

LAND SUBDIVISION AND DEVELOPMENT ORDINANCE

CHAPTER 1241

GENERAL PROVISIONS AND DEFINITIONS

1241.01 Authority

This Ordinance is authorized under Title 15.2, Chapter 22, Article 6 (Subdivision) and Article 7 (Zoning) of the Code of Virginia, 1950, as amended.

1241.02 Title

This Ordinance shall hereafter be known and referred to as the "Land Subdivision and Development Ordinance of Loudoun County, Virginia."

It shall consist of Chapters 1241 through 1246 of the Codified Ordinances of Loudoun County and the Loudoun County Facilities Standards Manual.

1241.03 Purpose

The purpose of this Ordinance is to establish subdivision and site plan standards and procedures for all unincorporated areas of Loudoun County, excluding subdivision and boundary line adjustment standards and procedures for unincorporated areas within: the Town of Hamilton Subdivision Control Area, as specified on the maps prepared by the County of Loudoun entitled "Purcellville and Hamilton Urban Growth Areas" and "Parcels within 1 mile of Hamilton" (hereby incorporated by reference), the Town of Purcellville Subdivision Control Area, as specified in the "Town of Purcellville/County of Loudoun Annexation Agreement", dated November 16, 1994, and in the Purcellville Urban Growth Area Management Plan (hereby incorporated by reference), and the Town of Middleburg Subdivision Control Area, as specified on the map prepared by the County of Loudoun entitled "Town of Middleburg One Mile Subdivision Control Limit" (hereby incorporated by reference). Specifically, it is the purpose of this Ordinance to insure that residential, industrial, and business centers are developed with adequate highway, utility, health, educational, and recreational facilities. This Ordinance is intended as an aid in the implementation of the Comprehensive Plan, which is designed to guide and facilitate the orderly, beneficial growth of the community and to promote the public health, safety, convenience, comfort, prosperity, and general welfare.

The provisions of this Ordinance and the Facilities Standards Manual shall be the minimum requirements for the submission, preparation, and recordation of all plans and plats.

1241.04 General Usage

- (1) This article shall be read in conjunction with the Zoning Ordinance and the Facilities Standards Manual.
- (2) As used in this Ordinance, unless obvious construction of the wording indicates otherwise, words used in the present tense include the future tense; words in the singular number include the plural number; and words in the plural number include the singular number.
- (3) "Shall" is mandatory.
- (4) Words in the masculine gender include the feminine.
- (5) "May" is permissive.
- (6) "Adjacent" means "contiguous."
- (7) In the event a subsequent amendment to the State enabling language supersedes any provisions of this Ordinance, the requirements of the amendment shall be administered in place of the superseded ordinance provisions until such time as this Ordinance is amended.

1241.05 Definitions

"Alley" - A right-of-way which provides secondary and/or service access for vehicles to the side or rear of abutting properties whose principal frontage is on another street.

"Application, Active" - Any Preliminary Subdivision Application, Preliminary Site Plan Application, Preliminary/Record Plat Application, Preliminary/Final Site Plan Application, Record Plat Application, Final Site Plan Application, Construction Plans and Profiles Application, Boundary Line Adjustment Application, or Family Subdivision Application which has been officially accepted by the County and which is not an inactive application or has not been withdrawn or has not received a final decision.

"Application, Inactive" - Any Preliminary Subdivision Application, Preliminary Site Plan Application, Preliminary/Record Plat Application, Preliminary/Final Site Plan Application, Record Plat Application, Final Site Plan Application, Construction Plans and Profiles Application, Boundary Line Adjustment Application, or Family Subdivision Application officially accepted by the County for processing but which has had such processing suspended either by request of the applicant or by having no contact or activity occur in regards to the application by the applicant for a period of six months.

"Application, Reactivated" - Any Preliminary Subdivision Application, Preliminary Site Plan Application, Preliminary/Record Plat Application, Preliminary/Final Site Plan Application, Record Plat Application, Final Site Plan Application, Construction Plans and Profiles Application, Boundary Line Adjustment Application, or Family Subdivision Application which was classified as inactive which the applicant subsequently notifies the County in writing of their desire to have the application brought to final decision.

"Approving authority" - The public body or any committee thereof or the public official or employee designated by this ordinance to exercise discretion in the approval or disapproval of preliminary plats of subdivisions, record plats of subdivision, preliminary/record plats of subdivision, preliminary site plans, final site plans, preliminary/final site plans, family subdivisions, subdivision waivers, boundary line adjustments, and subdivision exceptions, respectively.

