

VIRGINIA:

At a regular meeting of the Washington County Board of Supervisors held Tuesday, February 8, 2005, at 7:00 p.m., at the County Administration Building in Abingdon, Virginia the following were present:

PRESENT:

John B. Roberts, Sr. Chairman
Phillip B. McCall, Vice Chairman
Bobby D. Ingle
Dulcie M. Mumpower
Odell Owens
Anthony S. Rector
Kenneth O. Reynolds

Mark K. Reeter, County Administrator
Lucy E. Phillips, County Attorney
Mark W. Seamon, Accounting Manager
Naoma A. Mullins, Recording Clerk

1. Call to Order

The meeting was called to order by Mr. John Roberts, Chairman of the Board, who welcomed everyone in attendance.

2. Invocation and Pledge of Allegiance

Supervisor Dulcie Mumpower gave the Invocation and led the Pledge of Allegiance.

3. Approval of Agenda

On motion of Mr. Ingle, second by Mr. Owens, it was resolved to approve the agenda with the following amendments:

*Addition of 6.a. Consideration of Request by William King Regional Arts Center
Addition of 6.b. Consideration of Resolution Supporting Virginia Works Program*

The vote on this motion was as follows: (7-0)

*Mr. Ingle Aye
Mr. McCall Aye
Mrs. Mumpower Aye
Mr. Owens Aye
Mr. Rector Aye
Mr. Reynolds Aye*

Mr. Roberts Aye

4. Approval of Minutes

On motion of Mr. Reynolds, second by Mr. Rector, it was resolved to approve the minutes of the January 25, 2005, regular meeting as presented.

The vote on this motion was as follows: (6-0-1)

<i>Mr. Ingle</i>	<i>Abstained</i>
<i>Mr. McCall</i>	<i>Aye</i>
<i>Mrs. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Mr. Rector</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Roberts</i>	<i>Aye</i>

5. Public Hearings:

a. Requests for Special Exception Permits:

(1). Jack K. Hagy, Jr., Property Tax Map #142-A-30A: Request for a Special Exception Permit to construct and operate mini-storage warehouse facilities on property located on the South side of State Route 11/State Route 1712 in a B-2 (Business, General) zone, Wilson Magisterial District

Mr. Roberts opened the public hearing to receive comments both in support of and in opposition to the application of Jack K. Hagy for a Special Exception Permit.

Mr. Jack Hagy addressed the Board explaining that he would like to construct a mini-storage warehouse facility on 4.5 acres of land that he owns.

Responding to an inquiry, Mr. Hagy explained that the existing structures on the property are owned by Starwood Properties. He explained that there is a 50' property extension that allows access to his 4.5 acres.

There being no further comments, Mr. Roberts declared the public hearing closed.

Discussion ensued among the Board.

On motion of Mrs. Mumpower, second by Mr. Ingle, it was resolved to follow the recommendation of the Washington County Planning Commission and approve the application of Jack K. Hagy for a Special Exception Permit to construct and operate mini-storage warehouse facilities on property located on the South side of State Route 11/State Route 1712 in a B-2 (Business, General) zone, Wilson Magisterial District.

The vote on this motion was as follows: (7-0)

<i>Mr. Ingle</i>	<i>Aye</i>
<i>Mr. McCall</i>	<i>Aye</i>
<i>Mrs. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Mr. Rector</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Roberts</i>	<i>Aye</i>

(2). Carrico Investment Co., LLP, Property Tax Map #124-1-5: Request for a Special Exception Permit to construct and operate mini-storage warehouse facilities on property located on the South side of State Route 11 near the Virginia Highlands Airport in a B-2 (Business, General) zone, Madison Magisterial District, A-01 Election District

Mr. Roberts opened the public hearing to receive comments both in support of and in opposition to the application of Carrico Investment Co., LLP for a Special Exception Permit.

Mr. John Carrico addressed the Board explaining that he would like to construct additional mini-storage warehouse facilities on his existing property located across from Virginia Highlands Airport. Mr. Carrico stated that the additional units would be identical to the existing mini-storage facilities.

There being no further comments, Mr. Roberts declared the public hearing closed.

On motion of Mr. McCall, second by Mr. Reynolds, it was resolved to follow the recommendation of the Washington County Planning Commission and approve the application of Carrico Investments Co., LLP for a Special Exception Permit to construct and operate mini-storage warehouse facilities on property located on the South side of State Route 11 near the Virginia Highlands Airport in a B-2 (Business, General) zone, Madison Magisterial District, A-01 Election District.

The vote on this motion was as follows: (7-0)

<i>Mr. Ingle</i>	<i>Aye</i>
<i>Mr. McCall</i>	<i>Aye</i>
<i>Mrs. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Mr. Rector</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Roberts</i>	<i>Aye</i>

b. Public Hearing and Consideration of Adoption of An Ordinance to Repeal Chapter 54 of the Code of the County of Washington, Virginia (2002), Titled “Subdivisions” and to Adopt a New Chapter 52 to Govern the Division and Subdivision of Land

County Planner Wally Horton addressed the Board providing them with a PowerPoint presentation on the major changes and components of the new proposed subdivision ordinance. A copy of Mr. Horton’s presentation can be found as an exhibit to the Minutes of this meeting.

Chairman Roberts, on behalf of the Board of Supervisors, thanked the Joint Land Use Steering Committee and County staff for their hard work and dedication on the proposed new subdivision ordinance.

Mr. Roberts opened the public hearing to receive comments both in support of and in opposition to the proposed ordinance.

The following people addressed the Board:

Mr. L. K. Addison thanked the Board for the opportunity to serve on the Joint Land Use Steering Committee. Mr. Addison explained that he has owned a surveying business in Washington County for the past seventeen years. He stated that whatever direction the Board of Supervisors chooses to take on the proposed new subdivision ordinance that his office would work with the County and assist its citizens in understanding the new ordinance. Mr. Addison explained that as a member of the Joint Land Use Steering Committee he voted against the proposed ordinance primarily because of the lack of provisions dealing with subdividing lots that are served by a public withheld street as set forth in Section 52-701 of the proposed subdivision ordinance. He cited two examples of how this section of the proposed ordinance would negatively impact landowners. Mr. Addison made a proposal to the Board that he felt was a solution to the problems in Section 52.701. He requested the Board consider remanding the ordinance back to the Joint Land Use Steering Committee for further review of Section 52.701.

Mr. Charles Meade thanked the Board for allowing him to serve on the Joint Land Use Steering Committee. Mr. Meade explained that he supports the ordinance as a whole and that the Committee had worked hard to create an ordinance that would protect both landowners and the County. He further explained that the realtors in Washington County could be assets to the County as they can help landowners better understand the ordinance. Mr. Meade stated that he agrees with Mr. Addison's concern regarding Section 52.701 dealing with division of lots on public withheld streets. He further stated that when landowners are denied requests to subdivide they should be dealt with in a professional and compassionate manner. When possible, alternative methods should be suggested to the landowner. In closing, Mr. Meade stated that the proposed ordinance is not perfect and may need to be amended in the future.

There being no further comments, Mr. Roberts declared the public hearing closed.

Discussions ensued at length among the Board. The Board expressed their appreciation to the members of the Joint Land Use Steering Committee for their hard work and dedicated service to drafting the proposed new subdivision ordinance. Overall, Board members felt the proposed ordinance would be good for landowners and the County. However, there were concerns with Section 52.701 of the ordinance that speaks to subdividing lots served by a public withheld road. Several of the Board members felt the ordinance should be remanded back to the Committee for further work on Section 52.701. Discussions were held concerning the proposal made by Mr. Ken Addison.

Supervisors Phillip McCall and Bobby Ingle serve on the Joint Land Use Steering Committee and stated that at the time of the Committee's January 12 meeting they could not identify alternatives to correct the problems in Section 52.701.

After further discussions regarding the issues with Section 52.701, many of the Board members felt the ordinance should be adopted and that the Committee could meet again for further work on this section of

the ordinance. At the suggestion of the County Administrator, the Board discussed setting back the effective date of the proposed new subdivision ordinance if adopted.

On motion of Mrs. Mumpower, second by Mr. Rector, it was resolved to remand the proposed new subdivision ordinance back to the Joint Land Use Steering Committee for further work on Section 52.701.

The vote on this motion was as follows: (3-4)

<i>Mr. Ingle</i>	<i>Nay</i>
<i>Mr. McCall</i>	<i>Nay</i>
<i>Mrs. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Nay</i>
<i>Mr. Rector</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Roberts</i>	<i>Nay</i>

The motion failed.

On motion of Mr. Ingle, second by Mr. McCall, the Board acted to adopt the following ordinance as presented. It was further resolved to direct the Joint Land Use Steering Committee to reconvene for further work on areas of concern in the ordinance, particularly Section 52.701. The effective date shall be July 1, 2005:

AN ORDINANCE TO REPEAL CHAPTER 54 OF THE CODE OF THE COUNTY OF WASHINGTON, VIRGINIA (2002), TITLED "SUBDIVISIONS," AND TO ADOPT A NEW CHAPTER 52 TO GOVERN THE DIVISION AND SUBDIVISION OF LAND

WHEREAS section 15.2-2240 of the 1950 Code of Virginia, as amended, requires that the governing body of every locality in the Commonwealth adopt an ordinance to assure the orderly subdivision of land and its development; and

WHEREAS the Board of Supervisors of the County of Washington, Virginia, adopted Chapter 54 of the Code of the County of Washington, Virginia, which established standards and procedures for the subdivision of land, on December 11, 1967, and such ordinance was amended through August 1, 1973; and

WHEREAS population growth in the County of Washington, Virginia, exceeded ten percent in the period between the year, 1990, and year, 2000, United States Census reports; and

WHEREAS such growth has placed an increasing demand and interest in the division and subdivision of land in the county; and

WHEREAS the regulation of subdivision and division of land has changed significantly since the County last adopted a comprehensive ordinance to regulate the subdivision of land; and

WHEREAS the Board of Supervisors of the County of Washington, Virginia, finds it in the best interests of the public health, safety, and welfare to update the provisions in the Code of the County of Washington, Virginia, governing the division and subdivision of land;

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of the County of Washington, Virginia,

- 1. That Chapter 52, entitled "Division and Subdivision of Land," is hereby adopted and made a part of the Code of the County of Washington, Virginia (2002), effective July 1, 2005; and*
- 2. All prior ordinances adopted to regulate the division and subdivision of land are repealed upon the effective date of this ordinance; however, this repeal shall not be construed to revive any ordinance governing the division or subdivision of land or part thereof that has been repealed by an ordinance that is repealed by this ordinance; and*
- 3. Adoption of this ordinance shall not invalidate subdivision plats approved by the County and recorded prior to the effective date of this ordinance; and*
- 4. Should any section or provision of this ordinance or of Chapter 52 be decided to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of any other section or provision of this ordinance, Chapter 52, or the Washington County Code; and*
- 5. A certified copy of this ordinance and of Chapter 52 shall be filed in the office of the County Attorney and in the office of the Clerk of Circuit Court for the County of Washington, Virginia; and*
- 6. This ordinance shall be effective on July 1, 2005.*

CHAPTER 52 – DIVISION AND SUBDIVISION OF LAND

ARTICLE I. GENERAL PROVISIONS

Sec. 52-100. Adoption of Chapter, Effective Date

Cross-reference: 54-2

This chapter is hereby adopted, effective July 1, 2005.

Sec. 52-101. Ordinance Repealed

Cross-reference: New

This chapter replaces Chapter 54 of the County Code, which is repealed upon the adoption of this chapter. Adoption of this chapter shall not invalidate plats approved by the County and recorded prior to the effective date of this chapter.

County Code: Chapter 1, Sec. 1-10.

Sec. 52-102. Authority and Title

Cross-reference: 54-1, 54-2

These regulations are adopted pursuant to Section 15.2-2240 et seq. of the Virginia Code, This chapter is known and may be cited as "Chapter 52 – Division and Subdivision of Land", the "Division and Subdivision Ordinance of Washington County, Virginia", the "Division and Subdivision Ordinance," "this ordinance," "Chapter 52," or "this chapter."

Sec. 52-103. Purpose

Cross-reference: 54-1

This chapter is adopted in order to establish standards for the division and subdivision of land and for its development and to establish standards for boundary line adjustments, and the vacation of plats or parts thereof. More specifically, the purpose of the standards and procedures of this chapter is to:

- (a). Guide and facilitate the orderly and beneficial growth of the county through implementation of the Comprehensive Plan;*
- (b). Improve the public health, safety, convenience, comfort, prosperity and general welfare of the citizens of the county by assuring the orderly division and subdivision of land and its development;*
- (c). Provide residential areas with healthy surroundings for family life by assuring that land is divided or subdivided and developed in a manner that is harmonious with its surrounding lands;*
- (d). Provide assurance that the purchasers of lots are buying a commodity that is suitable for development and use; and to make possible the provision of public services in a safe, adequate and efficient manner; and*
- (e). Assure that:*
 - 1. The development of the county is consonant with efficient and economical use of public funds; and*
 - 2. All improvements required by this chapter will be designed, constructed and maintained so as not to become an undue burden on the community.*

Virginia Code: § 15.2-2240.

