

SUBDIVISIONS

Chapter 18

SUBDIVISIONS

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*Cross reference – Town administrator, §2-108; issuance of building permit, §4-7; erosion and sediment control, ch. 5; floodplain district, ch.7; site plans and permit applications in floodplains, §7-51; historic district, ch.8; licenses and occupation taxes, ch.9; streets, sidewalks and public places, ch.17.

State law references – Notice of planning or zoning matters, Code of Virginia, §15.2-2205; codification of subdivision ordinance, Code of Virginia, §15.2-1433; planning, subdivision of land and zoning, Code of Virginia, §15.2-2200 et seq.; land subdivision and development, Code of Virginia §15.2-2240; Virginia Public Records Act, Code of Virginia, §42.1-76 et seq.

Adopted 2/1966; Rev. 10/98; repeal and reenact 9/2010

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ARTICLE I. IN GENERAL

Sec. 18-1. Title and Application:

This chapter shall be known, cited, and referred to as the Subdivision Ordinance of the Town of Stephens City, Virginia. The provisions of this subdivision ordinance shall apply to all land which is under the incorporated jurisdiction of the Town of Stephens City.

Sec. 18-2. Purpose and Intent.

The purpose of this chapter is to establish certain subdivision standards and procedures for the Town of Stephens City, as provided by the *Code of Virginia*, 1950, as amended. The enclosed standards and procedures are intended to guide and facilitate the orderly and beneficial growth of the Town and to promote public health, safety, convenience, prosperity, and general welfare consistent with the Town's *Comprehensive Plan*.

Sec. 18-3. Authority for Chapter.

In accordance with the Town's Charter and the enabling legislation provided by the General Assembly, as amended, this Chapter shall apply within the corporate limits of the Town and within such territory outside of the corporate limits of the Town as may be authorized from time to time by statute. To the extent lawfully allowed, this Chapter shall also apply to such tracts or parcels of land as are served by the Town water supply and/or sewer disposal facilities, irrespective of location.

Sec. 18-4. Relationship to Zoning Ordinance:

Subdivisions must comply with applicable provisions of the Town's Zoning Ordinance and Zoning Map.

(a) **Complementary Ordinances:** This Ordinance is intended to complement and be consistent with this Zoning Ordinance. The creation of a subdivision in no way exempts the land included within it from the provisions of the Zoning Ordinance or other Town ordinances or regulations.

Sec. 18-5. General Regulations.

(a) **Private contracts.** This chapter does not pertain to any private easement, covenant, agreement or restriction and neither the Town nor its Agent are responsible for enforcing such private easement, covenant, agreement or restriction implied herein. When this chapter calls for more restrictive standards than may be required by private contract the provisions of this chapter shall prevail.

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(b) **Mutual responsibility.** There shall be mutual responsibility between the applicant and the governing body to subdivide the land so as to improve the general use pattern of the land being subdivided.

(c) **Land must be suitable.** The Agent shall not approve any plat that does not meet the standards set forth in this chapter and the existing Zoning Ordinances.

(d) **Flooding.** Land designated as "Flood Zone A" within the Town's Floodplain Ordinance and on topographical maps published by the United States Geologic Survey and Federal Emergency Management Administration shall not be subdivided for purposes of human occupation; further, subdivision designs shall at all times minimize the risk of erosion or flood hazard.

Sec. 18-6. Variances.

(a) **Pre-submittal.** The Agent may consider a variance prior to the submission of an application if the Agent finds a departure will not destroy the intent of such provisions. Such a recommended variance does not guarantee approval of the subdivision application by the Planning Commission or Town Council.

Any such exceptions will be documented in the Agent's written report and include the Agent's reasons for allowing the exception(s) to the Planning Commission and Town Council.

(b) **Variances.** The Town Council may grant a variance to the general regulations of this Ordinance in cases of unusual situations or when strict adherence to the general regulations would result in substantial injustice or hardship.

(1) The Town Council may not grant a variance unless it is consistent with the intent of this Ordinance and would still preserve and protect the public interest. In granting a variance, the Council may do so only to the minimum extent necessary in the circumstances and may require their action by the subdivider to assure that the purpose of the affected regulation is accomplished.

(2) The subdivider may submit a written petition to the Council for a variance to the provisions of this Ordinance during the Preliminary Plat process. The Town Council will not consider any petition that is not in writing. The petition must state fully the grounds for the requested variance, including the basis for claiming an unusual situation, substantial injustice, and/or substantial hardship. If the subdivider seeks a variance in a requirement, the petition must state the extent to which he/she wishes the requirement to be varied.

(3) This Article does not apply to acquisition of lands by the Town to construct new streets and to widen existing public streets, ways, and alleys.

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Sec. 18-7. Penalties:

Any owner or proprietor of any tract of land who subdivides that tract of land and who violates any of the provisions of this chapter shall be guilty of a class 4 misdemeanor punishable by a fine each day of the violation shall constitute a separate violation.

The Town may further initiate an injunction, mandamus or any appropriate action to prevent, enjoin, abate, vacate or correct the records of the Clerk of Circuit Court of Frederick County for any improperly recorded subdivision of land, and the violator shall be held responsible for paying the costs of the Town actions.

Sec. 18-8. Administration.

(a) **Appointment of Agent.** The Town Council will delegate an Agent to administer the provisions of this chapter. This Agent shall act on behalf of the Town Council and approval or disapproval by the Agent shall constitute approval or disapproval as though it were given by the Town Council. The Agent shall:

- Consult and report findings to the Town Planning Commission
- Consult Town Engineer, Attorney, Health Official, or other appropriate agencies for appropriate levels of approval.

(b) **Duties.** The Agent shall perform designated duties in accordance with this chapter and the *Code of Virginia*, 1950, as amended.

(c) **Vacation.** The governing body shall have the authority to vacate any plat, or feature on the plat, at the request of the owner of a parcel and as otherwise provided in Article 6, Chapter 22 of Title 15.2 of the *Code of Virginia*, as amended.

(d) **Additional Authority.** In addition to the regulations in the Chapter regarding the platting of subdivisions, the Agent may, with approval of the governing body, establish reasonable additional administrative procedures as the Agent deems necessary for the proper administration of this chapter.

Sec. 18-9. Amendments.

This chapter may be amended in whole or in part by the governing body provided that any such amendment shall either originate with or be submitted to the commission for recommendation. Further, no such amendment shall be adopted without a public hearing in accordance with section 15.2-2204 of the *Code of Virginia*, as amended.

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ARTICLE II. PLATS AND PLATTING PROCEDURE

Division 1. Procedure for making and recording plats.

Sec. 18-10. Platting Required.

Any owner or developer of any tract of land situated within the Town who subdivides that land shall cause a plat of such subdivision with reference to known or permanent monuments to be made and filed with the Agent and recorded in the office of the Clerk of the Circuit Court of the Frederick County. No such plat of subdivision shall be recorded unless and until it has been submitted, approved and certified by the Agent in accordance with the regulations set forth in this chapter. No lot shall be sold in any such subdivision before the plat is recorded.

Sec. 18-11. Draw and Certify.

Every plat shall be prepared by a surveyor duly licensed by the Commonwealth of Virginia and shall satisfy the regulations of the Virginia Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects as published by the Virginia Department of Professional and Occupational Regulation.

- (a) Each plat will have a certificate signed by the Surveyor specifying:
 - (1) The source of the title of the land subdivided, and
 - (2) The place of record of the last instrument in the chain of title.
- (b) When the plat of land is acquired from more than one source of title, the outline of the various tracts shall be annotated on the plat within an inset or by dotted lines on the plat indicating the various tracts, which are included.
- (c) Unless otherwise provided, every plat shall be drawn to a scale of not less than twenty (20) feet to an inch and not more than two hundred (200) feet to an inch and must otherwise conform to the requirements of the Clerk's Office of the Circuit Court of Frederick County, Virginia.
- (d) Two (2) copies of the plats and specifications showing all existing features as well as all planned improvements such as buildings, utilities, easements, entrances, etc to be installed shall be prepared by an Engineer or Surveyor and shall be submitted to the Agent for approval.

If approved, one (1) copy bearing certification of such approval shall be returned to the applicant.

If disapproved, all papers shall be returned to the applicant within (60) days with the reason(s) for disapproval in writing.

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Sec. 18-12. Owner's Statement.

In addition to the Surveyor's certificate, every plat, or the deed of dedication to which the plat is attached, shall specify a statement to the effect that, " The subdivision of land as presented on this plat, containing _____ acres, more or less, and designated as _____ subdivision, situated in the Town of Stephens City is with the free consent and in accordance with the desire of the undersigned owners thereof, that all streets shown on said plat are hereby dedicated to the public use, and that all lots within the subdivision are subject to certain restrictions, reservations, stipulations and covenants as contained in a writing executed by the undersigned under date of _____, _____, and recorded in the Clerk's Office of Frederick County, Virginia, in Deed Book _____, page _____."

This statement shall be signed by the owners, proprietors and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgment of the deeds. The plat shall then be filed and recorded in the office of the clerk of the appropriate court and indexed under the name of the landowners signing such instrument and under the name of the subdivision.

Sec. 18-13. No one Exempt.

No person shall subdivide any tract of land that is located within the jurisdiction of this Chapter except in conformity with the provisions of this chapter and the *Code of Virginia*, 1950, as amended.

Sec. 18-14. Necessary Changes.

