

## Chapter 19

### SUBDIVISIONS\*

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\***Cross references**-Building regulations, Ch. 4; erosion and sedimentation control, Ch. 8; zoning, Ch. 24.  
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## ARTICLE I. GENERAL PROVISIONS

### Sec. 19-1. Short Title.

This chapter shall be known and may be cited as the "Subdivision Ordinance of James City County, Virginia," or simply as the "Subdivision Ordinance."  
(Ord. No. 30A-15, 1-9-89)

### Sec. 19-2. Definitions.

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

*Agent.* The James City County Director of Planning or his designee.

*Approved.* The word "approved" shall be considered to be followed by the words "or disapproved," when the sense so requires.

*Arterial streets.* A street specifically designed to move high volumes of traffic from collector streets through the county and not designed to serve abutting lots except indirectly through intersecting streets. Arterial streets shall include all U.S. Highways, state primaries with one-, two-, or three-digit numbers, state secondary roads with three-digit numbers, and any other street which the agent determines is functionally equivalent to these transportation department classifications. This definition shall not include three-digit-numbered streets which are part of a recorded subdivision or an extension thereof.

*Block.* Land containing lots which are bounded by streets or a combination of conservation areas, streets, public parks, cemeteries, railroads, rights-of-way, shorelines or boundaries of the county.

*Central water systems.* A water system in which all connections in the subdivision are served by one or more water sources through a common distribution system owned and operated by the James City Service Authority. Central water system shall include all structures, hydrants, property, equipment and appurtenances used in the production, storage and distribution of water.

*Commission.* The James City County Planning Commission.

*Common open space.* A parcel of land, an area of water, or a combination of land and water within a site designed and intended primarily for the use or enjoyment of residents, occupants, and owners within that development in which ownership is held in common with other owners of that development.

*Condominium.* A building, or group of buildings, in which units are owned individually, and the structures, common area, and common facilities are owned by all the owners on a proportional, undivided basis.

*County attorney.* The James City County Attorney or his designee.

*County engineer.* The James City County Engineer or his designee.

*Cul-de-sac.* A street with only one outlet having a circular turn-around for a safe and convenient reverse traffic movement.

*Development review committee.* A subcommittee of the commission charged with reviewing major subdivisions and exceptions to this chapter and making recommendations to the commission.

*Division of building safety and permits.* The James City County Director of Building Safety and Permits or his designee.

*Easement.* A right granted by a property owner permitting a designated part or interest of the property to be used by others for a specific use or purpose.

*Engineering and resource protection division.* The Director of the James City County Engineering and Resource Protection Division or his designee.

*Fire chief.* The James City County Fire Chief or his designee.

*Governing body.* The James City County Board of Supervisors.

*Health department.* The Commonwealth of Virginia Department of Health or an authorized official, agent or employee thereof.

*Highly erodible soils.* Soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight. The erodibility index for any soil is defined as the product of the formula  $RKLS-T$ , as defined by the "Food Security Act (F.S.A.) Manual" of August, 1988 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Soil Conservation Service, where K is the soil susceptibility to water erosion in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.

*Highly permeable soils.* Soils with a given potential to transmit water through the soil profile. Highly permeable soils are identified as any soil having a permeability equal to or greater than six inches of water movement per hour in any part of the soil profile to a depth of 72 inches (permeability groups "rapid" and "very rapid") as found in the "National Soils Handbook" of July 1983, as amended, in the "Field Office Technical Guide" of the U.S. Department of Agricultural Soil and Conservation Service.

*Hydric soils.* Soils that are saturated, flooded or ponded long enough during the growing seasons to develop anaerobic conditions in the upper part, which are saturated for usually one week or more in the growing period and have the capacity to support hydrophytic vegetation.

*Impervious cover.* A surface composed of any material that significantly impedes or prevents infiltration of water into the soil. Impervious surfaces include, but are not limited to: roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

*Improvements.* All public and quasipublic utilities and facilities including, but not limited to, streets, sanitary sewers, waterlines, stormwater management and erosion control facilities, electrical service, monuments, signs, sidewalks and streetlights required by this chapter.

*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 space, lot width, and lot areas as are required by Chapter 24, Zoning, either shown on a plat of record or considered as a unit of property and described by metes and bounds. A lot is synonymous with parcel or tract.

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

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

*Lot, flag.* A lot not fronting on or abutting a public road and where access to the public road is by a narrow, private right-of-way not less than 25 feet in width.

*Lot, frontage.* The minimum width of a lot measured along a street right of way from one side lot line to the other along a straight line.

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

*Lot of record.* A lot, a plat or description of which has been recorded in the clerk's office of the circuit court.

*Monument.* An iron pipe a minimum of 3/4 inches in diameter with a 24 inch length or a 5/8 inches in diameter reinforcing bar with a 24 inch length driven three inches to nine inches below the surface of the adjacent ground or an alternate type as approved by the county engineer.

*Plat.* A map or plan for a tract or parcel of land meeting the requirements of this chapter which is to be or which has been subdivided. When used as a verb, "plat" is synonymous with "subdivide."

*Property.* A unit or units of land of such size and dimensions that it may be subdivided into two or more lots.

*Public sewer.* A sewer system owned and operated by a municipality, county, service authority or the Hampton Roads Sanitation District Commission, approved by the governing body, licensed by the State Corporation Commission if required by law, and approved by the health department and State Water Control Board where appropriate.

*Public water.* A water system owned and operated by a municipality, county or service authority, approved by the governing body, licensed by the State Corporation Commission if required by law, and approved by the health department.

*Right-of-way.* The total width of land dedicated or reserved for public or restricted travel, including pavement, ditches, drainage facilities, curbing, gutters, pipes, sidewalks, shoulders and land necessary for the maintenance thereof. The right-of-way may contain public or private utilities.

*Road, future or planned future right-of-way.* Any road or similar transportation facility as shown on an approved plan of development or master plan or designated on the Comprehensive Plan, Six-Year Primary or Secondary Road Plan, Peninsula Transportation Plan or any road plan adopted by the board of supervisors.

*Runoff.* Precipitation which enters downstream waterways or properties.

*Septic tank system.* An individual nondischarge system approved by the health department which contains all the necessary apparatus for treating wastewater including a sewage holding tank and areas identified for primary and reserve drainfields.

*Service authority.* The James City Service Authority.

*Service authority manager.* The manager of the James City Service Authority or his designee.

*Service authority regulations.* The James City Service Authority *Regulations Governing Utility Service.*

*Setback line.* A line showing the closest point from a property line that a dwelling or principal structure may be constructed consistent with the zoning ordinance.

*Soil absorption systems.* On-site sewage disposal systems which utilize the soil to provide final treatment and disposal of effluent from a septic tank in a manner that does not result in a point-source discharge and does not create a nuisance, health hazard or ground or surface water pollution.

*Stormwater division.* The director of the James City County stormwater division or his designee.

*Street.* An existing or platted right-of-way dedicated for the use of the general public, or portions thereof, either accepted by the transportation department or approved as a private transportation system under the zoning ordinance. A street shall provide access to property by vehicular and pedestrian traffic for all purposes of travel transportation or parking to which it is adopted and devoted. This term is synonymous with road, lane, drive, avenue, right-of-way, highway, or any other thoroughfare.

*Subdivide.* The division of property into two or more lots.

*Subdivider.* An individual, corporation, partnership or other entity owning any property to be subdivided.

*Townhouse.* A dwelling unit for single-family occupancy in a structure containing three or more such dwelling units not more than three stories in height, attached by one or more vertical party walls extending to the roof sheathing without passageway openings to one or more additional such units, and each of which is serviced by an individual exterior entrance or entrances.

*Transportation department.* The Commonwealth of Virginia Department of Transportation or an authorized official, agent or employee thereof.

*Yard.* The space which lies between the lot line and the nearest point of a structure. The minimum yard required is defined for each zoning district. (Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-30, 4-13-04; Ord. No. 30A-35, 5-27-08; Ord. No. 30A-39, 7-26-11)

### **Sec. 19-3. Compliance with chapter mandatory.**

(a) No person shall subdivide land without making and recording a plat of subdivision and fully complying with the provisions of this chapter.

(b) No plat of any subdivision shall be recorded unless and until it shall have been submitted to and approved by the agent.

(c) No person shall sell or transfer any land of a subdivision before such plat has been duly approved and recorded as provided herein unless such subdivision was lawfully created prior to the adoption of a subdivision ordinance applicable thereto; provided, that nothing herein contained shall be construed as preventing the recordation of the instrument by which such land is transferred or the passage of title as between the parties to the instrument.

(d) No clerk of any court shall file or record a plat of a subdivision required by this chapter until such plat has been approved by the agent as required herein.