Sec. 52-104. Applicability

Cross-reference: 54-1, 54-6

- (a). This chapter shall apply to all divisions and subdivisions of land, boundary line adjustments, and the vacation of plats or parts thereof, in the county. Condominium and townhouse developments are not excluded from provisions of this chapter.*
- (b). 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.*
 - 1. Divisions of land resulting from an order entered by a court of equity are subject to regulation under the zoning ordinance.*

Virginia Code: § 15.2-2240.

Sec. 52-105. Acts Prohibited without Compliance

Cross-reference: 54-9, 54-181, 54-184

- (a). No person shall divide or subdivide land without making and recording a plat of the division or subdivision and without fully complying with the provisions of this chapter and applicable state law.*
- (b). A division or subdivision plat shall not 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 been submitted to and approved by that locality.*
- (c). No person shall sell or transfer any land of a division or subdivision before a plat has been duly approved and recorded as provided in this chapter. However, nothing herein shall be construed as preventing the recordation of the instrument by which the land is transferred or the passage of title as between the parties to the instrument.*
 - 1. Such lots shall be subject to regulation under the zoning ordinance.*

(d). *The clerk of circuit court of the county shall not file or record a division or subdivision plat until the plat has been approved as provided in this chapter and it is valid at the time of recordation. Virginia Code: § 15.2-2254.*

Sec. 52-106. Rules of Construction

Cross-reference: 54-3

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 Chapter 1, Sec. 1-2 of the of the County Code, the following rules of construction apply in the interpretation 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 statute, regulation, guideline, manual or standard shall be that to the form of the referenced statute, regulation, guideline, manual or standard in effect as of the date of application.*
- (b). *Any reference to this chapter shall include all ordinances amending or supplementing this chapter and in effect as of the date of application.*
- (c). *If state law in effect on the date of application conflicts with provisions of this chapter, then the state law shall apply.*
- (d). *Words in the singular number include the plural, and the plural the singular unless the natural construction of the word indicates otherwise.*
- (e). *The word “approve” shall be considered to be followed by the words “or disapprove”.*
- (f). *The word “days”, as used in this chapter, shall be interpreted as follows:*
 - 1. *Days less than or equal to ten (10) shall refer to working days.*
 - 2. *Days greater than ten (10) shall refer to calendar days*
- (g). *The words “month” or “year” shall refer to calendar months or years.*
- (h). *All distances and areas refer to measurement in a horizontal plane.*

Sec. 52-107. Definitions

Cross-reference: 54-3

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

Agent. *(See Subdivision Agent.)*

Block. *The property abutting one side of a street and lying between the two (2) nearest intersecting streets or nearest street and railroad right-of-way, undivided or unsubdivided acreage, river or live stream or between any of the foregoing and any other barrier to the continuity of development.*

Board. *The Board of Supervisors, the governing body.*

Bond, Surety. *An undertaking by an insurance company (bonding company) licensed to do business in the state guaranteeing that a subdivider will perform certain acts as regards the construction and maintenance of required improvements.*

Boundary Line Adjustment. *Boundary lines of any lot of land that are vacated, relocated or otherwise altered as a part of an otherwise valid and properly recorded plat of subdivision pursuant to Virginia Code § 15.2-2275. No additional lots shall be created.*

Buildable Area. *The portion of a lot suitable and available for erection of a building after subtracting setbacks, easements, and other improvements.*

Building Line, front. *The distance that a building is located from the front boundary line.*

Building Setback Line. *The minimum distance from all lot lines as specified in the zoning ordinance within which the principal structure must be erected or placed.*

Building Site. *The footprint of a building.*

Circuit Court. *The Circuit Court of Washington County, Virginia (28th Judicial Circuit).*

Clerk. *The Clerk of Circuit Court for the County of Washington County, Virginia.*

Commission, Planning Commission. *The planning commission of Washington County, Virginia.*

Comprehensive Plan. *The Comprehensive Plan adopted by the Board of Supervisors and intended to guide the physical development of the County or portion thereof. Such plan including maps, charts, policy statements and/or descriptive material in accordance with Section 15.2-2226 of the Virginia Code.*

Conditional Approval. *Approval subject to the subdivider making minor changes, as defined herein, on a sketch or preliminary plat.*

County Attorney. *The attorney employed or retained by the Board of Supervisors to advise it and county officials regarding governmental matters.*

County Code. *Code of the County of Washington, Virginia, (2002, as amended). All references to the County Code shall be interpreted to include all amendments to the date of application.*

Cul-de-sac. *A street right-of-way with only one outlet and having a bulb-shaped turnaround meeting highway department standards for the safe and convenient reverse of traffic in one continuous forward movement.*

Dedication, Public Dedication. *The donation of land or creation of an easement for public use, which the property owner explicitly manifests by written notice on a subdivision plat and the county accepts by written certification of approval on such plat (from Black's Law Dictionary).*

Development. *A lot of land developed or to be developed as a unit under single ownership or unified control that is to be used for any business or industrial purpose or is to contain three or more residential dwelling units. The term development shall not be construed to include any property that will be principally devoted to agricultural production.
Virginia Code: § 15.2-2201.*

Divide. *To separate a lot into two parts as part of a division, as defined herein.*

Divider. *(See: Subdivider.)*

Division. *The act, process, or result of dividing a lot into two (2) lots for any of the following purposes that does not result in the creation or change in any street, road, public easement or public right-of-way, and/or involve the extension of any public water or public sewer service, limited to the following:*

- (a). **Family Division.** *The single division of property for the purpose of immediate sale or gift to a family member of the owner of the property pursuant to the Virginia Code.*
- (b). **Two-Lot Division.** *The division of a lot of land into two (2) lots for the purpose, whether immediate or future, of sale, transfer or building development.*

Drainage control. *(See: Stormwater Management.)*

Driveway. *A private route of access from a street to the interior of a single lot.*

Easement. *An interest in land owned by another person, consisting in the right to use or control the land, or an area above or below it, for a specific limited purpose.*

Engineer, professional. *A person licensed to practice as a professional engineer in the Commonwealth of Virginia.*
Virginia Code: § 54.1-400.

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

Frontage. *The continuous uninterrupted distance along which a lot abuts an adjacent street right of way.*

Health department. *The Virginia Department of Health or its designated agent or representative.*

Health officer. *The health director or sanitarian of the county employed by the Virginia Department of Health.*

Highway department. *The Virginia Department of Transportation or its designated agent or representative.*

Highway department standards. *One or more applicable standards or requirements of the highway department pertaining to the design or construction of any public street and any improvement related thereto. Highway department standards include, but are not limited to, those standards and requirements set forth in its Road Design Manual, Road and Bridge Standards Manual, and Subdivision Street Requirements Manual.*

Highway engineer. *The resident engineer for the county employed by the highway department.*

Improvements. *Permanent installations, necessary to support subdivision development, including, but not limited to, streets, cul-de-sacs, traffic signalization and controls, water systems/lines, sanitary sewers/lines, stormwater management and erosion control facilities, and drainage control facilities required by this chapter for a subdivision. The term “improvements” shall be interpreted to include the preservation or simulation of natural drainage conditions on the property as part of non-structural, alternative, or non-traditional stormwater management methods that minimize development impacts on the property by allowing for the drainage, dissipation and absorption of stormwater on-site for the purpose of stormwater management, erosion control, and drainage control for a subdivision.*

Letter of Credit. *An instrument under which the issuer (usually a bank), at a customer's request, agrees to honor a draft or other demand for payment made by the beneficiary, as long as the draft or demand complies with specific conditions, and regardless of whether any underlying agreement between the customer and beneficiary is satisfied. If "irrevocable," then the issuing bank guarantees that it will not withdraw the credit or cancel the letter before the expiration date. Further, an irrevocable letter of credit cannot be modified without the customer's consent.*

Land Surveyor, Surveyor. *Any person licensed to practice as such in the Commonwealth of Virginia. Virginia Code: § 54.1-400.*

Lot. *A tract of land, especially one having specific boundaries, intended as a unit for the purpose, whether immediate or future, of transfer of ownership, or for possession, or for development. The word "lot" shall be synonymous with "tract", "parcel", "piece", "plot" and/or "property".*

Lot of Record. *A lot for which its legal status has been formalized by recordation of an instrument of its creation in the land records of the clerk of circuit court.*

Lot, reverse frontage. *Any lot in a residential division or subdivision which is adjacent to a public road that has been classified by the governing body or the highway department as a collector or arterial road and has its building front and its access to an internal local road.*

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

Master Plan. *A plan, submitted with the preliminary plat, indicating the final layout of a phased subdivision.*

Minor Change. *Corrections that, as a guideline, do not involve the elimination or creation of new lots or a change in any right of way and meet all other requirements of this chapter.*

Natural Drainage Area. *A drainage area that functions without any artificial modification and exists as a result of natural processes and natural drainage conditions.*

Natural Drainage Conditions. *A condition where a drainage area, drainage way, drainage easement, or natural stream functions without any artificial modification and exists as a result of natural processes.*

Natural stream. *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.*

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

Plat. *Includes the terms: map, plan, plot, replat, or replot, including master plans, of a lot of property which is to be, or which has been divided or subdivided. When used as a verb, "plat" is synonymous with "divide" or "subdivide".*

Virginia Code: § 15.2-2201.

Plat, preliminary. *The preliminary drawing(s) of a proposed land subdivision presented for approval as a preliminary plat in accordance with provisions of this chapter, showing the character and proposed layout of the lot and which is not in final form for recording.*

Plat, final. *A plat upon which the plan for a division or subdivision is presented for approval in accordance with provisions of this chapter, whether preceded by an approved preliminary plat or not, and which is in final form for recording.*

Property. *An area of land consisting of any lot or several of the same collected together for the purpose of dividing or subdividing.*

Property Owners Association. *An association or organization, incorporated, which operates under and pursuant to recorded covenants or deed restrictions, through which each owner of a portion of a subdivision development, be it a lot site, unit plot, condominium, or any other interest, is automatically a member as a condition of ownership and each such member is subject to a charge or assessment for a pro-rated share of expense of the association which may become a lien against the lot, unit, condominium, or other interest of the member.*

Public sanitary sewer, Public Sewer. *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 a utility coordinator as defined herein.*

Public Water. *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 a utility coordinator as defined herein.*

Record, Recordation, Recorded. *The act of filing or having filed a document or plat in the office of the clerk of circuit court of the county.*

Remnant. *Any lot that does not meet the minimum lot requirements of the County Code, excluding pre-existing non-conforming lots.*

Residence, single-family. *Definition to be taken from USBC.*

Right-of-way. *The definition of right-of-way shall be as defined by Black's Law Dictionary.*

Runoff. *The portion of precipitation that is discharged across the land surface or through conveyances to one or more waterways.*

Sketch. *A drawing by a subdivider or land surveyor indicating the general plans for a subdivision. There is no fee for the review of a sketch.*

Slope, Critical. *A slope whose contour relief is so severe as not to allow for the installation of septic systems and/or sound building construction.*

Stormwater Management. *The control of runoff through water collection systems, conveyances, non-structural, alternative, or non-traditional measures, other related facilities, and best management practices for the purposes of water quality, erosion control, and flood protection.*

Street. *A highway, street, avenue, boulevard, road, lane, thoroughfare, or any way that provides ingress and egress to abutting property. Streets may either be withheld, private, public but unincorporated, or public, as defined.*

Street, Legal Status Undetermined. *Any street, where there is no clear indication of government acceptance of public dedication, which is identified on a lawfully approved and recorded plat as a restricted road or access road and was not approved for withholding from public dedication by the county. Any such streets are not withheld streets and their legal status shall be considered undetermined by the county.*

Street, private. *A street, providing ingress and egress off of a dedicated recorded public street, that is dedicated and accepted by the county for public use but is privately maintained at the expense of individual property owners served or benefited by such street pursuant to this chapter, and that is not incorporated into the state system of secondary highways. The private street types allowed, subject to the requirements of this chapter, are:*

(a). **Rural Private Street.** *A private street serving as access to and from no more than two (2) lots or residences as part of a two-lot division or two-lot subdivision in accordance with Sec. 52-701. An existing rural private street may serve as access to additional lots if such lots are created as part of a family division.*

1. *A lot or structure having frontage along a public street shall not be counted as one of the two (2) lots or structures for purposes of determining whether a street qualifies as a rural private street.*

(b). **Private Street(s) built to public street standards.** *A private street serving only gated residential subdivisions, as defined in this chapter and the zoning ordinance.*

