

ARTICLE I.

This Section shall be known and cited as the "Subdivision Ordinance of the Town of Fincastle, Virginia," or the "subdivision ordinance."

Sec. 21-2. Authority.

This Section is authorized under Title 15, Section 22, Article 6 (Land Subdivision and Development) and Article 7 (Zoning) of the Code of Virginia, 1950, as amended.

Sec. 21-3. Purpose of Section.

This Section establishes standards and procedures for the subdivisions and site plans of land in the Town Limits of the Town of Fincastle. The purpose of these standards and procedures is to assure orderly growth; to assure the responsible development of land; and to make possible the provision of adequate highway, utility, health, educational and recreational facilities in a manner that will promote the public health, safety, convenience and general welfare. This Section is intended as an aid in implementation of the Comprehensive Plan. The provisions of this Section shall be the minimum requirements for the submission, preparation and recordation of all plans and plats.

This Section establishes regulations that apply to or provide:

For the coordination of streets within and contiguous to the subdivision with other existing or planned streets within the general area as to location, widths, grades and drainage, including, for ordinances and amendments thereto adopted on or after January 1, 1990, for the coordination of such streets with existing or planned streets in existing or future adjacent or contiguous to adjacent subdivisions;

For adequate provisions for drainage and flood control, for adequate provisions related to the failure of impounding structures and impacts within dam break inundation zones, and other public purposes, and for light and air, and for identifying soil characteristics;

For the extent to which and the manner in which streets shall be graded, graveled or otherwise improved and water and storm and sanitary sewer and other public utilities or other community facilities are to be installed;

For conveyance of common or shared easements to franchised cable television operators furnishing cable television and public service corporations furnishing cable television, gas, telephone and electric service to the proposed subdivision. Once a developer conveys an easement that will permit electric, cable or telephone service to be furnished to a subdivision, the developer shall, within 30 days after written request by a cable television operator or telephone service provider, grant an easement to that cable television operator or telephone service provider for the purpose of providing cable television and communications services to that subdivision, which easement shall be geographically coextensive with the electric service easement, or if only a telephone or cable service easement has been granted, then geographically coextensive with that telephone or cable service easement; however, the developer and franchised cable television operator or telephone service provider may mutually agree on an alternate location for an easement. If the final subdivision plat is recorded and does not include conveyance of a common or shared easement as provided herein, the local planning commission or agent designated by the governing body

to review and act on submitted subdivision plats shall not be responsible to enforce the requirements of this subdivision;

For monuments of specific types to be installed establishing street and property lines;

That unless a plat is filed for recordation within six months after final approval thereof or such longer period as may be approved by the governing body, such approval shall be withdrawn and the plat marked void and returned to the approving official; however, in any case where construction of facilities to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the governing body or its designated administrative agency, or where the developer has furnished surety to the governing body or its designated administrative agency by certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of such facilities, the time for plat recordation shall be extended to one year after final approval or to the time limit specified in the surety agreement approved by the governing body or its designated administrative agency, whichever is greater;

For the administration and enforcement of such ordinance, not inconsistent with provisions contained in this chapter, and specifically for the imposition of reasonable fees and charges for the review of plats and plans, and for the inspection of facilities required by any such ordinance to be installed; such fees and charges shall in no instance exceed an amount commensurate with the services rendered taking into consideration the time, skill and administrator's expense involved. All such charges heretofore made are hereby validated;

For reasonable provisions permitting a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner in accordance with the provisions of § 15.2-2244; and

For the periodic partial and final complete release of any bond, escrow, letter of credit, or other performance guarantee required by the governing body under this section in accordance with the provisions of 15.2-2245 of State Code.

Sec. 21-4. Jurisdiction and applicability of Section.

(a) This Section shall constitute the comprehensive regulations governing all subdivision of land located within the Town of Fincastle. No land may be subdivided through the use of any legal description other than with reference to a plat approved by the Town in accordance with this Section.

(b) No existing subdivision shall be modified except by approval in accordance with this and other applicable ordinances of the Town of Fincastle.

(c) This Section shall govern residential and nonresidential subdivisions.

Sec. 21-5. Adoption, amendment, and recordation of this Section.

(a) The Planning Commission shall prepare and recommend the subdivision ordinance and transmit it to the Town Council. The Town Council shall approve and adopt a subdivision ordinance only after notice has been published, and a public hearing held, in accordance with Code of Virginia § 15.2-2204.

(b) The Planning Commission on its own initiative may or at the request of the Town Council shall prepare and recommend amendments to the subdivision ordinance. The procedure for amendments shall be the same as for the preparation, recommendation, approval and adoption of the original ordinance;

provided that no amendment shall be adopted by the Town Council without a reference of the proposed amendment to the Planning Commission for recommendation, nor until sixty (60) days after such reference, if no recommendation is made by the Commission.

(c) When the subdivision ordinance has been adopted or amended, a certified copy of the ordinance and any and all amendments thereto shall be filed in the office of the Town Manager, and in the clerk's office of the Botetourt County Circuit Court.

Sec. 21-6. Interpretation and meaning.

The provisions of this Section shall be the minimum requirements for submission, preparation and recordation of all plats and plans. Words used in the present tense include the future tense, except where the natural construction of this Section indicates otherwise; words in the singular number include the plural number, and words in the plural include the singular; "shall" is mandatory and not discretionary; "may" is permissive.

Sec. 21-7. Effective date.

(a) In order that land be subdivided in accordance with the purposes of this Section, this Section is hereby adopted, to become effective on November 9, 2011. This Section shall apply to all preliminary plats submitted thereafter and any reapprovals of expired preliminary plats when no construction plan has been submitted.

Sec. 21-8. Relationship to zoning ordinance.

The zoning ordinance and zoning map shall control the type and intensity of use of all property within the Town of Fincastle.

ARTICLE II.

ADMINISTRATION

Sec. 21-21. Agent.

(a) The Town Council shall appoint an agent to administer this Section as hereinafter specifically provided. The agent may not delegate his authority to other personnel except as specifically permitted by the Council or the Town Manager. The agent shall have the authority to approve subdivisions within the Town of Fincastle.

(b) The agent shall maintain a list and summary description of each land subdivision procedure described in this Section and shall make copies available to the public.

(c) The agent will revise and update the provisions of this Section on a periodic basis due to State Code and related changes and will, from time to time, sponsor educational forums which will explain the provisions of this Section.

(d) All administration and enforcement of this Section shall be done in conformity with this Section.

Sec. 21-22. Administration and enforcement.

(a) No person shall subdivide land without making and recording a plat of such subdivision and without fully complying with the provisions of this Section and the provisions of Code of Virginia § 15.2-2240 et seq.

(b) No plat of any subdivision subject to this Section shall be recorded unless and until it shall receive final approval as provided by this Section.

(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. Nothing herein shall be construed as preventing the recording of the instrument by which land is transferred or the passage of title between the parties to the instrument. (Code of Virginia § 15.2-2254).

(d) No person shall subdivide land in any way inconsistent with such conditions as may be imposed by any other action of the Town including special exception conditions, proffered conditions, Health Department requirements, Town water and sewer requirements, and the like.

(e) The provisions of this Section shall not apply to any subdivision for which a currently effective preliminary plat was approved on or before the effective date of this Section. These plats or subdivisions shall be reviewed and acted on under applicable prior subdivision ordinances.

Sec. 21-23. General authority of the agent.

(a) The agent shall exercise authority to review, approve and disapprove preliminary and final plats for the subdivision of land within the Town of Fincastle.

(b) In the performance of his duties under this Section, the agent may call for opinions or decisions, either verbal or written, from the Planning Commission or other departments in considering details of any submitted plat. This authority by the agent shall have particular reference to the resident highway engineer and the Health Department.

(c) In addition to the regulations contained in this Section for the platting of subdivisions, the agent may, from time to time, establish any reasonable additional administrative procedures deemed necessary for the proper administration of this Section.

Sec. 21-24. Approval by agent of preliminary plats.

The agent shall exercise authority to review, approve and disapprove the preliminary plats for major subdivisions of land within the Town of Fincastle. The agent shall ensure that the development is rationally designed in accordance with this Section. His review shall be guided by the following standards:

(1) Suitability to topography. If the site contains floodplains, wetlands or slopes steeper than fifteen (15) percent, the proposed development shall be designed to protect against such dangers as erosion, sedimentation, flooding, landslide or subsidence.

(2) Infrastructure. All roads, water systems, sewer systems, storm drainage systems, solid waste collection systems, and other utilities and service shall be coordinated with the existing and planned systems in the surrounding area and shall be designed and constructed so as to minimize the cost of operation and maintenance.

(3) Phasing. Proposed development shall be phased in a manner that will promote orderly growth and allow for planned improvements to the highway system and other infrastructure in coordination with any capital improvements plan and the VDOT six-year improvement plans.

Sec. 21-25. Exceptions.

(a) An applicant may request an exception to the substantive requirements contained in this Section, by submitting in writing the request, including evidence for justification, to the agent. The Planning Commission may grant such an exception upon evidence presented by the applicant that an exception is warranted due to an unusual situation or that strict adherence to the requirements would result in substantial injustice or hardship.

(b) No such exception shall be granted that the Planning Commission finds would conflict with the comprehensive plan, or would conflict with the applicable requirements of the zoning ordinance. Further, no exception granted pursuant to this section shall affect the applicant's obligation to comply with requirements which are established by separate authority in accord with state or Town code, nor may any exception relating to agreements and surety be granted pursuant to this section.

(c) The Planning Commission shall conduct a public hearing on the application for an exception, in accordance with the procedures for public hearing as provided for in the Code of Virginia § 15.2-2204.