(e) The requirements of this chapter shall be considered separate from, and supplementary to, any requirements otherwise specified by this Code or by state or federal law. Nothing contained herein shall excuse compliance with other applicable ordinances or laws. Where local requirements are in conflict with mandatory state or federal requirements, the state or federal requirements shall prevail. (Ord. No. 30A-15, 1-9-89)

**Sec. 19-4. Penalties.**

Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating the provisions of this chapter shall be subject to a fine of not more than \$500.00 for each lot or parcel of land so subdivided or transferred or sold. The description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt any transaction from such penalties or from other remedies.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99)

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

**Sec. 19-5. Administration and enforcement of chapter.**

The agent is hereby delegated to administer and enforce the provisions of this chapter. The agent shall be considered the agent of the governing body. Notwithstanding an appeal as provided for in section 19-8, approval or disapproval by the agent shall constitute approval or disapproval as though it were given by the governing body. The agent may consult with the commission on matters contained herein and may call for written opinions or decisions from other county departments, the transportation department, and the health department in considering details of any submitted plat.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99)

**State law reference**-State law governing land subdivision and development, Code of Va., § 15.2-2240 et seq.

**Sec. 19-6. Effect of private contracts.**

This chapter bears no relation to any private easement, covenant, agreement or restriction, and the responsibility of enforcing such private easement, covenant, agreement or restriction is not implied herein to any public official. When this chapter calls for more restrictive standards than are required by private contract, the provisions of this chapter shall control.

(Ord. No. 30A-15, 1-9-89)

**Sec. 19-7. Changes, erasures and revisions.**

No change, erasure or revision shall be made on any preliminary or final plat, nor on accompanying data sheets, after the agent has approved in writing the plat or sheets, unless authorization for such changes has been granted in writing by the agent.

(Ord. No. 30A- 15, 1-9-89)

**Sec. 19-8. Subdivider may appeal from disapproval of plat.**

In the event a plat for subdivision is disapproved by the agent or commission, the subdivider may appeal to the governing body. The governing body may override the recommendation of the agent or commission and approve said plat. No appeal shall be made unless it is filed in writing with the clerk of the governing body within 30 days of disapproval by the agent or commission.

(Ord. No. 30A-15, 1-9-89)

**Sec. 19-9. Plan and plat preparation-by whom prepared.**

Each subdivision plan and plat shall be prepared by an individual duly qualified as set forth in title 54.1 of the Code of Virginia.

(Ord. No. 30A-15,1-9-89; Ord. No. 30A-27, 12-15-99)

**Sec. 19-10. How chapter may be amended.**

This chapter may be amended in whole or in part by the governing body. Any such amendment shall either originate with or be submitted to the commission for recommendation prior to adoption. If no recommendation is received from the commission after 60 days from submission, the governing body may act without a recommendation. No such amendment shall be adopted without a public hearing having been held by the governing body.

(Ord. No. 30A-15, 1-9-89)

**State law references**-For state law as to amendments to county subdivision ordinances, see Code of Va., § 15.2-2253; required filing of amendments, Code of Va., § 15.2-2252.

**Sec. 19-11. Resubdivision same as subdivision.**

Any change in a recorded subdivision plat that modifies, creates or adjusts lot lines shall be approved in the same manner and under the same requirements as a new subdivision. This section applies to any subdivision plat of record, whether or not recorded prior to the adoption of a subdivision ordinance. Where a street, alley, easement for public passage or other public area laid out or described in such plat is affected, the plat shall be vacated pursuant to section 19-12 prior to resubdivision.

(Ord. No. 30A-15, 1-9-89)

**Sec. 19-12. Vacation of recorded plat.**

Any recorded plat, or part thereof, may be vacated pursuant to section 15.2-2271 through section 15.2-2276 of the Code of Virginia, as amended. Any such vacation shall operate to destroy the force and effect of the recording of the plat so vacated and to divest all public rights in, and to reinvest to the owners, proprietors and trustee, if any, the title to the streets, alleys, easements for public passage and other public areas laid out or described in such plat.

(Ord. No. 30A-15, 1-9-89)

**Sec. 19-13. Construction and severability of provisions.**

This chapter shall be liberally construed so as to effectuate its purposes. If any clause, sentence, paragraph, section or subsection of this chapter shall be adjudged by any court of competent jurisdiction to be invalid for any reason, including a declaration that it is contrary to the constitution of the Commonwealth or of the United States, or if the application thereof to any government, agency, person or circumstance is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, section or subsection hereof, or the specific application hereof, directly involved in the controversy in which the judgment or holding

shall have been rendered or made, and shall not in any way affect the validity of any other clause, sentence, paragraph, section or subsection hereof, or affect the validity of the application thereof to any other government, agency, person or circumstance.  
(Ord. No. 30A-15, 1-9-89)

#### **Sec. 19-14. Private streets declaration.**

If approved streets in a subdivision are not to be constructed to meet the standards necessary for inclusion in the secondary system of state highways, or are not to be dedicated to the Virginia Department of Transportation, the subdivision plat and all deeds conveying lots in the subdivision, shall contain a statement advising that the streets in the subdivision shall not be maintained by the transportation department or the county, and where applicable, do not meet state design standards.  
(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99)

#### **Sec. 19-15. Fees.**

Fees shall be charged to offset the cost of reviewing plats and plans, making inspections and other expenses incident to the administration of this chapter. The following fees shall be charged and collected as provided below:

- (1) *General plan review.* There shall be a fee for the examination of every plan reviewed by the agent or commission. For all subdivisions that do not require public improvements, the fee for a major or minor subdivision shall be \$200.00 per plan plus \$70.00 per lot for each lot over two lots in the subdivision plat. For all subdivisions that require public improvements, the fee for a major or minor subdivision shall be \$250.00 per plan plus \$70.00 per lot for each lot over two lots in the subdivision plat. The fee for townhouse or condominium subdivisions which have undergone site plan review shall be \$50.00. The fee shall be submitted to the agent at the time of filing the plat for review. Any check shall be payable to the James City County treasurer. An additional fee of \$250.00 shall be collected for any review after the second re-submission not to include resubmittals that are the result of substantial redesign due to additional agency comments.
- (2) *Inspection fee for water and sewer lines.* There shall be a fee for the inspection by the service authority of public water and sewer system installations. Such fee shall be \$1.43 per foot for every foot of sewer main or water main constructed and shall be submitted as specified by the service authority regulations.
- (3) *Inspection fee for stormwater installations.* There shall be a fee for the inspection by the stormwater division of public stormwater installations and private stormwater installations required in accordance with section 23-10(4). Such fee shall be \$900 per practice for each best management practice constructed and \$.90 per foot for every foot of stormwater drain or channel constructed and shall be submitted at the time of filing an application for a land disturbance permit.
- (4) *Fees waived.* Payment of any permit fees established in section 19-15 shall be waived for the county, any entity created solely by the county and those regional entities to which the county is a party provided that: (1) The other parties to the regional entity similarly waive fees; and (2) The regional entity has locations in more than one locality.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-20, 5-6-91; Ord. No. 30A-25, 6-25-96; Ord. No. 30A-27, 12-15-99; Ord. No. 30-28, 5-14-02; Ord. No. 30A-29, 4-22-03; Ord. No. 30A-32, 10-26-04; Ord. No. 30A-34, 4-24-07; Ord. No. 30A-35, 5-27-08; Ord. No. 30A-40, 8-9-11)

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**Sec. 19-16. Saving provision.**

The adoption of this chapter shall not abate any pending action, liability or penalty of any person accruing or about to accrue, nor waive any right of the county under any provision in effect prior to the adoption of this chapter, unless expressly provided for in this chapter. Any subdivision plan which has received preliminary approval prior to the adoption of this chapter and for which a final plat is recorded within one year from the date of preliminary approval shall have vested rights under the ordinance in effect at the date of preliminary approval. Failure to record a plat within one year shall render the preliminary approval null and void. (Ord. No. 30A-15, 1-9-89)

**Sec. 19-17. Special provisions for family subdivisions.**

A single division of a lot or parcel is permitted for the purpose of sale or gift to a member of the immediate family of the property owner. For the purposes of this section, a member of the immediate family is defined as any person who is a natural or legally defined offspring, 18 years of age or older or an emancipated minor under Virginia Code section 16.1-331 et seq., or parent of the owner. Such subdivision shall be subject only to the following provisions:

- (1) Only one such division shall be allowed per family member and shall not be made for the purpose of circumventing this chapter. Lots created under this section shall be titled in the name of the immediate family member for whom the subdivision is made for a period of no less than three years unless such lots are subject to an involuntary transfer such as foreclosure, death, judicial sale, condemnation or bankruptcy.
- (2) The minimum width, yard and area requirements of all lots, including the remaining property from which the lot is subdivided, shall be in accordance with the zoning ordinance. Land proposed for subdivision shall be suitable for platting in accordance with section 19-32.
- (3) For property not served with public water and public sewer, each lot shall have its septic tank system and water source approved by the health department and shall be shown on the subdivision plat.
- (4) Each lot or parcel of property shall front on a road which is part of the transportation department system of primary or secondary highways or shall front upon a private drive or road which is in a right-of-way or easement of not less than 20 feet in width. Such right-of-way shall remain private and shall include a driveway within it consisting of, at a minimum, an all-weather surface of rock, stone or gravel, with a minimum depth of three inches and a minimum width of ten feet. The right-of-way shall be maintained by the adjacent property owners in a condition passable at all times. The provision of an all-weather drive shall be guaranteed in accordance with section 19-72. An erosion and sediment control plan with appropriate surety shall be submitted for approval if the proposed right-of-way and drive construction disturbs more than 2,500 square feet.
- (5) The corners of all lots created by family subdivisions shall be marked with iron pipes as provided for in section 19-35.