No change, erasure, or revision shall be made on any preliminary or final plat nor on the accompanying data sheets after the Agent has endorsed, in writing, the plat or sheets, unless authorization for such changes is granted in writing by the Agent and, such changes comply with these subdivision regulations in every respect.

Sec. 18-15. Fees.

It is the intent of the Town that the cost of administering this Ordinance be borne by those responsible for development; therefore, a fee schedule, as prescribed by the Town Council and modified from time to time, shall apply to all permits, reviews, notices, advertisements, public hearings and processing as required by this Ordinance.

Sec. 18-16. Compliance with Virginia Code Section 15.2-2222.1.

Prior to the submission of any required subdivision plat to the Town under this Chapter, the subdivider shall obtain from the Agent of the Town a written determination as to whether a Traffic Impact Analysis is required pursuant to Va. Code Sec. 15.2-2222.1 or the statutory amendments to this code section and the Virginia Department of Transportation (hereinafter VDOT) regulations adopted thereunder.

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If the determination by the Town's Subdivision Agent is that such an analysis is required by state law, the subdivider shall:

- Along with any and all other requirements under this Chapter, prepare the necessary package to be submitted to VDOT;
- Along with payment to VDOT and the Town for any required review fees;
- Submit these payments to the Town's Agent along with all other requirements under this Subdivision Ordinance.

No request for subdivision approval shall be deemed filed and completed until subdivider has either:

- (a) obtained a determination in writing from the Town's subdivision agent that no Traffic Impact Analysis review by VDOT is required for that particular subdivision or;
- (b) has filed with the Town the information required by Va. Code Section 15.2-2222.1 and the regulations thereunder and presented to the Town payment to VDOT and the Town in a form acceptable under the regulations.

All VDOT payments will be promptly forwarded to VDOT upon receipt. It will also be the further responsibility of the developer/requestor to comply with any follow-up requirements under Va. Code Section 15.2-2222.1 and VDOT regulations including attendance at any requested meetings, submission of further information or fees as may be required. This ordinance shall become effective September 7, 2010.

Division 2. Approval of Plats

Sec. 18-17. Approval Required Before Sale.

No sale of a lot or construction can take place prior to the approval of the preliminary plat, subdivision plat by the agent and recordation of the plat at the General District Court by the owner.

Sec. 18-18. Major Subdivisions.

A major subdivision is the division of a parcel of land that creates more than three (3) new lots and/or new public facilities (e.g. roads, utilities, etc.). Major subdivisions require the approval of the Town Council. Please refer to Figure 1, page 10.

Sec. 18-19. Minor Subdivision.

A minor subdivision is a plat showing property divided into no more than three (3) lots and no public facilities (e.g. roads, utilities, etc.) being proposed. Minor subdivisions also include proposals to consolidate existing lots. Minor subdivisions require the approval of the Agent. Please refer to Figure 2, page 11.

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Sec. 18-20. Preliminary Plat.

The applicant shall submit five (5) copies of the preliminary plat to the Agent at the appropriate scale as defined in Section 18-11.3. The preliminary plat shall include the following information:

- (a) Name of subdivision, owner, applicant, surveyor or engineer, date of drawing, number of sheets, north arrow and scale. The method in determining north shall be indicated.
- (b) Location of proposed subdivision by an inset map at a scale of not less than two (2) inches equal to one (1) mile, showing relative location to adjoining properties.
- (c) Subdivision boundary lines, acreage of subdivided area, area and frontage of all proposed lots, existing buildings, name of owners of adjoining tracts.
- (d) Existing and proposed streets, easements for all utilities, public areas, culverts, drains and etc.
- (e) Land proposed to be dedicated for public use, if any, and the conditions of such dedication.
- (f) Topography at intervals satisfactory to the Agent.
- (g) Proposed method of water supply and sewage disposal, location and capacity of existing sewers and water supply where subdivision proposes to connect to same.
- (h) Provisions for collecting and discharging surface drainage and preliminary designs of any structure that may be required.
- (i) Known sinkholes or caves, water protection district overlay areas or any off site improvements required per the subdivision.

Sec. 18-21. Approval of Preliminary Plat.

- (a) The Agent shall promptly review any preliminary plat and notify the applicant, within thirty (30) days from submission, if the package is not complete in accordance with this Chapter.
- (b) The Agent and the Planning Commission should discuss the preliminary plat with the applicant to determine whether the plat conforms to the requirements of this chapter and provide comments. The applicant shall then be advised in writing (or by notice on the copy of the plat) within sixty (60) days.
- (c) Once a preliminary plat is approved, it shall be valid for a period of five (5) years, provided the subdivider:

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1. submits a final subdivision plat for all or a portion of the property within one (1) year of such approval and;
2. thereafter diligently pursues approval for 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 (3) years following the preliminary subdivision plat approval, and upon ninety (90) days written notice by certified mail to the subdivider, the commission or other agent may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the final subdivision.

Sec. 18-22. No Guarantee.

Approval by the Planning Commission of the preliminary plat does not constitute a guarantee of approval of the final plat.

Sec. 18-23. Reserve.

Sec. 18-24. Final Plat.

The subdivision plat submitted for final approval must contain the following information:

- (a) Name of subdivision, magisterial district, county, state, owner, true north direction, scale of drawing and number of sheets, if shown on more than one (1) sheet, matched lines shall clearly indicate where the several sheets join. A blank space three (3) inches by five (5) inches shall be reserved for the use of the approving authority.
- (b) Location of proposed subdivision by an insert map at a scale of not less than two (2) inches equals one (1) mile indicating adjoining roads, their names and numbers, town, subdivisions and other landmarks.
- (c) A boundary survey.
- (c) Appropriate signatures, as determined by the Agent, shall appear on the face of the plat. (Refer to Appendix B.)
- (d) A statement written in accordance to Section 18-10 shall be recorded with the final plat.
- (e) When the subdivision consists of land acquired from more than one source of title, the outlines of the various tracts shall be indicated by dashed lines and identification

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of the respective tracts shall be placed on the plat.

- (f) All dimensions to be shown in feet and decimals of a foot to the nearest hundredth. All bearings in degrees, minutes and seconds to the nearest second.
- (g) The data of all curves along the street frontages shall be shown in detail at the curve or in a curve data table containing the following – delta, radius, arc, tangent, chord and cord bearings.
- (h) The location of graves, cemeteries or other objects or structures marking a place of human burial.
- (i) All final plats shall include requirements of the preliminary plats and additions set forth during the approval process of the preliminary plat.

Sec. 18-25. Conditions.

The Agent shall notify the applicant of approval or disapproval within ninety (90) days from the date of submission unless an extension is requested by the applicant. The plat shall not be approved until the applicant has complied with the general requirements and standards of design in accordance with this chapter and has made satisfactory arrangements for performance bond, if required by Section 18-39. Approval of the final plat shall be written on the face of the plat by the Agent. Plats not recorded within six (6) months of approval or such longer period as may be approved by the Agent, shall become void.

Sec. 18-26. Appeal.

If the Agent disapproves the final plat, the applicant, if they contend that the disapproval was not properly based on the ordinance applicable thereto or was arbitrary or capricious, may within sixty (60) days of the written disapproval appeal such disapproval to the Circuit Court having jurisdiction over such land if such disapproval is upheld.

If the Agent fails to act to either approve or disapprove the final plat in the ninety (90) days provided by Section 18-22, the applicant, after giving ten (10) days written notice to the Agent, may petition the Circuit Court in which the land involved, or the majority of it, is located to decide whether the plat should or should not be approved.

Sec. 18-27. Part of Tract.

Whenever part of a tract is proposed for platting and it is intended to subdivide additional parts in the future, a sketch planned for the entire tract shall be submitted with the preliminary plat. This sketch is merely for informational purposes and is not binding on the applicant or the governing body.

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MAJOR SUBDIVISION PROCESS:

