

CHAPTER 151. SUBDIVISION

ARTICLE I. Legal Basis and General Administration

Section 151-1. Title. This Article of the Code of the Town of Clarksville, shall be known as the “Subdivision Ordinance of the Town of Clarksville,” and cited throughout as the “Subdivision Ordinance” or “Ordinance”.

Section 151-2. Overall Purpose, Authority, Intent and Enactment. The purpose of this Ordinance is to guide and facilitate the orderly, beneficial growth of the community, to assure the orderly subdivision of land and its development, and to promoting the health, safety and general welfare of the public. It is also meant to coordinate the development of streets within and contiguous to any subdivision, to establish adequate provisions for water, sewer, drainage, flood control and other public purposes, to promulgate acceptable physical standards and criteria for subdivision improvements, to provide for dedication of public rights-of-way, and to serve in implementing the adopted Comprehensive Plan, Official Map, Zoning Ordinance and other land use plans.

This is under the authority of Title 15.2, Chapter 22, Article 6 of the Code of Virginia as amended and specifically for the accomplishment of the objectives of Section 15.2-2240 of the Code of Virginia, as amended. The intent of this Subdivision Ordinance is to coordinate and facilitate the various functions of the subdivision of land with the Comprehensive Plan, Zoning, and other related Land-Use ordinances of the Town of Clarksville to order to assist in the creation of a viable, sustainable community.

Furthermore, it is the intent of this Ordinance whenever possible that the extent of its applicability shall be automatically changed in accordance with the provisions of the laws of the Commonwealth of Virginia which may affect the legality of the various portions of this Ordinance.

This Ordinance is hereby adopted on **November 19th, 2019** by the Town Council of Clarksville, Virginia, and replace and supersede the previous Subdivision regulations and become effective immediately upon passage.

Section 151-3. Subdivision-General. The term “subdivision” means the division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building development, or, if a new street is involved in such division, any division of a parcel of land. The term includes re-subdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided and solely for the purpose of recordation of any single division of land into two lots or parcels, a plat of such division shall be submitted for approval in accordance with this Ordinance.

Section 151-4. Specific Purposes of Subdivision Regulation: It is the policy of the Town of Clarksville to consider the subdivision of land as a means to implement the adopted Comprehensive Plan. Therefore this portion of the ordinance is adopted for the following purposes:

1. To ensure that the growth of the community is consonant with the efficient and economical use of public funds;
2. To ensure that residential developments are created to promulgate a healthy environment for family life;
3. To improve the public health, safety, convenience, and welfare of the citizens of the Town;
4. To clearly establish the procedure which must be followed in order to subdivide land in the Town, subject to this Ordinance;
5. To ensure that this process includes appropriate and applicable reviews; and;
6. To ensure that all improvements required by this ordinance will be designed, constructed, and maintained so as not to become an undue fiscal, economic or safety burden on the Town and its citizens.

Section 151-5. Severability. Should any article, section, subsection, or provision of this chapter be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the Ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

Section 151-6. Regulations to be Minimum Requirements: The regulations established herein within each district shall be minimum regulations and shall be uniformly applied to each class of structure and land, except as hereinafter provided.

Section 151-7. Conflicting Ordinances. If another State or Federal statute or Town Ordinance or regulation contains conflicting provisions with this Ordinance, the more restrictive of the provisions, ordinances, or regulations shall govern.

Section 151-8. No Exclusionary Intent. It is not the intent of this Ordinance to exclude any economic, racial, religious, or ethnic group from enjoyment of residence, land ownership, or tenancy within the Town of Clarksville; nor is it the intent of this chapter to use public powers in any way to promote the separation within the Town of Clarksville of economic, racial, religious, or ethnic groups, except as may be an incidental result of meeting the lawful purposes outlined in the various Articles herein.

Section 151-9. Relation to Other Laws and Contracts. The requirements of this ordinance are separate from, but supplementary to, all other applicable requirements of the Town Code, state and federal law, private agreements and covenants, private easements, proffers and conditions of zoning, and other applicable ordinances and regulations.

Section 151-10. Penalties. Any developer who subdivides a tract, parcel or lot and violates any provision of this Ordinance shall be guilty of a misdemeanor, punishable

by a fine not more than \$100 for each lot or parcel of land so subdivided or transferred or sold.

Section 151-11. Enforcement. The Subdivision Agent or other official as delegated shall act as the subdivision agent pursuant to the Code of Virginia (1950 as amended) and the various requirements of this Ordinance.

Section 151-12. Prior Approvals and Existing Parcels. Nothing in this Ordinance shall be deemed to require any change in or invalidation of final subdivision plats previously approved and of record prior to the effective date of this Ordinance.

Section 151-13. Rules of Construction. The following rules of constructions shall apply to the regulations of this Ordinance.

1. 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, unless the obvious construction of the wording indicates otherwise.
2. Words and terms not defined within this Ordinance shall be interpreted in accord with their usage in the other Land use Ordinances of the Town or normal dictionary meaning and customary usage unless otherwise defined in Section 151-14.
3. The word “approve” shall also include the term “or disapprove” when used in connection with an action to be taken by Council, Commission, officer of the Town in the administration and maintenance of this Ordinance.
4. All references to days shall be to “calendar days.”
5. The word “State” means the Commonwealth of Virginia.
6. The word “Town” means the Town of Clarksville, Virginia.
7. The term “Code of Virginia” means the Code of Virginia 1950, as amended through the most recent session of the General Assembly.

Section 151-14. Specific Definitions. As used in this chapter, the following terms shall have the meanings indicated:

ALLEY: A platted service-way providing a secondary means of access to abutting properties.

ALTERATION: Any change to the preliminary or final subdivision plat, whether for submission or recordation.

CENTER LINE OF STREETS: A line surveyed and monumented as such, or if a center line has not been surveyed and monumented, it shall be that line running midway between the outside lines of the right-of-way for the street.

COMMISSION, THE: The Town of Clarksville Planning Commission.

COMPREHENSIVE PLAN: The Comprehensive Plan in effect for the Town of Clarksville, as amended, meant to guide the future development of the Town.

CUL-DE-SAC: A circular turning area at the end of a dead-end street.

DEVELOPER: An owner, or owner's agent, tenant, or assignee, of property being subdivided or improved, whether or not represented by an agent.

DEVELOPMENT: A tract of land developed or to be developed as a unit under single ownership or unified control which is to contain three or more residential dwelling units. The term "development" shall not be construed to include any property that will be principally devoted to agricultural production.

DISTRICT: A section of the Town of Clarksville in which the zoning regulations are uniform, as referred to in § 15.2-2280 of the Code of Virginia.

DRIVEWAY: Any private way provided for the principal purpose of providing vehicular access to an off-street parking area or service area.

EASEMENT: A grant by a property owner for the use of land for a specific purpose or purposes by the general public, a corporation, or a certain person or persons.

ENGINEER: A professional engineer currently registered by the Commonwealth of Virginia.

FLOOD HAZARD AREA: The maximum area of the floodplain which is likely to be flooded once every 100 years or for which mud slides can be reasonably anticipated. These areas are defined by the Department of Housing and Urban Development's Flood Hazard Mapping or Rate Study Mapping, as appropriate.