(c). **Commercial Access Street.** *A publicly dedicated street serving major subdivisions of a commercial nature built to highway department standards that has not been accepted for incorporation into the state system of secondary highways. Such streets shall be maintained by a property owners association and as determined on a case-by-case basis in accordance with agreements between the agent, subdivider, and governing body.*

Street, public. *A thoroughfare dedicated for public use that has been incorporated into the state system of public or secondary highways by the highway department.*

Street, public but unincorporated. *A thoroughfare dedicated for public use that has been designed, constructed and recorded so as to permit eventual incorporation into the state system of secondary highways by the highway department. Prior to incorporation, public but unincorporated streets shall be maintained by the subdivider.*

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

Street width. *The total width of the strip of land or right-of-way, dedicated or reserved for public travel including roadway, and which may include curb and gutter, bicycle paths, planting strips, and, where necessary, utility easement.*

Street, Withheld. *A street withheld from dedication for public use that is maintained solely at private expense, and is not incorporated, or eligible for incorporation, into the state system of secondary highways. No new withheld streets will be created under provisions of this chapter with the exception of new Family Withheld Streets.*

(a). **Pre-Existing Withheld Street.** *A previously existing, unchanged, and withheld right-of-way withheld from dedication for public use and recorded under any prior ordinance regulating the subdivision of land.*

1. *Pre-Existing withheld streets approved under a prior ordinance (Chapter 54) shall not access any newly created lots under this ordinance except those as may be created as part of a family division.*

2. *A pre-existing withheld street may provide access to a family withheld street in cases where a lot proposed for a family subdivision is an interior lot and would otherwise be landlocked.*

(b). **Family Withheld Street.** *A withheld right-of-way of forty (40) feet or greater in width abutting lots as part of a family division or family subdivision and accessing off of an existing right-of-way as follows:*

1. *In cases where a lot proposed for a family subdivision does not abut any public streets, the family withheld street may access off of an intervening pre-existing withheld street or an existing legally recorded right-of-way, each of which may be of varying widths between the lot being subdivided and the nearest public street.*

2. *Otherwise, family withheld streets shall access off of a dedicated and recorded public street.*

Subdivide. *To separate a lot as part of a subdivision, as defined herein.*

Subdivider. *An individual, corporation or registered partnership, owning any lot of land to be divided or subdivided, or a group of two (2) or more persons owning any lot of land to be divided or subdivided, whether or not they have given their power of attorney to one of their group or to another individual to act on their behalf in planning, negotiating for, in representing, or executing the legal requirements of the division or subdivision. The term “subdivider” shall be synonymous with “divider”.*

Subdivision. *The act, process, or result of the apportionment of a lot of land into:*

(a). *Three (3) or more lots for the purpose whether immediate or future, of sale, transfer or building development, and including the establishment of a condominium regime, or*

(b). *Two (2) lots which involves the extension of any public water or public sewer service and/or that results in the creation of, or change in, any street, road, easement or right-of-way.*

The term “subdivision” includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided and solely for the purpose of recordation of any single division of land into two lots, a plat of such division shall be submitted for approval in accordance with § 15.2-2258 of the Virginia Code.

Virginia Code: § 15.2-2201

Subdivision agent, agent. *The representative of the board of supervisors appointed by resolution to serve as the agent of the board in approving division or subdivision plats.*

Subdivision, gated residential. *An enclosed and gated major subdivision containing sufficient lots designated for residential use to ensure that required duties and responsibilities of the homeowner’s association shall be effected, and that:*

- (a). *Is served by private streets built to public street standards, and*
- (b). *Has vehicular and pedestrian access controlled by a staffed or automated security gate(s), at all entrance and exit points.*

The term “gated residential subdivision” shall be synonymous with the terms “gated subdivision” and/or “gated community”.

Subdivision, major. *All subdivisions not classified as minor subdivisions, including, but not limited to, subdivisions, cumulative or individually, which:*

- (a). *Result in three (3) or more lots,*
- (b). *Result in the creation of, or change in, any street, road, easement or right-of-way, (except for a new family withheld street or new rural private street in accordance with provisions of this chapter), and/or involves the extension of any public water or public sewer.*
- (c). *Are for non-residential purposes, or*
- (d). *Constitute a development as defined herein.*

Subdivision, minor. *Subdivisions that do not involve the extension of any public water or public sewer service, limited to the following:*

- (a). **Family Subdivision.** *A subdivision of property for the purpose of sale or gift to a family member of the owner of the property pursuant to the Virginia Code and this chapter, limited to subdividing a lot into:*
 - 1. *More than two (2) lots for the purpose of sale or gift to a family member of the owner of the property pursuant to the Virginia Code and this chapter, which does not result in the creation of, or change in, any street, road, easement or right-of-way, other than a new family withheld street, as may be required to provide access to a lot(s)*
 - 2. *Two (2) lots for the purpose of sale or gift to a family member of the owner of the property pursuant to the Virginia Code and this chapter, which does not result in the creation of, or change in, any street, road, easement or right-of-way, other than requiring a new family withheld street to access at least one (1) of the lots.*
- (b). **Two-Lot Subdivision.** *The apportionment of a lot of land into two (2) lots for the purpose, whether immediate or future, of sale, transfer or building development and that does not result in the creation of, or change in, any street, road, easement or right-of-way, other than requiring a new rural private street to access at least one (1) of the lots.*

Subdivision, nonresidential. *A subdivision whose intended use is other than residential, such as commercial or industrial.*

Subdivision, residential. *A subdivision whose lots are intended for residential use.*

Submittal date. *The date of official submission of a complete sketch, preliminary plat, and/or final plat for review by the agent.*

Turnaround. *An area for vehicles to reverse movement at the end of a street.*

USBC. *Virginia Uniform Statewide Building Code.*

Utility(ies). *Public water, public sanitary sewer, electricity, natural gas and telecommunication installations, singly or collectively, providing services to divisions and subdivisions of land within the county. Utilities are generally classified into two (2) groups: underground and overhead, depending on the location of construction or installation of their primary components.*

Utility Services Provider. *The authorized representative employed by various utility services providers within the county empowered to review, approve and execute matters pursuant to the provisions of this chapter.*

Virginia Code. *The 1950 Code of Virginia, as amended.*

Zoning ordinance. *The zoning ordinance of the county.*

Sec. 52-108. Pending Applications

Cross-reference: New

All applications for subdivision approval, including final plats, pending on the effective date of these regulations shall be reviewed under the regulations in effect at the time of plat submittal.

Sec. 52-109. Procedure to Amend Chapter

Cross-reference: 54-7

This chapter may be amended in whole or in part by the board of supervisors pursuant to the provisions of Virginia Code § 15.2-2253 and § 15.2-2204, and Chapter 1, Sec. 1-12 of the County Code.

Sec. 52-110. Filing of Chapter

Cross-reference: New

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

Virginia Code: § 15.2-2252.

ARTICLE II. ADMINISTRATION

Sec. 52-200. Designation of Agent; Powers and Duties

Cross-reference: 54-4

(a). *A representative appointed by resolution by the board of supervisors is hereby designated as the subdivision agent (agent) of the board for the purposes of administering and enforcing this chapter. Approval or disapproval by the agent shall constitute approval or disapproval as though the board gave it.*

(b). *In the event of vacancy of the appointed representative, the County Administrator or Acting County Administrator shall serve as the appointed agent of the board. In no instance shall the County Administrator have the authority to overrule the decision of the agent in regard to the approval or disapproval of a division or subdivision plat or the interpretation or application of the provisions of this chapter.*

(c). *The agent shall have the following powers and duties:*

1. *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.*

2. *To approve all plats.*

3. *To interpret this chapter, and to request opinions or decisions, either verbal or written, from 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.

4. *To allow for reasonable deviation from requirements of this chapter in cases where a portion of the property being subdivided lies in another locality having a subdivision ordinance.*
 - a. *Such deviations shall be allowed only after discrepancies between the ordinances are identified and discussed between the subdivision agents of each locality involved.*
 - b. *Reasonable deviations shall promote harmonious development and be in keeping with the intent of this chapter.*
5. *To consult with and advise the commission on matters contained in this chapter.*
6. *To establish procedures to govern the administration of this chapter which are deemed necessary by the agent 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 the Virginia Code.*
7. *To appoint a designee to act on his behalf in the administration of this chapter, subject to the approval of the County Administrator.*

Virginia Code: §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2259.

Sec. 52-201. Board; Powers and Duties

Cross-reference: 54-4

The county board of supervisors is vested with the authority to review, approve, conditionally approve, and disapprove applications for the division or subdivision of land, including sketches, master plans, preliminary plats, and final plats. The board delegates this authority to the subdivision agent.

Virginia Code: §§ 15.2-2241(9), 15.2-2255, 15.2-2259.

Sec. 52-202. Commission; Powers and Duties

Cross-reference: 54-4

The planning 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.*
 1. *When the commission initiates amendments, the agent shall notify the board of supervisors of such action.*
- (b). *To approve variances from requirements of this chapter when such matters are referred to the commission as provided in this chapter.*
- (c). *To make recommendations as to whether the action of the agent was proper in cases where an applicant is aggrieved by a decision or interpretation of the agent as provided for in Sec. 52-804.*
- (d). *To consult with and advise the agent on matters contained in this chapter.*

Virginia Code: §§ 15.2-2241(9), 15.2-2255, 15.2-2259.

Sec. 52-203. Dedication for Public Use

Cross-reference: New

No easement, right-of-way, or other public space on any plat of subdivision shall be accepted for dedication for public use until such proposed dedication shall have been formally accepted by the agent and signed approval is shown on the instrument to be recorded. Such approval shall not be given until any such easement, right-of-way, or other public space complies with all applicable requirements.

Approval of any final subdivision plat shall not be deemed acceptance by the governing body of any street, utility, or other public place shown on the plat for maintenance, repair, or operation thereof unless acceptance is expressly indicated on the final plat. The act of dedication shall occur upon recordation of the final plat with the Clerk.

Sec. 52-204. Fees
Cross-reference: 54-187

There shall be a charge for the examination and approval of every plat and plan reviewed by the agent, except for a sketch. At the time of application, the subdivider shall pay a fee in accordance with the current fee schedule as set by resolution of the governing body. The agent shall recommend such fees and adjustments thereto to the governing body.
Virginia Code: § 15.2-2241(9).

Sec. 52-205. Enforcement and Penalties
Cross-reference: 54-9

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 the maximum allowed by Virginia Code for each lot so divided, subdivided, 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 the 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 subdivision agent may institute any appropriate action or proceeding, at law or in equity, to prevent, 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.*
- (d). In the event the county in error or as a result of misinformation and/or misrepresentation issues a permit, the permit shall be null and void ab initio.*

Virginia Code: §§ 15.2-2254, 15.2-2255.

Sec. 52-206. Mutual responsibility
Cross-reference: 54-31

There is a mutual responsibility between the county and the subdivider to divide, subdivide, and develop land in an orderly manner in accordance with the comprehensive plan, zoning ordinance, and the requirements and standards of this ordinance.

Sec. 52-207. Relationship to Other Requirements, Terms, or Conditions
Cross-reference: 54-185

- (a). The requirements of this chapter are separate from, but supplementary to:*
 - 1. All other applicable requirements of the County Code, including the zoning ordinance. Compliance with this chapter shall not be deemed to be compliance with other applicable ordinances or regulations.*
 - 2. All other applicable requirements of state or federal law and agencies of the same. If*

the requirements of this chapter are in conflict with mandatory state or federal requirements, the state or federal requirements shall apply.

(b). Neither the county nor any of its officers, employees or agents shall have any duty or authority to enforce a private easement, covenant, agreement or restriction.

(c). When an applicable requirement of this chapter is in conflict with covenant, agreement or restriction, the greater restriction shall apply.

Virginia Code: § 15.2-2240.

Sec. 52-208. Advertising standards

Cross-reference: 54-8

(a). A subdivider, when selling a divided or subdivided property, shall make the following information available in written form at the site of the sale on the day of the sale:

- 1. Whether public water and/or public sewer is available to all lots;*
- 2. Whether the streets will be maintained by the highway department; and*
- 3. The zoning district designation and county tax map identification of the property.*

(b). Any printed advertisement published or distributed prior to the date of sale shall include the zoning designation of the property.

(c). The agent and county shall not be responsible for enforcing the requirements of this section. Any aggrieved party may pursue remedy to injury or loss suffered as a result of violation of this section via private legal action.

ARTICLE III. DIVISIONS AND SUBDIVISIONS

DIVISION 1. GENERALLY

Sec. 52-300. Compliance with the Zoning Ordinance

Cross-reference: 54-80

(a). Lots shall be in accordance with the zoning ordinance for the district in which the subdivision will be platted. As may be required by the zoning ordinance, the subdivider:

- 1. Shall have the option of applying for rezoning at the time of submittal of a sketch, if such sketch is submitted, or*
- 2. Shall apply for rezoning at the time of submittal of a preliminary plat.*

DIVISION 2. SKETCHES

Sec. 52-301. Sketches, Purpose and Requirements

Cross-reference: 54-36, 54-207

Whenever any division or subdivision of land is proposed, the subdivider may apply for sketch approval, and discuss the sketch prior to preparation and submittal of preliminary plats for major subdivisions or final plats for divisions and/or minor subdivisions.