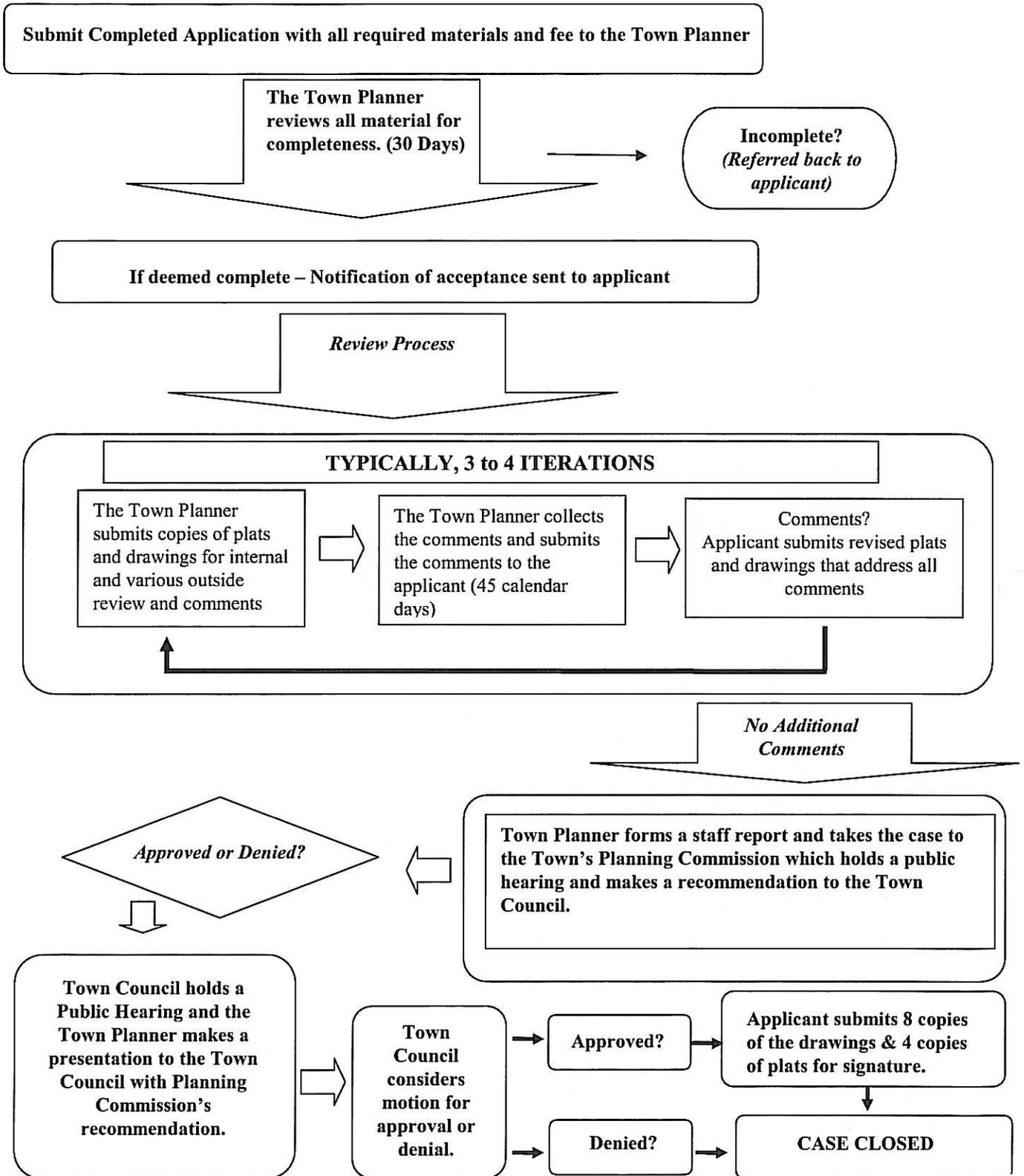


FIGURE 1: Major Subdivision Process

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MINOR SUBDIVISION PROCESS:

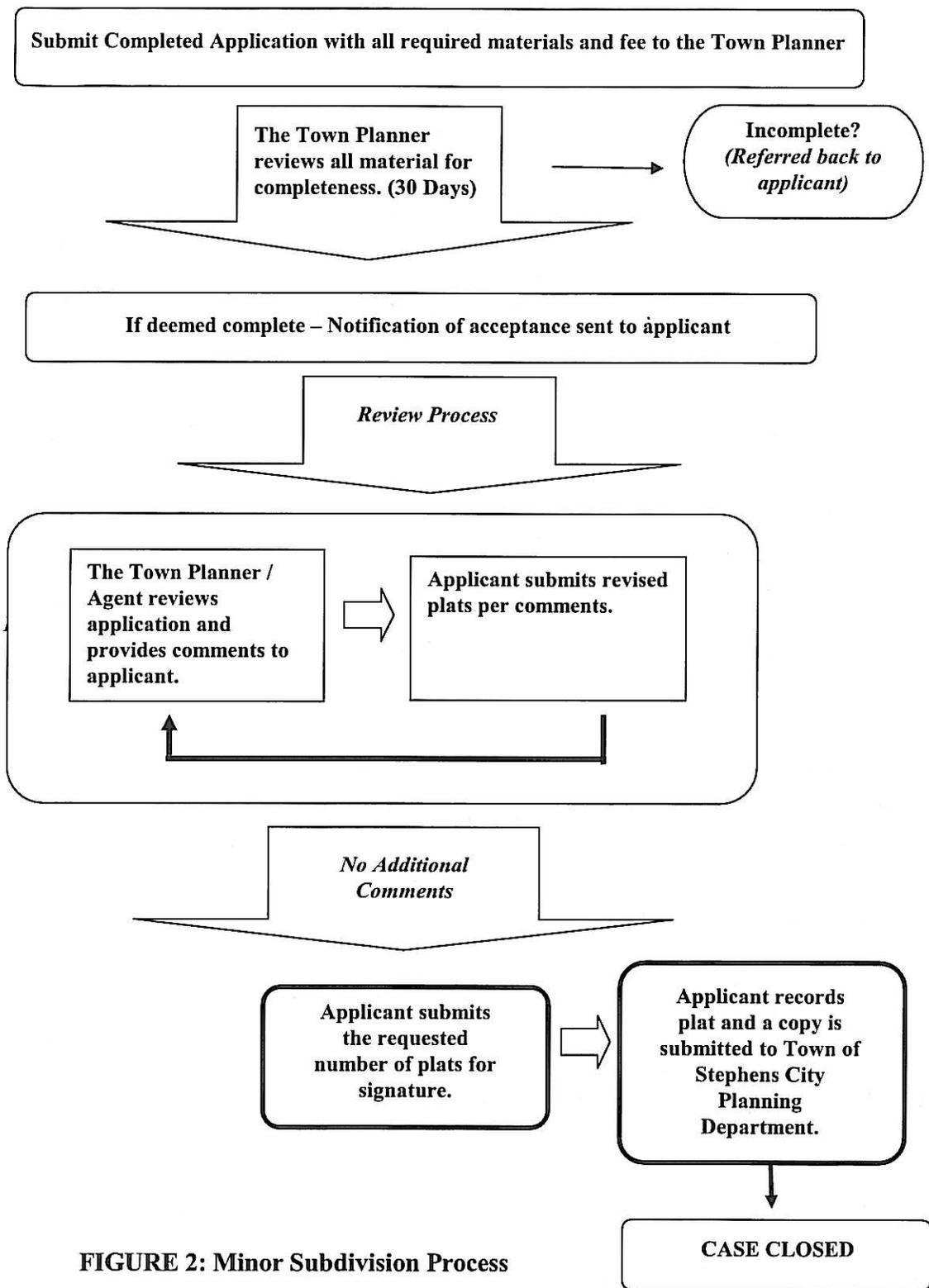


FIGURE 2: Minor Subdivision Process

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ARTICLE III. DESIGN STANDARDS

Sec. 18-28. Lots.

- (a) **Shape.** The lot arrangement, design and shape shall be such that lots will provide satisfactory and desirable sites for buildings and be properly related to topography and conform to requirements of the chapter. Lots shall not contain peculiar shape solely to provide necessary square footage of area.
- (b) **Location.** Each lot shall abut on a street. If the existing streets are not fifty (50) feet wide, the applicant shall make provisions in the deeds to the lots for all buildings to be so constructed as to permit the widening of such right of way as prescribed by the Town Engineer or body.
- (c) **Building setback lines.** Town Zoning Ordinance regulations shall govern.
- (d) **Corner lots.** Town Zoning Ordinance regulations shall govern.
- (e) **Size.** Lot size shall be controlled by the applicable provisions of the Town of Stephens City Zoning Ordinance.
- (f) **Flag Lots.** Flag lots or "pipestem" lots shall not be permitted.

Sec. 18-29. Unsuitable Lots or Parcels.

Any (or all) unsuitable lots or areas shall be added to adjacent lots or shall be dedicated for public use.

Sec. 18-30. Separate Ownership.

Where the land covered by the subdivision includes two (2) or more parcels in separate ownership and lot arrangement is such that a property ownership line divides one (1) or more lots, the land in each such lot shall be transferred by deed to single ownership simultaneously with the recording of the final plat. This deed shall be deposited with the Clerk of the Circuit Court of Frederick County and held with the final plat until the applicant is ready to record the same and they both shall then be recorded together.

Sec. 18-31. Blocks.

- (a) **Length.** The length of a block in a proposed subdivision shall be not less than 400 feet nor more than 1200 feet.

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- (c) **Width.** Blocks shall be wide enough to allow two (2) tiers of lots of proper depth. However, the Agent may approve a single tier of lots under adverse topographical conditions providing that the aesthetics of the block or subdivision are not seriously affected.
- (d) **Orientation.** Where a proposed subdivision will adjoin a major road, the Agent may require that the greater dimension of the block shall front or back upon such major thoroughfare to avoid inappropriate ingress or egress.
- (e) **Business or industrial.** Lots intended for business or industrial use shall be designed specifically for such purposes with adequate space set aside for off-street parking and delivery facilities.

Sec. 18-31. Streets.

A subdivision street or private road may be maintained by the Virginia Department of Transportation or by a property owner's association.

- (a) **Road Maintenance.** Any street or private road must be built to Virginia Department of Transportation standards. The plat, and each deed, shall clearly state whether the Town of Stephens City, Virginia Department of Transportation or a Home Owners Association is responsible for the maintenance of the roads. A road maintenance agreement, approved by the Town Council or their authorized agent, shall be filed with the deed of all lots to be served by such private road(s).
- (b) **Pedestrian Access.** All lots and uses within residential districts shall be designed to provide convenient and safe access for pedestrians through the use of sidewalks, trails and landscaping. The main entrances of buildings shall be oriented to the public sidewalk to an equal or stronger degree than to the driveway or garage. Concrete sidewalks shall be constructed. The Planning Commission shall have the authority to require sidewalks on both sides of any new subdivision street or accept an alternative pedestrian access on one or both sides of the street if they feel that the neighborhood would be better served by the construction of the additional sidewalk or an alternative type of pedestrian access.
- (c) **Alignment and layout.** The arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in adjoining areas. The street arrangement must be such as to cause no unnecessary hardship to owners of adjoining property when they plat their own lands and seek to provide for convenient access to it. Where, in the opinion of the Agent, it is desirable to provide for street access to adjoining property, proposed streets shall be extended by dedication to the boundary line of such property. Wherever possible, streets should intersect at right angles. In all hillside areas, streets running with contours shall be required to intersect at angles of not less than seventy-five (75) degrees unless otherwise approved by the Town Engineer.