(6) A final subdivision plan shall be submitted to the agent for approval as provided in section 19-29 of this chapter along with an affidavit describing the purposes of the subdivision and identifying the members of the immediate family receiving the lots created. Any plan submitted shall be subject to the fee set forth in section 19-15.

(7) The above requirements shall be set forth in a subdivision agreement approved by the county attorney and recorded in the circuit court clerk's office for the City of Williamsburg and County of James City. (Ord. No. 30A-15, 1-9-89; Ord. No. 30A-19, 2-4-91; Ord. No. 30A-27, 12-15-99)

**Sec. 19-18. Exceptions.**

The commission may grant an exception to any requirement of the chapter, subject to the following:

(1) No such exception shall be granted unless the subdivider petitions the commission in writing. The petition shall state fully the grounds for the exception and all the facts relied upon by the subdivider. The agent may require such additional information as he may deem necessary to process the request for the exception.

(2) The agent shall provide written notification of the exception request to all adjacent property owners. The notification shall adhere to the following requirements:

- (a) Such notice shall specifically describe the exception requested and the date, time and location of the development review committee meeting first considering such request; and
- (b) Such notice shall be mailed by the agent at least ten days before the development review committee meeting; and
- (c) Evidence that such notice was sent by first class mail to the last known address as shown on the current real estate tax assessment book shall be deemed adequate compliance.

(3) The burden shall be on the subdivider to demonstrate the need for an exception.

(4) The commission shall not approve any exception unless it first receives a recommendation from the development review committee and unless it finds that:

- (a) Strict adherence to the ordinance requirement will cause substantial injustice or hardship;
- (b) The granting of the exception will not be detrimental to public safety, health, or welfare, and will not adversely affect the property of others;
- (c) The facts upon which the request is based are unique to the property and are not applicable generally to other property so as not to make reasonably practicable the formulation of general regulations to be adopted as an amendment to this chapter;
- (d) No objection to the exception has been received in writing from the transportation department, health department, or fire chief; and
- (e) The hardship or injustice is created by the unusual character of the property, including dimensions and topography, or by other extraordinary situation or condition of such property. Personal, financial, or self-inflicted hardship or injustice shall not be considered proper justification for an exception.

(5) The commission in authorizing an exception may impose such reasonable conditions in addition to the regulations of this chapter as it may deem necessary in the public interest. The commission may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

(6) If granted, such exception shall be specifically stated in writing together with the supporting justifications and filed with the subdivision plan or such plat or plans deemed necessary by the agent. A note shall be prominently placed on the record plat detailing any exception so granted.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99)

## ARTICLE II. PROCEDURES AND DOCUMENTS TO BE FILED

### Sec. 19-19. Preapplication conference and submission of conceptual plan.

(a) Before submittal of any preliminary or final subdivision plan, the applicant is advised to confer with the subdivision agent and such other agencies of the state and county as the agent deems advisable concerning the proposed subdivision.

(b) Prior to the submission of any major subdivision plan, the applicant or his representative is advised to submit three copies of a conceptual plan for review by the director of planning, or his designee; such action does not constitute the submission of a preliminary plan and is not to be construed as an application for approval in computing time limitations in relation thereto. The planning division shall transmit comments to the applicant within 21 calendar days of submittal of a plan which meets all applicable submittal criteria.

(c) The conceptual plan may be granted conceptual plan approval with conditions that should be satisfied prior to final plan approval by the zoning administrator; such action does not constitute final subdivision approval or preliminary plan approval. Submittal of a preliminary plan that does not incorporate the conditions set forth during the conceptual plan review period, shall be reviewed by the commission under the requirements of section 19-23. Unless required by the planning director, a resubmittal of conceptual plans shall not be necessary.

(d) Conceptual plans shall, at a minimum, show:

- (1) property lines
- (2) building locations and orientation
- (3) building locations on adjacent properties
- (4) location of parking area(s)
- (5) landscape areas/buffers
- (6) entrances/exits/access to the site (vehicular, pedestrian, greenway, etc.)
- (7) greenway connections (on-site and those adjacent to the subject property)
- (8) proposed use of site
- (9) building/landscape setbacks per James City County ordinance
- (10) site zoning and zoning of surrounding properties
- (11) location of stormwater management facilities
- (12) graphic scale
- (13) easements (conservation, utility, etc.)
- (14) unique natural/visual features (viewsheds, water features, wetlands, RPA buffer, known archaeological sites, etc.)
- (15) unique natural/visual features to be preserved (mature trees, etc.)
- (16) list of currently binding proffers or special use permit conditions
- (17) location of entry signs
- (18) topography of site

(e) If the planning director determines that one or more of the above submittal requirements is not applicable to the proposed project, the planning director may waive those requirements.  
(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-26, 5-11-99)

**Sec. 19-20. Master plan.**

For multiphased subdivisions, the subdivider shall submit to the agent a master plan for all phases of the proposed subdivision as part of the preliminary plan submittal. The purpose of such a master plan is to permit the agent to advise the subdivider whether his plans are generally in accordance with the requirements of this chapter. The commission, upon submission of any master plan, may study it and advise the subdivider where it appears that changes are appropriate. The agent may mark the master plan indicating appropriate changes. The subdivider shall return such master plan to the agent with each preliminary plan. The master plan shall, at a minimum, show the name, location and dimensions of all streets entering the property, adjacent to the property or terminating at the boundary of the property to be subdivided. It shall also show the location of all proposed streets, their category (e.g., arterial, collector, etc.) and any future extensions, lots, development phases, parks, playgrounds and other proposed uses of the land to be subdivided and their approximate dimensions and a conceptual layout of the water and sewer systems. The master plan is not binding on the subdivider or the governing body. Review of a master plan does not constitute final subdivision approval or preliminary plan approval. For multiphased subdivisions reviewed under this section, review of a master plan does not, in any way, guarantee approval of future subdivision phases. (Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99)

**Sec. 19-21. Classification of subdivisions.**

(a) *Minor subdivision.* A minor subdivision shall be a division of a tract of land into not more than five lots abutting an existing public road within the transportation department system of primary or secondary highways and which does not create a new street or extend an existing street.

(1) Any contiguous or internal property owned by the same subdivider, or deemed by the agent as a logical part of a contiguous or internal subdivision, cannot be subdivided into greater than five lots without being reviewed as, and meeting the requirements of, a major subdivision.

(2) A minor subdivision may include family subdivisions as defined herein. A preliminary or final plan shall include only those submittal requirements of this chapter and requirements for design and minimum requirements required by article III deemed necessary by the agent.

(b) *Major subdivision.* A major subdivision shall be a division of a tract of land into six or more lots or any division which creates a new street or extends any existing street. However, where additional lots are being created for the sole purpose of permanent open space or for the purpose of being dedicated to a conservation organization, as evidenced by documentation acceptable to the director of planning, the subdivision may be reviewed as, and meet the requirements of, a minor subdivision.

(c) *Townhouse or condominium subdivision.* A townhouse or condominium subdivision shall be a division of a tract of land into lots for townhouses or condominiums as shown on an approved site plan pursuant to the zoning ordinance. A preliminary or final plan shall include only those requirements for design and minimum improvements required by article III of this chapter deemed necessary by the agent. (Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99)

**Sec. 19-22. Procedure for review of minor subdivisions, townhouse or condominium subdivisions.**

(a) The subdivider shall submit to the agent one reproducible copy plus eight prints of a final plan for a minor, townhouse or condominium subdivision. If a preliminary plan is submitted, the number of copies of the preliminary plans required shall be determined by the agent. Upon submittal, the subdivider shall pay the appropriate subdivision plan review fee.

(b) Upon meeting all submittal requirements, the plan shall be reviewed by the agent and other agencies of the county and state as deemed necessary by the agent. The agent shall transmit county staff review comments to the subdivider within 45 days. Eight copies of a revised plan shall be submitted to the agent who shall within 30 days review the second submittal of plans for compliance with applicable county regulations, the requirements for final approval and any conditions of the preliminary approval. The agent shall review each subsequent submittal of revised plans within 21 days. The agent shall within 90 days approve or deny the subdivision plan and notify the subdivider of the action in writing. If a final plan is approved, such approval shall be in accordance with section 19-30. The agent shall certify such approval by signing the record plat. If a preliminary plan is approved, the agent shall include in the notification of preliminary approval all conditions required for final approval. If disapproved, the agent shall state in the notification to the subdivider the specific reasons for denial. The reasons for denial shall identify deficiencies in the plan which cause the disapproval by reference to specific duly adopted ordinances, regulations or policies, and shall generally identify such modifications or corrections as will permit approval of the plan.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-16, 11-6-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-37, 6-22-10)

**Sec. 19-23. Procedure for preliminary plan review for major subdivisions.**

(a) The subdivider shall submit to the agent twelve copies of the preliminary subdivision plan for a major subdivision and pay the appropriate subdivision plan review fee.