(a). The purpose of a sketch submission and discussion is to permit the agent to advise the subdivider whether his plans, in general, are in accordance with provisions of this chapter before incurring costs associated with the preparation and approval of a preliminary plat for major subdivisions or a final plat for a division or minor subdivision.

(b). Sketch plans and related materials shall be submitted in accordance with provisions of this chapter.

Sec. 52-302. Review of Sketches

Cross-reference: 54-36, 54-207

The agent, upon submission of any sketch, shall review and advise the subdivider wherein it appears that changes would be necessary. The agent may mark the sketch indicating necessary changes and any such marked sketch shall be returned to the subdivider.

- 1. If the agent determines that the sketch, insofar as the information disclosed is concerned, is in compliance with the provisions of this chapter, he shall approve the sketch.*
- 2. If the agent determines that the sketch, insofar as the information disclosed is concerned, is in compliance with the provisions of this chapter, save for the necessity of a minor change as defined, he may conditionally approve the sketch provided the required minor change is shown on the preliminary plat (where required) and/or final plat.*
- 3. If the agent determines that the sketch does not comply, he shall inform the subdivider 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.*
- 4. If, upon resubmittal of the corrected sketch, the agent determines that the plan complies with the provisions of this chapter, he shall approve the sketch.*

Virginia Code: § 15.2-2241(9).

DIVISION 3. PLATS GENERALLY

Sec. 52-303. Drawing

Cross-reference: 54-182

Every plat shall be prepared by a land surveyor or engineer duly licensed by the state and shall contain the seal of the surveyor or engineer.

Virginia Code: §§ 15.2-2241(1), 15.2-2241(9), 15.2-2259, 15.2-2260, 15.2-2262.

Sec. 52-304. Plat

Cross-reference: 54-36, 54-206

Whenever any division or subdivision of land is proposed, the subdivider:

- (a). Shall apply in writing to the agent for the approval of preliminary plats, as required herein, final plats, and, where development is proposed in phases, a master plan, and submit the appropriate copies of the plan or plat to the agent including the lot, street and utilities layout, and other information as may be required by the agent or his designee.*
- (b). Plats shall meet standards in accordance with provisions of this chapter and be in compliance with all applicable law, and be reviewed in accordance with the same.*
- (c). It shall be the responsibility of the clerk's office to record only approved plats.*

Virginia Code: §§ 15.2-2241(1), 15.2-2241(9), 15.2-2258, 15.2-2259, 15.2-2260.

DIVISION 4. PRELIMINARY PLATS

See ARTICLE V, DIVISION 2. herein.

DIVISION 5. FINAL PLATS

Sec. 52-305. Certification*Cross-reference: 54-182*

On every final plat the land surveyor or engineer shall endorse upon each plat a certificate, signed by him setting forth the source of the title of the land divided or subdivided, and the place of record of the last instrument in the chain of title. When the plat is of land acquired from more than one source of title, the outlines of the several lots shall be indicated upon such plat.

*Virginia Code: § 15.2-2262.***Sec. 52-306. Owner's Statement***Cross-reference: 54-183*

Every final plat, or the deed of dedication to which plat is attached, shall contain in addition to the land surveyor's or engineer's certificate a statement, to the effect that the platting or dedication of the following described land (here insert a correct description of the land divided or subdivided) is with the free consent and in accordance with the desire of the undersigned owners, proprietors, and trustees, if any, which shall be signed by the owners, proprietors, and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgments of deeds, and when thus executed and approved as herein specified shall be filed and recorded in the office of the clerk of the circuit court. Owners shall notify the appropriate commissioner of the revenue of improvements to real property situated in platted divisions or subdivisions.

*Virginia Code: § 15.2-2264.***Sec. 52-307. Final Plat Changes from Approved Preliminary Plat, (Major Subdivisions Only)***Cross-reference: 54-186*

A final plat shall contain no change, erasure or revision of a preliminary plat approved by the agent, nor on accompanying data sheets after approval of the agent has been endorsed in writing on the plat or sheets, unless the agent has granted authorization for such changes in writing. The agent may consider only minor changes, as defined, or revisions to the approved preliminary plat if he determines that the plat, as changed or revised:

- 1. Complies with all requirements of this chapter and all other applicable laws,*
- 2. Substantially complies with the originally approved preliminary plat, and*
- 3. Will have no additional adverse impact on adjacent land or public facilities.*

*Virginia Code: § 15.2-2241(9).***Sec. 52-308. Submission, Final Plats***Cross-reference: 54-36, 54-206, and 54-212*

Each final plat, with fees, and the appropriate number of copies, shall be submitted, and/or resubmitted, to the agent, and processed by the same, in accordance with provisions of this Chapter.

*Virginia Code: §§ 15.2-2241(9), 15.2-2259.***Sec. 52-309. Subdivision Agent Review, Final Plats***Cross-reference: 54-213*

(a) A final plat for a division or minor subdivision shall not be approved until the subdivider has complied with the requirements and minimum standards of design in accordance with provisions of this chapter to the satisfaction of the agent. The subdivision agent will take the following action on the final plat

1. *If the agent determines that the final plat complies with the requirements of this chapter and that all conditions of approval of the sketch, if submitted, have been satisfied, he shall sign the final plat.*
 2. *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 sketch, if submitted, have not been satisfied, he shall disapprove the final plat and notify the subdivider of the disapproval by issuing a notice of disapproval to the subdivider.*
- (b). *A final plat for a major subdivision shall not be approved until the subdivider has complied with the requirements and minimum standards of design in accordance with provisions of this chapter to the satisfaction of the agent and the agent has determined that all conditions of approval of the preliminary plat have been satisfied and that all required approvals and signatures certifying such for the final plat from all required officials and agencies have been obtained. The subdivision agent will take the following action on the final plat:*
1. *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, he shall sign the final plat.*
 2. *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, he shall disapprove the final plat and inform the subdivider of the disapproval by issuing a notice of disapproval to the subdivider.*
- (c). *The reasons for disapproval shall identify deficiencies in the plat that cause the disapproval by reference to specific duly adopted ordinances, regulations, or policies and shall identify modifications or corrections as will permit approval of the plat.*
Virginia Code: §§ 15.2-2241(9), 15.2-2258, 15.2-2259.

Sec. 52-310. Failure to Act on a Final Plat

Cross-reference: 54-213

- (a). *The agent shall act on any proposed plat for a division or subdivision in accordance with Virginia Code § 15.2-2259. If the agent fails to approve or disapprove the final plat in accordance with the same, the subdivider, after ten (10) days' written notice to the agent, may petition the circuit court for the locality in which the land involved, or the major part thereof, is located, to decide whether the plat should or should not be approved in accordance with Virginia Code: § 15.2-2259(B)*
Virginia Code: §§ 15.2-2241(9), 15.2-2258, 15.2-2259.

Sec. 52-311. Period of Validity of Approved Final Plat

Cross-reference: 54-213

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. Thereafter, a new final plat shall be submitted with new signatures and be reviewed in accordance with provisions of this chapter.

- (a). *A final plat for an approved division or minor subdivision plat shall be recorded in the office of the Clerk of the Circuit Court of the county within six (6) months; beginning from the date the agent affixes his signature to the plat.*
1. *An application for a boundary line adjustment 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.*
- (b). *A final plat for a major subdivision that is not a phased subdivision, shall be valid for a*

period of six (6) months from the date the agent affixes his signature to the plat, or for any other period specified in a surety agreement, whichever is later, if the subdivider has:

- 1. Commenced construction of facilities to be dedicated for public use pursuant to an approved plan or permit with approved surety; or*
- 2. Furnished surety in a form authorized in accordance with provisions of this chapter in the amount of the estimated cost of construction of the facilities.*

Virginia Code: §§ 15.2-2259, 15.2-2241(8).

Sec. 52-312. Final Plat, Changes

Cross-reference: 54-186

(a). Prior to and after recordation, no change, erasure or revision shall be made on any final plat, nor on accompanying data sheets after approval of the agent has been endorsed in writing on the plat or sheets, unless the agent has granted authorization for such changes in writing. The agent may consider only allowed changes pursuant to Sec. 52-312(b) to the approved final plat if he determines that the plat, as changed or revised:

- 1. Complies with all requirements of this chapter and all other applicable laws;*
- 2. Substantially complies with the originally approved final plat and all conditions of final plat approval; and*
- 3. Will have no additional adverse impact on adjacent land or public facilities.*

(b). Allowed changes, as determined by the agent, shall consist of narrative changes only.

- 1. Graphic changes shall not be allowed, and*
- 2. There shall be no erasures on the final plat.*

Virginia Code: § 15.2-2241(9).

ARTICLE IV. DIVISIONS AND MINOR SUBDIVISIONS

DIVISION 1. GENERALLY

Sec. 52-400. Preliminary Plat Not Required

Cross-reference: 54-36, 54-206, and 54-208

A preliminary plat shall not be required for divisions or minor subdivisions. Submittal to the agent of a sketch for review and comment is recommended.

DIVISION 2. FINAL PLATS

Sec. 52-401. Final Plat Review

Final plats for divisions and minor subdivisions shall be reviewed in accordance with the provisions of Sec. 52-305 through Sec. 52-312. Additional specific provisions are contained in this Article.

DIVISION 3. FAMILY DIVISIONS AND FAMILY SUBDIVISIONS

Sec. 52-402. Review and Approval Criteria, Family Divisions

Cross-reference: 54-3, Definition of Subdivide

A division of a lot shall be permitted for the purpose of sale or gift to a family member of the property owner, subject only to the express requirements contained in the Virginia Code, and requirements of

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

1. *The division meets the definitional criteria of “Family Division” pursuant to this chapter.*
2. *Only one lot is created for transfer by sale or gift to a family member.*
3. *No previous transfer under this provision has been granted to the grantee.*
4. *All lots shall be served by streets in accordance with Sec. 52-701 of this chapter.*
5. *The family division is not sought for the purpose of circumventing the requirements of this chapter applicable to subdivisions.*

Virginia Code: §§ 15.2-2241(1), 15.2-2241(9), 15.2-2244(C), 15.2-2258, 15.2-2259.

Sec. 52-403. Review and Approval Criteria, Family Subdivisions

Cross-reference: 54-3, Definition of Subdivide

A subdivision of a lot shall be permitted for the purpose of sale or gift to a family member of the property owner, subject only to the express requirements contained in the Virginia Code, and requirements of this chapter. A family subdivision shall be approved only if, in addition to satisfying all applicable requirements of this chapter, the agent is satisfied that:

1. *The subdivision meets the definitional criteria of “Family Subdivision” pursuant to this chapter.*
2. *Only one lot is created for transfer by sale or gift to any one family member.*
3. *No previous transfer under this provision has been granted to the grantee.*
4. *All lots shall be served by streets in accordance with Sec. 52-701 of this chapter.*
5. *The family subdivision is not sought for the purpose of circumventing the requirements of this chapter applicable to major subdivisions.*

Virginia Code: §§ 15.2-2241(1), 15.2-2241(9), 15.2-2244(C), 15.2-2258, 15.2-2259.

Sec. 52-404. Conditions of Approval, Family Divisions and Family Subdivisions

Cross-reference: 54-3, Definition of Subdivide

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

1. *No lot, including the residue, shown on the family division or subdivision plat may be sold or conveyed to a person other than a “family member,” defined herein, for a period of two (2) years from the date of recordation of this plat except for purposes of securing any purchase money and/or construction loan, including bona fide refinancing, or unless such lots are subject to an involuntary transfer such as foreclosure, death, catastrophic illness, judicial sale, condemnation or bankruptcy. Written documentation verifying such shall be submitted to the agent for determination of hardship.*
2. *If any lot created by the recordation of this plat is conveyed back to the grantor, it shall be recombined with the parent lot within six (6) months after such conveyance. A note to this effect shall be added to each plat and in the deeds for a family division or family subdivision.*

Virginia Code: §§ 15.2-2241(8), 15.2-2244(C).

DIVISION 4. TWO-LOT DIVISIONS AND TWO-LOT SUBDIVISIONS

Sec. 52-405. Review and Approval Criteria

Cross-reference: 54-3, Definition of Subdivide

(a). *A two-lot division shall be approved only if, in addition to satisfying all applicable requirements of this chapter and any other applicable laws or regulations, the agent is satisfied that the division meets the criteria of a “Two-Lot Division” pursuant to this chapter.*

(b). *A two-lot subdivision shall be approved only if, in addition to satisfying all applicable requirements of this chapter and any other applicable laws or regulations, the agent is satisfied that the subdivision meets the criteria of a “Two-Lot Subdivision” pursuant to this chapter.*

Virginia Code: §§ 15.2-2241(1), 15.2-2241(9), 15.2-2258, 15.2-2259.