"Architect" - A person registered to practice architecture and licensed by the Commonwealth of Virginia.

"Board of Supervisors or Board" - The Board of Supervisors of Loudoun County, Virginia.

"Building" - A structure having one or more stories and roof, designed primarily for the shelter, support, or enclosure of persons, animals, or property of any kind.

"Comprehensive Plan" - The official document commonly referred to as the General Plan, or elements thereof, adopted by the Board of Supervisors, intended to guide the physical development of the County or portion thereof. Such plan including maps, charts, policy statements and/or descriptive material, shall be adopted in accordance with Section 15.2-2226 of the Code of Virginia.

"Condominium" - Any real property, and any incidents thereto or interests therein, in which individual dwelling units or apartments of a multi-unit structure or area are owned individually, in conjunction with an undivided interest in common elements appertaining to each individual unit and which undivided interest is vested in each owner of any individual unit or apartment. Any real property for which condominium instruments have been recorded pursuant to Section 55-79.49 of the Code of Virginia of 1950, as amended (The Virginia Condominium Act), and which is subject of the terms and conditions of that Act shall be deemed to be a "condominium" for purposes of this Ordinance.

"Conversion condominium" - A condominium containing structures which, before the recording of a declaration, were wholly or partially occupied by persons other than those who have contracted for the purchase of condominium units and those who occupy these units with the consent of such purchasers.

"Covenant" - A written agreement or promise under seal between two or more parties.

"Department" - The Department of Building and Development, Loudoun County, Virginia.

"Developer" - The legal or beneficial owner or owners of all the land proposed to be included in a given development, or the authorized agent thereof.

"Development" - A tract of land which is the subject of the proposed subdivision or site plan developed, or to be developed, as a unit under single ownership or unified control which is to be used for any business, commercial, institutional, governmental, industrial, or residential purpose. The term "development" shall not be construed to include any property which will be devoted solely to farming.

"Director" - The Director of the Department of Building and Development or his designated representative.

"Division" - The creation of lots in the AR-1 and AR-2 Zoning Districts pursuant to Section 1241.06 of the LSDO and Sections 2-103 and 2-203 of the Loudoun County Zoning Ordinance, as amended.

"Easement" - A grant of interest in real property by the owner to, or for use by, an abutting landowner, the public, or another person or entity, including both easements appurtenant and easements in gross.

"Facilities Standards Manual" - The Facilities Standards Manual of Loudoun County.

"Filing date" - The date that all required submissions have been made and the Director has signed the application. This date shall be deemed the date upon which a plan or other application has been officially submitted.

"Geotechnical test" - A field or laboratory test or evaluation assessing site geology, rocks, and/or hydrology for the purpose of determining the suitability of a site for a proposed development.

"Health Director" - The Director of the Department of Public Health for Loudoun County or his designated representative.

"Improvement" - Roads, streets, parking areas, loading areas, sidewalks and pedestrian ways, curbs, gutters, water mains, sewer mains, drainage facilities, stormwater management facilities, landscaping, recreational facilities, and other structures or facilities as may be required under this Ordinance, the Zoning Ordinance, the Facilities Standards Manual.

For purposes of requiring a performance guarantee from a subdivider or developer, "improvement" includes those improvements set forth in the Bonding Policy of the Facilities Standards Manual.

"Land use and use of land" shall include "building use" and "use of building."

"Lot" - A numbered and recorded portion of a tract, division, or subdivision intended for transfer of ownership or for development. "Lot" shall include the words "plot" and "parcel".

"Lot line" - A line dividing one lot from another or from a street or other public or private area.

"Officially submitted" - The status of a plan or plat which has been determined by the Director to have been filed in accordance with all submission requirements of this ordinance, including the Facilities Standards Manual. The date on which the plat or plan is officially submitted shall establish the filing date for the plat or plan.

"Originating Tract" - A lot or parcel of land in the AR-1 or AR-2 Zoning District which is to be the subject of a subdivision through the "Principal/Subordinate" Subdivision Option as identified in Sections 2-103 and 2-203 of the Zoning Ordinance. This designation is for the purpose of establishing a base density of development in order to implement this subdivision option.

