

## **ARTICLE I. EFFECT OF ORDINANCE**

Sec. 24.1-1. Subdivision regulations.

The following regulations are hereby adopted for the subdivision of land within the corporate limits of the City of Lynchburg and from and after the effective date of this ordinance, every ~~owner or proprietor~~ subdivider of any tract of land to which these regulations apply who subdivides such tract as provided in these regulations shall cause a plat of such subdivision developed and prepared in accordance with these regulations, with reference to known or permanent monuments, to be made and recorded in the office of the clerk of the circuit court, within deeds conveying such land are required by law to be recorded. A copy of said plat shall also be filed in the office of the city assessor. For any subdivision plat recorded prior to the adoption of this ordinance for which construction contracts for required improvements have not been signed, the subdivider shall be required to submit final plat documentation for approval by the ~~city planner~~ agent before such contracts are signed and sale or development of lots may be undertaken.

## **ARTICLE II. PURPOSE AND TITLE**

Sec. 24.1-2. Title.

This ordinance is known and shall be cited as the "Subdivision Ordinance of the City of Lynchburg."

Sec. 24.1-3. Purpose.

The purpose of this ordinance is to establish certain subdivision standards and procedures for the City of Lynchburg, Virginia, and such of its environs as come under the jurisdiction of the governing body as provided for by the Code of Virginia, as amended.

These are part of a long-range plan to guide and facilitate the orderly beneficial growth and restoration of the community, and to promote the public health, safety, convenience, comfort, prosperity and general welfare. More specifically, the purposes of these standards and procedures are to provide a guide for the change that occurs when

land and acreage become urban in character as a result of development for residential and non-residential purposes; to encourage the redevelopment of the central city; to provide assurance that the purchasers of lots are buying a commodity that is suitable for development and use; and to make possible the provision of public services in a safe, adequate and efficient manner.

Sec. 24.1-4. ~~Mutual responsibility.~~ Repealed

~~There is a mutual responsibility between the subdivider and the city of Lynchburg to divide the land so as to improve the general use pattern of the land being subdivided.~~

### **ARTICLE III. DEFINITIONS**

Sec. 24.1-5. Words and terms.

For the purpose of this ordinance, certain words and terms used herein shall be interpreted or defined as follows: Words used in the present tense include the future, words in the singular number include the plural, and the plural the singular, unless the natural construction of the word indicates otherwise; the word "lot" includes the word "parcel"; the word "shall" is mandatory; the word "approve" shall be considered to be followed by the words "or disapprove"; any reference to this ordinance includes all ordinances amending or supplementing the same; all distances and areas refer to measurement in a horizontal plane.

~~(1) Agent: The representative of the City of Lynchburg who has been designated to serve as the agent of the city in administering this ordinance.~~

~~(2)~~(1) Alley: A permanent service way providing a secondary means of access to abutting properties.

(2) Arterial road: A moderate or high-capacity road which carries large volumes of traffic between areas in urban centers. Arterial roads are designated on the Virginia Department of Transportation's Virginia Highway Functional Classification map for the City of Lynchburg.

(3) Block: An area of land containing two (2) or more lots and bounded by streets providing access to such lots.

(4) Building line: A line set with respect to the frontage of a ~~plot~~ lot of land which is fixed by statute, ordinance, deed or contract and beyond which the owner of the land may not build.

(5) Building setback: The minimum distance that a building must be set back from the street line on which the lot abuts.

(6) Collector road: A moderate-capacity road which leads traffic from local roads or sections of neighborhoods to activity areas within the city. Collector roads are designated on the Virginia Department of Transportation's Virginia Highway Functional Classification map for the City of Lynchburg.

~~(6)~~ (7) Commission: The planning commission of the City of Lynchburg, Virginia.

~~(7)~~ (8) Cul-de-sac: A street with only one (1) outlet and having an appropriate turnaround for a safe and convenient reverse traffic movement.

~~(8)~~ (9) Dedicate(tion): An appropriation of land to some public use, made by the ~~owner~~ subdivider, and accepted for such use by or on behalf of the public.

~~(9) Developer: An owner of property being subdivided, whether or not represented by an agent.~~

(10) Driveway: The means of access to the building on a lot, connecting the building to the street on which the lot has frontage.

(11) Easement: A grant by a property ~~owner~~ subdivider of the use of land for a specific purpose or purposes.

(12) Flag lot: A lot which has less than the usual required street frontage and which meets the requirements of Section 24.1-28.1. Flag lots. Lots fronting on a cul-de-sac are not considered flag lots and are regulated by Section 35.1-22. Buildings, uses and lots.

(13) Governing body: The city council of the City of Lynchburg, Virginia.

(14) Health official: ~~The Health, director of the City of Lynchburg, or a sanitarian.~~ Central Virginia Health District of the Virginia Department of Health.

(15) Jurisdiction: The area or territory subject to the legislative control of the governing body.

(16) Lot: A tract or parcel of land intended for transfer of ownership, use or improvement.

(17) Lot, double frontage: A lot, the opposite ends of which abut on streets.

(18) Lot of record: A lot, the plat of which has been recorded in the office of the clerk of the circuit court.

(19) Lynchburg ~~general plan~~ comprehensive plan: The comprehensive plan of the City of Lynchburg as adopted and amended by the city council.

(20) Monuments: Visible marks or indications left on natural or other objects indicating the lines and boundaries of a survey.

(21) Plat: Includes the terms: map, plan, plot, replat or replot; a map or plan of a tract or parcel of land which is to be, or which has been, subdivided. When used as a verb "plat" is synonymous with "subdivide."

(22) Property: Any tract, lot, parcel or several of the same collected together for the purpose of subdividing.

(23) Public water or sewer: A water or sewer system designed to accommodate more than two (2) family residences, whether owned by the City of Lynchburg or by a private individual ~~or concern~~. This definition shall not apply to nonresidential subdivisions.

~~(24) Sight distance (across intersections): A straight line with unobstructed view measured in either direction across the corner between points, each fifty (50) feet back from the theoretical intersection of the edges of the pavement prolonged; both points three (3) feet above the grade of the pavement edge.~~

~~(25)~~(24) Sight distance ~~(along road)~~: A straight line with unobstructed view measured between a point three (3) feet above the

finished grade of a road, at the center line of each traffic lane, and a point at a given minimum distance away from the first point, located six (6) inches above finished grade at a center line of the same traffic lane.

~~(26)~~(25) Street, private: An improved access road which has been approved by the City of Lynchburg as part of a planned unit development, cluster commercial development, or townhouse ~~lots for sale complex~~ development, where an owners' association owns and maintains the access road. Also an improved access road which by a plat, deed or agreement recorded on or before September 12, 1989, has established joint usage rights and maintenance responsibilities among the owners of properties fronting on said improved access road.

~~(27)~~(26) Street, public: An improved dedicated right-of-way, or an improved road which has become public by right of use, for access use by the public, usually having a minimum pavement width of thirty (30) feet and a minimum right-of-way width of fifty (50) feet unless the regulations of the City of Lynchburg require otherwise.

~~(28)~~(27) Street, width: The total width of the strip of land dedicated or reserved for public travel, including roadway, curbs, gutters, sidewalks and planting strips.

~~(29)~~(28) 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 purposes of this ordinance, the alteration or reconfiguration of existing lot lines involving more than two (2) lots is also considered to be a subdivision. ~~However, the following exceptions apply:~~

a. The term "subdivision" shall not include the division of land into ten (10) acres or more for agricultural purposes, provided no new streets are required.

b. The city planner~~agent~~ may, however, permit the separation of one (1) parcel from a tract of land without complying with all requirements of this ordinance if it is (1) not in conflict with the general meaning and purpose of the ordinance, and (2) no new streets are required to serve the parcel.

~~c. The word "subdivide" and any derivative derivative thereof shall have reference to the term "subdivision" as defined in Section 24.1-5(26).~~

~~(30)~~(29) Subdivider: Any one ~~(1)~~ or more individual, corporation or registered partnership, ~~owning any~~ owner of a tract, lot or parcel of land to be subdivided, ~~a group of two~~ ~~(2)~~ or more persons ~~owning any tract, lot or parcel of land to be subdivided, who have given their power of attorney to one of their group or to another individual to act on their behalf in planning, negotiating for, in representing or~~ their legal representative executing the legal requirements of the subdivision.

