Mr. Williamson expressed concern that local government is dictating this form to buyers, adding that his organization does not feel the 60-day time provision is fair.

Mr. Timothy Hulbert of the Charlottesville Regional Chamber of Commerce addressed the Board, stating that "the stakeholders do not support this." He indicated that the constrictions, particularly the new urbanist design and interconnectivity issues, are going to make it very burdensome for developers and builders to deliver the kinds of models and neighborhoods the county supports. Mr. Hulbert added that each layer of the ordinance may make it more difficult to build the types of homes wanted, and encouraged staff to include more participation from the building/development community.

There being no further comments from the public, the public hearing was closed.

Ms. Echols clarified that on Page 49, Section 232-C, staff recommends the section be deleted because it is more confusing and needs clarifying.

Mr. Dorrier expressed confusion over Page 24 of the ordinance recommendation, which listed ordinance sections by number.

Ms. Echols replied that this is a list which indicates what has to be submitted, referencing sections from the ordinance, noting that it is not different than what is required now, although it is organized differently.

Mr. Kamptner explained that the subdivision ordinance has three different layers of plats – for family subdivision, rural subdivision, and regular subdivision, all at increasing degrees of specificity and additional requirements. He said that rather than have a separate set of recommendations, this is a "shorthand way" of pointing an applicant to the sections of the subdivision ordinance that must be satisfied.

Mr. Dorrier reiterated that it does not appear clear to him.

Mr. Rooker noted that the Board had previously discussed using a summary sheet that lists the ordinance sections for applicants.

Mr. Tucker mentioned that staff currently uses a checklist.

Mr. Rooker suggested sharing those with the public, adding that the list is written in a way that saves space in the ordinance.

Mr. Dorrier asked about the phrase "K Value," noting that he did not understand the definition as presented in the ordinance.

Mr. Graham replied that that is an engineering term, taken from VDOT's definitions in subdivision and street regulations. He explained that it refers to rate of curvature, or how fast the road can be curved, used for vertical curves on roadways.

Mr. Wyant confirmed that this is a standard engineering term.

Ms. Thomas asked for staff to walk the Board through the length of the process, referring to the resistance presented about the 60-day process.

Mr. Graham responded that the county has 60 days to act on a preliminary subdivision plat. He said that by using that time frame, anyone who has submitted a preliminary subdivision plat prior to the adoption of this ordinance should have a decision on their plat prior to the end of that 60 days. Those are the people who would be grandfathered. They would be able to proceed with developing their subdivision under the currently existing ordinance rather than this newly proposed ordinance. Mr. Graham commented that an applicant has a year to finish the subdivision at that point.

Mr. Kamptner added that the state law was recently changed, extending the life of the preliminary plat to five years. This is just catching up with that change.

Mr. Wyant asked if, for example, a plat was submitted today, the applicant would hear back in 60 days. Mr. Graham confirmed that staff has an obligation to act on that plat within 60 days. It does place an obligation on that applicant when they get those comments to provide a timely response to those comments.

Mr. Wyant asked if this was ten days, and Mr. Graham replied that it was. Mr. Wyant responded that it is difficult to reply on every matter in ten days.

Mr. Davis said that perhaps an enactment clause could be added that said "any subdivision plat that had been submitted prior to today's date, and then approved within 120 days would be grandfathered under the existing ordinance. He added that anything submitted after today's date would be subject to the new ordinance.

Mr. Boyd asked how requests for extensions and proffers fit into this scenario.

Mr. Davis replied that proffers pertain to rezoning applications, which have a different degree of detail than plats. He emphasized that zoning applications require a totally different level of engineering detail than a subdivision plat.

Mr. Rooker pointed out that there are parcels that were granted rezonings five years ago or more that have never filed a subdivision plat. This ordinance doesn't come into play until somebody files for approval of a subdivision plat.

Mr. Wyant expressed concern about the 120-day time period, especially if an applicant is reliant on other parties for information.

Mr. Graham responded that the engineering he is referring to applies more to the final plats, and if the preliminary is grandfathered, the final can take as long as necessary as long as the preliminary plat remains valid.

Ms. Echols noted that in a planned district, such as Albemarle Place, the developer has the option to choose which regulations they wish to be reviewed under – the old ordinance or the new, for the life of that zoning.

Mr. Boyd commented that he liked the idea of phasing the new ordinances in, instead of tackling them all at once. He said that the issues he sees as unresolved involve the overlot grading, the interconnectivity, the 60-day implementation period, and the flexibility over the Neighborhood Model. He also does not believe in building a system where a waiver process becomes the rule rather than the exception to it. Mr. Boyd expressed concern that the stakeholders are not fully invested in the ordinance, and suggested solving the lingering issues to the satisfaction of both sides of the equation. If the Board codify this section of the code, he thinks it is going to be like pulling teeth for someone who wants to build a neighborhood other than as is outlined in the 12 principles. He added that there needs to be something in this ordinance to allow that flexibility.

Mr. Rooker said that today, every subdivision has to be built under the existing ordinance, and there are a number of changes in the new ordinance that are favorable to the development community. He emphasized that five percent of the county is in the development areas, and the Neighborhood Model is part of the Comprehensive Plan. Mr. Rooker said that the waiver process is what the development community wanted, and there has been significant interaction with the public through the work session process. He added that the ordinance has been changed in a number of ways at the recommendation of the development community, with the waiver process allowing greater flexibility.

Mr. Rooker emphasized that this process began in 2001, and after going through this entire process, it is time to take some action. He added that the other constituency out there is the homeowners, citing the Still Meadows problems that would be remedied by this ordinance. Mr. Rooker emphasized that the overlot grading requirement asks that a plan be submitted at the beginning of a subdivision for how stormwater would be handled, and how grading would accommodate the runoff. He added that overlot grading plans are something that virtually every urban community has adopted as a requirement in order to avoid problems. He reminded Board members of information presented a year ago that illustrated problems in the county – such as Lake Reynovia – that would be remedied by the adoption of this ordinance. Mr. Rooker emphasized that the development community was included throughout the entire process, including DISC, and added that the homebuyers are also important constituents.

Mr. Dorrier commented that the county has had good housing built in Albemarle. He said that working with the homebuilders is important, and prices would rise if the Neighborhood Model costs are passed onto the buyer. Mr. Dorrier expressed concern that the houses would price buyers out of the market.

Mr. Bowerman asked Mr. Graham if he feels the county would make it "THE model" if this were adopted.

Mr. Graham replied that there are elements associated with the Neighborhood Model – such as interconnections – and the provision of sidewalks may not be considered a function of this model. Urbanizing localities put sidewalks in, whether they follow a Neighborhood Model form of development or they don't. Curb and gutters are another example; high-density residential areas use a curb and gutter. VDOT calls it the urban street section, where you have higher density. It's not something that is strictly

related to the Neighborhood Model. It is related to a higher density of development that you're getting. He added that overlot grading is associated with drainage problems in the area, and tries to incorporate what other urbanizing counties in Virginia have implemented to try to react to these issues. Those aren't Neighborhood Model functions. Mr. Graham noted that planting strips ARE a Neighborhood Model function.

Mr. Rooker emphasized that the Board has gone through this step by step. He mentioned that the Old Trail development is the closest thing the county has to a Neighborhood Model development right now, and they are selling out as soon as they open a section up. He noted that curb and gutter is not a Neighborhood Model mandate; it is required in a dense development in order to adequately handle stormwater.

Mr. Boyd expressed concern that people who do not want to live in the urbanized developments will gravitate toward the by-right subdivisions in the rural areas. Mr. Bowerman expressed doubt that this would really occur.

Mr. Rooker added that if we do not make the urban areas a good place to live as they become denser, we won't have demand in the urban areas because they won't be good places to live with density.

Mr. Boyd suggested going "back to the drawing board" with the few lingering issues.

Mr. Wyant asked about the timeline for this process.

Mr. Bowerman emphasized that staff and the Blue Ridge Homebuilders Association are "at an impasse."

Mr. Rooker said that it would be wise to act on the ordinance, with overlot grading and the interconnectivity pulled out.

Mr. Dorrier commented that the waiver issue puts too much power in staff's hands.

Mr. Bowerman said that the Board has been discussing for the last ten years how to develop the community, and has agreed that an urban type cross-section preserving the rural areas is the best way to proceed. Everything we've done for the last ten years has led us in this direction. We have had years of meetings about how to implement what we want to accomplish. We are down to the final lap with only two issues left. After all the work that has been done, all the accommodations, and all the compromises, there are only two areas of debate.

Ms. Thomas commented that the overlot grading is a concern, and is where the public will be most supportive because of people who live in subdivisions who have had the most problems. She encouraged a tight timeline if that part is not adopted and continues to be debated. Ms. Thomas said that connectivity is not at all a Neighborhood Model issue, but is the way to handle traffic. If we don't have alternative routes that people can go on, then everyone has to go out and take the main road for every single trip. Having interconnectivity is the way we're going to help people get from where they live to where they need to go without taking every trip on the main road and we are never going to be able to put enough lanes on the main roads to take care of that traffic. She cited the Hillsdale Drive vote as an example of support for that concept. She thinks the connectivity is more of an issue of fairness. She would have proposed that we agree that we are going to discuss particularly the proffer system. She is willing to suggest that the Board go forward with that section as written, but with an agreement that there will be further discussions.

Ms. Thomas commented that this isn't cementing the Neighborhood Model any more than the checklist already used for decision-making. She said that staff already informs the Board of how many of the 12 principles have been met with a specific application. Ms. Thomas said that she is more comfortable with 120 days than 60 days, and adoption of the ordinance should be imminent because of outside developers coming in.

Mr. Wyant said that perhaps a different approach should be taken to the overlot grading issue, as there seems to be an impasse. He stated that the interconnectivity issue should also be examined further, with alternative solutions advised. Mr. Wyant emphasized that he would like to see a short time-frame to address the issues. He added that drainage problems are costly. He also expressed concern about the 120-day time period.

Mr. Davis commented that the time period is what staff feels is a reasonable amount of time for a serious plat to be approved at the preliminary stage, but it could be made longer.

Mr. Boyd said that he would like to hear from the stakeholders about the time frame.

Mr. Bowerman said that he spoke with the stakeholders, as all the Board did, and there were only two areas of disagreement – the overlot grading and the interconnectivity.

Mr. Boyd stated that he could support the ordinance with those issues and the time frame pulled out.

Mr. Bowerman emphasized that the issues have been dealt with.

Mr. Rooker said there must be a time frame set, and the recommendation is to triple the time limit from 60 days to 180 days.

Mr. Wyant suggested sitting down with the Blue Ridge Homebuilders Association again regarding the overlot grading issue, and expressed the need to include a facilitator between BRHA and staff. At Mr. Rooker's request, he agreed to represent the Board at those meetings.

Ms. Thomas suggested pulling out the overlot grading, with a report to be returned in 60 days.

Mr. Boyd noted that the interconnectivity issue really pertains to cost-sharing, not the principle itself. He asked what the homebuilders were opposed to in the proposed ordinance.

Mr. Graham mentioned that the waivers came out of DISC II, and they struggled a lot with this question. He added that state law has no provision to allow for a pro-rata share of the costs, as with water and sewer lines. The staff can discuss it further, but he thinks they are going to find they are in exactly the same place they are right now. There is no magic answer.

Mr. Rooker emphasized that without interconnectivity, a subdivision is built and the road connection has not been made to the next property line, and when connectivity is attempted later people complain. If you end up with virtually no connected roads because of that approach, you've got a real problem from a transportation standpoint.

Mr. Boyd said he would like to see interconnectivity, but he thinks they need to deal with the equity situation. He added that Mr. Wagner threw out two proposals, and more discussion could happen.

Mr. Davis said that the enabling authority only gives the county the authority to require someone to build roads on their own property, and what Mr. Franco suggested does not work. He emphasized that what is on the books in urban northern Virginia localities does work. It requires developers to probably spend a little bit more money on their part of their subdivision, and may be a cost to them in one case, and in another case it may be a savings to them in a different subdivision. He understands the objection to it, but this is an issue staff has looked at for a couple years now, and the DISC committee basically arrived at this as being the approach that they would recommend to the Board.

Mr. Davis noted that the requirement is to have the road built to within 30 feet of the neighboring property line, and that can be modified depending on the circumstances by an administrative waiver if certain findings are made that it is either not the right thing to do at that time because of environmental issues, or topographical issues, or other things that are set forth in the ordinance. That requirement can be modified to make it more practical. He explained that what it provides is if it cannot be constructed because of easements necessary on the adjacent property, you escrow the amount of money projected to complete that road, with the right of way dedicated to the county. When the other subdivision comes in to be built, you then require them to match it up and the escrow money is used to complete the connection.

Mr. Rooker noted that each property builds it on their property. Mr. Davis commented that is the way it is being applied in other jurisdictions successfully.

Mr. Rooker stated that the enabling legislation does not allow approaching the other solutions.

**Motion** was then offered by Ms. Thomas to adopt STA-2001-08, with the overlot grading plans (Section 3.13) being removed for further consideration with a 60-day expectation that it will be returned to the Board.

Mr. Davis noted that once the ordinance is adopted, any revisions must start over at the Planning Commission and Board of Supervisors with a public hearing process. He stated that 90 days is more realistic.

Mr. Wyant asked about deferring the entire ordinance.

Mr. Bowerman asked what more can the Board or staff do.

Mr. Rooker asked if there was a problem moving forward with the ordinance without the overlot grading provisions. He emphasized that staff has recommended the only solution available for state law regarding interconnectivity.

Mr. Dorrier asked if the Neighborhood Model, as being the only model, was addressed in the ordinance.

Mr. Davis replied that this is not a "Neighborhood Model subdivision ordinance," but allows for curb and gutter, overlot grading – things that urbanizing subdivisions would use. This ordinance does not require a Neighborhood Model subdivision as presented to the Board in the past. It is a tool to allow it to happen. But it is going to require in the urban area curb and gutter, interconnectivity, and overlot grading."

Mr. Bowerman commented that the county is getting that right now.

Mr. Davis said that on page 118 of the proposed ordinance, there is an effective date provision of June 20, 2005, and he suggested adding "provided, however, any subdivision plat submitted on or before April 20, 2005 and approved on or before October 21, 2005, may be approved under the subdivision ordinance in effect on April 19, 2005."

Ms. Thomas then **amended** her **motion** to adopt STA-2001-08, with Section 3.13 (Overlot Grading) pulled out, and changing the page 118 section to have a 180-day grandfathering provision as worded by legal counsel.

Ms. Thomas noted that she has pulled the interconnectivity section, but she supports further discussion of this issue with a roundtable/task force assigned to the issue.

She also **agreed** to delete section 14-232 C as Mr. Wagner mentioned earlier.

Ms. Thomas stated that the overlot grading issue should be returned to the Board soon.

Mr. Bowerman **seconded** the motion.

Mr. Boyd said he would not support it, because he believes that additional time should be taken to get it done right.

Mr. Dorrier asked if Section 232-C would be pulled, and what would be in its place. Ms. Thomas and Mr. Rooker noted that this section was found to be redundant, as Mr. Wagner had pointed out.

Mr. Dorrier asked how it would be conveyed that the Neighborhood Model is not the only model. Mr. Davis responded that he is not sure how you would explain this in an ordinance.

Mr. Dorrier said that without that, there is too much discretion given to staff, and they will state the Board should only approve the Neighborhood Model.

Mr. Bowerman replied that he does not think that is realistically what the Board has. He does not think that is what the Board has been doing, and he does not think that is what they are going to do in the future.

Mr. Rooker noted that the Board adopted the Neighborhood Model in the Comprehensive Plan, and it has twelve general features, and it has a lot of pages that describe what it is. This ordinance does not mandate all of the things in the Neighborhood Model. It doesn't even come close to doing that. It doesn't mandate mixed use or numerous things in the Neighborhood Model if you look at the Comprehensive Plan. This is an ordinance that covers the things that the Board covered step by step in all of its work sessions, and that the Board all had a consensus on as it went through the ordinance. He added that there is no mention of the Neighborhood Model in this ordinance.

Mr. Graham pointed out that for consideration of waivers, the model is mentioned, but not as a mandate.

Mr. Wyant noted that interconnectivity is somewhat restricted by state law. He asked what would happen if the Board did not vote on it.

Mr. Boyd said that it would go back to the drawing board for revision, then coming back to the Board.

Mr. Rooker explained that Ms. Thomas' motion proposes adoption of the ordinance, proposes eliminating the overlot grading issue, and proposes a change to 180 days, and proposes pulling out 14-232.C. It is not that convoluted. It is fairly straightforward."

Mr. Dorrier expressed continued concern that the Neighborhood Model be described as just one model, not the exclusive model.

Mr. Rooker suggested saying, "The Neighborhood Model requirements as set forth in the Comprehensive Plan are not being required in all subdivisions as a result of the passage of this ordinance." He said it is leaving room for things that does not meet all those requirements.

Ms. Thomas said that she is willing to include Mr. Dorrier's **amendment**, but added that the ordinance does not specifically support the Neighborhood Model. She thinks Mr. Rooker's wording embodied that, but if the Board wants some different wording, she will add it.

Mr. Dorrier stated that he would like to include the wording, "The Neighborhood Model is not the only model."

Mr. Bowerman **seconded** the amendment.

Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Rooker, Ms. Thomas, Mr. Wyant, Mr. Bowerman and Mr. Dorrier.

NAYS: Mr. Boyd.

(The adopted ordinance is set out in full below:)

**ORDINANCE NO. 05-14(1)**

**AN ORDINANCE TO AMEND CHAPTER 14, SUBDIVISION OF LAND, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA**

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 14, Subdivision of Land, is hereby amended and reordained as follows:

By Amending and Renaming:

Sec. 14-101	Purposes.
Sec. 14-102	Applicability.
Sec. 14-103	Acts prohibited without complying with chapter.
Sec. 14-104	Relation of chapter to other laws and private contracts.
Sec. 14-105	Rules of construction.
Sec. 14-106	Definitions.
Sec. 14-107	Procedure to amend chapter.
Sec. 14-108	Filing of chapter.
Sec. 14-200	Designation of agent; powers and duties.
Sec. 14-201	Designation of commission; powers and duties.
Sec. 14-202	Establishment of site review committee; powers and duties.
Sec. 14-203	Fees.
Sec. 14-204	Enforcement and penalties.
Sec. 14-205	General.
Sec. 14-206	Subdivisions other than rural subdivisions, family subdivisions and boundary line adjustments.
Sec. 14-207	Rural subdivisions.
Sec. 14-208	Family subdivisions.
Sec. 14-209	Rural subdivisions; procedure.
Sec. 14-210	Family subdivisions; procedure.
Sec. 14-211	Family subdivisions; conditions precedent.
Sec. 14-212	Family subdivisions; conditions of approval.
Sec. 14-213	General.
Sec. 14-214	Period in which to act on preliminary and final plat.
Sec. 14-215	Preliminary application conference.
Sec. 14-216	Submittal of preliminary plat.
Sec. 14-217	Review of preliminary plat by site review committee.
Sec. 14-218	Determining whether agent or commission reviews and acts on preliminary plat.
Sec. 14-219	Review and action on preliminary plat by agent.
Sec. 14-220	Review and action on preliminary plat by commission.
Sec. 14-221	Submittal of final plat.
Sec. 14-222	Review of final plat by site review committee.
Sec. 14-223	Determining whether agent or commission reviews and acts on final plat.
Sec. 14-224	Review and action on final plat by agent.
Sec. 14-225	Review and action on final plat by commission.
Sec. 14-226	Appeal of disapproval of preliminary or final plat; resubmittal.
Sec. 14-227	Effect of approval of preliminary plat.
Sec. 14-228	Period of validity of approved preliminary plat.
Sec. 14-229	Period of validity of approved final plat.
Sec. 14-230	Period of validity of approved plat for phased subdivision.
Sec. 14-231	Extension of period of validity of approved preliminary or final plat.
Sec. 14-232	When private streets in rural areas may be authorized.
Sec. 14-234	Procedure to authorize private street and related matters.
Sec. 14-235	Effect of approval of private street.
Sec. 14-300	Persons authorized to prepare plat.
Sec. 14-301	Form and style of plats.
Sec. 14-302	Contents of preliminary plat.
Sec. 14-303	Contents of final plat.
Sec. 14-305	Stormwater management information.
Sec. 14-308	Flood plain and topographic information.
Sec. 14-309	Soil evaluations.
Sec. 14-310	Health director approval of individual private wells and/or septic systems.
Sec. 14-314	Identification of all interests of the county in property.

**By Amending, Renumbering (old section number first, followed by new section number) and Renaming:**

Sec. 14-237	Sec. 14-225.1	Waiver of certain requirements by the commission.
Sec. 14-238	Sec. 14-231.1	Changes or revisions to preliminary or final plat.
Sec. 14-239	Sec. 14-208.1	Boundary line adjustments.
Sec. 14-239	Sec. 14-212.1	Boundary line adjustment; procedure.
Sec. 14-239	Sec. 14-212.3	Resubdivision without vacation of plat; procedure.
Sec. 14-240	Sec. 14-212.2	Vacation of plat or part thereof; procedure.
Sec. 14-241	Sec. 14-236	When shared driveways and alleys may be authorized.

Sec. 14-313	Sec. 14-317	Instrument evidencing maintenance of certain improvements.
Sec. 14-401	Sec. 14-424	Contributions for off-site improvements.
Sec. 14-402	Sec. 14-439	Improvements completed at expense of subdivider; exception.
Sec. 14-403	Sec. 14-440	County not obligated to maintain improvements.
Sec. 14-404	Sec. 14-426	Dedication of land for public use.
Sec. 14-405	Sec. 14-427	Reservation of land for public use.
Sec. 14-406	Sec. 14-428	Dedication of streets, alleys, curbs, gutters, sidewalks, stormwater management facilities, bicycle trails, pedestrian trails.
Sec. 14-408	Sec. 14-430	Dedication of water and sewerage systems.
Sec. 14-409	Sec. 14-431	Easements for stormwater management facilities and drainage control.
Sec. 14-410	Sec. 14-432	Easements for cable television and public services.
Sec. 14-411	Sec. 14-433	Effect of recordation of plat on dedications and certain easements.
Sec. 14-412	Sec. 14-434	Completion of on-site improvements required prior to plat approval.
Sec. 14-413	Sec. 14-435	Surety in lieu of completion of on-site improvements.
Sec. 14-414	Sec. 14-435.1	Surety for maintenance of streets until accepted into state system.
Sec. 14-415	Sec. 14-436	Release of surety.
Sec. 14-416	Sec. 14-437	Effect of acceptance or approval of improvements.
Sec. 14-417	Sec. 14-438	Inspections; right of entry.
Sec. 14-500	Sec. 14-400	Minimum lot requirements.
Sec. 14-503	Sec. 14-402	Lot shape.
Sec. 14-504	Sec. 14-403	Lot frontage.
Sec. 14-505	Sec. 14-404	Lot location to allow access from lot onto street or shared driveway.
Sec. 14-506	Sec. 14-405	Side lot lines.
Sec. 14-507	Sec. 14-406	Remnants.
Sec. 14-508	Sec. 14-407	Block width.
Sec. 14-509	Sec. 14-408	Block orientation.
Sec. 14-510	Sec. 14-409	Coordination and extension of streets.
Sec. 14-511	Sec. 14-411	Standards for public streets only.
Sec. 14-512	Sec. 14-410	Standards for all streets and alleys.
Sec. 14-513	Sec. 14-411	Standards for public streets only.
Sec. 14-514	Sec. 14-412	Standards for private streets only.
Sec. 14-515	Sec. 14-413	Improvement of existing public streets.
Sec. 14-516	Sec. 14-414	Public water and sewerage systems.
Sec. 14-517	Sec. 14-415	Central water and sewerage systems.
Sec. 14-518	Sec. 14-416	Individual private wells and septic systems.
Sec. 14-520	Sec. 14-417	Stormwater management and drainage control facilities.
Sec. 14-521	Sec. 14-418	Fire protection.
Sec. 14-522	Sec. 14-419	Landscaping for double frontage lots.
Sec. 14-523	Sec. 14-420	Location of utilities above- and underground.
Sec. 14-524	Sec. 14-421	Monuments.
Sec. 14-525	Sec. 14-422	Sidewalks and planting strips.
Sec. 14-526	Sec. 14-423	Street signs.

**By Adding:**

Sec. 14-208.2	Easement plats.
Sec. 14-212.4	Easement plats; procedure.
Sec. 14-224.1	Waiver of certain requirements by the agent.
Sec. 14-233	When private streets in development areas may be authorized.
Sec. 14-304	Request for critical slopes waiver.
Sec. 14-306	Private streets information.
Sec. 14-311	Infrastructure improvement plans, computations and documents.
Sec. 14-312	Location of existing buildings.
Sec. 14-313	Overlot grading plan.
Sec. 14-316	Approval of entrance onto public streets.
Sec. 14-401	Double frontage lots.
Sec. 14-429	Reservation of land for streets, alleys, walkways, waterways or public areas shown on map.

**By Repealing:**

Sec. 14-233	Matters which may be considered in conjunction with request for authorization to construct private roads.
Sec. 14-236	Review of determination of consistency with comprehensive plan.
Sec. 14-304	Drainage control information.
Sec. 14-306	Sketch plans for utilities, bridges and culverts.
Sec. 14-307	Statements of availability of services.
Sec. 14-311	Approved erosion and sediment control plans or other evidence.
Sec. 14-312	Previously approved plans and existing features and improvements.
Sec. 14-315	Revised master phasing plan.
Sec. 14-400	On-site improvements.
Sec. 14-407	Reservation of land for future right-of-way.
Sec. 14-501	Configuration of lots.
Sec. 14-502	Lot size.
Sec. 14-511	Determining applicable standards for public streets.
Sec. 14-519	Drainage control.

## Chapter 14

### Subdivision of Land

#### Article I. General Provisions

##### **Sec. 14-100 Short title.**

This chapter shall be known and may be cited as the "Subdivision Ordinance of Albemarle County, Virginia" or as the "Subdivision Ordinance."

(Ord. 98-A(1), 8-5-98)

**State law reference**--Va. Code § 15.2-2240.

##### **Sec. 14-101 Purposes.**

The purposes of this chapter are to:

- A. Improve the public health, safety, convenience and welfare of the citizens of the county by assuring the orderly division of land and its development;
- B. Provide residential areas with healthy surroundings for family life by assuring that land is divided and developed in a manner that is harmonious with its surrounding lands;
- C. Implement the comprehensive plan and the policies stated in section 1.4 of the zoning ordinance through the standards and procedures established herein;
- D. Assure that the development of the county is consonant with efficient and economical use of public funds;
- E. Assure that all improvements required by this chapter will be designed, constructed and maintained so as not to become an undue burden on the community; and
- F. Establish standards for lot development that are specific to, and most appropriate for, the lands within the development and rural areas of the county.

