

**SUBDIVISION  
ORDINANCE**

**BUCKINGHAM,  
VIRGINIA**

Revised and Approved by the Board of Supervisors on 9/13/2010

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Subdivision Ordinance – Adopted – 10/30/97, Amended - 5/10/99, Amended 5/9/05, Emergency Ordinance - 6/13/05 – Amended – 7/11/05 – Amended - 6/26/06 – Amended – 12/11/06 – Amended as emergency ordinance - 2/12/07 – Amended – 5-8 & 6-3-4 – 3/12/07

## SUBDIVISION ORDINANCE

### SECTION 1 PURPOSE AND TITLE

- 1-1 **PURPOSE AND CHAPTER** The purpose of this ordinance is to establish certain subdivision standards and procedures for Buckingham County, Virginia, as provided for by the 1950 Code of Virginia, as amended.

The provisions of this ordinance are part of a long-range plan to guide and facilitate the orderly beneficial growth of the community, and to promote the public health, safety, convenience, comfort, prosperity, and general welfare. More specifically, the purposes of these standards and procedures are to provide a guide for the change that occurs when lands and acreage become more urban in character as a result of development for residential, business, or industrial purposes, to provide assurance that the purchasers of lots are buying a commodity that is suitable for development and use; and to make possible the provisions of public services in a safe, adequate, and efficient manner. Subdividing land carries with it a responsibility for the proper creation and maintenance of roads and streets serving the subdivision and for the provision of numerous public services customary to urban areas. This ordinance is to assist the community in meeting these responsibilities.

- 1-2 **SHORT TITLE.** This ordinance is known and may be cited as the "Subdivision Ordinance of Buckingham County, Virginia," or simply as the "Subdivision Ordinance."

### SECTION 2 DEFINITIONS

For the purpose of this ordinance, certain words and terms are interpreted or defined as follows:

- 2-1 **AGENT:** The representative of the governing body who has been appointed to serve as agent of the governing body in approving the subdivision plats.
- 2-2 **ALLEY:** A permanent service way providing a secondary means of vehicular access to abutting properties.
- 2-3 **APPROVE:** To render a favorable decision.
- 2-4 **BLOCK:** An area enclosed by adjacent and usually by intersection streets.
- 2-5 **BUILDING LINE:** The distance which a building is from the front lot line or front boundary line
- 2-6 **COMMISSION:** The Planning Commission of Buckingham County, Virginia.
- 2-7 **CUL-DE-SAC:** A street with only one outlet and having an appropriate turn-around for safe and convenient reverse traffic movement.
- 2-8 **DEVELOPER:** An owner of property being subdivided, whether or not presented by an agent.
- 2-9 **DISAPPROVE:** To render an unfavorable decision.
- 2-10 **DIVISION:** The act of splitting into two (2) parcels, lots or tracts.
- 2-11 **EASEMENTS:** A grant by a property owner for the use of land for limited purposes.
- 2-12 **ENGINEER:** An engineer licensed by the Commonwealth of Virginia.

- 2-13 Family Division: The division of land for the sole purpose of sale or gift to any person who is a natural or legally defined offspring, stepchild, spouse, sibling, grandchild, grandparent or parent of the owner.**
- 2-14 GOVERNING BODY: The Board of Supervisors of Buckingham County, Virginia.**
- 2-15 HEALTH OFFICIAL: The health officer or sanitarian of Buckingham County, Virginia.**
- 2-16 HIGHWAY ENGINEER: The residency administrator employed by the Virginia Department of Transportation (VDOT) or his agent.**
- 2-17 JURISDICTIONS: The area of territory subject to the legislative control of the governing body.**
- 2-18 LOT: A parcel of land occupied or to be occupied by a main structure or group of main structures and accessory structures, together with such yards, open spaces, lot width, and lot areas as are required by this ordinance, and having frontage upon a street, either shown on a plat of record or considered as a unit of property and described by metes and bounds.**
- 2-19 LOT, CORNER: A lot abutting upon two or more streets at their intersection the shortest side fronting upon a street shall be considered the front of the lot, and the longest side fronting upon a street shall be considered the side of the lot.**
- 2-20 LOT, DEPTH OF: The mean horizontal distance between the front and rear lot lines.**
- 2-21 LOT, DOUBLE FRONTAGE: An interior lot having frontage on two streets.**
- 2-22 LOT, INTERIOR: A lot other than a corner lot.**
- 2-23 LOT OF RECORD: A lot which has been recorded in the Office of the Clerk of the appropriate court.**
- 2-24 LOT, WIDTH OF: The mean horizontal distance between the side lot lines.**
- 2-25 PERFORMANCE BOND: A bond with surety and/or cash deposit approved by the governing body or its agent in the amount equal to the full cost of improvements required by these regulations and providing for completion of said improvements within a definite term.**
- 2-26 PLAT: A diagram or map drawn to scale showing tracts, parcels, lots, subdivisions, which can be legally recorded in the Clerk's Office, together with all data essential to the description of several elements shown thereon. When used as a verb, plat is synonymous with "subdivide."**
- 2-27 PROPERTY: Any tract, lot, parcel, or several of the same collected together**
- 2-28 STREET, COLLECTOR: Providing for traffic movement between major arterial and local streets, and direct access to abutting property.**
- 2-29 STREET, MAJOR: A heavily traveled thoroughfare or highway that carries a large volume of through traffic or anticipated traffic, exceeding 500 vehicles per day.**
- 2-30 STREET, OTHER: A street that is used primarily as a means of public access to the abutting properties with anticipated traffic of less than 500 vehicles per day.**
- 2-31 STREET PRIVATE: Any road, street, highway, or other means of vehicular access to property that the public is restricted from using by a landowner or landowner organization.**
- 2-32 STREET PRIVATELY MAINTAINED: Any road, street, highway, or other means of vehicular access that is maintained by the landowner(s) served. *Amended – 7/11/05***