~~(31)~~(30) Technical review committee (TRC): A committee for review and recommendation to the city manager, planning commission, and city council, consisting of the city planner, city engineer, city traffic engineer, ~~superintendent of inspections~~ building official, director of utilities, urban forester and fire marshal or their designees and other city staff as appropriate.

#### **ARTICLE IV. ADMINISTRATION**

Sec. 24.1-6. City planner~~Agent~~, or his designee.

This ordinance ~~will~~ shall be administered by the city planner, or his designee, in collaboration with the technical review committee who shall jointly determine compliance with the regulations contained herein. The city planner shall administer ~~with these~~ these regulations contained herein. The city planner shall ~~administer all subdivisions, provided no new streets are required to serve the parcel, in which case final approval may only be given by the city council~~ not approve any subdivision requiring a new street or street extension until the right-of-way has been accepted and the street name approved by the city manager after review by the technical review committee with comment from the planning commission. ~~Where a subdivision has been approved administratively by the city planner, no additional subdivision of these lots or of the residue tract will be approved within a period of two~~ ~~(2)~~ years from the date of approval, unless the land is industrially zoned or the two-year time limit is waived by the ~~planning~~ commission. In so acting, the city planner shall be considered the agent of the governing body, and approval or disapproval by the city planner~~agent~~ shall constitute approval or disapproval as though it were given by the governing body. An appeal of right from any decision of the city planner~~agent~~ shall lie to the commission, thence to city council, thence to the circuit court of the City of Lynchburg.

Sec. 24.1-7. Duties.

The ~~city planner~~agent shall perform his or her duties regarding ~~subdivision and subdividing~~ in accordance with this ordinance and ~~Chapter 11, Article 7, Sections 15.1-465 through 15.1-485~~ Chapter 22, Article 6, Sections 15.2-2240 through 15.2-2276, and other applicable sections of the Code of Virginia (1950), as amended.

Sec. 24.1-8. ~~To consult.~~ Repealed

~~In the performance of his duties the agent may call for opinions or decisions, either verbal or written, from other departments in considering details of any submitted plat. This authority of the agent shall have particular reference to the technical review committee, and the health official.~~

## **ARTICLE V. PROCEDURE FOR PREPARING AND RECORDING PLATS**

Sec. 24.1-9. Platting and recording required.

Any ~~developer~~ subdivider of any tract of land situated within the City of Lynchburg ~~who subdivides the same as defined herein~~ shall cause a plat of such subdivision, with reference to known or permanent monuments, to be made and recorded in the office of the clerk of the circuit court of the City of Lynchburg. No such plat of subdivision shall be recorded unless and until it shall have been submitted, approved and certified by the ~~city planner~~agent in accordance with the regulations set forth in this ordinance. No lot shall be sold in the subdivision before the plat shall have been recorded. Before any permits are issued to begin construction, the subdivider shall submit a notarized letter, or a copy of the plat with the clerk of courts' seal and signature, to the ~~superintendent of inspections, the city planner, and the city engineer~~city planner certifying that the plat has been recorded with the clerk of the circuit court.

Sec. 24.1-10. Draw and certify.

Every such plat shall be prepared by a licensed professional surveyor ~~7~~ or other persons ~~certified~~ appropriately licensed by the State Commonwealth of Virginia, who shall endorse upon each plat a certificate ~~signed by him~~, setting forth: (1) the source of the title of the land subdivided; and (2) the place of record of the last instrument in the chain of title. When the plat is of land acquired from more than one (1) source of title, the outlines of the several tracts shall be indicated upon the plat, within an insert block, or by means of a dotted boundary line. ~~When any part of the land proposed for subdivision lies in a drainage district, such fact shall be set forth on the plat of the proposed subdivision.~~

Sec. 24.1-11. ~~Owner's~~ Subdivider's statement.

Every such plat, or the deed of dedication to which the plat is attached, shall contain in addition to the surveyor's certificate a statement to the effect that "the above and foregoing" subdivision of (here insert correct description of the land subdivided) as appears in this plat is with the free consent and in accordance with the desire of the undersigned owners, ~~proprietors and trustees, if any~~ which shall be signed by the owners, ~~proprietors and trustees, if any~~ and shall be duly acknowledged before some officer authorized to take acknowledgements of deeds, and when thus executed and approved, as herein specified, shall be filed and recorded in the office of the clerk of the circuit court of the City of Lynchburg, Virginia, and indexed under the names of the landowners signing such statement and under the name of the subdivision.

Sec. 24.1-12. No land exempt.

No tract of land shall be subdivided ~~that is located within the City of Lynchburg, Virginia,~~ unless it conforms with the provisions of this ordinance.

Sec. 24.1-13. Private contracts.

This ordinance 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 by any public official. When this ordinance calls for more restrictive standards than are required by private contract, the provisions of this ordinance shall control.

Sec. 24.1-14. Necessary changes.

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

Sec. 24.1-15. Fees.

There shall be a charge for the examination and approval or disapproval of every plat reviewed by the city planner~~agent~~. At the time of filing the plat, the subdivider shall deposit with the city planner~~agent~~ a check payable to the City of Lynchburg in the amount set forth in the fee schedule adopted by city council.

## **ARTICLE VI. GENERAL REGULATIONS**

Sec. 24.1-16. Flooding.

Land subject to flooding and land deemed to be topographically unsuitable shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life, or property, or aggravate erosion or flood hazard. Such land within the subdivision shall be set aside on the plat for such uses as shall not be endangered by periodic or occasional flooding or shall not produce conditions contrary to public welfare.

Sec. 24.1-16.1. Possible flood plain.

To ensure that owners will have sufficient land upon which to build a structure which is flood free, compliance with floodway widths and the one hundred (100) year flood elevations contained within the ~~city's~~ Federal Emergency Management Agency (FEMA) flood insurance study (FIS) is mandatory. The ~~city planner~~ agent may require the subdivider to provide elevation and flood profiles based on a one hundred (100) year flood plain (which means a flood of a magnitude likely to happen, on the average, only once every century) sufficient to demonstrate the land to be completely free of the danger of flood water at an elevation of at least three (3) feet below any probable floor level of any building for human occupancy.

Sec. 24.1-16.2. Flood control and drainage

The subdivider shall provide that information necessary to determine what improvements are required to develop the subject property, including topography, drainage plans and flood control devices. The plans for such improvements shall include a statement from a licensed professional engineer or other persons appropriately licensed by the Commonwealth of Virginia, that such improvements when installed will be adequate for development. In subdivisions where the streets are dedicated to public use, the city engineer shall either approve or disapprove the plans.

Sec. 24.1-17. Building site and setback.

The site and setback of buildings within a subdivision shall comply with the zoning ordinance.

Sec. 24.1-17.1. Building line.

The building line shall comply with subdivision plat restrictions. This ~~line~~ shall not be closer to the street ~~line~~ than the required building setback in the zoning ordinance (~~Section 24.1-17~~).

Sec. 24.1-18. Lot sizes.

Lot sizes shall be in accordance with minimum requirements of the zoning ordinance, or the following subsections, whichever is more restrictive ~~shall apply~~:

(1) Lot size, public water and sewer: Lots served by both public water and sewerage systems shall be in accordance with the zoning ordinance.

(2) The following statement shall be shown on the plat when sewer and water lines are available, but not in place:

~~"The owner of this subdivision~~ subdivider agrees to construct a public water and sanitary sewerage system within the boundaries of the subdivision to meet the policies, regulations, and standards of the city."

Sec. 24.1-19. Lot size, public water or sewer.

(a) Residential subdivisions of five (5) lots or less may be served by private wells or septic tanks provided, that water and/or sewer are not available as defined by Section 24.1-31(c) and that no new roads are required and that lots served by only one (1) of water or sewerage system shall be twenty thousand (20,000) square feet or more in area and the following statement shall be shown on the plat:

~~"The owner of this subdivision~~ subdivider agrees to construct a water or a sanitary sewerage system to meet the policies, regulations, and standards of the city and/or ~~Lynchburg health~~ Virginia Department of Health. Before the construction of any dwelling can begin the ~~Lynchburg health department official~~ shall ~~be consulted to ensure~~ approve the proper location of the water or the sanitary sewerage system in relation to the location of the dwellings."

(b) Non-residential lots served by only one (1) of public water or sewerage system shall meet the requirements of the ~~Lynchburg health department official~~ and the city, ~~except where exempted by city ordinance or current city policy~~.