(§ 18-1, 9-5-96, 8-28-74; § 18-14, 9-5-96, 4-13-88, 8-28-74, § 2; 1988 Code, § 18-14; Ord. 98-A(1), 7-15-98)

**State law reference**--Va. Code § 15.2-2240.

##### **Sec. 14-102 Applicability.**

This chapter shall apply to all subdivisions of land, the vacation of plats or parts thereof, and the establishment of easements required by this chapter. This chapter does not apply to divisions of land resulting from an order entered by a court of equity requiring that land be partitioned, or from the exercise of the power of eminent domain by any public agency.

(Ord. 98-A(1), 7-15-98)

**State law reference**--Va. Code § 15.2-2240.

##### **Sec. 14-103 Acts prohibited without complying with chapter.**

Unless this chapter and Article 6, Chapter 22 of Title 15.2 of the Code of Virginia are complied with:

- A. A person shall not subdivide land vacate a plat, or establish an easement required by this chapter.
- B. Neither a subdivision plat, an easement plat, nor a plat or other document vacating a plat shall be recorded unless and until it has been signed by the agent and it is valid at the time of recordation. If a portion of the property lies in another locality having a subdivision ordinance, no plat shall be recorded unless and until it has also been submitted to and approved by that locality.
- C. A person shall not sell or transfer any land of a subdivision before a plat has been duly approved and recorded as provided in this chapter, unless the subdivision was lawfully created prior to the adoption of a subdivision ordinance applicable thereto. However, the prohibited act stated in this paragraph does not prevent the recordation of the instrument by which the land is transferred or the passage of title as between the parties to the instrument.
- D. The clerk of any court shall not file or record a subdivision plat, an easement plat, or a plat or other document vacating a plat until the plat or document has been approved as provided in this chapter and it is valid at the time of recordation.

E. Nothing in this chapter shall affect the power of a court of equity to order that property be partitioned.

(§ 18-3, 9-5-96, 8-28-74 (§ 10); § 18-11, 9-5-96, 8-28-74 (§ 2); § 18-41 (part), 9-5-96, 8-28-74, § 3; 1988 Code, §§ 18-3, 18-11, 18-41; Ord. 98-A(1), 7-15-98)

**State law reference**--Va. Code § 15.2-2254.

#### **Sec. 14-104 Relation of chapter to other laws and private contracts.**

The requirements of this chapter are:

A. Separate from, but supplementary to, all other applicable requirements of the Code. Compliance with the requirements of this chapter shall not be deemed to be compliance with other applicable ordinances or regulations.

B. Separate from, but supplementary to, all other applicable requirements of state or federal law. If the requirements of this chapter are in direct conflict with mandatory state or federal requirements, then the state or federal requirements shall apply.

C. Separate from the requirements, terms or conditions of any private easement, covenant, agreement or restriction. Neither the county nor any of its officers, employees or agents shall have any duty to enforce a private easement, covenant, agreement or restriction.

(9-5-96, 12-21-83; 4-6-77, 8-28-74; 1988 Code, 18-7; Ord. 98-A(1), 7-15-98)

**State law reference**--Va. Code § 15.2-2240.

#### **Sec. 14-105 Rules of construction.**

This chapter protects paramount public interests and shall be liberally construed to effectuate its several purposes. In addition to the rules of construction set forth in section 1-101 of the Code, the following rules of construction apply to the construction of this chapter, unless the application would be contrary to the purposes of this chapter or the context clearly indicates otherwise:

A. All references to any statute, regulation, guideline, manual or standard are to that statute, regulation, guideline, manual or standard as it exists on the date of adoption of this chapter, and includes any amendment thereafter or reissue in a subsequent edition.

B. The word "days" means calendar days.

C. All distances and areas shall be measured in a horizontal plane.

D. The word "current" means the point in time at which a matter is under consideration and shall not mean the date of the adoption of this chapter.

E. The word "street," when not preceded by either "public" or "private," means either a public street or a private street.

F. All references to "waivers" include waivers, modifications, substitutions and variations, as may be applicable.

(9-5-96, 4-13-88, 2-4-81, 3-29-78, 12-15-76, 4-21-76, 8-28-74; 1988 Code, § 18-2 (part); Ord. 98-A(1), 7-15-98)

#### **Sec. 14-106 Definitions.**

The following definitions shall apply in the interpretation and enforcement of this chapter:

*Agent.* The term "agent" means the director of zoning and current development within the department of community development.

*Alley.* The term "alley" means a form of vehicular travelway providing access to the rear and/or side lot line of abutting properties which front along streets. An alley is privately owned and maintained, is intended to be used primarily by the owners and occupants of the abutting properties and persons and vehicles providing services to those properties, including emergency services vehicles, and is not intended for through traffic. An alley is not a "private street."

*Amenity.* The term "amenity" means an area of activity designed principally for, and accessible to, persons residing or working within a subdivision. Areas of activity may be either indoors or outdoors, including but not limited to swimming pools and tennis, volleyball and basketball courts. An outdoor area of activity may be a passive or an active area, including but not limited to playgrounds, pedestrian paths through natural areas, courtyards, and paved pedestrian areas for gathering. An indoor area of activity includes, but is not limited to, gyms, weight rooms, indoor swimming pools, indoor basketball courts, and other indoor recreational areas. Amenities may be located in required green space and be included in both required green space and amenity calculations.

*Architect.* The term “architect” means a person licensed to practice as an architect in the Commonwealth of Virginia.

**State law reference--**Va. Code § 54.1-400.

*Attached housing development.* The term “attached housing development” means a development in which two or more dwelling units are proposed to adjoin along common lot lines.

*Boundary line adjustment.* The term “boundary line adjustment” means a type of subdivision in which one or more lot lines are relocated or altered so that the land exchanged is added to and becomes part of an existing lot.

*Building.* The term “building” means any structure having a roof supported by columns or walls.

*Central sewerage system.* The term “central sewerage system” means a sewerage system consisting of pipelines or conduits, pumping stations, force mains or sewage treatment plants, including but not limited to septic tanks and/or conventional drain fields or any of them, designed to serve three or more connections used for conducting or treating sewage, which is required to be approved by the board of supervisors pursuant to Article 4, Chapter 21 of Title 15.2 of the Code of Virginia.

**State law reference--**Va. Code § 15.2-2126.

*Central water system.* The term “central water system” means a water supply system consisting of a well, springs or other source and the necessary pipes, conduits, mains, pumping stations and other facilities in connection therewith, to serve or to be capable of serving three or more connections, which is required to be approved by the board of supervisors pursuant to Article 6, Chapter 21 of Title 15.2 of the Code of Virginia.

**State law reference--**Va. Code § 15.2-2149.

*Certified landscape architect.* The term “certified landscape architect” means a person licensed to practice as a certified landscape architect in the Commonwealth of Virginia.

**State law reference--**Va. Code § 54.1-400.

*Commission.* The term “commission” means the Albemarle County planning commission.

*Common area.* The term “common area” means an area shown on a plat that is not a platted lot for sale but is either owned, or will be owned, in common by the lot owners within the subdivision or, if it is not owned in common, it is available for the common use of the lot owners within the subdivision.

*Control point.* A known latitude/longitude (or X/Y) geographic location obtained in the field using either a global positioning system or other location-determining equipment, acquired in a manner that will yield an X,Y position that can be demonstrated to have submeter accuracy, and whose position coordinates are expressed relative to the North American Datum of 1983 (NAD 83).

*County attorney.* The term “county attorney” means the Albemarle County attorney or his designee.

*County engineer.* The term “county engineer” means the county engineer within the department of community development or his designee.

*Development areas.* The term “development areas” means those parts of the county designated as a development area on the Albemarle County comprehensive plan map adopted by the board of supervisors.

*Drainage control.* The term “drainage control” means the removal, collection or conveyance of runoff from or on the property through structural facilities or other measures.

*Driveway.* The term “driveway” means a form of vehicular access from a street or alley to the interior of a lot.

*Dwelling unit.* The term “dwelling unit” means a single unit providing complete, independent living facilities for one (1) or more persons, and which has permanent provisions for living, sleeping, eating, cooking and sanitation.

*Easement.* The term “easement” means a reservation or grant by a property owner of the use of land for a specific purpose or purposes, other than a license revocable by the unilateral act of the grantor.

*Easement plat.* The term “easement plat” means the schematic representation of an easement subject to review and approval by the county under this chapter, which includes a statement of the specific purpose for which the easement is established.

*Family subdivision.* The term “family subdivision” means the single division of property for the purpose of sale or gift to a member of the immediate family of the owner of the property.

*Frontage.* The term “frontage” means the continuous uninterrupted distance along which a parcel abuts an adjacent street.

*Health director.* The term “health director” means the health director of the Thomas Jefferson Health District or his designee.

*Highway engineer.* The term “highway engineer” means the resident highway engineer of the county employed by the Virginia Department of Transportation.

*Improvement.* The term “improvement” means all public utilities and facilities required by this chapter, including, but not limited to, streets, turnarounds, traffic signalization and controls, sanitary sewers, stormwater management and erosion control facilities, drainage control facilities, water systems, curbs, curbs and gutters, and sidewalks, regardless of whether such utilities and facilities are publicly or privately owned and/or maintained.

*K value.* The term “K value” means the coefficient by which the algebraic difference in grade may be multiplied to determine the length in feet of the vertical curve.

*Land surveyor.* The term “land surveyor” means any person licensed to practice as such in the Commonwealth of Virginia.

**State law reference--**Va. Code § 54.1-400.

*Lot.* The term “lot” means a lawfully created separate unit, division or piece of land shown on a plat of record or described by metes and bounds or other legal description, and is synonymous with the words “tract”, “parcel” and “plot”.

*Lot, corner.* The term “corner lot” means a lot abutting on two (2) or more streets at their intersection.

*Lot, depth of.* The term “depth of lot” means the mean horizontal distance between the front and rear lot line.

*Lot, double frontage.* The term “double frontage lot” means an interior lot having frontage on two streets or frontage on one street and less than twenty (20) feet of common area between the rear of the lot and the second street, and having a depth of less than three hundred fifty (350) feet.

*Lot, interior.* The term “interior lot” means a lot other than a corner lot.

*Lot, width of.* The term “width of lot” means the mean horizontal distance between the side lot lines.

*Member of the immediate family.* The term “member of the immediate family” means the natural or legally defined off-spring, grandchild, grandparent, or parent of the owner of property.

*Natural stream.* The term “natural stream” means a nontidal waterway that is part of the natural topography, which typically will maintain a continuous, seasonal or intermittent flow during the year, and which is characterized as being irregular in cross-section with a meandering course. A constructed channel such as a drainage ditch or swale is not a natural stream.

*Non-building lot:* The term “non-building lot” means a lot intended for the following uses: wells, septic systems (including conventional drain fields), stormwater management facilities, open space, common area, or pre-existing cemetery, but which does not contain a building site, and need not have a development right assigned.

*Open space.* The term “open space” means an area containing water or land or a combination thereof that is unoccupied by building lots or streets, and which may be vegetated, developed with amenities or utilities, or left in an undisturbed state.

*Person.* The term “person” means a natural person, corporation, partnership, sole proprietorship, trust, trustee, joint venture, or any other entity.

*Phased subdivision.* The term “phased subdivision” means a subdivision for which 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.

*Planting strip.* The term “planting strip” means the required area between a street and the sidewalk where street trees or the landscaping equivalent are located.

*Plat.* The term “plat” means a schematic representation of land divided or to be divided.

**State law reference--**Va. Code § 15.2-2201.

*Plat, final.* The term “final plat” means a plat upon which the plan for a subdivision is presented for approval pursuant to this chapter, whether preceded by an approved preliminary plat or not, and which is in final form for recording.

*Plat, preliminary.* The term “preliminary plat” means a plat upon which the plan for a subdivision is presented for approval as a preliminary plat pursuant to this chapter, and which is not in final form for recording.

*Professional engineer.* The term “professional engineer” means a person licensed to practice as a professional engineer in the Commonwealth of Virginia.

**State law reference--**Va. Code § 54.1-400.

*Program authority.* The term “program authority” means the department of community development. Except where the context clearly indicates otherwise, the term “program authority” includes any officer or employee of the department of community development authorized by the county engineer to act pursuant to the water protection ordinance of Albemarle County, Virginia, as codified in chapter 17 of the Code.

*Property.* The term “property” means one or more lots collected together for the purpose of subdividing.

*Public sewerage system.* The term “public sewerage system” means any sewerage system consisting of pipelines or conduits, pumping stations, force mains or sewerage treatment plants, or any of them, operated by, for, or under the authority of the Albemarle County Service Authority or the Rivanna Water and Sewer Authority.

*Public water system.* The term “public water system” means a water supply system consisting of a well, springs or other source and the necessary pipes, conduits, mains, pumping stations and other facilities in connection therewith, operated by, for, or under the authority of the Albemarle County Service Authority or the Rivanna Water and Sewer Authority.

*Remnant.* The term “remnant” means any lot, other than one established as a non-building lot, which does not meet the minimum lot requirements of this chapter and the zoning ordinance.

*Resubdivision.* The term “resubdivision” means the division of land by subdivision, where the land being subdivided is the subject of a previously approved and recorded subdivision plat.

*Runoff.* The term “runoff” means the portion of precipitation which is not immediately absorbed or infiltrated into the ground and which is discharged across the land surface or through conveyances to one or more waterways.

*Rural areas.* The term “rural areas” means those parts of the county designated as a rural area on the Albemarle County comprehensive plan map adopted by the board of supervisors.

*Rural subdivision.* The term “rural subdivision” means a type of subdivision that is located in the rural areas which results in two or more lots for the purpose of transfer of ownership or building development, such that: (i) each lot created is at least five (5) acres in area; and (ii) each lot created has at least two hundred fifty (250) feet of frontage on an existing public street which is part of the primary system or secondary system of state highways.

*Service authority.* The term “service authority” means the Albemarle County Service Authority.

*Shared driveway.* The term “shared driveway” means a vehicular access to only two lots which have frontage on a street and which are authorized pursuant to section 14-236.

*Sidewalk.* The term “sidewalk” means a paved pedestrian way designed to meet Virginia Department of Transportation or county standards as provided in this chapter.

*Site review committee.* The term “site review committee” means a committee established pursuant to section 14-202 and composed of representatives of the department of community development, the department of fire and rescue, the architectural review board, the service authority, the Virginia Department of Health, the Virginia Department of Transportation, and the United States Department of Agriculture Natural Resource Conservation Service.

*Staff.* The term “staff” means employees of the county.

*State waters.* The term “state waters” means all waters on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction.

*Stormwater management.* The term “stormwater management” means the control of runoff or its effects through structural or other measures.

*Street, private.* The term “private street” means any street or other way or means of vehicular access approved as a “private street” pursuant to sections 14-232 through 14-235 or as a “private road” under any prior ordinance regulating the subdivision of land, that is not designed, constructed, bonded or approved to be maintained by the Virginia Department of Transportation as part of the secondary system of state highways, regardless of ownership. Any street identified on a recorded plat as a restricted road, access road or other designation which was not approved by the county as a private street or a private road as described herein is not a private street.

*Street, public.* The term “public street” means a street which is encompassed by a right-of-way dedicated to public use and approved to be maintained by the Virginia Department of Transportation as a part of the primary or secondary system of state highways. Any requirement of this chapter that refers to

an existing public street shall mean a public street maintained by the Virginia Department of Transportation.

*Street right-of-way.* The term "street right-of-way" means the total width of the strip of land dedicated or reserved for travel, including pavement, and which also includes, but is not limited to, curbs and gutters, shoulders, ditches, sidewalks, bicycle paths, planting strips and, where necessary, utility easements.

*Subdivide.* The term "subdivide" means the process of dividing land to establish a subdivision.

*Subdivider.* The term "subdivider" means one or more persons who own property to be subdivided, and his successors in interest.

*Subdivision.* The term "subdivision" means any division of land, and includes resubdivisions, rural subdivisions, family subdivisions, and the establishment of a condominium regime. For purposes of this chapter, a boundary line adjustment is also a "subdivision."

References to a *subdivision* in this chapter include, in the appropriate context, a proposed subdivision.

**State law reference--**Va. Code § 15.2-2201.

*Submit.* The term "submit" means to pay the applicable required fee and to have an application or other required document marked by the county as "received."

*Survey.* The term "survey" means a graphic description of land showing existing conditions, improvements, and water features.

*Turnaround.* The term "turnaround" means an area for vehicles to reverse movement at the end of a street.

*Virginia Department of Transportation standards.* The term "Virginia Department of Transportation standards" means one or more applicable standards or requirements of the Virginia Department of Transportation pertaining to the design or construction of any public street and any improvement related thereto. Virginia Department of Transportation standards include, but are not limited to, those standards and requirements set forth in its Road Design Manual, Road and Bridge Standards, and Subdivision Street Requirements.

*Water protection ordinance.* The term "water protection ordinance" means the water protection ordinance of Albemarle County, Virginia, as codified in chapter 17 of the Code.

*X, Y position.* The term "X, Y position" means a two dimensional point representation of a latitude/longitude location.

*Zoning ordinance.* The term "zoning ordinance" means the zoning ordinance of Albemarle County, Virginia, as codified in chapter 18 of the Code.

Any term used in this chapter which is not defined in this section shall be given its common and ordinary meaning unless the term has been defined elsewhere in the Code or by statute, regulation or by the Virginia Supreme Court or the Virginia Court of Appeals, and the definition is applicable to the context in which the term is used.

(§ 18-2 (part) 9-5-96, 4-13-88, 7-9-86, 3-29-78, 12-15-76, 4-21-76; § 18-56, 9-5-96, 10-17-79, 8-28-74; 1988 Code, §§ 18-2, 18-56; Ord. 98-A(1), 7-15-98; Ord. 02-14(1), 2-6-02)

**State law reference--**Va. Code § 15.2-2252.

#### **Sec. 14-107 Procedure to amend chapter.**

This chapter may be amended in whole or in part by the board of supervisors, as follows:

A. The commission on its own initiative may, or at the request of the board of supervisors shall, prepare amendments to this chapter.

B. The commission shall make a recommendation for any amendment prior to approval by the board of supervisors. If the commission fails to make a recommendation within sixty (60) days of the date the amendment was referred to the commission, the board of supervisors may adopt the amendment without the recommendation of the commission.

C. Prior to adoption of an amendment by the board of supervisors, a notice of intention shall be published and a public hearing shall be held in accordance with Virginia Code § 15.2-2204.

(9-5-96, 8-28-74 (§ 13); 1988 Code, § 18-5; Ord. 98-A(1), 7-15-98)

**State law reference--**Va. Code § 15.2-2253.

**Sec. 14-108 Filing of chapter.**

A certified copy of this chapter and all amendments hereto shall be filed in the office of the clerk to the board of supervisors, the department of community development, and in the office of the clerk of the circuit court of the county.

(Ord. 98-A(1), 7-15-98)

**State law reference**--Va. Code § 15.2-2252.

**Article II. Administration and Procedure**  
**Division 1. Administration**

**Sec. 14-200 Designation of agent; powers and duties.**

The director of zoning and current development within the department of community development is hereby designated as the agent of the board of supervisors for the purposes of administering and enforcing this chapter. The agent shall have the following powers and duties:

- A. To administer and enforce this chapter and, in so doing, to make all determinations and findings and impose all requirements; except that the agent shall have no authority to modify, vary or waive, nor accept substitution for, any requirement of this chapter unless expressly provided.
- B. To approve all plats, unless the plat is referred to the commission.
- C. To interpret this chapter, and to request opinions or decisions, either verbal or written, from the site review committee, other departments of the county, from other officials and departments of the Commonwealth of Virginia, and from other qualified persons as may from time to time be retained.
- D. To consult with and advise the commission on matters contained in this chapter.
- E. To establish procedures to govern the administration of this chapter which are deemed by the agent to be necessary for its proper administration including, but not limited to, delegating one or more duties set forth in this section. The procedures shall be consistent with this chapter and Article 6, Chapter 22 of Title 15.2 of the Code of Virginia.

(9-5-96, 8-28-74 (§ 2); 1988 Code, § 18-10; Ord. 98-A(1), 7-15-98)

**State law reference**--Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2259.

**Sec. 14-201 Designation of commission; powers and duties.**

The commission is hereby designated the approval body for any preliminary or final subdivision plat when the plat is referred to the commission as provided in sections 14-220 and 14-225. In addition, the commission shall have the following powers and duties in the administration of this chapter:

- A. To initiate amendments to this chapter and to make recommendations on the amendments and on proposed amendments referred to it by the board of supervisors.
- B. To approve waivers when those matters are referred to the commission as provided in this chapter.
- C. To consult with and advise the agent on matters contained in this chapter.

(Ord. 98-A(1), 7-15-98)

**State law reference**--Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2259.

**Sec. 14-202 Establishment of site review committee; powers and duties.**

A site review committee is hereby established, and shall have the following duties:

- A. To meet from time to time to review preliminary and final subdivision plats as provided in sections 14-217 and 14-222.
- B. To transmit to the agent the requirements and recommendations it has identified relative to each preliminary plat, and to transmit to the agent its recommendations relative to each final plat.
- C. To propose rules for the conduct of its business to the agent, which shall be established and approved as administrative procedures under section 14-200(E).

(Ord. 98-A(1), 7-15-98)

**State law reference**--Va. Code §§ 15.2-2241(9), 15.2-2255.

**Sec. 14-203 Fees.**

Each subdivider shall pay a fee upon the submittal of a plat or other application, based on the schedule below; provided that neither the county nor the county school board shall be required to pay any fee if it is the applicant. The fee shall be in the form of cash or a check payable to the "County of Albemarle."

A. Preliminary plat for subdivision:

1. If subject to review by the commission:
  - (a) 1 to 9 lots: \$720.00.
  - (b) 10 to 19 lots: \$1,100.00.
  - (c) 20 or more lots: \$1,330.00.
2. If subject to review by the agent:
  - (a) Two-lot subdivision as described in section 14-232(B)(2) or if all lots front on an existing public street: \$95.00.
  - (b) 1 to 9 lots: \$360.00.
  - (c) 10 to 19 lots: \$550.00.
  - (d) 20 or more lots: \$670.00.
3. Reinstatement of review: \$65.00.
4. Each filing of a preliminary plat, whether or not a preliminary plat for the same property has been filed previously, shall be subject to the same requirements.

B. Final plat for subdivision:

1. If subject to review by the commission:
  - (a) 1 to 9 lots: \$720.00.
  - (b) 10 to 19 lots: \$1,100.00.
  - (c) 20 or more lots: \$1,330.00.
2. If subject to review by the agent:
  - (a) Two-lot subdivision as described in section 14-232(B)(2) or if all lots front on an existing public street: \$95.00.
  - (b) 1 to 9 lots: \$360.00.
  - (c) 10 to 19 lots: \$550.00.
  - (d) 20 or more lots: \$670.00.
3. Condominium plat: \$100.00.
4. Reinstatement of review: \$65.00.
5. In addition to the foregoing, if the subdivider is required to construct a street, he shall pay to the county a fee equal to the cost of the inspection of the construction of any such street. These fees shall be paid prior to completion of all necessary inspections and shall be deemed a part of the cost of construction of the street for purposes of section 14-435(B).

C. Plat for rural subdivision, family subdivision, resubdivision, or boundary line adjustment: \$95.00.

D. Easement plat: \$95.00.

E. Other matters subject to review:

1. Waiver after approval of preliminary plat: \$180.00.
2. Relief from plat conditions imposed by commission prior to the date of adoption of this chapter: \$180.00.
3. Appeal of plat to board of supervisors: \$240.00.
4. Extension of plat approval: \$45.00.
5. Bonding inspection for plat: \$60.00.
6. Vacation of plat or part thereof: \$170.00.
7. Review of groundwater assessment information required by section 14- 308.1:
  - (a) Tier 2 assessment under section 17-402: \$250.00 plus \$25.00 per lot.
  - (b) Tier 3 assessment under section 17-403: \$400.00 plus \$25.00 per lot.
  - (c) Tier 4 assessment under section 17-404: \$1,000.00.

(9-5-96, 12-11-91, 6-7-89, 4-17-85, 12-1-82, 12-14-77, 3-2-77, 11-10-76, 8-28-74 (§ 3); 1988 Code, § 18-43; Ord. 98-A(1), 7-15-98; Ord. 99-14(1), 6-16-99; Ord. 02-14(2), 7-3-02; Ord. 04-14(1), adopted 12-8-04, effective 2-8-05)

**State law reference**--Va. Code § 15.2-2241(9).

#### **Sec. 14-204 Enforcement and penalties.**

A violation of any provision of this chapter shall be enforced as follows:

A. Any person, whether as principal, agent, employee or otherwise, who violates any provision of this chapter shall be subject to a fine of not more than five hundred dollars (\$500.00) for each lot so divided or transferred or sold and shall be required to comply with all provisions of this chapter. The description of one or more lots by metes and bounds in an instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from the penalties or remedies herein provided.

B. The board of supervisors may institute any appropriate action or proceeding, at law or in equity, to prevent a violation or attempted violation, to restrain, correct, or abate a violation or attempted violation, or to prevent any act which would constitute a violation, of this chapter.

C. No permit shall be issued by any administrative officer of the county for the construction of any building, structure, or improvement requiring a permit upon any land for which an approval pursuant to this chapter is required, unless and until the person seeking the permit complies with the requirements of this chapter.

(9-5-96, 8-28-74 (§ 11); 1988 Code, § 18-9; Ord. 98-A(1), 7-15-98)

**State law reference**--Va. Code § 15.2-2255.

### **Division 2. Provisions of Chapter Applicable to Subdivisions and Easement Plats**

#### **Sec. 14-205 General.**

This division delineates the requirements of this chapter applicable to subdivision and easement plats.

(Ord. 98-A(1), 7-15-98)

**State law reference**--Va. Code § 15.2-2240.

#### **Sec. 14-206 Subdivisions other than rural subdivisions, family subdivisions and boundary line adjustments.**

The following sections of this chapter shall apply to each subdivision other than rural subdivisions, family subdivisions and boundary line adjustments:

A. *Subdivisions that would result in two (2) or more lots in the development areas or three (3) or more lots in the rural areas.* For subdivisions that would result in two (2) or more lots in the development areas or three (3) or more lots in the rural areas, the following sections shall apply:

1. *General:* Sections 14-100 through 14-108.
2. *Administration and procedure:* Sections 14-200 through 14-204, and 14-213 through 14-236.
3. *Plat requirements and documents to be submitted:* Sections 14-300 through 14-317.
4. *On-site improvements and design:* Sections 14-400 through 14-440.

B. *Subdivisions that would result in two (2) lots in the rural areas.* For subdivisions that would result in two (2) lots in the rural areas, the following sections shall apply:

1. *General:* Sections 14-100 through 14-108.
2. *Administration and procedure:* Sections 14-200 through 14-204, and 14-213.
3. *Plat requirements and documents to be submitted:* Sections 14-300 through 14-317.
4. *On-site improvements and design:* Sections 14-400 through 14-404, 14-412, 14-414 through 14-417, 14-421 and 14-424.

(Ord. 98-A(1), 7-15-98; Ord. 01-14(1), 5-9-01)

State law reference--Va. Code § 15.2-2241(9).