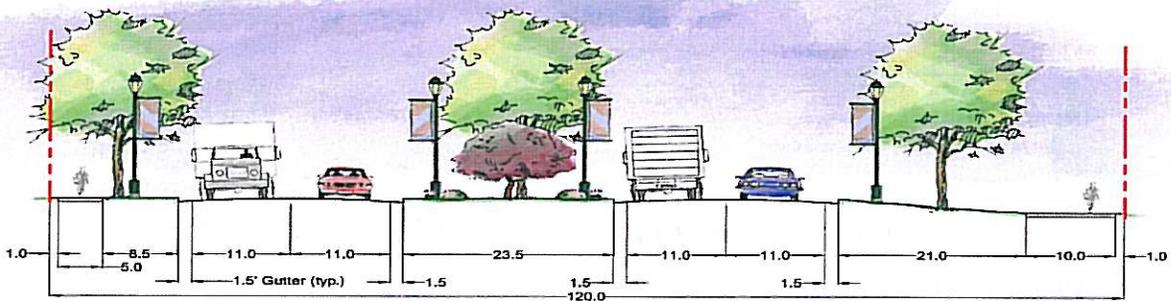
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- (d) **Cul-de-Sacs.** Cul-de-sacs will not be permitted within the Town. In special circumstances due to topographic reasons or other unusual circumstances, an applicant may present the reasoning to the Agent and to the Commission.
- (e) **Approval of Cul-de-sac.** A cul-de-sac that is recommended by the Commission for approval and approved by the Council either temporary or permanent shall follow all VDOT specification for construction of a cul-de-sac.
- (f) **Approach angle.** Major streets shall generally approach all other streets and highways at an angle of not less than seventy-five (75) degrees. However the Agent, with approval of the Town Engineer, may approve a lesser approach angle for reasons of contour, terrain or matching of existing patterns.
- (g) **Minimum widths.** The width of right-of-way for proposed streets shall be shown on the plat and shall be as follows:
 - 1. Primary Thoroughfare - Not more than one-hundred twenty (120) feet. Excludes on street parking. (Please refer to the cross section, Figure 3, page 15.)
 - 2. Collector Street - Not more than seventy (70) feet. Includes on street parking. (Please refer to the cross section, Figure 4, page 15.)
 - 3. Local Street - Not more than forty-four (44) feet. Includes on street parking. (Please refer to the cross section, Figure 5, page 16.)
 - 4. Alley, if permitted - Not less than twenty-four (24) feet nor more than thirty (30) feet. Excludes on street parking. (Please refer to the cross section, Figure 6, page 16.)
- (h) **Alleys.** Alleys are permitted provided that they are privately maintained and properly documented alleys and alley easements in residential and commercial zones with the written approval of the Agent or Town Engineer and documentation is acceptable to the Town ensuring the maintenance and upkeep to the alley and alley easement.
- (i) **Access to subdivisions.** Every subdivision shall be served from a publicly dedicated street.
- (j) **Names.** Proposed streets which are continuations of existing named streets shall bear the existing streets name. Names of proposed streets shall not duplicate existing street names in the area within the jurisdiction of this chapter irrespective of the use of suffixes. Street names shall be indicated on the preliminary and final plats and shall be approved by the Agent and the

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appointed department of Frederick County government in order to prevent streets with the same name within multiple areas of the Town and County. Names of existing streets shall not be changed except by approval of the governing body.

Primary Thoroughfare:



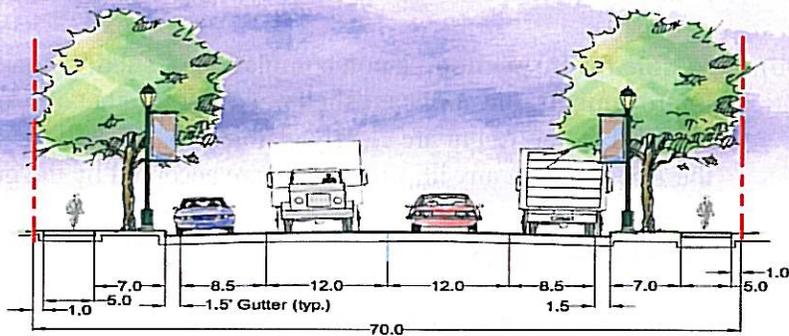
* All Dimensions taken from Face of Curb



120' R.O.W
Town of Stephens City

Figure 3- 120 Foot Cross Section.

Collector Street:



* All Dimensions taken from Face of Curb



70' R.O.W Section
Town of Stephens City

Figure 4- 70 Foot Cross Section.

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Local Street:

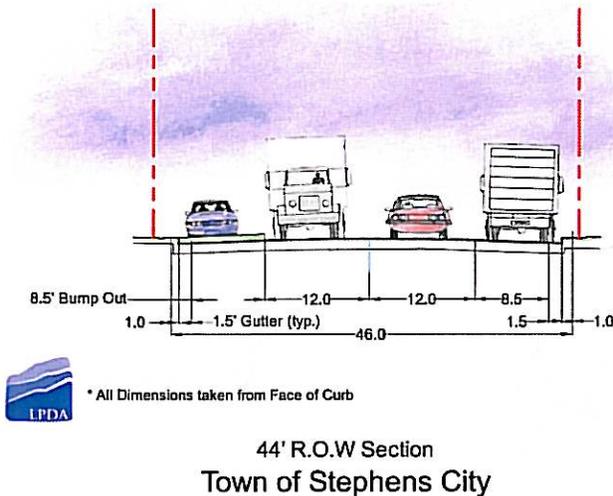


Figure 5- 44 Foot Cross Section.

Alley:

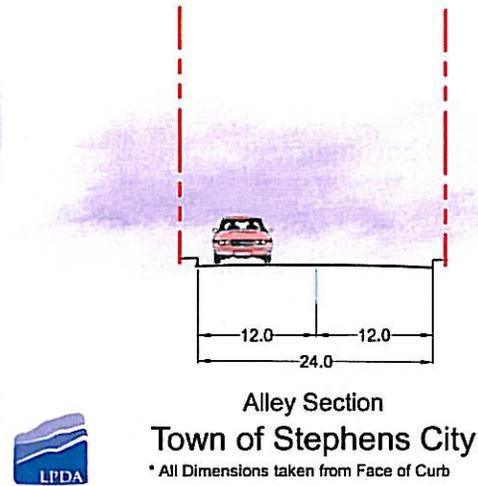


Figure 6 – 24 Foot Cross Section.

Sec. 18-33. Monuments.

- (a) **Locations.** Iron rods or pipes, or concrete monuments if the Agent requires such, shall be installed at all lot corners and at all points of curvature and points of tangent on the street line. Iron rods shall be not less than three-fourth (3/4) inch in diameter and eighteen (18) inches long driven at least fifteen (15) inches in ground. Concrete monuments (if required) shall be four (4) inches in diameter (round or square) with flat top and at least thirty (30) inches long. The top of the monument shall be set flush with the finished grade and shall have an indented cross marking the correct point of location.
- (b) **Visible for inspection.** Upon completion of subdivision streets and other improvements, the applicant shall make certain that all iron rods (or monuments) required by the Agent are clearly visible. These shall be inspected and approved by the Agent before any improvements are accepted by the governing body.

Sec. 18-34. Land for Public Uses.

The Town may request that the applicant set aside land for public use as parks and recreational areas or future widening of streets.

Sec. 18-35. Town Disclaimer.

Nothing in this chapter shall be construed as creating an obligation upon the Town to pay for or provide the following - grading or paving of streets, sidewalks, curbs, gutters, sewage or water systems, any other construction or facility; nor for the repair or maintenance of any of the above.

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Sec. 18.36. Open Space Requirements.

Open space provisions are intended to encourage development approaches by permitting flexibility in design. More specifically, open space is intended to serve such varied objectives as:

1. provision of active/ passive recreation;
2. buffering between dissimilar uses;
3. preservation of agricultural activity.

All requirements for open space shall be determined by the Town of Stephens City, Zoning Ordinance.

ARTICLE IV. SITE PLANS

Sec. 18-37. Developments and uses requiring a site development plan.

A site plan must be approved by the Agent prior to the commencement of the following uses and developments:

- (a) Any use or development in all zoning districts, including special uses, except for individually developed single-family detached dwelling units and individually two-family dwellings.
- (b) Any change in a previously approved site plan.
- (c) The conversion of an existing residential use to a commercial, industrial or higher density residential use.
- (d) All public or semipublic buildings.
- (e) All other uses involving a structure requiring review by the Planning Commission under Code of Virginia, Section 15.2-2232.
- (f) Development of lot or land without access to or abutting on a public right-of-way.
- (g) Any addition of four hundred (400) square feet or more to an existing development and any addition to an existing development which implicates other site plan requirements.
- (h) Modification to an existing site where other site plan requirements are implicated.

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Sec. 18-38. Exceptions.

A site plan shall not be required for a building addition which is under a total of four hundred (400) square feet in size and which does not implicate any other site plan requirement, and for any modification to an existing site where no other site plan requirements are implicated. A site plan is not required for the development of an accessory building structure in the R-1, R-2, R-3 or NDD zoning districts.