(d) The Planning Commission shall act on the application for exception within sixty (60) days from the date the application was officially submitted. At least ten (10) days prior to final action, the agent or Planning Commission shall give notice by publication in a newspaper having general circulation in the Town.

(e) The Planning Commission shall grant or deny each request, stating the reasons therefore.

Sec. 21-26. Private easements, covenants, contracts.

(a) This Section bears no relation to any private easement, covenant, agreement or restriction, nor is the responsibility of enforcing such private easement, covenant, agreement or restriction implied herein to any public official. When this Section calls for more restrictive standards than are required by private contracts, the provisions of this Section shall control.

(b) This Section is not intended to interfere with, abrogate or annul any order of a court of competent jurisdiction, statute, regulation, or other provision of law. Where any provision of this Section imposes restrictions different from those imposed by any other provision of Town ordinances or regulations or other provisions of law, whichever provisions are more restrictive or imposed higher standards shall control, unless the intent is clearly otherwise.

Sec. 21-26.1. Off-site improvements.

(a) An applicant may provide voluntary, non-reimbursable funding for off-site road improvements. Such improvements must be recommended by the agent, and approved by the Town Council, the County where applicable, and VDOT.

(b) Off-site water and sewer improvements shall be controlled by the General Rules and Regulations and Development Rules and Regulations for water and sewer services for the Town of Fincastle, and relevant state and federal law.

(c) Off-site improvements for erosion and sediment control and stormwater runoff control shall be controlled by Botetourt County Erosion and Sediment Control and stormwater runoff regulations and relevant state and federal law, under the regulatory supervision of Botetourt County (Erosion and Sediment control for the Town).

(d) Where the construction or improvement of a subdivision of land makes necessary, at least in part, the installation of new or improved sewerage, water, or drainage facilities located outside the property limits of the subdivision, the subdivider or developer of the subdivision shall pay a proportionate share of the cost of the facilities, in accordance with this section and Section §15.2-2243 of State Code.

(Amended 5/13/2021)

Sec. 21-26.2. Environmental review.

The agent may require an applicant to provide a Phase I and Phase II environmental site assessment. The assessment must meet generally accepted national standards for such assessments, such as those developed by the American Society for Testing and Materials. A Phase II environmental site assessment shall only be required if the agent deems it to be reasonably necessary based on the findings of the Phase I assessment. The Town Council may establish a reasonable fee for the administrative review of such environmental assessments.

The agent shall require an applicant to disclose conditions which may result in site contamination or other adverse environmental conditions. Remediation of such conditions may be required prior to subdivision approval.

Sec. 21-27. Provisions for nonresidential development.

(a) Nonresidential subdivisions shall be subject to the provisions and requirements of this Section. It is the intent of this section that site plan review and nonresidential subdivision plat review may proceed simultaneously through the approval process outlined in this Section.

(b) In addition to the principles and standards of this Section which refer to subdivision design, the applicant shall demonstrate that the street, parcel and block pattern proposed for a nonresidential subdivision is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:

(1) Proposed nonresidential parcels shall be suitable in area and dimensions to the types of nonresidential development anticipated.

(2) Streets shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereon, and shall comply with current VDOT standards.

(3) Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed nonresidential subdivision, including the provisions of extra depth in parcels backing up to existing or imminent residential development and provisions for a permanently landscaped buffer strip, when and where necessary.

(4) Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas and shall be designed and constructed so as

to ensure coordination with other existing and planned roads within the general area as to arrangement, character, extent, grade, width, location and drainage. Inter parcel access between nonresidential uses shall be provided whenever it is determined that there is potential to reduce the number of public road access points and/or reduce traffic on public roads.

Sec. 21-28. Planned unit development.

Reserved.

Sec. 21-29. Condominium development.

The provisions of this Section shall apply to any condominium development in the same manner as they would apply to a physically identical project or development under a different form of ownership.

Sec. 21-30. Vesting.

Questions related to the vested rights of an owner or applicant shall be controlled by the Code of Virginia § 15.2-2307, which is incorporated herein by reference.

Sec. 21-31. Schedule of fees.

There shall be reasonable fees and charges not to exceed an amount commensurate with the costs incurred for administration, examining plans and plats, making investigations, advertising, travel, or other work incidental to the review of plats or plans. Such fees shall be payable to the Town of Fincastle and the County of Botetourt where applicable, in the amount set by the Town Council and/or Botetourt County Board of Supervisors and maintained in the agent's office.

The fees for subdivision reviews ***are set by the Town Council. A schedule of the current fee amounts is available at the Town office. (revised December 12, 2019)***

Sec. 21-32. Penalties.

Any person violating the foregoing provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than five hundred dollars (\$500.00) for each lot or parcel of land so subdivided, transferred or sold; and 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 the transaction from such penalties or from the remedies herein provided. Each day after the first during which violation shall continue shall constitute a separate violation punishable by a fine.

ARTICLE III.

DEFINITION OF TERMS

Sec. 21-51. Definitions.

(a) General usage.

(1) This article shall be read in conjunction with the zoning ordinance and other relevant Sections of the Fincastle Town Code.

(2) As used in this Section, unless obvious construction of the wording indicates otherwise, words used in the present tense include the future tense; words in the singular number include the plural number; and words in the plural number include the singular number.

(3) "Shall" means mandatory.

(4) Words in the masculine gender include the feminine gender.

(5) "May" is permissive.

(6) "Adjacent" means contiguous.

(7) In the event a subsequent amendment to the state enabling language supersedes any provisions of this Section, the requirements of the amendments shall be administered in place of the superseded ordinance provisions until such time as this Section is amended.

(8) Unless otherwise specified, all distances shall be measured horizontally and at right angles or radially to the line in relation to which the distance is specified.

(9) Unless otherwise specified, the term "day" shall mean calendar day (Monday through Sunday) and working day shall refer to Monday through Friday.

(10) The word "lot" includes the word plot; the word "used" includes the terms designed, intended, arranged or to be used.

(11) The terms "land use" and "use of land" shall include the use of buildings and structures.

(b) Meaning of words. Any word, term or phrase used in this Section not defined below shall have the meaning ascribed to the word in the most recent edition of Webster's Unabridged Dictionary, unless in the opinion of the agent, the context or the established customs or practices of the Town of Fincastle justify a different or additional meaning. Further, for the purpose of this Section, certain words and terms are to be interpreted as follows:

Agent or subdivision agent: The representative of the Town Council who has been appointed to serve as his agent in administering this Section, as hereinafter specifically provided.

Alley: A permanent public or private right-of-way providing a secondary and/or service means of vehicular access to the side or rear of those projects whose principal frontage is on some other street.

Applicant: The owner of land proposed to be subdivided or his representative; also "subdivider."

Application, active: A subdivision or site plan application of any kind that has been officially accepted for review by the Town and is currently in some stage of processing by the Town.

Application, inactive: A subdivision or site plan application of any kind that has been officially accepted for review by the Town but which has had processing suspended either by request of the applicant or by having no contact or activity occur in regard to the application by the applicant for a period of at least six (6) months.

Approved base: For the purpose of street construction, a type of soil, as defined or approved by VDOT, that will drain properly.

Approved drainage: For the purpose of street construction, grading and ditching to effectuate removal of water from the street.

Block: A tract of land bounded by streets or by a combination of streets, public areas, cemeteries, railroad rights-of-way, shorelines of waterways or subdivision boundary lines.

Bond: Any form of security, including certified check or cash escrow; a personal, corporate or property bond, with surety satisfactory to the Town Council or its designee; a construction contract and contractor's bond, with surety satisfactory to the Town Council or its designee; and a bank or savings and loan association's letter of credit on certain designated funds satisfactory to the Town Council or its designee as to the bank or savings and loan association. All such bonds or other form of security shall be subject to the approval of the Town Council or its designee as to form and amount.

Boundary line adjustment: The adjustment of the boundary line between two (2) or more lots or the vacation of a lot line for the purpose of combining two or more lots, but not including any action which would result in a creation of additional building lots or the vacation of any street, alley, easement for public passage or other public feature, or the combination of properties covered by different covenants and restrictions.

Building envelope: That area within which the principle structure may be located in compliance with all minimum setback requirements of the zoning ordinance.

Building setback: The minimum distance that a building must be set back from the front lot line or other lot lines as may be specified.

Central sewage system: A community sewer system, including collection and treatment facilities, established by the developer to serve a new subdivision in an area not served by a public sewage system, and which conforms to the design specifications required by the Health Department, the County Code, and the Town Code, and has received approval from those bodies.

Central water system: A private water company formed by a developer to serve a new community development in an area not served by a public water system and which conforms to the design specifications required by the Health Department, the County Code and Town Code and has received approval from those bodies. This includes water treatment and distribution facilities.

Commission: The Planning Commission of the Town of Fincastle.

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

Community water or sewer: A water or sewer system owned and operated by a private individual or corporation approved by the Town Council and properly licensed by the Commonwealth of Virginia and subject to special regulations as set forth in this Section. (Also see public utility, water or sewer system).

Conservation easement: An easement granting a right or interest in real property that retains land or water areas predominately in their natural, scenic, open, or wooded condition, preserving such areas as suitable habitat for fish, plants, or wildlife, or maintaining existing land uses.

Cul-de-sac: A street with only one outlet and having an appropriate turnaround for a safe and convenient reverse traffic movement, which meets the design and construction standards of the Virginia Department of Transportation.

Dedicate or dedication: To appropriate, or an appropriation of, land to some public use, made by the owner and accepted for such use on behalf of the public or in accordance with the Code of Virginia § 15.2-2265.

VDOT standards: The "Subdivision Street Requirements," Virginia Department of Highways and Transportation (June 26, 1981); "Road and Bridge Standards," Vols. I and II, Virginia Department of Highways and Transportation (1986); and comparable or later revisions of these works.