#### **Sec. 14-207 Rural subdivisions.**

The following sections of this chapter shall apply to each rural subdivision:

A. *General:* Sections 14-100 through 14-108.

B. *Administration and procedure:* Sections 14-200 through 14-204 and sections 14-209, 14-226, 14-229 and 14-236.

C. *Plat requirements and documents to be submitted:* Sections 14-300, 14-301, 14-302(A)(1), (3), (4), (5), (6), (7), (9), (10), (11), (14) and (15), 14-302(B)(1), (2), (4), (5), (6), (7), (8), (9) and (10), 14-303(A), (B), (C), (D), (E), (F), (H), (I), (L), (O) and (P), 14-304, 14-305(B), 14-308.1, 14-309, 14-310, 14-312, 14-314 and 14-316.

D. *On-site improvements and design:* Sections 14-400, 14-403, 14-406, 14-414, 14-416, 14-421, 14-426, 14-427, 14-433 and 14-438.

(9-5-96, 7-9-86, 12-21-83, 2-4-81, 5-2-79, 11-13-74, 8-28-74; 1988 Code, § 18-13(b); Ord. 98-A(1), 7-15-98)

State law reference--Va. Code § 15.2-2241(9).

#### **Sec. 14-208 Family subdivisions.**

The following sections of this chapter shall apply to each family subdivision, when applicable:

A. *General:* Sections 14-100 through 14-108.

B. *Administration and procedure:* Sections 14-200 through 14-204, 14-208, 14-210, 14-211, 14-212, 14-226, 14-229, 14-232(B) and 14-236.

C. *Plat requirements and documents to be submitted:* Sections 14-300, 14-301, 14-302(A)(1), (3), (4), (5), (6), (7), (9), (10), (11), (13), (14) and (15), 14-302(B)(1), (2), (4), (5), (6), (7), (8), (9) and (10), 14-303(A), (B), (C), (D), (E), (F), (H), (I), (L), (M), (N), (O), (P), (Q) and (S), 14-304, 14-305(B), 14-308.1, 14-309, 14-310, 14-312 and 14-314.

D. *On-site improvements and design:* Sections 14-400, 14-401, 14-402, 14-403; if a private street will be constructed as authorized by section 14-232(B)(1), then also sections 14-316, 14-406, 14-410(F) and 14-412(A)(4); if any part of the property within a proposed family subdivision is within the jurisdictional area of the service authority, then also section 14-414, but if not, each lot, including a lot not required to connect to public sewer service pursuant to section 14-414, which is less than five (5) acres, shall comply with the requirements of sections 14-416, 14-421 and 14-426 through 14-440.

(§ 18-57 (part), 9-5-96, 1-3-96, 4-13-88, 12-21-83, 10-17-79, 8-28-74; § 18-58 (part), 9-5-96, 8-28-74; 1988 Code, §§ 18-57, 18-58; Ord. 98-A(1), 7-15-98)

State law reference--Va. Code §§ 15.2-2241(9), 15.2-2244(C).

#### **Sec. 14-208.1 Boundary line adjustments.**

The following sections shall apply to each boundary line adjustment, when applicable:

A. *General:* Sections 14-100 through 14-108.

B. *Administration and procedure:* Sections 14-200 through 14-204, 14-212.1, 14-224.1, 14-225.1, 14-226 and 14-229.

C. *Plat requirements and documents to be submitted:* Sections 14-300, 14-301, 14-302(A)(1), (2), (3), (4), (5), (6), (7), (9), (10), (11), (14) and (15), 14-302(B)(1), (2), (4), (5), (6), (7), (9) and (10), 14-303(A), (B), (C), (D), (E), (F), (G), (H), (I), (L), (O) and (P); if any resulting lot will be less than five (5) acres, the soil evaluation required by section 14-309, 14-310, 14-312 and 14-314.

D. *Onsite improvements and design:* Sections 14-400, 14-405, 14-406, 14-416, 14-421, 14-426 through 14-429, 14-433 and 14-438.

(9-5-96, 8-28-74 (§ 3); 1988 Code, § 18-15; Ord. 98-A(1), 8-5-98, § 14-239(part))

#### **Sec. 14-208.2 Easement plats.**

The following sections shall apply to each easement plat, when applicable:

A. *General:* Sections 14-100 through 14-108.

B. *Administration and procedure:* Sections 14-200 through 14-204, 14-212.4, 14-226 and 14-229.

C. *Plat requirements and documents to be submitted:* Sections 14-300, 14-301, 14-302(A)(1), (2), (3), (4), (5), (6), (11) and (15), 14-302(B)(1), (2), (4), (5), (6), (7), (9) and (10), 14-303(A), (B), (C), (E), (F), (H), (I), (L), (O) and (P), 14-312 and 14-314.

D. *Onsite improvements and design:* Sections 14-433 and 14-438.

**Division 3. Procedures for Rural Subdivisions,  
Family Subdivisions, Boundary Line Adjustments, Vacations and Easement Plats**

**Sec. 14-209 Rural subdivisions; procedure.**

Each plat for a rural subdivision shall be submitted, reviewed and approved as follows:

A. The plat shall meet the standards for plats set forth in Virginia Code § 42.1-82.

B. Within sixty (60) days after submittal of the plat, the agent shall determine whether it complies with the applicable requirements of this chapter. If the agent determines that the plat complies, he shall approve the plat. If the agent determines that the plat does not comply, he shall inform the subdivider in writing of the reasons for the denial, with citation to the applicable section of this chapter or other law, and what corrections or modifications will permit approval. The agent shall either mail the notice of denial by first class mail, or personally deliver it, to the subdivider. However, if the plat requires approval by any agency, department or authority other than the county, and no evidence is provided at the time the plat is submitted that approval has been obtained, the agent shall approve or disapprove the plat within thirty-five (35) days after receipt of approval from the agency, department or authority provided that the plat shall be approved or denied not later than ninety (90) days after resubmittal of the plat.

(§ 18-13 (part), 9-5-96, 12-21-83; § 18-57 (part), 9-5-96, 1-3-96, 4-13-88, 12-21-83, 10-17-79, 8-28-74; § 18-58 (part), 9-5-96, 8-28-74; 1988 Code, §§ 18-13, 18-57, 18-58; Ord. 98-A(1), 7-15-98)

**State law reference--**Va. Code §§ 15.2-2241(9), 15.2-2258.

**Sec. 14-210 Family subdivisions; procedure.**

Each plat for a family subdivision shall be submitted, reviewed and approved as follows:

A. The plat shall meet the standards for plats set forth in Virginia Code § 42.1-82. If land is to be transferred to a member of the immediate family owning an abutting lot as part of a family subdivision, the land shall be combined with the abutting lot and shall be so noted on the plat by appropriate symbol and wording.

B. Within sixty (60) days after submittal of the plat, the agent shall determine whether it complies with the applicable requirements of this chapter. If the agent determines that the plat complies, he shall approve the plat. If the agent determines that the plat does not comply, he shall inform the subdivider in writing of the reasons for the denial, with citation to the applicable section of this chapter or other law, and what corrections or modifications will permit approval. The agent shall either mail the notice of denial by first class mail, or personally deliver it, to the subdivider. However, if the plat requires approval by any agency, department or authority other than the county, and no evidence is provided at the time the plat is submitted that approval has been obtained, the agent shall approve or disapprove the plat within thirty-five (35) days after receipt of approval from the agency, department or authority, provided that the plat shall be approved or denied not later than ninety (90) days after submittal of the plat.

C. The approval of a plat for a family subdivision shall be subject to the conditions of approval set forth in section 14-212.

(9-5-96, 8-28-74; 1988 Code, § 18-58; Ord. 98-A(1), 7-15-98)

**State law reference--**Va. Code §§ 15.2-2241(1), 15.2-2241(9), 15.2-2244(C), 15.2-2258.

**Sec. 14-211 Family subdivisions; conditions precedent.**

A family subdivision shall be approved only if, in addition to satisfying all other applicable requirements of this chapter, the agent is satisfied that:

A. Only one lot is created for transfer by sale or gift to the same family member.

B. The subdivider has not previously divided any other land within the county by family subdivision for transfer by sale or gift to the same family member.

C. Each lot proposed to be created complies with all applicable requirements of the zoning ordinance.

D. The family subdivision is not sought for the purpose of circumventing the requirements of this chapter applicable to subdivisions. In determining whether a family subdivision is sought for the purpose of circumventing the requirements of this chapter, the agent shall consider the following factors, among others:

1. Whether the subdivision promotes the cohesiveness of the family;

2. Whether the subdivision is profit motivated for short-term investment purposes;

3. The length of time the subdivider has owned the property; and

4. Whether, after the family subdivision is approved, a lot created by the family subdivision is conveyed back to the grantor or to a third party.

(9-5-96, 1-3-96, 4-13-88, 12-21-83, 10-17-79, 8-28-74; 1988 Code, § 18-57; Ord. 98-A(1), 7-15-98)

**State law reference**--Va. Code § 15.2-2244(C).

**Sec. 14-212 Family subdivisions; conditions of approval.**

Each approval of a plat for a family subdivision shall be subject to the following conditions:

A. No lot created by the family subdivision, including the residue, may be transferred, except by devise, descent or operation of law, to a person other than an eligible member of the immediate family of the subdivider, for a period of two (2) years from the date of recordation of the plat, except for purposes of securing any purchase money and/or construction loan, including bona fide refinancing, provided that the spouse of the member of the immediate family to whom a lot is transferred may be a co-grantee and co-owner of the lot. If the lot created is conveyed back to the grantor within the two (2) year period, it shall be recombined with the parent lot within six (6) months after such conveyance. No building permits shall be issued for the lots until they are recombined.

B. The entrance of the principal means of access for each lot onto any public street shall comply with Virginia Department of Transportation standards and be approved by the Virginia Department of Transportation.

C. The following note shall be added to each plat for a family subdivision: "No lot shown on this family subdivision plat may be sold or conveyed to a person other than an eligible 'member of the immediate family,' as that term is defined in Chapter 14 of the Albemarle County Code, for a period of two (2) years from the date of recordation of this plat except as authorized by section 14-212(A) of the Albemarle County Code. If any lot created by the recordation of this plat is conveyed back to the grantor during the two (2) year period, it shall be recombined with the parent lot within six (6) months after such conveyance."

(9-5-96, 1-3-96, 4-13-88, 12-21-83, 10-17-79, 8-28-74; 1988 Code, § 18-57; Ord. 98-A(1), 7-15-98)

**State law reference**--Va. Code § 15.2-2244(C).

**Sec. 14-212.1 Boundary line adjustment; procedure.**

Each plat for a boundary line adjustment shall be submitted, reviewed and approved as follows:

A. Within sixty (60) days after submittal of the plat, the agent shall determine whether it complies with the applicable requirements of this chapter. If the agent determines that the plat complies, he shall approve the plat. If the agent determines that the plat does not comply, he shall inform the subdivider in writing of the reasons for the denial, with citation to the applicable section of this chapter or other law, and what corrections or modifications will permit approval. The agent shall either mail the notice of denial by first class mail, or personally deliver it, to the subdivider. However, if the plat requires approval by any agency, department or authority other than the county, and no evidence is provided at the time the plat is submitted that approval has been obtained, the agent shall approve or disapprove the plat within thirty-five (35) days after receipt of approval from the agency, department or authority provided that the plat shall be approved or denied not later than ninety (90) days after resubmittal of the plat.

B. The lots affected shall have been: (i) part of an otherwise valid and properly recorded subdivision plat approved pursuant to this chapter or a prior subdivision ordinance of the county; or (ii) part of a properly recorded deed prior to the adoption of the first subdivision ordinance of the county that required an approved subdivision plat under the applicable circumstances.

C. The application shall not involve the relocation or alteration of any streets, alleys, or easements for public areas. Easements or utility rights-of-way may be relocated or altered only with the express written consent of all persons holding an interest therein.

D. An application made during the period of validity of a final plat shall not constitute a waiver of any rights of the subdivider existing on the date of approval of the plat. The approval of an application shall not extend the period of validity of the original final plat.

(9-5-96, 8-28-74 (§ 3); 1988 Code, § 18-15; Ord. 98-A(1), 8-5-98, § 14-239(part))

**State law reference**--Va. Code § 15.2-2275.

**Sec. 14-212.2 Vacation of plat or part thereof; procedure.**

A recorded plat or any part thereof may be vacated pursuant to Virginia Code §§ 15.2-2271 through 15.2-2274 as follows:

A. An application to vacate a recorded plat shall be submitted to the agent.

B. If the application to vacate a recorded plat is proceeding under Virginia Code §§ 15.2-2271(1) or 15.2-2272(1):

1. The application shall include the proposed written instrument declaring the plat, or part thereof, to be vacated.

2. The agent shall review each application for compliance with applicable law. In conducting his review and prior to acting on the application, the agent shall transmit the application to appropriate site review committee members for review and recommendation.

3. The agent shall either grant or withhold consent to the vacation upon receipt of the recommendation of the site review committee. If the agent withholds consent, he shall inform the applicant in writing of the reasons for withholding consent. The agent shall either mail the notice of withholding of consent by first class mail, or personally deliver it, to the applicant.

C. If the application to vacate a recorded plat is proceeding under Virginia Code §§ 15.2-2271(2) or 15.2-2272(2), the agent shall make a recommendation to the board of supervisors as to whether it should vacate the plat by ordinance. When the agent has developed his recommendation, he shall transmit it and the application to the commission. The commission shall consider the recommendation and the application in making its recommendation to the board of supervisors.

D. An application which proposes to vacate a public street shall also be reviewed to determine whether the vacation is substantially in accord with the comprehensive plan, or part thereof.

E. An application shall be acted upon by the agent or the board of supervisors, as the case may be, within the time period set forth in section 14-214.

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

(Ord. 98-A(1), 8-5-98, § 14-240)

**State law reference**--Va. Code §§ 15.2-2241(9), 15.2-2270 through 15.2-2276.

#### **Sec. 14-212.3 Resubdivision without vacation of plat; procedure.**

Property may be resubdivided without vacating a recorded plat as follows:

A. An application to modify a recorded final plat that eliminates, relocates or otherwise alters one or more lot lines shall be submitted and reviewed as provided in sections 14-213 through 14-227, provided that the modification does not involve the relocation or alteration of streets, alleys, easements for public passage or other public areas, and provided further that no easements or utility rights-of-way shall be relocated or altered. An application for such a 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. The approval of such a modification shall not extend the period of validity of the original final plat. This paragraph shall apply to any subdivision plat of record, whether or not recorded prior to the adoption of a subdivision ordinance by the county.

B. An application to subdivide a lot or contiguous lots recorded or developed prior to the effective date of section 6.4 of the zoning ordinance or its predecessor shall be submitted and reviewed as provided in sections 14-213 through 14-227. The application shall be subject to section 6.4(C) of the zoning ordinance.

C. Nothing in this section limits the right of an owner to apply to vacate a plat or any part thereof, or to apply for a boundary line adjustment as provided in this chapter.

(9-5-96, 8-28-74 (§3); 1988 Code, § 18-15; Ord. 98-A(1), 8-5-98, § 14-239)

**State law reference**--Va. Code §§ 15.2-2275.

#### **Sec. 14-212.4 Easement plats; procedure.**

Each easement plat shall be submitted, reviewed and approved as follows:

A. The plat shall meet the standards for plats set forth in Virginia Code § 42.1-82.

B. Within sixty (60) days after submittal of the plat, the agent shall determine whether it complies with the applicable requirements of this chapter. If the agent determines that the plat complies, he shall approve the plat. If the agent determines that the plat does not comply, he shall inform the subdivider in writing of the reasons for the denial, with citation to the applicable section of this chapter or other law, and what corrections or modifications will permit approval. The agent shall either mail the notice of denial by first class mail, or personally deliver it, to the subdivider.

C. In making the determination under paragraph (B), the agent shall request comments from any department, agency or authority affected by the easement plat.

#### **Division 4. Procedure for All Other Subdivisions**

##### **Sec. 14-213 General.**

Each preliminary and final plat shall be submitted, reviewed and approved as provided in this division 4, subject to the following:

A. *Preliminary plat not mandatory.* A subdivider is not required to submit and obtain approval of a preliminary plat before submitting and seeking approval of a final plat. However, the agent may require the submittal of all information required by section 14-302 if the information is deemed necessary for review of the final plat.

B. *Procedure for certain two-lot subdivisions.* Subdivisions that would result in not more than two (2) lots within the rural areas shall be reviewed and approved as follows:

1. *Submittal of plat.* The subdivider shall submit a plat for review and approval by the agent.

2. *Review and approval of plat by agent.* Within sixty (60) days after submittal of the plat, the agent shall determine whether it complies with the applicable requirements of this chapter. The agent may request that any department, agency or authority review the plat and forward its comments to him. If the agent determines that the plat complies, he shall approve the plat.

(a) If the agent determines that the plat does not comply, he shall inform the subdivider in writing of the reasons for the disapproval, with citation to the applicable section of this chapter or other law, and what corrections or modifications will permit approval. The agent shall either mail the notice of disapproval by first class mail, or personally deliver it, to the subdivider.

(b) If the plat requires approval by any agency, department or authority other than the county, and no evidence is provided at the time the plat is submitted that such approval has been obtained, the agent shall approve or disapprove the plat within thirty-five (35) days after receipt of approval from the department, agency or authority, provided that the plat shall be approved or disapproved not later than ninety (90) days after resubmittal of the plat.

3. *Procedures for other approvals related to plat.* Other approvals related to the plat shall be reviewed and approved as provided in sections 14-224.1, 14-225.1, 14-231.1 and 14-232 through 14-236.

4. *Appeal of disapproval of plat.* The disapproval of a plat may be appealed as provided in section 14-226.

5. *Period of validity of approved plat, and extension thereof.* An approved plat shall be valid for the periods provided in section 14-229, and the period of validity may be extended as provided in section 14-231.

(9-5-96, 5-5-82, 8-28-74 (§ 8); 1988 Code, § 18-54; Ord. 98-A(1), 7-15-98; Ord. 01-14(1), 5-9-01)

**State law reference--**Va. Code § 15.2-2241(9).

##### **Sec. 14-214 Period in which to act on preliminary and final plat.**

Each preliminary and final plat shall be reviewed and acted upon by the agent or the commission, as applicable, according to the following schedule:

A. *Final plats.* A final plat shall be acted upon within sixty (60) days after the date the plat was officially submitted, as determined pursuant to section 14-221. A final plat that was previously disapproved shall be approved or disapproved within forty-five (45) days after the date the plat is modified, corrected and resubmitted for review and approval.

B. *Preliminary plats.* A preliminary plat shall be acted upon within sixty (60) days after the date the plat was officially submitted, as determined by section 14-216, subject to the following:

1. *Extended period if state agency review required.* If approval of a feature of a preliminary plat by a state agency is necessary, the period in which a preliminary plat shall be acted upon shall not exceed ninety (90) days. If state agency approval is required, the agent shall promptly forward to the state agency all documents necessary to allow the state agency to conduct its review. The state agency shall complete its review within forty-five (45) days of its receipt of the preliminary plat. The agent or the commission shall approve or disapprove the preliminary plat within thirty-five (35) days of receipt of approvals from all state agencies.

2. *Resubmitted preliminary plat.* A preliminary plat that was previously disapproved shall be approved or disapproved within forty-five (45) days after the date the plat is modified, corrected and resubmitted for review and approval.

(§ 18-46, 9-5-96, 8-28-74 (§ 7); § 18-53(part), 9-5-96, 6-3-81, 8-28-74 (§ 8); 1988 Code, §§ 18-46, 18-53; Ord. 98-A(1), 7-15-98)

State law reference--Va. Code §§ 15.2-2259, 15.2-2260.

**Sec. 14-215 Preliminary application conference.**

Each subdivider shall participate in a preliminary application conference with staff prior to submittal of a preliminary plat. The purpose of the conference shall be to allow the subdivider to inform staff of the nature of the subdivision so that staff and the subdivider can develop an informal program that will guide the review and approval of the preliminary plat, or parts thereof. The following requirements shall apply:

A. The subdivider shall present a preliminary schematic plat at the preliminary application conference which shows:

1. the boundary lines of the property;
2. existing land conditions, existing topography at a maximum of twenty (20) foot contour intervals, and established or approximated one hundred (100) year flood plain limits as shown on the official flood insurance maps for Albemarle County;
3. the general lay-out design of what is proposed for the subdivision, on a scale of not smaller than one (1) inch equals one hundred (100) feet;
4. building setback lines;
5. the applicable zoning of the property, including all applicable proffers, special use permit conditions and variances;
6. the applicable zoning of all abutting properties; and
7. a notation as to whether the land is within the Albemarle County and/or City of Charlottesville public water supply watershed or an agricultural-forestal district; and a notation as to whether the land or the abutting properties is subject to a conservation or open-space easement.

B. Statements made by staff and the subdivider during the preliminary application conference shall not be binding on the county or the subdivider.

(9-5-96, 8-28-74 (§ 7); 1988 Code, § 18-44; Ord. 98-A(1), 7-15-98)

State law reference--Va. Code § 15.2-2241(9).

**Sec. 14-216 Submittal of preliminary plat.**

Each preliminary plat shall be submitted to the agent, which shall then be initially processed as follows:

A. A preliminary plat shall be deemed to be officially submitted on the date of the next application deadline established by the agent after the submittal of the preliminary plat, and its acceptance for official submittal by the agent.

B. A preliminary plat omitting any information required by section 14-302(A) shall be deemed to be incomplete and shall not be accepted for official submittal by the agent. This review and determination shall be made within ten (10) days after the application deadline. The agent shall inform the subdivider in writing of the reasons for the disapproval, with citation to the applicable section of this chapter or other law, and what corrections or modifications will permit acceptance of the plat. The agent shall notify the subdivider or his or her agent of the disapproval in writing by first class mail, personal delivery, or, if consented to by the subdivider in writing, by fax or email.

C. Within fifteen (15) days after the date the notice of disapproval was mailed or delivered by the agent, the subdivider may resubmit the preliminary plat together with payment of the fee for the reinstatement of review. The date of the next application deadline after the resubmittal of the preliminary plat shall be deemed to be the date upon which the plat was officially submitted. In the event the subdivider fails to resubmit the preliminary subdivision plat within the fifteen (15) day period, the preliminary plat shall be deemed to be disapproved and a new application and fee shall be required for submittal of the preliminary plat.

D. A preliminary plat deemed officially submitted shall be transmitted to the site review committee.

E. When the agent determines that a preliminary plat is officially submitted, he shall send notice that a preliminary plat has been submitted to the owner of each lot abutting the subdivision and to each member of the board of supervisors and the commission. The notice shall describe the proposed subdivision; the specific location of the subdivision; the appropriate county office where the preliminary plat may be viewed; and the date of the site review committee meeting for the preliminary plat. The notice also shall advise each recipient of the right to request review of the preliminary plat by the commission and the date by which the review must be requested; or, if review by the commission is otherwise required, the date of the review.

F. The notice required by paragraph (E) shall be mailed or hand delivered at least five (5) days prior to the site review committee meeting for the preliminary plat. Mailed notice shall be sent by first class mail. Notice mailed to the owner of each lot abutting the subdivision shall be mailed to the last known address of the owner, and mailing the notice to the address shown on the current real estate tax assessment records of the county shall be deemed compliance with this requirement. If a lot abutting the subdivision is owned by the subdivider, the notice shall be given to the owner of the next abutting property not owned by the subdivider.

G. The failure of any person to receive the notice required by paragraph (E) shall not affect the validity of an approved preliminary subdivision plat, and shall not be the basis for an appeal.

(9-5-96, 5-3-79, 8-28-74; 1988 Code, § 18-45; Ord. 98-A(1), 7-15-98)

**State law reference**--Va. Code §§ 15.2-2241(9), 15.2-2260.

**Sec. 14-217 Review of preliminary plat by site review committee.**

Upon receipt of a preliminary plat from the agent, the site review committee shall review the plat as follows:

A. The site review committee shall review each preliminary plat for compliance with the technical requirements of this chapter.

B. Upon completion of its review, the site review committee shall transmit its requirements and recommendations to the agent. For the purposes of this section, the term "requirements" means the regulatory provisions of this chapter and the rules and regulations of each of the agencies of the site review committee; the term "recommendations" means suggestions for design change as may be deemed in the public interest by site review committee members in the area of their respective expertise.

C. If a revision is required by the site review committee, the subdivider shall revise the preliminary plat to include the required revision and shall submit the revision by a date prescribed by the agent. The revision shall be made prior to the review of the preliminary plat by the agent.

D. If a revision is recommended by the site review committee, the subdivider is not required to make the revision. If the subdivider elects not to revise the preliminary plat to include the recommended revision, the subdivider shall submit a written statement to the agent by the revision date prescribed by the agent which states the reasons and justification for not incorporating the recommendation in the revised plat. The written statement shall be deemed to be a part of the required revision.

(Ord. 98-A(1), 7-15-98)

**State law reference**--Va. Code § 15.2-2241(9).

**Sec. 14-218 Determining whether agent or commission reviews and acts on preliminary plat.**

A preliminary plat shall be reviewed and acted on by either the agent or the commission, as follows:

A. The agent shall review a preliminary plat if it is not subject to review by the commission as provided in paragraph (B). The agent shall conduct his review pursuant to section 14-219.

B. The commission shall review a preliminary plat if: (i) the subdivider or any owner of a lot abutting the subdivision, the board of supervisors or any member thereof, the commission or any member thereof, the zoning administrator, the county executive, or the agent, requests the commission review the preliminary plat; (ii) if review and approval by the commission of any matter pertaining to the plat is required by this chapter; or (iii) the subdivider obtained approval of a waiver prior to submittal of the preliminary plat as provided in sections 14-224.1 and 14-225.1 and the preliminary plat is not in substantial accord with the conceptual plan considered with the waiver request. The commission shall conduct its review pursuant to section 14-220. Each request for review shall be submitted to the agent by the deadline for requesting review stated in the notice. Each request by the subdivider or an owner of a lot abutting the subdivision shall be in writing and state the reasons for review.

(Ord. 98-A(1), 7-15-98)

**State law reference**--Va. Code §§ 15.2-2241(9), 15.2-2260.

**Sec. 14-219 Review and action on preliminary plat by agent.**

The agent shall review and act on a preliminary plat as follows:

A. The agent shall review the preliminary plat for compliance with the requirements of this chapter, and shall make a good faith effort to identify all deficiencies, if any, during the review of the first plat submittal. The agent shall consider the recommendations of the site review committee and any statement by the subdivider submitted pursuant to section 14-217(D). The agent also may consider any other evidence pertaining to the compliance of the preliminary plat with the technical requirements of this chapter as deemed necessary for a proper review of the plat.

B. The agent shall formulate an action or recommendation. If the agent determines that the preliminary plat complies with the requirements of this chapter, he shall approve the preliminary plat and promptly issue a letter to the subdivider stating the conditions which must be satisfied prior to submittal of the final plat. If the agent determines that the preliminary plat does not comply with the requirements of this chapter, he shall disapprove the preliminary plat and promptly inform the subdivider of the disapproval as provided in paragraph (C).