Sec. 18-39. Preliminary Meeting and Sketch.

The applicant is required to meet with the agent and may submit to the Agent a preliminary sketch of the proposed major subdivisions prior to his preparing engineered preliminary and final plats. The purpose of this preliminary meeting and sketch is to permit the Agent to advise the applicant whether their plans in general are in conformance with the requirements of this chapter. There is no fee for the review of this sketch. The Agent, upon submission of any such preliminary sketch, shall study it and advise the applicant in writing of appropriate changes. The Agent may mark the preliminary sketch indicating necessary changes and any such sketch shall be returned to the developer prior to the submission of the preliminary plat. The requirements of the preliminary sketch shall be as follows:

- (a) It shall be drawn on white paper or on a print of a topographic map of the property.
- (b) I shall show the name, location and dimensions of all street right of ways entering the property or terminating at the boundary of the property to be subdivided.
- (c) It shall show the location of all proposed street right of ways, easements for all utilities, lots, parks, playgrounds or other proposed uses of the land to be subdivided and shall include the approximate dimensions.

Sec. 18-40. Site plan review process.

- (a) Site plans required by the Town shall be prepared by a professional engineer, architect, certified landscape architect or land surveyor who is registered by the Commonwealth of Virginia and is conducting a practice in accordance with Code of Virginia, Section 54.1-400 et. seq., as amended. More stringent requirements may be established by the Town Code or the Code of Virginia. This requirement may be waived by the Agent if the type, scale and/or location of the proposed development does not necessitate such plans.
- (c) Five clearly legible blue or black line copies of a site plan shall be filed with the Agent.
- (d) The Agent shall be responsible for the receipt, review, processing and approval of the site plans.
- (e) The Agent may waive the requirements to show on the site plan specific items as required in Section 18-41 if, in their opinion, and based on recognized planning or engineering principles and in an effort to achieve the goals of this article, they are

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unnecessary to determine compliance with appropriate codes and ordinances. Such waiver shall not be construed to authorize the reduction or waiver of any standard or required improvement.

- (f) The Agent will submit site plans for review to other Town staff, agencies or authorities of the Commonwealth of Virginia, or from other persons as may be retained.
- (g) Approval or disapproval of a site plan by the Agent shall occur within sixty (60) days of filing complete applications with the Agent, unless extenuating circumstances exist, in which case the time may be extended by the Agent. The reasons for any disapproval shall identify modifications or corrections as will permit approval of the site development plan. Specific reasons for disapproval shall be contained either in a separate document or on the plan itself. The Agent shall act on any proposed site plan that has been previously disapproved within forty-five (45) days after the plan has been modified, corrected and resubmitted for approval.
- (h) To attain approval of any site plan and prior to the issuance of any building or zoning permit, the developer shall provide the Agent with an agreed upon set number of copies of the approved site plan.
- (i) Prior to final approval by the Town, site plans shall be signed by the owner or developer of the parcel(s) proposed for development. The signature shall certify that the owner/developer is aware of the site design requirements imposed by the site plan and other applicable Town codes, and shall further certify that the owner/developer agrees to comply with these requirements, unless modified in accordance with local law.
- (j) No building or zoning permit shall be issued by any Town official for any building, structure or use depicted on a required site development plan, until such time as the plan is approved by the Town.
- (k) Prior to approval of any site plan, at the Agent's option there shall be executed by the owner or applicant an agreement to construct required physical improvements located within the public right-of-ways or easements or connected to any public facility; and the applicant shall execute and deliver to the Town security approved by the Agent in the amount of the estimated cost plus twenty-five (25) percent of the required physical improvements as determined by the Agent. The agreement and the security shall provide for completion of all work within a time specified to be determined by the Agent or before occupancy is allowed in any structure, whichever shall occur first.

Please refer to Section

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18-40(i.) In addition, the applicant shall execute and deliver to the Town security by the Agent in the amount of the estimated cost of required erosion and sediment control measures as determined by the Agent.

- (l) The approval of a site plan or the installation of the improvements as required in this article shall not obligate the Town to accept improvements for maintenance, repair, and operation. Acceptance shall be subject to local or state regulations where applicable, concerning the acceptance of each type of improvement.

Sec. 18-41. Minimum standards and improvements required.

- (a) Any improvement required by this ordinance or any other ordinance of the Town shall be installed at the cost of the developer unless other written agreements have been reached between the developer, the Town, the Virginia Department of Transportation, and/or any other governmental agency. Where cost-sharing or reimbursement agreements between the Town and applicant are entered into they shall be recognized by formal written agreement prior to site development approval.
- (b) The accurate location and dimensions by bearings and distances with all curve data on all lots; street right of ways; boundaries of all proposed or existing easements, parks; school sites or other public areas; graves, object or structure marking a place of burial; the number and area of all buildings sites; all existing public and private streets, their names, numbers and widths; watercourses and their names; names of owners and their property lines both within the boundary of the subdivision and adjoining said boundaries.
- (c) **Construction requirements.** The grades of streets submitted on subdivision plats shall be approved by the Town Engineer prior to final action by the Agent. Street grades shall be designed to suit the terrain and lots, but in no case shall they exceed ten percent (10%) without written approval of the Town Engineer. All streets and construction shall conform to the Town of Stephens City *Public Facilities Manual*.
- (d) **Driveways.** The minimum grade for all driveways within any major subdivision is not to exceed eight percent (8%) grade without written approval of the Town Engineer.
- (e) **Identification signs.** Street identification signs of a design approved by the Agent and the Virginia Department of Transportation shall be required at all intersections. All street identification signs are required to be placed prior to the first Certificate of Occupancy.
- (f) **Outdoor Lighting Requirements.** Outdoor lighting provisions are intended to establish minimum standards for outdoor lighting in order to:

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- Ensure the provision of lighting that provides safety, utility, and security;
 - Prevent dangerous glare on public roadways and nuisance glare onto adjacent properties;
 - Protect the privacy of neighbors by limiting light trespass to neighboring properties;
 - Limit light pollution; and
 - Protect and retain the established historic character of the Town.
- (g) All external lighting shall be directed downward or towards the facade of a building or sign.
- (g) All external lighting on canopies or roofs shall be directed downward and for the principal purpose of providing ground lighting below the canopy or roof.
- (h) No canopy or roof fascia of any size or dimension shall be constructed, reconstructed, or altered in such a manner as to have internal lighting of any kind, except for a sign, which is integral to the canopy or roof fascia.

Sec. 18-42. Tree Requirements.

The intent of the tree requirements is to:

- regulate the planting and preservation of trees;
 - to promote the general health, safety and welfare of Town citizens;
 - to facilitate the creation of an attractive and healthy environment;
 - to promote clean and healthy air;
 - to protect property values;
 - to further the urban design, economic development and other goals and objectives of the Comprehensive Plan.
- (a) The following shall be exempt from the requirements of these tree replacement and planting regulations: school sites, playing fields, other non-wooded recreation areas and other facilities and uses of a similar nature, as determined by the Planning Commission to be sites on which trees would prevent the site from being used for its intended and permitted purpose.

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(b) The subdivider shall design and arrange lots in such a fashion as to preserve existing woodlands and trees of eight (8) inch caliper or greater. The preservation of such existing tree canopy may be used as a credit to canopy requirements as provided in 18-35.2-4 of this Ordinance. Trees scheduled to remain shall be marked. Where woodlands or groups of trees are to be retained, only those trees on the perimeter shall be marked. Temporary fencing or root pruning may be required along areas adjacent to heavy equipment operation.

1. In instances where deciduous trees (with the exception of evasive and non native trees) of eight (8) inch caliper or larger are removed, they shall replace the equivalent caliber of trees with trees indigenous to the Stephens City region, with a similar deciduous tree.

Example: One (1) 8 inch caliber tree cut could be replaced with four (4) 2 inch caliber trees planted

2. Tree plans shall provide for the planting or replacement of trees on the site to the extent that, at twenty (20) years, minimum tree canopies or covers will be provided in areas designated in this ordinance as follows:
 - a. Ten percent tree canopy for the site zoned business, commercial or industrial;
 - b. Ten percent tree canopy for a residential site zoned for twenty (20) or more units per acre;
 - c. Fifteen percent (15%) tree canopy for a residential site zoned for more than ten (10), but less than twenty (20) units per acre; and
 - d. Twenty percent (20%) tree canopy for a residential site zoned for ten (10) units or less per acre.
3. The Tree Plan shall specify the caliper size required at the time of planting need to achieve the above required canopies after twenty (2) years of normal growth.
4. Upon written request and justification of the subdivider, the Planning Commission may approve credits to reduce the on-site tree canopy requirements if in the judgment of the Planning Commission, the purposes of this Ordinance and the goals of the Comprehensive Plan can be better met through such credits. Such credits may be achieved through any of the following methods.