(b) Upon meeting all submittal requirements, the plan shall be reviewed by the agent and other agencies of the county and state as deemed necessary by the agent. The agent shall prepare a composite report on the proposed subdivision to determine if it meets the requirements of this chapter and the zoning ordinance. The report shall include review requirements by other agencies. The preliminary plan and the agent's composite report shall be reviewed by the development review committee (DRC) when it meets to make its recommendation to the commission. In order for subdivision plans to be considered by the DRC at one of its regularly scheduled monthly meetings, such plans shall be received by the planning division at least five weeks in advance of the respective DRC meeting.

(c) The commission shall consider the plan and either grant preliminary approval or disapprove it within 90 days of submittal. The plan may be granted preliminary approval with conditions. The agent shall notify the applicant of the commission's findings in writing within seven days of the commission meeting. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure final approval of the subdivision. If disapproved, the notice shall state the specific reasons for disapproval. The reasons for denial shall identify deficiencies in the plan which cause the disapproval by reference to specific duly adopted ordinances, regulations or policies, and shall generally identify such modifications or corrections as will permit approval of the plan.

(d) The subdivider may, at their discretion, submit an enhanced conceptual plan for review by the agent, other agencies of the county and state deemed necessary by the agent and the DRC in advance of preparation of fully engineered plans. The agent shall prepare a composite report on the proposed subdivision to determine its consistency with the requirements of this chapter and the zoning ordinance. The report shall include review requirements by other agencies. The enhanced conceptual plan and the agent's composite report shall be reviewed by the DRC when it meets to make its recommendation to the commission. The commission shall consider the recommendation of the DRC and either grant preliminary approval, defer or disapprove the plan. The plan may be granted preliminary approval with conditions. The agent shall notify the subdivider of the commission's findings within seven working days of the commission meeting. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure final approval of the subdivision. If disapproved, the notice shall state the specific reasons for disapproval. The reasons for denial shall identify deficiencies in the plan which cause the disapproval by reference to specific duly adopted ordinances, regulations or policies, and shall generally identify such modifications or corrections as will permit approval of the plan. Plans granted preliminary approval by the commission at the conceptual stage can move forward into full design for further review administratively by the agent. In order for enhanced conceptual plans to be considered by the DRC at one of its regularly scheduled monthly meetings, such plans shall be received by the planning division at least five weeks in advance of the respective DRC meeting.

(e) The enhanced conceptual plan shall at a minimum contain:

- (1) Project title, title block, legends, north arrows and plan scale labeled;
- (2) Vicinity and location maps and site address;
- (3) Site owner and developer information;
- (4) County tax parcel number, site boundary and parcel size information;
- (5) Setbacks (Building, Landscape) and Buffers (RPA, Community Character);
- (6) Adjacent property information;
- (7) Existing site features such as property lines, roads, buildings, roads, driveways, and utilities;
- (8) Existing topography using county base mapping (5 foot contours) or other mapping sources or surveys. Spot elevations shall be shown at topographical low or high points;
- (9) Existing and proposed rights-of-way and easements;
- (10) Layout of proposed improvements showing design placement, circulation, parking spaces, handicapped parking spaces, loading spaces, parking islands, recreation areas, and streetlights;
- (11) Landscape plan identifying general location of plantings and buffer/perimeter screening plantings;
- (12) Narrative indicating the purpose of the project and compliance with any proffer and master plan requirements;
- (13) Location and size of existing water mains and proposed connection point(s);
- (14) Proposed location of water meters, waterlines, and fire hydrants;
- (15) Proposed building usage and number of floors;
- (16) Preliminary water demands based on proposed use and required fire flow;
- (17) Fire flow test performed to determine adequate capacity;
- (18) Location of all existing or proposed private wells;
- (19) Location and size of existing sanitary sewer lines and manholes and proposed connection point(s);
- (20) Proposed sanitary sewer, pump or lift stations, and grinder pump(s);
- (21) Verification of sewer flow acceptance;
- (22) Location of primary and secondary onsite disposal system;

- (23) Narrative description of project, including usage and size to determine appropriate ITE code(s) and compliance with Chapter 527 Traffic Impact Analysis Regulations and Access Management Regulations;
  - (24) Proposed entrance location(s) and distance to nearest existing intersections, crossovers, and/or adjacent intersections;
  - (25) Proposed build out year and phasing information;
  - (26) Typical road sections including street widths, curb type, shoulders, sidewalks, bike lanes, planting strips, right-of-way lines, proposed utility locations, centerline curve data;
  - (27) Traffic Impact Study for projects that propose 100 or more lots, uses that generate in excess of 100 peak hour trips;
  - (28) Proposed design features or elements for which waivers will be sought;
  - (29) Project site area, disturbed area, impervious cover and percent impervious estimates;
  - (30) Applicable FEMA FIRM panel information and zone designations;
  - (31) County watershed, subwatershed and catchment;
  - (32) Identify if the site is subject to the County's Special Stormwater Criteria (SSC);
  - (33) Overall soils map for the site along with general soil descriptions for each soil mapping unit present on the site, including preliminary locations of highly erodible, hydric, permeable and Hydrologic Soil Group A and B soils;
  - (34) Full Environmental Inventory consistent with section 23-10(2) of the county's Chesapeake Bay Preservation ordinance containing a perennial stream assessment, delineated wetlands confirmed by applicable federal and/or state agencies, limits of work, a table listing all inventory components, whether they are present on the site and quantified impacts, and offsite work areas, if proposed;
  - (35) Demonstration that the project complies with section 23-9(b)(1), (2) and (3) of the county's Chesapeake Bay Preservation ordinance to limit land disturbing, preserve existing vegetation and minimize impervious cover consistent with the proposed land use or permitted development;
  - (36) Locations of existing and proposed stormwater management/BMP facilities, with county BMP ID Code numbers and labels to show intended BMP type in accordance with designations in the county BMP manual;
  - (37) Identify location of areas intended to be dedicated in conservation easement for natural open space, BMP worksheet or stormwater compliance purposes;
  - (38) Demonstration that the project complies with the county's 10-point system for water quality and stream channel protection, and Minimum Standard #19 of the Virginia Erosion and Sediment Control regulations by provision of a worksheet for BMP Point System;
  - (39) Demonstration that storm drainage systems and BMP outfalls must outlet into adequate, defined natural or man-made receiving channels;
  - (40) Identify preliminary location of primary proposed stormwater drainage system conveyances such as inlets, storm drainage piping, culverts and stormwater conveyance channels for primary systems;
  - (41) List of all known federal, state and local permits that are required for the project as well as any exceptions, variances or waivers that must be obtained or pursued.
- (Ord. No. 30A-15, 1-9-89; Ord. No. 30A-16, 11-6-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-37, 6-22-10)

**Sec. 19-24. Procedure for preliminary plan review for major subdivisions of fewer than fifty lots.**

Major subdivisions of fewer than 50 lots, including such major subdivisions that are part of a multiphased subdivision of 50 lots or more, may, at the agent's discretion, be reviewed under the procedures set forth in section 19-22, provided however, if the submitted preliminary plan does not have an approved conceptual plan,

as set forth in section 19-19, then the preliminary plan shall be reviewed by the commission under the requirements of section 19-23.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-16, 11-6-89; Ord. No. 30A-26, 5-11-99; Ord. No. 30A-27, 12-15-99)

**Sec. 19-25. Effect of approval of preliminary plan.**

Approval by the commission or the agent of the preliminary plan shall not constitute a guarantee of approval by the agent of the final plat.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99)

**Sec. 19-26. Term of validity for the preliminary plan and extension.**

(a) Once a preliminary subdivision plan is approved, it shall be valid for a period of five years, provided the subdivider (i) submits a final subdivision plat for all or a portion of the property within one year of such approval, and (ii) thereafter diligently pursues approval of the final subdivision plat. "Diligent pursuit of approval" means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications thereto. However, no sooner than three years following such preliminary subdivision plan approval, and upon 90 days written notice by certified mail to the subdivider, the commission or agent may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the final subdivision plat.