C. A notice of disapproval shall state the reasons for disapproval by identifying the plat's deficiencies and citing the applicable sections of this chapter or other law, and what corrections or modifications will permit approval of the preliminary plat. The agent shall either mail a written notice of disapproval by first class mail, or personally deliver it, to the subdivider. Within fifteen (15) days after the date the notice of disapproval was mailed or delivered, the subdivider may resubmit the preliminary plat together with payment of a fee for the reinstatement of review. The date of the next application deadline following the resubmittal of the preliminary plat shall be deemed to be the date upon which the preliminary plat was officially submitted. If the subdivider fails to timely resubmit the preliminary plat, the preliminary plat shall be deemed to be disapproved and a new application and fee shall be required for submittal of the preliminary plat.

D. If review of a preliminary plat by the commission is permitted, the agent shall not act on the plat until the deadline for requesting commission review of the plat has passed.

(§ 18-13, 9-5-96, 12-21-83; § 18-47 (part), 9-5-96, 8-28-74 (§ 7); § 18-48, 9-5-96, 8-28-74 (§ 7); 1988 Code, §§ 18-13, 18-47, 18-48; Ord. 98-A(1), 7-15-98)

**State law reference**--Va. Code §§ 15.2-2241(9), 15.2-2259, 15.2-2260.

#### **Sec. 14-220 Review and action on preliminary plat by commission.**

The commission shall review and act on a preliminary plat as follows:

A. The commission shall review the preliminary plat for compliance with the requirements of this chapter, and shall make a good faith effort to identify all deficiencies, if any, during the review of the first plat submittal. The commission shall consider the recommendations of the site review committee, any statement by the subdivider submitted pursuant to section 14-217(D), and the agent's comments and recommendations, which shall be transmitted by the agent to the commission. The commission also may consider any other evidence pertaining to the compliance of the preliminary plat with the requirements of this chapter as deemed necessary for a proper review of the plat.

B. If the commission determines that the preliminary plat complies with the requirements of this chapter, it shall approve the preliminary plat and direct the agent to issue a letter as provided in section 14-219(B). If the commission determines that the preliminary plat does not comply with the requirements of this chapter, it shall disapprove the preliminary plat and, at the time of its action to disapprove the preliminary plat state the reasons for disapproval by identifying the plat's deficiencies and citing the applicable section of this chapter or other law and, with the advice of the agent and staff, state what corrections or modifications will permit approval of the plat. If the commission disapproves the preliminary plat, it shall also direct the agent to issue a notice of disapproval to the subdivider as provided in section 14-219(C).

C. At the time that it acts to approve a preliminary plat, the commission may determine to review in whole or in part the final plat for the subdivision. In reviewing and acting upon a preliminary plat, the commission may exercise any power or authority expressly granted herein to the agent which is applicable to the review and action.

D. If review of a preliminary plat by the commission is permitted, the commission shall not approve the plat until the deadline for requesting commission review of the plat has passed.

(§ 18-47 (part), 9-5-96, 8-28-74 (§ 7); § 18-48, 9-5-96, 8-28-74 (§ 7); 1988 Code, §§ 18-47, 18-48; Ord. 98-A(1), 7-15-98)

**State law reference**--Va. Code §§ 15.2-2241(9), 15.2-2259, 15.2-2260.

#### **Sec. 14-221 Submittal of final plat.**

Each final plat shall be submitted to the agent, and it shall be processed as follows:

A. Except as provided by section 14-230, a subdivider shall submit a final plat for approval within one (1) year of the date of approval of the preliminary plat. For purposes of this section, a final plat shall be deemed to be officially submitted on the date it is submitted and satisfies the requirements of paragraphs (B) and (C).

B. Prior to submitting a final plat, a subdivider shall satisfy all conditions of the approval of the preliminary plat and shall obtain all tentative approvals for the final plat from the departments and agencies represented on the site review committee. A final plat shall not be accepted by the agent if the subdivider has not satisfied all of the conditions or has not obtained all required tentative approvals. For purposes of this section, a "tentative approval" is a formal communication from a reviewing department to the agent stating that all of the requirements of the reviewing department have been satisfied.

C. A final plat omitting information required by section 14-303 shall be deemed to be incomplete and shall not be accepted for official submittal by the agent. A determination shall be made by the agent within ten (10) days after the application deadline. The agent shall inform the subdivider in writing of the reasons for the disapproval, with citation to the applicable section of this chapter or other law, and what corrections or modifications will permit acceptance of the plat. The notice of disapproval shall either be mailed to the subdivider by first class mail, or personally delivered to the subdivider.

D. Within fifteen (15) days after the date the notice of rejection was mailed or delivered by the agent, the subdivider may resubmit the final plat together with payment of a fee for the reinstatement of review. The date of the next application deadline following the resubmittal of the final plat shall be deemed to be the date upon which the plat was officially submitted. In the event the subdivider fails to resubmit the final plat within the fifteen (15) day period, the final plat shall be deemed to be disapproved and a new application and fee shall be required for submittal of the final plat.

E. A final plat deemed complete by the agent shall be transmitted to the site review committee.

F. If the commission is required to review a final plat as provided in section 14-225, or if a preliminary plat was not first submitted and approved, the agent shall send notice that a final plat has been submitted pursuant to the procedures and requirements set forth in sections 14-216(E), (F) and (G).

(§ 18-51, 9-5-96, 8-28-74 (§ 7); § 18-53, 9-5-96, 6-3-81, 8-28-74 (§ 8); 1988 Code, §§ 18-51, 18-53; Ord. 98-A(1), 7-15-98)

**State law reference**--Va. Code §§ 15.2-2241(9), 15.2-2258.

#### **Sec. 14-222 Review of final plat by site review committee.**

Upon receipt of a final plat from the agent, the site review committee shall review the final plat as follows:

A. Each final plat shall be reviewed for compliance with the requirements of this chapter in effect at the time of preliminary plat approval, provided that all other requirements of sections 14-300, 14-301 and 14-303 are met.

B. If the final plat is subject to review and approval by the agent, the site review committee shall recommend approval if it determines that the final plat complies with the technical requirements of this chapter and that all conditions of the preliminary plat approval have been satisfied. If the site review committee determines that the final plat does not comply with the technical requirements of this chapter, or that all conditions of the preliminary plat approval have not been satisfied, it shall identify those requirements which have not been complied with and those conditions which have not been satisfied.

C. The determinations of the site review committee made pursuant to paragraph (B) shall be in writing and be submitted to the agent within the time period as may be specified by the agent.

(Ord. 98-A(1), 7-15-98)

**State law reference**--Va. Code §§ 15.2-2241(9), 15.2-2258.

#### **Sec. 14-223 Determining whether agent or commission reviews and acts on final plat.**

A final plat shall be reviewed and acted on by either the agent or the commission, as follows:

A. The agent shall review a final plat if it is not subject to review by the commission as provided in paragraph (B). The agent shall conduct his review pursuant to section 14-224.

B. The commission shall review a final plat if: (i) the agent determines there is a substantial change from the preliminary plat approved by the commission; (ii) the commission requested review of the final plat during preliminary plat approval, as provided by section 14-220(C); (iii) the subdivider requests review, using the same procedure as provided in section 14-218(B); or (iv) the subdivider obtained approval of a waiver prior to submittal of the preliminary plat as provided in sections 14-224.1 and 14-225.1 and the final plat is not in substantial accord with the conceptual plan considered with the waiver request. The commission shall conduct its review pursuant to section 14-225.

(Ord. 98-A(1), 7-15-98)

**State law reference**--Va. Code §§ 15.2-2241(9), 15.2-2258.

#### **Sec. 14-224 Review and action on final plat by agent.**

Upon receipt of a final plat from the site review committee, the agent shall review the final plat as follows:

A. The agent shall review the final plat for compliance with the requirements of this chapter in effect at the time of preliminary plat approval, provided that all other requirements of sections 14-300, 14-301 and 14-303 are met. For the final plat of each section of a phased subdivision, the agent shall also review the final plat for compliance with applicable regulations, and all requirements of the zoning ordinance in effect at the time the plat for that section is being reviewed or, in the case of a planned

development, the zoning ordinance selected by the subdivider under section 8.5.5.2 of the zoning ordinance. The agent shall make a good faith effort to identify all deficiencies, if any, during the review of the first plat submittal. The agent shall consider the recommendations and determinations made by the site review committee.

B. If the agent determines that the final plat complies with the requirements of this chapter and that all conditions of approval of the preliminary plat have been satisfied, the agent shall sign the final plat. If the agent determines that the final plat does not comply with all requirements of this chapter or that all conditions of approval of the preliminary plat have not been satisfied, the final plat shall be disapproved and the agent shall promptly inform the subdivider of the disapproval by issuing a notice of disapproval to the subdivider which complies with the notice requirements stated in section 14-219(C).

C. If review of a final plat by the commission is permitted, the agent shall not act on the plat until the deadline for requesting commission review of the plat has passed.  
(9-5-96, 6-3-81, 8-28-74 (§ 8); 1988 Code, § 18-53; Ord. 98-A(1), 7-15-98)

**State law reference**--Va. Code §§ 15.2-2241(9), 15.2-2258, 15.2-2259.

#### **Sec. 14-224.1 Waiver of certain requirements by the agent.**

The agent may waive requirements as provided in sections 14-313, 14-401, 14-405, 14-407, 14-409, 14-419 and 14-420, as follows:

A. A subdivider shall submit to the agent a written request stating the reason and justification for the request and all proposed alternatives. The subdivider shall have the burden of producing the evidence to enable the agent to make the findings required by this section.

B. The subdivider may appeal the disapproval of a waiver, or the approval of a waiver with conditions objectionable to the subdivider, to the commission as provided in section 14-226. In reviewing a waiver request, the commission may approve or disapprove the waiver based upon the applicable findings set forth in this section, amend any condition imposed by the agent, and impose any conditions it deems necessary.

#### **Sec. 14-225 Review and action on final plat by commission.**

Upon receipt of a final plat because review by the commission is requested or required, the commission shall review the plat as follows:

A. The commission shall review the final plat for compliance with the requirements of this chapter, and shall make a good faith effort to identify all deficiencies, if any, during the review of the first plat submittal. The commission shall consider the recommendations of the site review committee, the recommendations and comments of the agent, and any statement of the subdivider in response to the recommendations and comments, which shall be transmitted by the agent to the commission. The commission also may consider any other evidence pertaining to the compliance of the preliminary plat with the requirements of this chapter as deemed necessary for a proper review of the plat.

B. If the commission determines that the final plat complies with the requirements of this chapter and, if a preliminary plat was submitted and approved, that all conditions of approval of the preliminary plat have been satisfied, the commission shall approve the final plat and direct the agent to sign the plat. If the commission determines that the final plat does not comply with all requirements of this chapter or that all conditions of approval of the preliminary plat have not been satisfied, it shall disapprove the final plat and, at the time of its action to disapprove the plat, identify the reasons for disapproval, with citation to the applicable section of this chapter and, with the advice of the agent and staff, state what corrections or modifications will permit approval of the plat. If the commission disapproves the final plat, it shall also direct the agent to issue a notice of disapproval to the subdivider which complies with the notice requirements stated in section 14-219(C).

C. If review of a final plat by the commission is permitted, the commission shall not approve the plat until the deadline for requesting commission review of the plat has passed.

D. In reviewing and acting upon a final plat, the commission may exercise any power or authority expressly granted herein to the agent which is applicable to the review and action.

(9-5-96, 6-3-81, 8-28-74 (§ 8); 1988 Code, § 18-53; Ord. 98-A(1), 7-15-98)

**State law reference**--Va. Code §§ 15.2-2241(9), 15.2-2258, 15.2-2259.

#### **Sec. 14-225.1 Waiver of certain requirements by the commission.**

The commission may waive requirements as provided in sections 14-234, 14-404, 14-409, 14-410, 14-412, 14-414 and 14-422, as follows:

A. A subdivider shall submit to the agent a written request stating the reason and justification for the request and all proposed alternatives. The subdivider shall have the burden of producing the evidence to enable the commission to make the findings required by this section. The agent shall review the request and transmit his recommendation of approval, approval with conditions, or disapproval to the commission. If the agent recommends approval or approval with conditions, the recommendation shall be

accompanied by a statement by the agent as to the public purpose served by the recommendation, particularly in regard to the purpose and intent of this chapter, the zoning ordinance and the comprehensive plan. The director of planning and the county engineer shall provide recommendations to the commission as to whether and how the waiver would accomplish county goals, policies, good planning practice and good engineering practice.

B. The subdivider may appeal the disapproval of a waiver, or the approval of a waiver with conditions objectionable to the subdivider, to the board of supervisors as an appeal of a disapproval of the plat as provided in section 14-226. In reviewing a waiver request, the board may approve or disapprove the waiver based upon the applicable findings set forth in this section, amend any condition imposed by the commission, and impose any conditions it deems necessary.

(9-5-96, 8-28-74 (§ 10); 1988 Code, § 18-3; Ord. 98-A(1), 8-5-98, § 14-237)

**State law reference**--Va. Code § 15.2-2242(1).

#### **Sec. 14-226 Appeal of disapproval of preliminary or final plat; resubmittal.**

If a preliminary or final plat is disapproved by the agent or the commission:

A. *Judicial review.* It may be subject to judicial review as provided in Virginia Code §§ 15.2-2259(C) and 15.2-2260(E).

B. *Appeal to board of supervisors.* In the alternative and in addition to seeking judicial review, and at the sole option of the subdivider, the subdivider may appeal the disapproval to the board of supervisors. The appeal shall be in writing and be filed with the agent within ten (10) days of the date of the disapproval. The board may affirm, reverse, or modify in whole or in part, the disapproval. In so doing, the board shall give due consideration to the recommendations of the agent, the site review committee or the commission. In addition, it may consider such other evidence as it deems necessary for a proper review of the application.

C. *Resubmittal.* In the alternative and in addition to seeking judicial review, and at the sole option of the subdivider, the subdivider may resubmit the plat after it has been modified or corrected to address the deficiencies identified by the agent or the commission. The modified or corrected plat shall be resubmitted to the agent within thirty (30) days' of the date of the disapproval. The agent or the commission, as the case may be, shall act on the resubmitted plat within forty-five (45) days after the date it was resubmitted. If the resubmitted plat is disapproved, the subdivider may seek judicial review, appeal the disapproval to the board of supervisors, or resubmit a modified or corrected plat as provided herein.

(9-5-96, 11-4-82, 11-3-82; 1988 Code, § 18-4; Ord. 98-A(1), 7-15-98)

**State law reference**--Va. Code §§ 15.2-2241(9), 15.2-2259, 15.2-2260.

#### **Sec. 14-227 Effect of approval of preliminary plat.**

The approval of a preliminary plat does not guarantee approval of the final plat, does not constitute approval or acceptance of the subdivision, and does not constitute authorization to proceed with the construction of the improvements within the subdivision. The approval of a preliminary plat also does not guarantee, or establish any right to, the continued application of county ordinances to the subdivision as the ordinances exist on the date of approval of the preliminary plat, except to the extent any such right is established under Virginia Code § 15.2-2307.

(9-5-96, 8-28-74; 1988 Code, § 18-49; Ord. 98-A(1), 7-15-98)

**State law reference**--Va. Code §§ 15.2-2241(9), 15.2-2260.

### **Division 5. Period of Validity of Subdivision Plat**

#### **Sec. 14-228 Period of validity of approved preliminary plat.**

A preliminary plat shall be valid for a period of five (5) years from the date it is approved pursuant to this chapter, provided that the subdivider submits a final plat for all or a portion of the property within one (1) year of the approval as provided in section 14-221, and thereafter diligently pursues approval of the final plat. After three (3) years following preliminary plat approval, the agent may, after ninety (90) days' written notice provided by certified mail to the subdivider, revoke the approval upon a specific finding of facts that the subdivider failed to diligently pursue approval of the final plat. The failure to officially submit a final plat as provided in section 14-221 within the one (1) year period shall render the approval of the preliminary plat null and void. For purposes of this section, the date the preliminary plat is approved shall be the date that the letter of approval required by section 14-219(B) or 14-220(B) is mailed.

(9-5-96, 8-28-74 (§ 7); 1988 Code, § 18-50; Ord. 98-A(1), 7-15-98)

**State law reference**--Va. Code §§ 15.2-2241(9), 15.2-2260.

**Sec. 14-229 Period of validity of approved final plat.**

A final plat for a subdivision which is not a phased subdivision eligible to be subject to section 14-230 shall be valid for the following periods:

A. A final plat shall be valid for a period of one (1) year from the date the agent affixes his signature to the plat, or for any other period specified in a surety agreement entered into by and between the subdivider and the county, whichever is later, if: (i) the subdivider has commenced construction of facilities to be dedicated for public use pursuant to an approved plan or permit with approved surety; or (ii) the subdivider has furnished surety in a form authorized by section 14-435(A) in the amount of the estimated cost of construction of the facilities.

B. The failure to record an approved final plat in the office of the clerk of the circuit court of the county during its period of validity shall render the approval null and void.

C. For purposes of this section, an approved plat for a rural subdivision, family subdivision, boundary line adjustment plat, easement plat or a vacation plat is a "final plat."

(Ord. 98-A(1), 7-15-98)

**State law reference--**Va. Code § 15.2-2241(8).

**Sec. 14-230 Period of validity of approved plat for phased subdivision.**

If a subdivider of a phased subdivision records a final plat which is a section of a subdivision shown on an approved preliminary plat, the plat shall be valid for the following period:

A. The subdivider shall have the right to record the remaining sections shown on the preliminary plat for a period of five (5) years from the date the final plat for the first section was recorded, or for any longer period as the agent or the commission may determine to be reasonable if the subdivider furnished to the board of supervisors, as part of the approval of the final plat for that section, a surety in a form authorized by section 14-435(A) in the amount of the estimated cost of construction of the facilities to be dedicated within that section for public use and maintained by the county, the commonwealth, or other public agency.

B. The agent or the commission may grant a longer period to record the final plats for the remaining sections, if at all, upon the request of the subdivider and at the time of the approval of the final plat for the first section. In acting on a request, the agent or the commission shall consider the size and phasing of the proposed development.

C. During the period that a final plat is valid as provided in this section, each plat for each subsequent phase shall be subject to this chapter, engineering and construction standards, and all requirements of the zoning ordinance in effect at the time the plat for each remaining phase is recorded.

(Ord. 98-A(1), 7-15-98)

**State law reference--**Va. Code § 15.2-2241(5).

**Sec. 14-231 Extension of period of validity of approved preliminary or final plat.**

The period of validity of an approved preliminary or final plat may be extended as follows:

A. The period of validity of an approved preliminary plat or an approved but not recorded final plat may be extended by the agent for up to one (1) year from the original date the approval of the plat was scheduled to expire. An extension may be granted only if the subdivider submits a written request for an extension, accompanied by the required fee, which is received by the agent at least ten (10) days prior to the expiration date of the plat. The agent shall act upon the request on or prior to the date the approval of the plat was scheduled to expire. The written request shall address, to the extent they apply, whether: (i) all conditions of preliminary plat approval have been substantially satisfied or if not, what governmental agencies or acts of God have caused unusual delays in substantially satisfying the conditions; (ii) there is significant progress in the construction of improvements; (iii) there has been a significant relevant change in a relevant policy in the comprehensive plan or any regulation in the zoning ordinance or any other chapter of the Code affecting the property; and (iv) the project has progressed without being cited for any construction-related violation of the Code or, if a violation occurred, that it was corrected in a timely manner.

B. The agent shall act upon the request on or prior to the date the approval of the plat was scheduled to expire. If the agent fails to approve or disapprove a timely request for extension before the plat expires, the expiration of the plat shall be temporarily suspended until the date of the agent's decision.

C. The agent may grant an extension determined to be reasonable, taking into consideration the size and phasing of the proposed development and the laws, ordinances and regulations in effect at the time of the request for an extension.

D. The period of validity of a recorded final plat may be extended by the agent one (1) or more times for a period as the agent determines to be reasonable. An extension shall be granted only upon a written request of the subdivider which is received by the agent in a timely manner so as to allow

the agent to act on the request before the date the approval of the final plat was scheduled to expire. The written request shall satisfy the requirements of paragraph (A), and the agent shall grant an extension only upon consideration of the factors delineated in paragraph (A).

E. A subdivider may appeal the denial of an extension request to the circuit court as provided in Virginia Code § 15.2-2261(B)(2). In the alternative and in addition to seeking judicial review, and at the sole option of the subdivider, the subdivider may appeal the disapproval to the board of supervisors. The appeal shall be in writing and be filed with the agent within ten (10) days of the date of the disapproval. The board may affirm, reverse, or modify in whole or in part, the disapproval. In so doing, the board shall give due consideration to the recommendations of the agent. In addition, it may consider such other evidence as it deems necessary for a proper review of the application. If the subdivider appeals a disapproval to the board of supervisors, the expiration of the plat shall be temporarily suspended until the date of the board's decision.

(9-5-96, 8-28-74 (§ 7); 1988 Code, § 18-50; Ord. 98-A(1), 7-15-98)

**State law reference--**Va. Code § 15.2-2261.

#### **Sec. 14-231.1 Changes or revisions to preliminary or final plat.**

Changes, revisions or erasures made to a preliminary or final plat shall be made as follows:

A. An approved preliminary or final plat or accompanying data sheet may be changed or revised, including erasures, only with the prior express written authorization of the agent, except when the change has been required by the site review committee or the commission.

B. An approved final plat which is changed or revised shall be submitted and reviewed as provided in sections 14-213 through 14-227, provided that the agent may approve minor changes or revisions to the plat if he determines that the plat, as changed or revised: (i) complies with all requirements of this chapter and all other applicable laws; (ii) substantially complies with the approved final plat and all conditions of preliminary plat approval; and (iii) will have no additional adverse impact on adjacent land or public facilities.

C. A changed or revised final plat shall be signed by the owner as provided in section 14-303(O).

(Ord. 98-A(1), 8-5-98; § 14-238)

**State law reference--**Va. Code § 15.2-2241(9).

### **Division 6. Procedures for the Approval of Private Streets, Shared Driveways and Alleys**

#### **Sec. 14-232 When private streets in rural areas may be authorized.**

A private street may be authorized in the rural areas under the following circumstances, provided that the findings required by section 14-234(C) are made:

A. *By the commission.* The commission may authorize a subdivision to be developed with one (1) or more new private streets only under any of the following circumstances:

1. *To alleviate significant degradation to the environment.* One or more private streets may be authorized if: (i) the property is within either the rural areas (RA) or village residential (VR) zoning districts; (ii) the private streets will alleviate a clearly demonstrable likelihood of significant degradation to the environment of the property or any land adjacent thereto resulting from the construction of a public street in the same alignment; (iii) no alternative public street alignment is available which would alleviate significant degradation of the environment; (iv) no more lots are proposed on the private streets than could be created on a public street due to right-of-way dedication; and (v) the proposed private streets demonstrably promote sensitivity toward the natural characteristics of the land and encourages the subdivision of land in a manner that is consistent and harmonious with surrounding development. The term "significant degradation" means either:

(a) The total volume of grading for construction of a public street would be thirty (30) percent or more than that of a private street in the same alignment, based upon profiles, typical sections, earthwork computations, and other information deemed necessary by the county engineer, submitted by the subdivider and reviewed by the county engineer; or

(b) Environmental impacts including, but not limited to, erosion and sedimentation, stormwater runoff, surface water pollution, loss of tree cover and/or the loss of indigenous vegetation resulting from a public street, which would be substantially greater than that of a private street in the same alignment, based upon evidence submitted by the subdivider and reviewed by the county engineer and other qualified staff.

2. The lots will be used for non-residential or non-agricultural purposes.

3. *General welfare.* One or more private streets may be authorized if the general welfare, as opposed to the proprietary interest of the subdivider, would be better served by the construction of one or more private streets than by the construction of public streets.

B. *By the agent.* The agent may authorize the following subdivisions to be developed with one (1) or more new private streets or shared driveways:

1. A family subdivision.

2. A two-lot subdivision if the division contains only two lots and the private street will serve only those lots and will be the sole and direct means of access to a public street.

(9-5-96, 8-28-74; 1988 Code, § 18-36; Ord. 98-A(1), 7-15-98)

**State law reference--**Va. Code § 15.2-2242(3).

#### **Sec. 14-233 When private streets in development areas may be authorized.**

A private street may be authorized in the development areas under the following circumstances, provided that the findings required by section 14-234(C) are made:

A. *By the commission.* The commission may authorize a subdivision to be developed with one (1) or more new private streets in the following circumstances:

1. *Neighborhood model development.* The proposed private street(s) would enable the principles of the neighborhood model to be more fully implemented than could be achieved with a public street, without diminishing other principles of the neighborhood model, in the following circumstances: (i) the subdivision would have a streetscape more consistent with the neighborhood model; (ii) the subdivision design would allow it to better achieve the density goals of the comprehensive plan; (iii) rear vehicular access to buildings would be provided so that the buildings may face a common amenity; (iv) a significant environmental resource would be protected; or (v) relegated parking would be provided to a greater extent than could otherwise be provided.

2. *Two-lot subdivision.* The proposed private street(s) would be within a two-lot subdivision.

3. *General welfare.* The general welfare, as opposed to the proprietary interest of the subdivider, would be better served by the construction of one or more private streets than by the construction of public streets.

B. *By the agent.* The agent may authorize one (1) or more new private streets in the following circumstances:

1. *Subdivision containing attached dwelling units or non-residential uses.* The proposed private street(s) would be in a subdivision containing attached dwelling units or non-residential uses where the units, groups of units, or non-residential uses are to be located on individual lots.

2. *Family subdivisions.* The proposed private street(s) would be within a family subdivision.

**State law reference--**Va. Code § 15.2-2242(3).

#### **Sec. 14-234 Procedure to authorize private street and related matters.**

Requests under sections 14-232 and 14-233 shall be submitted, processed and acted upon as follows:

A. A subdivider shall submit a request in writing to the agent at the time of the submittal of the preliminary plat or may, within the development areas, submit the written request prior to submittal of a preliminary plat or with an application to rezone the land.

1. The request shall state the reasons and justifications for the request, and shall particularly address one or more applicable bases for granting the request as identified in sections 14-232 or 14-233, and each of the five findings identified in paragraph (C) required to be made.

(a) The request shall include: (i) a map of the subdivision having contour intervals of not greater than twenty (20) feet showing the horizontal alignment; (ii) field-run profiles and typical cross-sections of the proposed streets; (iii) the maximum number of lots to be served by each private street; and (iv) documentation explaining how the perpetual maintenance of the private street including, within the development areas, the curb, curb and gutter, sidewalks, and planting strip landscaping will be funded, and identifying the person or entity that will be responsible for maintaining the improvements. The county engineer may waive the requirement for the field-run profile in the case of an existing street or where deemed appropriate due to topography, or if the topographic map is based on aerial or field collected data with a contour interval accuracy of five (5) vertical feet or better. A request under section 14-232(A)(1) shall include earthwork computations demonstrating significant degradation.