FLOODPLAIN: An area, usually a relatively flat or low land area adjoining a river, stream, or watercourse, which has been in the past, or can reasonably be expected in the future to be, covered temporarily by a flood.

FLOODWAY: The channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment so that the one-hundred-year flood can be carried without substantial increases in flood heights.

FRONTAGE: The minimum width of a lot measured along a straight line at which no point shall be closer than the minimum setback.

GOVERNING BODY: The Town Council of the Town of Clarksville, Virginia.

HEALTH DEPARTMENT: The Mecklenburg County Health Department or its designated agent or representative.

HIGHWAY ENGINEER: The official designated by the Virginia Department of Transportation to inspect subdivision streets and alleys, and other public ways.

LANDSCAPING: The improvement of a lot or parcel with grass, ground covers, shrubs, trees, other vegetation or ornamental objects. Landscaping may include earth forms, flower beds, ornamental objects such as trellises or fountains and other natural features.

LOT: A numbered and measured portion or parcel of land separated from other portions or parcels by description in a site plan or a recorded plat, or by metes and bounds, intended to be a unit for the purpose, whether immediate or future, or transfer of ownership, or of development or separate use. The term applies to units of land whether in a subdivision or a development.

LOT AREA: The total horizontal area within the lot lines of a lot. No alley, public way, public land, or area proposed for future street purposes is to be included within the net area of the lot.

LOT, CORNER: A lot abutting upon two or more streets or street rights-of-way at their intersection. Of the two sides of a corner lot the front shall be deemed to be the shorter of the two sides fronting on streets.

LOT COVERAGE: The ratio of the horizontally projected area of the main and accessory buildings on a lot to the total area of the lot, except where otherwise defined herein.

LOT, DEPTH OF: The average horizontal distance between the front and rear lot lines.

LOT, DOUBLE FRONTAGE (THROUGH): An interior lot having frontage on two streets as distinguished from a corner lot.

LOT, INTERIOR: Any lot other than a corner lot.

LOT IRREGULAR: An "irregular lot" is a lot that is not rectangular or square.

LOT LINES: The lines bounding a lot as defined herein.

LOT OF RECORD: A lot or parcel of land the existence of which, location, and dimensions have been recorded in the office of the Clerk of the Circuit Court of Mecklenburg County at the time of the adoption of this chapter.

LOT WIDTH: See "frontage."

NONCONFORMING LOT: An otherwise legally platted lot that does not conform to the minimum area or width requirements of this chapter for the district in which it is located, either at the effective date of this chapter or as a result of subsequent amendments to the chapter.

OFF-STREET PARKING AREA: Parking space provided for vehicular parking outside the dedicated street right-of-way.

ONE-HUNDRED-YEAR FLOOD: A flood that, on the average, is likely to occur once every 100 years.

PERSON: Any individual, firm, corporation, partnership, association, organization or other entity, including governmental entities, or any combination thereof.

PLAT: Includes the terms "map," "plan," "plot," 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."

PROFFER: An offer to perform an act, and an ability and willingness to so perform, and which is dependent on and to be performed only if approval and acceptance of the profferor's primary request is granted.

PROPERTY: Any tract, lot, parcel, or several of the same collected together for the purpose of subdividing.

PROPERTY OWNERS ASSOCIATION: A corporation or other legal entity or a nonprofit organization, which has as its purpose maintenance of streets and/or other common areas.

REQUIRED OPEN SPACE: Any space required in any front, side, or rear yard.

RIGHT-OF-WAY: Access over or across particularly described property for a specific purpose or purposes.

RIGHT-OF-WAY LINE: The dividing line between a lot, tract, or parcel of land and a contiguous street, railroad, or public utility right-of-way.

SANITARY SEWER: A sewage collection device consisting of pipelines or conduits, pumping stations and force mains and all other construction devices and appliances appurtenant thereto, used for the collection and conveyance of sewage to a treatment works or point of ultimate disposal.

SCREENING: A barrier to vision or noise consisting of trees, bushes, shrubbery, fences, or properly landscaped mounds or berms of soil.

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

SETBACK LINE: A line generally parallel with and measured from the lot line, defining the limits of a yard in which no building or structure may be located above ground.

SITE PLAN: The proposal for a project, development or a subdivision, including all covenants, grants or easements and other conditions relating to use, location and bulk of buildings, density of development, common open space, public facilities, and such other information as is required in applicable sections of this chapter.

STORM SEWER SYSTEM: The system of roads, streets, catch basins, curbs, gutters, ditches, swales, pipes, ponds, channels, storm drains and other facilities located within the Town of Clarksville which are designed or used for collecting, storing or conveying storm-water or through which storm-water is collected, stored or conveyed.

STREET: The principal means of access to abutting properties, including street right-of-way. The term street shall include road, lane, drive, place, avenue, highway, boulevard or any other thoroughfare for a similar purpose.

STREET, HALF: A street that does not meet the minimum right-of-way and width requirements set forth or referenced in this chapter.

STREET, INTERNAL: A private street providing access to lots within a development, but not including driveways.

STREET LINE: The dividing line between a street or road right-of-way and the contiguous property.

STREET, MAJOR: A heavily traveled thoroughfare or highway that carries a large volume of through traffic, or anticipated traffic exceeding 500 vehicles per day.

STREET, OTHER: A street that is used primarily as a means of public access to the abutting properties with anticipated traffic of less than 500 vehicles per day.

STREET, SERVICE DRIVE: A public right-of-way generally parallel and contiguous to a major highway primarily designated to promote safety by eliminating promiscuous 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 roadway, curbs, gutters, sidewalks, planting strips, and bikeways.

SUBDIVISION AGENT: An individual appointed by the Town Council and authorized and empowered to sign on behalf of the Town of Clarksville to approve subdivision plats for filing in the Circuit Court of Mecklenburg, or to deny subdivision applications, in accordance with the Town of Clarksville Subdivision Ordinance.

SUBDIVIDER: Any individual, corporation, registered partnership, or limited-liability company owning any tract, lot, or parcel of land to be subdivided, or a group of two 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 groups or another individual to act on their behalf in planning, negotiating for, in representing, or executing the legal requirements of the subdivision.

SUBDIVISION: The division of any tract, parcel, or lot of land into two or more parts. The word "subdivision" shall be taken to include resubdivision, and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

1. The term "to subdivide" shall not include a bona fide division or partition of agricultural land into parcels of less than two acres for agricultural purposes or for building sites for the farmstead or tenant houses. Plats of divisions so excused will contain notice that the plat has not been approved for residential purposes and must be approved by the agent prior to recordation.
2. The term "subdivide" includes the resubdivision of lots of record or the vacation of plats. The term shall apply either to the process of subdivision or the land subdivided.

SUBDIVISION, MAJOR: A subdivision shall be considered major if it consists of five or more lots or any subdivision of land or if it requires construction of a new street or the extension of an existing street.

SUBDIVISION, MINOR: A subdivision shall be considered minor if it consists of no more than five lots and it does not require the construction of a new street or the extension of an existing street. The number of lots for a minor subdivision shall be counted towards the maximum number of lots for a minor subdivision from the date of adoption of this Ordinance, including single lot subdivisions. This will include a series of such minor and single lot subdivisions.

SURVEYOR: A land surveyor currently licensed by the Commonwealth of Virginia.