Developer: A legal or beneficial owner of property being subdivided, whether or not represented by an agent.

Development: Any manmade change to improved or unimproved real estate including, but not limited to, construction or alteration of buildings or other structures, the placement of manufactured homes, streets and other paving, utilities, filling, grading, excavation, mining, dredging or drilling operations.

Distance or area: Refers to measurement in a horizontal plane.

Easement: A grant by a property owner of an interest in real property for specific purposes.

Engineer: An engineer licensed by the commonwealth.

Family or immediate family: The natural or legally defined offspring, parents, spouse, siblings, grandparents, grandchild, nieces or nephews of the subdivider.

Final subdivision plat: The map of a subdivision submitted to the agent for final approval and subsequently to be recorded with the Botetourt County Circuit Court.

Governing body: The Town Council of the Town of Fincastle.

Grade: The slope of a road or other public way, specified in percentage terms.

Health official: The director of the County Department of Health or his designated deputy.

Highway engineer: The resident engineer employed by the VDOT.

Individual sewage disposal system: A septic tank, seepage tile sewage disposal system or any other approved sewage treatment device, that conforms to the requirements and specifications of the Health Department and any other applicable County and Town Code standards.

Lot: A numbered and recorded portion of a subdivision having fixed boundaries, designated on a plot or survey and created in conformance with this Section.

Lot corner: A lot abutting on two (2) or more streets at their intersection, where the interior angle of the intersection does not exceed one hundred thirty-five (135) degrees. The front shall be deemed to be the shortest of the sides fronting on streets. For purposes of regulation, all corner lots shall be designated at the time of subdivision as fronting on a single street, and all yard and building requirements shall be based upon that designation.

Lot, depth of: The average horizontal distance between the front lot line and the rear lot line, measured along a straight line.

Lot, double frontage: An interior lot having frontage on two (2) streets.

Lot, improvement: Any building, structure, place, work of art or other object, or improvement of the land on which they are situated, constituting a physical betterment of real property, or any part of such betterment. Certain lot improvements shall be properly bonded as provided in this Section.

Lot, interior: A lot other than a corner lot.

Lot line: The boundary line of a lot that separates it from adjoining lots or from street right-of-way.

Lot, pipe stem: A lot which meets the required frontage, but which is configured with a panhandle or pipestem portion forming an access corridor to the bulk of the lot which is located behind lots or parcels. (May also be referred to as a flag lot)

Lot of record: A lot which has been recorded in the office of the clerk of the circuit court of the County.

Lot, width of: The mean horizontal distances between the side lot lines.

Major subdivision: A subdivision creating six (6) or more lots.

Minor subdivision: A subdivision creating five (5) or fewer lots, including the remainder, if any, of the parent tract as one of the lots.

Monument: A boundary marker, classed as natural or artificial, indicating the lines and boundaries of a lot.

Nonresidential subdivision: A subdivision the intended use of which is other than residential, such as commercial or industrial. Such subdivision shall comply with the applicable provisions of this Section.

Parent parcel; parent tract: The original lot or lots of record from which a subdivision is created.

Plat: A map representing a subdivision of a parcel of land into lots, blocks and streets or other divisions and dedications.

Preliminary plat: The preliminary drawing or drawings, including the elements required by this Section, indicating the proposed manner or layout of the subdivision to be submitted to the agent for approval.

Private road or street: Means any roadway not maintained by the VDOT, whether or not the road has been built to state specifications.

Property: Means any tract, lot, parcel or several of such tracts, lots or parcels collected together for the purpose of subdividing.

Resubdivision: A change in a recorded subdivision plat if such change affects any street layout on such plat or area reserved thereon for public use or any lot line between two separate subdivisions with different covenants and restrictions and/or different proffered conditions.

Right-of-way: A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, bicycle trails, or for another special use that is granted to the user or a separate strip with title vested in the user.

Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, shade trees or any other use involving maintenance by a public agency shall be dedicated to public use either as an easement or as a conveyance of title as required by the subdivision agent.

Street: The principal means of vehicular access to abutting properties.

Street or alley, public use of: A right-of-way improved for vehicular traffic whether called street, highway, thoroughfare, parkway, through road, avenue, boulevard, lane, place, mall or otherwise designated.

Street categories: The categories of subdivision streets divided into traffic volume classifications by VDOT.

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

Street, width: The total width of the strip of land dedicated or reserved for public travel, including roadways, curbs, gutters, sidewalks and planting strips.

Subdivider: An individual, corporation or registered partnership, executors, heirs, their successors in interest, except for immediate family, owning any tract, lot or parcel of land to be subdivided, or a group of two (2) or more persons owning any tract, lot or parcel of land to be subdivided, or any of the above, who have given their power of attorney to one of their group, to another individual or to a corporation or partnership to act on their behalf in planning, negotiating for, representing or executing the purpose of the subdivision.

Subdivision: Division of any tract, parcel or lot of land, into two (2) or more parts, at one time or any extended period of time, for the purpose of transfer of ownership or building development.

Surveyor: A surveyor licensed by the Commonwealth of Virginia.

ARTICLE IV.

APPROVAL OF PLATS

DIVISION 1.

IN GENERAL

Sec. 21-61. Platting required.

Any owner or developer of any tract of land situated within the Town who subdivides that land shall have a plat of such subdivision made and have it recorded in the office of the clerk of the circuit court of Botetourt County. No such plat shall be recorded unless and until it shall have been submitted, approved and certified by the agent in accordance with the regulations set forth in this Section.

Sec. 21-62. Preparation and certification of plats.

Every plat shall be prepared by a surveyor, duly licensed by the state, who shall endorse upon each plat certificate signed by him setting forth the source of the title of the land subdivided and the place of record of the last instrument in the chain of title. When the plat is of land acquired by more than one source of title, the outlines of the several tracts shall be indicated upon such plat, with an inset block or by means of a dotted or dashed boundary upon the plat.

Sec. 21-63. Mutual responsibility.

There is mutual responsibility between the subdivider and the Town to divide the land so as to improve the general land use pattern of the area being subdivided.

Sec. 21-64. Reserved.

Sec. 21-65. Flooding and other hazards.

(a) Land subject to flooding shall not be platted for residential occupancy, nor for such other uses as may increase dangers to health, life or property, or aggravate erosion or flood hazard. Such land, if any, within any subdivision shall be set aside on the plat for such uses as shall not be endangered by periodic or occasional inundation or shall not produce conditions contrary to public welfare.

(b) The applicant for any subdivision of lots shall submit with his application a statement by a licensed surveyor or engineer as to whether or not any property in the proposed subdivision lies within the 100-year floodplain. When property lies within the 100-year floodplain, the extent of the floodplain shall be shown on the plat.

Sec. 21-66. Preliminary sketch.

All applicants seeking subdivision approval are encouraged to meet with the Town's agent as early as possible in the design and planning process. Meetings between the Town and applicant prior to the submission of a preliminary or final plat will help to smooth the approval process. (Revised December 12, 2019)

Sec. 21-67. Approval process, major subdivisions.

(a) Submission and acceptance of preliminary plat. After obtaining advice from the agent as to the conformance of the preliminary sketch to the subdivision regulations, the applicant shall submit a preliminary plat, in accord with the subdivision requirements provided for herein. The agent shall review the preliminary plat within twenty one (21) days to determine whether it is in substantial conformance with the requirements of this Section. If deemed to be in substantial conformance, the plat is thereby accepted for processing and so noted by the agent on the plat. Upon making such determination that all documents are in order, the preliminary plat shall be deemed to be officially submitted. The date of this determination shall be deemed the filing date for the preliminary plat. If it is not accepted by the agent, the agent shall submit the reasons in writing to the applicant within twenty one (21) days. The agent's

determination that the plat has been accepted for review and processing shall not be deemed a determination that the plat meets all requirements for approval.

(b) Review of preliminary plat and action.

(1) The agent shall distribute copies of the preliminary plat to the **Planning Commission (Added July 9, 2020)**, other Town and County departments, and other county, state or federal government agencies as the agent may deem necessary to determine compliance with all applicable regulations. Review and comment by any such agency shall be completed within twenty one (21) days of the date on which the preliminary plat was officially submitted. Any comments shall be submitted to the agent in writing. The agent shall also forthwith transmit the plat to the E-911 coordinator for approval of any proposed street names for any new streets or extensions of existing streets.

(2) The agent **and the Planning Commission** shall review the preliminary plat for conformance to the requirements of this Section. **Such review will take place at a scheduled Planning Commission public meeting. The agent and the Planning Commission (added July 9, 2020) and** shall prepare written comments as to findings.

(3) The agent shall then provide a copy of all such written comments to the applicant within forty-five (45) days of the date on which the preliminary plat was officially submitted.

(4) The applicant shall have the option of revising the application (preliminary plat) based upon the comments received. The agent **and Planning Commission (added July 9, 2020)** shall determine whether such revisions, if any, constitute an amended application such that additional substantive review is required by the agent or other agencies, in which case the date on which the amended application is submitted shall thereafter be deemed the official filing date or date of acceptance of the application, for timeline purposes.

(c) Action on preliminary plat.

(1) The agent shall act on the proposed preliminary plat within ninety (90) days of the date of official acceptance. The agent may delay such action if the applicant has submitted a written request for a delay. The agent shall act on the preliminary plat by approving, or disapproving such plat, including reasons for the action, in writing, transmitted to the applicant by certified mail. The agent shall approve the preliminary plat provided that the requirements of this ordinance and other applicable ordinances have been met. Approval of the preliminary plat shall constitute approval of the subdivision. If disapproved, specific reasons for disapproval shall be provided in writing or marked on the plat, and shall include such modifications or corrections as will permit approval of the plat. The disapproval of the plat may be appealed to the Circuit Court of Botetourt County as provided for herein. Nothing herein shall be interpreted so as to preclude the applicant from filing a new preliminary plat for the same property if no appeal to the circuit court is pending.