Sec. 24.1-20. Lot size, neither public water nor sewer available.

(a) Residential subdivisions of five (5) lots or less may be served by both private wells and septic tanks provided no new roads are required and lots served by neither public water nor sewerage systems shall be twenty-five thousand (25,000) square feet or more in area and the following statement shall be shown on the plat:

~~"The owner of this subdivision~~ subdivider does not agree to construct either a public water or a sanitary sewerage system. Before the construction of any dwelling can begin the city and the Lynchburg health department official shall ~~be consulted to ensure~~ approve the proper location of the water and sewer systems in relation to the location of the proposed dwellings."

(b) Nonresidential lots served by neither public water nor sewerage systems shall meet the requirements of the Lynchburg health office department official and the city, ~~except where exempted by the city ordinance or current city policy.~~

Sec. 24.1-21. Septic tanks.

The city planner~~agent~~ shall not approve any subdivision where sanitary sewers are not provided unless the subdivision is of five (5) lots or less and the city planner~~agent~~ receives in writing from the health official, a statement to the effect that the area contained in the subdivision is satisfactory for the installation of septic tanks, and that they will not, so far as can be determined, create hazards to public health. Final approval as to site suitability will be made prior to approval of the plat. ~~at the time of application for a building permit.~~

(a) Greater lot areas may be required or certain lots may be disapproved where individual septic tanks or individual wells are to be used, if the health official determines that there are factors ~~or~~ such as drainage, soil condition, or other conditions to cause potential health problems. Drainfield location shall be approved by the Lynchburg health department official.

(b) Public water and sewer required: The city planner~~agent~~ shall not approve any subdivision of more than five (5) lots unless the subdivision is served by the city ("public") water and sewer system.

Sec. 24.1-21.1. Development of large lots generally.

Notwithstanding any other provisions of this article, subdivisions without public sewer service may be approved by the city council when the following conditions are met:

- (a) Each proposed lot must have at least one (1) acre in area.
- (b) The large lot development must have a minimum size of six (6) lots.
- (c) City sewer service is not reasonably available and economically feasible to extend, as defined in Section 24.1-31(c) of the subdivision ordinance, and sewer service extension is not planned in the city's current capital improvements program.
- ~~(d) If the capital improvements program is revised to include sewer service extension to the area within twelve (12) months of the date of approval of the subdivision plat, or if funds are appropriated for sewer extension within the said twelve (12) months in connection with another development or plan, and a requested large lot development has not yet had an approved plat recorded or construction begun according to approved plans, then any large lot approval that has been given by the city council is hereby rescinded and the proposed development must meet all appropriate land development and sewer service regulations.~~
- (e) (d) The subdivision plat must include all ~~usual~~ standard sewer service easements requested by the city, in order that the development can be readily connected to city sewer service in the future.
- (f) (e) The ~~Commonwealth of Virginia~~ department of health official must approve each of the requested large lots as having sufficient area to accommodate two (2) septic disposal fields prior to subdivision approval by the city.
- ~~(g) (f)~~ All other city land development regulations must be met.
- ~~(h) (g)~~ The city council may disapprove any large lot development if it believes the development will be detrimental to the orderly development of the area or the efficient provision of public services.

Sec. 24.1-22. Flood control and drainage. Repealed

~~The subdivider may be required to provide that information necessary to determine what improvements are required to properly develop the subject property, including contour intervals, drainage plans and flood control devices. The plans for such improvements shall include a statement from an engineer, or any other person certified by the State of Virginia, that such improvements when properly installed will be adequate for proper development. In subdivisions where the streets are dedicated to public use the city council shall either approve or disapprove the plans.~~

Sec. 24.1-23. Easements.

~~Easements of seven and one-half (7 1/2) twenty (20) feet minimum in width on each side of the center line of the easement shall be provided for water, sewer, power and telephone lines and other utilities, as well as cable television service lines, storm drainage in the subdivision. Such easements shall be kept free of permanent structures and whenever possible shall be located adjacent to property lines. Such easements shall be laid out so as to ensure continuity of the for utilities from block to block and to adjacent property. ~~Such utility easement shall be kept free of permanent structures and whenever possible shall be located adjacent to property lines. In situations when pipes exceeding thirty-six (36) inches in diameter and or pipes exceeding eight (8) feet in depth are necessary, an additional ten (10) feet of easement width may be required.~~~~

Easements shall be provided for electric, telephone, cable television and natural gas of sufficient width and location as determined by the appropriate utility company.

Nothing in this section is intended to prohibit the placement of public utilities within dedicated rights-of-way. Placement of private water and sewer lines is prohibited in the public right-of-way. The city planner~~agent~~ may require that easements for drainage through adjoining property be provided by the subdivider.

Sec. 24.1-24. Fire protection.

The installation of adequate fire hydrants and mains in a subdivision may be required by the city at locations approved by the city of Lynchburg, provided necessary public water is available. Fire

protection shall meet the requirements of the applicable sections of the City of Lynchburg Fire Code.

Sec. 24.1-25. Bond.

Every subdivider shall provide to the city a guarantee of performance prior to the acceptance of dedication for public use of any right-of-way located within any subdivision or section thereof in which any street, curb, gutter, sidewalk, bicycle trail, drainage or sewer system, water line, site-related improvements required by local ordinances for vehicular ingress and egress, traffic signalization and control, structures necessary to ensure stability of critical slopes, stormwater management facilities, or other improvement dedicated for public use that is to be constructed in whole or in part by private funds, and is to be maintained by the city. To guarantee such performance the subdivider shall: (i) certify to the city engineer that the construction costs have been paid to the person constructing such facilities (ii) furnish to the city engineer a certified check, a financial institution's letter of credit, a cash escrow account, or a personal, corporate or property bond, with surety satisfactory to the governing body city engineer, hereinafter referred to as the "performance guarantee," in an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned, or (iii) furnish to the city engineer a financial institution's letter of credit on certain designated funds satisfactory to the city engineer agent as to the financial institution, the amount and the form. The amount of such performance guarantee shall equal the total estimate cost of construction based on unit prices for new construction in the city plus a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities, which shall not exceed twenty-five (25) percent of the estimated construction costs. "Such facilities," as used in this section, means those facilities specifically provided for in this section.

~~(1) Within fifteen (15) days, after notification by the owner that the construction is complete, the city shall inspect the construction and notify the owner in writing of those items of construction which are not satisfactory, or that the construction is approved. The city may release fifty (50) percent of the bond upon notification by the owner that fifty (50) percent of the construction is complete. The owner shall certify that all construction costs have been paid to persons constructing the facilities and the city shall inspect the facilities, to~~

~~ensure that fifty (50) percent of the work is complete, within fifteen (15) days of notification by the owner.~~

~~(2) The developer and the development principals thereof shall provide the city with a guarantee of warranty against defects for a period of one (1) year following acceptance of the subdivision public improvements by the city.~~

If a subdivider records a final plat which may be a section of a subdivision as shown on an approved preliminary subdivision plat and furnishes to the city a performance guarantee as defined above for facilities to be dedicated for public use and to be maintained by the city within said section, the developer shall have the right to record the remaining sections shown on the preliminary subdivision plat for a period of five years from the recordation date of the first section subject to engineering and construction standards and zoning requirements in effect at the time that each remaining section is recorded.

Notwithstanding other provisions of this section, and provided the subdivider and the city have agreed on the delineation of sections within a proposed development, the subdivider shall not be required to furnish to the city a performance guarantee for the estimate cost of construction of facilities to be dedicated for public use within each section of the development until such time as construction plans are submitted for the section in which such facilities are to be located.

Sec. 24.1-25.1 Partial and final release of certain performance guarantees.

(a) The city shall provide for the periodic partial and final complete release of any performance guarantee required by the city under this article within thirty (30) days after receipt of written notice by the subdivider of completion of part or all of any required public facilities unless the city engineer notifies the subdivider in writing of nonreceipt of approval, or of any specified defects or deficiencies in construction and suggested corrective measures prior to the expiration of the thirty (30)-day period. Any inspection of such public facilities shall be based solely upon conformance with the Manual of Specification and Standard Details and the approved design plan for the facilities for which the performance guarantee is applicable, and shall not include the approval of any person other than an employee of the city or a person who has contracted with the city.