VARIANCE: A relaxation of the terms of the Subdivision Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the chapter would result in substantial injustice or hardship.

YARD: A space on the same lot with a main building, such space being open, unoccupied, and unobstructed by buildings from ground to sky except where encroachments and accessory buildings are expressly permitted.

YARD, FRONT: An open, unoccupied space, excluding steps, on the same lot with the main building, extending the full width of the lot and situated between the right-of-way line and the front line of the building projected to the side lines of the lot. On corner lots, the depth of the front yard shall be considered as parallel to the street upon which the lot has its least dimension.

YARD, REAR: An open space, excluding steps, on the same lot with the main building, such space being unoccupied except possibly by an accessory building and extending the full width of the lot and situated between the rear line of the lot and the rear line of the main building projected to the side lines of the lot.

YARD, SIDE: An open, unoccupied space, excluding steps, on the same lot with a main building, situated between the side line of the building and the adjacent side line of the lot extending from the rear line of the front yard to the front line of the rear yard. If no front yard is required, the front boundary of the side yard shall be the front line of the lot, and if no rear yard is required, the rear boundary of the side yard shall be the rear line of the lot. On corner lots, the side yard shall be considered as parallel to the street upon which the lot has its greatest dimension.

Section 151-15. General Application and Compliance. The following shall be performed in order to be in compliance with Article III of the Land Development Ordinance:

A. Conformity. No person, corporation or other entity shall divide or subdivide, or cause a subdivision to be made, by deed or plat, of any tract of land located within the Town of Clarksville, except in conformity with the provisions of this Ordinance.

B. Plat Required. Whenever the owner of any tract of land located within the Town desires to subdivide the same, the owner shall submit a plat of the proposed subdivision with reference to known or permanent monuments to the Subdivision Agent, in accordance with the requirements of this Ordinance. The plat shall be signed by all persons having any real property interest in any land included within the subdivision, including required rights-of-way.

C. Recordation of Subdivision Plat. No owner shall subdivide land without making and recording a Final Subdivision Plat of such subdivision in the office of the Clerk of the Circuit Court of Mecklenburg County, and no such plat of any subdivision shall be recorded unless and until it shall have been submitted to and approved by the Planning Commission in accordance with the regulations set forth in this Ordinance.

D. Land Transfers. No person shall sell or transfer any land of a subdivision, before a plat of such subdivision has been duly approved, bonded, and recorded as provided herein.

E. Legal Partitioning. Nothing in this ordinance shall affect the power of a court of equity to order that property be partitioned.

Section 151-16. Administrative Responsibilities. The administration and enforcement of this Ordinance shall be vested in the Town Council, Planning Commission and the Subdivision Agent. The Subdivision Agent or other official as delegated by the Subdivision Agent is designated as the subdivision agent for the Town of Clarksville and is hereby authorized to administer this ordinance. The roles of

the Town Council, Planning Commission, and the Subdivision Agent are described in general in Article I.

A. Surety Review. The Subdivision Agent and the Town Attorney shall review forms of required surety and shall act to approve any bonds, letters of credit and related documents provided to ensure that required infrastructure is put in place, and shall further approve any and all subdivision agreements entered into under this this ordinance between the Town and any Developer or Subdivider.

B. Other Agencies. In performance of their respective duties to this Ordinance, the Subdivision Agent and Planning Commission shall request and consider the comments of the Subdivision Agent and other Town Staff, as well as other applicable public agencies and officials, in making recommendations and decisions on all subdivision plats. A Traffic Impact Analysis or subsequent traffic impact document may be required by the Town of Clarksville subject to VDOT regulations in the review of applicable subdivisions. Any well or septic system shall be approved by the Mecklenburg County Health Department prior to approval of the final plat.

Section 151-17. Duties of Town Council. The Town Council has the following duties in the administration of this Subdivision Ordinance:

A. Subdivision Ordinance Text Amendments. The Town Council may initiate potential amendments to the Subdivision Ordinance by requesting the Planning Commission to study the proposed revision(s) and give a stated reasonable period of time for a recommendation to be made by the Planning Commission (see the relevant section below dealing with the role of the Planning Commission).

B. Approval or Denial of Subdivision Ordinance Text Amendment. The Town Council makes the final decision for the Town of Clarksville after a duly advertised public hearing to approve or deny the language in a proposed Subdivision Ordinance text amendments pursuant to the Code of Virginia. This is after the amendment(s) are reviewed by the Planning Commission with a public hearing being held by the Planning Commission pursuant to the Code of Virginia and a recommendation from the Planning Commission is received.

Section 151-18. Duties of the Planning Commission. The Planning Commission has the following duties for this Land Development Ordinance:

A. Subdivision Ordinance Text Amendments. The Planning Commission may initiate potential Text Amendments to the Subdivision Ordinance on its own initiative or in conjunction with the Subdivision Agent.

The Planning Commission shall also receive potential Subdivision Text Amendments (conceptual or written) from Town Council upon request and act on said proposals in a timely fashion.

The Planning Commission may also receive potential Subdivision (conceptual or written) from citizens of Clarksville or persons with a financial interest in property within the Town of Clarksville or from the Subdivision Agent. If accepted, the proposed amendments shall proceed in the manner prescribed below.

In all of the above situations, the Planning Commission shall hold a public hearing and make a recommendation to the Town Council within the time period prescribed in the Code of Virginia § 15.2-2285.

B. Subdivisions. The Planning Commission shall have the following duties in the subdivision process:

1. To review preliminary and final plats for major subdivisions, and when applicable, to give recommendations to Town Council to approve, revise or deny major subdivisions request pursuant to this Ordinance and the Code of Virginia § 15.2-2259.
2. To consider applications for variation in or exceptions to the requirements of Article III of this Ordinance. Approval of a variation or exception by the Planning Commission shall be limited to cases of unusual situations or when strict adherence to the requirements of this Ordinance would result in substantial injustice or hardship.
3. In cases where the Subdivision Agent has the duty to review, approve or deny subdivisions, the decision of the Subdivision Agent to disapprove may be appealed to the Town of Clarksville Planning Commission on the required application form and with approved fees as required by the Town of Clarksville.

§ 151-19. Duties of the Subdivision Agent. The Town Manager or their designee shall be the Subdivision Agent and is responsible for enforcing the Subdivision functions of this Ordinance. These duties, responsibilities and functions are as follows:

1. To review and approve/disapprove plats for minor subdivisions.
2. To provide information and conduct conferences with subdividers, citizens and other interested parties pursuant to the relevant Subdivision process.
3. To assist the Planning Commission with evaluation of preliminary and final plats for Major Subdivisions.
4. To act as the Planning Commission's agent to sign major subdivisions for recordation after Planning Commission approval.

5. To inspect and insure compliance that facilities and other improvements are installed in accord with the approved subdivisions and in accord with the Subdivision Ordinance.
6. To take such actions as are necessary, proper and legally permissible to prevent, terminate, remove or correct violations or potential violation of this Ordinance.
7. To recommend to the Planning Commission and Town Council, as needed, amendments to this Ordinance.

Section 151-21. Fees. In connection with the administration of this chapter, the Town Council shall establish a schedule of fees, charges and expenses for the administration of the various types of subdivisions. Such fees shall be payable to the Town Treasurer. The schedule of fees shall be posted in the Town offices and may be altered or amended only by the Town Council. Until all fees have been paid in full, no action shall be taken on any application, appeal or amendment. All fees as established shall not apply to applications initiated by motion of the Planning Commission or by resolution of the Town Council.