(2) After approval of the preliminary plat, a final (record) plat application may be officially submitted within two (2) years of the date of action, hereafter called the initial approval period. If no record plat is submitted within such time, the applicant will be considered as not having diligently pursued final plat approval and the subdivision approval will become null and void. Upon such determination by the Town, the applicant is free to resubmit a new preliminary plat and re-initiate the process.

(3) Extensions of up to one (1) year may be granted by the agent at the written request and justification of the applicant at least twenty-one (21) days prior to the end of the initial approval period or current extension period, provided that the total of all such extensions shall not exceed an aggregate of three (3)

years beyond the initial approval period, at which point the Town will deem that the applicant is not diligently pursuing final approval. In considering such requests for extensions, the agent shall consider whether the applicant has agreed in writing that all future plats, plans and profiles shall comply with all applicable regulations in effect as of the date of the granting of such extension, and whether compliance of those plans with the ordinances is feasible without rendering the final (record) plat no longer capable of substantial conformance with the approved preliminary plat and the conditions, if any, imposed at the time of approval.

(4) If an applicant has obtained approval of a preliminary plat and submitted within two (2) years or many extended period as approved by the agent, a final plat meeting the submission requirements of this ordinance for a portion of the lots shown on the preliminary plat, then the applicant may submit final plats for remaining portions shown on the approved preliminary plat within five (5) years of the date of recordation of the initial final plat, or within such longer period as the agent may, at the time of preliminary plat approval, deem to be reasonable, taking into consideration the size and phasing of the proposed development, provided, however, that no final plat for any portion of the lots on an approved preliminary plat shall be approved unless such final plat is in conformance with the provisions of this Section and all other applicable regulations in effect at the time it is submitted for approval.

(5) The agent shall file a report with the Planning Commission for each major subdivision approved or disapproved. A copy of the agent's report shall also be filed with the Town Clerk.

(d) Final plat.

(1) Construction plans and profiles. Subsequent to approval of the preliminary plat and prior to submission of the final plat, the applicant shall submit to the agent copies of the construction plans and profiles of any public improvements that are required by this or other applicable regulations.

(2) Subsequent to approval of the preliminary plat, an applicant who proposes to record a final plat of subdivision shall submit copies of the final plat and other documents as required herein, to the agent for review. The agent shall determine within ten (10) working days if the final plats and documents comply with the submission requirements for final plats. Except as provided for with regard to the preliminary/final plat process, the agent shall not accept a final plat unless there is a valid, approved preliminary plat for the same property. Upon acceptance of the documents and final plat, the application shall be deemed to be officially submitted, and the date upon which such determination is made, shall be the filing date for the final plat. If not accepted, the reasons shall be indicated by the agent in writing and returned with the documents and final plat to the applicant. Acceptance of the application for processing shall not be deemed as a determination that the final plat meets the requirements for approval.

(e) Review and action.

(1) Within sixty (60) days after the filing date of the final plat, the agent shall act on the final plat application. If the agent approves the application, approval shall be evidenced by the agent's signature on the final plat, thereby indicating that the final plat is in substantial conformance with the approved preliminary plat and is in conformance with the requirements and provisions of this Section and all other applicable regulations, and that all construction plans and profiles are designed and in accord with all Town public facility regulations and requirements.

(2) If such requirements and conditions are not met, the agent shall not approve the final plat. Written reasons for such disapproval shall identify specific deficiencies with respect to adopted regulations, and shall generally identify such modifications or corrections as will permit approval of the plat.

(3) The agent shall not release an approved final plat and approval of a final plat shall not be deemed complete until all required agreements and surety relating to the final plat have been submitted, approved and executed in accordance with the policies and regulations in effect at the time the final plat is approved.

(4) An approved final plat shall be recorded by the applicant in the office of the Clerk of the Circuit Court of Botetourt County within six (6) months of the date of final approval, or the Town will deem that the applicant is not diligently pursuing completion of the subdivision process and recordation of the plat and subdivision approval will become null and void.

Sec. 21-68. Same--Minor subdivisions.

For minor subdivisions (those consisting of five (5) lots or less), a combined preliminary/final plat may be submitted, which shall include all of the required information and documents for both a preliminary plat of subdivision and a final plat, except as waived by the agent. The procedure for reviewing a preliminary/record plat shall follow that of the final plat. The creation of a subdivision in this manner shall not be for the purpose of circumventing this Section or other Sections of the Town Code.

Sec. 21-69. Same--Boundary line adjustment.

When the boundary lines of any two (2) legal lots or parcels of record are proposed to be relocated, or altered without creation of any additional lot or parcel, and where all resultant lots meet all applicable requirements of the zoning and subdivision ordinances, or where the original lots are nonconforming, but are made no more nonconforming by the adjustment, the following provisions apply:

(1) The agent may waive any of the requirements of this Section and approve such boundary line adjustment (BLA) as evidenced by the agent's signature on the plat so long as the following conditions have been met:

a. Such BLA shall not involve the relocation or alteration of streets, alleys, easements for public passage, or other public areas, and no easements or utility rights-of-way shall be relocated or altered without the express consent of all persons holding any interest therein.

b. Such BLA shall be clearly depicted upon the plat which shall be executed, acknowledged and recorded by the owner or owners of such land as provided in the Code of Virginia §15.2-2264.

c. Such BLA shall not result in any new violation of the area or other dimensional requirements of the zoning ordinance, provided, however, that any existing violation of minimum yard requirements or any existing nonconformity shall be permitted to continue so long as such yard violation or nonconformity is not enlarged, expanded or extended.

d. Where the adjustment of the BLA may impact the suitability of any lot for individual on-site sewage disposal, the agent may require evidence of either Health Department approval for an on-site sewage disposal system or from the Town for connection to a public or community sewage system for any lot so impacted.

e. Unless the titles to all parcels affected by the BLA are vested identically in the same person or entity or the same combination of persons and/or entities, an executed deed shall be filed with the plat which makes clear that no additional lot or parcel shall be created by the BLA.

(2) For the purposes of the zoning and subdivision ordinances of the Town of Fincastle, the lots or parcels resulting from any such boundary line adjustment approved hereunder shall be considered as coming into

existence as of the date of recordation in the office of the Clerk of the Circuit Court of Botetourt County, Virginia, of the boundary line adjustment plat.

(3) The agent shall take action to approve or deny any BLA plat filed hereunder within twenty one (21) days after such plat has been officially submitted. Such twenty one-day period shall not include time that elapses awaiting applicant's response to the agent's comments and requirements.

(4) Any boundary line adjustment approved hereunder shall be recorded by the applicant in the office of the Clerk of the Circuit Court of Botetourt County, Virginia, within six (6) months of the date of final approval, or the Town will deem that the applicant is not diligently pursuing completion of the subdivision process and recordation of the plat and shall declare it void.

Sec. 21-70. Same--Family subdivisions.

A division of a lot or parcel of record into two (2) or more lots for the purpose of conveyance to members of the owner's family will be approved when the following conditions are met:

(1) There is no intent to circumvent the requirements of the Fincastle Zoning Ordinance and/or the provisions of this subdivision ordinance by the creation of lots which would not be approved except under this section, for conveyance or reconveyance to grantees who are not eligible family members as defined herein, except for the trustees of a bona fide lender of purchase money and/or money for the construction of a residence or purchase of a mobile home to be sited on the lot conveyed.

(2) The person to whom the lot is to be conveyed is a natural or legally defined child, spouse, sibling, parent, grandparent, grandchild, niece, or nephew of the property owner. One such division shall be allowed per family member, but this exception shall not apply so as to permit further subdivision of such parcel by grantees hereunder for a period of five (5) years after the final plat is recorded.

(3) The person to whom the lot is to be conveyed has not previously been conveyed a lot by the exercise of this section or any previous family exemption section of the Town Code.

(4) The lot so created shall meet minimum lot requirements of the zoning district, and have at least twenty (20) feet of frontage on a state maintained highway, or at least a twenty foot wide appurtenant easement for ingress and egress to a state maintained highway.

(5) Applicants for a family subdivision shall not be required to provide a soil survey, and no plat information relating to septic approval shall be required.

(6) A plat of the proposed division, prepared in accordance with section 21-103 of this Section, shall be approved by the subdivision agent.

(7) The plat shall contain a certificate, the exact wording to be provided by the subdivision agent from standard models, wherein the owner of the property or family members receiving same, sets forth the relationship of the parties, attests to the compliance of the conveyance with the Town ordinances governing same and affirms the subscriber's awareness that resale of the tract so conveyed to a nonfamily member or the original grantor within three (3) years shall be determined to be a circumvention of the ordinance and that the parties thereto may be subject to fines and/or prosecution for perjury. This certificate shall be subscribed and sworn before a clerk or deputy clerk of the circuit court or a notary public as required by the agent.

(8) An executed deed of conveyance shall be presented to the subdivision agent with the executed plat of family subdivision for approval. Upon approval, both shall immediately be given to the clerk of the circuit court for recordation. Upon recordation six (6) copies of the plat with plat book and page number and date of recordation added, and one (1) copy of the recorded deed shall be returned to the agent. Failure to record the plat and deed upon approval and/or failure to return the required copies shall constitute a violation of this Section.

It shall be the applicant's responsibility to obtain preliminary approvals of the proposed family subdivision before executing the deed.

Sec. 21-71. Same--Low density subdivision.