(b) If no such action is taken by the city within the time specified above, the request shall be deemed approved, and a partial release shall be granted to the subdivider. No final release shall be granted until after expiration of such thirty (30)-day period and there is an additional request in writing sent by certified mail return receipt to the city manager. The city engineer shall act within ten working days of receipt of the request; then if no action is taken the request shall be deemed approved and final release granted to the subdivider.

(c) After receipt of the written notices required above, if the city takes no action within the times specified above and the subdivider files suit in the local circuit court to obtain partial or final release of a performance guarantee, the circuit court, upon finding the city was without good cause in failing to act, shall award such subdivider his reasonable costs and attorneys' fees.

(d) The city shall not refuse to make a periodic partial or final release of a performance guarantee for any reason not directly related to the specified defects or deficiencies in construction of the public facilities covered by said performance guarantee.

(e) Upon the completion of at least thirty (30) percent of the public facilities covered by any performance guarantee, and upon written request by the subdivider, the city shall make periodic partial releases of such performance guarantee in a cumulative amount equal to no less than ninety percent of the original amount of the completed work for which the performance guarantee was taken. The city shall not be required to execute more than three periodic partial releases in any twelve-month period. Upon final completion and acceptance of the public facilities, the city shall release any remaining performance guarantee to the subdivider. For the purpose of final release, the term "acceptance" means: when the public facility is accepted by and taken over for operation and maintenance by the state agency, local government department or agency, or other public authority which is responsible for maintaining and operating such public facility upon acceptance.

Sec. 24.1-26. Improvements.

Minimum improvements and construction standards required of all subdivisions are set forth in these regulations and in the applicable design standards and specifications of the ~~public works department of~~ the City of Lynchburg Manual of Specifications and Standard Details for

construction. Prior to beginning any subdivision construction improvements, the ~~developer~~ subdivider shall have a registered professional civil engineer or other persons appropriately licensed by the Commonwealth of Virginia prepare for the city's approval, a complete set of engineering plans and specifications. The city shall approve, or notify the subdivider of those plans and specifications which are not satisfactory, in writing within fifteen (15) days of official submittal of such plans and specifications and provided the final plat has been approved by the city planner~~agent~~. These processes may run concurrently, however, any changes required to the plat shall be at the expense of the subdivider.

Sec. 24.1-27. City obligation.

Nothing herein shall be construed as creating an obligation upon the city to pay for grading or paving, or for sidewalks, sewers, curb and gutter improvements or construction or any other costs in connection therewith, other than that which has been specified ~~for certain required improvements~~ elsewhere in this chapter.

Sec. 24.1-28. Lots.

Lots platted shall be in conformance with the following:

(a) Shape: The lot arrangement, design and shape shall be such that lots will provide satisfactory and desirable sites for buildings, and be properly related to topography, and conform to requirements of this ordinance. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage of area which would be unusable ~~for normal purposes.~~

(b) Location:

(1) Each lot shall have frontage on a public street or an existing private street, as defined in Section 24.1-5. Words and terms, reflected on the subdivision plat, or on a street which has become public by right of use, except lots in planned unit developments, cluster commercial developments, and townhouse ~~lots for sale complexes~~ developments.

(2) Lots in planned unit developments, cluster commercial developments, and townhouse ~~lots for sale complexes~~ developments

may front on private common drives and/or easements within the development which have access to an improved public street. Responsibility for maintenance of said private streets shall be with the association charged with management and ownership of common open space, property and facilities and shall be so stated on the plat.

~~(3) Each lot shall be located and designed such that a usable driveway can be built to access the lot directly from the street on which it has the required street frontage, except for lots in approved planned unit developments, cluster commercial developments, and townhouse lots for sale complexes.~~

(c) Corner lots: Corner lots shall have extra width sufficient for maintenance of required building lines on both streets as required by the zoning or subdivision ordinance, whichever is more restrictive.

~~(d) Sight distance (across intersections): Clear sight triangles of fifty (50) feet measured along edge of pavement lines from their points of junction shall be provided at all intersections, and no building, structure, grade or planting higher than three (3) feet above the center line of the street shall be permitted within such sight triangle.~~

~~(e)~~ (d) Side lines: Side lines of lots shall be approximately at right angles, or radial to the street line and be marked plainly before inspection by the city.

~~(f)~~ (e) Remnants: All remnants of lots below minimum size, as required in the zoning ordinance, left over after subdividing of a tract must be added to adjacent lots.

~~(g)~~ (f) Separate ownership: Where the land covered by a subdivision includes two (2) or more parcels in separate ownership, and lot arrangement is such that a property ownership line divides one (1) or more lots, a signed statement with free consent by all owners, proprietors and trustees shall accompany the final plat and lot sizes and arrangement shall meet the requirements of this ordinance. Said statement is to be deposited with the ~~clerk of council~~ city planner and held with the final plat until the subdivider is ready to record same, and they both shall then be recorded together.

~~(h)~~ (g) House numbers and street names: House numbering and street naming shall be in accordance with the ~~Lynchburg~~ city street naming/house numbering ordinance.

(i) (h) Standards for cluster housing developments: All units for sale in cluster housing developments must meet minimum standards specified in Section 35.1-56 of the zoning ordinance.

~~(j) County boundary lines: No proposed lot shall be split by a county boundary line where it is practical to create the lot otherwise. In no case will a permit be issued to build a structure which would be split by a county boundary line.~~

#### Sec. 24.1-28.1. Flag lots.

The creation of flag lots will only be considered in those instances where severe topographic constraints or unusual existing lot lines make this type of lot arrangement the only feasible way to develop the tract. In such cases the proposed subdivision may be approved by the city planner when the following conditions are met:

(a) Each flag lot shall have a minimum of fifty (50) feet of frontage on a street, public or private as defined in Section 24.1-5. Words and terms, except for a lot on a cul-de-sac which shall have a minimum street frontage of thirty (30) feet.

(b) The required minimum lot area shall meet the zoning ordinance requirement of the district in which it is located and shall not include the area of the long narrow "flagpole" portion.

(c) Not more than two (2) adjacent flag lots shall be created.

(d) The development of one (1) flag lot behind another flag lot shall be prohibited.

(e) A flag lot shall not be further subdivided until a public street to serve the proposed lot(s) is dedicated and constructed with a minimum right-of-way of fifty (50) feet, or unless a planned unit development, cluster commercial development, or townhouse ~~lots for sale complex~~ development is approved for the property, and a note to this effect shall be placed on each subdivision plat which contains a flag lot.

(f) A note shall be placed on the final subdivision plat stating that public services such as refuse collection, snow removal, and street maintenance will only be provided to the point where the flag lot meets the public street right-of-way.

(g) Flag lots with flagpole access strips greater than two hundred (200) feet in length shall provide, at the ~~developer's~~ subdivider's expense, a driveway which is capable of supporting emergency vehicles and which is at least ten (10) feet in width for the front half closest to the street and at least twenty (20) feet in width for the rear half to allow for the pass-by of vehicles.

(h) The maximum length for the flagpole access strip shall be seven hundred (700) feet in order to provide adequate fire protection.

(i) The house on a flag lot must have a setback of at least fifty (50) feet from all property lines.

(j) A driveway on a residential flag lot shall be located a minimum of five (5) feet from all lot lines, unless approval has been obtained from a shared driveway with one (1) of the adjacent lots.

#### Sec. 24.1-29. Blocks.

(a) Residential: Residential blocks shall be in conformance with the following:

(1) Length: The maximum length of blocks generally shall be twelve hundred (1,200) feet and the minimum length of blocks upon which lots have frontage shall be five hundred (500) feet unless topographic conditions prohibit the same.

(2) Width: Blocks shall be wide enough to allow two (2) tiers of lots of minimum depth, unless prevented by topographical conditions or size of the property. Where the parcel fronts on a major thoroughfare, the city may approve a single tier of lots of minimum depth.

(3) Orientation: Where a subdivision adjoins a major thoroughfare, the city may require that the lesser dimension of the block shall front or back upon such major thoroughfare to avoid unnecessary ingress or egress.