Sec. 52-406. Conditions of Approval

Cross-reference: 54-3, Definition of Subdivide

Any lot of land divided for purposes of a two-lot division or two-lot subdivision shall not have any subsequent division of either lot for a period of one (1) year thereafter without complying with all requirements for major subdivisions in this chapter. A note to this effect shall be added to each plat.

Virginia Code: §§ 15.2-2241(9), 15.2-2258, 15.2-2259.

ARTICLE V. MAJOR SUBDIVISIONS

DIVISION 1. PRELIMINARY PLAT

Sec. 52-500. Submission, Preliminary Plat

Cross-reference: 54-206, 54-208

A subdivider shall submit and obtain approval, or conditional approval, of a preliminary plat for all major subdivisions before submitting and seeking approval of a final plat. If the plat is to be submitted in phases for final plat approval, the preliminary plat shall incorporate such master development plans for all proposed phases in accordance with provisions for preliminary plats. Each preliminary plat, with fees and the appropriate number of copies for distribution by the agent to other agencies as applicable, shall be submitted, and/or resubmitted, to the agent, and initially processed by the same in accordance with the provisions of this chapter.

Virginia Code: §§ 15.2-2241(9), 15.2-2260.

Sec. 52-501. Subdivision Agent Review, Preliminary Plat

Cross-reference: 54-209

(a). *The agent shall thoroughly review the preliminary plat in accordance with the provisions of this chapter and shall attempt to identify all deficiencies, if any, with the preliminary plat submission. Failure of the agent to identify all deficiencies during review of the preliminary plat shall not relieve the subdivider from remedy of those deficiencies once identified on the final plat.*

1. *If approval of a feature or features of the preliminary plat by any local or state agency is necessary, the agent shall forward the preliminary plat to the appropriate state agency or agencies for review and the agent shall not approve any preliminary plat before approvals, or conditional approvals, are obtained in writing and with appropriate signed certification of approval on the plat.*

(b). *Upon receipt of the approvals from all agencies, the agent shall act upon a preliminary plat.*

1. *If the agent determines that the plat complies with the provisions of this chapter, or meets criteria for conditional approval, he shall approve or conditionally approve the plat and signify approval by affixing his signature to the plat with any conditions for final plat submittal written on the plat. The agent shall issue a notice of approval or conditional approval with any conditions for final plat submittal, to the subdivider.*

2. *If the agent determines that the preliminary plat does not comply with the provisions of this chapter he shall set forth in writing the reasons for such denial and state what corrections or modifications will permit approval. Such reasons for disapproval shall be written on the plat or an attachment thereto.*

(c). *The agent shall act on any revised preliminary plat that it has previously disapproved in accordance with Virginia Code provisions.*
Virginia Code: § 15.2-2241(9), 15.2-2260.

Sec. 52-502. Failure to Act on a Preliminary Plat

Cross-reference: 54-209

The agent shall act on any preliminary plat for a major subdivision in accordance with Virginia Code § 15.2-2260. If the agent fails to approve or disapprove the final plat in accordance with the same, the subdivider, after ten (10) days written notice to the agent, may petition the circuit court for the locality in which the land involved, or the major part thereof, is located, to enter an order as it deems proper, which may include directing approval of the plat.

Virginia Code: § 15.2-2260

Sec. 52-503. Conditions of Approval, Period of Validity of Preliminary Plat

Cross-reference: 54-210, 54-211

(a). *The approval of a preliminary plat shall not guarantee approval of the final plat, nor constitute approval or acceptance of the subdivision.*

(b). *The period of validity for an approved preliminary plat shall be in accordance with Virginia Code §15.2-2260.*

Virginia Code: §§ 15.2-2307, 15.2-2241(9), 15.2-2260

DIVISION 3. FINAL PLAT

See ARTICLE III, DIVISION 5. herein.

ARTICLE VI. OTHER PROCEDURES

Sec. 52-600. Vacation of Plats or Parts Thereof

Cross-reference: New

Vacation, in accordance with Virginia Code §§ 15.2- 2271 through 15.2-2274, 15.2-2276, and 15.2-2278 shall be required in event of additional divisions or subdivisions shown on recorded plats unless the subdivider reserves the right to further subdivide lots by indicating such on a master plan and on the recorded plat.

Sec. 52-601. Boundary Line Adjustments

Cross-reference: 54-3, Definition of Subdivide

The boundary lines of any lot of land may be vacated, relocated or otherwise altered as a part of an otherwise valid and properly recorded plat of subdivision pursuant to Virginia Code § 15.2-2275. No additional lots shall be created.

(a). *A plat for a boundary line adjustment shall not be recorded unless and until it has been signed by the agent and it is valid at the time of recordation in accordance with provisions for final plats.*

(b). *The clerk of circuit court of the county shall not file or record a plat for a boundary line adjustment until the plat has been approved as provided in this chapter and it is valid at the time of recordation.*

Sec. 52-602. Name and Address Protocol

Cross-reference: 54-134, 54-135

The county emergency services coordinator shall follow the guidelines specified in the county 911 system manual or other applicable policies for the determination of the subdivision names, street names, signs, and addresses, and street name and address changes.

ARTICLE VII. ON SITE IMPROVEMENTS AND DESIGN STANDARDS

DIVISION 1. GENERALLY

Sec. 52-700. Land Must be Suitable, Natural Features Preserved

Cross-reference: 54-22

(a). *The subdivision agent shall not approve the division or subdivision of property if, from adequate investigations conducted by all officials and agencies concerned, the agent determines that in the best interest of the public the site is not suitable for platting and development purposes of the kind proposed. Plat approval shall be withheld if a division or subdivision is not in conformity with applicable laws, regulations, guidelines, and policies as well as the purposes of the regulations established by this chapter.*

(b). *As a guideline, lots and all required improvements as part of a division or subdivision proposal shall be located, configured, and designed, to:*

1. *Conform to the natural topography,*
2. *Minimize the disturbance of critical slopes and natural drainage areas,*
3. *Limit the clearing and grading of trees, meadows, and vegetation within the proposed division or subdivision and on each lot to the minimum amount needed to provide for:*
 - a. *Built upon area,*
 - b. *Access,*
 - c. *Fire protection,*
 - d. *Stormwater drainage and all other required improvements.*

(c). *Whenever practical, in addition to landscaping, trees and other vegetation should be incorporated into the subdivision design. This chapter encourages the planting of additional trees, vegetation, and the clustering of tree areas.*

Virginia Code: § 15.2-2241(9).

DIVISION 2. LOTS

Sec. 52-701. Location

Cross-reference: 54-82

All lots shall meet the requirements of the zoning ordinance.

- (a). *Each lot within a major subdivision shall abut on a public street, a private street built to public street standards or a commercial access street, dedicated by the subdivision plat pursuant to provisions of this chapter.*
- (b). *Each lot within a family subdivision shall abut on an existing public street, or a new family withheld street pursuant to provisions of this chapter.*
- (c). *Each lot within a two-lot subdivision shall abut on an existing public street or new rural private street pursuant to provisions of this chapter.*
- (d). *Each lot within a two-lot division shall abut on an existing public street or an existing rural private street pursuant to this chapter.*
- (e). *Each lot within a family division shall abut on an existing public street, pre-existing withheld street, existing family withheld street, or on an existing rural private street. A lot within a family division may abut on a street whose legal status is undetermined.*

Virginia Code: §§ 15.2-2241(3), 15.2-2241(4).

Sec. 52-702. Size

Cross-reference: 54-80

- (a). *Residential lot sizes shall meet the requirements of this chapter and the zoning ordinance.*
- (b). *Land within a right of way of a public or private street abutting a lot shall not be included in lot size calculations. Lots abutting a public or private street shall be surveyed exclusive of any area within the same.*
- (c). *Greater lot areas within divisions or subdivisions may be required where public water or public sewer systems are not available and/or individual septic tanks or individual wells are used, where the health department determines, and sets out in writing to the agent by notations on the plat or other documentation, that there are factors of drainage, soil, or other conditions affecting a lot or lots so as to require a greater lot size than is proposed on the plat or required by the provisions of the county zoning ordinance or other law or regulation.*

Virginia Code: § 15.2-2241(3).

Sec. 52-703. Configuration

Cross-reference: 54-81, 54-58

- (a). *All lots shall be configured in a manner that allows for vehicular and pedestrian interconnections within the division or subdivision. Sidewalks, if constructed, shall be located outside of street right of ways and shall be a private improvement as part of a property owners association in gated residential subdivisions.*
- (b). *All lots shall be arranged so as to allow for drainage to be diverted away from all building sites. Lot arrangement shall be such that there will be no foreseeable difficulties in securing building permits to build on all lots in compliance with applicable laws and regulations, and in providing driveway access to buildings on the lots from an approved street.*

Virginia Code: § 15.2-2241(3).

Sec. 52-704. Shape

Cross-reference: 54-81

- (a). *Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage of area that would be unusable for normal purposes or to provide for required frontage on a highway or street pursuant to the requirements of the county zoning ordinance. As a guideline, peculiarly shaped elongations shall include a lot(s) that:*

1. Does not conform to a one (1) to four (4) width-to-depth ratio of frontage width to depth of the lot measured from the frontage property line to the rear property line,
 2. Is not generally rectangular, including, but not limited to, "flag pole" lots, and
 3. Is proposed as part of any division or subdivision and which may lead to a peculiarly shaped elongation or an unusable lot or lots if a future division or subdivision is proposed.
- (b). The agent may approve variations in the width-to-depth ratio upon the subdivider demonstrating that such variations are not solely for the provision of necessary square footage for a lot.
- Virginia Code: § 15.2-2241(3).

Sec. 52-705. Corner Lots
 Cross-reference: 54-83

Corner lots shall have extra width sufficient for maintenance of any required building lines on both streets as determined by the agent in accordance with the county zoning ordinance.

Virginia Code: § 15.2-2241(3).

Sec. 52-706. Side Lines
 Cross-reference: 54-84

Side lot lines shall be approximately at right angles and approximately radial to the street line, except at cul-de-sac terminal points.

Virginia Code: § 15.2-2241(3).

Sec. 52-707. Double Frontage
 Cross-reference: New

Double frontage lots shall not be permitted unless authorized by the agent upon a determination that the lot arrangement is necessary to separate residential development from streets or to overcome topographical and orientation problems. Where double-frontage lots are permitted, the agent may limit access to one (1) street only and may designate frontage in accordance with the zoning ordinance.

Virginia Code: § 15.2-2241(3).

Sec. 52-708. Remnants
 Cross-reference: 54-85

Remnants shall not be permitted.

DIVISION 3. UTILITIES

Sec. 52-709. Public Utility Easements Required
 Cross-reference: 54-77, 54-206, and 54-212

(a). Adequate public utility easements shall be provided throughout all developments to provide for required present and future utilities and services. Unless otherwise prescribed by the public utility services provider, all subdivisions shall have dedicated utility easements for both underground and overhead utilities, having a minimum width of twenty (20) feet centered on all interior lot lines and contiguous to all exterior boundary lines. These easements shall be drawn and noted on the recorded subdivision plat.

(b). *All underground and overhead utilities to be located within easements within designated flood hazard areas pursuant to the county zoning ordinance shall be constructed to minimize or eliminate potential flood damage and negative environmental impacts.*

(c). *Where permitted by the highway department, the subdivider is encouraged to locate a new or existing public utility within the right-of-way of a public street.*

(d). *The design and construction requirements for public utilities shall be specified by the utility services provider and, where applicable, be approved by the necessary public agencies.*

Virginia Code: § 15.2-2241(4).

Sec. 52-710. Public Water and Sewer Required Where Available

Cross-reference: 54-77

Where public water and/or public sanitary sewer is available the subdivider shall extend the service to all lots within the subdivision and shall install the service lateral from the public water and/or sewer line to each of the individual property lines. The utility services provider shall determine availability of public water and/or sanitary sewer service to the individual lots within the subdivision.

Virginia Code: §§ 15.2-2241(4).

Sec. 52-711. Improvement Requirements, Water and Sewer

Cross-reference: 54-77

All water and sewer facilities and improvements shall be in strict conformance with the requirements of the utility services provider and shall have the approval of its authorized representative prior to requesting the approval of the agent.