A low density subdivision is a subdivision into lots of twenty-five (25) or more acres each. The subdivider may request an exception to any of the requirements of this Section pursuant to section 21-25. In no event, however, shall the Planning Commission grant an exception which permits a lot not approved for an individual sewage disposal system or connection to a public sewage disposal system.

The Planning Commission's decision to approve an exception to any of the requirements of this Section shall be guided by the Town's Comprehensive Plan and by the purposes established in section 21-3, as well as by the requirements of section 21-25.

Sec. 21-72. Same--Subdivision for service facility.

A division for the purpose of creating a lot containing a stormwater detention pond, a pump station, utilities or other facility for the provision of services, sewer, water, stormwater runoff and other similar uses if the lot created does not meet the requirements for lot area, frontage, setbacks or permitted uses under the zoning ordinance. Any lot created pursuant to this section shall not be used for residences or commercial or industrial purposes.

Secs. 21-73--21-80. Reserved.

DIVISION 2.

PRELIMINARY PLATS

Sec. 21-81. General requirements.

All preliminary plats shall provide all of the facts necessary to show compliance with these subdivision regulations. The agent shall have the authority to waive certain submittal requirements for plats if the agent determines that such information is not necessary for the proper review and approval of the plat and that not providing the information will in no way affect any public improvements, adversely affect adjoining properties, or conflict with any other requirements of the zoning ordinance or subdivision ordinance. Such waivers must be approved prior to submission of the plat.

Sec. 21-82. Preliminary plat content.

Unless a waiver is approved as provided for in section 21-81 above, all applications for preliminary plat approval shall include or be accompanied by the following information:

(1) The applicant shall present to the agent eight (8) paper copies of the plat, at a scale of not less than two hundred (200) feet to the inch, on sheets not larger than twenty-four (24) inches by thirty-six (36) inches.

(2) Name of subdivision, Town, county, state, property owner and name, address, signature and license of the engineer or surveyor who prepared the plat; the date the plat was drawn and dates of any revision(s); north arrow and source of meridian; scale of drawing and number of sheets. If shown on more than one sheet, matched lines shall clearly indicate where the sheets join.

(3) General location of the proposed subdivision by an insert vicinity map, at a scale of not less than two (2) inches equals one mile or as otherwise approved by the agent, indicating thereon adjoining roads, their names and number, towns, subdivisions and other landmarks.

(4) Proposed names and locations for new streets or extensions of existing streets, boundaries of all proposed and existing lots, easements, parks, school sites or other public areas, any areas of common open space, proposed uses of the property, the number and area of all building lots, all existing public and private streets and other rights-of-way, their names, numbers and widths, water courses and their names.

(5) Names of owners and their property lines within the boundaries of the tract and adjoining such boundaries.

(6) Deed reference, tax map and parcel number

(7) Existing zoning and any proffers associated with the property; proof of any special exceptions, variances or waiver necessary for the subdivision, and existing zoning of adjoining properties.

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

(9) The boundary survey or existing survey of record.

(10) Total acreage, acreage of subdivided area, number, area and frontage of all building lots, existing buildings within the boundaries of the tract, yard and setback lines, and any areas of common open space.

(11) Existing topography as required by the agent.

(12) Location of 100-year flood plain as shown on the most recent federal emergency management agency (FEMA) maps.

(13) All parcels of land to be dedicated for public use or ownership, the prospective owner(s) of such public use sites and the conditions of such dedication.

(14) Preliminary soils survey or statement of public water/sewer availability.

(15) Any proposed connections to public or community water and sewer systems.

(16) Preliminary storm water management plans.

(17) Outline of any proposed covenants.

Sec. 21-83. Acceptance of plat.

(a) A preliminary plat accepted for review and accompanied by the correct fee shall be deemed officially submitted to the Town.

(b) The agent is authorized to reject a preliminary plat on account of significant deficiencies as determined by the agent based on the requirements of this Section.

(c) Preliminary plats which are found deficient shall not be accepted until the deficiencies have been properly addressed and remedied. Resubmittals shall reactivate the review period.

Sec. 21-85. Multi-phase subdivisions.

When the subdivision agent approves the preliminary plat of a multi-phase major subdivision, the subdivision agent may approve an extended period for the recordation of the final plats of the subdivision. The final plats for all phases must be recorded within five (5) years of the first recordation of a final plat for any phase, unless this period is extended by the subdivision agent at the time of the approval of the preliminary plat. The subdivision agent may grant the extension for such time as he may deem to be reasonable, taking into consideration the size and phasing of the proposed subdivision. The final plats for unrecorded phases shall be subject to the terms and conditions of the engineering and construction standards and zoning requirements in effect at the time that each remaining phase is recorded.

Sec. 21-86. Term of validity of preliminary plat.

The subdivider shall have one (1) year from the date of approval of the preliminary plat within which to file a final plat and final engineering plan meeting all of the submittal requirements established by this Section for the subdivision or section thereof. Failure to do so shall make the preliminary plat approval null and void. The agent may, on written request of the subdivider received no fewer than ten (10) working days prior to expiration of validity and for good cause shown, grant one six-month extension of preliminary plat approval.

Sec. 21-87. Appeal of failure to act on preliminary plat.

If the agent fails to approve or disapprove the preliminary plat within ninety (90) days after it has been officially submitted for approval, the subdivider, after ten (10) days' written notice to the agent, may petition the circuit court for an order with respect thereto as it deems proper, which may include directing approval of the plat.

Sec. 21-88. Appeal of disapproval of preliminary plat.

If the agent disapproves a preliminary plat and the subdivider contends that the disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he or she may appeal to the Circuit Court of Botetourt County, which court shall hear and determine the case as soon as may be. The appeal must be filed with the circuit court within sixty (60) days of the written disapproval by the agent.

DIVISION 3.

FINAL PLATS

Sec. 21-101. General requirements.

All final plats shall provide all of the facts necessary to show compliance with these subdivision regulations. The details of all final plats shall comply with the standards for plats as adopted under Section 42.1-82 of State Code (Virginia Public Records Act). The agent shall have the authority to waive certain submittal requirements for plats if the agent determines that such information is not necessary for the proper review and approval of the plat and that not providing the information will in no way affect any public improvements, adversely affect adjoining properties, or conflict with any other requirements of the zoning ordinance or subdivision ordinance. Such waivers must be approved prior to submission of the plat.

Sec. 21-102. Time limit for filing.

The subdivider shall have not more than one (1) year after receiving official notification concerning the preliminary plat to file with the agent a final subdivision plat in accordance with this Section. Failure to do so shall make preliminary approval null and void. The agent may, on written request by the subdivider, grant an extension of this time limit.

Sec. 21-103. Content of final plat.

All final plats shall be clearly and legibly drawn in ink, at a scale of not smaller than fifty (50) feet to the inch (1"= 50'), except in cases where the agent has approved an alternate scale, on sheets being no larger than seventeen (17) by twenty-two (22) inches in size. If the plat is drawn on more than one sheet, match lines shall clearly indicate where the several sheets join. The final plat will clearly show the following information:

- (1) Name of the subdivision, Town, county and state.
- (2) Name of owner(s), name, and address of the licensed professional engineer or surveyor who prepared the plat.
- (3) The numerical section number if the plat includes only a portion of a larger tract.
- (4) Date of preparation of the plat and dates of any revisions.
- (5) General vicinity map showing the location of the parcel to be subdivided and its relationship to surrounding roads.
- (6) The exact layout, including all dimensions, both linear and angular, for locating lots, adjoining streets, proposed and existing streets and easements. The linear dimensions shall be expressed in feet and hundredths of a foot and the angular measurements shall be expressed by bearings or angles in degrees, minutes and seconds. The accurate location and dimensions by bearings and distances with all curve data shall be shown on all lots and street lines and center lines of streets. 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: radius, arc, chord and chord bearings. Survey accuracy shall result in a closure of one (1) in ten thousand (10,000) or better.
- (7) Numerical lot and block numbers.
- (8) Street names, as approved by the Botetourt County E-911 Coordinator.

(9) Total area within the final plat, to nearest one-one thousandth of an acre.

(10) Setback and yard requirements.

(11) All survey monuments, lot corners, block markers and benchmarks, together with their description.

(12) The endorsement of the surveyor duly licensed by the state who prepared the plat and, in addition, a statement that the platting or dedication of the following described land (here insert description of land subdivided) is with the free consent and in accordance with the desire of the undersigned owners, proprietors and trustees, if any, which statement shall be duly acknowledged before some officer authorized to take acknowledgements of deeds.

(13) Certificates signed by the surveyor setting forth the source of title of the owners of the land subdivided and the place of record of the last instrument in the chain of title.

(14) A land-disturbing permit for the subdivision as required.

(15) A certificate signed by the highway engineer that all proposed public streets or roads within the subdivision meet VDOT standards.

(16) Any deed covenants which may affect the type or location of structures, use of properties, or access to public rights-of-way.

(17) Any lot which has been designated by the Health Department as not suitable for an individual sewage disposal system shall be replatted so that all lots on the final plat are suitable for individual sewage disposal systems, unless public or community sewer is being installed by the developer.

(18) For plats that contain common or shared easements, the following note shall be shown on the plat:

Whenever the Town Council shall determine that any pipes, cables, poles, equipment, or other facilities installed by or for any utility after the recordation of this subdivision plat in any street right-of-way or stormwater management easement shown on this plat must be relocated or removed, the owner or operator of such facilities shall relocate or remove the same at its expense in accordance with the order of the Council.