Section 151-22. Refund. No portion of any fee payment shall be returned to any applicant after the application and relevant preliminary or final plat is submitted for review and approval.

Section 151-23. Payment of Taxes Required. An application for a Subdivision where new lots are created will not be considered valid until any and all taxes for real property within the Town of Clarksville that have been properly assessed against the subject property have been paid.

ARTICLE II. LOTS, TYPES OF SUBDIVISIONS. PLATS AND PROCEDURES

Section 151-30. Lots Generally. The creation or resubdivision of lots shall follow the following general requirements.

A. Usable Lots. The lot design, arrangement, and shape shall be such that lots will provide satisfactory and desirable sites for buildings, be properly related to topography, and provide convenient and safe access.

B. Floodways. 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 of health, life, property, aggravate erosion, or be a flood hazard. Such land within a subdivision area shall be used as common open space or other uses that would not be endangered by periodic or occasional inundation or shall not produce conditions contrary to public welfare.

C. Grading. The site development plan shall be designed to minimize the amount of grading required for development. To the extent feasible, the natural lay of the land shall be maintained except where grading is required for public health or safety.

D. Natural Amenities. The developer shall make every reasonable effort to protect and preserve the natural amenities of the site such as tree cover, waterways, scenic overlooks, etc. The site development plan shall be designed to maximize the use and enjoyment of natural amenities by project residents.

Section 151-31. Subdivision Standards-All Types of Subdivisions. The general specifications and requirements set forth in this section shall be followed:

A. Lot Size. Residential lot size shall be in accordance with the lot requirement for the zoning district in which the subdivision is to be located as prescribed in the Town of Clarksville Zoning Ordinance.

B. Lot Lines and Lot 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 the topography, and conform to the requirements of these regulations. Lots shall not contain peculiarly shaped elongations just to provide necessary square footage by adding area that would be unusable for normal purposes. Property lines of adjoining property shall be shown on all major and minor subdivision final plats.

C. Legal Description. A legal description of the lot(s) that are included within the proposed subdivision including portions of existing parcels shall be shown on the subdivision plat.

D. Lot Side Lines. Side lines of lots shall be approximately at right angles, or radial to the street line.

E. Street Frontage. Each lot shall abut on a developed public street dedicated by the subdivision plat, or on a street which has become public by right of use.

F. Remnants. Land subject to flooding, land deemed to be topographically unsuitable for residential occupancy and all remnants of lots below minimum size left over after subdividing a tract shall be added to adjacent lots, or become the property of a homeowners' association rather than be allowed to remain as unusable parcels.

G. Block Length. The maximum length of blocks shall be 1,200 feet, and the minimum length of blocks upon which lots have frontage shall be 500 feet.

H. Block Width. Blocks shall be wide enough to allow tiers of lots of minimum depth, except where fronting on major streets, unless prevented by

topographical conditions or size of the property, in which case the agent may approve a single tier of lots of minimum depth.

I. Block Orientation. Where a proposed subdivision adjoins a major road, the Town may require that the greater dimension of the block shall front or back upon such major thoroughfare to avoid unnecessary ingress or egress.

J. Street Design and Standards. The following will govern the design of subdivision streets:

1. VDOT standards. All new subdivision streets or extension of existing streets that are meant to serve more than three (3) new parcels must meet all required right of way widths, pavement dimension and surfacing, sub grade and base material, found in the Virginia Department of Transportation's Subdivision Street Requirements except as noted in this Ordinance.

2. Street alignment and layout. The arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in adjoining areas. The street arrangement must be such as to cause no unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. Where, in the opinion of Town Council or its Subdivision Agent, it is desirable to provide for street access to adjoining property, proposed streets shall be extended by dedication to the boundary line of such property. Half streets along the boundary of land proposed for subdivision may not be permitted. Wherever possible, streets should intersect at right angles. In all hillside areas, streets running with contours shall be required to intersect at angles of not less than 60°, unless approved by the Subdivision Agent.

3. Cul-de-sacs. Streets designed to have one end permanently closed must be terminated by a turnaround of not less than 55 feet in radius.

4. Alleys. Alleys should be avoided whenever possible. If approved, the right-of-way will be not less than 20 feet.

5. Privates streets in certain major and minor subdivisions. The following items apply for Private Street Subdivisions for Townhouse and Apartment developments.

a. Annotations on Plats. Any streets that are to remain privately owned shall be clearly marked as such with an annotation on the plat that the street or portion of the street is privately maintained and will not be maintained by the Virginia Department of Transportation or the Town of Clarksville.

b. Home Owners Association. A Home-Owners Association shall be put in place with membership and membership dues adequate to maintain the private street.

c. Engineer Certification. All private streets that serve more than three (3) lots shall require a certification that the private street is/has been built to VDOT Subdivision Street Standards as for compaction, and surfacing composition and depth. Street width shall meet VDOT Subdivision Standards except when approved otherwise as part of a proffer for a rezoning or as a requirements or condition to a conditional use permit.

6. Street names. Proposed streets which are obviously in alignment with other already existing and named streets shall bear the names of the existing streets. Proposed Street names for new streets shall be indicated on the preliminary and final plats, and shall be reviewed and approved by the Subdivision Agent after consultation with the Mecklenburg County Emergency Management for coordination with the E-911 system. Names of existing streets shall not be changed except by specific approval from Town Council.

7. Street identification signs. Street identification signs of an approved design shall be installed at the developer's expense at all intersections.

K. Curbs and Gutters. Curbs and gutters shall be installed for all streets subject to the following provisions:

1. Entrances. Curbs, gutters, and sidewalks shall be constructed such that there will be a driveway entrance for each lot. Commercial properties and properties with larger street frontages may be modified to permit more entrances subject to approval by the Subdivision Agent of the Town of Clarksville.

2. Installation. Concrete curbs and gutters shall be installed on both sides of all streets shown on the subdivision plat in accordance with Virginia Department of Transportation's Subdivision Street Requirements. In the case of newly platted streets in a subdivision in which each lot contains one acre or more, curb and gutter is not required, but the development plan must provide storm drainage provisions satisfactory to the Town Council.

L. Sidewalks. Concrete sidewalks shall be installed to serve all lots in a subdivision.

M. Reserve Strips. There shall be no reserve strips controlling access to public streets.

N. Monuments. Subdivisions shall utilize the following monumentation:

1. Upon completion of subdivision streets, sewers and other improvements, the subdivider shall make certain that all monuments required by this regulation are clearly visible for inspection and use. Such monuments shall be inspected and approved by the Administrator before any improvements are accepted.
2. Location-steel pins. All streets corners, all points where the street line intersects the exterior boundaries of the subdivision, at right angle points, and points of curve in each street, and all other lot corners shall be marked with a steel pin not less than 3/4 inch in diameter and 24 inches long and driven so as to be flush with the finished grade. When rock is encountered, a hole shall be drilled four inches deep in the rock, into which shall be cemented a steel rod 1/2 inch in diameter, the top of which shall be flush with the finished grade line.