(b) If a subdivider records a final plat, which may be a section of a subdivision as shown on an approved preliminary plan, and furnishes to the county a certified check, cash escrow, bond, or letter of credit in an amount and form acceptable to the county for the estimated cost of construction of the facilities to be dedicated within said section for public use and maintained by the locality, the commonwealth or other public agency, the developer shall have the right to record the remaining sections shown on the preliminary plan for a period of five years from the date of the latest recorded plat of subdivision for the property. The five-year period of validity shall extend from the date of the latest recorded plat. Such right shall be subject to the terms and conditions of the Code of Virginia and subject to engineering and construction standards and the zoning ordinance requirements in effect at the time that each remaining section is recorded.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-18, 1-22-91; Ord. No. 30A-36, 1-12-10)

**Sec. 19-27. Preliminary plan-Submittal requirements.**

The preliminary plan for a minor or major subdivision shall be on a blue-line or black-line print. The scale shall be 100 feet to the inch except in cases where the agent approves an alternate scale. If more than one sheet is used, sheets shall be numbered in sequence and an index shall be provided. The preliminary plan for a minor or major subdivision shall include the following information:

- (a) The name of the subdivision, owner, subdivider, and surveyor or engineer, the date of drawing, number of sheets, north arrow and scale. If true north is used, the method of determination shall be shown. The plan shall also list any proffers or special use permit conditions that affect the property.
- (b) The location of the proposed subdivision on an inset map at a scale of not less than one inch equals 2,000 feet, showing adjoining roads, their names and numbers, subdivisions and other landmarks.
- (c) A closed boundary survey, or existing survey of record, total acreage, acreage of subdivided area, existing buildings, existing graves, objects or structures marking a place of burial, names of owners and existing property lines within the boundaries of the tract and for adjacent properties thereto, proposed monuments, lots, lot numbers, lot areas, blocks, building setback and yard lines. If any exceptions have been granted by the planning commission in accordance with section 19-18, the plan shall include a note detailing any exception so granted.
- (d) All existing, platted and proposed streets, both private and public, including their names, numbers and widths; existing and proposed utility or other easements, existing and proposed sidewalks, public areas, parking spaces, culverts, drains, watercourses, lakes, their names and other pertinent data. If the streets are to be private, the plan shall include a private streets declaration in accordance with section 19-14.
- (e) A drainage plan showing the proposed drainage system including all open ditches, closed storm drain pipes and stormwater management facilities proposed to convey the subdivision drainage to an adequate channel. The plan shall include sizes of all pipes and ditches, types of pipes and ditch linings, drainage easements and construction details of any stormwater management facilities. Drainage calculations shall be submitted with a drainage area map to verify the design of the drainage system including the adequacy of the channel receiving drainage from the proposed subdivision.

For multiphased subdivisions, a drainage area map shall be provided with drainage calculations for all phases of the subdivision to determine the adequacy of receiving channels. If receiving channels are not adequate, the map shall include the location of proposed stormwater management facilities.

The drainage plan shall include the topographic plan and a soil map of the site. The topographic plan submittal requirements vary depending on the location of the proposed development. Outlined below are the topographic plan submittal requirements for each specific area of the county.

*Areas generally south of the boundary line - Reference the county tax map for the boundary line location.* For all subdivisions planned in this area, the subdivision mapping and design shall be based on topographic surveys which are either derived from on-site field surveys or aerial photography. James City County topographic maps shall not be used for this purpose unless the county engineer permits the use of field verified James City County Topographic Maps. Subdivision plans shall show at least one contour line for each 100 feet of horizontal distance and shall show existing and proposed contours at intervals of no more than five feet. The contour interval shall be in whole feet.

*Areas generally north of the boundary line - Reference the county tax map for the boundary line location.* The topographic plan submittal requirements are the same as those required for areas generally south of the boundary line except that James City County topographic plans may be used. The applicant shall assume all risk associated with the accuracy and the precision of these maps.

- (f) An erosion control plan showing the location, type and details of proposed erosion and sediment control devices to be used during and after construction. The plan shall meet all requirements of the erosion and sediment control ordinance and shall be provided at a scale of 100 feet to the inch except in cases where the environmental director approves an alternate scale. The plan shall show existing and proposed contours at intervals of no more than five feet.
  - (g) Cross-sections showing the proposed street construction, depth and type of base, type of surface, compaction, shoulders, curbs and gutters, sidewalks, bikeways, side ditches and other features of the proposed streets.
  - (h) Street profiles showing the proposed grades for the streets and drainage facilities, including elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the centerline of streets, together with proposed connecting grade lines therewith.
  - (i) Size and location of existing sanitary sewer and water facilities; location and method of proposed connections to existing sewer and water facilities; size and location of proposed sewer and water facilities showing location of proposed water meters, gate valves, fire hydrants, fittings, manholes, sewer laterals and cleanouts; grinder pump locations; profile views of water and sewer mains with manhole rim and invert elevations and percent of slope; sewage pump station location, design and details; and water well facility location, design and details. All improvements shall be in accordance with the latest service authority Water and Sanitary Sewer Standards and Specifications.
  - (j) The preliminary plan for a major subdivision shall contain a copy of conceptual plan reviewed under the requirements of section 19-19.
- (Ord. No. 30A-15, 1-9-89; Ord. No. 30A-16, 11-6-89; Ord. No. 30A-17, 2-5-90; Ord. No. 30A-22, 7-17-95; Ord. No. 30-A-26, 5-11-99; Ord. No. 30A-27, 12-15-99)

**Sec. 19-28. Preliminary plan-Townhouse and condominium subdivisions.**

The preliminary plan for a townhouse or condominium subdivision shall be on a blue-line or black-line print. The scale shall be 100 feet to the inch, except in cases where the agent approves an alternate scale. If more than one sheet is used, sheets shall be numbered in sequence and an index shall be provided. The preliminary plan shall include the following information:

- (a) The name of the subdivision, owner, subdivider and surveyor or engineer, the date of drawing, number of sheets, north arrow and scale. If true north is used, the method of determination must be shown. The plan shall also list any proffers or special use permit conditions that affect the property.
- (b) Location of the proposed subdivision on an inset map at a scale of not less than one inch equals 2,000 feet, showing adjoining roads, their names and numbers, subdivisions and other landmarks.
- (c) A closed boundary survey, or existing survey of record, total acreage, acreage of subdivided area, existing buildings, existing graves, objects or structures marking a place of burial, names of owners and existing property lines within the boundaries of the tract and for adjacent properties thereto, proposed monuments, lots, lot numbers, lot areas, blocks, building setback and yard lines. If any exceptions have been granted by the planning commission in accordance with section 19-18, the plan shall include a note detailing any exception so granted.

- (d) All existing, platted and proposed streets, including their names, numbers and widths; existing and proposed utility, drainage or other easements, public areas and parking spaces; culverts, drains and watercourses, lakes, their names and other pertinent data. If the streets are to be private, the plan shall include a private streets declaration in accordance with section 19-14.
- (e) All parcels of land to be dedicated for public use and conditions of such dedication. (Ord. No. 30A-15, 1-9-89; Ord. No. 30A-16, 11-6-89; Ord. No. 30A-27, 12-15-99)

**Sec. 19-29. Final plan-Submittal requirements.**

The final plan for a subdivision shall be on blue-line or blackline print. The scale shall be 100 feet to the inch except in cases where the agent approves an alternate scale. The size of the record plat portion of the final plan shall not be smaller than 8 1/2" x 11" or larger than 18" x 24" inches. If more than one sheet is used, sheets shall be numbered in sequence and an index shall be provided. In addition to the requirements of the preliminary plan, the final plan for a subdivision shall include the following:

- (a) The accurate location and dimensions by bearings and distances, including all curve data, for all lots, and street lines and centerlines of streets. Distances and bearings shall balance and close with an accuracy of not less than one in 10,000 units.
- (b) The data of all curves along the street frontage shall be shown in detail at the curve or in a curve data table containing the following: delta, radius, arc, tangent, chord and chord bearings.
- (c) When the subdivision consists of land acquired from more than one source of title, the outlines of these tracts shall be indicated by dashed lines, and the identification of the respective tracts shall be shown on the plat.
- (d) A certification of each owner's consent duly acknowledged before a licensed notary public in the following format:

*Owner's Certificate*

The subdivision of land shown on this plat and known as (name of subdivision) is with the free consent and in accordance with the desire of the undersigned owners, proprietors and/or trustees.

\_\_\_\_\_ Date

\_\_\_\_\_ Signature

\_\_\_\_\_ Name printed

*Certificate of Notarization*

Commonwealth of Virginia

City/County of \_\_\_\_\_

I, \_\_\_\_\_ (Print Name), a Notary Public in and for the City/County and State aforesaid, do hereby certify that the persons whose names are signed to the foregoing writing have acknowledged the same before me in the City/County aforesaid.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, (Year).

\_\_\_\_\_  
(Signature)

My commission expires: \_\_\_\_\_.

Notary registration number: \_\_\_\_\_.

- (e) Certificates signed by the surveyor or engineer setting forth the source of title of the owners of the land subdivided, the place of record of the last instrument in the chain of title, and that the subdivision conforms to all requirements of the board of supervisors and ordinances of the County of James City, Virginia, in the following format:

*Certificate of Source of Title*

The property shown on this plat was conveyed by (previous owner) to (current owner) by (type of instrument), dated (date) and recorded in the Office of the Clerk of the Circuit Court of the County of James City in Deed Book (number), Page (number) or Instrument (number).