Sec. 52-712. Private Water or Sewer Systems

Cross-reference: 54-78

(a). *A residential division or subdivision for which public water and/or public sanitary sewer service is not available shall be served by individual private wells, and/or septic systems or a private wastewater disposal system designated as “Generally Accepted” by the health department, any of which shall be approved by the health department.*

(b). *Private wastewater disposal systems that are designated as “Provisional” or “Experimental” by the health department shall not be permitted.*

(c). *All wastewater disposal systems shall be dependent upon subsurface soil absorption.*

(d). *Privately owned and operated wastewater treatment systems may be utilized by commercial and industrial uses provided that all federal and state permits are obtained.*

Virginia Code: § 15.2-2241(3).

Sec. 52-713. Septic Tanks or On-Site Wastewater Disposal Systems

Cross-reference: 54-78

(a). *The agent shall not approve any subdivision where public sewer service is not provided unless the agent shall receive in writing from the health department a statement to the effect that the area contained in the subdivision is generally satisfactory for the installation of septic tanks or private wastewater disposal systems pursuant to this chapter. Approval by the agent shall be with the understanding that where septic systems are to be installed, approval is on a lot-by-lot basis by the health department.*

(b). *For detached single-family residential buildings and two-family residential duplexes as defined in by the Virginia Uniform Statewide Building Code, septic tanks and their associated field lines or*

private wastewater disposal systems shall be wholly located on the same lot as a main residential building on any division or subdivision of property. No more than one (1) main use residential building and one (1) accessory use residential building as defined by the county zoning ordinance located on the same lot may be connected to a single shared septic tank or private wastewater disposal system.

Sec. 52-714. Pit Privies

Cross-reference: New

Pit privies or other non-water carried wastewater or sewage disposal systems shall not be approved for any new lots as part of any proposed division or subdivision of property. Existing property currently served by pit privy or other similar non-water carried system shall be permitted unless residential use is or has been discontinued for a period of two (2) consecutive years.

DIVISION 4. FIRE PROTECTION

Sec. 52-715. Installation, Availability

Cross-reference: 54-79

(a). The installation of adequate fire hydrants in a subdivision at locations approved by the agent shall be required, provided necessary public water service is available and hydrants are approved by the utility services provider and health department. At least one (1) hydrant shall be required each one thousand (1,000) feet along existing or proposed public or private streets serving the subdivision, and the location shall be as approved by the utility services provider in coordination with the fire department responsible for the subdivision area.

(b). Where existing public water service will permit, a final plat shall not be approved without verification from the utility services provider that adequate capability exists to provide adequate fire protection to serve the subdivision, which may include required fire flows, together with all other developments to be served by such 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 the utility services provider and health department. In areas where public water is not available, the subdivider may recommend alternative provisions to provide adequate fire protection.

Virginia Code: § 15.2-2241(3).

DIVISION 5. FLOOD CONTROL, SOIL PRESERVATION, AND STORMWATER MANAGEMENT

Sec. 52-716. Flood Hazard, Critical Slopes, Topographical Suitability

Cross-reference: 54-57

(a). Land subject to flooding, land with critical slopes, and land deemed to be topographically unsuitable shall not be divided or subdivided for residential, commercial or industrial use, nor for such other uses as may increase danger of health, life or property, or aggravate erosion or flood hazard.

(b). Such land within a division or subdivision shall be designated on the plat for such uses as shall not be endangered by periodic or occasional inundation, undue risk of landslide, excessive erosion, or produce conditions contrary to public welfare.

(c). Such land may be part of a lot provided that all development on such lot shall be outside of the hazard area of the lot.

(d). Land subject to flooding, land with critical slopes, and/or land that is topographically unsuitable shall be determined and the development thereof regulated in accordance with the provisions of the county zoning ordinance.

(e). *This chapter encourages allowing such areas to remain in, or return to, a natural state of vegetation and drainage condition.*

Sec. 52-717. Erosion and Sedimentation Control

Cross-reference: New

The subdivider shall comply with all requirements in State Law and County ordinance for the control of erosion and sedimentation.

Virginia Code: § 10.1-560 et. seq.

Sec. 52-718. Stormwater Management

Cross-reference: New

(a). *If a subdivision involves new public streets, the subdivider shall submit for review by the highway department all necessary information for the determination that adequate provision for storm and floodwater control/drainage will be made. Written approval by the highway department of the drainage plans shall be submitted to the agent prior to the approval of the final plat.*

(b). *For areas that drain away from streets and right of ways and in addition to drainage control requirements of the highway department, the subdivider shall design and construct on-site drainage control facilities, and/or implement on-site disposal using or simulating natural drainage conditions, certified by a professional engineer or land surveyor, on the final plat as sufficient to provide adequate drainage control for areas that drain away from streets and right of ways.*

1. *The agent may require the use of control methods such as retention or detention, and/or the construction of off-site drainage improvements certified by a professional engineer or land surveyor on the final plat as sufficient to mitigate the impacts of the proposed developments.*

2. *The agent may approve improvements using non-structural, alternative or non-traditional methods of on-site stormwater disposal that can be integrated into natural or landscaped areas, in accordance with all applicable laws and regulations. As a guideline, such methods include those that preserve or simulate natural drainage conditions and minimize development impacts on the property by allowing for the drainage, dissipation and absorption of stormwater on-site for the purpose of stormwater management, erosion control, and drainage control for a subdivision, thus reducing the need and associated costs for some, if not all, of the methods described in paragraph (b).1. Such improvements shall be certified by a professional land surveyor or professional engineer on the final plat as sufficient to provide adequate drainage control for areas that drain away from streets and right of ways.*

Virginia Code: § 15.2-2241(3).

Sec. 52-719. Drainage Easements

Cross-reference: 54-208, 54-212

(a). *The agent shall require each subdivider to create drainage easements as follows:*

1. *An easement for all drainage control improvements, including techniques that preserve or simulate natural drainage conditions, shall be established whenever such are proposed, whether existing, designed, and/or constructed beyond a public, private, or withheld street. Such easements shall extend from all drainage outfalls to an adequate channel, as required by applicable laws and regulations, 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 twenty (20) feet in width, to:*

1. Accommodate the drainage characteristics from each drainage outfall from a required drainage control improvement or natural drainage way.
 2. Allow vehicular access to a man-made waterway to allow widening, deepening, relocating, improving, or protecting the man-made waterway for drainage purposes.
 3. Allow access to a natural stream for its protection for drainage purposes by means of preserving or simulating natural drainage conditions.
- (c). Each easement shall include the right of ingress and egress for installation, maintenance, operation, repair and reconstruction of any infrastructure within the easement.
- (d). To the greatest extent possible, all drainage easements shall be maintained to preserve or simulate natural drainage conditions.
- Virginia Code: § 15.2-2241(3).

Sec. 52-720. Stormwater Detention, Design, Location, and Maintenance

Cross-reference: New

- (a). The design for all storm water detention facilities shall be in accordance with professionally accepted hydraulic engineering practices, the requirements of the Virginia Erosion and Sediment Control Law and other regulations, as required by state law.
1. In residential subdivisions, the subdivider shall locate and construct storm water detention ponds, where required, on a separate lot or lots within the subdivision set aside solely for the purpose of locating such facility(ies), which shall be owned and maintained by a property owners association.
 2. In industrial subdivisions, the subdivider may locate and construct storm water detention ponds, where required, on individual lots within the subdivision. Maintenance of such shall be the responsibility of the lot owner.
- (c). All lots containing storm water detention ponds or similar facilities characterized by the presence of pooled surface water shall be fully enclosed by corrosion-resistant chain-link metal fencing to a minimum height of eight (8) feet from grade and feature at least one (1) lockable gate entrance no less than ten (10) feet in width and matching the height from grade of the surrounding fencing. The location of the gate on the lot shall be oriented so as to provide vehicular access to the enclosed area for maintenance purposes. The fencing enclosure shall be erected at the subdivider's expense. Fencing shall be maintained at all times around such facilities unless the use of the storm water detention facility is abandoned and any basin or other appurtenance or infrastructure backfilled to grade level or removed completely from the lot.

DIVISION 6. MONUMENTS

Sec. 52-721. Monumentation

Cross-reference: 54-151, 54-152, and 54-153

- (a). The subdivider shall have monuments set as follows:
1. Upon completion of subdivision improvements, the subdivider shall make certain that all monuments are in place and depicted on the plat.
 2. A sufficient number of control monuments (minimum of 4) shall be set for each subdivision and each shall be an iron rod not less than three-fourths (3/4) inch in diameter driven so as to be flush with the finished grade.
 3. All lot corners shall be marked with an iron rod not less than three-fourths (3/4) inch in diameter driven so as to be flush with the finished grade.
- (b). The subdivider shall be responsible for resetting any monument on the property that is

damaged, disturbed or destroyed during construction of any improvements required by this chapter.

(c) The subdivider shall furnish Virginia State Plane Coordinates at the two (2) farthest points of the property subdivided, generally in a northwest to southeast direction, or vice-versa, or southwest to northeast direction, or vice-versa.

Virginia Code: § 15.2-2241(7).

DIVISION 7. SUBDIVISION STREETS GENERALLY

Sec. 52-722. Adoption of Highway Department Standards

Cross-reference: 54-126, 54-130

All design standards of the highway department are hereby adopted by reference for the design and construction of public streets as defined herein and such design standards shall govern public streets, private streets built to public standards, and commercial access streets, including, but not limited to, related installations.

Virginia Code: § 15.2-2241(4).

Sec. 52-723. Layout

Cross-reference: 54-126

(a) Each street shall be configured, to the extent practicable, to:

- 1. Reduce the total length of residential streets and increase the number of homes per unit length to the extent allowed in accordance with the zoning ordinance, and*
- 2. Provide vehicular and pedestrian interconnections within the subdivision.*

(b) Continuation of streets into adjoining lands for future development shall not be allowed unless the subdivider indicates plans for the eventual extension of a street on the plat. In cases where the subdivider proposes development in phases, a master plan shall indicate the future expansion of any street and the number of lots to be ultimately served by such.

(c) All streets shall be arranged to avoid a combination of steep grades and curves.

(d) Minor or local streets shall be laid out to discourage use by through traffic, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient and safe access to property.

(e) Proposed streets within a subdivision shall terminate in a cul-de-sac. Cul-de-sacs shall not extend to the edge of the subdivision except in cases where the subdivider indicates plans for future extension in accordance with Sec. 52-723(c). Such streets shall be extended to the boundary lines of the subdivision and coordinate the layout of the subdivision with the existing layout and with the most advantageous future development of adjacent lots.

Virginia Code: §§ 15.2 2241(2), 15.2-2241(4), 15.2-2242(3).

Sec. 52-724. Coordination

Cross-reference: 54-126

(a) All streets within a subdivision shall coordinate as to location, width, typical cross-section, grades and drainage with other existing or planned streets contiguous to or within the general area of the subdivision,

(b) All streets shall be properly related to special traffic generators such as industries, business districts, schools, churches, and shopping centers; to population densities; and to the pattern of existing and proposed land uses, and

(c) In business and industrial developments, the streets and other access ways shall be planned in connection with the grouping of buildings, location of rail facilities, truck loading and maneuvering

areas, and walks and parking areas so as to minimize conflict of movement between the various types of traffic, including pedestrian.

Virginia Code: § 15.2-2241(2).

Sec. 52-725. Service Streets

Cross-reference: 54-127

Whenever a proposed subdivision contains or is adjacent to a limited access street or highway, provision shall be made for a service street approximately parallel to such street or highway at a distance suitable for an appropriate use of the land between such street or highway and the proposed subdivision. Such distances shall be determined with due consideration of the minimum distance required for ingress and egress to street or highway. The right-of-way of any public or private street projected across any railroad or limited access highway shall be of adequate width to provide for the cuts or fills required for any future separation of grades.

Sec. 52-726. Reserve Strips

Cross-reference: 54-133

There shall be no reserve strips within residential subdivisions controlling access to public, private, or withheld streets. Nothing herein shall prohibit areas for scenic planting and landscaping where adequate access is otherwise available. The agent may allow reserve strips for commercial and/or industrial subdivisions.

Virginia Code: §§ 15.2-2241(4), 15.2-2242(3).

Sec. 52-727. Means of Access

Cross-reference: 54-129

The means of access to a subdivision shall conform, in the case of a public street, including length and any distance between the boundary of the subdivision and any existing public street, to highway department standards, or, in the case of a private street, to the standards of the county as set forth in this chapter.

Virginia Code: §§ 15.2-2241(4), 15.2-2242(3).

DIVISION 8. PRIVATE STREETS AND STREETS WITHHELD FROM PUBLIC DEDICATION

Virginia Code: § 15.2-2242.3.