(19) Survey requirements. All multiple lot subdivision plats shall be based on a current field survey performed in accordance with the "Minimum Standards and Procedures for Land Boundary Surveying Practice" promulgated by the Virginia Department of Professional and Occupational Regulation (18 VAC 10-20-370) as amended. All single lot subdivisions, including family, low density, agricultural divisions and boundary line adjustments or resubdivisions, may, with the consent of the parties to the subsequent conveyance and the waiver of the subdivision agent, be based on a plat from records of previous surveys without additional monumentation, or combination of same with a partial current field survey. In either event, all of the plat information listed as required in said minimum standards and procedures shall be shown together with such additional items required by this Section.

(20) For plats that contain private roads or streets, the following note shall be shown on the plat:

All streets in this subdivision do not meet the standards necessary for inclusion in the system of state highways and will not be maintained by VDOT and are not eligible for rural addition funds or any other funds appropriated by the General Assembly and allocated by the Commonwealth Transportation Board.

Sec. 21-105. Certificates.

The following certificates shall appear on the final plat, and shall be executed as appropriate:

(1) I certify that, to the best of my knowledge and belief, all requirements of the Town Council and ordinances of the Town of Fincastle, regarding the platting of subdivisions within the Town, have been compiled with (to be signed, dated by owner for all major subdivisions).

(2) The platting and subdivision of (here insert a correct legal description of land subdivided, including magisterial district, source of title, and location of last instrument in the chain of title), containing (insert acreage) and designated (insert name of subdivision), is with the free consent and in accordance with the desire of the undersigned owners, proprietors and trustees, if any; that all streets shown on the plat are irrevocably offered for dedication to public use (unless offered as a permitted, private street); and that all lots are subject to certain covenants and restrictions dated (insert date) and recorded at (deed book and page) in the office of the clerk of the circuit court of the County. (To be signed and dated by all owners).

(3) Provide area for subdivision agent and Health Department approval.

Sec. 21-106. *Bonding Policy (Revised December 12, 2019)*

(a) Performance Agreement. A Performance Agreement between the applicant and the Town Council, supported by an acceptable form of guarantee (as described below, generally called “bonds”), shall be required to ensure timely and proper installation of public and required improvements as shown on approved Construction Plans; provided, however, that any improvements to be owned or maintained by Botetourt County shall be subject to the County’s ordinances or procedures, including but not limited to storm water improvements.

The Town Attorney shall approve the form of the Performance Agreement and the bond.

(b) Bonded Improvements. Performance Agreements with the Town Council shall be executed to guarantee the installation of all improvements described below:

(1) All improvements described in Virginia Code §15.2–2241(5) that will be dedicated for public use and accepted for public maintenance by the Town of Fincastle, the Virginia Department of Transportation, or the Western Virginia Water Authority;

(2) All other site-related improvements required by Town ordinance and/or the approved final plat of the subdivision or other final approved plat or plan, and other law or regulation, including those specified in Virginia Code §15.2–2241(5), as determined by the agent;

(3) Improvements proffered and adopted as part of any zoning map amendment, as required by the agent in accordance with Virginia Code §15.2–2299;

(4) Improvements offered and granted as part of any variance or special exception application or required by the Board of Zoning Appeals in accordance with Virginia Code §§ 15.2–2309(2) and 15.2-2309(6).

(c) Procedure for Town Council approval. The applicant shall file a signed Performance Agreement, using a form supplied by the agent, and accompanied by an acceptable bond, with the agent at least 20

days prior to the Town Council meeting at which first consideration of the agreement is desired. The agreement shall specify the manner and date by which the required improvements shall be completed. The maximum period of the initial Performance Agreement term shall be twenty-four (24) months. A cost estimate for construction of the bonded improvements, in accordance with specifications and construction schedules prepared for the applicant by a professional engineer ("Construction Plans"), must be filed with the Performance Agreement; however, the required amount of any bond will be set by the Town. The Town may obtain its own cost estimate. Where two or more bonds are provided in conjunction with one performance agreement, the agreement shall identify and incorporate each guarantee separately.

(d) Bond Amount. Any and all bonds shall be at least equivalent to one-hundred percent (100%) of the estimated cost of bonded improvements, including engineering costs, plus ten percent (10%) as a reasonable allowance in accordance with Virginia Code § 15.2-2241(5).

If there is any change in the Construction Plans that affects the cost estimate for bonded improvements, the Town may require the subdivider or developer to provide a bond in an amount adjusted to include the change in cost estimate. Any adjusted or new bond shall be subject to the same conditions for bonds required by this Section.

(e) Acceptable Guarantees

The following guarantees are acceptable, provided they are consistent with the regulations below. Any of these guarantees may be referred to as “bonds” throughout Town ordinances:

(1) Cash escrow. The face amount of the bond shall be submitted to the Town Treasurer and shall be deposited in an interest-bearing escrow account in an institution selected by the Town and approved by the state for investment by state or local government entities. Such interest shall be available to the Town in the case of default or breach of the Performance Agreement. If the improvements are successfully completed, the principal and interest shall be refunded to the developer; provided, however, that the town is entitled to retain up to ten percent (10%) of the accrued interest to cover the cost of administering the account.

(2) Letter of credit. An irrevocable letter of credit from a financial institution is acceptable, provided it is in a form acceptable to the Town Attorney and that the initial expiration date extends at least six months beyond the expiration date of the Performance Agreement. The letter of credit must contain conditions for automatic renewal for additional six-month periods, unless the financial institution notifies the agent in writing by certified mail at least 60 days before the end of the initial term or any renewal term, that the letter of credit will not be renewed for the following term. The financial institution issuing the letter of credit shall be chartered in the Commonwealth of Virginia or be authorized to conduct business in Virginia and insured by the Federal Depository Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

(3) Corporate bond. Corporate surety bonds are acceptable, provided the bonds are in a form acceptable to the Town Attorney, are furnished by an insurance company licensed to transact fidelity and surety insurance in Virginia, and the surety holds a certificate of authority from the Federal Government to act as surety on Federal projects or has a rating of A or better by Best's Key Rating.

(f) Extensions

(1) Performance Agreements with the Town may be extended by the Town Council for periods of one year or less. Any request for extension shall be in writing and shall be accompanied by an estimate of the remaining work and a timetable for completion of the improvements, as well as the conditions which have prevented the applicant from completing the required improvements. The agent may, but is not required to, investigate and prepare a report approximately 60 days prior to a Performance Agreement expiration date on the completion status of required improvements shown on the final plat and as described in the Construction Plans, and send a letter to the applicant/developer and the surety or bond provider warning of possible default if the improvements cannot be completed within the remaining Performance Agreement time. Extension of the Performance Agreement may be conditioned on an adjustment to the amount of the bond to cover the cost of the remaining work plus 10%.

(2) Bonds: For improvements bonded with the Town, the bond must remain effective until the improvement is completed and accepted for maintenance by the appropriate agency or person.

If the applicant fails to complete all of the bonded improvements within the time period specified by the Performance Agreement, and/or fails to build the bonded improvements as shown on approved Construction Plans, and no extension has been obtained, the applicant is deemed to be in default of the Performance Agreement. If a replacement bond becomes necessary for any reason, the applicant must supply the replacement prior to the expiration or termination of the bond then in place. Improvements bonded with the County must follow County bond extension requirements.

(g) Bond Reductions

Periodic partial releases of bonds held by the Town may be approved by the Town Council in accordance with Virginia Code § 15.2-2245. Bonds held by Botetourt County must be reduced in accordance with County bonding policy. The Town Council shall approve a partial bond release that meets the standards below within thirty (30) days of the receipt of a written notice from the subdivider that part or all of any bonded improvements has been completed, unless the agent notifies the applicant in writing of non-receipt of approval by an applicable state agency or of any specified defects or deficiencies in construction and suggested corrective measures prior to the expiration of the 30-day period.

The following standards shall apply to any request for a bond reduction:

- (1) No more than three reductions shall be permitted within any 12-month period.*
- (2) No bond shall be partially reduced beyond 90 percent of the original bond amount. Periodic partial releases shall not occur before completion of at least 30 percent of the improvements covered by the bond.*
- (3) The applicant shall pay the town a fee for processing such reductions according to a fee schedule established by the town council. The applicant shall also be responsible for all engineering costs incurred by the town in the process of inspecting the required improvements.*

(h) Bond Release Procedures

- (1) For the purpose of final release, the term "acceptance" is deemed to mean when said improvements are accepted by and taken over for operation and maintenance by the Town, Botetourt County, VDOT, the Western Virginia Water Authority, or other entity which is responsible for maintaining and operating such improvements.*
- (2) Upon completion of all required improvements, the subdivider or developer shall notify the agent in writing of such completion and shall submit as-built plans, certified as to construction by a licensed engineer, accompanied by the required fee. The agent shall have all such improvements inspected by the appropriate agency and the applicant shall be responsible for all costs of inspection. The agent shall notify the subdivider or developer in writing of non-receipt of applicable state agency approval or of any specified defects or deficiencies in construction and suggested corrective measures within thirty (30) days of receipt of the notice and the certified as-built plans.*

When all improvements have been confirmed as accepted for operation and maintenance by the Town, Botetourt County, VDOT, the Western Virginia Water Authority or other appropriate responsible entity, the Town Council shall release any remaining bond within 30 days.

(3) Bonds held by Botetourt County shall be released by the County in accordance with County bonding policy.

(i) Conditions for Acceptance of Public Improvements

The Town Council shall accept public improvements installed by a subdivider or developer which meet the following conditions:

(1) The completed improvements comply with the design standards of this ordinance; have been constructed in accordance with all requirements; and have been installed in accordance with the approved Construction Plans, including any approved amendments thereto;

(2) All final inspections required by this article have been completed and the bonded improvements were found to be acceptable;

(3) The subdivider or developer has prepared and submitted three (3) sets of prints of plans that accurately depict the bonded improvements as actually built (as-built plans); and

(4) The subdivider or developer, by appropriate instrument, has conveyed any required access, maintenance, repair and improvement easements to the entity responsible for operation and maintenance of the improvement. The instrument must be approved by the Town Attorney. The subdivider or developer shall furnish a copy of the recording receipt for any applicable deed or bill of sale to the Town prior to bond release.