- 2-33 **STREET, PUBLIC:** A dedicated right-of-way, unrestricted to public use, that serves as the principal means of access to abutting properties, which is presently a portion of the VDOT street or road system, or is a proposed addition to the VDOT street and road system.
- 2-34 **STREET OR ALLEY, PUBLIC USE OF:** The unrestricted use of a specified area of right-of-way for ingress or egress to two or more abutting properties.
- 2-35 **STREET, SERVICE DRIVE:** A public right-of-way generally parallel to a major highway primarily designed to promote safety by eliminating promiscuous ingress and egress to right-of-way by providing safe and orderly points of access to the highway.
- 2-36 **STREET WIDTH:** The total width of the strip of land dedicated or reserved for public travel, including roadway, curbs, gutters, sidewalks, and planting strips.
- 2-37 **SUBDIVIDE:** The process of dividing or re-dividing any tract, parcel, or lot into three or more parts. *Amended – 8/13/07*
- 2-38 **SUBDIVIDER:** An individual, corporation or partnership, or any combination or multiple thereof owning any tract, lot or parcel of land to be subdivided, as defined in this ordinance.
- 2-39 **SUBDIVISION:** The division of any tract, parcel or lot of land into three(3) or more parts. If a new street is involved in any subdivision, any division of a parcel, tract, or lot of land into three(3) or more parts shall be considered a subdivision. The word “subdivision” shall be taken to include re-subdivision and , when appropriate to the context, shall relate to the process of subdividing or to the land subdivided. *Amended – 8/13/07*
- 2-40 **SUBDIVISION, MAJOR:** Any subdivision of land of 4 or more lots.
- 2-41 **SUBDIVISION, MINOR:** Any subdivision consisting of three (3) or less lots.
- 2-42 **SURVEYORS:** An individual who is licensed by the Commonwealth of Virginia as a land surveyor.
- 2-43 **ANY REFERENCE TO THIS ORDINANCE:** Includes all ordinance amending or supplementing the same; all distances and areas refer to measurement on a horizontal plane.
- 2-44 **STREET, ROAD, RIGHT OF WAY, EASEMENT FOR ACCESS OR EGRESS AND INGRESS:** Any way designated as access for more than three(3) lots, tracts or parcels of land, whether labeled as fee right of way, dedicated right of way, or reserved as an easement. *Amended – 8/13/07*

### **SECTION 3 EXEMPTIONS**

3-1 The following are exempt from the provisions of this ordinance:

**3-1-1 Agriculture** A bonafide division or partition of agricultural land for agricultural purposes provided that such division does not involve the creation of a new street or road, is more than five acres, is platted and carries the following certification, and the deed contains covenant to the same effect:

"It is certified that the division of land shall be for no purpose other than agricultural purposes and shall not be used as a building lot." *Amended – 7/11/05*

If an existing private road is used for access, the plat and each deed of subdivision made after the effective date of this ordinance shall include the following statement: *Amended – 7/11/05*

**“Any and all streets that are not constructed to meet the standards necessary for inclusion in the system of state highways will be privately maintained and will not be eligible for**

**acceptance into the system of state highways unless improved to current Department of Transportation standards with funds other than those appropriated by the General Assembly and allocated by the Commonwealth Transportation Board. Chapter 566 – State Code – Amended - 12/11/06”**

**3-1-2 Family** A single division of a lot or parcel for the purpose of sale or gift to any member of the immediate family of the property owner. Only one such division shall be allowed per family member during his or her life time, and shall not be for the purpose of circumventing this subsection. All family lots shall have reasonable right-of-way of not less than ten feet or more than twenty feet providing ingress and egress to a dedicated recorded public street or thoroughfare. All family lots shall be platted and the following statement shall be included on all plats of such lots of land served by such access and by covenant in each deed in a subdivision with private streets: *Amended – 7/11/05*

**“The streets in this subdivision do not meet the standards necessary for inclusion in the system of state highways and will not be maintained by the Department of Transportation or the county and are not eligible for rural addition funds or any other funds appropriated by the General Assembly and allocated by the Commonwealth Transportation Board.**  
*Amended – 12/11/06 – Chapter 566 – State Code*

Please reference the Zoning Ordinance concerning additional regulations that would apply to a family subdivision. *Amended – 11/14/06*

**3-1-3 Boundary Adjustments** A division of land where adjoining land owners desire to convey ownership by sale or exchange provided the buyer certifies that the property is not conveyed for the purpose of subdivision and does not involve a new street or road. The intent of this section is to allow for the adjustment of boundary lines only and that such adjustments will not create non-conforming lots under this ordinance. *Amended – 7/11/05*

## **SECTION 4 ADMINISTRATION**

**4-1 AGENT:** The agent appointed by the governing body is hereby delegated the power and authority to administer this ordinance. In so acting, the agent shall be considered the agent of the governing body.

The agent shall consult with the Planning Commission on the preliminary plats which division consists of 4 or more parcels. *Amended 6/26/06*

**4-2 DUTIES:** The agent shall perform his duties regarding subdivisions and subdividing in accordance with this ordinance.

**4-3 TO CONSULT:** In the performance of their duties, the agent and the Planning Commission may request opinions or decisions in writing from various departments and agencies of the Commonwealth of Virginia and other departments of the Buckingham County government. This authority includes, but is not limited to, the VDOT, the State Health Department, and the State Water Control Board.

**4-4 ADDITIONAL AUTHORITY:** In addition to the regulations herein contained for the platting of subdivisions, the agent may, from time to time, establish any reasonable additional administrative procedures deemed necessary for the proper administration of this ordinance or such other authority as the Board of Supervisors might delegate.

**4-5 APPEAL:**

**4-5-1** Any person aggrieved by the decision of the Planning Commission in its advisory capacity, or of the agent, or of any administrative official whose decision is required by the provisions of this ordinance, may appeal the decision to the Board of Supervisors as whole by written notice filed with the agent within 15 days of the date of the decision.

**4-5-2** Any person aggrieved by the final decision of the Board of Supervisors as a whole may appeal the decision of the Board of Supervisors to the Circuit Court of Buckingham County or other court having jurisdiction over the land involved.

**4-6** **RELATION OF ORDINANCE TO PRIVATE CONTRACTS** This ordinance bears no relation to any private easement, covenant, agreement, or restriction, nor is the responsibility of enforcing a private easement, covenant, agreement, or restriction implied herein to any public official. When this ordinance calls for more restrictive standards than are required by private contract, the provisions of this ordinance shall control. In case of any plat on which is shown any sewage, or water supply system, or other feature, improvement, facility or element, not to be maintained by any public agency, which is designed to serve or to be used by more than two lots on such plat, the agent shall require, as a prerequisite to approval of such plat, that provision be made for the payment of costs of construction, maintenance, upkeep, or replacement of such facilities to be borne ratably by the owners of lots to be served by or to use the same. Such provision shall be made by instrument of record in the Office of the Clerk of the Circuit Court of Buckingham County and shall plainly state on its face that the costs of construction, maintenance, upkeep or replacement of such facilities will not be borne by Buckingham County, the Commonwealth of Virginia, or any other public agency.