Sec. 52-728. Private Streets and Withheld Streets, None Platted without Compliance

Cross-reference: 54-133, 54-241

- (a) No private streets or withheld streets shall be platted in any subdivision except as permitted under provisions of this chapter.*
- (b) No subdivision shall be approved where the subdivider proposes both public and private streets or public and withheld streets within the same subdivision.*
- (c) The subdivider shall designate any private street or withheld street as such on all sketches and/or plats.*
- (d) The agent may require construction plans, documents, plats or other renderings to be provided by the subdivider as part of a sketch or plat submittal in determining if a private street or withheld street shall be approved in lieu of a public street.*

Sec. 52-729. Withheld Streets; Approval Criteria, Design and Construction Standards*Cross-reference: 54-246*

In considering approval of withheld streets, the agent shall allow only new family withheld streets as provided in this chapter and such streets shall access only lots or residences in existence as result of a lawfully created family subdivision in accordance with the Virginia Code and this chapter. New family withheld streets shall meet the definitional requirements of this chapter.

Sec. 52-730. Withheld Streets, Conditions of Approval*Cross-reference: 54-247*

Approval by the agent for new family withheld streets shall be subject to compliance by the subdivider with provisions of this chapter and the following additional requirements:

(a). Family withheld streets shall be clearly identified as such on the final plat, with a certification identifying and signed by the benefited property owner(s) served by such street stating:

- 1. Which streets in the subdivision are withheld from public dedication;*
- 2. Family withheld streets will not be maintained by the state department of transportation or county;*
- 3. That the family withheld street shall be maintained by the benefited property owner(s) served by such street;*
- 4. That the family withheld street is ineligible for incorporation into the state system of secondary highways unless it is brought into conformance with the requirements of the highway department at no cost to the county or state and that, upon any future request for public dedication as public streets, the owners of the abutting lots shall, at their own expense, satisfy all applicable requirements imposed by the governmental bodies or agencies involved and in effect at that time.*
- 5. Until the family withheld street is improved and incorporated into the state secondary highway system certain public services may not be available to the property.*
- 6. That the property owner shall record this statement in the deeds to the lots prior to the issuance of a building permit on a lot not having frontage on a public street, and grantors of any subdivision lots that contain withheld streets must include this statement on each subsequent deed of conveyance thereof.*

*Virginia Code: § 15.2-2242(3)***Sec. 52-731. Private Streets; Approval Criteria, Design and Construction Standards***Cross-reference: 54-246*

(a). Rural Private Streets shall be permitted in accordance with provisions of this chapter and shall be designed and constructed to the following standards:

- 1. Have a minimum street right-of-way, (including the cul-de-sac bulb) as prescribed by the highway department for public streets or greater width centered within the street right-of-way.*
- 2. Be constructed with a roadway surface of at least eighteen (18) feet in width centered within the street right-of-way. The cul-de-sac bulb is not required to be opened.*
- 3. Have a final surface treatment of crushed stone or gravel not larger than #2 crusher run, or equivalent stone, or hard surfaced with asphalt or concrete. The agent shall verify that the construction plans for the proposed private street meet or exceed these minimum standards. Approval of the agent shall be indicated on the final plat for minor subdivisions.*

(b). Private Streets built to public street standards, shall be permitted in accordance with provisions of this chapter and shall be designed and constructed to such standards as required by the highway department but shall be private and meet the following requirements:

- 1. All proposed private streets within a subdivision shall be fully abutted by lots not further divisible for a single residential use set forth in the zoning ordinance of the County Code for the zoning district(s) in which the lots are situated. Reasonable lot size deviation to allow for closure of lot lines or provide for stormwater detention facilities shall be permitted provided such deviation does not allow for the further subdivision or apportionment of such lots.*
- 2. No provisions shall be made for the continuation of proposed private streets into adjoining properties not part of the subdivision. At least one (1) proposed private street within the subdivision shall intersect with a public street.*

Sec. 52-732. Private Streets, Conditions of Approval

Cross-reference: 54-247

Approval by the agent for private streets shall be subject to compliance by the subdivider with provisions of this chapter and the following additional requirements:

(a). Private streets built to public street standards shall be clearly identified as such on the final plat, with a certification identifying and signed by the subdivider, (who initially shall be the sole board member of the property owner's association until such time as the organizational meeting), stating:

- 1. Which streets in the subdivision are publicly dedicated, and accepted for dedication by the county, as private streets built to public street standards;*
- 2. Private streets will not be maintained by the highway department or county;*
- 3. The private street(s) shall be maintained by the property owner's association for the gated residential subdivision served by such street;*
- 4. The private street is ineligible for incorporation into the state system of secondary highways unless it is brought into conformance with the requirements of the highway department at no cost to the county or state and that, upon any future request for public dedication as public streets, the property owner's association shall, at it's own expense, satisfy all applicable requirements imposed by the governmental bodies or agencies involved and in effect at that time,*
- 5. Until the private street is improved and incorporated into the state secondary highway system certain public services may not be available to the property.*
- 6. That the property owner(s) shall record this statement in the deeds to the lots prior to the issuance of a building permit on a lot not having frontage on a public street, and grantors of any subdivision lots that contain private streets built to public street standards must include this statement on each subsequent deed of conveyance thereof.*

(b). Rural private streets shall be clearly identified as such on the final plat, with a certification identifying and signed by the benefited property owner(s) served by such street stating:

- 1. Which streets in the subdivision are publicly dedicated, and accepted for dedication by the county, as rural private streets;*
- 2. Private streets will not be maintained by the state department of transportation or county;*
- 3. That the private street shall be maintained by the benefited property owner(s) served by such street;*

4. That the private street is ineligible for incorporation into the state system of secondary highways unless it is brought into conformance with the requirements of the highway department at no cost to the county or state and that, upon any future request for public dedication as public streets, the owners of the abutting lots shall, at their own expense, satisfy all applicable requirements imposed by the governmental bodies or agencies involved and in effect at that time,

5. Until the private street is improved and incorporated into the state secondary highway system certain public services may not be available to the property.

6. That the property owner shall record this statement in the deeds to the lots prior to the issuance of a building permit on a lot not having frontage on a public street, and grantors of any subdivision lots that contain rural private streets must include this statement on each subsequent deed of conveyance thereof.

Virginia Code: § 15.2-2242(3)

DIVISION 9. ON-SITE IMPROVEMENTS AND SURETY

Sec. 52-733. Improvements, Developer's Bond

Cross-reference: 54-33, 54-34

All required improvements shall be installed by the subdivider at his cost and shall be in accordance with the requirements of this chapter.

(a). Before any final subdivision plat is finally approved by the agent the subdivider shall:

1. Construct required improvements only after improvement plans have been approved by the appropriate agencies involved in the review of such plans and such approval has been indicated on the final plat by signature. Upon the completion of one hundred (100) percent of the required improvements for major subdivisions, a professional engineer shall certify that required improvements are in accordance with all county and state requirements in cases of private streets built to public street standards and other improvements not subject regulatory review. Otherwise, a letter from the agency responsible for the review of improvement plans and design stating that improvements are in accordance with all applicable requirements and plans approved shall be received by the agent before he signs the final plat.

2. In lieu of construction, furnish bond with surety, or letter of credit, in an amount calculated by the agent to secure all required improvements in a workmanlike manner, and in accordance with specifications and construction schedules established or approved by the appropriate engineer, which bond with surety, or letter of credit, shall be payable to and held by the board of supervisors. Requirements for such bond with surety or letter of credit shall be in accordance with specifications established by the agent and the agent may call on the bond with surety or letter of credit in accordance with the same. Bond required by the highway department shall be furnished as required and shall be in the possession of the highway department prior to approval.

(b). Provision for the periodic partial release and the final release of a bond shall be in accordance with § 15.2-2245 of the Virginia Code and in accordance with provisions of this chapter. Final release of a bond or surety shall not occur before the subdivider has completed all post-construction improvements.

Virginia Code: §§ 15.2-2241(5), 15.2-2241(9), 15.2-2245.

Sec. 52-734. Phasing of Development*Cross-reference: New*

If a subdivider records a final plat which may be a section of a subdivision as shown on an approved preliminary plat and furnishes to the county a bond, or letter of credit in the amount of the estimated cost of construction of the improvements to be dedicated within said section for public maintenance and use, 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 recordation date of the first section, or for such longer period as the agent may determine to be reasonable, taking into consideration the size and phasing of the proposed development subject to engineering and construction standards and zoning requirements in effect at the time that each remaining section is recorded

Virginia Code: §§ 15.2-2241(5), 15.2-2241(9), 15.2-2245.

Sec. 52-735. Inspections*Cross-reference: 54-33*

Improvements required by this chapter shall be available for inspection for compliance by person(s) authorized to conduct such inspection.

Virginia Code: §§ 15.2-2245, 15.2-2255.

Sec. 52-736. Effect of Approval of Improvements*Cross-reference: New*

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.

Virginia Code: § 15.2-2255.

Sec. 52-737. Property Owners Association Required*Cross-reference: New*

(a). A property owners association shall be established for all major residential subdivision developments and for commercial and industrial subdivision developments where there are elements of common ownership including, but not limited to, private streets and stormwater detention basins. The subdivider initially shall be the sole board member until such time as the organizational meeting takes place pursuant to Sec. 52-738(c). The property owners association shall include provisions in the articles of incorporation and bylaws for preservation and maintenance of elements owned by the property owners association, including:

- 1. Improvements and easements for the purpose of stormwater management and all other privately-maintained improvements, and easements for such, required by this chapter and as may be provided,*
- 2. Any common space within the subdivision, and*
- 3. Any areas of trees, meadows, vegetation, land subject to flooding, critical slopes, or land deemed topographically unsuitable designated on the final plat as remaining undisturbed.*

(b). Property owners association bylaws shall provide for:

- 1. Maintenance or improvements and easements for such,*
- 2. Legal liability*
- 3. Annual dues, record-keeping, audits, and*
- 4. Enforcement powers,*

(c). If there are no elements of common ownership, a property owners association shall not be

required.

(d). *The county is not responsible for enforcement of a property owner's association by-law or maintenance agreement.*

(e). *The subdivider shall submit a copy of the state certificate of incorporation from the state corporation commission and a copy of the articles of incorporation and by-laws, to the agent prior to the agent approving the final plat.*

Sec. 52-738. Property Owners Association, Powers and Duties

Cross-reference: New

(a). *The property owners association shall have the authority to levy assessments for maintenance, for expenses related to such maintenance, including, but not limited to, liability insurance and retention of legal counsel to enforce provisions of covenants and restrictions, and the authority to place a lien against property for unpaid assessments. The property owners association shall maintain liability insurance in an amount sufficient to pay damages in the event of negligent maintenance of improvements subject to property owners' association management.*

(b). *The subdivider shall, as part of the approval of a final plat, include on the plat a statement that purchase of a lot shown on the subdivision plat shall require membership in the property owners association, which necessitates payment of an annual membership fee, and shall reference recordation in the land records of the clerk of circuit court of the articles of incorporation and bylaws of the association as well as any subdivision covenants.*

(c). *As a guideline, in establishing a property owners association:*

1. *Upon fifty one percent (51%) of the lots being sold, the subdivider, or his agent, shall send out a letter to the property owners explaining their legal responsibilities as pertains to the property owners association and the date, time, and place for a scheduled first meeting of property owners for the purpose of organization of the property owners' association.*

2. *At the first meeting, the subdivider, or his registered agent, shall explain the duties and responsibilities of the members of the property owners association as well as the property owners association itself. As part of this meeting, the board of directors of the property owners' association shall be formed.*

ARTICLE VIII. VARIANCES AND APPEALS

DIVISION 1. VARIANCES

Sec. 52-800. Submission

Cross-reference: 54.5, New

(a). *The subdivider, whenever possible, shall submit any request for a variance from any minimum requirement with, or prior to, the submission of a preliminary plan. All variance requests shall be in writing and include a specific statement of the relief requested and the reasons such request should be granted. The agent shall make a determination as to the whether the request is due to topographical or other conditions peculiar to the site and therefore eligible for consideration by the planning commission. The agent may also require such plans and drawings as needed to assist the commission in reaching a decision.*

(b). *The agent, upon determining the variance request is eligible for consideration, shall schedule the request for a public hearing at the next available commission meeting, taking into account legal notification requirements for such hearing, and shall prepare a written recommendation on the request.*

Virginia Code: § 15.2-2242(1).

Sec. 52-801. Findings of Fact, Conditions

Cross-reference: New

(a). *No variance may be granted that is opposed in writing by the highway engineer or health official. If the variance is not opposed by the same, the planning commission may authorize a variance from any provision of this chapter in cases where it is determined that:*

1. *Strict adherence to the provisions of this article would result in substantial hardship or injustice, excluding the proprietary interests of the developer; and*
2. *The authorization of the variance will not:*
 - a. *Be of substantial detriment to adjacent or nearby property; and*
 - b. *Be detrimental to the public safety, health or welfare;*
3. *The hardship is not self-inflicted; and*
4. *The variance will not substantially compromise the intent of this chapter. Any variance authorized by the commission will be recorded in the minutes of the commission, together with an explanation of the reasons for granting the variance.*

(b). *The subdivider shall have the burden of producing the evidence to enable the commission to make the required findings of fact.*

(c). *When granting variances, the planning commission may impose conditions in order to protect public welfare or to achieve the intent of this chapter.*

Virginia Code: § 15.2-2242(1).