O. Underground utilities. All utilities within any new major or minor subdivision, or the further development of such existing subdivisions, shall be served by underground utilities. This requirement may be waived by the Subdivision Agent if so approved by the Town Council.

P. Reservation of Land for Public Purposes. Subdividers of residential subdivisions may set aside land for buffers, open space, parks, playgrounds, schools, libraries, municipal buildings, and similar public and semipublic uses subject to provisions of this Ordinance or from proffered conditions for a rezoning or pursuant to conditions of a conditional use permits. The Code of Virginia and applicable federal law and regulations shall guide these activities in addition to the following:

1. Such land shall be shown on the final plat, by dotted lines and dotted numbers, the area and dimensions of lots to be created and any other relevant amenities within the boundaries of the subdivision.
2. Nothing herein shall be construed to mean that land may be set aside for commercial or industrial purposes in a residential district, without the land so required for commercial use being zoned appropriately in accordance with this chapter.

Q. Annotation. The action of the Subdivision Agent shall be noted on all copies of the plat to be retained as required for records or further action by the Subdivision Agent, or other affected Town of Clarksville, Mecklenburg County, and Commonwealth of Virginia agencies.

R. Recordation of plat. Unless the approved plat is recorded in the office of the Clerk of the Mecklenburg County Circuit Court, within six months after final approval, or such longer period as may be approved by the Town Council,

such approval shall be withdrawn and the plat marked "void" and returned to the subdivision agent; 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 Town, or where the Developer has furnished surety to the Town in the required amount, 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 Town, whichever is greater. No lot shall be sold and a zoning permit for its usage or any construction shall not be issued until the plat has been approved and properly recorded.

Section 151-32. Utility and Other Requirements. The following requirements for utilities are required for all subdivisions except as noted:

A. Sanitary Sewers. The Planning Commission shall not approve any major subdivision as defined in this Article, where sanitary sewers are not provided. For the other types of subdivisions, where connection to existing sewer systems is not feasible, the developer shall provide community water and sewer systems, or make provisions for individual well and septic systems, subject to Virginia Department of Health requirements and as approved by the Subdivision Agent.

B. Public Water and/or Public Sewer. Public water and/or public sewer service shall be extended to all lots within a subdivision by the developer at the developer's expense.

C. Fire Hydrants. Fire hydrants shall be provided throughout those developments that have either public or private water systems. Those developments that utilize individual wells shall insure that a public hydrant is positioned at the nearest possible location to the development.

D. Flood Control and Drainage. If any portion of the proposed subdivision is determined by the Subdivision Agent to be in the one-hundred-year floodplain, the subdivider shall provide the necessary information to demonstrate that the presence of the one-hundred-year floodplain was considered in the layout of the subdivision. The subdivider shall also provide the plans for meeting the statewide storm water management criteria or alternate criteria adopted by the Town Council. The flood control and drainage information shall include a properly certified engineer's or surveyor's statement that such improvements, when properly installed, will be adequate to meet the criteria as applied to the proposed development.

E. Utility Easements. The Town Council or the Subdivision Agent may require easements for drainage through adjoining property be provided by the subdivider. Easements of not less than 10 feet in width shall be provided for water, sewer, power lines, and other utilities to serve the subdivision when required.

F. Parking. Off-street parking subject to the requirements of the Zoning Ordinance for subdivisions with commercial components shall be shown on all plats where more than two (2) spaces per lot are required. Wherever feasible, parking areas should be designed to preserve natural amenities and should avoid excessive concentrations of pavement by scattered landscaping and tree planting.

Section 151-33. Types of Subdivisions and the Approval Process. The following types of subdivisions and the process for their review and approval of their final plats are given in this Article.

Section 151-34. Re-subdivisions: Property may be re-subdivided to eliminate, relocate or otherwise alter a lot line without the formal vacation of a recorded plat provided that the re-subdivision does not involve the relocation or alteration of streets, alleys, public rights of way, easements for public access, easements for utilities and public infrastructure, and easements for public use or common areas.

A. Conformity. The intent of a re-subdivision is to create a usable conforming lot or lots from non-usable or nonconforming lots. As long as no parcel that is being combined is made more nonconforming to the underlying Zoning District, the re-subdivision can be approved if it otherwise meets the requirements of this Ordinance and the Zoning Ordinance.

B. Validity of other plats. The approval of a re-subdivision of land does not extend the period of validity of the Final Subdivision Plat in which the re-subdivided lot is located.

C. Subdivision Agent's approval. The Subdivision Agent shall review the proposed re-subdivision and determine if it meets the requirements of the Zoning Ordinance and the platting requirements of this Ordinance as outlined below:

1. Improvements. In addition to the platting requirements, the following improvements are required when applicable:

a. Right of way. In situations where a public street has inadequate right of way width, a reservation of future right of way for road improvement equal to twenty-five (25) feet from the centerline of the street shall be provided.

b. Sidewalks. In situations where there are no sidewalks for the lot(s) to be resubdivided, sidewalks or the bonding/surety to construct the sidewalk shall be provided prior to approval by the Subdivision Agent.

c. *Streetlights.* In situations where there are no streetlights on the lot(s) to be resubdivided that otherwise would be required under the Town's streetlight policy, streetlights or the bonding/surety to install the streetlights shall be provided prior to approval by the Subdivision Agent.

Section 151-36. Minor Subdivisions. The subdivider shall submit five or more copies of the minor subdivision plat and the requisite application along with any other required information to the Subdivision Agent for processing, along with the appropriate subdivision plat review fee. If the Subdivision Agent finds that the proposed subdivision meets all requirements set forth below, then the proposed plat shall be certified as being a minor subdivision, and can be approved for recordation by the Subdivision following the outlined procedures:

A. *Five lots.* A tract or parcel of land shall not be divided into more than five lots and remain a minor subdivision. All lots shall front upon an existing public street within the Virginia Department of Transportation road system and not involving a new street or the extension of any existing street. Any contiguous property owned by the same individual(s) or corporation cannot be subdivided into greater than five lots without meeting the requirements for a major subdivision.

B. *Compatibility.* The minor subdivision shall not adversely affect development of the remainder of the tract or parcel or of any other adjoining property.

C. *Application process.* The following shall be the procedure for the consideration of a Minor Subdivision.

1. *Application.* A subdivision application (whether for a preliminary or final plat) meeting the foregoing requirements shall be filed with the Zoning Administrator along with twelve (12) plats of the proposed subdivision

2. Plat showing the following:

a. Scale-accurate proposed development plan mapping of the project to include:

b. Proposed land uses, including residential types, commercial types, recreation, and any other proposed use.

c. Proposed street system, including public and private rights-of-way.

- d. Proposed parking areas and parking space delineations sufficient to meet the parking requirements of § 151-76 (where applicable).
- e. Proposed plat showing subdivision lot lines.
- f. Proposed utility rights-of-way or easements, including water, sewer, gas, power, and telephone, and cable TV.
- g. Proposed location of buildings, structures, and improvements (for commercial and industrial subdivisions).
- h. Proposed pedestrian circulation system (for commercial and industrial subdivisions).
- i. Names and addresses of all adjacent property owners (addresses of owners may be shown separate from the proposed plat).
- j. Quantitative data, including the number and type of dwelling units, parcel sizes, gross and net residential densities, total amount and percentage of open space, residential, commercial, and other land use types including proposed building types, architectural styles when applicable based on proffered conditions of rezoning or Ordinance requirements, height, and floor area.