**4-7** **FINAL PLAT APPROVAL BY THE PLANNING COMMISSION SHALL BE CONSIDERED THE EFFECTIVE DATE FOR THE APPLICATION.** *Amended – 12/12/05*

## **SECTION 5 DESIGN STANDARDS**

### **5-1 GENERAL**

**5-1-1 MUTUAL RESPONSIBILITY** There is a mutual responsibility between the sub-divider and Buckingham County to divide the land so as to improve the general use pattern of the land being subdivided.

**5-1-2 SUBSTANDARD SUBDIVISIONS** A subdivision recorded or developed prior to the adoption of and not in conformity with this Subdivision Ordinance may be re-subdivided and redeveloped in whole or in part, by the sub-divider or owner; but every such re-subdivision shall conform to this chapter and all other County ordinances currently applicable.

**5-1-3 UTILITY EASEMENTS** Adequate easements may be required for drainage on any lot. Adequate easements shall be required for electricity, telephone, and other utilities if available. Minimum easement width of eight (8) feet and their dedication may be required for drainage and shall be required for electricity and telephone and any other utilities, if available.

### **5-2 IMPROVEMENTS**

#### **5-2-1 GENERAL REQUIREMENTS**

**5-2-1-1 INSTALLATION COSTS** All required improvements shall be installed at the cost of the sub-divider. The sub-divider's performance bond shall not be released until construction of the improvements has been inspected and accepted by the agent or his representative. Where cost-sharing or reimbursement arrangements between Buckingham County and the sub-divider are appropriate, the arrangements shall be entered into by formal agreement prior to final plat approval and construction of the improvements shall be subject to review and acceptance by the agent or his representative.

**5-2-1-2 BONDING REQUIREMENTS** Prior to the approval of any final plat, the Board of Supervisors or the agent shall require the bonding of any improvements which are intended to be dedicated to public use. When bonding has been required by the Board of Supervisors or the agent, the sub-divider shall:

- A. certify to the Board of Supervisors or the agent that the construction costs have been paid to the person constructing such facilities; or
- B. furnish to the Board of Supervisors or the agent a certified check in the amount of the estimated cost of construction; or a bond, with surety satisfactory to the Board of Supervisors or the agent, in an amount sufficient for and conditioned upon the construction of such facilities; or a contract for the construction of such facilities, and the contractor's bond, with like surety, in like amount and so conditioned.

The sub-divider shall set a time subject to the approval of the Board of Supervisors or the agent by which it is estimated the improvements shall be installed and completed. Unless an extension of that time is approved by the Board of Supervisors or the agent, and a new estimated date of completion established by the agent shall take the necessary steps to proceed with the accomplishment and completion of the improvements, making use of the certified check or calling on the surety of the bond. No building permits shall be issued until final approval of the plat and all inspections have been made.

Upon written request by the sub-divider or developer, the County body or its designated administrative agency shall make periodic partial releases of such bond, escrow, letter of credit, or other performance guarantee in a cumulative amount equal to no less than ninety percent of the original amount for which the bond, escrow, letter of credit, or other performance guarantee was taken, and may make partial releases to such lower amounts as may be authorized by the governing body or its designated administrative agency based upon the percentage of public facilities completed and approved by the governing body, local administrative agency, or state agency having jurisdiction. Periodic partial releases may not occur before the completion of at least thirty percent of the public facilities covered by any bond, escrow, letter of credit, or other performance guarantee.

The County or administrative agency shall not be required to execute more than three periodic partial releases in any twelve-month period. Upon final completion and acceptance of the public facilities, the County or administrative agency shall release any remaining bond, escrow, letter of credit, or other performance guarantee to the sub-divider or developer. For the purpose of final release, the term "acceptance" means: when the public facility is accepted by and taken over for operation and maintenance by the state agency, local government department or agency, or other public authority which is responsible for maintaining and operating such public facility upon acceptance.

*Amended – 7/11/05*

For the purposes of this section, a certificate of partial or final completion of such public facilities from either a duly licensed professional engineer or land surveyor, as defined in and limited to § 54.1-400 of the 1950 Code of Virginia, or from a department or agency designated by the locality may be accepted without requiring further inspection of such public facilities. *Amended – 7/11/05*

There shall a periodic partial and final complete release of any bond, escrow, letter of credit, or other performance guarantee required by this ordinance within thirty days after receipt of written notice by the sub-divider or developer of completion of part or all of any public facilities required to be constructed hereunder unless the governing body or its designated administrative agency notifies the sub-divider or developer in

writing of non-receipt of approval by an applicable state agency, or of any specified defects or deficiencies in construction and suggested corrective measures prior to the expiration of the thirty-day period. Any inspection of such public facilities shall be based solely upon conformance with the terms and conditions of the performance agreement and the approved design plan and specifications for the facilities for which the performance guarantee is applicable, and shall not include the approval of any person other than an employee of the governing body, its administrative agency, the Virginia Department of Transportation or other political subdivision or a person who has contracted with the governing body, its administrative agency, the Virginia Department of Transportation or other political subdivision. *Amended – 7/11/05*

## **5-2-2 STREAMS AND DRAINAGE**

**5-2-2-1 FLOOD PLAIN AND DRAINAGE COURSES** When any stream or substantial surface drainage course is located in the area being subdivided, provision shall be made for an adequate easement along the stream or drainage course for the purpose of widening, deepening, relocating, improving, or protecting the streams or drainage courses for drainage purposes. Such easements shall not be considered part of required street width. No plat of a subdivision shall be approved without provision for adequate drainage.

To insure development of lots containing sufficient land upon which to place structures without impeding natural drainage, the sub-divider shall provide elevation and flood profiles as may be required. When property lies within the 100-year flood plain, the extent of the flood plain shall be shown on the plat.