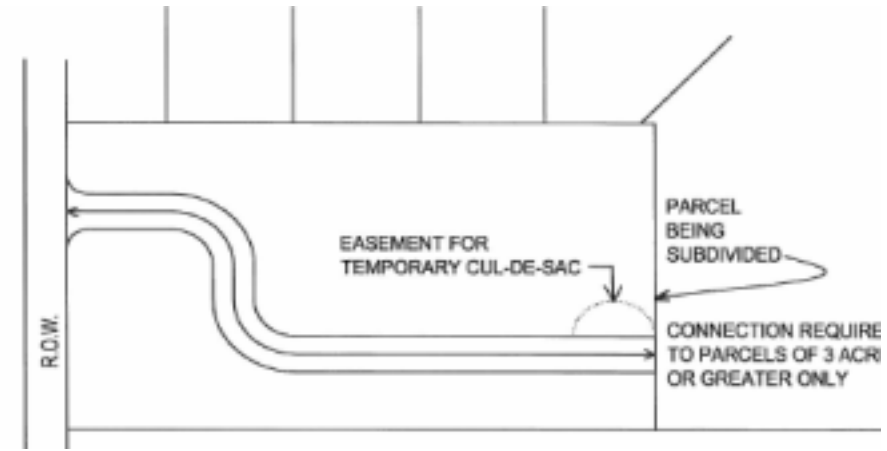
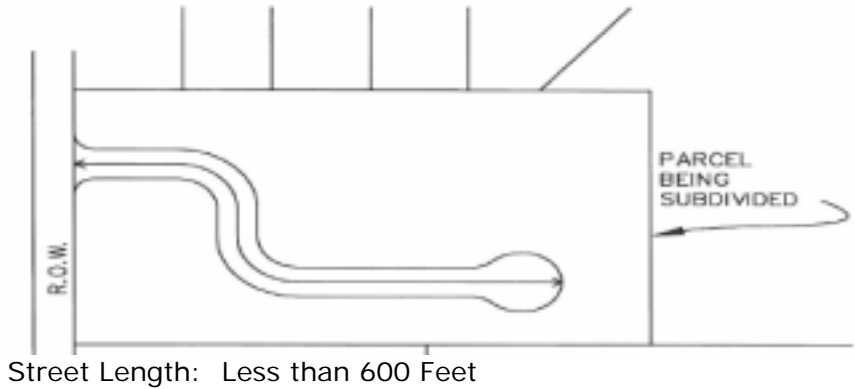
(b) Nonresidential: Blocks intended for nonresidential use shall be designed specifically for such purposes with adequate space set aside for off-street parking and delivery facilities in accordance with the zoning ordinance.

Sec. 24.1-30. Streets.

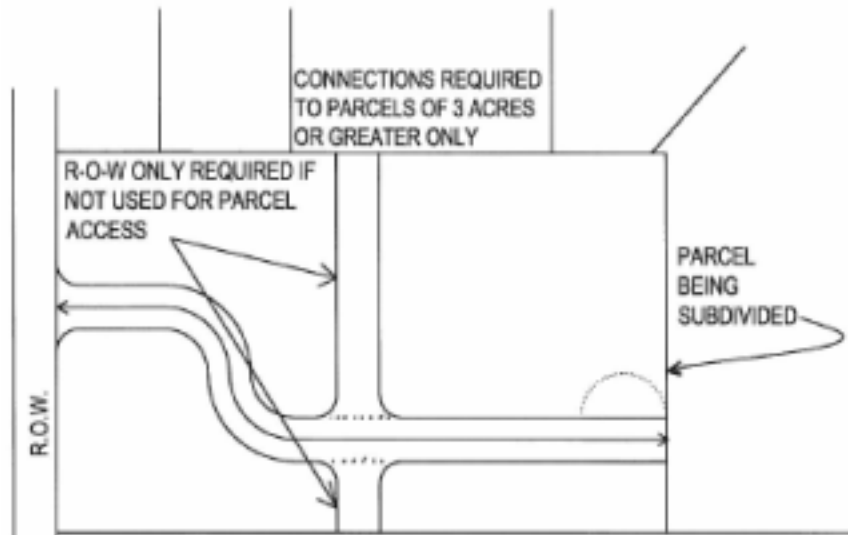
(a) (1) Residential: In residential subdivisions where the streets are dedicated to public use, all street and drainage improvements, ~~excluding curbs and gutters,~~ shall be installed by the subdivider ~~at his cost.~~ The subdivider shall clear and grade every street to the full width of the right-of-way with provisions for mowable three (3) to one (1) or flatter slopes on private property, except where topography prohibits. Specifications and requirements shall be in accordance with the standards established ~~by the city in the City of Lynchburg, Manual of Specifications and Standard Details.~~

(2) Nonresidential: In nonresidential subdivisions where the streets are dedicated to public use, the cost and installation of all streets and drainage improvements shall be in accordance with current city policy, as established by city council.

(b) Alignment and layout: The arrangement of streets in new subdivisions shall make provision for the continuation of existing, proposed and future streets in adjoining areas. The street arrangement must be such as to cause no unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. In residential and commercial subdivisions, street segments of six hundred (600) feet in length or greater shall have right-of-way dedicated to provide street connections at each end. Street segments of one thousand two hundred (1,200) feet in length or greater shall have right of way dedicated to provide street connections at each end and at least one (1) potential connection to the left and one (1) potential connection to the right adjoining properties. Notwithstanding other requirements of this section, connections shall not be required to any adjoining parcel of less than three (3) acres in size. Whenever possible, streets should intersect at right angles. In all hillside areas, streets running with contours shall be required to intersect at angles of not less than sixty (60) degrees, unless approved by the city. Where topographical features are prohibitive, no dedication for street continuation shall be required.



Street Length: 600 - 1,199 Feet.  
 Connection (or potential connection) required at both ends.



Street Length: 1,200 feet or greater.  
 Potential connections required at both ends and both sides.

(c) Improvements Required: The subdivider shall improve right-of-way one hundred (100) feet beyond the beginning of the furthest parcel or the end of the furthest driveway location, whichever is farther. This improvement shall include a turnaround facility as detailed by the Manual of Specifications and Standard Details. The subdivider shall improve the full length of any right-of-way within the subdivision that connects to an existing or proposed street.

(d) Improvements Not Required: Except where specifically required by paragraph (c) above, whenever right-of-way is dedicated solely to provide required connections to adjoining property, the subdivider shall only be required to dedicate an unimproved right-of-way to give convenient access, acceptable to the city, to owners of adjoining property except where the subdivider's lots front on such right-of-way, the right-of-way shall be improved and extended to the property line of the adjoining property owners and where topographical features are prohibitive, no dedication for access shall be required.

(e) (e) Service drives: Whenever a proposed subdivision contains or is adjacent to a limited access highway or expressway, where adequate access is not provided, 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 or expressway and the proposed subdivision. Such distance shall be determined with due consideration of the minimum distance required for ingress and egress to the limited access highway or

expressway. 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)~~ (f) Approach angle: Streets shall approach the major or collector streets at an angle of not less than eighty (80) degrees, unless the city engineer shall approve a lesser angle of approach for reasons of contour, terrain or matching of existing patterns.

~~(e)~~ (g) Minimum widths: The minimum width of proposed streets, measured from lot line to lot line, shall be in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details. Street widths are typically but not always ~~However, in no case shall a street be less than~~ fifty (50) feet in width. The street width shall be based on the post development average daily traffic and shall be of sufficient width to accommodate the typical street cross section designated therein. If an existing street is to be utilized for access and such street is not of sufficient width per the criteria of the City of Lynchburg Manual of Specifications and Standard Details and the subdivider owns property on both sides of the street, then provisions shall be made on the plat to widen the street to accommodate the standard street width. ~~Alleys, if permitted, shall be not less than twenty (20) feet, nor more than twenty-eight (28) feet in width. If an existing street is to be utilized and such street is not fifty (50) feet in width and the subdivider owns property on both sides of the street, then provisions shall be made on the plat to widen such street to fifty (50) feet or the standard width of that street, whichever is greater. Should the subdivider subdivision abut on only one (1) side of an existing street, the subdivider shall dedicate enough land so that then provisions shall be made on the plat to widen one-half (1/2) of the width of such street, to accommodate the standard street width as measured from the centerline to the subdivision property line, shall be twenty-five (25) feet or one-half (1/2) the standard width of such street, whichever is greater of the existing street.~~

Alleys for vehicular access, if permitted, shall be not less than fourteen (14) feet in width for one way traffic nor more than twenty-eight (28) feet in width for two way traffic.

~~(f)~~ (h) Grading and paving widths: Grading and paving of all streets dedicated to public use shall be in accordance with regulations

established by the City of Lynchburg, Manual of Specifications and Standard Details.