D. Improvements. The following improvements are required where applicable and must be provided or bonded or with surety to be provided before a minor subdivision can be approved:

1. *Sidewalks.* If the proposed lot does not have an existing sidewalk, sidewalks shall be provided along the new and existing lots.
2. *Streetlights.* Streetlights as approved by the Town of Clarksville Streetlight Policy shall be installed.
3. *Adequate right of way.* Appropriate additional right of way shall be provided in situations where there is inadequate street right of way width. However, no more than one half of the deficit right of way shall be required for the new parcel or the former parcel.

E. Annotation. In addition to the general platting requirements, the plat shall be annotated as a “Minor Subdivision Plat”.

F. Review. After the minor subdivision plat and related materials have been submitted, it shall be reviewed by the Subdivision Agent and other affected Town of Clarksville, Mecklenburg County, and Commonwealth of Virginia agencies to ensure conformity with this chapter and other applicable regulations. The Subdivision Agent shall act upon the minor subdivision plat, as submitted or as modified by the subdivider within 90 days of its original application date of submission. The original application date of submission is considered to be the date in which all required information needed to process the Minor Subdivision Application is submitted to the Subdivision Agent of the Town of Clarksville.

G Approval agent. The Subdivision Agent shall be the approval authority for minor subdivisions. If a plat is approved, the Subdivision Agent shall certify such approval by signing the plat. If disapproved, the Subdivision Agent shall advise the subdivider of such action and shall indicate the reasons for denial.

H. Appeal of denial. The decision of the Subdivision Agent to disapprove the proposed minor subdivision application may be appealed to the Town of Clarksville Planning Commission within sixty (60) days of the written disapproval of the request.

Section 151-37. Major Subdivision. A major subdivision is any subdivision consisting of five or more lots from a parent parcel or tract of land, or any subdivision involving a new street or the extension of any existing street, shall be considered a major subdivision. The number of parcels shall be counted from the date of adoption of this Ordinance. For any application submitted for consideration for a major subdivision approval, the plat must be annotated as a Major Subdivision and indicate the number of lots to be formed by the proposed subdivision.

A. Preliminary subdivision application: The applicant shall submit a preliminary plat for review and approval/denial/amendment by the Planning Commission. The requirement to submit a preliminary plat may be waived if in the judgment of the Subdivision Agent and with the concurrence of the applicant, a prior proffered site-plan or conceptual plan had been approved as part of a rezoning and there are no major deviations between the proffered site-plan or conceptual and the proposed major subdivision plat.

B. Improvements. In addition to any improvements required as part of a proffered rezoning when applicable, the following improvements must be provided or bonded or with surety to be provided if a Major Subdivision is to be approved:

1. *Sidewalks.* If the proposed lot does not have an existing sidewalk, sidewalks shall be provided along the new and existing lots.

2. *Streetlights.* Streetlights subject to an approved lighting plan as approved by the Town of Clarksville, shall be installed or bonded or with surety to ensure the installation.

Section 151-38. Major Subdivision Application Process. The following shall be the procedure for the consideration of a Major Subdivision.

A. *Application.* A subdivision application (whether for a preliminary or final plat) meeting the foregoing requirements shall be filed along with the number of plats as required by the Subdivision Agent of the proposed subdivision

B. *Plat.* Plat showing the following:

1. Scale-accurate proposed development plan mapping of the project to include:

a. Proposed land uses, including residential types, commercial types, recreation, and any other proposed use.

b. Proposed street system, including public and private rights-of-way.

c. Proposed parking areas and parking space delineations sufficient to meet the parking requirements of the Zoning Ordinance.

d. Proposed plat showing subdivision lot lines.

e. Proposed utility rights-of-way or easements, including water, sewer, gas, power, and telephone, and cable TV.

f. Proposed location of buildings, structures, and improvements.

g. Proposed pedestrian circulation system.

h. Names and addresses of all adjacent property owners (addresses of owners may be shown separate from the proposed plat).

i. Quantitative data, including the number and type of dwelling units, parcel sizes, gross and net residential densities, total amount and percentage of open space, residential, commercial, and other land use types including proposed

building types, architectural styles when applicable based on proffered conditions of rezoning or Ordinance requirements, height, and floor area.

j. Streetlights. Streetlights as required in the Town of Clarksville Streetlight Policy shall be shown and installed per the Town's specifications.

j. The entire language of any and all proffered conditions shall be given on the plat.

C. Environmental plans. Copies of the proposed drainage plan and erosion and sediment plan as required by the Town of Clarksville and Mecklenburg County.

D. Water and sewer plans. Copies of the approved water and sewer plans as required by the Town of Clarksville and Mecklenburg County.

E. Landscaping plan. Proposed landscaping plan if required, including the proposed treatment of the project perimeter, such as screening or landscaping.

F. Intent statement. A statement of intent regarding future selling or leasing of land areas, dwelling units, commercial area, etc.

G. Phasing. An approximate development schedule, including dates of proposed construction beginning and completion and staging plan, if appropriate.

H. Approvals. Approvals from the Virginia Department of Transportation including the approval of the Transportation Impact Analysis and if appropriate, the County Department of Health.

I. Other documents. Proposed agreements, provisions, or covenants which govern the use, maintenance, and continued protection of property to be held in common ownership.

Section 151-39. Preliminary Subdivisions. In cases where Preliminary Subdivision Approval is required or warranted on a major subdivision, the Planning Commission shall within 60 days after its receipt by the Commission at a regular meeting, make a decision on the preliminary subdivision plat application. The preliminary plat application shall be as accompanied by the following information:

A. Preliminary Plat. The subdivider shall present to the Subdivision Agent, at least fifteen (15) copies of the proposed preliminary plat at an approved scale. The preliminary plat shall include the following information:

1. *Information.* Name of subdivision, owner, subdivider, surveyor, or engineer, date of drawing, number of sheets, North point and scale.

2. *Proximity map.* Location of the proposed subdivision by an insert map at a scale of not less than one inch equals 2,000 feet showing adjoining roads, their names and number, towns, subdivision, and other landmarks.

3. *Boundary survey.* The boundary survey or existing survey of record, provided such survey shows a closure with an accuracy of not less than one in 2,500; total acreage of subdivided area; number and approximate area and frontage of all building sites; existing buildings within the boundaries of the tract; names of owners and their property lines within the boundaries of the tract, and adjoining such boundaries.

4. *Existing streets.* All existing, platted, and proposed streets, their names, numbers, and widths; existing utility or other easements; public areas, and parking spaces; culverts, drains, watercourses, their names; and other pertinent data.

5. *Public use.* All parcels of land to be dedicated for public use and the conditions of such dedication.

6. *Topography.* Topography at an appropriate interval.

7. *Drainage plans.* Provisions for collecting and discharging surface drainage and preliminary designs of any structure that may be required.