(5) The subdivider or developer, by appropriate instrument, has conveyed good title, free of all liens, to any equipment connected to the Town water and/or wastewater systems. The Town Attorney must approve the instrument. The subdivider or developer shall furnish a copy of the recording receipt for any applicable deed or bill of sale to the Town prior to bond release.

(6) Any public improvements installed pursuant to a Botetourt County bond shall be accepted in accordance with County ordinance and policy. All stormwater management improvements shall meet Botetourt County stormwater management improvement requirements. Botetourt County does not accept ownership or responsibility for such improvements; therefore, ownership and maintenance/repair/improvement responsibilities must be transferred to an existing homeowners' association.

(j) Street Maintenance Bond

(1) In the event the Town Council has accepted the dedication of a street for public use and such street, due to factors other than its quality of construction, is not acceptable into the secondary system of state highways, the subdivider or developer may be required to post a maintenance and indemnifying bond, with acceptable surety, in an amount sufficient for and conditioned upon the maintenance of such street until such time as it is accepted into the secondary system. "Maintenance of such street" shall mean maintenance of the pavement,

curb, gutter, drainage facilities, utilities or other improvements, including the correction of defects or damages and the removal of snow or debris, to keep such street reasonably open for public usage.

(2) Streets to be dedicated to or maintained by Botetourt County shall meet the requirements of the County bonding policy. (Revised December 12, 2019)

Sec. 21-106.1. Additional submissions.

Prior to final plat approval the agent may require the applicant to submit any of the following:

(a) Deed of dedication and/or deed of easement for all rights of way, easements, or other estates or improvements which will be conveyed to the Town or County, or other entity, as a result of the subdivision.

(b) Any declaration of restrictive covenants applicable to the subdivision.

(c) Any property owners' association documents applicable to the subdivision.

(d) Any construction plans, profiles and/or specifications applicable to the subdivision, including water, sewer and storm management systems.

(e) As built construction drawings for all utilities or other facilities applicable to the subdivision.

Sec. 21-107. Recording of plat.

After approval of the final plat and the posting of the bond, where applicable, approval of the final plat shall be written by the agent on the face thereof. When thus executed and approved as herein specified, the plat shall be filed and recorded in the office of the clerk of the circuit court and indexed under the names of the landowners signing the statement specified in section 21-105 and under the name of the subdivision.

Sec. 21-108. Effect of plat recordation.

Recordation of the final plat with the clerk of the circuit court shall operate to transfer, in fee simple, to the Town or County such land or portion of the premises platted as is on such plat set apart for public streets, or other public use and to transfer to the Town or County any easement indicated on such plat to create a public right of passage over same. Rights of subdividers of land that have been validly reserved are not to be affected.

Sec. 21-108.1. Deeds.

Deeds conveying lots within an approved subdivision must contain the following language where applicable:

All streets in this subdivision do not meet the standards necessary for inclusion in the system of state highways and will not be maintained by VDOT and are not eligible for rural addition funds or any other funds appropriated by the General Assembly and allocated by the Commonwealth Transportation Board.

Sec. 21-109. Changes in approved plat.

(a) No change, erasure or revision shall be made on the final plat, nor on accompanying data sheets, after approval of the agent has been endorsed in writing on the plat or sheets, unless authorization for such changes has been granted in writing by the agent.

(b) For any change in a map of an approved or recorded subdivision plat, if such change affects any street layout shown on such map, or area reserved thereon for public use, or any lot line, or if it affects any map or plan legally recorded prior to the adoption of this Section, such parcel shall be approved by the agent by the applicable procedures, rules and regulations for a subdivision approval as provided for herein.

Sec. 21-110. Vacation of recorded plat.

Any plat recorded, or part thereof, may be vacated with the consent of the Town Council and the owners, as specified in section 15.2-2271 of the Code of Virginia. In cases where any lot has been sold, the plat or part thereof may be vacated according to either common agreement of all lot owners on the plat indicated by a written statement or by ordinance of the Town Council, as specified in 15.2-2272.

Secs. 21-111--21-120. Reserved.

ARTICLE V.

STANDARDS

Sec. 21-121. Application of article.

The provisions of this article shall apply to any subdivider of any tract of land in the Town of Fincastle and any subdivider shall submit a plat of a subdivision. The provisions of this article shall apply to any developer of any tract of land in the Town and any developer of land shall submit a site plan. The provisions of this article may be superceded by proffers or special exception conditions in cases where they are more stringent or impose a higher standard. Standards for public improvements, including water and sewer systems, adopted by the Town as part of this article shall govern the design, construction and operation of such systems or facilities.

Sec. 21-122. Land suitability.

(a) Suitability of land in flood plains. All proposed subdivision activities in land determined to be within a one-hundred-year flood plain shall be governed by the regulations of the Virginia Uniform Statewide Building Code and the state Health Department as well as the FEMA regulations of the U.S. Government and the Fincastle Zoning Ordinance.

(b) Drainage. To ensure development of lots containing sufficient land upon which to place structures without impeding natural drainage, the subdivider shall provide elevation and flood profiles as may be required by the agent or the Planning Commission.

Sec. 21-123. Improvements generally.

(a) All required improvements shall be installed by the subdivider at his cost. In cases where specifications have been established by the VDOT for streets, curbs and the like, such specifications shall be followed. The minimum surface treatment for all new road construction shall be in accordance with current Virginia Department of Transportation specifications with a minimum of two-inch compacted surface thickness. The subdivider's performance bond shall not be released until construction subject to

VDOT specifications has been inspected and approved by the highway engineer. All improvements shall be in accordance with the requirements contained in this article.

(b) The subdivider shall provide all requested information needed to determine what improvements are necessary to properly develop the subject property, including contour intervals, drainage plans and flood control devices. The subdivider may also be required to provide plans for all such improvements, together with a certified engineer's statement that such improvements, when properly installed, will be adequate for proper development. The agent and engineer shall then approve or disapprove such plans. The subdivider shall also provide any other information required by the Virginia VDOT.

Sec. 21-124. Building sites generally.

The site of buildings constructed within a subdivision shall be in accordance with the following:

(1) Building setback. The building setback for each lot shall conform to the provisions of the Zoning Ordinance.

(2) Building line. The building line shall be designated by the subdivider and reflected on the plat. This line shall not be closer to the street line than the setbacks required by the Zoning Ordinance.

(3) Lot sizes. Lot sizes shall conform to the regulations of the use district in which located, as specified in the Zoning Ordinance.

(4) Lot arrangement, design and shape. The lot arrangement, design and shape shall be such that lots will provide satisfactory and desirable sites for buildings, be properly related to topography and conform to requirements set forth herein. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage or frontage which would be unsuitable for normal purposes.

(5) Lots to abut on street. Each lot shall abut on and be accessed from a street dedicated by the subdivision plat, or on an existing publicly dedicated state-maintained street, or on a street which has become public by right of use and is state-maintained or on a private street permitted by this Section and/or the zoning ordinance. If the existing streets are not fifty (50) feet in width, the subdivider shall make provisions in the deeds to the lots for all buildings to be so constructed as to permit the widening by dedication of such roads or streets to a width of fifty (50) feet.

(6) Corner lots. Corner lots shall have extra width sufficient for maintenance of required building lines on both streets, as required by the agent.

(7) Side lines. Side lines of lots shall be approximately at right angles or radial to the street line.

(8) Remnants. All remnants of lots below minimum size left over after subdividing of a tract must be added to adjacent lots or otherwise disposed of, rather than allowed to remain as unusable parcels.

(9) Separate ownership. Where the land covered by a subdivision includes two (2) or more parcels in separate ownership and the property line divides one or more lots, the land in each lot so divided shall be transferred by deed to single ownership, simultaneously with the recording of the final plat. Such deed is to be deposited with the agent and held with the final plat until the subdivider is ready to record such plat, and they both shall then be recorded together.

Sec. 21-125. Water and sewer systems.

(a) In subdivisions where septic tanks or individual wells are contemplated, the agent may require that the lot areas be greater than those required in this Section. If the Health Department determines that there are factors of drainage, soil condition or other conditions to cause potential health problems, the agent shall require that data from percolation or soil analysis tests be submitted as a basis for making decisions upon subdivisions containing septic tanks as a means of sewage disposal. A one hundred (100) percent or greater reserve septic drainfield shall be employed when required by the health official.

(b) Nothing in this section shall prevent the installation of privately owned water distribution systems or sewage collection and treatment facilities where Town facilities are not available; provided, that any such installation must meet all of the requirements of this Section, of the Town Comprehensive Plan, the Zoning Ordinance, the State Water Control board, the state Health Department and any other state or local agency having authority over such installations.

Sec. 21-126. Utility standards.

All utilities shall meet all Town, County and state requirements.

Sec. 21-127. Vegetation.

All subdivision and site plans shall be designed to encourage the preservation of existing trees of six (6) inches caliper at breast height or larger. A landscape plan shall be developed in accordance with the zoning ordinance and other adopted Town ordinances and criteria.

Sec. 21-128. Soils.

Soils and/or geotechnical reviews are required for all applicable subdivision and development activities. The extent of these reviews is to be directly related to the quality of the in-place materials as they relate to engineering applications. The purpose of such reviews is to identify those tracts of land or building sites, or parts thereof, where Class III or Class IV soil classifications exist in order that any foreseeable problems affecting health safety or general welfare are addressed. This requirement can be satisfied with as little as a soils map and interpretations or as much as detailed geotechnical report as required by the agent or planning Commission. Soils maps shall be submitted at scales of not less than one (1) inch equals two hundred (200) feet. All studies shall be prepared by a certified professional soil scientist or other qualified professional such as a professional engineer or professional geologist registered in Virginia.