(b) If the request is made prior to submittal of a preliminary plat or with an application to rezone the land, it also shall include: (i) a justification for the request; (ii) a vicinity map showing a larger street network at a scale no smaller than one (1) inch equals six hundred (600) feet; (iii) a conceptual plan at a scale no smaller than one (1) inch equals two hundred (200) feet showing surveyed boundaries of the property; (iv) topography of the property at five (5) foot intervals for the property being subdivided and on abutting lands to a distance of five hundred (500) feet from the boundary line or a lesser distance determined to be sufficient by the agent; (v) the locations of streams, stream buffers, steep slopes, floodplains, known wetlands; (vi) the proposed layout of streets and lots, unit types, uses, and location of parking, as applicable; (vii) proposed private street profiles; and (viii) the maximum number of lots to be served.

2. The agent shall forward the map to the county engineer for review and comment. When the agent has received comments on the map from the county engineer, the agent shall then consider the request. The agent shall then proceed as follows:

(a) If the request for a private street is made under sections 14-232(A) or 14-233(A), he may recommend approval, approval with conditions, or denial. A recommendation of approval or conditional approval shall be accompanied by a statement by the agent as to the public purpose served by the recommendation, particularly in regard to the purpose and intent of this chapter, the zoning ordinance, and the comprehensive plan; or

(b) If the request for a private street is made under sections 14-232(B) or 14-233(B), he may approve, approve with conditions, or deny the request.

3. The commission shall not consider a request until it has received and considered the recommendation of the agent.

B. In considering a request for approval of one or more private streets, the agent and commission shall consider that: (i) private streets are intended to be the exception to public streets; and (ii) absent compelling circumstances, private streets should not cross over dams or bridges or involve other infrastructure that would be reasonably prohibitive to maintain, should not serve as the primary or sole interconnection between the subdivision and abutting property, or serve through traffic by being the connector between two or more public streets.

C. The agent and the commission may authorize one or more private streets in a subdivision if it finds that one or more of the circumstances described in sections 14-232 or 14-233 exist and it determines that:

1. The private street will be adequate to carry the traffic volume which may be reasonably expected to be generated by the subdivision.

2. The comprehensive plan does not provide for a public street in the approximate location of the proposed private street;

3. The fee of the private street will be owned by the owner of each lot abutting the right-of-way thereof or by an association composed of the owners of all lots in the subdivision, subject in either case to any easement for the benefit of all lots served by the street;

4. Except where required by the commission to serve a specific public purpose, the private street will not serve through traffic nor intersect the state highway system in more than one location; and

5. If applicable, the private street has been approved in accordance with section 30.3, flood hazard overlay district, of the zoning ordinance and other applicable law.

D. In considering a request for a private street, the commission may waive the requirements of sections 14-404 and/or 14-412 as provided therein, provided that all of the applicable requirements of sections 14-232, 14-233 and this section are satisfied.

E. In approving a request for a private street, the commission or the agent may impose any condition pertaining to the private street it deems reasonable and necessary, including any condition pertaining to the funding or responsibility for maintaining the private street, including the curb, curb and gutter, sidewalks, and planting strip landscaping to be addressed in the maintenance instrument required by section 14-317.

(9-5-96, 8-28-74; 1988 Code, § 18-36; Ord. 98-A(1), 8-5-98; § 14-233 (part))

**State law reference**--Va. Code § 15.2-2242(3).

#### **Sec. 14-235 Effect of approval of private street.**

If the agent or the commission approves one or more private streets in a subdivision, the following requirements shall apply:

A. The subdivider shall submit a maintenance agreement as required by section 14-317.

B. The final plat shall contain the statement required by section 14-303(N).

C. The subdivider shall provide surety for the completion of the private street as required by section 14-435 if the private street will not be completed prior to approval of the final plat, unless the private street was authorized under sections 14-232(B)(1), 14-232(B)(2), or 14-233(B)(2).

(9-5-96, 8-28-74; 1988 Code, § 18-36; Ord. 98-A(1), 8-5-98)

**State law reference**--Va. Code § 15.2-2242(3).

**Sec. 14-236 When shared driveways and alleys may be authorized.**

A shared driveway or alley may be authorized as follows:

A. The agent may authorize a subdivision to be developed with one or more shared driveways when street frontage meeting the street frontage requirements of the zoning district exists or will be provided to both lots.

B. The agent may authorize a subdivision to be developed with one or more alleys in the development areas when street frontage exists or will be provided for all lots to be served by the alley(s).

C. Where alleys are authorized, driveways shall be provided only from the alley unless otherwise approved by the agent for cases such as, but not limited to, corner lots or lots where access is prevented by topographical constraints.

(Ord. 02-14(1), 2-6-02, § 14-241)

**Article III. Subdivision Plat Requirements and Documents to be Submitted**

**Division 1. Plat Requirements**

**Sec. 14-300 Persons authorized to prepare plat.**

Each plat shall be prepared by a professional engineer or a land surveyor, to the limits of his license.

(9-5-96, 5-3-79, 8-28-74; 1988 Code, § 18-45; Ord. 98-A(1), 8-5-98)

**State law reference**--Va. Code § 15.2-2262.

**Sec. 14-301 Form and style of plats.**

Each subdivision plat shall comply with the following:

A. The plat shall meet the standard for plats set forth in Virginia Code § 42.1-82.

B. The plat shall be drawn to a scale of one (1) inch equals fifty (50) feet or to such scale as may be approved by the agent in a particular case.

C. The plat shall be prepared on one (1) or more sheets, provided that no sheet shall exceed twenty-four (24) inches by thirty-six (36) inches in size, and further provided that if the plat is prepared on more than one (1) sheet, match lines shall clearly indicate where the several sheets join.

D. The top of each sheet shall be approximately north.

E. The plat shall be in a form acceptable for recordation by the clerk of the circuit court of the county.

(§ 18-45, 9-5-96, 5-3-79, 8-28-74; § 18-51, 9-5-96, 8-28-74 (§ 7); § 18-55, 9-5-96, 2-4-81, 8-28-74 (§ 8); 1988 Code, §§ 18-45, 18-55; Ord. 98-A(1), 8-5-98)

**State law reference**--Va. Code § 15.2-2241(1).

**Sec. 14-302 Contents of preliminary plat.**

A preliminary plat shall contain the following information:

A. A preliminary plat shall contain the following information, which must be included in order for a preliminary plat to be deemed complete under section 14-216(B):

1. *Name of subdivision.* The title under which the subdivision is proposed to be recorded. The title shall not duplicate or be a homonym of an existing or reserved subdivision name within the county, the City of Charlottesville, or the Town of Scottsville, except if the subdivision is an extension of an existing subdivision.

2. *Vicinity map.* A map at a scale of one (1) inch equal to two thousand (2,000) feet showing the property and its relationship with adjoining land and streets, its relationship with landmarks in the area and, if the subdivision is a phased subdivision, all other phases of the subdivision for which a final plat has been approved, in detail adequate to describe the location of the property without field review.

3. *Existing or platted streets.* The location, width and names of all existing or platted streets and all other rights-of-way.

4. *Private easements.* The location and dimensions of all existing and proposed private easements. Existing easements shall be labeled with the deed book and page number and the name of the owner of record.

5. *Public easements.* The location and dimensions of all existing and proposed public easements outside of a street right-of-way. Existing easements shall be labeled with the deed book and page number and the name of the public owner of record. Proposed easements shall be labeled as "dedicated to public use."

6. *Alleys and shared driveways.* The location and dimensions of all easements for alleys and shared driveways.

7. *Existing and departing lot lines.* If the property consists of more than one existing lot, then the identification of the existing lots and their outlines, which shall be indicated by dashed lines; and, the location of departing lot lines of abutting lots.

8. *Proposed lots.* The number, approximate dimensions, and area of each proposed lot.

9. *Building sites on proposed lots.* The location, area and dimensions of a building site on each proposed lot complying with the requirements of section 4.2 of the zoning ordinance. The plat shall also contain the following note: "Parcel [letter or number] and the residue of Tax Map/Parcel [numbers] each contain a building site that complies with section 4.2.1 of the Albemarle County Zoning Ordinance."

10. *Right of further division of proposed lots.* The number of lots, as assigned by the subdivider, into which each proposed lot may be further divided by right pursuant to section 10.3.1 of the zoning ordinance, if applicable. The plat shall also contain the following note: "Parcel [letter or number] is assigned [number] development rights and may/may not be further divided and when further divided these rights shall not comprise more than [number] acres. The residue of Tax Map/Parcel [numbers] is retaining [number] development rights and when further divided it shall not consist of more than [number] acres."

11. *Instrument creating property proposed for subdivision.* The deed book and page number of the instrument whereby the property was created, as recorded in the office of the clerk of the circuit court of the county.

12. *Topography.* Existing topography at the time of plat submittal at up to twenty [20] percent slope, maximum five [5] foot contours. The source of topography, including survey date and name of the licensed professional; or a statement that topography data provided by the county was used Proposed grading (maximum five [5] foot contours) supplemented where necessary by spot elevations; areas of the site where existing slopes are twenty-five (25) percent or greater. Existing topography for the entire site with sufficient offsite topography to describe prominent and pertinent offsite features and physical characteristics, but in no case less than fifty (50) feet outside of the site unless otherwise approved by the agent.

13. *Proposed facilities.* The location of proposed water and sewer lines and related improvements; proposed drainage and stormwater management facilities and related improvements.

14. *Land to be dedicated in fee or reserved.* The location, acreage, and current owner of all land intended to be dedicated in fee or reserved for public use, or to be reserved in a deed for the common use of lot owners in the subdivision.

15. *Identification of all owners and certain interest holders.* The names and addresses of each owner of record and holders of any easements affecting the property.

B. A preliminary plat shall also contain the following information, provided that the preliminary plat shall not be deemed incomplete for purposes of section 14-216(B) if it does not include this information in the initial plat submittal:

1. *General information.* The date of drawing, including the date of the last revision, the number of sheets, the north point, and the scale. If true north is used, the method of determination shall be shown.

2. *Name of plat preparer.* The name of the person who prepared the plat.

3. *Public areas, facilities or uses.* The location of all areas shown in the comprehensive plan as proposed sites for public areas, facilities or uses, as described in Virginia Code § 15.2-2232, which are located wholly or in part within the property.

4. *Places of burial.* The location of any grave, object or structure marking a place of burial located on the property.

5. *Zoning classification.* The zoning classification of the property, including all applicable zoning overlay districts, proffers, special use permits and variances.

6. *Tax map and parcel number.* The county tax map and parcel number of the property.

7. *Reservoir watershed; agricultural-forestal district.* A notation as to whether the land is within an Albemarle County and/or City of Charlottesville water supply watershed or an agricultural-forestal district.

8. *Yards.* The location of all yards required by this chapter and the zoning ordinance, which may be shown graphically or described in a note on the plat.

9. *Flood plain.* The location of any part of the property within the flood hazard overlay district, as set forth in section 30.3 of the zoning ordinance.

10. *Stream buffers.* The location of stream buffers required by section 17-317 of the water protection ordinance, with the following note: "The stream buffer(s) shown hereon shall be managed in accordance with the Albemarle County Water Protection Ordinance."

(9-5-96, 2-4-81, 8-28-74; 1988 Code, § 18-52; Ord. 98-A(1), 8-5-98)

**State law reference**--Va. Code §§ 15.2-2241(1), 15.2-2258, 15.2-2262.

#### **Sec. 14-303 Contents of final plat.**

In addition to containing all of the information required by section 14-302, except for the information required by section 14-302(A)(12), a final plat shall contain the following information:

A. *Statement of consent to division.* A statement that: "The division of the land described herein is with the free consent and in accordance with the desire of the undersigned owners, proprietors and trustees. Any reference to future potential development is to be deemed as theoretical only. All statements affixed to this plat are true and correct to the best of my knowledge."

B. *Section name or number.* The name or number of the section if the property is a part of a larger piece of land.

C. *Boundary lines.* The exterior boundary lines of the property with bearings in degrees, minutes and seconds. Curvilinear data shall include radius, central angle, arc length, and tangent distance. All dimensions shall conform to the standards set forth in this chapter.

D. *Acreage of lots.* The total acreage of each existing lot and each proposed lot.

E. *Dimension standards and information on all lots, streets, alleys, easements, and shared driveways.* All linear, angular, and curvilinear dimensions of lots, streets, alleys, public easements and private easements and shared driveways shall conform to the requirements set forth in 18 VAC 10-10-370(C), a copy of which shall be on file in the department of community development. Curvilinear data shall include radius, central angle, arc length, and tangent distances and may be shown either directly on the corresponding boundary or surveyed line or in table form. Easements shown for private streets, alleys and shared driveways shall be labeled as "private street easement", "alley easement" or "shared driveway easement." The easement holder(s) shall be identified on the plat. If shared driveways are shown, a note shall be added to the plat stating that maintenance shall be by the owners of the lots affected by the shared driveway easement, not by the Virginia Department of Transportation or the county.

F. *Identification of sections, blocks and lots.* Sections (phases) shall be identified by numbers; blocks shall be identified by letters; lots shall be identified by numbers, assigned in numerical order.

G. *Ownership of common areas.* The intended ownership of all common areas.

H. *Monuments.* The location and material of all permanent reference monuments. Monuments found or installed prior to plat recordation may be referred to if they are permanent and undisturbed. If any monument required by this chapter will be installed after recordation of the final plat, the certification of the professional engineer or land surveyor shall so note.

I. *Bearing and distance ties.* A definite bearing and distance tie between not less than two (2) permanent monuments on the exterior boundary of the property and further tie to existing street intersection where possible and reasonably convenient.

J. *Restrictions.* Restrictions imposed in conjunction with the approval of the preliminary plat and their period of existence. If the length of a restriction makes its inclusion on the final plat impractical, and does not necessitate the preparation of a separate instrument, reference shall be made to the restriction on the final plat.

K. *Temporary turnarounds.* The location of temporary turnarounds, if needed, with the following accompanying note: "The area on this plat designated as a temporary turnaround will be constructed and used as other streets in the subdivision until (street name) is/are extended to (street name), at which time the land in the temporary turnaround area will be abandoned for street purposes and will revert to adjoining property owners in accordance with specific provisions in their respective deeds."

L. *Public utility, drainage and sight distance easements.* The location and dimensions of each public utility, drainage and sight distance easement outside of a street right-of-way; for each existing easement, include a note stating the deed book and page number.

M. *Street names.* The name of each proposed street, which names shall be subject to approval by the agent.

N. *Statement pertaining to private streets.* If the subdivision will contain one or more private streets, the following statement: "The streets in this subdivision may not meet the standards for acceptance into the secondary system of state highways and will not be maintained by the Virginia Department of Transportation or the County of Albemarle."

O. *Signature panels.* Signature panels for each owner and for the agent or his designee. The signature panel for the owner shall be located immediately below the statement required by paragraph (A).

P. *Notary panels.* Notary panels for the notary to acknowledge the signature of the owner.

Q. *Water supply.* A statement as to whether the subdivision will be served by a public water supply and a public sewer system. If the property is not within the service authority jurisdictional area, the following statement: "Under current county policy, public water and/or sewer service will not be available to this property."

R. *Parent parcel access.* If the subdivision is in the rural areas, the following statement, unless a waiver is granted as provided in section 14-404: "All subsequent divisions of the residue shall enter only onto such street(s) shown on the approved final plat and shall have no immediate access onto to any public street."

S. *Control points.* At least four (4) control points, evenly distributed across the property and located at survey property corners, and shown on each sheet depicting the property. At the option of the subdivider, the control points may be shown on a copy of the final plat, rather than on the original final plat.

(9-5-96, 2-4-81, 8-28-74 (§ 8); 1988 Code, § 18-55; Ord. 98-A(1), 8-5-98; Ord. 02-14(1), 2-6-02)

**State law reference--**Va. Code §§ 15.2-2241(1), 15.2-2262, 15.2-2264.

## **Division 2. Documents and Information to be Submitted with Preliminary or Final Plat**

### **Sec. 14-304 Request for critical slopes waiver.**

If a critical slopes waiver is requested and has not been previously approved, the subdivider shall submit with each preliminary plat or, if none, with each final plat, a written request and justification under section 4.2.5 of the zoning ordinance for a waiver authorizing the disturbance of critical slopes.

### **Sec. 14-305 Stormwater management information.**

The subdivider shall submit with each preliminary plat or, if none, with each the final plat:

A. Removal rate computations and project drainage area maps as described in the design standards manual to support conceptual stormwater management/BMP plans. In addition, the subdivider shall submit a written request and justification for any waiver of water detention requirements allowed by the water protection ordinance, if such a waiver is needed.

B. If applicable, a mitigation plan as provided in section 17-322 of the water protection ordinance.

(Ord. 98-A(1), 8-5-98)

**State law reference--**Va. Code §§ 15.2-2241(3), 15.2-2262.

### **Sec. 14-306 Private streets information.**

If authorization for one or more private streets is requested and has not been previously approved as provided by section 14-234, the subdivider shall submit with each preliminary plat or, if none, with each final plat, the information required to support authorization under the applicable requirements of sections 14-232, 14-233 and 14-234(A).

**Sec. 14-307 Reserved.**

**Division 3. Documents and Information to be Submitted with Final Plat**

**Sec. 14-308 Flood plain and topographic information.**

The subdivider shall submit with each final plat flood plain and topographic information in a form acceptable to the county engineer which demonstrates:

A. For each natural stream with an upstream drainage area of fifty (50) acres or more, the flood plain limits more, the flood plain limits for a one hundred (100) year storm; provided that the county engineer may waive this requirement for drainage areas of less than one hundred (100) acres upon his determination that the information is unnecessary for review of the proposed final plat.

B. The property contains sufficient land upon which to place structures without impeding natural drainage.

C. The flood plain limits, elevations, and flood plain profiles and cross-sections, if flood plain profiles and cross-sections are determined by the county engineer to be necessary.

(9-5-96, 12-15-82, 8-28-74 (§ 3); 1988 Code, § 18-21; Ord. 98-A(1), 8-5-98)

**State law reference**--Va. Code §§ 15.2-2241(3), 15.2-2262.

**Sec. 14-308.1 Groundwater assessment information.**

Groundwater assessments required by section 17-402 shall be initiated by the program authority upon the submittal of the preliminary plat. The draft groundwater management plans and aquifer testing workplans required by sections 17-403 and 17-404, as applicable, shall be submitted in conjunction with the submittal of the preliminary plat. The requirements of sections 17-402, 17-403 and 17-404 shall be satisfied prior to final plat approval.

(Ord. 04-14(1), adopted 12-8-04, effective 2-8-05)

**State law reference** -- Va Code §15.2-2121.

**Sec. 14-309 Soil evaluations.**

The subdivider shall submit to the agent with each final plat the results of percolation tests or other methods of soil evaluation used to determine the suitability of the soil for septic systems with conventional drain fields, if septic systems are proposed to be used in the development of the subdivision, and the results are requested by the agent. These results shall be forwarded by the agent to the health director.

(9-5-96, 8-28-74; 1988 Code, § 18-23; Ord. 98-A(1), 8-5-98)

**State law reference**--Va. Code §§ 15.2-2241(3), 15.2-2262.

**Sec. 14-310 Health director approval of individual private wells and/or septic systems.**

If required as a condition of final plat approval, a final plat shall not be approved if individual private wells are proposed for the subdivision until written approval has been received from the health director by the agent. A final plat shall not be approved if septic systems are proposed for the subdivision until written approval has been received from the health director by the agent as follows:

A. The health director shall determine the suitability of the soil of each lot of the subdivision for which septic systems with a conventional drain field will be constructed, and shall submit his opinion to the agent.

B. The health director may require as a condition of his approval of the installation of septic systems and, whenever necessary for the satisfactory installation of the septic systems, that individual lots be graded and drained so as to assure the effective removal of surface water from each lot.

(Ord. 98-A(1), 8-5-98)

**State law reference**--Va. Code §§ 15.2-2242(2), 15.2-2262.

**Sec. 14-311 Infrastructure improvement plans, computations and documents.**

The subdivider shall submit with each final plat detailed plans, computations and necessary supporting documents for all physical improvements including, but not limited to, road plans, drainage plans and computations, erosion and sediment control plans and stormwater management plans and computations as required by the water protection ordinance, landscape plans, water and sewer plans and computations as required by the service authority, flooding computations and plans if applicable, and any other documents deemed necessary by the county engineer. The plans, computations and necessary supporting documents shall also be submitted to other appropriate agencies

**State law reference**--Va. Code § 15.2-2241.

(9-5-96, 2-4-81, 8-28-74 (§ 8); 1988 Code, § 18-55; Ord. 98-A(1), 8-5-98)

**Sec. 14-312 Location of existing buildings.**

The subdivider shall submit with the final plat a survey showing the location of all existing buildings on the land to be subdivided within fifty (50) feet of a proposed lot line or a proposed street.

**State law reference**--Va. Code § 15.2-2241.

**Sec. 14-313 Reserved.**

**Sec. 14-314 Identification of all interests of the county in property.**

The subdivider shall submit, prior to or with the final plat, a plan which shows all rights-of-way, easements or other interests of the county or any authority within the subdivision that would be terminated and extinguished by recordation of the final plat, as provided in section 14-433.

(Ord. 98-A(1), 8-5-98)

**State law reference**--Va. Code §§ 15.2-2262, 15.2-2265.

**Sec. 14-315 Reserved.**

**Sec. 14-316 Approval of entrance onto public streets.**

The subdivider shall submit, prior to or with the final plat, evidence satisfactory to the agent that the entrance of the principal means of access for each lot onto any existing or proposed public street complies with Virginia Department of Transportation standards.

**Sec. 14-317 Instrument evidencing maintenance of certain improvements.**

If the subdivision will contain one (1) or more improvements that are not to be maintained by the county or any authority or other public agency, the subdivider shall submit with the final plat an instrument assuring the perpetual maintenance of the improvement, as follows:

A. The instrument shall, at a minimum:

1. Identify the plat to which the instrument applies; if the plat has been recorded, the identification shall include a deed book and page number.

2. State that the improvement will be maintained in perpetuity.

3. State that the improvement will be maintained to a standard that, at a minimum, assures that it will remain in substantially the condition it was in when approved by the county; for a private street, shared driveway, or alley, the instrument also shall state verbatim: "The travelway shall at all times be maintained so that it is safe and convenient for passenger automobiles and emergency vehicles at all times except in severe temporary weather conditions."

4. If the instrument pertains to the maintenance of one or more private streets, alleys or shared driveways, it shall define "maintenance" by stating verbatim: "For purposes of this instrument, 'maintenance'

includes the maintenance of the private streets or alleys, and all curbs, curbs and gutters, drainage facilities, utilities, dams, bridges and other private street improvements, and the prompt removal of snow, water, debris, or any other obstruction so as to keep the private street or alley reasonably open for usage by all vehicles, including emergency services vehicles."

5. Describe the condition of the improvement when it was approved by the county.

6. Identify the timing or conditions warranting maintenance of the improvement.

7. State a means to collect funds necessary for the cost of maintaining the improvement; at a minimum, the means stated shall include the right of any landowner subject to the instrument to record a lien against a non-contributing landowner, to bring an action at law to collect the funds, or both.

8. Describe how maintenance costs will be prorated among the landowners subject to the instrument (e.g., "equally," or on a percentage basis); if any lot within the subdivision may be further divided, the instrument shall also describe how maintenance costs will be prorated among the landowners after division.

9. State verbatim: "No public agency, including the Virginia Department of Transportation and the County of Albemarle, Virginia, will be responsible for maintaining any improvement identified herein."

B. The instrument shall be subject to review and approval by the county attorney and shall be in a form and style so that it may be recorded in the office of the clerk of the circuit court of the county. The agent may require that the instrument be on a form prepared by the county attorney.

C. For purposes of this section, the term "to maintain," or any derivation of that verb, includes the maintenance, replacement, reconstruction and correction of defects or damage.

D. Nothing in this section shall affect the rights of the county reserved under section 14-440.

(§ 18-7, 9-5-96, 12-21-83; § 18-36 (part), 9-5-96, 8-28-74; 1988 Code, § 18-7, 18-36; Ord. 98-A(1), 8-5-98; Ord. 02-14(1), 2-6-02, § 14-313)

## **Article IV On-site Improvements and Design**

### **Division 1. Lots and Blocks**

#### **Sec. 14-400 Minimum lot requirements.**

Each lot within a subdivision shall satisfy the minimum lot requirements established in the zoning ordinance.

(§ 18-29 (part), 9-5-96, 8-28-74; § 18-34 (part), 9-5-96, 8-28-74; 1988 Code, §§ 18-29, 18-34; Ord. 98-A(1), 8-5-98, § 14-500; Ord. 02-14(1), 2-6-02)

**State law reference**--Va. Code §§ 15.2-2241(3).

#### **Sec. 14-401 Double frontage lots.**

Double frontage lots for single family detached and attached residential uses are prohibited. The prohibition of double frontage lots may be waived by the agent as provided in section 14-224.1. In considering a waiver request, the agent shall consider whether, because of unusual size, topography, shape of the property, location of the property or other unusual conditions, excluding the proprietary interests of the subdivider, the prohibition would not forward the purposes of this chapter or serve the public interest. In approving a waiver, the agent shall find that granting the waiver would not be detrimental to the public health, safety or welfare or to the orderly development of the area. Double frontage lots shall be screened as provided in section 14-419.

(Ord. 98-A(1), 8-5-98, § 14-500)

**State law reference**--Va. Code § 15.2-2241(3).

#### **Sec. 14-402 Lot shape.**

Each lot within a subdivision shall be of a shape which provides a satisfactory and desirable building site, and shall otherwise be at least the minimum lot width allowed by the applicable provisions of the zoning ordinance. No lot shall contain peculiarly shaped elongations designed solely to provide the required square footage of area or frontage on a street.

(9-5-96, 8-28-74; 1988 Code, § 18-29; Ord. 98-A(1), 8-5-98, § 14-503)

**State law reference**--Va. Code § 15.2-2241(3).

#### **Sec. 14-403 Lot frontage.**

Each lot within a subdivision shall have frontage on an existing or proposed street.

(§ 18-30 (part), 9-5-96, 8-28-74; § 18-36, 9-5-96, 8-28-74; 1988 Code, §§ 18-30, 18-36; Ord. 98-A(1), 8-5-98, § 14-504)

**State law reference**--Va. Code § 15.2-2241(3).

#### **Sec. 14-404 Lot location to allow access from lot onto street or shared driveway.**

Each lot within a subdivision shall be located as follows:

A. Each lot, other than a corner lot within the development areas, shall have reasonable access to the building site from only one street, shared driveway or alley established at the same time as the subdivision; provided that a lot may be located so that its driveway enters only onto a public street abutting the subdivision if: (i) the commission grants a waiver under subsection (C); (ii) the subdivider obtains an entrance permit from the Virginia Department of Transportation for the access; (iii) the entrance complies with the design standards set forth in sections 14-410(F) and 14-410(G); and (iv) the subdivider demonstrates to the agent prior to approval of the final plat that the waiver does not violate any covenants to be recorded for the subdivision. For purposes of this section, the term "reasonable access" means a location for a driveway or, if a driveway location is not provided, a location for a suitable foot path from the parking spaces required by the zoning ordinance to the building site; the term "within the subdivision" means within the exterior boundary lines of the lands being divided.