~~(g)~~ (i) Grades: The grades of streets shall be in accordance with specifications established by the city, and such grades as submitted on subdivision plats shall be approved by the city prior to final action by the city planneragent. ~~Wherever feasible, Maximum allowable~~ street grades should not exceed ten (10) percent ~~and the maximum allowable grade shall be fifteen (15) percent,~~ unless otherwise approved by the city engineer.

~~(h)~~ (j) Cul-de-sacs: ~~Minor~~ Terminal streets (cul-de-sacs), designed to have one end permanently closed, ~~shall be not longer than twelve hundred (1,200) feet to the beginning of the turnaround unless approved by the city. Each cul-de-sac must~~ shall be terminated by a permanent or temporary turnaround per the Manual of Specifications and Standard Details. ~~of one hundred (100) feet in right-of-way diameter. This requirement does not apply to nonresidential subdivisions as these streets will be approved by the city.~~

~~(i)~~ (k) Curbs, ~~and gutters~~ and sidewalks: Curbs, and gutters are required ~~and in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details. Except where pedestrian traffic is explicitly prohibited, sidewalks are required~~ (i) on at least one (1) side of all streets, (ii) on both sides of streets with a post-development traffic count of greater than six thousand (6,000) vehicles per day. The cost of said curbs, ~~and gutters~~ and sidewalks shall be borne fifty (50) percent by the city and fifty (50) percent by the ~~developer~~ subdivider. Reimbursements shall be in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details, per the year of origination of the subdivision.

~~(j)~~ Sidewalks: ~~Sidewalks shall be provided by the subdivider where need is demonstrated by the agent with consideration to each subject location with respect to: (1) pedestrian safety, speed limit, street width and street alignment; (2) vicinity of schools, parks, playgrounds, and/or commercial development; (3) street traffic with 6,000 minimum vehicles per day; and~~

~~(4) pedestrian traffic with minimum of 75 people per day. Where need for sidewalks is determined by the agent, cost shall be borne 50 percent by the city and 50 percent by the subdivided.~~

~~(k)~~ (l) Alleys: Deadend alleys, if unavoidable, shall be provided with adequate turnaround facilities as determined by the city.

~~(j)~~ (m) Identification signs: Street name signs shall be installed by the city at cost to the subdivider.

~~(m)~~ (n) Street lighting: Where the subdivider desires street lighting, no installation cost shall be borne by the city. ~~Where underground utilities are installed, the subdivider shall install conduit and markers for mounting bases to permit future installation of street lighting.~~

Sec. 24.1-31. Public water supply and sanitary sewer system required.

Subdivisions of more than five (5) lots shall be served by the city ("public") water and sewer systems.

(a) Sewer and/or water available: Where a public water supply and/or a public sanitary sewer system are (reasonably accessible as defined in Section 24.1-31(c)) the said water supply and/or sanitary sewer system shall be designed and extended to adequately serve all lots within the subdivision, according to the design standards issued by the city public works department. All plans are to be approved by the city.

The cost of installing the sanitary sewer and water system including all appurtenances, except connections and meters, within the subdivision boundaries shall be paid one hundred (100) percent by the subdivider for the size mains needed to serve the subdivision. The minimum size main shall be as determined by the city. If larger mains are required by the city to serve other areas, then the difference in cost, based on the city's annual bid prices, shall be paid by the city. The city will extend and pay one hundred (100) percent of the cost to provide water and/or sewer lines to the subdivision boundary according to Section 24.1-31(c).

Service connections for both water and/or sanitary sewer shall be constructed to each lot within the subdivision. ~~The cost of these connections will be paid one hundred (100) percent by the city based on the city's annual bid prices.~~ Reimbursements shall be in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details, per the year of origination of the subdivision. The subdivision plat will contain a notation to the effect

that appropriate sewer/water connection and availability fees will be charged by the city at the time of connection to the system.

(b) Sewer and/or water not available: Where a public water supply and/or a public sanitary sewer system are not reasonably accessible as defined in Section 24.1-31(c). the extension of these systems by the subdivider will not be required; however, where the subdivider desires the extension of such systems which exceeds the ratio stated in Section 24.1-31(c) and agrees to pay the additional cost of the extension to the subdivision boundary, then the city shall extend the lines in accordance with Section 24.1-31(a).

(c) Water/sewer lines availability defined: Reasonably available water and/or sewer lines are defined as those lines which are economically feasible to extend from water and sewer lines mandated by the 1976 annexation decree and/or other lines previously constructed.

To be economically feasible in a residential subdivision, there must be at least one (1) lot for each one hundred (100) feet of utility line construction. The following are examples of feasibility ratios:

| Feet of water/sewer line construction | Required number of lots |
|---------------------------------------|-------------------------|
| 5,000                                 | 50                      |
| 3,000                                 | 30                      |
| 1,000                                 | 10                      |
| 500                                   | 5                       |

For extensions to multi-family subdivisions the feasibility ratio would require two (2) dwelling units per one hundred (100) feet of extension. Thus:

| Feet of water/sewer line construction | Required number of dwelling units |
|---------------------------------------|-----------------------------------|
| 5,000                                 | 100                               |
| 3,000                                 | 60                                |
| 1,000                                 | 20                                |
| 500                                   | 10                                |

(d) Lots in cluster developments including townhouses ~~for sale~~ and condominiums: Public water and sewer systems shall serve each individual lot in all cluster developments including townhouses ~~for sale~~ and condominiums. The public system shall be brought to an appropriate location(s) on the property line of the development adjacent to a public right-of-way or through a public easement. ~~From that appropriate location(s). the cluster development shall provide~~

~~private system connecting each unit to the public system. Said private system and payment for service shall become the responsibility of the association charged with management and ownership of common open space, property, and facilities and shall be so stated on the plat.~~

(e) In cases where an obstacle (such as a stream, railroad, or highway crossing, etc.) increases the construction cost beyond twenty (20) percent of the normal distance to dollar ratios, based on the city's annual contract pricing, the subdivider may be required to pay a larger share of the sewer and water facility construction costs as determined by the city's physical development committee.

#### Sec. 24.1-32. Storm drainage.

A storm drainage system shall be required to adequately provide for drainage of the subdivision. The subdivider shall pay the cost of this system. The subdivider may be required to pay ~~his~~ the pro rata share of sewerage and drainage facilities outside ~~his~~ the subdivision property limits which are necessitated by the construction or improvement of ~~his~~ the subdivision or development.

#### Sec. 24.1-33. Monuments.

(a) Visible for inspection: Upon completion of subdivision streets, sewers and other improvements, the subdivider shall make certain that all monuments required by the city are clearly visible for inspection and use. Such monuments shall be inspected and approved by the city before any improvements are accepted by the governing body. All monuments shall be set by a surveyor licensed by the Commonwealth of Virginia.

(b) Location—~~concrete, stone~~: Two (2) permanent reinforced monuments as prescribed by the city shall be placed on the longest street tangent intervisible. Such permanent monuments shall be ~~stone or reinforced concrete at least twenty-four (24) inches long and six (6) inches square and shall be set to approved finished grades as practicable~~ as specified in the City of Lynchburg, Manual of Specifications and Standard Details.

(c) Location—iron: All other lot corners shall be marked with pipe or solid iron not less than one-half (1/2) inch in diameter and fifteen (15) inches long and driven so as to be flush with the finished grade. When

rock is encountered, surveyor shall determine a suitable method for providing a permanent marker.

Sec. 24.1-34. Reservation of land for public purposes.

The city may require subdividers of residential subdivisions to set aside land for parks, playgrounds, schools, libraries, municipal buildings and similar public uses, subject to the following regulations:

(a) Subdividers shall not be required to reserve land for public purposes other than streets and drainage, except on a reimbursement basis. The subdivider shall be reimbursed by the jurisdiction or agency requiring the land. The city shall be required to obtain an option upon the property involved for a negotiated period following the recording of the plat for such purchase. If the land is not purchased within the said negotiated period by the city and the subdivider, it may be sold as lots for the same purpose for which the subdivision was platted. To facilitate such possible eventual sale of reserved land as separate lots, the subdivider shall show on ~~his~~ the final plat, by dotted lines and dotted numbers, the sizes and dimensions of lots to be created within the boundaries of any such reserved land, and may sell such lots, after the expiration date of the reservation, by lot number, without filing an amended plat.

(b) The city shall make certain that lands so reserved are divisible in the same manner as the remainder of the subdivision so that the subdivider will not be required to reserve an unusable portion of ~~his~~ the subdivision.