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1. By preserving existing tree cover. Existing trees which are to be preserved may be included to meet all or part of the canopy requirements, and may include wooded preserves, if the tree plan identifies such trees and the trees meet standards of durability, function and life expectancy.
 2. By Preserving Outstanding Trees. Upon approval of the Planning Commission, up to fifty percent (50%) of the tree canopy requirements for the site may be met by preserving one or more trees of outstanding age, size, or other physical characteristics in comparison to the typical specimen of that species normally found within the Town, if a certified arborist provides a written determination that any such trees are in good health. The canopy of each qualifying outstanding tree preserved shall count toward three (3) times as much canopy requirements.
 3. Exceptions and Deviations. The Planning Commission may grant an exception to or deviation from these requirements to allow for the reasonable development of farmland or other areas devoid of healthy or suitable woody materials. In such instances, the Planning Commission may permit the subdivider to provide for a tree canopy bank whereby a portion of the development's tree canopy requirements are met from off-site planting or replacement of trees on sites within the Town that are determined by the Planning Commission to be consistent with the Comprehensive Plan.
- (c) Existing diseased trees or trees weakened by age, storm, fire, or other injury, which are dead or face imminent demise within a year, as determined in writing by a certified arborist or horticultural report, may be removed without being subject to replacement requirements.

Sec. 18-43. Fire Protection.

Fire hydrants should be required at locations approved by the Agent. The Agent shall consult with the Fire Chief of the Stephens City Volunteer Fire Department or its successor.

Sec. 18-44. Pro Rata Share of Improvements.

Where it is the desire of the Town, based on the *Comprehensive Plan* and *The Town's Utility Master Plan* that any public facility including streets, water facilities, and sewerage facilities within a subdivision should be designed and constructed in excess of what is required to serve a particular subdivision, the applicant shall be required, as a minimum, to provide for such facilities as are needed for the subdivision.

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Where a general sewer and drainage improvement program has been adopted by the Town for a defined area, an applicant of that area shall pay a pro rata share of the cost of providing reasonable and necessary sewerage and drainage facilities. These facilities, which may be located outside the property limits of the land owned by the applicant, must be made necessary at least in part by the construction or improvement of his subdivision or development. The method of computing an applicant's pro rata share of cost shall be on a directly proportional basis, based on the estimated contribution of runoff or sewerage of that given subdivision or development to the estimated cost of the total improvement for the defined area. The basis for computing the contribution of runoff or sewerage and cost shall be consistent with the *Town of Stephens City Public Facilities Manual*.

Payment of cost under this Section must be made prior to the approval of the final plat and these funds shall be expended only for the construction of those facilities for which the payment was required. Until expended, these funds shall be held in an interest-bearing account for the benefit of the applicant. In lieu of such payment, bond may be posted in accordance with this Chapter.

Sec. 18-45. Information required.

Every site plan shall contain the following information. The information contained under the heading, "optional" may be required by the Agent as appropriate based upon the planning and engineering issues posed by the project, in order to achieve the goals of this chapter and of the Town Code.

(a) General information:

1. The name and address of the owner and developer.
2. Original date and revision dates.
3. Scale of the drawing and number of sheets. The scale of the plan shall be at a scale between one (1) inch equals ten (10) feet and one (1) inch equals fifty (50) feet. The site plan may be prepared on one (1) or more sheets. If preparation is on more than one (1) sheet, match lines shall clearly indicate where the several sheets join.
4. Name and address of person or firm preparing the plan.
5. Number of floors, floor area, height and location of each building.
6. Proposed general use of each building.
7. The number, size and type of dwelling units.
8. Zoning district and current use of the parcel and each surrounding parcel.
9. Address and tax parcel number of the site.
10. Owners names for each adjoining parcel.
11. Building location.
12. Boundary and dimensions of the site.
13. Location of the tract or parcel by vicinity map at a scale of not less than one (1) inch equals two thousand (2,000) feet and landmarks

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- sufficient to properly identify the location of the property.
14. Sheets shall not exceed twenty-four (24) inches by thirty-six (36) inches in size, nor be less than eighteen (18) inches by twenty-four (24) inches.
 15. All proffers, conditional use permit conditions, exceptions, or Board of Zoning Appeals actions applicable to the site.
 16. Proposed phasing and compliance computations for landscaping, parking, open space, and other as necessary for each phase.
 17. Signature block and approval statement for owner or developer and Agent.
 18. A north arrow referencing true, record, or grid north.
 19. Front elevations and street elevations shall be shown on all commercial, industrial and multi-unit residential developments, regardless of height.
 20. A certificate signed by the engineer or surveyor setting forth the source and title of the owner of the tract and the place of record of the last instrument in the chain of title.
 21. A minimum of two (2) datum references for elevations used on plans and profiles correlated to U.S. Geological Survey datum where practicable.
 22. A boundary survey of the tract or site plan limit.

(b) **Erosion and Sediment Control.**

- (a.) Limits of construction and computed area within limits of construction.
- (b.) Provisions and schedules for the adequate control of erosion and sedimentation indicating proposed temporary and permanent controls practices and measures which shall be implemented during all phases of clearing, grading, and construction in compliance with Chapter 5, Town Code.
- (c.) Existing topography accurately shown with a maximum of two-foot contour intervals at a scale of not less than fifty (50) feet to an inch.
- (d.) Proposed finished grading by contour.

(c) **Lighting.**

- (a.) For any exterior lighting to be installed, a lighting plan showing the height of the lighting fixture, the type of lighting fixture; and the means and sequence of implementation, which shall be carried out. Please refer to Section 18-41.6 for Outdoor Lighting Requirements.

(d) **Multi-unit Residential.**

- (a.) Location, area, and type of open space and specific recreational activity area.

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- (b.) Improvements necessary for any specific recreational activity.
 - (c.) The number, size and type of dwelling units, number of bedrooms, and typical floor plan.
- (e) **Parking.**
- (a.) All off street parking and parking bays, loading spaces, and walkways indicating type of surfacing, size, angle of stalls, width of aisles and specific schedule showing the number of parking spaces provided and the number required in accordance with the Town of Stephens City's Zoning Ordinance. Please refer to Section 23-61 of the Stephens City Zoning Ordinance.
 - (b.) Any access easements existing or proposed, with deed book and page number of recordation.
- (f) **Screening Landscaping and Buffer Yards.**
- (a.) Location, type, size and height of all fencing, and screening, where required under the provisions of the Town of Stephens City's Zoning Ordinance.
 - (b.) Location of required buffer yards.
 - (c.) Location, type, height, and detail of any proposed retaining walls.
 - (d.) A landscape planting chart showing the planting schedule, minimum size at planting, total canopy percentage, species, and total canopy coverage for the site.
 - (e.) The outline of existing groupings of trees. Physically outstanding or specimen trees within the groups shall be shown if they are to be removed, unless covered under the Tree Requirements of this chapter, in section 18-42.
 - (f.) All individual trees with a caliper of eight (8) inches or more at a height of two (2) feet above the ground or ornamental trees over twelve (12) feet shall be shown on the plan and labeled as to whether they will be saved or removed.
 - (g.) Where applicable, parking lot landscaping.
 - (h.) A landscape design plan, based upon accepted professional design and layouts and principles.
- (g) **Stormwater Management.**
- (a.) Provision for the adequate disposition of natural and stormwater in accordance with design criteria and construction standards of the state or the Town in effect at the time the site plan is submitted indicating location, sizes, types, and grades of ditches, catch basins and pipes, and connections to existing drainage systems. All stormwater management plans shall comply with this Subdivision Ordinance, Town Code and all other applicable Town Ordinances.

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- (b.) A detailed stormwater management plan and calculations meeting the standards of the Chapter 5 of Town Code.
 - (c.) Location of existing and proposed drainage easements with width noted, and deed book and page number of recordation of existing easements.
 - (d.) The location of all or any springs within the site and indicate proposed method of treatment.
 - (e.) Delineation of 100-year floodplain.
- (h) **Streets.**
- (a.) Existing and proposed streets including street rights-of-way, their names, width, width of surface or distance between curb faces and relation to center line, and street names and route numbers, if applicable, of all adjoining streets.
 - (b.) Location, type and size of ingress and egress to the site.
 - (c.) When proposed streets intersect with or adjoin existing streets or travel ways, both edges of existing pavement surface or curb and gutter must be indicated for a minimum of one hundred (100) feet or the length of connection, whichever is the greater distance.
 - (d.) Sight distance evaluation, horizontal and vertical at all proposed street intersections and entrances.
 - (e.) Pavement cross-section proposed.
 - (f.) Center lines.
 - (g.) Connection to proposed Town and Virginia Department of Transportation construction.
 - (h.) The percentage of grade shall be included on all street designs and may not exceed ten (10) percent grade.
- (i) **Utilities.** Electric and other public utility plans.
- (a.) Existing and proposed water and sanitary sewer facilities indicating pipe sizes, types and grades and where connection is to be made to an existing or proposed water and sewer system. All sizing is to ultimately be determined by Town's Water and Sewer Master Plans as adopted by the body.
 - (b.) Existing and proposed easements and rights of way, with deed book and page number of recordation, of all utilities shall be clearly defined for the purpose intended, and whether they are to be publicly or privately maintained.
 - (c.) All existing and proposed fire hydrant locations on-site, or distance and location of nearest hydrant offsite.
 - (d.) Design reports, for all utility extensions, documenting the base line conditions and the post development conditions of the utility. All design criteria must satisfy Town and Frederick County Sanitation Authority requirements.

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- (j) **Open space.** Site plans shall delineate, compute and show, where required, suitable area for parks, schools, open space, and other public or private recreation use.
- (k) **Signage.** Location of existing and proposed freestanding signs on the lot

Sec. 18-46. Comments- Term of validity.

The Town's comments or commitments on a proposed site plan that is not approved are valid for six (6) months from the date rendered. After that period, these comments or commitments will be considered void and a resubmission process will begin.

Sec. 18-47. Approved final site plan- Term of validity.