"Plan" - The proposal for a 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 required by the ordinance to which the proposed development or subdivision is subject.

- (a) **Preliminary plat:** A plat of a proposed land subdivision or development showing the character and proposed layout of the tract. Also referred to as "preliminary plat of subdivision" when pertaining to a subdivision.
- (b) **Construction plan:** A plan including specifications for improvements as required by this Ordinance, the Facilities Standards Manual, Erosion Control Ordinance of Loudoun County, and the Virginia Department of Transportation.
- (c) **Site plan:** A site plan is a "plan of development" within the meaning of Virginia Code Section 15.2-2286, as further defined in the Zoning Ordinance.
- (d) **Site plan amendment:** A minor change or revision to a previously approved site plan as defined in the Facilities Standards Manual.

- (e) **Record plat:** A plat of a subdivision which, when approved, shall meet all the applicable requirements of this Ordinance and the Zoning Ordinance and shall be in a form suitable for recording.
- (f) **Preliminary/record plat:** A plat of subdivision that meets all requirements of both a preliminary plat and record plat and is submitted as a combined application.

"Planning Commission or Commission" - The Planning Commission of Loudoun County, Virginia.

"Principal Lot" - A lot or parcel of land in the AR-1 or AR-2 Zoning District which has been created through the "Principal/Subordinate" Subdivision Option as identified in Sections 2-103 and 2-203 of the Zoning Ordinance. Future subdivision and development of such lots are restricted by the requirements contained in the AR-1 and AR-2 Zoning Districts.

"Professional engineer" - Any individual duly licensed by the Commonwealth of Virginia to practice engineering.

"Public improvement" - An improvement that has been or will be dedicated for public use or that is designated to provide adequate transportation, water, sewerage, flood protection, or recreational facilities or to serve other public requirements in accordance with the Land Subdivision and Development Ordinance and the Zoning Ordinance.

"Public Individual Well" - As defined in Chapter 1040 of the Codified Ordinances of Loudoun County

"Public Sewerage System" - A sewerage system owned or operated by a public authority or municipality.

"Public Water Supply System" - As defined in Chapter 1040 of the Codified Ordinance of Loudoun County and including a central communal or municipal water-supply system serving more than two (2) lots and intended to be owned or operated by a municipality or the Loudoun County Sanitation Authority (LCSA) for the purpose of furnishing potable water.

"Record drawing" - A detailed engineering drawing which locates required improvements as installed.

"Required Yard" - A yard, as defined in the Zoning Ordinance, located along the perimeter of a lot, the dimensions of which are set by the District regulations of the Zoning Ordinance.

"Resident Engineer" - The Resident Engineer for Loudoun County of the Virginia

Department of Transportation, or his designated deputy.

"Sewage Disposal System" - An individual sewage disposal system or sewage treatment system defined in Chapter 1066 of the Codified Ordinances which is designed not to result in a point source discharge.

"Sewerage System" - Pipe lines 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.

"Street" - A strip of land intended primarily for vehicular traffic and providing the principal means of access to property, including but not limited to, avenue, boulevard, drive, highway, lane, road, or any other thoroughfare maintained, or designed and built to be maintained, by the Virginia Department of Transportation.

- (a) **Road, Class I:** Roads which were part of the State-maintained highway system at the time of the adoption of the 1972 Zoning Ordinance.
- (b) **Road, Class II:** Roads meeting Virginia Department of Transportation specifications and acceptable for maintenance by the State, bonded as provided in the Loudoun County Subdivision Ordinance or roads accepted in the State-maintained highway system after the effective date of the 1972 Zoning Ordinance.
- (c) **Road, cul-de-sac:** A dead-end Class I, II, or III road having one end open to traffic and the other end terminating in a vehicular turnaround.
- (d) **Class III road:** A non-State maintained road which meets the design standards contained in the Facilities Standards Manual.

"Subdivide" - The creation of a subdivision.

"Subdivider" - An individual, corporation, proprietor, trust, trustee, joint venture, partnership, or other entity owning any tract, lot, or parcel of land to be subdivided; or a group of two or more persons or entities 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 or entity to act on their behalf in planning, negotiating, representing, or executing the legal requirements of the subdivision.