(c) Nothing herein shall be construed to mean that land may be set aside for commercial purposes in a residential district, without the land so required for commercial use being zoned appropriately in accordance with the zoning ordinance.

Sec. 24.1-34.1. Vacation or alteration of boundary lines.

(a) ~~The city planner agent~~ The city planner may approve the vacation, relocation, or alteration of boundary lines of any lot or parcel of land shown on a valid and properly recorded plat of a subdivision or re-subdivision approved as provided for in this subdivision ordinance and executed by the owner or owners of such land, as provided in Section 24.1-42. Such approval may be given provided that the vacation, relocation, or

alteration of a lot line does not involve the relocation or alteration of streets, alleys, easements for public passage, or other public areas; and, provided further, that no easements or utility rights-of-way shall be relocated or altered without the express consent of all persons holding an interest therein.

(b) The city planner may approve a plat altering or relocating the boundary line between no more than two (2) lots or parcels provided that all monuments necessary to alter or relocate the boundary line and at least one (1) lot corner are indicated on the plat. All other information may be indicated by providing reference to and as shown on a valid and properly recorded subdivision plat.

(c) The city planner may allow the vacating of lot lines by recordation of a deed providing that no easements or utility rights-of-way located along any lot lines to be vacated shall be extinguished or altered without the express consent of all persons holding any interest therein. The deed shall be approved in writing, on its face, by the city planner. The deed shall reference the recorded plat by which the lot line was originally created.

## **ARTICLE VII. APPROVAL OF PLATS**

Sec. 24.1-35. Approval required before construction and sale.

Whenever any subdivision of land is proposed, and before any permit for the erection of a structure shall be granted, the subdivider shall comply with the following requirements regarding approval of plats.

Sec. 24.1-36. Preliminary sketch (not required).

The subdivider may, ~~if he so chooses,~~ submit ~~to the planning division~~ a preliminary sketch of the proposed subdivision to the planning division prior to ~~his~~ preparing an engineering preliminary and/or final plat. Submission of the preliminary plat shall not constitute the official filing of a proposed subdivision. The purpose of such preliminary sketch is to permit the planning division to advise the subdivider whether his plans, in general, are in accordance with the requirements of this ordinance. The planning division, upon submission of any preliminary sketch, shall study it, and advise the subdivider within fifteen (15)

days ~~wherein~~ whether it appears that changes would be necessary. The planning division may mark the preliminary sketch indicating necessary changes and any such marked sketch should be returned to the planning division with the preliminary plat. The preliminary sketch shall be as follows:

The preliminary sketch may be drawn on white paper, or on a print of a topographic map of the property. It shall be drawn to scale. It shall show the name, location and dimensions of all streets entering the property, adjacent to the property or terminating at the boundary of the property to be subdivided. It shall show the location of all proposed streets, lots, parks, playgrounds and other proposed uses of the land to be subdivided and shall include the approximate dimensions.

#### Sec. 24.1-37. Preliminary plat.

The subdivider shall present to the planning division the appropriate number, as the city planner determines are needed, of eighteen (18) copies of a preliminary layout at a scale of not less than one hundred (100) feet to the inch and on sheets having a maximum size of seventeen (17) inches by twenty-two (22) inches as a preliminary plat and the preliminary plat shall be accompanied by plan and profile sheets at a scale of fifty (50) feet to the inch horizontal and ten (10) feet to the inch vertical.

The preliminary plat shall include the following information:

(a) Name of subdivision, owner, subdivider, surveyor or engineer, date of drawing, number of sheets, true and/or magnetic north point and scale.

(b) Location of proposed subdivision by an insert map with a north arrow and scale at a scale of not less than two (2) inches equal one (1) mile showing adjoining roads, their name and number, counties, subdivisions and other landmarks.

(c) The boundary survey or existing survey of record provided such survey shows a closure with an accuracy of not less than one (1) in five thousand (5,000), total acreage, acreage of subdivided area, number and approximate area and frontage of all building lots, existing buildings within the boundaries of the tract, names of owners and their property lines within the boundaries of the tract, delineation

of flood plain districts, and names of owners and their property lines adjoining such boundaries.

(d) All existing platted streets, including alleyways, and all proposed streets, their names and widths; existing and proposed utility or other easements, public areas and parking spaces, culverts, drains and water courses, their names and other pertinent data.

(e) All parcels of land to be dedicated for public use and the conditions of such dedication.

(f) Topography at maximum intervals of five (5) feet.

(g) Elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the center line of streets together with proposed grade lines connecting therewith, or as necessary for the city to reasonably interpret the intention of the subdivider. Major grade changes shall be indexed to profile sheets.

(h) Proposed connections with existing sanitary sewers and existing water supply or alternate means of sewage disposal and water supply.

(i) Provisions for collecting and discharging surface drainage and preliminary descriptions of any structures that may be required.

#### Sec. 24.1-38. Procedure.

The city planner~~agent~~ or his appointed representative shall discuss the preliminary plat with the subdivider in order to determine whether or not ~~his~~ the preliminary plat generally conforms to the requirements of the subdivision ordinance.

The subdivider shall then be advised in writing within fifteen (15) days, which may be by formal letter or by meaningful markings or descriptions on ~~his~~ the copy of the preliminary plat, concerning any additional data that may be required, the character and extent of public improvements that will have to be made, and an estimate of the cost of construction or improvements and the amount of the surety bond which will be required as a prerequisite to approval of the final subdivision plat. In determining the cost of required improvements and the amount of the surety bond, the city engineer~~agent~~ may require the subdivider to furnish a bona fide estimate of the cost of

improvements to assist the city engineer~~agent~~ in determining the amount of surety bond.

Sec. 24.1-39. Preliminary plat ~~may be submitted~~ approval as final plat.

The preliminary plat may be submitted as the final plat where approved by the city planner~~agent~~ and provided no change, erasure or revision shall be made on any preliminary or final plat nor on accompanying data sheets after approval of the city planner~~agent~~ has been endorsed in writing on the plat or sheets, unless authorization for such changes has been granted in writing by the city planner~~agent~~.

Sec. 24.1-40. No guarantee.

Approval by the city planner~~agent~~ of the preliminary plat does not constitute a guarantee of approval of the final plat.

Sec. 24.1-41. Twelve months' limit.

The subdivider shall have not more than twelve (12) months after receiving official notification concerning the preliminary plat to file with the city a final subdivision plat in accordance with this ordinance. Failure to do so shall make preliminary approval null and void. The city planner~~agent~~ may, on written request and with good cause shown by the subdivider, grant an extension of this time limit.

Sec. 24.1-42. Final plat.

~~If no preliminary plat is submitted in accordance with Section 24.1-39,~~  
The submission of a final plat shall constitute the official filing of a proposed subdivision. ~~Twenty (20)~~ The appropriate number, as the city planner determines are needed, of copies of the final plat shall be submitted to the city for final approval and subsequent recording. Blue or black line prints (surveyor's copies) shall be clearly and legibly drawn at a scale of not more than one hundred (100) feet to the inch on sheets having a maximum size of seventeen (17) inches by twenty-two (22) inches.

For any subdivision of five (5) lots or more the digital data associated with the creation of the subdivision plat shall be provided to the city planner~~agent~~ in a format approved by the city. The digital data shall be "georeferenced" to the State Plane Coordinate System, North American Datum 1983, Virginia South Zone #4502. The data shall be certified by a licensed ~~engineer or surveyor or other persons~~ appropriately licensed by the Commonwealth of Virginia for accuracy and correctness. Where the subdivider can show that the subdivision plat was not created using computer aided design (CAD) software, or adherence to these requirements would produce unnecessary hardships the city planner~~agent~~ may grant an exception in whole or in part to the requirements for digital data submission.

The final plat shall include the following information and all information which is required on the preliminary plat shall be provided on the final plat:

(a) Name of subdivision, city, state, owner, true and/or magnetic north point and scale of drawing and number of sheets. If shown on more than one (1) sheet, matched lines shall clearly indicate where the several sheets join. A space shall be reserved for the signature of the city engineer and the city planner ~~clerk of council~~ if no new streets are dedicated. If the plat includes the acceptance of right-of-way, a space shall be reserved for the signature of the city engineer and the city manager.

(b) Location of proposed subdivision by an insert map with north arrow and scale at a scale of not less than two (2) inches equal one (1) mile indicating adjoining roads, their names and numbers, counties, subdivisions and other landmarks.