B. If the subdivision is within the rural areas, all subsequent divisions of the residue shall enter only onto such street(s) shown on the approved final plat and shall have no immediate access onto to any public street.

C. The requirements of this section may be waived by the commission as provided in section 14-225.1. In reviewing a waiver request, the commission shall determine whether: (i) the county engineer recommends an alternative standard; or (ii) because of unusual size, topography, shape of the property, location of the property or other unusual conditions, excluding the proprietary interests of the subdivider, strict application of the applicable requirements would result in significant degradation of the property or to the land adjacent thereto. In approving a waiver, the commission shall find that requiring the standard would not forward the purposes of this chapter or otherwise serve the public interest; and granting the waiver would not be detrimental to the public health, safety or welfare, to the orderly development of the area, to sound engineering practices, and to the land adjacent thereto. In reviewing a waiver request, the commission may allow a substitute design of comparable quality, but differing from that required, if it finds that the subdivider would achieve results which substantially satisfy the overall purposes of this chapter in a manner equal to or exceeding the desired effects of the requirement.

(§ 18-36 (part), 9-5-96, 8-28-74; § 18-39 (part), 9-5-96, 10-19-77, 5-10-77, 8-28-74; 1988 Code, §§ 18-36, 18-39; Ord. 98-A(1), 8-5-98, §§ 14-500(C), 14-505)

**State law reference**--Va. Code § 15.2-2241(5).

#### **Sec. 14-405 Side lot lines.**

Side lot lines of each lot within a subdivision shall be approximately at right angles or radial to the street line, except turnaround terminal points.

The requirements of this section may be waived by the agent as provided in section 14-224.1. In reviewing a waiver request, the agent shall determine whether because of unusual size, topography, shape of the property being subdivided, or the location of the property, strict application of the standard would result in significant degradation of the property or to the land adjacent thereto, or the waiver would not prevent the orderly development of the area. In approving a waiver, the agent shall find that requiring the standard would not forward the purposes of this chapter or otherwise serve the public interest; and granting the waiver would not be detrimental to the public health, safety or welfare, to the orderly development of the area, and to the land adjacent thereto.

(9-5-96, 8-28-74; 1988 Code, § 18-32; Ord. 98-A(1), 8-5-98, § 14-506)

**State law reference**--Va. Code § 15.2-2241(3).

#### **Sec. 14-406 Remnants.**

Remnants shall not be created by the subdivision of land. All pre-existing remnants shall be eliminated when the land is subdivided.

(9-5-96, 2-4-81, 8-28-74; 1988 Code, § 18-33; Ord. 98-A(1), 8-5-98, § 14-507)

**State law reference**--Va. Code § 15.2-2241(3).

#### **Sec. 14-407 Block width.**

Each block within a subdivision shall be wide enough to allow two (2) tiers of lots of the minimum depth allowed by the applicable provisions of the zoning ordinance fronting on all streets.

The requirements of this section may be waived by the agent as provided in section 14-224.1. In reviewing a waiver request, the agent shall consider whether the creation of two (2) tiers of lots of the minimum depth are prevented by topographical conditions or the size of the property. In approving a waiver, the agent shall find that requiring the standard would not forward the purposes of this chapter or otherwise serve the public interest; and granting the waiver would not be detrimental to the public health, safety or welfare, to the orderly development of the area, and to the land adjacent thereto.

(9-5-96, 8-28-74; 1988 Code, § 18-34; Ord. 98-A(1), 8-5-98, § 14-508)

**State law reference**--Va. Code § 15.2-2241(3).

#### **Sec. 14-408 Block orientation.**

Blocks within a subdivision shall meet the following minimum requirements:

A. If the property is adjacent to a major highway, the agent or the commission, as the case may be, may require that the greater dimension of a block adjacent to the major highway front or back upon the major highway to avoid unnecessary ingress or egress.

B. A block designed for business or industrial purposes shall be designed specifically for those purposes, with adequate space set aside for both off-street loading and delivery facilities required by the zoning ordinance.

(9-5-96, 8-28-74 (§ 3); 1988 Code, § 18-35; Ord. 98-A(1), 8-5-98, 14-509)

State law reference--Va. Code § 15.2-2241(3).

## Division 2. Streets and Alleys

### Sec. 14-409 Coordination and extension of streets.

Public streets within the development areas shall be coordinated and extended as follows:

A. *Coordination.* All public streets within a subdivision shall be coordinated as to location, width, grades and drainage with other public streets, as follows: (i) by coordinating with existing or planned streets within the general area of the subdivision, including but not limited to existing or future adjacent subdivisions, or subdivisions contiguous to such adjacent subdivisions; and (ii) by continuing the public streets to planned, existing, or platted streets into adjoining areas by dedication or reservation of right of way adequate to accommodate continuation of the streets.

B. *Extension.* All public streets within a subdivision shall be extended and constructed to the abutting property lines to provide vehicular and pedestrian interconnections to future development on adjoining lands, terminating within the subdivision with a temporary turnaround. The arrangement of the public streets shall provide adequate access to adjoining lands within the subdivision where necessary to provide for the orderly development of the county including, but not limited to, reserving temporary construction easements of sufficient area to accommodate the future completion of the street when the adjoining lands are developed.

C. *Waiver by commission of coordination requirement.* The requirements of subsection (A) may be modified or waived by the commission as provided in section 14-225.1. A request for a waiver may be made prior to or with submittal of a preliminary plat or with an application to rezone the land, as follows:

1. *Information to be submitted.* If such a request is made, it shall include: (i) a justification for the request; (ii) a vicinity map showing a larger street network at a scale no smaller than one (1) inch equals six hundred (600) feet; (iii) a conceptual plan at a scale no smaller than one (1) inch equals two hundred (200) feet showing surveyed boundaries of the property; (iv) topography of the property at five (5) foot intervals for the property being subdivided and on abutting lands to a distance of five hundred (500) feet from the boundary line or a lesser distance determined to be sufficient by the agent; (v) the locations of streams, stream buffers, steep slopes, floodplains, known wetlands; (vi) the proposed layout of streets and lots, unit types, uses, and location of parking, as applicable; and (vii) the location of the nearest development and rural area boundaries, and the maximum number of lots proposed in the subdivision.

2. *Consideration and findings.* In reviewing a waiver request, the commission shall consider: (i) the engineering requirements for coordination and connection; (ii) whether the need for coordination and connection outweighs the impacts on environmental resources such as streams, stream buffers, steep slopes, and floodplain; (iii) whether the street would and should be extended into the rural areas; (iv) whether there is an alternative street connection from another location in the subdivision that is preferable because of design, traffic flow, or the promotion of the goals of the comprehensive plan, including the neighborhood model, and the applicable neighborhood master plan; and (v) whether the waiver would enable a different principle of the neighborhood model to be satisfied to a greater extent so that the overall goals of the neighborhood model are more fully achieved. In approving a waiver, the commission shall find that requiring coordination would not forward the purposes of this chapter or otherwise serve the public interest; and granting the waiver would not be detrimental to the public health, safety or welfare, to the orderly development of the area, to sound engineering practices, and to the land adjacent thereto.

D. *Waiver by agent of extension requirement.* The requirements of subsection (B) may be waived by the agent as provided in section 14-224.1. A request for a waiver may be made prior to or with submittal of a preliminary plat or with an application to rezone the land, as follows:

1. *Information to be submitted.* If such a request is made, it shall include: (i) a justification for the request; (ii) a vicinity map showing a larger street network at a scale no smaller than one (1) inch equals six hundred (600) feet; (iii) a conceptual plan at a scale no smaller than one (1) inch equals two hundred (200) feet showing surveyed boundaries of the property; (iv) topography of the property at five (5) foot intervals for the property being subdivided and on abutting lands to a distance of five hundred (500) feet from the boundary line or a lesser distance determined to be sufficient by the agent; (v) the locations of streams, stream buffers, steep slopes, floodplains, known wetlands; (vi) the proposed layout of streets and lots, unit types, uses, and location of parking, as applicable; and (vii) identification of the location of the nearest development and rural area boundaries and the maximum number of lots proposed in the subdivision.

2. *Consideration and findings.* In reviewing a waiver request, the agent shall consider whether: (i) extending the street to the abutting property line would require offsite easements; (ii) the need for the extension outweighs the impacts on environmental resources such as streams, stream buffers, steep slopes, and floodplain; (iii) alternative connections to the abutting lands from a different location would provide a better connection; (iv) the subdivider would contribute to the cost to complete the extension to the abutting property line when the adjoining lands are developed, and how; and (v) the street would be extended into the rural areas. In approving a waiver, the agent shall find that requiring extension

would not forward the purposes of this chapter or otherwise serve the public interest; and granting the waiver would not be detrimental to the public health, safety or welfare, to the orderly development of the area, to sound engineering practices, and to the land adjacent thereto.

3. *Requirements if waiver granted.* If the agent grants the waiver: (i) the public street shall be constructed past the point at which the primary structures on the lots abutting the street would rely on the finished grade for landscaping and other improvements, but in no case less than thirty (30) feet beyond the curb line or ditch line on those lots; (ii) the subdivider shall dedicate the required right of way to the abutting property line, along with all easements required to allow the street connection to be constructed in the future; (iii) the required easements shall prohibit any improvements being established therein; (iv) the subdivider shall provide a surety guarantee or an escrow of funds for its share of the cost to complete the extension if determined by the agent to be necessary; the type of surety guarantee or the escrow shall be acceptable to the county engineer and be approved by the county attorney; and (v) the agent may require that the subdivider install and maintain a sign at the end of the constructed portion of the street stating that the street is a future through street, and that the sign is maintained until the county grants final approval of extending the street to the abutting property.

(9-5-96, 11-21-79, 3-29-78, 8-28-74; 1988 Code, § 18-37; Ord. 98-A(1), 8-5-98, § 14-510)

**State law reference--**Va. Code § 15.2-2241(2), (4).

### **Sec. 14-410 Standards for all streets and alleys.**

The following minimum design standards shall apply to all streets and alleys within a subdivision:

A. *Layout.* Each street shall be configured, to the extent practicable, to conform to the natural topography, to minimize the disturbance of critical slopes and natural drainage areas, and to provide vehicular and pedestrian interconnections within the subdivision and existing or future development on adjoining lands, as provided in section 14-409.

B. *Angle of intersection.* An angle of intersection of not less than eighty (80) degrees is acceptable; however, a perpendicular intersection, where practical, is preferred. The county engineer may grant an exception to this requirement for a private street in accord with American Association of State Highway and Transportation Officials guidelines.

C. *Temporary turnarounds.* Streets more than three hundred (300) feet in length from an intersection, or proposed to serve more than four (4) dwelling units that terminate temporarily shall be provided with a temporary turnaround meeting American Association of State Highway and Transportation Officials guidelines. The temporary turnaround shall be extended to the abutting property line unless a waiver is granted as provided in section 14-409(D). The temporary turnaround shall exist until the street extensions are accepted into the secondary system of state highways.

D. *Alleys.* Alleys with a right-of-way or easement width of not less than twenty (20) feet may be provided in the rear or side of all commercial, industrial, and residential lots. The design specifications shall be determined by the county engineer, subject to the following: (i) the alley design shall allow emergency services vehicles such as police cars and ambulances to use the alley; and (ii) an alley need not be designed to accommodate the largest emergency services vehicles, except that if firetrucks do not have adequate access to one or more lots from a street, the county engineer shall require that the alley be designed to accommodate firetrucks. The agent may authorize an alley to be established with a right-of-way or easement width of less than twenty (20) feet if the county engineer determines that the proposed design incorporates features that assure public safety and welfare. The county engineer shall consider the provision of adequate access to required onsite parking and/or garages, unimpeded vehicular circulation along the alley, an adequate clear zone along the alley, and other safety issues deemed appropriate for the conditions. Alley rights-of-way may either be established as privately held fee simple interests or as privately held easements.

E. *Reserved or spite strips.* Reserved or spite strips restricting access from adjoining lands to an existing or future street or alley shall not be permitted; provided that nothing herein shall prohibit areas for scenic planting and landscaping where adequate access to the adjoining lands is otherwise available.

F. *Principal means of access to subdivision.* The principal means of access to a subdivision shall be either a public street or a private street. The principal means of access shall conform, in the case of a public street, to Virginia Department of Transportation standards, or, in the case of a private street, to the standards of the county as set forth in section 14-412, throughout the street's length, including any distance between the boundary of the subdivision and any existing public street. If discharge water of a twenty-five (25) year storm could be reasonably anticipated to inundate, block, destroy or otherwise obstruct a principal means of access to a residential subdivision, the following shall also apply:

1. The principal means of access shall be designed and constructed so as to provide unobstructed access at the time of flooding; and/or

2. An alternative means of access which is not subject to inundation, blockage, destruction or obstruction, and which is accessible from each lot within the subdivision shall be constructed.

G. *Drainage.* Adequate drainage control shall be provided for streets by installing culverts under streets; side, lead, or outlet ditches; catch basins; curb inlets; or any other devices, including piping, as determined to be necessary by the county engineer. All of these improvements shall meet the standards of the county or, in the event no county standards exist, Virginia Department of Transportation standards.

H. *Curb, curb and gutter, sidewalks and planting strips.* In the development areas, streets shall be constructed with curb or curb and gutter, sidewalks and planting strips. Sidewalks and planting strips shall be designed and constructed in compliance with section 14-422.

I. *Waiver of requirement for curb or curb and gutter.* The requirement for curb or curb and gutter may be waived by the commission as provided in section 14-225.1. A request for a waiver may be made prior to or with submittal of a preliminary plat or with an application to rezone the land, as follows:

1. *Information to be submitted.* If such a request is made, it shall include: (i) a justification for the request; (ii) a vicinity map showing a larger street network at a scale no smaller than one (1) inch equals six hundred (600) feet; (iii) a conceptual plan at a scale no smaller than one (1) inch equals two hundred (200) feet showing surveyed boundaries of the property; (iv) topography of the property at five (5) foot intervals for the property being subdivided and on abutting lands to a distance of five hundred (500) feet from the boundary line or a lesser distance determined to be sufficient by the agent; (v) the locations of streams, stream buffers, steep slopes, floodplains, known wetlands; (vi) the proposed layout of streets and lots, unit types, uses, and location of parking, as applicable; and (vii) the maximum number of lots to be served by the rural cross-section street, the location of the nearest development and rural area boundaries, and a cross-section of existing streets to which the proposed subdivision streets would be extended, if any.

2. *Consideration and findings.* In reviewing a waiver request to allow a rural cross-section (no curb and no curb and gutter) instead, the commission shall consider: (i) the number of lots in the subdivision and the types of lots to be served; (ii) the length of the street; (iii) whether the proposed street(s) or street extension connects into an existing system of streets constructed to a rural cross-section; (iv) the proximity of the subdivision and the street to the boundaries of the development and rural areas; (v) whether the street terminates in the neighborhood or at the edge of the development area or is otherwise expected to provide interconnections to abutting lands; (vi) whether a rural cross-section in the development areas furthers the goals of the comprehensive plan, with particular emphasis on the neighborhood model and the applicable neighborhood master plan; (vii) whether the use of a rural cross-section would enable a different principle of the neighborhood model to be more fully implemented; and (viii) whether the proposed density of the subdivision is consistent with the density recommended in the land use plan section of the comprehensive plan. In approving a waiver, the commission shall find that requiring curb or curb and gutter would not forward the purposes of this chapter or otherwise serve the public interest; and granting the waiver would not be detrimental to the public health, safety or welfare, to the orderly development of the area, to sound engineering practices, and to the land adjacent thereto.

(§ 18-37, 9-5-96, 11-21-79, 3-29-78, 8-28-74; § 18-39 (part), 9-5-96, 10-19-77, 5-10-77, 8-28-74; 1988 Code, §§ 18-37, 18-39; Ord. 98-A(1), 8-5-98, § 14-512; Ord. 02-14(1), 2-6-02, § 14-512)

**State law reference**--Va. Code §§ 15.2-2241(4), 15.2-2242(3).

#### **Sec. 14-411 Standards for public streets only.**

In addition to the minimum design requirements set forth set forth in section 14-410, all public streets within a subdivision shall be designed and constructed according to Virginia Department of Transportation standards.

For all public streets to be coordinated and extended as provided in section 14-409, the agent may allow a public street to be constructed at less than the ultimate pavement width, provided the street meets public street standards for the lots to be served by the streets. In determining whether to require the ultimate pavement width, the agent shall be guided by the size of the subdivision, the street length and the types of lots to be served relative to the cost of providing the ultimate width.

(9-5-96, 10-19-77, 5-10-77, 8-28-74; 1988 Code, §§ 18-38, 18-39; Ord. 98-A(1), 8-5-98, §§ 14-511, 14-513)

**State law reference**--Va. Code § 15.2-2241(4).

#### **Sec. 14-412 Standards for private streets only.**

In addition to the minimum design requirements set forth in section 14-410, the following minimum design requirements shall apply to private streets authorized by this chapter:

A. *Residential private streets.* Each private street serving residential uses authorized under sections 14-232 or 14-233 shall satisfy the following:

1. *Streets serving two lots.* Each private street serving two (2) lots shall satisfy the following: (i) easement or right-of-way widths shall be thirty (30) feet minimum; (ii) the required materials and minimum depth of base shall satisfy the minimum requirements described in the design standards manual; and (iii) the surveyor shall include the following wording on the final plat: "The existing and/or proposed right-of-way is of adequate width and horizontal and vertical alignment to accommodate a

travelway passable by ordinary passenger vehicles in all but temporary extreme weather conditions, together with area adequate for maintenance of the travelway, as required by section 14-412 of the Albemarle County Code.”

2. *Streets serving three to five lots.* Each private street serving three (3) to five (5) lots shall satisfy the following: (i) vertical centerline curvature shall meet a minimum design K value of five (5) for crest curves and fifteen (15) for sag curves; (ii) sight distances shall not be less than one hundred (100) feet; (iii) turnarounds shall be provided at the end of each street per American Association of State Highway and Transportation Officials guidelines; (iv) street easements or right-of-way widths shall be thirty (30) feet minimum; and (v) the radius for horizontal curvature shall be forty (40) feet or greater, unless otherwise authorized by this chapter. Any standard in this paragraph (2) may be reduced to the standard for streets serving two (2) lots where a driveway departs from the street and two lots remain to be served, and a turnaround is provided. In addition, the following shall also apply:

(a) *Private streets in the rural areas.* For such private streets in the rural areas: (i) travelway widths shall be fourteen (14) feet minimum, with three (3) feet minimum shoulder widths, and a minimum of four (4) feet from the edge of the shoulder to the ditch centerline; (ii) if any portion of the street exceeds seven (7) percent in grade, the entire street shall be surfaced as required by Virginia Department of Transportation standards; streets of lesser grade may use a gravel surface.

(b) *Private streets in the development areas.* For such private streets in the development areas: (i) an urban cross-section street design shall be provided, with a minimum width of twenty (20) feet measured from the curb faces or such alternative design, including a street easement or right-of-way width, deemed adequate by the county engineer to be equivalent to or greater than the applicable standard in the design standards manual, so as to adequately protect the public health, safety or welfare; additional widths shall be provided for gutters to control drainage at the discretion of the county engineer; and (ii) the entire street shall be surfaced as required by Virginia Department of Transportation standards.

3. *Streets serving six lots or more.* Each private street serving six (6) or more lots shall satisfy Virginia Department of Transportation standards, provided:

(a) *Private streets in the rural areas.* For such private streets in the rural areas, the commission may approve Virginia Department of Transportation standards for mountainous terrain if the subdivider demonstrates, for a specific, identifiable reason, the general welfare, as opposed to the proprietary interests of the subdivider, would be better served by the application of those standards.

(b) *Private streets in the development areas.* For such private streets in the development areas, the agent may approve Virginia Department of Transportation standards for mountainous terrain or an alternative standard deemed adequate by the county engineer to be equivalent to or greater than the applicable standard in the design standards manual, so as to adequately protect the public health, safety or welfare.

4. *Streets serving family or two-lot subdivisions.* Each private street authorized to serve a family subdivision under section 14-232(B)(1) or a two-lot subdivision under section 14-232(B)(2) shall satisfy the following: (i) easement or right-of-way widths shall be ten (10) feet minimum; and (ii) the surveyor shall include the following wording on the plat: “The existing and/or proposed right-of-way is of adequate width and horizontal and vertical alignment to accommodate a travelway passable by ordinary passenger vehicles in all but temporary extreme weather conditions, together with area adequate for maintenance of the travelway, as required by section 14-412 of the Albemarle County Code.”

B. *Private streets serving non-residential, non-agricultural, attached residential, multi-unit residential and combined residential and non-residential uses.* Each private street authorized to serve non-residential, non-agricultural, attached residential, multi-unit residential and combined residential and non-residential uses under sections 14-232 or 14-233 shall satisfy Virginia Department of Transportation standards or an alternative standard deemed adequate by the agent, upon the recommendation of the county engineer, to be equivalent to or greater than the applicable standard in the design standards manual, so as to adequately protect the public health, safety or welfare. The agent may require minimum travelway widths to provide for on-street parking upon a determination that the provisions for off-street parking may be inadequate to reasonably preclude unauthorized on-street parking.

C. *Clearing land for improvements.* A private street constructed to Virginia Department of Transportation standards shall not be subject to that department’s clear zone requirements.

D. *Landscaping and other improvements permitted.* Subsequent to construction of a private street, a subdivider may install ornamental plantings and any other improvements provided that they do not conflict with sight distance, drainage facilities or other required improvements.

E. *Waiver.* The requirements of section 14-412(A)(2)(a) relating to street easement or right-of-way widths may be waived by the commission as provided in section 14-225.1. In reviewing a waiver request for a lesser street easement or right-of-way width, the commission shall consider whether: (i) the subdivision will be served by an existing easement or right-of-way of fixed width that cannot be widened by the subdivider after documented good faith effort to acquire additional width; and (ii) the existing easement or right-of-way width is adequate to accommodate the required travelway and its maintenance. If the waiver pertains to minimum street easement or right-of-way widths over an existing bridge, dam or other structure, the commission shall consider whether: (i) the long-term environmental impacts resulting from not widening the bridge, dam or other structure outweigh complying with the minimum width requirements,

as determined by the county engineer; or (ii) whether the bridge, dam or other structure is a historical structure. In approving a waiver, the commission shall find that requiring the standard street easement or right-of-way widths would not forward the purposes of this chapter or otherwise serve the public interest; and granting the waiver would not be detrimental to the public health, safety or welfare, to the orderly development of the area, to sound engineering practices, and to the land adjacent thereto.

(§ 18-36, 9-5-96, 8-28-74; § 18-37, 9-5-96, 11-21-79, 3-29-78, 8-28-74(part); 1988 Code, §§ 18-36, 18-37, 18-38; Ord. 98-A(1), 8-5-98, § 14-514; Ord. 02-14(1), 2-6-02)

**State law reference**--Va. Code § 15.2-2242(3).

#### **Sec. 14-413 Improvement of existing public streets.**

Existing public streets that will serve a subdivision shall be improved as follows:

A. Prior to approval of a preliminary plat, the agent shall consider whether existing public streets that will serve the subdivision are adequate to accommodate the increase in traffic which may be reasonably expected to result from the development of the subdivision. If the agent determines that the existing streets will be inadequate, he may require that the streets be improved so as to accommodate traffic resulting from the development of the subdivision.

B. For purposes of this section, the term "street that will serve the subdivision" shall mean a public street that is either: (i) located on the property; (ii) will provide immediate vehicular access to any lot of the subdivision; (iii) the principal means of access to the subdivision as described in section 14-410(F); or (iv) a public street which will serve as an entrance to the subdivision as described in section 14-410(F), but which is not the principal means of access to the subdivision.

C. For purposes of this section, the term "improved to accommodate traffic" shall mean: (i) for a public street that is located on the property, any street improvement which may be required by this chapter; and (ii) for any street that will serve the subdivision, improvements on that part of the public street that abuts either the subdivision or the street that provides access to the subdivision, if the need for the improvements are substantially generated by the development of the subdivision.

(9-5-96, 10-19-77, 5-10-77, 8-28-74; 6-170; 1988 Code, § 18-39; Ord. 98-A(1), 8-5-98, § 14-515)

**State law reference**--Va. Code § 15.2-2241(4).

### **Division 3. Water, Sewers and Other Improvements**

#### **Sec. 14-414 Public water and sewerage systems.**

A subdivision within the jurisdictional area of the service authority shall be served by public water and/or sewerage if the service is reasonably available to the subdivision, as follows:

A. The public water and/or sewerage service shall be provided to each lot within the subdivision within the jurisdictional area, and to assure that service is available to abutting parcels that would rely on such systems by constructing such systems to the boundary lines of abutting lands.

B. All facilities required to be constructed to provide the services to the lots shall be designed and constructed to service authority specifications. Sewer facilities constructed to the boundary lines of abutting lands shall be constructed at a depth and location that allows gravity sewers to provide service to the developable land draining towards the sewer.

C. For purposes of this section, the term "water and/or sewerage service" shall be deemed not to be reasonably available in a particular case in which:

1. The commission, in consultation with the service authority, finds that the capacity of the public water and/or sewerage system is inadequate to serve the proposed development; or

2. The commission, in consultation with the service authority, finds that the capacity of the public water and/or sewerage system is adequate to serve the proposed development, but the commission finds that the cost of connecting to the public water and/or sewerage system, exclusive of connection fees, is unreasonable. In determining whether the cost of connecting is unreasonable, the commission shall consider, among other things, the distance the system must be extended to serve the subdivision, the cost of extension, the uses to be served by the extended system, and the scale of those uses.

D. *Waiver.* The requirements of subsection (A) that such systems be constructed to the boundary lines of abutting lands may be waived by the commission as provided in section 14-225.1. In reviewing a waiver request, the commission shall consult with the service authority and consider whether the system is needed and whether construction of the system would unnecessarily disturb significant environmental resources. In approving a waiver, the commission shall find that requiring the systems to be constructed to the boundary lines of abutting lands would not forward the purposes of this chapter or otherwise serve the public interest; and granting the waiver would not be detrimental to the public health, safety or welfare, to the orderly development of the area, to sound engineering practices, and to the land

adjacent thereto. If such a waiver is granted and the systems are not constructed to the boundary lines, easements for such future systems shall be shown on the final plat.