"Subdivision" - The division of any parcel of land into two (2) or more new parcels, each separately transferable from the other, and shall include condominium development. Separation of interests in land for the purpose of lease, transfer of (partial) undivided interest, granting or extinguishment of easements, subordinating or otherwise affecting the priority of liens, plats of confirmation, and any other such transfers of interests in land not

directed at the creation of new, separately transferable parcels shall not be considered as an act of subdivision.

“Subordinate Lot” - A lot in the AR-1 or AR-2 Zoning District created pursuant to the “Principal/Subordinate” Subdivision Option as identified in Sections 2-103 and 2-203 of the Zoning Ordinance. Future subdivision of such lots is restricted by the requirements contained in the AR-1 and AR-2 Zoning Districts.

"Surveyor" - A certified land surveyor licensed by the Commonwealth of Virginia.

"Well" - As defined in Section 1040 of the Codified Ordinances.

1241.06 Lot Creation in the AR-1 and AR-2 Zoning Districts

Lots within the AR-1 and AR-2 Zoning Districts may be created under one of the following three development options:

- (1) Division - Lots proposed to be created in accordance with the Base Density Division Option contained in the Zoning Ordinance may do so in accordance with the following procedures:
 - (A) A request for certificate of approval of a plat of Division shall contain the following:
 - (i) The proposed plat of Division; and
 - (ii) Unexecuted deed or deeds granting any required street dedication necessary to satisfy the requirements of the Zoning Ordinance; and
 - (iii) An unexecuted Private Roads Maintenance Agreement if private access easements are to be established.
 - (iv) A letter signed by the Health Director evidencing conformance with applicable requirements of the County Health Department.
 - (B) The Director shall, within thirty (30) days after receipt of such plat and accompanying deeds, if applicable, review such plat and either execute the certificate of approval thereon or deny approval stating the specific reasons for such denial.
 - (C) In conducting such review the Director shall determine whether such plat meets all of the requirements of the Zoning Ordinance and plat requirements contained in Chapter 8.103.8 of the FSM and Section 1241.06 of this Ordinance.

- (2) Principal/Subordinate Subdivision Option - Lots proposed to be created in accordance with the Principal/Subordinate Subdivision Option contained in the Zoning Ordinance shall be developed in accordance with the following procedures.
- (A) The creation of a single Subordinate Lot shall follow the procedures and requirements of the provisions of Section 1243.05.1.
 - (B) The creation of more than 1 Subordinate Lot but less than 5 Subordinate Lots at a time shall follow the procedures and requirements of Preliminary/Record Plat requirements.
 - (C) The creation of more than 4 Subordinate Lots at a time shall follow the procedures and requirements of Preliminary Plat of Subdivision.
 - (D) The creation of Subordinate Lots intended for members of the immediate family as identified in Section 1243.04 shall follow the process and requirements associated with family subdivisions.
- (3) Cluster Subdivision - Lots proposed to be created in accordance with the Cluster Subdivision provisions of the Zoning Ordinance shall be developed in accordance with the following procedures.
- (A) The creation of a single cluster lot shall follow the procedures and requirements of the provisions of Section 1243.05.1.
 - (B) The creation of five (5) lots or fewer shall follow the procedures and requirements for a Preliminary/Record Plat.
 - (C) The creation of more than five (5) lots shall follow the procedures and requirements for a Preliminary Plat of Subdivision.

1241.07 Condominium Development

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

1241.08 Vacation of Plats and Easements

Any recorded plat or portion thereof, or any interest in streets, alleys, easements for public rights of passage, or easements for drainage granted to the Board as a condition of the approval of a site plan, may be vacated according to the provisions of Virginia Code

Sections 15.2-2270 through 15.2-2275. The fee for any such vacation shall be in accordance with a fee schedule adopted by the Board of Supervisors. The Director is hereby designated to act as the authorized agent on behalf of the Board to consent to such vacations and to sign recordable instruments in writing to indicate such consent.

1241.09 Conflicting Provisions

- (1) **Public Provisions.** This Ordinance is not intended to interfere with, abrogate, or annul any order of a court of competent jurisdiction, statute, regulation, or other provision of law. Where any provision of this Ordinance imposes restrictions different from those imposed by any other provision of County ordinances or regulations or other provisions of law, whichever provisions are more restrictive or impose higher standards shall control, unless the intent is clearly otherwise.
- (2) **Private Provisions.** This Ordinance is not intended to abrogate any legally enforceable easement, covenant, or any other private agreement or restriction, provided that, where the provisions of this Ordinance are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of this Ordinance shall govern.

Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive or higher standards than the requirements of this Ordinance, and such private provisions are not inconsistent with this Ordinance or determinations thereunder, then such private provisions shall be operative and supplemental to this Ordinance, and determinations shall be made thereunder.

1241.10 Effective Date

This Ordinance shall be effective upon passage by the Board of Supervisors of Loudoun County.

1241.11 Ordinances Repealed

All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

1241.12 Severability

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

CHAPTER 1242

ADMINISTRATION AND ENFORCEMENT

1242.01 Authority

- (1) **Subdivision.** The Board, pursuant to Virginia Code Sections 15.2-2240 and 15.2-2255, is authorized to enact, administer, and enforce the provisions of this Ordinance relating to subdivisions. The Commission and the Director, pursuant to Virginia Code Sections 15.2-2255 and 15.2-2258, are hereby designated to review and approve or disapprove plans and plats in accordance with the provisions of this Ordinance. In addition, the Director shall have those powers and duties as are set forth in this Ordinance.
- (2) **Site Plans.** The Board, pursuant to Virginia Code Sections 15.2-2246, 15.2-2258 and 15.2-2286(A)(8), is authorized to enact, administer, and enforce the provisions of this Ordinance relating to site plans. The Commission and the Director shall have those powers and duties as are set forth in this Ordinance.

1242.02 Dedication of Land

The subdivider/developer shall dedicate to the Board of Supervisors all land, easements and/or other interests in land required for streets, public facilities, or public sites as provided in these regulations, unless otherwise provided by the Board of Supervisors.

1242.03 Interpretation

In case of dispute over the meaning of a word, phrase, or sentence whether defined herein or not, the Director is hereby authorized to make a definitive determination thereof. In its interpretation and application, the requirements of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.

1242.04 Appeals and Petitions

(1) General

- (a) Any person aggrieved by the interpretation, administration, or enforcement of these regulations as they apply to a subdivision or site plan application may petition the Circuit Court of Loudoun County as provided by law.
- (b) Any subdivider or developer who contends that action has not been taken on a preliminary plat or record plat of subdivision or a final site plan by the respective approving authority within the time period established by law shall

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give ten (10) days written notice to the approving authority of his intent to petition the Circuit Court for an appropriate remedy pursuant to Va. Code Section 15.2-2259 prior to filing such a petition with the Court.

(2) Subdivision/Vacation

(a) Preliminary/Vacation

- (i) If the Director disapproves a preliminary plat, of subdivision, or if a subdivider objects to any condition imposed by the Director upon the approval of a preliminary subdivision, or if the Director denies consent to a proposed record plat vacation, and the subdivider contends that such disapproval or denial or condition was not properly based upon this ordinance, or was arbitrary or capricious, the subdivider may appeal such disapproval or conditional approval or denial to the Planning Commission, provided that such appeal notice is submitted to the Director within fourteen (14) days after the receipt of the certified mail disapproval or conditional approval or denial.
- (ii) The Commission shall hear and determine the appeal as soon as may be, but in no event more than thirty (30) days after receipt of written appeal notice. The Commission may delay its action on the request for appeal if the subdivider has submitted a written request for delay. The Commission shall review the preliminary subdivision only for the appeal issues as related to conformance with this ordinance.
- (iii) The action of the Commission on the appeal shall be substituted for the decision of the Director and shall be deemed final. Nothing herein shall be interpreted to preclude the subdivider from pursuing an appeal to the Circuit Court in accordance with the provisions contained in the Virginia Code, nor to preclude the subdivider from submitting a new preliminary subdivision application for the same development or property if no appeal is pending. If such final action of the Commission is appealed to the Circuit Court, the Court shall hear and determine the case as soon as may be, provided that such appeal has been filed within the Court within sixty (60) days after the final action of the Commission.

(b) Record

If the Director disapproves a record plat, or a preliminary/record plat of subdivision and the subdivider contends that such disapproval is not properly based upon this ordinance or was arbitrary and capricious, he may appeal such disapproval to the Circuit Court, and the Court shall hear and determine the case

as soon as may be, provided that such appeal is filed with the Court within sixty (60) days after the written disapproval by the approving authority or its agent.