An approved final site plan shall be valid for five (5) years from the date of approval. The Agent may at the time of approval determine a reasonable extension, taking into consideration the size and phasing of the proposed development.

The Agent upon written request of the applicant for site plan approval made prior to the expiration of the period of validity, and upon extension of all security arrangements, may grant one (1) or more extensions for additional periods taking into consideration:

- The time of extension to be reasonable;
- The size and the phasing of the proposed development; and
- The laws, ordinances, and regulations in effect at the time of the request.

For so long as the final site plan remains valid under this subsection, no change or amendment to any local ordinance, map, resolution, rule, regulation, policy or plan adopted subsequent to the date of approval of the final site plan shall adversely affect the right of the applicant or their successor to commence and complete an approved development in accordance with the lawful terms of the recorded final site plan.

Any such change is allowed if there a change or amendment that is required to comply with state law or there has been a mistake, fraud or change in circumstances substantially affecting the public health, safety or welfare.

Sec. 18-48. Inspections.

Town agencies responsible for the subdivision and enforcement of this chapter shall periodically inspect the site during the period of construction to ascertain compliance with this chapter.

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Sec. 18-49. Revisions.

No change, revision or erasure shall be made on any pending or final site plan or any accompanying data sheet where approval has been endorsed on the plat or sheets unless authorization for such changes is granted in writing by the Agent or other authorized official for the Town of Stephens City.

Any site plan may be revised; provided, that the request for revision shall be filed and processed in the same manner as the original site plan.

Sec. 18-50. Record drawing required.

The developer shall submit to the Agent for the governing body two blue or black line copies for review of the completed as-built site plan or building location plat. The Agent based on physical considerations of the site or changes during the construction may require this plan or plat to be certified by an engineer, architect, or surveyor.

ARTICLE V. IMPROVEMENTS

Sec. 18-51. Improvements.

All required improvements shall be installed and paid for by the applicant. In cases where specifications have been established either by the Virginia Department of Transportation for streets, curbs, etc., or by local ordinances or codes, such specifications shall be followed where applicable. The applicant's performance bond shall not be released until construction has been inspected and approved by the Town Agent, Town Engineer or appropriate organization.

Sec. 18-52. Flood Control and Drainage.

The applicant shall provide all information needed to determine the improvements necessary to properly develop the subject property. In some instances, this might include special drainage plans to be prepared by the Engineer or qualified Surveyor.

Sec. 18-53. Easements.

Drainage easements of appropriate width (but not less than fifteen feet) shall be provided as required by the terrain and these shall be shown on the plat prepared by the applicant. The Agent may require that easements be provided by the applicant for drainage through adjoining property where necessary. Easements of not less than twelve (12) feet in width shall be provided for water, sewer, power lines and other public utilities in the subdivision when required.

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Sec. 18-54. Security for Construction of Improvements.

(a) ***Surety in lieu of completion.***

1. Where the subdivider wishes to record the final plat, but the physical improvements and installations, including public streets, shown on the approved engineering site plan and/or final plat have not been made, in whole or in part, the subdivider may enter into a subdivision agreement with the Town and submit performance surety in an amount sufficient for and conditioned upon the satisfactory construction or completion of said improvements or installations.
2. Such physical improvements and installations shall include, but not be limited to, any street; curb; gutter; sidewalk; bicycle trail; drainage or sewerage system; waterline as part of a public system; other improvement intended for dedication to public use to be maintained by the Town; site-related improvements required by this or other chapters of this Code for vehicular ingress or egress; public access streets; structures necessary to ensure the stability of slopes; and stormwater management facilities.
3. Prior to acceptance, physical improvements and installations shall be inspected by Town staff. Administrative fees for inspections and other procedures specified by this division shall be established by the Town Council. A schedule of these fees is available in the Town Office.

(b) **Subdivision agreement.** Where the subdivider chooses to post surety in lieu of completion of those physical improvements shown on the approved engineering site plan and/or final plat in order to allow recordation prior to completion and acceptance of all required public improvements, he or she shall enter into a subdivision agreement, approved as to content and form by the Town Attorney, with the Town prior to approval of the final plat. The Agent shall provide to the subdivider a sample subdivision agreement during the review of the final plat.

(c) **Time of performance.** The period within which improvements or installations shall be completed and inspected for acceptance shall be specified in the subdivision agreement. Unless otherwise provided by the Agent, the period shall not exceed one (1) year from the date of recordation of the final plat. In approving the time of performance of the subdivision agreement, the agent shall require a report containing the following information from the subdivider:

1. Percent of public improvements already completed; and
2. Rate of construction activity including the estimated completion date for each major future (roads, sewer, water, lights, etc.) remaining to be completed.

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The Agent shall not permit a subdivision agreement to be executed where, on the basis of the report submitted by the subdivider, it is apparent that the improvements or installations covered by said agreement cannot reasonably be expected to be completed by the deadline established therein. If the improvements or installations are not completed and accepted within the construction period stated in the subdivision agreement, it may be extended upon payment of any additional required fees; provided, however, that an additional administrative fee may be charged for costs incurred in the third and subsequent extensions.

(d) **Form of security.**

1. The subdivider shall furnish to the Town a certified check or cash escrow in the amount of the estimated costs of construction or a personal, corporate or property bond, with surety satisfactory to the Agent, in an amount sufficient for and conditioned upon the construction of such facilities.
2. The subdivider may furnish a bank or savings institution's letter of credit on certain designated funds, satisfactory to the agent as to the bank or savings institution, the amount and the form. The letter of credit may be used in lieu of the certified check, cash escrow, or bond in subsection (a).
3. The amount of the certified check, cash escrow, bond, or letter of credit shall exceed the total estimated cost of construction based on unit prices for new public sector construction in the locality and a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities, which shall be an additional twenty-five percent of the estimated construction costs.
4. The subdivider shall maintain any letter of credit, bond, or other surety arrangement in effect until the facilities covered by the bond have been inspected and accepted. An administrative fee shall be charged for the costs incurred in ensuring compliance with this requirement in the event that the bond, letter of credit or other surety arrangement is not renewed or extended by the subdivider more than 35 days prior to its expiration date.

(e) **Periodic partial release of security.**

1. Upon completion of at least thirty percent of the facilities covered by any bond, escrow, letter of credit, or other performance guarantee, the Agent is authorized to make periodic partial releases of the security.
2. A maximum of three periodic partial releases per any twelve month

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period shall be authorized. The Agent shall make periodic partial releases of such bond, escrow, letter of credit, or other performance guarantee in cumulative amount equal to no less than ninety percent of the original amount for which the performance guarantee was taken.

3. The Agent shall provide for the periodic release of any bond, escrow, letter of credit, or other performance guarantee required by this chapter within thirty (30) days after receipt of written notice by the subdivider or developer of completion of part or all of any facilities required to be constructed.
4. No such release need be made if the Agent notifies the subdivider or developer in writing of nonreceipt of approval by the applicable state agency or of any specified defects or deficiencies in construction and suggested corrective measures prior to the end of the thirty day period.
5. If no such action is taken by the Agent within the thirty (30) day time period, the request may be deemed approved and a partial release granted to the subdivider or developer.

(f) **Final and complete release of security.**

1. In addition to the written request for release of security and thirty (30) day time period established in Section 18-39.5, above, the subdivider or developer shall submit a second written request for the final and complete release of security. This request shall be sent by certified mail return receipt to the Agent. The Agent may approve or deny the request within ten (10) working days of receipt of the request for final release. If no action is taken the request may be deemed approved and final release granted to the subdivider or developer.
2. Upon final completion and acceptance of the facilities, the Agent shall release any remaining bond, escrow, letter of credit, or other performance guarantee to the subdivider or developer. For the purpose of the final release, the term "acceptance" means: when the public facility is accepted by and taken over for operation and maintenance by the Town or other public agency which is responsible for maintaining and operating such facility.

(g) **Grounds for refusal to release security.** The agent may not refuse to make periodic partial or final release of a bond, escrow, letter of credit, or other performance guarantee for any reason not directly related to the specified defects or

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deficiencies in construction of facilities covered by said bond, escrow, letter of credit, or other performance guarantee.

- (h) **Use of security.** In those instances where performance surety has been posted and the required improvements or installations have not been completed within the terms of the subdivision agreement, the agent shall declare the subdivider to be in default and shall draw on the posted surety. After the funds or proceeds from the property have been received, the Agent shall cause such improvements to be completed. The subdivider shall be fully and completely responsible and liable for the entire cost of completing the improvements, even when such cost exceeds the amount surety.
1. If the funds or proceeds from the surety are insufficient to complete the improvements, the agent and the Town Attorney shall proceed to obtain such funds from the subdivider, its successor or assigns including such reasonable costs as may be expended in the process.
 2. If any funds remain after all improvements or installations are completed and accepted with all necessary fees paid and no defects are found therein which must be repaired, such remaining funds, less any such reasonable administrative or overhead costs which may have accrued, shall be returned to the subdivider within one hundred eighty (180) days of final acceptance of the final improvement or installation.

Sec. 18-55. Fire Protection.

Fire hydrants should be required at locations approved by the Agent. The Agent shall consult with the Fire Chief of the Stephens City Volunteer Fire Department or its successor.

Sec. 18-56. Pro Rata Share of Improvements.

Where it is the desire of the Town, based on the *Comprehensive Plan* and *The Town's Utility Master Plan* that any public facility including streets, water facilities, and sewerage facilities within a subdivision should be designed and constructed in excess of what is required to serve a particular subdivision, the applicant shall be required, as a minimum, to provide for such facilities as are needed for his subdivision.