No subdivision shall be approved that fails to provide for adequate provisions for drainage and flood control and other public purposes, and for light and air, and for identifying soil characteristics. *Amended – 7/11/05*

**5-2-2-2 EROSION CONTROL** No final subdivision plat shall be approved until the sub-divider has obtained an erosion control permit if required by the Buckingham County Soil Erosion and Sediment Control Ordinance.

## **5-2-3 WATER AND SEWER**

**5-2-3-1 INDIVIDUAL WATER AND SEPTIC SYSTEM** No subdivision shall be approved where individual water or septic tank systems are to be used until a written report prepared by the Buckingham County Health Sanitarian, approved by the agent has been furnished the agent; such report shall approve or certify that the lots contained in the subdivision are adequate to support the necessary septic tank systems.

**5-2-3-2 CENTRAL WELL AND/OR SEWER SYSTEMS** No subdivision shall be approved where central water supply and/or sanitary sewer systems are to be used until written approval of the Health Department has been obtained. Central water supply and sanitary sewer system, either of which serve more than five (5) parcels or lots, shall be approved by the Virginia Department of Health and the Water Control Board prior to approval of the Board of Supervisors of Buckingham County.

## **5-2-4 FIRE PROTECTION**

**5-2-4-1 FIRE HYDRANTS** Where public water is available the installation of adequate fire hydrants by the developer shall be required. The agent will designate the location of fire hydrants.

**5-2-5** **STREETS** It is the joint responsibility of the sub-divider, the County and Virginia Department of Transportation to be involved in the proper establishment of new streets. *Amended – 7/11/05*

**5-2-5-1** **GENERAL STANDARDS** The following general standards of design shall apply to streets:

- A. **Street alignment** provisions shall be made for the continuation of planned, existing, or platted streets into adjoining areas as outlined in VDOT's Secondary Street Acceptance Requirements (SSAR).
- B. **Service drives** Whenever a proposed subdivision contains or is adjacent to a multi-lane, divided highway, provision shall be made for a service drive or marginal street approximately parallel to such right-of-way. Except where impractical by reason of topographic hardship, the area between the drive and the divided highway shall be sufficient to provide for scenic planting and screening.
- C. **Entrance to Public Road** Each entrance onto any public road for vehicular traffic to and from such subdivision shall be subject to the approval of the agent and the highway engineer and shall be designed and constructed in accordance with Virginia Department of Transportation's SSAR. *Amended – 7/11/05*
- D. **Names** Proposed streets which are obviously in alignment with already existing and named streets shall bear the names of the existing streets. In no case shall the names of proposed streets duplicate existing street names irrespective of the use of the suffix street, avenue, boulevard, driveway, place, lane, or court. Street names shall be indicated on the preliminary and final plats and shall be approved by the agent. Names of existing streets shall not be changed except by approval of the agent. Road signs shall be placed in the subdivision and street addresses assigned as directed by the County and in accordance with Virginia Department of Transportation regulations. The applicant is responsible for the cost of all signs and address markers. *Amended – 7/11/05*
- E. **Alleys** Alleys not less than 20 feet in right-of-way width may be provided in the rear of commercial industrial properties. No dead-end alleys of any kind shall be allowed.
- F. **Reserved strips** Reserved or spite strips restricting access to streets or alleys, shall not be permitted, provided that nothing herein shall prohibit areas for scenic planting and landscaping where adequate access is otherwise available.
- G. **Sidewalks, curbs, and gutters** In subdivisions where sidewalks, curbs, and gutters are to be built, sidewalks, curbs, and gutters shall be built to the standards of the VDOT SSAR.
- H. **Right of way, easements for egress and ingress** **If** a right of way, easement for access or egress is a part of the division, it shall be the divider's responsibility for the construction of the right of way.
- I. **Permanent monuments** Permanent monuments shall be placed by the sub-divider in the ground at all corners and angle points of angle and curvatures in the right-of-way lines of all streets, and at all lot corners within the subdivision a minimum of at least two monuments located in the subdivision shall be constructed of stable material not less than four (4) inches square or four (4) inches in diameter and at least 30 inches long and such monuments to be placed in different localities within the subdivision. All other such monuments shall be iron or steel pipe not less than one-half (½) inch nor more than one (1) inch in diameter at least 24 inches long. The top of all

stone and concrete monuments shall be set not less than four (4) inches above the finished grade at their respective locations. When rock is encountered, a hole shall be drilled four (4) inches deep in the rock into which shall be cemented a steel rod one half (½) inch in diameter, the top of which shall be flush with the finished grade line.

**5-2-5-2 Public streets** Any road which serves four (major subdivision) or more lots or parcels shall be designed and constructed in accordance with VDOT's Subdivision Street requirements unless otherwise indicated in section 5-3 of this ordinance

**5-2-5-3 Private Streets** Private streets will be permitted in minor subdivisions as access to and in minor subdivisions which meet the minimum lot size requirements. Private streets shall be allowed, provided that: (1) the internal private or external access streets adjoins a street or road maintained by VDOT; (2) the private street is clearly distinguished on the plat; (3) a sign approved by the agent, and purchased by the owner is posted at the entrance (s) to the private street (s) indicating that it is a private street and the sign included a statement relieving the County of Buckingham and the State of Virginia of responsibility for present or future maintenance, expansion, or extension of such street; such sign to be permanent and in place at the time of final plat approval.  
*Amended 7/23/07*

The following statement shall be included in each deed and on the final plat stating: *Amended 12/11/06*

“The streets in this subdivision do not meet the standards necessary for inclusion in the system of state highways and will not be maintained by the Department of Transportation or the county and are not eligible for rural addition funds or any other funds appropriated by the General Assembly and allocated by the Commonwealth Transportation Board.” *Amended 12/11/06 State Code – Chapter 566*

**5-2-5-4** The following shall be minimum specifications for any private road in a minor subdivision: *Amended – 7/23/07*

- A Right-of-Way *Amended – 12/11/06*
  - a Minimum of 50' Right-of-way *Amended 12/11/06*
  - b Minimum of 30' clearing *Amended 12/11/06*
  - c Minimum of 22' ditches, as needed, including culverts *Amended 12/11/06*
- B Road Surface *Amended 12/11/06*
  - a Minimum 18' road surface width *Amended 12/11/06*
  - b Minimum 4" base stone compacted and rolled in 2" increments *Amended 12/11/06*
  - c Minimum 2" stone (57's) compacted and rolled with a vibratory compactor *Amended 12/11/06*
- C Erosion and Sediment Control *Amended 12/11/06*
  - a Erosion control including silt fence and silt dams *Amended 12/11/06*
  - b Seed all banks and disturbed areas *Amended 12/11/06*
  - c Other erosion and sediment control as required by county or state law *Amended 12/11/06*

**5-2-5-5: Private Street(s) and Open Space(s) Maintenance** *Amended August 13, 2007*

**5-2-5-5-1 Year Developments Responsibility**

The developer shall be responsible for the continued maintenance of the private street(s) and/or open space(s) for a period of five (5) years from the date of the agent's signature on the final plat.