(c) A boundary survey with an error of closure within the limits of one (1) in five thousand (5,000) related to the magnetic meridian and showing the location of all monuments and their type of material within the boundary of the subdivision. The survey may be related to the U. S. Coast and Geodetic Survey state grid north if the coordinate of two (2) adjacent corners of the subdivision are shown.

(d) ~~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.

(e) A statement to the effect that the subdivision as it appears on this plat is with the free consent and in accordance with the desires of the

owners, proprietors and trustees, if any, which shall be signed by the owners, proprietors and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgements to deeds.

(f) When the subdivision consists of land acquired from more than one (1) source of title the outlines of the various tracts shall be indicated by dotted lines and identification of the respective tracts shall be placed on the plat.

(g) The accurate location and dimensions by bearings and distances with all curve data on all lots and street lines, boundaries of all proposed or existing easements and utilities, existing parks, school sites or other public areas, the number and area of all building lots, all existing public and private streets, their names, numbers and widths, water courses and their names, if any, delineation of flood plain districts zones, names of owners and their property lines within the boundary of the subdivision and the names of owners and their property lines adjoining said boundaries.

(h) All dimensions shall be shown in feet and decimals of a foot to the closest two (2) decimal points, all bearings shall be shown in degrees and minutes to the nearest minute.

(i) The data of all curves along the street frontages shall be shown in detail at the curve or in a curve data table containing the following; delta angle, radius, arc, tangent, chord and chord bearings.

(j) Any restrictions imposed by the subdivider shall be shown on the plat, or on attached sheet(s) in which case it shall be stated on the plat that deed restrictions are on the said attached sheet(s) or as filed in Plat Cabinet number (identify number) of the office of the clerk of the circuit court.

(k) Where public water and or sewer systems are to be provided it shall be indicated on the plat and shall reflect whether such facilities will be owned by the City of Lynchburg or privately owned, indicating the name or title of the owner.

(l) A statement as to whether utilities will be placed overhead or underground.

(m) All other applicable minimum standards for surveys as defined within Chapter 20 of the Virginia Administrative Code.

A house number shall be assigned to each lot created by the subdivision as provided in section 35-114 and chapter 35, article VII of the city code.

Sec. 24.1-43. Conditions.

The plat shall not be approved until the subdivider has complied with the general requirements and minimum standards of design in accordance with this ordinance and has made satisfactory arrangements of surety bond to cover the cost of necessary improvements to the satisfaction of the city.

Sec. 24.1-44. Approval.

The city planner~~agent~~ shall not approve the final plat until ~~he has received receipt of~~ a written statement from the health ~~department official~~ that the subject property is suitable for the proposed development; nor shall ~~he approve~~ the plat ~~be approved~~ when city public water and/or sewer is to be provided until the city planner~~agent~~ receives in writing that the system has been approved and accepted by the City of Lynchburg or the subdivider has the required surety in place. Where a subdivision has been approved administratively by the city planner, no additional subdivision of the new lots or of the residue tract shall be approved within a period of two (2) years from the date of approval, unless the land is industrially-zoned or the two-year time limit is waived by the city planner.

(a) Approval of the final plat shall be written on the face of the plat by the city engineer and city planner ~~clerk of council~~ if no new streets are dedicated. Approval of the final plat that includes acceptance of right-of-way shall be written on the face of the plat by the city engineer and city manager; all copies shall be retained by the ~~clerk of council~~ city planner until the subdivider is ready to record same. (See also Section 24.1-28(g).) The city planner~~agent~~ shall notify the subdivider in writing when the plat is approved and the subdivider shall record the plat within six (6) months after final approval. The city planner~~agent~~ may, on written request of the subdivider, grant an extension of this time, otherwise he shall mark the plat void and return same to the subdivider.

(b) The city council, commission or ~~other agent~~city planner shall render a decision on the proposed plat right-of-way within sixty (60) days after it has been submitted for approval by either approving or disapproving such plat in writing, and giving with the latter specific reasons therefore.

Specific reasons for disapproval may be contained in a separate document or may be written on the plat itself, and shall relate in general terms such modifications or corrections as will permit approval of the plat.

If the city council, commission or ~~other agent~~city planner fails to approve or disapprove the plat within sixty (60) days after it has been officially submitted for approval, the subdivider, after ten (10) days' written notice to the commission or city planner~~agent~~, may petition the circuit court of the city ~~or county in which the land involved, or the major part thereof, is located,~~ to decide whether the plat should or should not be approved. The court shall hear the matter and make and enter such order with respect thereto as it deems proper, which may include directing approval of the plat.

If the city council, commission or ~~other agent~~city planner disapproves a plat and the subdivider contends that such disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he may appeal to the circuit court having jurisdiction of such land and the court shall hear and determine the case as soon as may be.

The time requirements contained in this section shall not apply to the submission of any preliminary subdivision plat.

## **ARTICLE VIII. EFFECTUAL CLAUSES**

Sec. 24.1-45. Exceptions.

Where the subdivider can show that a provision of these standards would cause unnecessary hardship if strictly adhered to, or where, because of topographical or other conditions peculiar to the site, in the opinion of the city planner~~agent~~ a departure may be made without destroying the intent of such provisions, the city planner~~agent~~ may authorize an exception. When the city planner~~agent~~ or subdivider desires, the matter shall be referred first to the commission ~~or~~ and

thence to city council for review. Any exceptions authorized under the provisions of this section shall be stated in writing on the plat, by the city planner agent, commission or city council with the reasoning set forth on which the departure was justified.

~~The agent may allow the vacating of lot lines by recordation of a deed providing that no easements or utility rights-of-way located along any lot lines to be vacated shall be extinguished or altered without the express consent of all persons holding any interest therein. The deed shall be approved in writing, on its face, by the agent. The deed shall reference the recorded plat by which the lot line was originally created.~~

#### Sec. 24.1-46. Penalties.

~~Any person violating the foregoing provisions of this ordinance shall not be granted a building permit or extended public utilities and shall be subject to a fine of not more than one hundred dollars (\$100.00) for each lot or parcel of of land so subdivided or 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.~~

(a) Any person violating the provisions of this chapter shall not be granted a building permit or extended public utilities and any violation of this chapter shall be a misdemeanor punishable by a fine of not less than ten dollars (\$10.00) nor more than one thousand dollars (\$1,000.00) for each lot or parcel of land 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. If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with the zoning ordinance, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than ten dollars (\$10.00) nor more than one thousand dollars (\$1,000.00), and any such failure during any succeeding ten (10)-day period shall constitute a separate misdemeanor offense for each ten (10)-day period punishable by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand five hundred dollars (\$1,500.00).

(b) Any violation or attempted violation of this chapter, or of any regulation adopted hereunder may be restrained, corrected, or abated as the case may be by injunction or other appropriate proceeding. At any time after the filing of an injunction or other appropriate proceeding to restrain, correct, or abate a zoning ordinance violation and where the owner of the real property is a party to such proceeding, the zoning administrator may record a memorandum of lis pendens pursuant to Section 8.01-268 of the Code of Virginia. Any memorandum of lis pendens admitted to record in an action to enforce a zoning ordinance shall expire after one hundred eighty (180) days. If the city has initiated an enforcement proceeding against the owner of the real property and such owner subsequently transfers the ownership of the real property to an entity in which the owner holds an ownership interest greater than fifty (50) percent, the pending enforcement proceeding shall continue to be enforced against the owner.

Sec. 24.1-47. Validity.

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

Sec. 24.1-48 Repealed.

Sec. 24.1-49. Amendments.

This ordinance may be amended in whole or in part. The commission on its own initiative may, or at the request of the city council shall, prepare and recommend amendments to this ordinance. The procedure for such amendment shall be the same as for the preparation and recommendation and approval and adoption of the original ordinance; provided, that no such amendment shall be adopted by the governing body without a reference of the proposed amendment to the commission for recommendation, nor until sixty (60) days after such reference, if no recommendation is made by the commission. Provided, further, that the provisions of ~~Section 15.1-431~~

Section 15.2-2204 of the Code of Virginia (1950), as amended, regarding advertisement and public hearings have been complied with.

~~Sec. 24.1-50. Effective date. Repealed~~

~~This ordinance was duly considered, following a required public hearing, and was adopted by the City of Lynchburg, Virginia, on November 14, 1978.~~