*Engineer or Surveyor's Certificate*

I hereby certify that, to the best of my knowledge or belief, this plat complies with all of the requirements of the Board of Supervisors and Ordinances of the County of James City, Virginia, regarding the platting of subdivisions within the county.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name printed

- (f) Certificate of approval as follows:

*Certificate of Approval*

This subdivision is approved by the undersigned in accordance with existing subdivision regulations and may be admitted to record.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Virginia Department of Transportation

\_\_\_\_\_  
Date

\_\_\_\_\_  
Virginia Department of Health

\_\_\_\_\_  
Date

\_\_\_\_\_  
Subdivision Agent of James City County

- (g) If the subdivided property contains wetlands and/or resource protection areas, there shall be a note on the plat which states the following:  
 “Wetlands and land within resource protection areas shall remain in a natural undisturbed state except for those activities permitted by section 23-7 of the James City County Code.”
  - (h) If the subdivided property contains a natural open space easement, there shall be a note on the plat which states the following:  
 “Natural open space easements shall remain in a natural undisturbed state except for those activities referenced on the deed of easement.”
  - (i) The plat shall include the following note:  
 “Unless otherwise noted, all drainage easements designated on this plat shall remain private.”
  - (j) If the streets are to be private, the plat shall include a private streets declaration in accordance with section 19-14.
  - (k) If any exceptions have been granted by the planning commission in accordance with section 19-18, the plat shall include a note detailing any exception so granted.
  - (l) Prior to final approval, data for major subdivisions shall be submitted in accordance with the “GIS Data Submittal Requirements for Major Subdivisions” policy, as approved by the governing body. This requirement may be waived provided a note is placed on the final plat stating that the engineer or surveyor of record did not draft the subdivision plans with a computer.
  - (m) If the subdivided property contains drainfield locations for a septic tank, the plat shall include the following note: “Septic tank and soils information should be verified and reevaluated by the Health Department prior to any new construction.”
  - (n) If the subdivided property contains an on-site sewage treatment system, the plat shall include the following note:  
 “On-site sewage treatment systems shall be pumped out at least once every five years per section 23-9(b)(6) of the James City County Code.”
- (Ord. No. 30A-15, 1-9-89; Ord. No. 30A-23, 7-17-95; Ord. No. 30A-27, 12-15-99; Ord. No. 30-33, 2-13-07; Ord. No. 30A-38, 10-12-10)

**Sec. 19-30. Procedure for approval of final plan.**

The subdivider shall submit for review and approval eight copies of the final plan for a major subdivision or as many copies of the final plat for minor subdivisions, townhouse or condominium subdivision as deemed necessary by the agent. Upon approval of the final plan by the agent, the subdivider shall submit one reproducible copy plus eight prints of the record plat portion of the final plat to the agent for review and approval. The record plat shall not be approved until the applicant:

- (1) Has complied with the requirements and minimum standards of design set forth in this chapter;
- (2) Has incorporated such changes or complied with such conditions on the final plan as may have been stipulated in the letter of notification following action by the commission or agent on the preliminary plan;

- (3) Has made satisfactory arrangements for performance assurances as specified in article IV of this chapter; and
- (4) Has executed all certificates required in section 19-29.  
(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99)

**Sec. 19-31. Term of validity for the final plan.**

The subdivider shall record the approved record plat in the clerk's office of the circuit court of the county within 180 days after approval thereof; otherwise, such approval shall become null and void.  
(Ord. No. 30A-15, 1-9-89)

**ARTICLE III. REQUIREMENTS FOR DESIGN AND MINIMUM IMPROVEMENTS**

**Sec. 19-32. Land must be suitable.**

(a) The agent shall not approve the subdivision of land if he determines, after adequate investigations conducted by the transportation department, the health department or the director of engineering and resource protection, that the site is not suitable for platting because of possible flooding, improper drainage, steep slopes, utility easements or other features harmful to the safety, health and general welfare of the public.

(b) In determining the suitability of lots, the minimum criteria shall be for each lot to have an accessible building site.

(c) Land not suitable within a proposed subdivision shall be platted for uses not endangered by periodic or occasional inundation and which otherwise shall not produce conditions contrary to public welfare or such land shall be combined with other suitable lots.  
(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-39, 7-26-11)

**Sec. 19-33. Location of utilities.**

(a) All utilities, including, but not limited to, wires, cables, pipes, conduits and appurtenant equipment for electricity, telephone, gas, cable television or similar service, shall be placed underground; provided, that the following utilities shall be permitted above ground:

- (1) Electric transmission lines and facilities in excess of 50 kilovolts;
- (2) Equipment, including electric distribution transformers, switch gear, meter pedestals, telephone pedestals, outdoor lighting poles or standards, radio antenna and associated equipment, which is, under accepted utility practices, normally installed above ground;
- (3) Meters, service connections and similar equipment normally attached to the outside wall of the customer's premises.

(b) Whenever existing utilities are located aboveground in proposed subdivisions, they shall be removed and placed underground except where they are within ten feet of existing public street rights-of-way.

(c) Where approved by the transportation department, with the exception of sewer laterals and water service lines, all utilities shall be placed within easements or street rights-of-way, unless otherwise required by the service authority, in accordance with "Typical Utility Details" (see Appendix A) as published by the service authority or as may be otherwise approved by the agent.  
(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99)

#### **Sec. 19-34. Locations and specifications for monuments.**

(a) Monuments shall be set at all street corners, at all points where the street line intersects the exterior boundaries of the subdivision, and at right-angle points and at the beginning and end points of curve along each street. Minimum requirements for monument material and installation shall be the same requirements contained in section 19-35 below. Alternate types of monuments may be used if approved by the county engineer prior to installation.

(b) At least two new or existing monuments at exterior subdivision boundaries shall be referenced to the county geodetic control network. Control monuments other than those installed by James City County may be used, provided that the other monuments were installed by York County or the City of Newport News Waterworks and also provided that the precision of other monuments used is at least equal to that of James City County control monuments. Subdivision plats must show the coordinate values in U.S. survey feet of two or more monuments so referenced. Additionally, the geodetic control monument from which the coordinate values are derived shall be referenced including its published coordinate values.

(c) This requirement shall apply to all subdivisions provided a county geodetic control monument exists within one mile of any exterior subdivision boundary. Surveys connecting to the James City County control monument network shall be conducted with a precision of 1:10,000. Surveyors may be required to submit coordinate value computations and supporting data to the county engineer.  
(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-21, 5-6-91; Ord. No. 30A-27, 12-15-99)

#### **Sec. 19-35. Lot corner monuments.**

All lot corners shall be marked with an iron pipe monument not less than three-fourths inch in diameter and 24 inches long or a five-eighths inch in diameter reinforcing bar monument 24 inches long. The top of such monuments shall be driven three inches to nine inches below the surface of the ground. When rock is encountered, a hole shall be drilled four inches deep in the rock into which shall be cemented a steel rod one-half inch in diameter. The top of the rod shall be flush with the finished adjacent ground grade. Alternate types of monuments may be used if approved by the county engineer prior to installation.  
(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-21, 5-6-91; Ord. No. 30A-27, 12-15-99)

#### **Sec. 19-36. Monuments-General requirements.**

The subdivider shall be responsible for replacing any monument which is damaged, disturbed or destroyed during construction. All monuments disturbed or destroyed shall be reset by a surveyor licensed in the Commonwealth of Virginia. Prior to final release of the surety required for a subdivision, the subdivider shall provide certification from a licensed surveyor that monuments required by this chapter have been properly placed.  
(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-21, 5-6-91; Ord. No. 30A-27, 12-15-99)

**Sec. 19-37. Easements.**

Appropriate easements shall be provided by the subdivider. The easements shall be of sufficient width for the specified use and shall include the right of ingress and egress for installation and maintenance of such use. Wherever possible, easements should be adjacent and parallel to property lines. The agent may require that easements through adjoining property be provided.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99)

**Sec. 19-38. Lot size.**

The minimum lot size shall be in accordance with the zoning ordinance provided, however:

(1) That where public water or public sewer systems or both such systems are not available, such minimum lot size may be increased by the agent in accordance with the recommendation of the health department; and

(2) Whenever there shall be plans in existence, approved by either the transportation department or by the governing body, for the widening, extension, or construction of any street or highway, the commission may require additional setbacks and yards for any new construction or for any structures altered or remodeled adjacent to the future planned right-of-way in order to preserve and protect the planned future right-of-way for such proposed street or highway.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99)

**Sec. 19-39. Lot arrangements, design and shape.**

The lot arrangement, design and shape shall be related to the topography such that each lot has:

(1) An acceptable building site in compliance with the requirements of the zoning ordinance and applicable health regulations; and

(2) Suitable access to the building site from an approved street. Unusually shaped or elongated lots, as determined by the agent, established primarily for the purpose of providing minimum square footage shall not be permitted.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99)

**Sec. 19-40. Lot location.**

Each lot shall abut and have access to a proposed public street to be dedicated by the subdivision plat or to an existing publicly dedicated street, unless otherwise specifically provided for in this chapter. If the existing streets do not meet the minimum transportation department width requirement, including adequate right-of-way to accommodate the appropriate pavement width, drainage, sidewalks and bikeways, the subdivider shall dedicate adequate right-of-way necessary for the street to meet such minimum requirement.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99)

**Sec. 19-41. Side lot lines.**

Sidelines of lots shall be approximately at right angles or radial to the street line.