**5-2-5-5-2 Certification by Licensed Engineer**

The developer shall certify by a certified engineer in the Commonwealth of Virginia that the private street(s) is built to County standards as set forth in the Buckingham County Subdivision Ordinance. The report shall contain the seal of the engineer with the engineer's signature, the date of the inspection by the engineer and the findings. If the street is built to VDOT standards then VDOT must submit in writing that the street(s) is built to VDOT standards.

**5-2-5-5-3 Yearly Certification by Developer**

The developer shall certify on a yearly basis by a certified engineer in the Commonwealth of Virginia that the private street(s) continues to meet the minimum standards as set forth in the Buckingham County Subdivision Ordinance. The report shall contain the seal of the engineer with the engineer's signature, the date of inspection by the engineer and the findings.

**5-2-5-5-4 Estimate of Costs**

Two estimates on their respective letterheads from two different contractors shall be furnished the agent from the developer and the estimates shall show the total cost of:

- (a) The annual maintenance of the private street(s) that meets or exceeds the county subdivision road standards for five (5) continuous years
- (b) Shall include the cost of a Certified Engineers Report that the private street(s) meets or exceeds the subdivision standards for a private street on an annual basis for a five (5) year period, and
- (c) The cost of maintenance of any open space(s) for a five (5) year period
- (d) This shall also include any costs that a certified engineer in State of Virginia may charge for the above services
- (e) A-D shall be itemized on the bid sheet
- (f) A performance guarantee shall be furnished the agent at a cost of 1.5 times the higher of the two estimates

**5-2-5-5-5 Failure by Developer**

- 1. If the Developer fails to keep the private street(s) at the minimum standards as set forth in the Subdivision Ordinance on a yearly basis or;
- 2. Fails to furnish a certified report on the maintenance of the private street(s) standards as set for in the Subdivision Ordinance on a yearly basis or;
- 3. Fails to maintain the open space(s) on a yearly basis

The Agent shall use the performance guarantee(s) to:

- (a) hire a certified engineer for a report that the private street(s) meets or exceeds the standards as set forth in the Subdivision Ordinance for a private street(s) and as set forth in the Subdivision Ordinance for a private street or streets in any of the five (5) continuous years, and;
- (b) hire contractors that will bring the private street(s) to the minimum standards as set forth in the Subdivision Ordinance for a private street or streets in any of the five (5) continuous years, and;
- (c) maintain the open space(s) maintenance costs for five (5) continuous years; and
- (d) cover the cost that the certified engineer may charge for the above reports

The yearly date shall be considered the day that the final plat is signed by the Agent.

**5-2-5-5-6 Return of Performance Guarantee**

The performance guarantee or that part thereof shall be returned to the developer by the agent at the end of the five(5) year period. The developer shall pay into

the Homeowners Association, Road Board, Lot Owners Association, etc, a fee of one years estimated amount for:

- (a) The maintenance of the road for one year
- (b) The cost of certified engineers report and
- (c) Maintenance costs of open spaces for one year

The estimated amount shall be the higher of the two estimates as furnished for the original performance guarantee(s)

**5-2-5-5-7 Continued Responsibility**

The developer at the time of submittal of a preliminary subdivision for approval and which contains a private street(s) and/or open space(s) shall submit a document to be recorded with each lots deed that provides for an ongoing maintenance agreement beyond the developers five (5) years of annual private road(s) open space(s) maintenance responsibility and the document shall address, regardless of the developer having any ownership in the subdivision or not:

5-2-5-5-7-1 A private street(s) open space(s) maintenance agreement shall be addressed:

5-2-5-5-7-2 A Lot Owners Association, A Road Board, Homowners Association or some Association or Board of some kind shall be in place at the end of the five (5) year period of responsibility by the Developer for the continued maintenance of the private street(s) and open space(s);

5-2-5-5-7-3 The document shall also address the following:

- A. Financing of the ongoing maintenance
- B. Frequency of ongoing maintenance
- C. Enforcement of maintenance and financing and
- D. The developer shall not be excluded from any burden placed upon any lot owner as long as the developer is a lot owner or owner of lots beyond the five year period as addressed in this section.

The Developer shall state on each deed and on the final plat that the County of Buckingham Virginia shall be held free of responsibility for the enforcement of any covenants, road maintenance agreements, easements, conditions, restrictions, etc. or any other binding obligations that the developer or lot owners bind upon themselves.

**5-3**

**LOT SIZE:**

**5-3-1** The subdivision of land into 4 or more lots may be classified in the following manners:

*Amended – 6-26-06*

**5-3-1-1 Creating lots of between 1/4 acre and 2.99 acres:**

**5-3-1-1-1** Re-zone residential-2 (R-2) or Village Center (VC-1)

**5-3-1-2 Creating lot sizes of between 3 acres and 6.99 acres** *Amended – 6-26-06*

**5-3-1-2-1** Re-zone residential-1 (R-1)

**5-3-1-3 Creating lot sizes between 7 acres and 19.9 acres:**

**5-3-1-3-1** Any subdivision of more than 3 lots within this lot-size range must be re-zoned RSA-1 so long as each lot has a deed restriction barring further subsequent sub-dividing, and a statement on the final plat stating: “This subdivision shall have no further subsequent division of land”.

**5-3-1-4 Creating lot sizes between 20 acres and 39.9 acres:**

**5-3-1-4-1** May be exempt from rezoning if the division is ten (10) or fewer lots and each lot has deed restrictions barring further subsequent subdivision, and a statement on the final plat states: "This subdivision shall have no further subsequent division of land". Subdivisions meeting these requirements may also be exempt from the VDOT standard roads and may build County standard roads.