(§§ 18-22 (part), 9-5-96, 1-3-96, 2-4-81, 12-20-78, 8-28-74 (§ 3)); § 18-25, 9-5-96, 1-3-96, 8-28-74; 1988 Code, §§ 18-22, 18-25; Ord. 98-A(1), 8-5-98, § 14-516)

**State law reference**--Va. Code §§ 15.2-2121, 15.2-2241(4).

#### **Sec. 14-415 Central water supplies and sewerage systems.**

A subdivision for which public water and/or sanitary sewerage service is not reasonably available as provided in section 14-414, and which will have twenty-five (25) or more lots of two (2) acres or less, may be served by a central water supply or central sewerage system, or both, if authorized by the board of supervisors under chapter 16 of the Code, as follows:

A. A subdivision whose net average lot size is less than forty thousand (40,000) square feet shall have both a central water system and a central sewerage system. A subdivision whose net average lot size is between forty thousand (40,000) square feet and sixty thousand (60,000) square feet, inclusive, shall have either a central water system or central sewerage system.

B. The design and construction of each central water system and central sewerage system required by this section shall be approved by the Virginia Department of Health, or its local office, the Virginia Department of Environmental Quality, and the board of supervisors. Each system shall complement or supplement existing or proposed county utilities to the extent that the agent finds existing public utilities to be inadequate.

C. Neither a central water system nor a central sewerage system shall be required: (i) for a subdivision whose net average lot size is greater than sixty thousand (60,000) square feet; or (ii) if the subdivider establishes to the satisfaction of the county engineer that the soils and parent materials of all of the lots created for the purpose of transfer of ownership are such that waste disposal methods for the entire property are satisfactory to the health director, and that no well pollution can occur from the proposed lot configuration.

D. No final plat for a subdivision served by a central water system and/or a central sewerage system shall be approved until the requirements of Chapter 21 of Title 15.2 of the Code of Virginia have been satisfied.

(9-5-96, 8-28-74; 1988 Code, § 18-23; Ord. 98-A(1), 8-5-98, § 14-517)

**State law reference**--Va. Code § 15.2-2241(4).

#### **Sec. 14-416 Individual private wells and septic systems.**

A subdivision for which public water and/or public sewerage service is not reasonably available as provided in section 14-414, and for which a central water supply and/or a central sewerage system is not authorized under section 14-415, shall be served by individual private wells or septic systems having conventional drainfields, or both, and shall meet all requirements of the health department and be approved by the health director.

(§ 18-23 (part), 9-5-96, 8-28-74; § 18-27, 9-5-96, 8-28-74; 1988 Code, §§ 18-23, 18-27; Ord. 98-A(1), 8-5-98, § 14-518)

**State law reference**--Va. Code § 15.2-2241(3).

#### **Sec. 14-417 Stormwater management and drainage control facilities.**

Stormwater management facilities serving a subdivision shall be designed to comply with the water protection ordinance. The subdivider shall design and construct on-site drainage control facilities determined by the county engineer to be necessary to provide adequate drainage control.

(Ord. 98-A(1), 8-5-98, § 14-520)

**State law reference**--Va. Code § 15.2-2241(3).

#### **Sec. 14-418 Fire protection.**

Where public water is reasonably available, a final plat shall not be approved without verification from the service authority and the department of fire and rescue that adequate capability exists to provide adequate fire protection to serve the subdivision, including required fire flows, together with all other developments to be served by the system. Fire hydrants and distribution systems shall be installed and constructed by the subdivider. Hydrant locations and fire flow requirements shall be as prescribed by Insurance Service Offices (ISO) standards and be subject to approval by the department of fire and rescue, or the service authority, whichever requirements are greater. In areas where public water is not reasonably available, the department of fire and rescue may require such alternative provisions as deemed reasonably necessary to provide adequate fire protection.

(9-5-96, 8-28-74; 1988 Code, § 18-26; Ord. 98-A(1), 8-5-98, § 14-521)

**State law reference--**Va. Code § 15.2-2241(3).

**Sec. 14-419 Landscaping for double frontage lots.**

Double frontage lots shall be screened as provided in section 32.7.9.8 of the zoning ordinance. If existing vegetation is to be used to provide the required screening, then a conservation plan as described in section 32.7.9.4 of the zoning ordinance may be required to ensure that the screening remains intact during construction.

The screening requirements may be waived by the agent as provided in section 14-224.1. In reviewing a waiver request, the agent shall consider whether adequate screening by topography and vegetation exists so that the rear of the dwelling units will not be visible from a public street or a street intended to provide rear access to lots. In approving a waiver, the agent shall find that requiring screening would not forward the purposes of this chapter or otherwise serve the public interest; and granting the waiver would not be detrimental to the public health, safety or welfare, to the orderly development of the area, and to the land adjacent thereto.

(Ord. 98-A(1), 8-5-98, § 14-522)

**State law reference--**Va. Code § 15.2-2241(3).

**Sec. 14-420 Location of utilities above- and underground.**

All utilities, including but not limited to wires, cables, pipes, conduits and appurtenant equipment for electricity, gas, water, sewer, telephone or similar service, shall be located within a subdivision as follows:

A. Each utility shall be located, to the extent practicable, in a manner that conforms to the natural topography, minimizes the disturbance of critical slopes and natural drainage areas, and allows vehicular and pedestrian interconnections within the subdivision and existing or future development on adjoining lands.

B. All new utilities shall be located underground except the following, which may be located above-ground: (i) electric transmission lines and facilities; (ii) equipment, including electric distribution transformers, switch gear, meter pedestals, telephone pedestals, outdoor lighting poles or standards, radio antennae and associated equipment, which is, under accepted utility practices, normally installed above-ground; (iii) meters, service connections, and similar equipment normally attached to the outside wall of a utility customer's premises; and (iv) satellite dishes.

C. If it is necessary to locate a new or existing public utility within the right-of-way of a public street, the subdivider shall first obtain a permit from the Virginia Department of Transportation.

D. Installation of utilities in or adjacent to the right-of-way shall not preclude the installation of street trees or required landscaping.

E. The requirements of this section may be waived by the agent as provided in section 14-224.1. In reviewing a waiver request, the agent shall consider whether the requirement would unreasonably impact the existing above-ground electrical network so that extensive off-site improvements are necessary. In approving a waiver, the agent shall find that requiring undergrounding would not forward the purposes of this chapter or otherwise serve the public interest; and granting the waiver would not be detrimental to the public health, safety or welfare, to the orderly development of the area, and to the land adjacent thereto.

(9-5-96, 8-28-74 (§ 2); 1988 Code, § 18-12; Ord. 98-A(1), 8-5-98, § 14-523)

**State law reference--**Va. Code § 15.2-2241(4).

**Sec. 14-421 Monuments.**

The subdivider shall have monuments set as follows:

A. All boundaries, both exterior and interior, of the original survey for the subdivision shall be monumented as provided in 18 VAC § 10-20-370(B), a copy of which shall be on file in the department of community development.

B. No monuments other than those required by paragraph (A) shall be required to be set before recordation of the final plat or the conveyance of land by reference to plat if the professional engineer or land surveyor includes in his certification on the plat that any additional monuments required by this chapter shall be set on or before a specified later date.

C. The setting of any monument at any time after recordation of the final plat shall be established both at law and in equity, at prorated positions as determined from direct remeasurements between the established monuments of record rather than as precisely stated or shown on the recorded plat.

D. The subdivider shall be responsible for resetting any monument on the property which is damaged, disturbed or destroyed during construction of any improvements required by this chapter.

(§ 18-39 (part), 9-5-96, 10-19-77, 5-10-77, 8-28-74); § 18-55 (part), 9-5-96, 2-4-81, 8-28-74 (§ 8); 1988 Code, §§ 18-39, 18-55; Ord. 98-A(1), 8-5-98, § 14-524)

**State law reference--**Va. Code § 15.2-2241(7).

**Sec. 14-422 Sidewalks and planting strips.**

Sidewalks and planting strips shall be provided as follows:

A. *Requirement.* Sidewalks and planting strips for street trees and other vegetation shall be established on both sides of each new street within a subdivision creating lots for single family detached and single family attached dwellings in the development areas.

B. *Sidewalk design.* Each sidewalk proposed to be accepted for maintenance by the Virginia Department of Transportation shall be designed and constructed according to Virginia Department of Transportation standards or to the standards in the design standards manual, whichever is greater. Each sidewalk proposed to be privately maintained shall be constructed using concrete, designed so that no concentrated water flow runs over them, and otherwise satisfy the standards in the design standards manual. The agent may allow privately maintained sidewalks to be a 10-foot multi-use asphalt path in unique circumstances such as a path leading to a school or major employment center. The asphalt path generally shall run parallel to the street and shall be constructed to a standard deemed adequate by the county engineer to be equivalent to or greater than the applicable standard in the design standards manual, so as to adequately protect the public health, safety or welfare.

C. *Sidewalk ownership.* Each sidewalk proposed to be accepted for maintenance by the Virginia Department of Transportation shall be dedicated to public use. Each sidewalk proposed to be privately maintained shall be conveyed to a homeowners association for ownership and maintenance. The agent may require that a sidewalk proposed by the subdivider to be privately maintained instead be dedicated to public use if the agent determines there is a need for the sidewalks to be publicly owned and maintained.

D. *Planting strip design.* Each planting strip shall be a minimum of six (6) feet in width except that the minimum width may be less in areas of transition between rural cross-section and urban cross-section streets. On an urban cross-section street, the planting strip shall be located between the curb and the sidewalk. The planting strip shall be located between the paved travelway and the sidewalk.

E. *Waivers from sidewalk requirements.* The requirements for sidewalks may be waived by the commission as provided in section 14-225.1. A request for a waiver may be made prior to or with submittal of a preliminary plat or with an application to rezone the land, as follows:

1. *Information to be submitted.* If such a request is made, it shall include: (i) a justification for the request; (ii) a vicinity map showing a larger street network at a scale no smaller than one (1) inch equals six hundred (600) feet; (iii) a conceptual plan at a scale no smaller than one (1) inch equals two hundred (200) feet showing surveyed boundaries of the property; (iv) topography of the property at five (5) foot intervals for the property being subdivided and on abutting lands to a distance of five hundred (500) feet from the boundary line or a lesser distance determined to be sufficient by the agent; (v) the locations of streams, stream buffers, steep slopes, floodplains, known wetlands; (vi) the proposed layout of streets and lots, unit types, uses, and location of parking, as applicable; and (vii) the location of any existing pedestrian network in the area, whether it is publicly or privately maintained, descriptions by widths and surfaces of the pedestrian ways within the existing pedestrian network, a proposed alternative profile and the intended ownership and maintenance.

2. *Consideration and findings.* In reviewing a request to waive the requirement for sidewalks, the commission shall consider whether: (i) a waiver to allow a rural cross-section has been granted; (ii) a surface other than concrete is more appropriate for the subdivision because of the character of the proposed subdivision and the surrounding neighborhood; (iii) sidewalks on one side of the street are appropriate due to environmental constraints such as streams, stream buffers, critical slopes, floodplain, or wetlands, or because lots are provided on only one side of the street; (iv) the sidewalks reasonably can connect into an existing or future pedestrian system in the area; (v) the length of the street is so short and the density of the development is so low that it is unlikely that the sidewalk would be used to an extent that it would provide a public benefit; (vi) an alternate pedestrian system including an alternative pavement could provide more appropriate access throughout the subdivision and to adjoining lands, based on a proposed alternative profile submitted by the subdivider; (vii) the sidewalks would be publicly or privately maintained; (viii) the waiver promotes the goals of the comprehensive plan, the neighborhood model, and the applicable neighborhood master plan; and (ix) waiving the requirement would enable a different principle of the neighborhood model to be more fully achieved. In approving a waiver, the commission shall find that requiring sidewalks would not forward the purposes of this chapter or otherwise serve the public interest; and granting the waiver would not be detrimental to the public health, safety or welfare, to the orderly development of the area, to sound engineering practices, and to the land adjacent thereto.

F. *Waivers from planting strip requirements.* The requirements for planting strips may be waived by the commission as provided in section 14-225.1. A request for a waiver may be made prior to or with submittal of a preliminary plat or with an application to rezone the land, as follows:

1. *Information to be submitted.* If such a request is made, it shall include: (i) a justification for the request; (ii) a vicinity map showing a larger street network at a scale no smaller than

one (1) inch equals six hundred (600) feet; (iii) a conceptual plan at a scale no smaller than one (1) inch equals two hundred (200) feet showing surveyed boundaries of the property; (iv) topography of the property at five (5) foot intervals for the property being subdivided and on abutting lands to a distance of five hundred (500) feet from the boundary line or a lesser distance determined to be sufficient by the agent; (v) the locations of streams, stream buffers, steep slopes, floodplains, known wetlands; and (vi) the proposed layout of streets and lots, unit types, uses, and location of parking, as applicable.

2. *Consideration and findings.* In reviewing a request to waive any requirement for planting strips, the commission shall consider whether: (i) a waiver to allow a rural cross-section has been granted; (ii) a sidewalk waiver has been granted; (iii) reducing the size of or eliminating the planting strip promotes the goals of the comprehensive plan, the neighborhood model, and the applicable neighborhood master plan; and (iv) waiving the requirement would enable a different principle of the neighborhood model to be more fully achieved. In approving a waiver, the commission shall find that requiring planting strips would not forward the purposes of this chapter or otherwise serve the public interest; and granting the waiver would not be detrimental to the public health, safety or welfare, to the orderly development of the area, and to the land adjacent thereto.

(9-5-96, 10-19-77, 5-10-77, 8-28-74; 1988 Code, § 18-39; Ord. 98-A(1), 8-5-98, § 14-525)

**State law reference--**Va. Code § 15.2-2241(5).

### **Sec. 14-423 Street signs.**

Signs identifying the name of each street within a subdivision shall be installed and maintained as provided in chapter 7 of the Code.

(Ord. 98-A(1), 8-5-98, § 14-526)

**State law reference--**Va. Code § 15.2-2019.

## **Division 5. Contributions, Dedications, Reservations and Transfers**

### **Sec. 14-424 Contributions for off-site improvements.**

Each plat for subdivision may be approved on the condition that the subdivider contributes a pro rata share of the cost of the following off-site improvements:

A. Each subdivider shall pay to the board of supervisors his pro rata share of the cost of providing reasonable and necessary sewer, water and drainage improvements not located on the property if they are necessitated or required, at least in part, by the construction or improvement of the subdivision, provided that: (i) no payment shall be required until the county establishes a general sewer, water and drainage improvement program for an area having related and common sewer, water and drainage conditions and within which the property is located or the board of supervisors has committed itself to such a program is located; and (ii) the program complies with the requirements of Virginia Code § 15.2-2243.

B. Each subdivider may voluntarily contribute and the board of supervisors may accept funds for off-site street improvements substantially generated and reasonably required by the construction or improvement of the subdivision. The determination of whether the need for an improvement is substantially generated by the subdivision shall be made by the agent, who shall consult with the county engineer and the county attorney prior to making the determination. In determining whether the need for an improvement is substantially generated by the subdivision, the agent shall consider whether: (i) the impact of the subdivision would create a threat to the public health, safety or welfare if not addressed by the improvement; (ii) the improvement is identified in the county's capital improvement program, including its six (6) year road plan; (iii) the improvement is identified in the comprehensive plan as a needed or desired improvement; and (iv) the need generated is more than an incremental effect that would otherwise result, as determined by annual population growth, vehicular traffic, or other appropriate criteria.

(9-5-96, 1-3-96, 2-4-81, 12-20-78, 8-28-74 (§ 3); 1988 Code, § 18-22; Ord 98-A(1), 8-5-98, § 14-401)

**State law reference--**Va. Code §§ 15.2-2242(4), 15.2-2243.

### **Sec. 14-425 Reserved.**

### **Sec. 14-426 Dedication of land for public use.**

The subdivider may dedicate to the county a part of the property suitable for parks, schools, open space and other public facilities, utilities and other public or semipublic uses, as follows:

A. The board of supervisors shall not be required to compensate the subdivider for the land dedicated if the dedication is a gift, required by a proffer as part of a conditional rezoning, required as a condition of a special use permit, variance, or other approval, or if the need for the land is substantially generated by the subdivision.

B. Land dedicated under this section shall be set apart on the final plat and be identified by a note on the plat stating that the land is dedicated for public use.

C. The determination of whether the need for the land is substantially generated by the subdivision shall be made by considering the factors for a determination set forth in section 14-424(B).

**State law reference**--Va. Code § 15.2-2241(5).

**Sec. 14-427 Reservation of land for public use.**

The subdivider may reserve for future dedication to the county a part of the property suitable for parks, schools, open space and other public facilities, utilities and other public or semipublic uses, as follows:

A. The board of supervisors shall not be required to compensate the subdivider for the reservation of land if the dedication is a gift, required by a proffer as part of a conditional rezoning, required as a condition of a special use permit, variance, or other approval, or if the need for the land is substantially generated by the subdivision.

B. Land reserved under this section shall be set apart on the final plat and be identified by a note on the plat stating that the land is reserved for future dedication for public use.

C. The determination of whether the need for the land is substantially generated by the subdivision shall be made by considering the factors for a determination set forth in section 14-424(B).

D. Nothing in this section precludes land being reserved for public use which is not included in the comprehensive plan, provided the land is acceptable to the county for reservation.

E. The agent shall not require that land be reserved in a manner that would render it unusable to the subdivider if not used for the intended public purpose.

F. The subdivider may petition the board of supervisors to release a reservation if the land is not used for a public purpose, using the procedure in section 14-212.2.

(Ord. 98-A(1), 8-5-98, § 14-405)

**State law reference**--Va. Code § 15.2-2241(5).

**Sec. 14-428 Dedication of streets, alleys, curbs, gutters, sidewalks, stormwater management facilities, bicycle trails, pedestrian trails.**

The agent shall require a subdivider to dedicate to the county for public use each public street, including each non-constructed street extension as provided in section 14-409, and including any required curb, curb and gutter, planting strip and sidewalk, each drainage improvement for the public street, and may require a subdivider to dedicate to the county for public use any stormwater management facility, bicycle trail or pedestrian trail within a subdivision or section thereof, as follows:

A. The board of supervisors shall not be required to compensate the subdivider for any dedicated land or improvements thereon.

B. The land and improvements to be dedicated shall be set apart on the final plat and be identified by a note on the plat stating that the land is dedicated for public use.

C. When a subdivision abuts one side of an existing or platted street, the subdivider shall dedicate at least one-half of the right-of-way necessary to make the street comply with the minimum width fixed for the street by this chapter.

(§ 18-30 (part), 9-5-96, 8-28-74; § 18-38 (part), 9-5-96, 8-28-74 (§ 5); 1988 Code, §§ 18-30, 18-38; Ord. 98-A(1), 8-5-98, 14-406)

**State law reference**--Va. Code § 15.2-2241(5).

**Sec. 14-429 Reservation of land for streets, alleys, walkways, waterways or public areas shown on map.**

The agent may require a subdivider to reserve for future dedication to the county a part of the property suitable for streets, alleys, walkways, waterways or public areas if they are shown on an official map or other map adopted under Virginia Code § 15.2-2233, as follows:

A. Land reserved for future dedication under this section shall be set apart on the final plat and be identified by a note on the plat stating that the land is reserved for future dedication for public use. The land reserved shall not be developed except as provided in this section.

B. When a subdivision plat or site plan to allow the reserved land to be developed is submitted to the county, the subdivision plat or site plan shall be reviewed and acted on as provided in this chapter (subdivision plat) or section 32 of the zoning ordinance (site plan). If the subdivision plat or site plan is disapproved for the sole reason that the county wants the land to be dedicated to public use, the county shall have sixty (60) days to request that the land be dedicated to public use and the dedication shall be completed within one hundred twenty (120) days after the date of disapproval. If the county has

not acted within the one hundred twenty (120) day period, the subdivision plat or site plan shall be approved provided that all other requirements of law have been satisfied. The board of supervisors shall not be required to compensate the subdivider for the land dedicated if the need for the land is substantially generated by the subdivision. The determination of whether the need for the land is substantially generated by the subdivision shall be made by considering the factors for a determination set forth in section 14-424(B).

C. The subdivider may petition the board of supervisors to release the reservation if the map is amended to remove the street, alley, walkway, waterway or public area from the lands reserved on the plat.

State law reference--Va. Code § 15.2-2233.

#### **Sec. 14-430 Dedication of water and sewerage systems.**

The agent shall require each subdivider to dedicate to the service authority for public use all water and sewerage facilities designed, constructed and approved to be dedicated as public water and public sewerage systems, and to establish an easement on the land appurtenant thereto and extending to any abutting property identified by the agent, if the facilities are required by this chapter, as follows:

A. The board of supervisors and the service authority shall not be required to compensate the subdivider for the dedicated facilities or the establishment of the easement.

B. The facilities to be dedicated and the easement to be established shall be set apart on the final plat and shall be identified by a note on the plat stating that the facilities are dedicated to, and the easement is established for, the service authority.

(9-5-96, 1-3-96, 8-28-74; 1988 Code, § 18-25; Ord. 98-A(1), 8-5-98, § 14-430)

State law reference--Va. Code § 15.2-2241(5).

#### **Sec. 14-431 Easements for facilities for stormwater management and drainage control.**

The agent shall require each subdivider to establish easements for facilities for stormwater management and drainage control, as follows:

A. The following easements shall be required:

1. An easement for all stormwater management facilities and drainage control improvements located on the property shall be established whenever the improvement is designed and/or constructed beyond a street right-of-way or access easement, and shall extend from all drainage outfalls to an adequate channel as defined in 4 VAC § 50-30-10 that satisfies the minimum standards in 4 VAC § 50-30-40(19) to the boundary of the property.

2. An easement along any natural stream or man-made waterway located on the property.

B. The area of each easement shall be sufficient, as determined by the county engineer, to: (i) accommodate the facilities and the drainage characteristics from each drainage outfall from a drainage control; and (ii) allow access to a natural stream or man-made waterway to allow widening, deepening, relocating, improving, or protecting the natural stream or man-made waterway for drainage purposes.

C. Each easement shall include the right of ingress and egress for installation, maintenance, operation, repair and reconstruction of any improvement within the easement. The agent also may require that an easement be provided through abutting land under the same ownership as the property.

D. The board of supervisors shall not be required to compensate the subdivider for any easement or any improvements thereon.

E. No easement shall be considered part of any required street width.

(§ 18-16, 9-5-96, 8-28-74 (§ 3); § 18-21, 9-5-96, 12-15-82, 8-28-74 (§ 3); 1988 Code, §§ 18-16, 18-21; Ord. 98-A(1), 8-5-98, § 14-409)

State law reference--Va. Code § 15.2-2241(3).

#### **Sec. 14-432 Easements for cable television and public service corporations.**

The agent may require a subdivider to convey, where appropriate, common or shared easements to franchised cable television operators furnishing cable television and public service corporations furnishing cable television, gas, telephone and electric service to the subdivision, as follows:

A. The location of each easement shall be adequate for use by franchised cable television operators and public service corporations which may be expected to occupy them.

B. Each easement shall include the right of ingress and egress for installation, maintenance, operation, repair and reconstruction of any improvement within the easement. The agent also may require that an easement be provided through abutting land under the same ownership as the property.

C. The easement shall be conveyed by reference on the final plat to a declaration of the terms and conditions of the common easements.

(Ord. 98-A(1), 8-5-98, § 14-410)

**State law reference--**Va. Code § 15.2-2241(6).

**Sec. 14-433 Effect of recordation of plat on dedications and certain easements.**

The recording of a final plat shall transfer dedicated land and improvements and establish certain easements as follows:

A. Recordation shall operate to transfer, in fee simple, to the county that portion of the land set apart on the plat and dedicated for public use as provided in sections 14-426, 14-428 and 14-431.

B. Recordation shall operate to transfer to the county any easement indicated on the plat to create a public right of passage over the property.

C. Recordation shall operate to transfer to the service authority, in fee simple, the water and sewer facilities, and the easement, as provided in section 14-430.

D. Recordation shall operate to terminate and extinguish all rights-of-way, easements or other interests of the county in the property not shown on the plat, except that an interest acquired by the county by eminent domain, 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 or 15.2-2272 shall not be affected by recordation.

E. Recordation shall not constitute acceptance of any improvements by the county or any service authority, state agency or department.

(Ord. 98-A(1), 8-5-98, § 14-411)

**State law reference--**Va. Code § 15.2-2265.

**Division 6. Completion of On-site Improvements and Surety**

**Sec. 14-434 Completion of on-site improvements required prior to plat approval.**

Except as provided in section 14-435, all on-site improvements required by this chapter, other than a private street authorized under section 14-232(B)(1), 14-232(B)(2), 14-233(A)(2) or 14-433(B)(2) serving less than three (3) lots, shall be completed prior to approval of the final plat. Prior to approval of the final plat:

A. The subdivider shall submit to the agent a certificate of completion of all of the improvements prepared by a professional engineer or a land surveyor, to the limits of his license; and

B. The subdivider shall certify to the agent that all of the construction costs for the improvements, including those for materials and labor, have been paid to the person constructing the improvements.

9-5-96, 12-15-82, 4-21-76, 2-19-76, 8-28-74 (§ 3); 1988 Code, § 18-18; Ord. 98-A(1), 8-5-98, § 14-412)

**State law reference--**Va. Code § 15.2-2241(9).

**Sec. 14-435 Surety in lieu of completion of on-site improvements.**

Notwithstanding section 14-434, pending actual completion of all on-site improvements, a final plat may be approved as follows:

A. The subdivider shall enter into an agreement with the county to complete the construction of all improvements required by this chapter within a period of time agreed to by the parties, and furnish to the agent a certified check, bond with surety satisfactory to the county, a letter of credit satisfactory to the county, or collaterally assign funds in a manner satisfactory to the county, in an amount sufficient for and conditioned upon the construction of the improvements. The form of the agreement and the type of surety guarantee shall be acceptable to the county engineer and be approved by the county attorney.

B. The subdivider shall submit a request for a bond estimate to the county engineer. The county engineer shall prepare a cost estimate of all improvements, based upon unit prices for new public or private sector construction in the county, and a reasonable allowance for estimated administrative costs, including inspection fees required pursuant to section 14-203(E)(5), inflation, and potential damage to existing streets or utilities, which shall not exceed twenty-five (25) percent of the estimated construction costs.

C. The county may make use of the certified check or call on the bond with surety, letter of credit, or collaterally assigned funds if either: (i) the subdivider fails to timely renew the bond with surety, letter of credit, or the collaterally assigned funds; or (ii) the county engineer, in his discretion, determines

that any of the improvements have not been completed in a timely manner and the completion of the improvements is deemed necessary to protect the public health, safety or general welfare.

D. Surety shall not be required for a private street authorized under section 14-232(B)(1), 14-232(B)(2), 14-233(A)(2) or 14-233(B)(2).