(Ord. No. 30A-15, 1-9-89)

**Sec. 19-42. Lot remnants.**

Remnants of lots not meeting minimum lot requirements shall not generally be created by the subdividing of a tract. All such remnants shall be added to adjacent lots or, as approved by the agent, identified as common open space or natural open space.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99)

**Sec. 19-43. Double frontage lots.**

Double frontage lots shall not be permitted except where it is necessary that they abut arterial streets. Any access to an arterial street shall be prohibited by easement. This section shall apply to corner lots only if such lots abut an arterial street.

(Ord. No. 30A-15, 1-9-89)

**Sec. 19-44. Separate ownership of lots to be subdivided.**

Where the land covered by a subdivision includes two or more parcels in separate ownership, and lot arrangement is such that a property line is extinguished in the subdivision, each lot so divided shall be transferred by deed to single ownership simultaneously with the recording of the final plat. Such a deed shall be recorded with the final plat.

(Ord. No. 30A-15, 1-9-89)

**Sec. 19-45. Lot frontage.**

Lots within major subdivisions shall not front on arterial streets.

(Ord. No. 30A-15, 1-9-89)

**Sec. 19-46. Block length.**

The length of blocks shall be determined by public safety, traffic flow and existing topographic conditions. Where streets are approximately parallel, connecting streets shall be provided. In addition, a minimum 50-foot right-of-way shall be platted to the property line at suitable intervals, as determined by the agent, where appropriate to afford access to undeveloped land.

(Ord. No. 30A-15, 1-9-89)

**Sec. 19-47. Block width.**

Blocks shall be designed to consist of two tiers of lots. If such block design is prevented by topographical conditions, open space, buffers, size of the property, adjoining major streets, railroads or waterways, the agent may approve a single tier of lots.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99)

**Sec. 19-48. Street alignment and layout.**

(a) Streets in new subdivisions shall be designed to coordinate with other existing or planned streets contiguous to or within the general area of the subdivision as to location, width, grades and drainage. All street intersections shall be in accordance with transportation department standards. Street intersection jogs, with centerline offsets of less than 150 feet, shall be prohibited.

(b) Where streets are planned in multi-phased subdivisions, and when those streets are planned to be constructed in different phases, the following requirements shall apply:

- (1) These rights-of-way shall be clearly marked on the plats and labeled “Future Public Street” or “Future Public Street Extension” as appropriate.
- (2) The following notation shall be incorporated into any plat showing a stub or future street:  
“This right-of-way is platted with the intent of being extended and continued in order to provide ingress and egress to and from future subdivisions or adjacent property.”  
(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99)

**Sec. 19-49. Street construction standards.**

(a) Subdivision streets, unless otherwise specifically provided for in this chapter, shall be paved and dedicated for public use in the state system of primary or secondary highways. Streets shall have a right-of-way width in accordance with transportation department standards. Street construction plans shall be submitted to the transportation department for approval as part of the subdivision review process required by this chapter. Construction of subdivision streets, unless otherwise permitted by this chapter, shall be in conformance with transportation department standards and accepted into the state system of primary or secondary highways prior to release of the construction surety bond. Streets of the entire subdivision as depicted on the master plan shall be designed to fit into a street hierarchy separating streets into categories based on traffic levels in accordance with transportation department standards.

(b) Any private street permitted shall be certified to the satisfaction of the county engineer, or his designee, as having been constructed in accordance with all ordinance requirements and approved plans. Until such time as the county engineer has accepted and approved such certification, surety required to guarantee the proper construction of such private streets shall not be released. Construction certification shall be in accordance with administrative guidelines prepared by the county engineer.  
(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-24, 1-23-96; Ord. No. 30A-27, 12-15-99)

**Sec. 19-50. Street drainage.**

(a) Streets with a longitudinal slope of less than 0.75 percent as shown on the profile sheet of the preliminary and final plan shall be constructed as curb and gutter streets or as open ditch streets with a concrete paved ditch. The minimum longitudinal slope for any street to be constructed with a paved ditch shall be 0.5 percent.

(b) The minimum longitudinal slope for curb and gutter sections shall be 0.3 percent. If curb and gutter is proposed for any portion of a subdivision, it shall be required for all subsequent sections which extend a curb and gutter improved street.

(c) Drainage from street rights-of-way must be contained in either a pipe system constructed of materials approved by the transportation department, when within a street right-of-way, or a concrete paved ditch to the point where it outfalls into natural drainage or enters a common area. The paved ditch must have a minimum longitudinal slope of 0.3 percent. The upstream invert of any outlet pipe shall be 0.5 feet higher than the downstream invert and have a minimum slope of 0.2 percent. The downstream invert of the pipes or ditches must be at or above natural, existing ground. Side slopes of ditches not located within a public street right-of-way shall not exceed a slope of 3:1. These requirements may be waived or modified by the director of engineering and resource protection upon written request and justification by the owner or developer. (Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-39, 7-26-11)

**Sec. 19-51. Sidewalks.**

Sidewalks shall be required for all major subdivisions in accordance with section 24-35 of the zoning ordinance. (Ord. No. 30A-17, 2-5-90)

**Sec. 19-52. Cul-de-sac streets.**

Cul-de-sac streets shall not exceed 1,000 feet in length. Each cul-de-sac shall be terminated by a turnaround meeting minimum transportation department standards. (Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99)

**Sec. 19-53. Private streets.**

There shall be no private streets permitted in any subdivision except where permitted by the zoning ordinance or by section 19-17 of this chapter; provided, however, private streets may be allowed in townhouse and condominium subdivisions if the private streets are approved by the commission and meet, unless specifically exempted, all other street requirements in this chapter. (Ord. No. 30A-15, 1-9-89)

**Sec. 19-54. Street and subdivision names.**

(a) Proposed streets which align with existing streets shall bear the names of the existing streets. Names of proposed streets or subdivisions shall not duplicate, irrespective of suffixes, or be similar in sound or spelling to existing street or subdivision names in James City County, the City of Williamsburg, or the northern portions of York County, and the southern portions of New Kent County which may be served by the Williamsburg or James City County Post Office, by common zip code or by interjurisdictional emergency services.

(b) Street names shall be indicated on the preliminary and final plat and shall be approved by the agent. Names of existing streets or subdivisions shall not be changed except by approval of the governing body. (Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99)

**Sec. 19-55. Street signs.**

Permanent street identification signs shall be installed at all intersections. The signs shall be of a design approved by the agent, but at a minimum, either the street sign or the alphanumeric lettering shall be of a reflective material.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99)

**Sec. 19-56. Public water.**

If public water is available, it shall be extended to all lots within a subdivision including recreation lots. Availability of public water shall be determined in accordance with the service authority regulations.

(Ord. No. 30A-15, 1-9-89)

**Sec. 19-57. Water facilities.**

(a) If public water is not available, the subdivider of any major subdivision shall construct a central water system including distribution lines, storage, and supply facilities within the subdivision. Central water service shall be extended to all lots within a subdivision, including recreation lots. Upon completion and acceptance of the improvements, the water system, together with all necessary easements and rights-of-way, including the well lot, shall be dedicated to the service authority by deed and an accompanying plat.

(b) The central, water system requirement may be waived by the service authority manager. Such a waiver shall be requested in writing by the subdivider and approved prior to submission of preliminary plans. Any waiver may be subject to reasonable conditions which shall be communicated in writing to the agent and subdivider.

(Ord. No. 30A-15, 1-9-89)

**Sec. 19-58. Individual wells.**

If public water is not available, each lot in a minor subdivision shall be served by an individual well. All individual wells shall be approved by the health department or the service authority prior to approval of the subdivision plat.

(Ord. No. 30A-15, 1-9-89)

**Sec. 19-59. Public sewer.**

If public sewer is available, it shall be extended to all lots within the subdivision, including recreation lots. Availability shall be determined in accordance with the service authority regulations.

(Ord. No. 30A-15, 1-9-89)

**Sec. 19-60. Individual sewer.**

If public sewer is not available, subdivision lots shall be served by individual septic tank systems in accordance with the following:

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(1) Individual septic tank systems for each lot must be approved by the health department and shall be a soil absorption system of conventional or alternate design.

(2) The plans for such subdivisions shall include specific septic tank locations, including primary and reserve drainfields and soils information as required by health department regulations, as well as appropriate notation as required in section 19-29 (m). The record plat shall clearly designate each lot which has been approved by a soil absorption system of alternate design and shall contain a note which clearly discloses that such alternate systems may entail additional expenses.

Any proposed lots not suitable for the installation of septic tank systems shall be combined with lots that are suitable.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-31, 4-13-04)

#### **Sec. 19-61. Regulations governing utility service.**

All subdividers shall comply with the service authority regulations.

(Ord. No. 30A-15, 1-9-89)

#### **Sec. 19-62. Inspection of public water, sewer, and stormwater system.**

(a) Inspection of public water or sewer system installations shall be the responsibility of the service authority. Any subdivider of a subdivision shall obtain a certificate to construct sewer or water lines and facilities from the James City Service Authority (JCSA) prior to either extending existing facilities or building new facilities. Certificates to construct shall not be issued until the subdivider has paid the JCSA inspection fees in accord with section 19-15 of this chapter. A certificate to construct shall be required prior to final approval of the subdivision plat.