DIVISION 2 – APPEALS

Sec. 52-802. Appeal, Variances

Cross-reference: New

Any person aggrieved of the planning commission decision for an application for a variance may appeal to the circuit court within thirty (30) days of the written notice of action by the commission. When a request for a variance is denied, no application may be made for the same request in less than one (1) year from the date of denial by the commission or, if heard upon appeal, the date of the circuit court decision.

Sec. 52-803. Appeal, Disapproval of Plat

Cross-reference: New

Notwithstanding Sec. 52-804, if the agent disapproves a plat and the subdivider contends that the disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he may appeal to the circuit court having jurisdiction of such land and the court shall hear and determine the case as soon as may be, provided that his appeal is filed with the circuit court within sixty (60) days of the date of the receipt of the written disapproval by the agent.

Virginia Code: §§ 15.2-2241(9), 15.2-2259(C), 15.2-2260(E).

Sec. 52-804. Appeal for a Non-Binding Recommendation of the Planning Commission (Optional)

Cross-reference: New

(a). *An applicant aggrieved by a decision or interpretation of the agent may, within ten (10) days of the date of notification of such decision, appeal to the planning commission for a recommendation as to whether the action of the agent was proper. Such appeal shall be made in writing to the agent and*

shall state the specific decision and/or specific interpretation being appealed. The agent may also require such plans and drawings as needed to assist the commission in reaching a recommendation.

(b). The agent, upon receipt of an appeal, shall schedule the request for a public hearing at the next available planning commission meeting, taking into account legal notification requirements for such hearing, and shall prepare a written recommendation on the request. The commission may make a recommendation on the written record and may also receive testimony, if it so desires.

(c). If the commission remands the action or interpretation of the agent for further consideration by the same, the agent shall review the original action or interpretation and either reverse, modify, or leave standing his original action or interpretation.

(d). Upon action by the commission and the agent’s review of his original action or interpretation, the subdivider may appeal the decision to the circuit court in accordance with Sec. 52-803.

The vote on this motion was as follows: (5-2)

<i>Mr. Ingle</i>	<i>Aye</i>
<i>Mr. McCall</i>	<i>Aye</i>
<i>Mrs. Mumpower</i>	<i>Nay</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Mr. Rector</i>	<i>Nay</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Roberts</i>	<i>Aye</i>

Scrivener’s Note: The PowerPoint Presentation referenced above may be found in Minutes Exhibit 2005-2-08A.

c. Public Hearing and Consideration of Adoption of an Ordinance to Amend Sections 66-1 and 66-5 of the Code of the County of Washington, Virginia (2002), to Add a Definition for “Gated Residential Subdivision” and to make a Finding of Zoning Compliance Contingent Upon Compliance with other Applicable Law.

County Planner Wally Horton reviewed the proposed amendments to the Gated Residential Subdivision Ordinance that was first present to the Board on December 14, 2004 and referred back to the Joint Land Use Steering Committee for revision. Mr. Horton explained that zoning district and water and sewer restrictions have been eliminated, per the Committee’s recommendation. The Special Exception Permit requirement will remain in the ordinance for the following reasons:

- Gated residential subdivisions are the only major subdivision type to allow for private streets built to public street standards under the new-adopted County Subdivision Ordinance (Chapter 52).
- To allow the Planning Commission and Board to ensure the developer has the intention and wherewithal to meet requirements for gated residential subdivisions, and
- To provide the County with plans pertaining to the private street built to public standards, the security gate, and the plan of enclosure.

Mr. Roberts opened the public hearing to receive comments both in support of and in opposition to the proposed ordinance.

There being no comments, Mr. Roberts declared the public hearing closed.

County Attorney Lucy Phillips addressed the Board explaining this ordinance was meant to be a companion to the subdivision ordinance and recommends an effective date of July 1.

On motion of Mr. McCall, second by Mr. Owens, the Board acted to adopt the following ordinance

**AN ORDINANCE TO AMEND SECTIONS 66-1 AND 66-5 OF
THE CODE OF THE COUNTY OF WASHINGTON, VIRGINIA (2002),
TO ADD A DEFINITION FOR “GATED RESIDENTIAL SUBDIVISION” AND
TO MAKE A FINDING OF ZONING COMPLIANCE CONTINGENT UPON COMPLIANCE WITH
OTHER APPLICABLE LAW**

WHEREAS the Board of Supervisors of the County of Washington, Virginia, adopted an ordinance to make effective on July 1, 2005, Chapter 52 of the Code of the County of Washington, Virginia, to govern the division and subdivision of land, which repealed any previously effective ordinances governing the same subject matter; and

WHEREAS the adoption of Chapter 52 established rules to govern the creation of “gated residential subdivisions,” but Chapter 66 of the Code of the County of Washington, Virginia, which governs land use regulation and zoning, does not include provisions for “gated residential subdivisions;” and

WHEREAS the Board finds that there is a need for land use planning for the creation of “gated residential subdivisions” because of public interest in creating them and because of the unique public welfare and safety issues posed by them; and

WHEREAS, in addition, the Board finds that the regulation of land use and zoning should work in harmony with other applicable provisions of local and state law, such as the regulation of the division and subdivision of land, to best serve the public health, safety, and welfare;

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of the County of Washington, Virginia,

- 1. Section 66-1 of the Code of the County of Washington, Virginia, shall be amended by adding the following definition, highlighted by underline:*

Subdivision, gated residential. An enclosed and gated major subdivision created for residential use that is served by private streets built to public street standards and that has all vehicular and pedestrian access controlled by staffed or automated security gate(s), at all entrance and exit points. Gated residential subdivisions shall only be permitted by Special Exception Permit. The term “gated residential subdivision” shall be synonymous with the terms “gated subdivision” and/or “gated community.”

- 2. Section 66-5 of the Code of the County of Washington, Virginia, shall be amended by adding the following language, highlighted by underline:*

Sec. 66-5. Scope.

It is not intended by this chapter to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this chapter, or with private restrictions placed upon property by covenants running with the land to which the county is a party. Where this chapter imposes a greater restriction upon land, buildings or structures than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this chapter shall control. Zoning compliance shall be found only when an application is in harmony with provisions of this chapter and all other applicable provisions of County and state law.

3. *Should any section or provision of this ordinance be decided to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of any other section or provision of this ordinance or of the Code of the County of Washington, Virginia.*

4. *This ordinance shall become effective July 1, 2005.*

The vote on this motion was as follows: (7-0)

<i>Mr. Ingle</i>	<i>Aye</i>
<i>Mr. McCall</i>	<i>Aye</i>
<i>Mrs. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Mr. Rector</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Roberts</i>	<i>Aye</i>

6. **Recess**

It was consensus of the Board to take a ten-minute recess.

6.a. **Consideration of Request by William King Regional Arts Center**

Mr. Dan Caldwell, Trustee Emeritus for the William King Regional Arts Center, presented the Board with a request for \$25,000 to be used as matching funds for a \$50,000 planning and design grant from the Appalachian Regional Commission. Mr. Caldwell advised the Board that the Town of Abingdon would provide \$25,000 toward the grant match. The grant would enable the Arts Center to continue work on their long-range plan. The Arts Center has completed some major projects such as installing a new security system and upgrading the HVAC System. Focus will now turn to development of the Arts Center grounds. The long-range plan includes constructing a building to house the artists that currently are located in the Arts Center.

Discussion ensued among the Board. A concern discussed by Mr. Rector was that \$100,000 for a planning grant seemed very high.

On motion of Mr. Ingle, second by Mr. Reynolds, the Board acted to appropriate \$25,000 from Reserves for Contingencies to the William King Regional Arts Center to be used as matching funds for an Appalachian Regional Commission planning grant.

The vote on this motion was as follows: (6-0-1)

<i>Mr. Ingle</i>	<i>Aye</i>
<i>Mr. McCall</i>	<i>Aye</i>
<i>Mrs. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Mr. Rector</i>	<i>Abstained</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Roberts</i>	<i>Aye</i>

6.b. Consideration of Resolution Supporting Virginia Works Program

Assistant County Administrator Christy Parker addressed the Board on behalf of the Smyth Washington Industrial Facilities Authority (SWIFA) regarding Governor Mark Warner’s *Virginia Works* Program. Ms. Parker provided an overview of the new program. She explained that a major component of the *Virginia Works* Program is support for existing industry. The Commonwealth will award two \$2 million grants to regional consortia that successfully identify better ways to respond to the needs of existing business. Ms. Parker further explained that SWIFA will be focusing on this part of the *Virginia Works* Program and would like for Smyth and Washington County to be first in line to receive a portion of the \$2 million grants. SWIFA is requesting that Washington County adopt a resolution of support for the *Virginia Works* Program.

On motion of Mr. Rector, second by Mr. Owens, it was resolved to adopt the following resolution:

**RESOLUTION 2005-02
IN SUPPORT OF GOVERNOR WARNER’S
“VIRGINIA WORKS” PROGRAM**

WHEREAS, Governor Mark Warner has recently announced a new economic development program called “Virginia Works” for Southwest and Southside Virginia; and

WHEREAS, one major focus of the Virginia Works program is support to Existing Industry, especially by matching the efforts of our workforce development system (local schools, economic development agencies, and community colleges) with the needs of existing business; and

WHEREAS, the Commonwealth is interested in awarding “two \$2 million grants to regional consortia that successfully identify better ways to respond to the needs of existing business,” and

WHEREAS, both Smyth and Washington Counties have focused recent economic development efforts on its existing industry, and have been working to address workforce development needs of existing businesses; and

WHEREAS, the Smyth-Washington Regional Industrial Facilities Authority (formed in 2000 for the development of a new regional industrial park) has recently completed a study of

workforce development deficiencies, and is ready and willing to pursue the key recommendations in the report.

THEREFORE BE IT RESOLVED that the Washington County Board of Supervisors wholeheartedly supports the new Virginia Works Program and commends Governor Mark Warner and Secretary of Commerce and Trade Michael Schewel for their efforts to address the concerns of rural Virginia.

The vote on this motion was as follows: (7-0)

<i>Mr. Ingle</i>	<i>Aye</i>
<i>Mr. McCall</i>	<i>Aye</i>
<i>Mrs. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Mr. Rector</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Roberts</i>	<i>Aye</i>

7. County Administrator Reports

a. Reminder: February 21 President’s Day Holiday – General Offices Closed

Mr. Reeter reminded the Board that County Offices would be closed on February 21 in observance of President’s Day.

b. 2005 Community Development Block Grant Application Cycle Public Hearings

There will be two public hearings scheduled concerning projects for the 2005 cycle of the Community Development Block Grant Program. The public hearings will be scheduled on February 22 and March 8. Mr. Reeter stated that it is anticipated that Meadowview First will wish to re-submit its community facilities/health clinic project again this year.

8. County Attorney Reports

No report.

9. Board Information

Mr. Reeter reviewed information contained in the Board Information section of the Agenda. Particularly, a Press Release from the Commissioner of Revenue concerning the reassessment.

10. Consent Agenda

Accounting Manager Mark Seamon addressed the Board explaining that there was an error in the Consent Agenda materials. The supplemental appropriation request for the Sheriff's Department is for money forfeited from criminal cases and not generated by DMV grants.

On motion of Mr. Rector, second by Mr. Ingle, it was resolved to approve the following Consent Agenda items:

- a. Payment of Bills – January 2005*
- b. Revenue Refunds – Animal Sterilization Fee*
- c. Supplemental Appropriations – Sheriff's Office – Money Forfeited from Criminal Cases*

The vote on this motion was as follows: (7-0)

<i>Mr. Ingle</i>	<i>Aye</i>
<i>Mr. McCall</i>	<i>Aye</i>
<i>Mrs. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Mr. Rector</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Roberts</i>	<i>Aye</i>

11. Board Member Reports

Chairman John Roberts reminded the Board that on Friday, February 11 the Virginia Department of Conservation and Recreation would be sponsoring a Low Impact Development Workshop at the Glenrochie Country Club.

12. Adjourn

On motion of Mr. Ingle, second by Mr. McCall, it was resolved to adjourn the meeting.

The vote on this motion was as follows: (7-0)

<i>Mr. Ingle</i>	<i>Aye</i>
<i>Mr. McCall</i>	<i>Aye</i>
<i>Mrs. Mumpower</i>	<i>Aye</i>
<i>Mr. Owens</i>	<i>Aye</i>
<i>Mr. Rector</i>	<i>Aye</i>
<i>Mr. Reynolds</i>	<i>Aye</i>
<i>Mr. Roberts</i>	<i>Aye</i>

Prepared by:

2-08-05 13703

Naoma A. Mullins, Recording Clerk

Approved by the Washington County Board of Supervisors:

John B. Roberts, Sr., Chairman