(9-5-96, 12-15-82, 8-28-74 (§ 3); 1988 Code, § 18-19; Ord. 98-A(1), 8-5-98, § 14-413)

**State law reference--**Va. Code § 15.2-2241(5).

**Sec.-14-435.1 Surety for maintenance of streets until accepted into state system.**

If one or more public streets within a subdivision are proposed for dedication or have been dedicated for public use and the street or streets, due to factors other than quality of construction, is not acceptable into the secondary system of state highways, the subdivider shall, prior to approval of the final plat or prior to the final release of surety as provided in section 14-436, provide surety for the maintenance of the street or streets as provided herein:

A. The subdivider shall furnish to the agent a certified check, bond with surety satisfactory to the county, or a letter of credit satisfactory to the county, or collaterally assign funds in a manner satisfactory to the county, in an amount established by the Virginia Department of Transportation sufficient for and conditioned upon the maintenance of the street or streets until it is accepted into the secondary system of state highways, and assume the subdivider's liability for maintenance of the street or streets. The form and the type of the surety shall be to the satisfaction of and be approved by the county attorney.

B. For purposes of this section, the term "maintenance" means maintenance of the streets, curb, curb and gutter, sidewalks, drainage facilities, utilities or other street improvements, including the reconstruction and repaving of any street which is required by the Virginia Department of Transportation before the street may be accepted into the secondary system of state highways, and the correction of defects or damage, and the removal of snow, water or debris so as to keep the street reasonably open for public usage.

(9-5-96, 12-15-82, 4-21-76, 2-19-76, 8-28-74 (§ 3); 1988 Code, § 18-18; Ord. 98-A(1), 8-5-98, § 14-414)

**State law reference--**Va. Code § 15.2-2241(5).

**Sec. 14-436 Release of surety.**

A bond, escrow, letter of credit or other surety required by this chapter shall be released as follows:

A. Upon written request by the subdivider, the senior director of the department of community development shall make periodic partial releases of the surety as provided in Virginia Code § 15.2-2245.

B. Within thirty (30) days after receipt of a written notice by the subdivider of completion of part or all of any improvements required to be constructed by this chapter, the senior director of the department of community development shall respond in writing to the subdivider in one of the following ways: (i) grant the partial or final release, if the applicable state agency, county department, or any applicable authority or other entity has accepted the improvements; or (ii) inform the subdivider that the improvement has not been accepted by the applicable state agency, county department, authority or other entity and/or identify any specified defects or deficiencies in construction and suggested corrective measures.

C. If the senior director of the department of community development fails to take action within the thirty (30) day period, the request of the subdivider shall be deemed approved and a partial release shall be granted to the subdivider. No final release shall be granted until after expiration of the thirty (30) day period and there is an additional request in writing sent by certified mail by the subdivider to the county executive. The senior director shall act within fourteen (14) days of receipt of this request by the county executive. If the senior director fails to take action on the request within ten (10) working days of receipt of the request, it shall be deemed approved and final release shall be granted to the subdivider.

D. Upon final completion and acceptance or approval of the improvements and upon receipt from the subdivider of a certification of final completion from a professional engineer, ~~or~~ land surveyor, or the senior director of the department of community development, the senior director shall release any remaining surety to the subdivider. A public improvement shall be deemed to be accepted when it is accepted by and taken over for operation and maintenance by the county, an authority, or a state agency or department responsible for maintaining and operating the improvement. A private improvement shall be deemed to be approved when the senior director determines that the improvements are completed.

(9-5-96, 12-15-82, 4-21-76, 2-19-76, 8-28-74 (§ 3); 1988 Code, § 18-18; Ord. 98-A(1), 8-5-98, § 14-415)

**State law reference--**Va. Code § 15.2-2245.

**Sec. 14-437 Effect of acceptance or approval of improvements.**

Nothing in this chapter, including the approval of a final plat, shall obligate the county, an authority, or a state agency or department to accept and take over for operation and maintenance any improvements completed by a subdivider as required by this chapter. Acceptance or approval of an improvement shall be made only if the improvement satisfies all applicable statutes, regulations, ordinances, guidelines and design and construction standards for acceptance or approval of the improvement, upon completion of inspections as provided in section 14-438.

(Ord. 98-A(1), 8-5-98, § 14-416)

State law reference--Va. Code § 15.2-2255.

**Sec. 14-438 Inspections; right of entry.**

Improvements required by this chapter shall be inspected as follows:

A. The submittal of a preliminary or final plat by a subdivider shall constitute consent by the subdivider to all officers and employees of the county, the service authority and any other authority, and any state department or agency, responsible for the administration and enforcement of this chapter, to enter upon the property at all reasonable times for the purpose of making periodic inspections related to the review of the preliminary and/or final plat for compliance with this chapter.

B. The subdivider shall provide at least five (5) days prior notice to the county engineer when each stage of the construction and improvement of the subdivision is ready for inspection, in accordance with the schedules and regulations promulgated by the board of supervisors.

C. Any inspection of public improvements shall be conducted solely to determine compliance with the requirements and specifications provided by law and the approved design plan.

(Ord. 98-A(1), 8-5-98, § 14-417)

State law reference--Va. Code §§ 15.2-2245, 15.2-2255.

**Sec. 14-439 Improvements completed at expense of subdivider; exception.**

All on-site improvements required by this chapter shall be completed at the expense of the subdivider, except where the subdivider and the county enter into a cost-sharing or reimbursement agreement prior to final plat approval.

(9-5-96, 12-15-82, 4-21-76, 2-19-76, 8-28-74 (§ 3); 1988 Code, § 18-18; Ord. 98-A(1), 8-5-98, § 14-402)

State law reference--Va. Code §§ 15.2-2241, 15.2-2242, 15.2-2243.

**Sec. 14-440 County not obligated to maintain improvements.**

The county shall not be obligated to maintain, repair, replace or reconstruct any improvement required by this chapter. Nothing in this chapter obligates the county to pay any costs arising from any improvement, unless the county has an ownership interest in the improvement or has otherwise agreed in writing to maintain, repair, replace or reconstruct the improvement.

(Ord. 98-A(1), 8-5-98, § 14-403)

State law reference--Va. Code §§ 15.2-2241, 15.2-2242, 15.2-2243.

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**(At 8:30 p.m., the Board recessed, and reconvened at 8:43 p.m.)**

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Agenda Item No. 9. Adoption of FY 2005/06 Capital and Operating Budgets and Approval of FY 2006-2010 CIP and FY 2011-2015 Capital Needs Assessment.

Mr. Tucker said on April 6<sup>th</sup>, a public hearing was held on the Board of Supervisors' proposed FY 05/06 Operating and Capital Budgets.

The FY 05/06 Operating and Capital Budgets total \$255,874,537. This amount reflects the County Executive's Recommended Budget plus changes made during the Board's work sessions. The attached resolution (Attachment A) formally approves the total proposed expenditures of \$255,874,537 for FY 05/06. Attachment B lists additional FY 05/06 budget issues that require Board action.

Staff requests adoption of the FY 05/06 Budget Resolution. Any budget changes resulting from action on items in Attachment B will be included when the budget is appropriated in June.

Mr. Boyd asked about placeholders in the budget - \$200,000 for medical expenses for retirees, and \$300,000 for potential improvements to Stony Point fire. Mr. Tucker explained that those items would be brought back to the Board within the next 30 to 60 days.

Ms. Thomas said that she did not want to open up new categories of expense to the real estate tax rate, and wondered how much would be going into road building.

Mr. Tucker explained that \$1.5 million would be going into CIP for roads, and an additional amount of \$700,000 from increased revenue-sharing with VDOT, for a total of \$2.2 million in the CIP for roads as this year's contribution.

Ms. Thomas commented that she is not happy with that because it is a state responsibility, although she acknowledged that it had been carefully worked out and would not let it prevent her from voting against the budget.

Mr. Rooker agreed, but said that the same thing could be said for social services or schools, with the state assuming less and less responsibility for those services also. He mentioned an email from Chris Lee, who urged the Board not to cut the tax rate, and dedicate the proposed 2-cent tax cut toward transportation. Mr. Rooker said that Mr. Lee is on the funding committee, and recognizes the need to do something, adding that VDOT is going to fund communities that put up their own funds. We can either not take advantage of it, or take advantage of it.

Mr. Bowerman then offered **motion, seconded** by Mr. Dorrier, to adopt the FY 2005/06 Capital and Operating Budgets. Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Rooker, Ms. Thomas, Mr. Wyant, Mr. Bowerman, Mr. Boyd and Mr. Dorrier.

NAYS: None

### BUDGET RESOLUTION

BE IT RESOLVED by the Board of County Supervisors of Albemarle County, Virginia, that the budget for the County for the Fiscal Year beginning July 1, 2005 be approved as follows:

	FY 05/06 ADOPTED
Administration	\$ 9,115,938
Judicial	\$ 3,041,920
Public Safety	\$ 21,912,850
General Services	\$ 3,109,005
Human Development (including PVCC)	\$ 14,342,991
Parks, Recreation, and Cultural	\$ 5,280,679
Community Development	\$ 7,253,518
Refunds	\$ 137,000
City/County Revenue Sharing	\$ 9,742,748
General Government Capital Projects	\$ 13,166,000
Stormwater Improvements	\$ 450,000
General Government Debt Service	\$ 2,253,574
Education - Capital Projects	\$ 9,383,000
Education - Debt Service	\$ 11,260,245
Education - School Operations	\$ 125,898,394
Education - Self-Sustaining Funds	\$ 13,459,307
Special Revenue Fund Operations	\$ 15,270,471
Less: Interfund Transfers	\$ (9,848,123)
Contingency Reserves	\$ 645,020
<b>TOTAL</b>	<b>\$ 255,874,537</b>

Mr. Tucker next explained that requests have been made for \$10,000 - \$15,000 in recurring funds for fireworks, and staff has indicated to the requestors that they should submit paperwork for that to be recurring, but the Board could take action for this year's request as one-time funding.

Mr. Bowerman commented that having a fireworks display is concurrent with an urban-type locality.

Mr. Rooker agreed, but asked if the applicants should request funding through the appropriate channels ahead of time.

Mr. Boyd said that he would agree to vote for it this year, but in future years a formal budget request should be made.

Mr. Rooker asked if the city contributed to this. Staff indicated that the city provides manpower, but no funding.

Mr. Dorrier said that he would like the funding to be contingent upon whether the city would contribute the same.

Mr. Rooker said that he would support a \$5,000 allocation, with the city providing that amount also. He noted that city police attend because the event is in the city, just as county police attend events that are held in the county.

Ms. Thomas suggested reviewing all of the items on the list before voting.

Mr. Dorrier asked if there would still be private contributions to the fireworks.

Mr. Rooker responded that they are still anticipating raising private dollars, even if they receive local funds.

Mr. Tucker noted that the African-American festival has made a first-time request of \$3,000, and the city has indicated that they plan to contribute \$3,000.

Ms. Thomas pointed out that the lodging tax fund used to provide money for festivals.

Mr. Tucker agreed to look at that fund to see if there were unallocated monies that could be used; the tourism funds are used for ACE and tourism bureau at this time.

Board members agreed to match the city's \$3,000.

Mr. Tucker explained that the county fair had been funded at \$10,000 in the past, and the city did not fund the fair's \$3,000 request. He said that fair officials misunderstood the need to request the full amount from the county, and now are \$3,000 short.

Mr. Rooker pointed out that the county is funding events held in the city, but not vice-versa.

Ms. Thomas suggested that that be pointed out next year.

Mr. Tucker mentioned that the public defenders' request would require funds being moved from the contingency fund to the Board reserve. He indicated that staff has learned there may be some legal issues with funding the public defenders office directly, and until that can be resolved, the money should be put back into the reserve. Mr. Tucker noted that the General Assembly may need to act on the matter, which could take some time. He added that the city had only agreed to fund 25 percent of that office, not the 50 percent as requested.

Mr. Rooker emphasized that the recommended sharing is 65 percent for the city and 35 percent for the county because of the caseload.

He clarified that the Board's intent is \$5,000 for Save the Fireworks, \$3,000 for the African-American Festival, and an additional \$3,000 for the county fair.

Mr. Boyd asked if the fireworks money could be made contingent to the city's allocation.

Mr. Tucker pointed out that they would know by June whether the city had granted that request.

Mr. Davis mentioned that the county is limited in whom they can give money to, as it must be a non-profit, and it has not yet been verified that this organization has qualified as a non-profit.

Ms. Thomas commented that she felt the city could get some credit for providing staff for the fireworks event.

Mr. Wyant pointed out that the county offers police to the fair without expecting any credit.

**Motion** was then offered by Ms. Thomas to approve \$5,000 for Save the Fireworks, \$3,000 for the African-American Festival, and \$3,000 for the Albemarle County Fair, and to move \$35,000 into the Board of Supervisors' contingency fund identified previously for the office of the public defender. Mr. Boyd **seconded** the motion.

Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Rooker, Ms. Thomas, Mr. Wyant, Mr. Bowerman, Mr. Boyd and Mr. Dorrier.

NAYS: None

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Ms. Thomas asked if anything had yet been worked out with CTS. Mr. Tucker replied that nothing has been worked out with CTS. He indicated that county staff have made contact with city staff and are trying to get a meeting together.

Mr. Boyd said that a newspaper article seems to indicate the city claims the county does not understand their accounting system. He stated that the county should simply request to see their accounting.

Mr. Rooker said that the city is looking at the transportation network differently than they have in the past, and their point is the county should not receive credit for any of the federal or state grant money that funds transit; in the past, the county has received a pro-rata share. He said that the city indicated

their own costs have increased 5 percent, and the county had proposed a 10 percent allocation increase. However, the city is requesting a 94 percent increase.

Mr. Rooker said that he believes the county should try to enter into a longer-term arrangement with the city that is approved by both localities as to how the county will be charged. Without that, we're subject to the whims of the city. He pointed out that the city is only paying for 5 percent of capital CTS expenditures, with federal and state grants covering the rest.

Mr. Tucker said that the county would like to form a transportation board, as the system is supposed to be regional, noting that the county's costs have doubled.

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Agenda Item No. 10. Adoption of Calendar Year 2005 Tax Rate.

Mr. Tucker said on April 6, 2005, a public hearing was held on the Board of Supervisors' proposed budget for FY 05/06. A public hearing also was held on the 2005 calendar year tax rates.

The proposed resolution to set the 2005 tax year or calendar year tax rates must be approved at the April 20, 2005 meeting in order that the printing and mailing of the tax bills can occur in a timely manner.

The resolution sets the tax levy for calendar year 2005. The proposed rates are set at \$0.74/\$100 assessed valuation for real estate, public service and mobile homes for the 2005 tax year and at \$4.28/\$100 assessed value for the personal property tax rate, including machinery and tools.

Mr. Tucker said staff recommends adoption of the proposed resolution setting the tax levy for calendar/tax year 2005.

Mr. Bowerman offered **motion, seconded** by Mr. Dorrier, to adopt the following resolution for the Calendar Year 2005 tax rate. Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Rooker, Ms. Thomas, Mr. Wyant, Mr. Bowerman, Mr. Boyd and Mr. Dorrier.  
NAYS: None

### RESOLUTION

**BE IT RESOLVED** that the Board of Supervisors of Albemarle County, Virginia, does hereby set the County Levy for Calendar Year 2005 for General County purposes at Seventy-Four Cents (\$0.74) on every One Hundred Dollars of assessed value of real estate; at Seventy-Four Cents (\$0.74) on every One Hundred Dollars of assessed value of manufactured homes; at Seventy-Four Cents (\$0.74) on every One Hundred Dollars of assessed value of public service assessments; at Four Dollars and Twenty-Eight Cents (\$4.28) on every One Hundred Dollars of assessed value of personal property; and at Four Dollars and Twenty-Eight Cents (\$4.28) on every One Hundred Dollars of assessed value of machinery and tools; and

**FURTHER** orders that the Director of Finance of Albemarle County assess and collect the taxes on all taxable real estate and all taxable personal property.

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Agenda Item No. 11. From the Board: Matters Not Listed on the Agenda.

Mr. Wyant asked staff to look into fees for signs such as vacation bible schools, who have to pay \$35 per sign, and asked if those fees could be waived for non-profits.

Mr. Tucker and Mr. Davis said that most temporary signs did not generate a fee, and staff agreed to look into why they would be charged.

Mr. Wyant said that Crozet Methodist Church indicated they were charged.

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Ms. Thomas commented that during the public hearing people raised concerns about the huge increases in their taxes. She stated that since 1990, there has been a provision on the books which allows deferral of real estate tax that increases above a certain amount. Ms. Thomas said that the amount could be deferred and becomes a lien on a property, but elderly people not already in the elder exempt program might take it. She asked staff to provide a report to the Board.

Mr. Davis pointed out that there is a very high interest rate associated with this deferral, and it is difficult to administer.

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Ms. Thomas asked when the permanent ordinance for groundwater testing would be coming to the Board. It should take care of situations similar to the Red Hill emergency regulations due to well problems.

Mr. Davis said that staff would be bringing it to the Board on May 4th.

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Ms. Thomas asked if the County has heard from the City on its' request that the settlement condition for the Ivy Landfill be lifted. Mr. Davis said he will update the Board at the May 4<sup>th</sup> meeting.

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At Ms. Thomas request, Mr. Rooker reported that there was a meeting held Monday on the Meadow Creek Parkway. Mr. Rooker said that they made a presentation regarding the Parkway and its history, and the county/city efforts and allocation towards the road. He explained that the primary reason for the meeting was the need for the interchange, and to try to get the Transportation Commissioner's support for any funding to get it built the same time the road is built. Mr. Rooker noted that the Commissioner was very cooperative, but was not confident that there is a funding solution out there. Mr. Rooker noted that he did agree to support the county in a meeting with Senator Warner to have the project serve as a demonstration program. He said that there may be a dilemma if federal funding for the interchange is provided as it may impose federal requirements on the rest of the road, and the Commissioner is sensitive to that issue. He thinks everything is being done to try to get the interchange funded because it is an important part of the transportation network.

Mr. Boyd mentioned that in a recent meeting with Senator Warner, he was glad to see the city and county working together. He noted that even with a federal allocation, there were many steps that would need to be taken to get the money. Mr. Boyd pointed out that Delegate Virgil Goode was also in that meeting.

Mr. Rooker suggested sending a thank-you letter to both Senator Warner and Delegate Goode, and staff agreed to do so.

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Mr. Bowerman announced to the Board and public that he would not seek re-election. He explained that it has been a difficult decision, but he would like to spend more time with his family and considering his own interests. Mr. Bowerman said that he spent 10 years on the Planning Commission and 16 years on the Board, and has learned more from the public and government than he brought to the table himself. He said that he knows at least three individuals who have expressed an interest in his seat, and he would serve out his eight months on the Board with renewed energy.

Mr. Rooker said that he will be greatly missed by the Board and the county. He stated that Mr. Bowerman has given a great service to Albemarle County.

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Mr. Rooker mentioned the recently held water meeting, which was a "large meeting." He said it was suggested that he and Mayor Brown attend a meeting with the Army Corps of Engineers, Department of Environmental Quality, and Environmental Protection Agency that would be a pre-application agency, recommended by the Corps representative in attendance. Mr. Rooker said that there is an issue about how small that meeting would be, and Mayor Brown agreed that the meeting would be wise.

Mr. Rooker said that Mr. Boyd had issued an email encouraging the county to get with the city and form a position paper. Mr. Rooker emphasized that the pre-application meeting should be to determine whether regulators would be flexible in how they make the decision about which of the four options on the table would have the least environmental impact. Mr. Rooker mentioned that the RWSA has already indicated that two of these options would likely not be approved by regulators, and the pre-application meeting would serve to "probe" which options the regulators would consider as possibilities.

Mr. Rooker mentioned that the water supply program approved by the county, city, and RWSA several years ago never had an application filed for it. He said that the public wants to know that the county is moving forward now.

Mr. Wyant said that he did not know it had been narrowed down to only four options. He stated that the county should do their ranking of options prior to that meeting.

Mr. Rooker stated that one difference in what he heard at the recent meeting is that no 50-year plan is going to be required at this time. He said that there are issues remaining as to whether Beaver Creek and Chris Greene Lake can be considered as water sources, as much of the concern revolves around where water supply would come in drought years. Mr. Rooker emphasized that if the 9.9 million gallon figure didn't need to be met, that also may change possible approaches. The Corps of Engineers basically indicated that they would provide that kind of an answer when they had the data in front of them in a small meeting. He added that he thinks the community would like for officials to try to work within the watershed if they can to come to a solution. He thinks the four-foot crest water is the least expensive water on a per-gallon basis. Mr. Rooker noted that if a package could be pulled together with raising the

Ragged Mountain level and the four-foot crest instead of \$100 million for several years, it may only take \$50 or \$60 million, which could be staged over time.

Mr. Boyd said that the community has ideas about wanting to stay within the watershed, and an incremental approach is desired.

Ms. Thomas said that she felt saving the infrastructure would be more important to regulators than it seemed to be in the recent meeting. She said that she serves on the Governor's Natural Resources Leadership Partnership, and talked to Secretary Tayloe Murphy, who offered assistance in saving local infrastructure instead of going to the James River. She said later she spoke with the DEQ director Robert Burnley, who was surprised that the James River was viewed as an easy option. He said that every crossing would need a permit, and in the last drought, water had to be released upstream for Richmond to have enough water. She said that the Moormans and Mechums River studies would also be considered as the water source reviews are moved forward.

Mr. Boyd asked if the Board generally agreed that staying within the watershed was a priority.

Mr. Rooker agreed that that has been a consensus, and if a plan could be approved to work within the watershed, that should be done. He said that it could be argued that the James is not a practical option, and technology might advance to where treated wastewater could be used.

Mr. Rooker added that his memo regarding testing the water indicated there should be "broad-spectrum contaminant testing" done on water sources, and if there is a difference in quality, it should be known.

Ms. Thomas pointed out that in her meeting, Lynchburg reported that the General Assembly allocated \$2 million to them to help with their sewage overflow system. She said that the Ragged Mountain source is probably the county's best quality source.

Mr. Wyant commented that the further out the county gets from a local water source, the less certain it is.

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Mr. Boyd mentioned that Route 22/231 is still an issue, and before it goes to the Transportation Board, there is some interest in appealing to Gordonsville to remove its' opposition to restricting truck traffic. He said that he would like to issue a letter to them indicating the county's opposition to their position, citing fatalities and safety concerns.

Mr. Tucker asked the Board if they had any personal contacts on the Gordonsville Town Council, as a call would be more helpful.

Mr. Wyant said that he knows one of the Gordonsville councilors, Steve Irving, and he would call him about it. Mr. Rooker also offered to make calls if needed.

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Mr. Davis said that last July the Board authorized acquisition of the Hedgerow property near the Juvenile Court facility. The closing date is early next week. He requested the Board to adopt a resolution to authorize the acquisition of the property and to authorize the County Executive to accept the deed and sign all closing documents.

**Motion** to that effect was offered by Mr. Bowerman. Mr. Boyd **seconded** the motion.

Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Rooker, Ms. Thomas, Mr. Wyant, Mr. Bowerman, Mr. Boyd and Mr. Dorrier.

NAYS: None.

#### **RESOLUTION TO AUTHORIZE ACQUISITION OF PROPERTY**

**WHEREAS**, the County of Albemarle and the City of Charlottesville desire to acquire certain property within the City for the purpose of providing public space for court house facilities and related offices; and

**WHEREAS**, agreements for the acquisition of the properties were approved by the Board of Supervisors on July 14, 2004.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby authorizes the County Executive to execute the deed and all other documents approved by the County Attorney necessary to purchase and accept the following properties on behalf of the County:

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| 1. City of Charlottesville TMP 530108000 | To be conveyed by Hedgerow Corporation |
| 2. City of Charlottesville TMP 530109000 | To be conveyed by Hedgerow Corporation |

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| 3. City of Charlottesville TMP 530111000 | To be conveyed by Hedgerow Corporation |
| 4. City of Charlottesville TMP 530159000 | To be conveyed by Hedgerow Corporation |

**LEASE ASSIGNMENT**

THIS LEASE ASSIGNMENT entered into as of the 27th day of April, 2005, by and among HEDGEROW CORPORATION, a Virginia corporation ("Assignor"), and THE CITY OF CHARLOTTESVILLE, VIRGINIA, a municipal corporation and political subdivision of the Commonwealth of Virginia and the COUNTY OF ALBEMARLE, VIRGINIA, a political subdivision of the Commonwealth of Virginia (together, hereinafter the "Assignee");

WHEREAS, Assignor is the landlord under that certain lease agreement between the Assignor and Silvercrest Asset Management Group, LLC ("Tenant") dated July 23, 1993, last renewed as of September 1, 2003 to expire August 31, 2006, and assumed by Tenant by an assignment dated March 31, 2005, the terms of which are incorporated herein by this reference, involving commercial office space at 614 E. High Street, Charlottesville, Virginia, (the "Premises") (such lease agreement, as amended, being referred to herein as the "Lease"); and

WHEREAS, Assignor desires to assign and Assignee desires to assume any and all obligations of Assignor under the Lease which arise on and after the date first set forth above;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements herein set forth the parties hereto hereby agree as follows:

1. **Assignment and Assumption.** Assignor hereby assigns all of its right, title and interest in, to and under the Lease to Assignee as of the date hereof. Assignee hereby assumes and agrees to perform and discharge in all respects, each and every term, provision and condition to be performed by the landlord under the Lease from and after the date hereof.

2. **Representations of Assignor.** Assignor represents to Assignee as of the date hereof: (i) that Assignee has made no other assignment or agreement to assign the Lease other than this assignment, (ii) that the Lease is in full force and effect and there has been no default by Assignor under the Lease, and (iii) that the Assignor has no actual knowledge of any defaults or any acts or events which with the passage of time or the giving of notice come become defaults thereunder on the part of the Tenant under the Lease.

3. **Notices.** All notices, demands or other communications given under this Agreement shall be in writing, and shall be either hand delivered or mailed to the last known address of each party, said mailing to be by certified United States government mail with notice to be effective upon such delivery or mailing. Any party may, by written direction to the others, change the address to which said notices, demands, or other communications shall be sent.

4. **Governing Law.** This Agreement shall be construed in accordance with and governed by the laws of the Commonwealth of Virginia.

5. **Binding Effect.** This Agreement shall be binding upon, and inure to the benefit of, the respective successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

ASSIGNOR: HEDGEROW CORPORATION  
By: (Signed) \_\_\_\_\_  
James H. Heyward, President

ASSIGNEE: THE CITY OF CHARLOTTESVILLE, VIRGINIA  
By: (Signed) \_\_\_\_\_  
James H. Heyward, President

ASSIGNEE: THE COUNTY OF ALBEMARLE, VIRGINIA  
By: (Signed) \_\_\_\_\_  
Robert W. Tucker, Jr., County Executive

Agenda Item No. 12. Adjourn to April 21, 2005, 4:00 p.m., Meeting Room 235, for Joint Meeting with School Board.

**Motion** was offered by Mr. Bowerman, **seconded** by Mr. Boyd, to adjourn to April 21, 2005, 4:00 p.m., for a joint meeting with the School Board.

Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Rooker, Ms. Thomas, Mr. Wyant, Mr. Bowerman, Mr. Boyd and Mr. Dorrier.  
NAYS: None.

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Chairman

Approved by Board
Date: 08/03/2005
Initials: DBM