**5-3-1-4-2 Divisions including 11 or greater lots and/or not including deed restrictions barring further subsequent subdivision shall rezone to RSA-1**

**5-3-1-5 Creating lot sizes greater than 40 acres** *Amended – 6-26-06*

**5-3-1-5-1** May be exempt from rezoning if the division is fifteen (15) or fewer lots and each lot has deed restrictions barring further subsequent subdivision, and a statement on the final plat states: "This subdivision shall have no further subsequent division of land". Subdivisions meeting these requirements may also be exempt from the VDOT standard roads and may build County standard roads.

**5-3-1-5-2 Divisions including 16 or greater lots and/or not including deed restrictions barring further subsequent subdivision shall rezone to RSA-1**

**5-4 Road Frontage**

**5-4-1 LOT SIZE-PUBLIC WATER AND SEWER:** Residential-2 (R-2) and Village Center (VC-1) lots served by both public water or sewer systems shall have frontage on a street of 80 feet or more in width and be one-quarter (1/4) acre or more in area.

**5-4-2 LOT SIZE- PUBLIC SEWER OR ALTERNATIVE SEWER SYSTEMS:** Residential-2 (R-2) and Village Center (VC-1) lots served by only public sewer or an alternative sewer system shall have frontage on a street of 100 feet or more in width and be one-half (1/2) acre or more in area

**5-4-3 LOT SIZE-PUBLIC WATER OR CENTRAL WATER ONLY:** Residential-2 (R-2) and Village Center (VC-1) lots served by only one of public water or central water systems shall have frontage on a street of 125 feet or more in width and be one (1) acre or more in area.

**5-4-4 LOT SIZE-NEITHER PUBLIC WATER NOR SEWER:**

**5-4-4-1** Residential-2 (R-2) and Village Center (VC-1) lots served by neither public water nor public sewer systems shall have frontage on a street of 200 feet or more in width and be a minimum of 2 acres in area.

**5-4-4-2** Residential-1 (R-1) lots served by neither public water nor public sewer systems shall have frontage of 200 feet or more on an existing road or 200 feet at the building line for all new constructed roads that meet VDOT's SSAR (building line shall be parallel to the frontage) and be a minimum of 3 acres in area.

**5-4-4-3** Rural Small Farm (RSA-1) lots served by neither public water nor public sewer systems shall have frontage on a street of 300 feet or more and be a minimum of seven (7) acres in area.

**5-4-5 EXCEPTIONS:** Greater lot areas may be required where individual septic tanks or individual wells are used if the health official determines that there are factors, such as: drainage, soil conditions, or other conditions, which would cause potential health problems. The agent must require that data from percolation tests be submitted as a basis for passing upon subdivisions dependent upon septic tanks as a means of sewage disposal.

**5-5 LOT SHAPE:** The lot arrangement, design, and shape shall be such that lots will provide satisfactory and desirable sites for building, and be properly related to topography, and conform to requirements of this ordinance. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage of area which would be unusable for normal purposes. Flag and pipe stem lots are discouraged and subdivision conservation design principals are preferred.

**5-6 LOCATION:** Every subdivision lot shall front either on an existing public road, or an approved private street dedicated by the subdivision plat. Amended – 2/12/07 – Emergency ordinance – Amended – 3/12/07

**5-7 CORNER LOTS:** Corner lots shall have extra width sufficient for maintenance of any required building line on both streets as determined by the agent.

**5-8 SIDE LOT LINES:** Side lot lines shall be approximately at right angles or radial to the street line, except cul-de-sac terminal points.

**5-9 REMNANTS OR OUTLOTS:** All remnants of lots or out-lots below the minimum size remaining after subdividing a tract must be added to adjacent lots rather than allowed to remain as un-build-able parcels.

**5-10 BLOCKS**

**5-10-1 WIDTH** Blocks shall be wide enough to allow two tiers of lots of minimum depth fronting on all streets unless prevented by topographical conditions of size of the property in which case the agent may approve a single tier of lots of minimum depth.

**5-10-2 ORIENTATION:** Where a proposed subdivision will adjoin a major highway, the agent may require that the greater dimension of the block shall front or back upon such major highway to avoid unnecessary ingress or egress as the case may be. Any blocks designed for business or industrial purposes shall be designed specifically for such purposes with adequate space set aside for both off-street loading and delivery facilities.

**5-11 Any attempt to circumvent the intent of this ordinance by piecing together** smaller subdivisions into what effectively amounts to a subdivision with the number of lots that would have otherwise required rezoning shall nullify the lesser subdivisions in favor of the requirements of the larger subdivision.

**5-12 Each lot-size range within the A-1, RSA, and R-1 districts allow the number of permanent residences specified**

**below:** Amended – 6-26-06

**5-12-1** Lots less than 6.9 acres may have only one permanent dwelling.

**5-12-2** Lots of 7 acres may contain no more than 2 permanent residences and one additional residence may be added with each increase of 25 acres. ie. 32 acres – 3 residences, 57 acres – 4 residences.

**5-13 The R-2 and VC-1 districts allow the following number of permanent residences**

- 5-13-1 Lots with public water and public sewer or packaged water and packaged alternative sewer systems allow four (4) single-family residences, six (6) townhouses, or 12 apartments per acre.
- 5-13-2 Lots with private water and public or packaged alternative sewer systems allow two (2) single-family residences, three (3) townhouses, or six (6) apartments per acre.
- 5-13-3 Lots less than 6.9 acres without public or packaged alternative sewer systems may contain no more than one permanent residences.
- 5-13-4 Lots of 7 acres without public or packaged alternative sewer systems may contain no more than 2 permanent residences and one additional residence may be added with each increase of 25 acres.

**5-14 SET BACKS**

All buildings on Rural Small Farm (RSA) and Residential (R-1) lots shall maintain the following minimum set back limits:

- From the front property line - 50 feet
- From the side property lines – 25 feet
- From the back property lines - 25 feet

Principal structures on Residential R-2 and Village Center (VC-1) lots shall maintain the following set back limits:

- 25 feet from any existing VDOT maintained road's right of way.
- 35 feet from the centerline of any proposed and/or private road
- Side setbacks shall be a minimum of 10 feet with the total of both sides equaling 25 feet or greater.
- 15 feet for rear setbacks without right of ways

Accessory structures on Residential R-2 and Village Center (VC-1) lots shall be 25 feet for any existing VDOT maintained road and 35 feet from the centerline for any proposed and/or private road and shall be a minimum of 10 feet from all other property lines.