Section 151-40. Major Subdivision Decision Process. The Planning Commission of the Town of Clarksville shall within 60 days after the receipt of a complete Major Subdivision Application at a regular meeting, make a recommendation on the final subdivision plat application. Where applicable, the final plat shall be in substantial compliance with the preliminary plat approval and shall meet all requirements of this Ordinance for a final plat as well as any and all proffered conditions or approved conditions of a conditional use permit. The decision by the Planning Commission shall be to either;

A. *Approve.* Recommend approval of the plat as presented to Town Council; or;

B. *Approval with revisions.* Recommend approval of the plat with the recommended revision to Town Council and authorize the applicant to revise the plat and submit it to Town Council for their review; or;

C. Disapproval. Recommend disapproval giving specific reasons for the determination that the proposed subdivision does not meet the requirements of the Subdivision Ordinance.

Section 151-41. Major Subdivision Decision Process-Town Council. The Town Council of the Town of Clarksville shall within 60 days after the receipt of a recommendation from the Town of Clarksville Planning Commission on a Major Subdivision Application at a regular meeting, make a decision on the final subdivision plat application. Where applicable, the final plat shall be in substantial compliance with the preliminary plat approval and shall meet all requirements of this Ordinance for a final plat as well as any and all proffered conditions or approved conditions of a conditional use permit. The decision by the Town Council shall be to either;

A. Approve. Accept the recommendation of the Planning Commission to approve the major subdivision plat with any and all stipulations; or;

B. Approval with revisions. Accept the recommendation of the Planning Commissions with further revisions as required by the Subdivision Ordinance and authorize the applicant to revise the plat and submit it to the Subdivision Agent for approval or further review by Town Council; or;

C. Disapproval. Recommend disapproval giving specific reasons for the determination that the proposed subdivision does not meet the requirements of the Subdivision Ordinance.

Section 151-42. Final Plats. The following language shall be placed on all plats:

A. Subdivision Plats. Subdivision plats shall be clearly and legibly drawn in ink. A blank oblong space three inches by five inches shall be reserved on the cover sheet and a one-inch-by-five-inch space shall be reserved on subsequent sheets for use of the approving authority.

B. Subdivision Names. Subdivision plats shall show the name of the subdivision; the accurate location and dimensions by bearing said distances with all curve data on all lots and street lines and center lines of streets; boundaries of all proposed or existing easements, parks, school sites or other public areas; the number and area of all building sites; all existing public and private streets, their names, numbers, widths; existing and proposed easements for water, sewer, gas, power, telephone and other utilities; watercourses and their names; and names of owners and their property lines, both within the boundary of the subdivision and adjoining boundaries.

C. Field Surveys Required. Distances and bearings shown on the plat shall be derived from field surveys with a minimum closure accuracy of not less than one in 10,000.

D. Application by Owner. An application shall be made by the owner(s) of the property on the approved application form of the Town of Clarksville with the requisite processing fee.

E. Preliminary Plat Information. All approved annotations on a preliminary plat shall be placed on the Final Plat where applicable

E. Copies of Plats. With the application will be at least five copies of the plat for all subdivisions including resubdivisions. The Subdivision Agent will require more copies of a preliminary or final plat for minor and major subdivisions and the applicant or applicant's surveyor shall inquire as to the number prior to formal application. All plats shall be at a scale and size acceptable to the Subdivision Agent and the Clerk of the Circuit Court's Office of Mecklenburg County. The plat will contain at a minimum, the following information:

1. *Parcel Lines.* Any existing parcel lines that are proposed for removal or relocation shall be clearly annotated in a different shade of ink upon the plat and noted as such in a legend or otherwise noted in an acceptable manner to the Subdivision Agent.

2. *Distances and Bearings.* The distances and bearings shown on the plat shall be derived from field surveys with a minimum closure accuracy of not less than one in 10,000.

3. *Curvatures.* The data of all curves along the street frontages shall be shown in detail at the curve or in a curve data table containing the following: delta, radius, and arc.

4. *Appropriate right of way.* Appropriate additional right of way shall be provided in situations where there is inadequate street right of way width on existing public streets bounded only on one side by the proposed major subdivision. In these cases and subject to any requirements from the Virginia Department of Transportation, no more than one half of the deficient right of way shall be required for the new lot(s). If the public street is bounded on both sides by the lots from the major subdivision, then the appropriate right of way width must be provided.

4. *Surveyor's certificate.* Every subdivision plat shall be prepared by a surveyor or engineer duly licensed by the Commonwealth of Virginia, who shall endorse upon each plat a 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 from more than one source of title, the outlines of the several tracts shall be indicated upon such tract, within an insert block or by means of a dotted boundary line upon the plat.

5. *Owner's statement.* Every such plat, or the deed of dedication to which plat is attached, shall contain a statement to the effect that "the above and foregoing subdivision of (here insert the 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 a Notary Public or other such officer authorized to take acknowledgments of deeds, and, when thus executed and approved as herein specified, shall be filed and recorded in the office of the Clerk of the Mecklenburg County Circuit Court, and indexed under the names of the landowners signing such statement and under the name of the subdivision.

Section 151-43. Types of Surety; Partial and Final Release. In order to ensure that the amenities and requirements of this Ordinance be properly installed, put in place, and/or maintained, the subdivider may place surety on the amenity or requirement if recordation of the subdivision is desired prior to the amenity/requirement being installed or put in place. This surety shall be either in the form of a cash bond, surety bond or letter of credit. The amount of such cash bond, surety bond or letter of credit shall equal the total of the estimated cost of construction based on unit prices for new construction in the Town plus a reasonable allowance for estimated administrative costs, inflation, and a potential damage to existing roads or utilities, which shall not exceed ten percent of the estimated construction costs. All instruments of surety and related contracts shall be approved by the Attorney for the Town of Clarksville and be made acceptable to the Town Manager of Clarksville. The periodic partial and final complete release of any such surety shall be; provided upon completion of part or all of the improvements as follows:

- A. The applicant shall make a written request for partial or final release to the Town;
- B. The Town shall execute the release unless it notifies the applicant in writing of any defects or deficiencies in construction and suggested corrective measures within 30 days of the applicant's request.
- C. If the Town does not respond within thirty days to a request for partial release, then it is deemed approved. Partial release request shall not be made for less than thirty percent not more than eighty percent completion of the work. No final release shall be granted until after expiration of such thirty day period and there is an additional request in writing sent by certified mail to the Town Manager. If the Town does not respond within ten days to the additional request for final release, then it is deemed approved.
- D. The Town shall not refuse to make a periodic partial or final release of a surety guarantee for any reason not directly related to the specified defects or deficiencies in construction of the public facilities covered by said surety guarantee. The Town shall not be required to make more than three partial

releases within any twelve month period. Upon final completion and acceptance of the public facilities the Town shall release any remaining performance guarantee. For purposes of final release, the term "acceptance" shall mean when the public facilities are accepted 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.

Section 151-44. Relation to Erosion and Sediment Control Laws. The General Assembly has determined that the lands and waters comprising the watersheds of the Commonwealth of Virginia are great natural resources that are being adversely affected by the rapid shift in land use from agricultural to nonagricultural uses. The General Assembly found it necessary to establish and implement the Virginia Erosion and Sediment Control Law.

A. Subdivision Development Included as Land-Disturbing Activity. Any subdivision development disturbing 10,000 or more square feet of land for commercial or noncommercial uses shall be deemed a land-disturbing activity, as that term is defined in the Code of Virginia, 1950, as amended.

B. Erosion and Sedimentation Plan Required. At the time of filing the final plat, an erosion and sedimentation control plan must also be filed in accordance with the Mecklenburg County Erosion and Sediment Control Ordinance and the provisions of the Virginia Erosion and Sediment Control Law.