Sec. 21-129. Drainage.

When required by this Section or other Town, County or state regulations, drainage and/or storm water management systems shall be provided by means of culverts, ditches, catch basins, cross drains, curbs and gutters, ponds, swales and any other facilities that are necessary to provide adequate drainage and disposal of surface and storm waters from or across all streets and adjoining properties.

Adequate drainage must have the hydraulic characteristics necessary to convey stormwater runoff from the contributing watershed, or portion thereof, for a specified rainfall event.

The design of an adequate drainage system must (a) account for both off-site and on-site stormwater runoff; (b) honor natural drainage divides; and (c) convey stormwater runoff discharge into an adequate channel. An adequate channel shall be defined as a natural or manmade channel or pipe which can convey the stormwater runoff without overtopping its banks, surcharging the system, or creating erosive velocities. Adequate drainage must also include provisions for overland relief to accommodate stormwater runoff in excess of the design storms without damaging or endangering adjacent structures.

Proposed drainage systems which are designed to convey concentrated off-site stormwater runoff across the project shall be located within a dedicated drainage easement.

The objective of the Town of Fincastle is to promote water quality provisions within the drainage system design of all proposed developments as contained in best management practices published by the State of Virginia in order to avoid extensive water quality monitoring and inspection.

Except where otherwise prescribed, the design provisions of the most current adopted VDOT Drainage Manual and Virginia Erosion and Sediment Control Handbook shall apply.

Sec. 21-130. Erosion and sediment control.

Proposed subdivisions shall meet the applicable requirements of Section 10 of this Code and the subdivider shall submit a Town or County approved land-disturbing permit to the agent prior to the submission of the subdivision plat.

Sec. 21-131. Easements.

The agent may require that easements for drainage through adjoining property be provided by the subdivider. Easements shall be provided for water, sewer, power lines and other utilities in the subdivision.

Sec. 21-132. Fire protection.

The installation of adequate fire hydrants, adequate water mains and adequate water storage facilities shall be at locations approved by the Town.

Sec. 21-133. Blocks.

(a) Length. The maximum length of subdivision blocks generally shall be one thousand two hundred (1,200) feet and the minimum length of blocks on which lots have frontage shall be five hundred (500) feet.

(b) Width. Blocks in subdivisions shall be wide enough to allow two (2) tiers of lots minimum depth, except where fronting on major streets or prevented by topographical conditions or size of the property, in which case the agent may approve a single tier of lots of minimum depth.

(c) Orientation. Where a subdivision adjoins a major road, the agent may require that the greater dimension of the block shall front or back upon such major thoroughfare to avoid unnecessary ingress and egress.

(d) Business or industrial use. Blocks 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. 21-134. Streets.

(a) General requirements. Except where specifically waived elsewhere herein, or permitted by the zoning ordinance, each lot within a subdivision shall be served by a publicly dedicated and state maintained street. New streets shall conform to the standards and regulations of the VDOT and to this section. All approvals and inspections of streets will be coordinated with the Virginia Department of Transportation, the Fincastle Comprehensive Plan and any applicable proffers or special exception conditions.

(b) Alignment and layout. The arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in adjoining areas. Where, in the opinion of the agent or the Planning Commission, it is desirable to provide for street access to adjoining property, whether or not there are existing streets in such adjoining property, proposed streets shall be extended by dedication to the boundary of such property. Half streets along the boundary of land proposed for subdivision shall not be permitted.

(c) Service drives, right-of-way widths. Whenever a proposed residential or nonresidential subdivision contains or is adjacent to a limited-access highway or expressway, provision shall be made for a service drive or marginal street approximately parallel to such right-of-way at a distance suitable for an appropriate use of the land between such highway and the proposed subdivision. Such distances shall be determined with due consideration of the minimum distance required for ingress and egress to the main thoroughfare. The right-of-way of any major highway or street projected across any railroad, limited-access highway or expressway shall be of adequate width to provide for the cuts or fills required for any future separation of grades.

(d) Approach angle. Major streets shall approach the major or collector streets at an angle of not less than eighty (80) degrees, unless the agent, upon recommendation of the highway engineer, shall approve a lesser angle of approach for reasons of contour, terrain or matching of existing patterns.

(e) Minimum widths. The minimum width of proposed streets, measured from lot line to lot line, shall be in accordance with regulations established by VDOT standards. If an existing street is to be utilized, the Commission may require the developer to dedicate land sufficient to widen the right-of-way if such widening is related to needs generated by the proposed development.

(f) Grading and paving. Grading and paving of all streets dedicated to public use shall be in accordance with regulations established by the state department of highways and transportation.

(g) Cul-de-sacs. Minor terminal streets (cul-de-sacs), designed to have one end permanently closed, shall not be longer than necessary to service a maximum of twenty-five (25) dwellings and in no case longer than one thousand two hundred fifty (1,250) feet for public roads to the beginning of the turnaround. Each cul-de-sac must be terminated by a turnaround in accordance with VDOT standards.

(h) Alleys. Alleys should be avoided wherever possible, except in traditional neighborhood districts as provided by the zoning ordinance. Dead-end alleys, if unavoidable, shall be provided with adequate turnaround facilities as determined by the state department of highways and transportation.

There shall be no reserve strips controlling access to streets.

(i) Private streets. There shall be no private streets platted in any subdivision, except as may be permitted by this Section or the zoning ordinance. All streets that are not constructed to meet the standards necessary for inclusion in the system of state highways will be privately maintained and will not be eligible for acceptance into the system of state highways unless improved to current VDOT standards with funds other than those appropriated by the General Assembly and allocated by the Commonwealth Transportation Board.

(j) Names. Proposed streets which are obviously in alignment with other already existing and named streets shall bear the names of the existing streets provided that a continuous path of natural travel is maintained. Prior to acceptance, all proposed new street names shall be reviewed by the E-911 coordinator to ensure that the names are in compliance with the Botetourt County street naming, signing and building

numbering article. In no case shall the names of proposed streets duplicate existing street names in the Town, nor shall they duplicate street names of adjoining jurisdictions, if such names might conflict with the delivery services of the United States Postal Service in that location. The use of the suffix street, avenue, boulevard, drive, way, place, lane or court to circumvent the intent of this paragraph is prohibited. Street names shall be indicated on the preliminary and final plats and shall be approved by the agent. Names of existing streets shall not be changed except by approval of the Town Council.

(k) Identification signs. Street identification signs of a design approved by the Virginia Department of Transportation shall be installed at all intersections by the subdivider prior to occupancy of any residence thereon.

(l) Grades. The grades of streets shall be in accordance with specifications established by VDOT and such grades as submitted on subdivision plats shall be approved by VDOT prior to final action by the agent. Whenever feasible, street grades shall not exceed ten (10) percent and in no case shall they exceed grades prescribed by the standards of VDOT.

(m) Access and egress. Where a proposed subdivision will border on or include frontage on an existing or proposed primary arterial, the agent may require that access to such street be limited by one of the following means:

(1) The subdivision of lots so as to back onto the primary arterial and front onto a parallel local street; no access shall be provided from the primary arterial, and screening shall be provided in a strip of land along the rear property line of such lots.

(2) A series of cul-de-sacs, U-shaped streets or short loops entered from, and designed generally at, right angles to such a parallel street, with the rear lines at their terminal lots backing onto the primary arterial.

(3) A marginal access or service road separated from the primary arterial by a planting or grass strip and having access thereto at suitable points.

Sec. 21-135. Monuments.

(a) All minor subdivisions shall be monumented in accordance with "Minimum Standards and Procedures for Land Boundary Surveying Practice" (18 VAC 10-20-370).

(b) All major subdivisions shall be monumented as follows:

(1) The outside boundary of the tract being subdivided shall be monumented in accordance with "Minimum Standards and Procedures for Land Boundary Surveying Practice" (18 VAC 10-20-370). In addition, the substance and size of each monument found shall be noted on the final plat of the subdivision. All replacement monuments set shall meet the requirements for new division corners as set forth below.

(2) All new division corners shall be monumented with solid iron or pipe not less than one-half (½) inch in diameter and twenty-four (24) inches long, driven so as to be flush with the finished grade, and capped with metal or plastic stamped with the surveyors name, initials, and/or license number so as to distinguish monuments set by the original surveyor from replacement monuments set by others. Where conditions do not allow the specified monument to be placed as required at the lot corner, the corner shall be marked as appropriate to the conditions and the specified monument shall be set on line as near to the corner as conditions allow and such location shall be noted on the final plat, or the schedule of monumentation subsequently recorded, as appropriate.

(3) All major subdivisions with bonded improvements shall meet the following requirements.

a. The surveyor preparing the final plat shall submit with same a letter or schedule setting forth his charge for monumenting, as required above, the subdivision being submitted and the developer shall bond same along with other improvements.

b. Before the bond will be released the surveyor shall submit a letter or schedule certifying that all required monuments were set after construction of improvements bonded by the developer and after the installation of underground utilities by others, or that monuments set prior to such construction were field verified after same and found to be as required. In addition, any variations in type or location of monument from what was shown on the final plat of the subdivision, shall be noted on a schedule of monumentation, which may be a copy of the horizontal layout sheet of the final plat, and recorded in the office of the clerk of the circuit court, with a title block containing all names the original final plat of the subdivision was indexed under.

c. Where corner monumentation is to be permanently placed after construction, same shall be noted on the final plat of the subdivision, and precise reference points shall be shown on said final plat, or made available to other surveyors, for the location of improvements prior to final monumentation.