**SECTION 6 PLATTING**

**6-1 PLATTING GENERALLY**

**6-1-1 APPROVAL REQUIRED** No tract of land situated within Buckingham County shall be subdivided unless the sub-divider shall cause a plat of subdivision with reference to known or permanent monuments to be made, submitted, and approved pursuant to the terms of this ordinance and recorded among the land records in the Office of the Clerk of the Circuit Court of Buckingham County. No plat shall be recorded unless or until the plat shall have been approved and certified by the governing body or its authorized agent in accordance with the regulations set forth in this ordinance.

No lot shall be conveyed in any subdivision before the plat shall have been recorded.

The Board of Supervisors retains unto itself the authority of final approval of plats, which authority the Board of Supervisors hereby delegates to its agent.

**6-1-2 CHANGES:** No change or erasure or revision shall be made on any preliminary or final plat, nor on any accompanying data sheets unless authorization for such change has been granted in writing by the agent.

**6-1-3 FEES:** See Fee Schedule (Zoning Office) as approved by the Board of Supervisors (12/12/05)  
All fees shall be paid in full before the agent shall be allowed to sign off on the final plat.  
*Amended – 6-26-06*

**6-2 PRELIMINARY PLAT**

**6-2-1 GENERALLY** Fifteen (15) copies of a preliminary plat or plan prepared by a person qualified to do such work, including but not limited to land planners, urban planners, architects, landscape architects, professional engineers, and surveyors, shall be filed with the agent. The preliminary plat or plan shall be in the office of agent by the first day of the month to be considered on that month's Planning Commission agenda. The plat shall be drawn at a scale of 100 feet to the inch. Where conditions warrant, the agent may permit preliminary plats at a scale of 200 feet to the inch and of 300 feet to the inch. *Amended – 6-26-06*

**6-2-2 DECISION OF THE PLANNING COMMISSION, TIME LIMIT** A decision on the preliminary plat shall be rendered by the Planning Commission within 60 days of the filing.

**6-2-3 APPROVAL NOT GUARANTEED** The approval of the preliminary plat and plans and/or rezoning by the Planning Commission does not guarantee approval of the final plat and plans, and does not constitute approval or acceptance of the subdivision by the Board of Supervisors or authorization to proceed with the construction or improvements within the subdivision. *Amended 12/11/06*

**6-2-4 TIME LIMIT ON FILE, FINAL PLAT AFTER APPROVAL OF PRELIMINARY PLAT** Sub-dividers shall have not more than six months after receiving official notification concerning the preliminary plat to file in this office of the agent a final subdivision plat in accordance with this ordinance. Failure to do so shall render preliminary approval null and void. The agent may, on written request by the sub-divider, grant an extension of this time limit.

**6-2-5 DECISION OF THE PLANNING COMMISSION, NOTIFICATION OF THE SUBDIVIDER** The sub-divider shall be advised as to the recommendations and decisions of the Planning Commission. Such notification may be by formal letter or legible marking in red on the sub-divider's copy of the preliminary plat showing the Planning Commission's recommendations.

**6-2-6 DECISION OF THE PLANNING COMMISSION, RECOMMENDATION OF THE AGENT** At the time of the hearing before the Planning Commission, the agent shall present to the Planning Commission his recommendation concerning the preliminary plat and plans, including but not limited to compliance with the applicable ordinance.

**6-2-7 CONTENTS OF PRELIMINARY PLAT** The preliminary plat shall show the following:

A. The title under which the subdivision is proposed to be recorded and the names and addresses of the record owner and sub-divider and holders of any easements affecting the

property. The plat shall also show the name of the individual who prepared the plat, the date of drawing, number of sheets, the north point, and the scale. If the north is used, the method of determination shall be shown.

B. A vicinity sketch map at a scale of not less than one inch to two miles shall be included on the plat showing the relationship of the proposed subdivision to the adjoining property and the area within two miles showing all adjoining roads, their names and numbers, and other landmarks.

C. A topographic map with a contour interval of not greater than 10 feet showing all the area covered by the subdivision property related to Coast and Geodetic Survey data with the boundary lines of the tract to be subdivided and the 100-year flood plain limits delineated where applicable.

D. The location, width, and names of all existing or platted streets within or adjacent to the subdivision easements, railroad rights-of-way, and land lot lines, total acreage in each use, both proposed and existing, including utilities and water courses, and existing buildings within the boundaries of the subdivision.

E. Location and dimensions of proposed streets, alleys, lots, building lines, and easements, including a boundary survey or existing survey of record with a closing a error not in excess of one foot in 5,000.

F. All parcels of land intended to be dedicated or reserved for public use, or to be reserved in the deed for the common use of property owners in the subdivision.

G. The number, approximate dimensions, and area of all lots.

H. Preliminary sketch plans indicating the provisions for all utilities, including but not limited to the proposed method of accomplishing drainage, water supply, and sewage disposal. Preliminary sketch plans for any bridges or culverts that may be required shall be submitted. Proposed connections with existing sanitary sewers and existing water supply systems shall be indicated.

I. When the subdivision consists of land acquired from more than one source of title, the outlines of the various tracts shall be indicated by dashed lines, and identification of the respective tracts shall be placed on the plat

**6-2-8** If a commission or other agent disapproves a preliminary 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 days of the written disapproval by the commission or other agent. *Va. Code – 15.2-2260*

### **6-3** **FINAL PLAT**

**6-3-1** **GENERALLY** The subdivision plat submitted for final approval shall be clearly and legibly drawn on scale true material at a scale of 100 feet to the inch. Where conditions warrant, the agent may permit plats at a scale of 1 inch to 200 feet and 1 inch to 300 feet. The plat shall be prepared by a licensed surveyor or certified professional engineer, who shall affix upon each plat a certificate signed by him, stating the source of the title of the owner of the land subdivided, and the place of record of the last instrument in the chain of title. Three copies and the original plat shall be submitted to the agent. Final plat details shall meet the standard for plats as adopted under § 42.1-82 of the Virginia Public Records Act

**6-3-2** **DECISION ON FINAL PLAT** A decision shall be rendered by the agent on the final plat within 60 days after it has been officially submitted for approval.