Where a general sewer and drainage improvement program has been adopted by the Town for a defined area, an applicant of that area shall pay a pro rata share of the cost of providing reasonable and necessary sewerage and drainage facilities. These facilities, which may be located outside the property limits of the land owned by the applicant, must be made necessary at least in part by the construction or improvement of his subdivision or development. The method of computing an applicant's pro rata share of cost shall be on a directly proportional basis, based on the estimated contribution of runoff or sewerage of that

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given subdivision or development to the estimated cost of the total improvement for the defined area. The basis for computing the contribution of runoff or sewerage and cost shall be consistent with the *Town of Stephens City Public Facilities Manual*.

Payment of cost under this Section must be made prior to the approval of the final plat and these funds shall be expended only for the construction of those facilities for which the payment was required. Until expended, these funds shall be held in an interest-bearing account for the benefit of the applicant. In lieu of such payment, bond may be posted in accordance with this Chapter.

ARTICLE V. EXEMPTIONS

Sec. 18-57. Exemptions. Divisions of lots or parcels of land shall not be subject to the permitting and approval requirements of this Chapter if exempted as follows:

- (a) A bona fide division or partition of land for joint owners in a chancery proceeding ordered by a court with appropriate jurisdiction.
- (b) The grant or reservation of an easement or right of way.
- (c) The division of existing or proposed buildings or structures into cooperatives, condominiums or other severed ownerships provided the associated lot or parcel of land is already zoned for the proposed density of occupancy and is not proposed to be further subdivided.
- (d) Where a derivative tract or parcel is devised or conveyed to an adjacent landowner, it must be clearly stated on the associated survey plat and/or in the transferring document that such tract or parcel may be used for building purposes only in connection and/or combination with the transferee's adjacent tract.
- (e) The straightening or rearranging of property lines of adjoining parcels shall not be considered a subdivision if such arrangements are reasonable in the opinion of the Agent and conform to the intent of this Chapter.
- (f) In accordance with Section 15.2-2241 of the *Code of Virginia*, as amended, the division of a single lot or parcel of land for transfer to an individual member of the transferor's immediate family shall not be considered a subdivision provided such parcels shall conform to the provisions of the Town Zoning Ordinance and that all resultant parcels front on a public street.
- (g) In all such exempted situations, any residual tract retained by the transferor must remain in compliance with Town Zoning and Subdivision Ordinances and applicable statutes and regulations. No exemption shall be allowed if any use on either the merged tract or the residual tract, by virtue of the proposed exempt subdivisions, shall not thereafter conform to the area, setback and side yard requirements of the Zoning Ordinance then in effect.

SUBDIVISIONS

ARTICLE VI. DEFINITIONS

Sec. 18-58. Definitions.

For the purpose of this chapter, words and terms shall be interpreted or defined as follows – words used in the present tense include the future; words in the singular number include the plural, and the plural the singular, unless the natural construction of the word indicates otherwise; the word "shall" is mandatory and not directory; the word "approve" shall be considered to be followed by the words "or disapproved"; the word "he" can apply to both men and women. Any reference to this chapter includes all ordinances amending or supplementing the reference. All distances and areas refer to measurement in a horizontal plane.

Alley. A permanent service way, providing a secondary means of vehicular access to an abutting property, and not intended for general traffic circulation.

Applicant/Owner. An individual, corporation, trust, trustee, joint venture, partnership, or other entity having legal interest in a tract or parcel of land as to which an application is being made to the Town, so long as any applicant who is not the owner of the legal title to the land that is the subject of the application provides and files with the Zoning Administrator a consent to the application signed by such owner.

Commission. The Planning Commission of the Town of Stephens City, Virginia.

Cul-de-sac. A street with only one (1) outlet and having an appropriate turn-around area for a safe and convenient reverse of traffic movement.

Developer. An owner of property being subdivided whether or not represented by an Owner.

Easement. A grant of one (1) or more property rights by the owner to, or for the use by, the public, a corporation, or another person or entity.

Engineer. A person who is recognized by the Commonwealth of Virginia and who is registered with the State Department of Professional and Occupational Registration, or registered with a like body in another state, as a licensed Engineer.

Family. One (1) or more persons occupying a dwelling unit and living and cooking together as a single, nonprofit, housekeeping unit, provided that not more than four (4) persons not related by blood, marriage, adoption, or guardianship shall constitute a family unless such group composed of handicapped persons as defined in Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988. Such unrelated handicapped individuals shall have the right to occupy a dwelling unit in the same manner and extent as any family unit established through kinship as defined above.

Governing body. The Town Council of the Town of Stephens City, Virginia.

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Health Official. The health director or sanitation authority of Frederick County, Virginia.

Jurisdiction. The limits of territory within which authority may be exercised by the governing body.

Lot. A measured parcel of land fronting on a street, having fixed boundaries and designated on a recorded plat or survey and intended as a unit for the purpose of transfer of ownership or for development.

Lot, corner. A lot abutting two (2) or more streets or roads at their intersection; the shortest side abutting upon a street shall be considered the front of the lot and the longest side abutting upon a street shall be considered the side of the lot.

Lot, depth of. The average distance between the front and rear lot lines.

Lot, interior. A lot abutting on only one (1) street or road.

Lot of record. A lot which has been recorded in the Office of the Clerk of the Circuit Court of Frederick County, Virginia.

Lot, width of. The distance between side lot lines measured at the required front setback line.

Plat. Includes the terms map, plan, plat, re-plat or re-plot; schematic representation of a tract or parcel of land which is to be or which has been subdivided. When used as a verb "plat" is synonymous with "subdivide".

Property. Any tract, lot, parcel or several of the same, collected together for the purpose of subdividing, preparing a Site Development Plan, and/or developing.

Setback. The minimum distance by which any building or structure must be separated from the front, side, or rear lot line.

Street. A strip of land subject to vehicular and/or pedestrian traffic and providing means of access to property; also designated as road, land, drive, avenue, right-of-way, highway, boulevard, trail, court, place, terrace, etc.

Street, Collector. A street that carries or is anticipated to carry more than four hundred (400), but less than three thousand (3,000) vehicles per day, the right-of-way of which shall not be less than sixty (60) feet, which includes on street parking.

Street, Local. A street that carries or is anticipated to carry a volume of traffic less than four hundred (400) vehicles per day, the right-of-way of which shall not be less than forty (40) feet, which includes on street parking.

SUBDIVISIONS

Street, Primary Thoroughfare. A street that carries or is anticipated to carry a volume of traffic exceeding three thousand (3,000) vehicles per day, the right-of-way of which shall not be less than seventy (70) feet and should, where feasible, have a maximum right-of-way of one-hundred twenty (120) feet, which excludes on street parking.

Street, Public. All public property reserved or dedicated for street traffic maintained by the Town of Stephens City.

Street, width. The total width of the strip of land dedicated or reserved for public travel includes roadway, parking when applicable, curb and gutter, sidewalks, planting strips, and where necessary, utility easements.

Subdivide. To divide a lot or parcel of land into two (2) or more parts, provided, however, that the term "to subdivide" shall not include a bona fide division or partition of land for joint owners in a chancery proceeding ordered by a court of competent jurisdiction; provided, however, that the provisions of this chapter shall not apply to any tract or parcel of land being conveyed to an adjacent landowner by deed wherein it is clearly stated that such tract or parcel is not to be used as a separate tract for building purposes, but is to be used for building purposes only in connection with an adjacent tract.

Surveyor. A person who is recognized by the Commonwealth of Virginia who is registered with the State Department of Professional and Occupational Registration, or registered with a like body in another state, as a licensed surveyor.

Other definitions. When the definition of other terms become material in the interpretation of this chapter, reference shall be Section 15.2-2201 of the *Code of Virginia*, as amended, and the Subdivision Ordinance of the Town of Stephens City, Virginia, in that order.

Sec. 18-59. Jurisdiction.

In accordance with Article 6, Chapter 22 of title 15.2 of the *Code of Virginia*, as amended, this Chapter shall apply within the corporate limits of the Town and within such territory outside of the corporate limits of the Town as may be authorized from time to time by statute. To the extent lawfully allowed, this Chapter shall also apply to such tracts or parcels of land as are served by Town water supply and/or septic waste disposal facilities, irrespective of location.

APPENDIX A
CERTIFICATES OF APPROVAL (FACE OF PLAT)

Surveyor's Certificate.

"I hereby certify that to the best of my knowledge and belief, all of the requirements of the Town Council of the Town of Stephens City and ordinances of the Town of Stephens City, Virginia, regarding the platting of subdivisions within the Town have been complied with.

Given under my hand this _____ day of _____, 20__."

(signed) _____
State Certified Engineer (or Land Surveyor).

**APPENDIX B
OWNER'S CONSENT AND DEDICATION**

"Know all men by these present, that the subdivision of land as shown on this plat, containing _____ acres, more or less, and designated as _____ subdivision, situated in the Town of Stephens City is with the free consent and in accordance with the desires of the undersigned owners thereof, that all streets shown on said plat are hereby dedicated to the public use, and that all lots within the subdivision are subject to certain restrictions, reservations, stipulations and covenants as contained in a writing executed by the undersigned under date of _____, 20 ____, and recorded in the Clerk's Office of Frederick County, Virginia, in Deed Book _____, page _____.

Given under our hands and seals this _____ day of _____, 20__".

_____(SEAL)

_____(SEAL)

_____(SEAL)