(b) Inspection of public stormwater system installations shall be the responsibility of the stormwater division. Surety provided in accordance with section 19-72 shall not be released until approved by the stormwater division in accordance with section 19-72(b).

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-20, 5-6-91; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-32, 10-26-04; Ord. No. 30A-35, 5-27-08)

#### **Sec. 19-63. Fire protection.**

Fire hydrants shall be installed in subdivisions at locations designated by the fire chief and the service authority at the time of an extension or construction of a public water system.

(Ord. No. 30A-15, 1-9-89)

**Sec. 19-64. Streetlights.**

(a) The subdivider shall install streetlights as determined by the director of engineering and resource protection and in accordance with the Streetlight Policy, as approved by the governing body, in those subdivisions which require the construction of streets. The subdivider shall deposit with the agent one year's rent for the streetlight system prior to approval of the final plan. If the streets within the subdivision are not accepted by the transportation department prior to the end of the one-year billing period covered by the deposit, the subdivider shall compensate the county for any additional rental charges incurred prior to release of the subdivision surety.

(b) Streetlights, in subdivisions with private streets, shall be installed by the subdivider as determined by the director of engineering and resource protection and in accordance with the Streetlight Policy, as approved by the governing body. Such streetlights shall be maintained and all operating expenses paid by the homeowners' association or other legal entity responsible for such expenses. The establishment of a homeowners' association or other legal entity shall be demonstrated to the satisfaction of the county attorney. (Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-39, 7-26-11)

**Sec. 19-65. Off-site sewer, water, and drainage costs.**

The subdivider shall be required to pay a pro rata share of the cost of providing reasonable and necessary sewer, water or drainage improvements located outside of the property limits of the land owned or controlled by him whenever the following conditions exist:

- (1) The county determines that such off-site improvements to sewer, water or drainage are necessitated at least in part by the construction or improvement of the subdivision.
- (2) The county or other appropriate authority has established a general sewer, water or drainage improvement program for an area having related and common water, sewer and drainage conditions.
- (3) The subdivider's property is located within said designated area covered by such program.
- (4) The estimated cost of the total water, sewer or drainage improvement program has been determined.
- (5) The estimated water flow, sewage flow or stormwater runoff has been established for the designated area served by such program.

(b) The subdivider's share of the above-estimated cost of improvements shall be limited to the proportion of such estimated cost which the increased water and sewage flow or increased volume and velocity of stormwater runoff to be actually caused by his subdivision bears to the total estimated volume and velocity of such water, sewage or runoff from such area in its fully developed state.

(c) Such payment received by the county shall be expended only for construction of those facilities for which the payment was required, and until so expended shall be held in an interest-bearing account for the benefit of the subdivider; provided, however, that, in lieu of such payment, the county may permit the subdivider to post a bond with surety satisfactory to the county conditioned on payment at commencement of such construction.

(Ord. No. 30A-15, 1-9-89)

**Sec. 19-66. Off-site road improvements.**

A subdivider may voluntarily contribute and the county may accept funds for off-site road improvements substantially generated and reasonably required by the construction or improvement of the subdivision. (Ord. No. 30A-15, 1-9-89)

**Sec. 19-67. Dedication and reservation of land for public purposes.**

(a) A subdivider may be required to dedicate or reserve land in the following ways:

(1) Up to a maximum of five percent of the land subdivided for public purposes including, but not limited to, parks, playgrounds, well lots, schools, libraries, municipal buildings and similar public or semipublic uses;

(2) Whenever there shall be plans in existence, approved by either the transportation department or by the governing body, for the widening, extension or construction of any street or highway, the commission may require the dedication or reservation of necessary right-of-way, including right-of-way for turn lanes, drainage, sidewalks and bikeways, in order to preserve and protect the planned future right-of-way for such proposed street or highway.

The governing body shall not be required to compensate any owner for such land if the need for the land is substantially generated by the subdivision. No land shall be reserved in such manner that would render it unusable to the subdivider if not used for the intended public purpose. The subdivider may petition the governing body to release the reservation of any land so reserved if not used for a proper purpose within a reasonable time.

(b) A subdivider that provides for the transfer of adequate and suitable land for parks and playgrounds to a subdivision homeowners' or a subdivision recreation association shall not be required to dedicate additional land for parks and playgrounds.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99)

**Sec. 19-68. Establishment of homeowners association.**

Within any major subdivision approved under this article in which an area is intended to be used in common for recreation and/or conservation, or other public or semipublic purposes, or where other improvements have been made in which operation and/or maintenance is the responsibility of the homeowners, no lot shall be approved, recorded, sold, or used within the development until appropriate documents in a form approved by the county attorney have been executed. Such documents shall set forth the following:

- a. The nature of the permanent organization under which common ownership is to be established, including its purpose, and provisions establishing requirements for mandatory membership;
- b. How it shall be governed and administered;
- c. The provisions made for permanent care and maintenance of the common property or improvements, including bonds when required by the county;
- d. The method of assessing the individual property for its share of the cost of adequately administering and maintaining and replacing such common property; and

- e. The extent of common interest held by the owner of each individual parcel in the tract held in common with others.
- (Ord. No. 30A-27, 12-15-99)

**Sec. 19-69. Entrance feature review.**

The developer shall submit plans for all residential subdivision identification signs, supporting structures, and entrance features to be reviewed with the preliminary subdivision plans under the requirements of article II, division 3 of the zoning ordinance.

(Ord. No. 30A-27, 12-15-99)

**Sec. 19-70. Stormwater management feature review.**

Stormwater management features shall be screened in accordance with article II, division 4 of the zoning ordinance.

(Ord. No. 30A-27, 12-15-99)

**Sec. 19-71. Shared driveway requirements for minor subdivisions.**

(a) For all minor subdivisions of three or more lots, unless exempted below, direct access from all lots to an existing arterial road shall be limited to one shared driveway. Such driveway shall be approved by the county engineer, however, at a minimum, in addition to the requirements found in section 19-32(c), said driveway shall be constructed of a paved surface at least ten feet wide and three inches deep. No such subdivision shall be recorded until appropriate documents in a form approved by the county attorney have been executed. Such documents shall set forth the following:

- (1) The provisions made for permanent care and maintenance of the shared driveway and any associated easement, including bonds when required by the county; and
- (2) The method of assessing the individual property for its share of the cost of adequately administering, maintaining and replacing such shared driveway.

(b) The requirements in (a) above shall apply only to undeveloped lots with a proposed minor subdivision and shall not apply to any proposed lot that is greater than five acres in size.

(Ord. No. 30A-27, 12-15-99)

**ARTICLE IV. PERFORMANCE ASSURANCES**

**Sec. 19-72. Installation of improvements and bonding.**

(a) Prior to approval of the final plat, all publicly or privately maintained and operated improvements which are required by this chapter shall be completed at the expense of the subdivider. Pending such actual completion, the subdivider may obtain final plat approval by providing for completion of the required

improvements by entering into an agreement with the county and furnishing to the county a certified check, bond with surety satisfactory to the county, or a letter of credit in an amount to cover the cost of all the improvements required to be installed by the subdivider as estimated by the director of engineering and resource protection. Such documents shall be submitted to the director of engineering and resource protection. The form of the agreement and type of surety shall be to the satisfaction of and approved by the county attorney. The length of time in which the improvements are to be completed shall be determined by the director of engineering and resource protection. If the improvements are not completed in a timely manner, the director of engineering and resource protection shall proceed to complete the improvements by calling on the surety.

(b) Upon written request by the subdivider, the director of engineering and resource protection shall make periodic partial releases of surety in a cumulative amount equal to no less than 80 percent of the original amount of the surety based upon the percentage of facilities completed and approved by the county, service authority or state agency having jurisdiction. Periodic partial releases shall not occur before the completion of at least 30 percent of the facilities covered by any surety or after completion of more than 80 percent of said facilities. The director of engineering and resource protection shall not be required to execute more than three periodic partial releases in any twelve-month period.

(c) Within 30 days after receipt of written notice by the subdivider of completion of part or all of the facilities required to be constructed, the director of engineering and resource protection shall notify the subdivider of any nonreceipt of approval by an applicable state agency, or of any specified defects or deficiencies in construction and suggested corrective measures. "Written notice" shall consist of a letter from the subdivider to the director of engineering and resource protection requesting reduction or release of the surety along with a set of as-built plans, if required, and a certificate of completion by a duly licensed engineer.

(d) If no action is taken by the director of engineering and resource protection within the thirty-day period, the request shall be deemed approved and a partial release granted to the subdivider. No final release shall be granted until after expiration of such thirty-day period and there is an additional request in writing sent by certified mail to the county administrator. The director of engineering and resource protection shall act within ten working days of receipt of this request. If no action is taken, the request shall be deemed approved and final release granted to the subdivider.

(e) Upon final completion and acceptance of said facilities, the director of engineering and resource protection or his designee shall release any remaining surety to the subdivider. For the purpose of final release, the term "acceptance" is deemed to mean when said public facility is accepted by and taken over for operation and maintenance by the state agency, county government department or agency, or other public authority which is responsible for maintaining and operating such facility upon acceptance.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-39, 7-26-11)