- 6-3-3 RECORDING THE FINAL PLAT** Unless a plat is filed for recordation within six months after final approval thereof or such longer period as may be approved by the County, such approval shall be withdrawn and the plat marked void and returned to the approving official; however, in any case where construction of facilities to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the County or its designated administrative agency, or where the developer has furnished surety to the governing body or its designated administrative agency by certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of such facilities, the time for plat recordation shall be extended to one year after final approval or to the time limit specified in the surety agreement approved by the governing body or its designated administrative agency, whichever is greater
- 6-3-4 CERTIFICATION OF PLAT** The plat shall be accompanied by certification from: (1) the VDOT resident engineer that the plat meets the VDOT requirements of the State of Virginia for a subdivision in Buckingham County, Virginia, (2) the Virginia Department of Health Sanitarian that the lots meet sanitation laws, rules, and regulations, and (3) the Health Department listing conditions set forth by their review of the subdivision which shall be recorded in conjunction with the plat. The final plat shall not be approved until the sub-divider has met all other requirements and standards in accordance with this ordinance. Amended – 2/12/07 – Emergency ordinance Amended – 3/12/07
- 6-3-5 APPROVAL NOT REQUIRED** Nothing herein shall require the approval of an subdivision or any part or feature thereof which shall be found to constitute a nuisance or which shall be found to constitute a danger to the public health, safety, or general welfare.
- 6-3-6 OTHER REQUIREMENTS FOR FINAL PLAT** In addition to the requirements of preliminary plat, the final plat shall include the following:
- 6-3-6-1** A statement that:  
"the subdivision of the land described herein is with the free consent and in accordance with the desire of the undersigned owner, proprietors, and trustees." The statement shall be signed by such persons and duly acknowledged before an official authorized to take acknowledgments of deeds.
  - 6-3-6-2** Signature panels shall be provided for the designated agent of the Board of Supervisors. Also, signature panels shall be provided for the health official and the resident engineer of Virginia Department of Transportation to attest to the review and appropriate approval by the health official and Virginia Department of Transportation.
  - 6-3-6-3** The boundary lines of the area being subdivided shall be determined by an accurate field survey with bearings shown in degrees, minutes, and seconds to the nearest 10 seconds and dimensions to be shown in feet to the nearest hundredth of a foot. Total acres in each proposed use, plus 100-year plain delineation shall be shown.
  - 6-3-6-4** Lot numbers in numerical order and block identification.
  - 6-3-6-5** Location of all minimum building setback lines with the area, in square feet, of lots indicated for each individual parcel.
  - 6-3-6-6** Location and materials of all permanent reference monuments. Monuments found or installed prior to plat recordation may be referred to if permanent and undisturbed.
  - 6-3-6-7** A definite bearing and distance tie shown between the two permanent monument required by Section 5-2-5 J and further tie to an existing street intersection where possible and reasonably convenient.

**6-3-6-8** The accurate location and dimensions by bearing and distances with all curve data on all lots and streets, boundaries of all proposed or existing easements, parks, school sites, all existing public streets, their names, numbers and widths, existing utilities, and those to be provided such as sanitary sewers, storm drains, water mains, manholes and underground conduits including their size and type, water courses and their names, names of owners and their property lines, both within the boundary of the subdivision and adjoining said boundaries.

**6-3-6-9** A profile or contour map showing the proposed grades for the streets and drainage facilities including elevations of existing and proposed ground surfaces at all street intersections and at points of major grade change along the center line of streets, together with the proposed grade lines connecting therewith,

A cross-section showing the proposed street construction must be provided for all streets which are required by this ordinance to be built to standards of the VDOT.

**6-3-6-10** All dedicated easements, including easements for electricity, telephone, and other utilities.

## **SECTION 7    ENFORCEMENT**

**7-1    EXCEPTION** Where the sub-divider can show that a provision of these standards would cause unnecessary hardship if adhered to, and where, because of topographical or other conditions peculiar to the site, in the opinion of the agent a departure may be made without destroying the intent of such provisions, the agent may authorize an exception. Any exceptions thus authorized is to be stated in writing in the report of the agent with the reasoning on which the departure was justified. In no case shall any exception or exemption be granted for the quality and/or width of the road required under this ordinance.

**7-2    PERMITS** No permit will be issued by any administrative Agent of the County for the construction of any building or development or other improvements requiring a permit, upon any land for which a plat is required unless and until the requirements of this ordinance have been complied with.

**7-3    PENALTIES** Any person who violates any of provisions of this ordinance shall be guilty of a misdemeanor or any person who makes a false certification required by this ordinance shall be guilty of a misdemeanor, punishable by a fine of \$500.00.

**7-4    VALIDITY** Should any article, section, subsection, or provision of this subdivision ordinance be declared by a court or competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of this subdivision ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

**7-5    REPEAL and REPLACEMENT** Upon adoption the previous subdivision ordinance is repealed and this ordinance shall be its replacement. All ordinances or portions of ordinances in conflict with this ordinance are hereby repealed the extent of their conflict.

**7-6    AMENDMENTS** This ordinance may be amended in whole or in part by the governing body provided that any such amendment shall either originate with or be submitted to the Planning Commission for recommendations; Public hearings are to be held in accordance with state law.

## **SECTION 8    ORDINANCE OF THE TOWN OF DILLWYN**

Notwithstanding the provisions of any part of this ordinance, the Subdivision Ordinance of the Town of Dillwyn shall have precedence over the Subdivision Ordinance of the County within the corporate limits of the Town of Dillwyn, provided, however, that the ordinance of said Town shall comply fully with minimum requirements of the VDOT for roadway improvements

and of the Health Director or State Health Department Sanitarian for the County of Buckingham. Provided, also, that the ordinance of said Town as it applies to the recordation of subdivision with the Clerk of the appropriate court, shall fulfill the requirements of said court.

This ordinance shall become effective upon adoption and the Clerk of the Board of Supervisors shall transmit a copy to the Clerk of the Circuit Court of Buckingham County, Virginia.