Section 151-45. Resubdivision and Minor Subdivision Final Subdivision Plat Approval Process. The Subdivision Agent shall, within 60 days after its receipt, make a decision on the final subdivision plat application. The final plat shall meet all requirements of this Ordinance for a final plat, any and all related requirements of Article II as well as any and all proffered conditions or approved conditions of a conditional use permit. The decision shall be to either

1. *Approve.* Recommend approval of the plat as presented, and authorize the applicant to submit final plats along with any surety thereto; or

2. *Approve with Revisions.* Recommend approval of the plat with the recommended revision(s) from the Subdivision Agent and authorize the applicant to submit the revised final plat with the revisions to the further review or authorize the Subdivision Agent to review and approve the revised final plat with the revisions thereto along with any surety thereto; or

3. *Disapprove.* Recommend disapproval giving specific reasons for the determination that the proposed subdivision does not meet the requirements of the Subdivision Ordinance. This determination along with the appeal rights shall be given the applicant(s) pursuant to the Code of Virginia.

Section 151-46. Vacation of Plat. A plat may be vacated by ordinance of the Town Council of the Town of Clarksville in which the land shown on the plat or part thereof to be vacated lies, on motion of one of its members, or on application of any interested person. Such ordinance shall not be adopted until after notice has been given as required by § 15.2-2204, Code of Virginia, 1950, as amended. Said notice shall clearly describe the plat or portion thereof to be vacated and state the time and place of the meeting of the Town Council at which the adoption of the ordinance is to be considered. An appeal from the adoption of the ordinance may be filed within 30 days with the Mecklenburg County Circuit Court. Upon such appeal, the court may nullify the ordinance if it finds that the owner of any lot shown on the plat will be irreparably damaged. If no appeal from the adoption of the ordinance is filed within the time provided or if the ordinance is upheld on appeal, a certified copy of the ordinance of vacation shall be recorded in the clerk's office of the circuit court in which the plat is recorded.

A . Vacation of Plat After Sale of Lot. In cases where any lot has been sold, the plat or part thereof may be vacated according to either of the following methods:

1. By instrument in writing agreeing to the application signed by all the owners of lots shown on the plat and also signed on behalf of the Town Council for the purpose of showing the approval of the vacation by the Town Council. In cases involving drainage easements or streets rights-of-way where the vacation does not impede or alter drainage or access for any lot owners other than those lot owners immediately adjoining or contiguous to the vacated area, the governing body shall only be required to obtain the signatures of the lot owners immediately adjoining or contiguous to the vacated area. The word "owners" shall not include lien creditors except those whose debts are secured by a recorded deed of trust or mortgage and shall not include any consort of an owner. The instrument of vacation shall be acknowledged in the manner of a deed and filed for record in the clerk's office of any circuit court in which the plat is recorded.
2. By ordinance adopted by the Town Council on motion of one of its members or an application of any interested person. The ordinance shall not be adopted until after notice has been given as required by § 15.2-2204, Code of Virginia, 1950, as amended. The notice shall clearly describe the plat or portion thereof to be vacated and state the time and place of the meeting of the Town Council at which the adoption of the chapter will be voted on. Any person may appear at the meeting for the purpose of objecting to the adoption of the ordinance. An appeal from the adoption of the ordinance may be filed within 30 days with Mecklenburg County Circuit Court. Upon appeal the Court may nullify the ordinance if it finds that the owner of any lot shown on the plat will be irreparably damaged. If no appeal from the adoption of the ordinance is filed within the time above provided or if the ordinance is upheld on appeal, a certified copy of the ordinance of

vacation may be recorded in the clerk's office of any circuit court in which the plat is recorded.

C. Vacation of Roads. Roads within the secondary system of highways may be vacated under either of the preceding methods. The action will constitute abandonment of the road, provided the land shown on the plat or part thereof to be vacated has been the subject of a rezoning or conditional use permit application approved following public hearings required by § 15.2-2204, Code of Virginia, 1950, as amended, and provided the Commonwealth Transportation Commissioner or his agent is notified in writing prior to the public hearing, and provided further that the vacation is necessary in order to implement a proffered condition accepted by the governing body pursuant to § 15.2-2297, 15.2-2298 or 15.2-2303, Code of Virginia, 1950, as amended, or to implement a condition of special exception approval. All abandonments or roads within the secondary system of highways sought to be effected according to either or the preceding methods before July 1, 1994, are hereby validated, notwithstanding any defects or deficiencies in the proceeding; however, property rights which have vested subsequent to the attempted vacation are not impaired by such validation. The manner of reversion shall not be affected by this section.

Article III. Appeal and Amendment

Section 151-50. Appeal of Re-division and Minor Subdivision Decisions. In instances where the applicant(s) for R-subdivision or Minor Subdivisions disagrees with the decision of the Subdivision Agent, the decision may be appealed to the Planning Commission. The reasons for the appeal including the citation of the sections of this Ordinance must be given. The Planning Commission shall review the relevant subdivision decision and either reverse, partially reverse recommending revisions or deny the request. If after the appeal of the aforementioned forms of subdivision is denied and the applicant disagrees with the decision, the applicant may appeal the decision by filing an appeal to the Mecklenburg County within thirty (30) days of the notification date of the decision.

Section 151-51. Appeal of a Major Subdivision Decision. If a Major Subdivision is denied and the applicant disagrees with the decision, the applicant may appeal the decision by filing an appeal to the Mecklenburg County within thirty (30) days of the notification date of the decision.

Section 151-52. Subdivision Ordinance Amendment Process. Whenever public necessity, general, good land-use practice requires, the Town Council may, from time to time, amend, supplement or change, by ordinance the regulations herein established.

- A. *Initiation of Change.* Any such amendment may be initiated either by:
1. Resolution by the Town Council;
 2. Motion of the Planning Commission;

3. Petition of a property owner, contract purchaser with the owner's written consent or the owner's agent addressed to the Town Council or the Planning Commission.
 - a. Documents to be submitted for an Ordinance Text Change:
 1. Proposed wording or revision(s) of the text to be amended with references to the division, section, and sub-section that is/ are proposed to be amended, including sections to be repealed, deleted or replaced in or on a form approved by the Subdivision Agent.
 2. Narrative description of the purposes to be served by the proposed amendment and how it would effect and improve the Subdivision Ordinance.
 3. A filing fee to defray the cost of processing advertising and holding the public hearings as required by the Town of Clarksville.

B. Notice, Hearing, and Recommendation by Planning Commission.: The Planning Commission shall hold a public hearing pursuant to Code of Virginia as amended §15.2-2204 on a complete application for a proposed amendment as described above. Notice of public hearing before the Planning Commission shall be in accord with the relevant procedures outlined in the Code of Virginia as amended. The Planning Commission shall make a recommendation to approve, deny or give no recommendation on the proposed amendment within the timeframes set forth in the Code of Virginia.

C. Notice, Hearing, and Determination by Town Council. The Town Council shall hold a public hearing on the application for a proposed amendment. Notice of public hearing before the Town Council shall be in accord with the relevant procedures outlined in the Code of Virginia as amended. The Town Council shall either approve, deny the request within the timeframes set forth in the Code of Virginia.