(3) Site Plan

- (a) Any applicant who is aggrieved by a disapproval of a plan, may within fourteen (14) working days of such decision request in writing an appeal of that decision to the Planning Commission. The Commission shall review the site plan only as related to the appeal issues for conformance with regulations of this Ordinance, the Zoning Ordinance, and applicable County Ordinances.
 - (b) The Commission shall act on a site plan within thirty (30) days after filing of the written request for appeal by approving, or disapproving such plan. The Commission may delay its action on the request for appeal if the applicant has submitted a written request for delay. In the event of disapproval of a site plan, specific reasons for disapproval shall be set forth in writing and shall identify deficiencies in the plan which cause the disapproval by reference to specific duly adopted ordinances, regulations, or policies, and shall generally identify such modifications or corrections as will permit approval of the plan.
 - (c) When an applicant has elected to pursue an appeal of the Director's decision on a site plan to the Commission, the action of the Commission shall be substituted for the decision of the Director and shall be deemed final. Nothing herein shall be interpreted to preclude the applicant from pursuing an appeal of this final action of the Commission to the Circuit Court in accordance with other provisions contained in this section, nor to preclude the applicant from submitting a new site plan application for the same development or property if no appeal is pending.
- (4) BZA An appeal to the Board of Zoning Appeals, in accordance with provisions of the Zoning Ordinance and Virginia Code Section 15.2-2311, may be made by any person aggrieved or by any officer, department, board, or bureau of the County affected by any decision of the Zoning Administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of the provisions of this Ordinance relating to zoning requirements. Provided, however, that appeals of a decision of the Zoning Administrator regarding any proffered condition shall be pursued in accordance with applicable provisions of the Zoning Ordinance.

1242.05 Other Permits and Licenses

All departments, officials, and public employees of the County vested with the duty or authority to issue permits or licenses shall conform to the provisions of this Ordinance and all other applicable Ordinances or laws and shall not issue such permits or licenses for

uses, structures, or purposes where the same would be in conflict with any of the provisions of this Ordinance. Any such permit or license issued in conflict with such provisions shall be null and void.

1242.06 False Statement

No person shall knowingly and intentionally make any false statement relating to a material fact for the purpose of complying with the requirements of this Ordinance.

1242.07 Unauthorized Subdivision

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

1242.08 Unauthorized Recordation

No such plat of any subdivision shall be recorded unless and until it shall have been submitted and approved in accordance with the provisions of this Ordinance.

1242.09 Unauthorized Sale or Transfer

No person shall sell or transfer any land of a subdivision nor shall any permit be issued for a structure thereon before the plat of such subdivision has been duly approved and recorded in the office of the Circuit Court Clerk of the County unless such subdivision was lawfully created either pursuant to a subdivision ordinance in effect at the time of such approval and recorded within six (six) months thereafter or prior to the adoption of a subdivision ordinance applicable thereto, provided that nothing herein contained shall be construed as preventing the recordation of the instrument by which such land is transferred or the passage of title as between the parties to the instrument. This paragraph shall not prohibit conveyance of the entire tract which is the subject of a subdivision application; nor shall it prohibit the placing of any proposed lot or parcel of such subdivision under contract; nor shall it prohibit the issuance of a permit for a model home or marketing structure where adequate financial guarantee is furnished as provided in Chapter 8 of the FSM.

1242.10 Admitting Plat to Record

The Clerk of the Court shall not file or admit to record a plat of subdivision required to be recorded until such plat has been approved either as provided herein or in accordance with a prior existing subdivision ordinance.

1242.11 Penalties and Remedies

- (1) Any person violating Sections 1242.07, 1242.08, or 1242.09, shall be subject to a fine of no more than five hundred dollars (\$500) for each lot or parcel of land so subdivided or transferred or sold. The description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided.
- (2) Failure by the Clerk of the Court to comply with Section 1242.10 shall invoke the penalty provision of Virginia Code Section 17.1-223 or 17.1-291, as made applicable under Virginia Code Section 15.2-2254.
- (3) Any person convicted of violating the provisions of this Ordinance relating to site plan approval may be subject to a penalty of no less than ten dollars (\$10) but no more than one thousand dollars (\$1,000).
- (4) The Director shall administer and enforce the foregoing provisions of this Section 1242.11 and may be assisted in such enforcement by the Health Director, Sheriff, and all other officials of Loudoun County pursuant to their respective fields.
- (5) Notwithstanding the availability of a penalty, any violation or attempted violation of any provision of this Ordinance may be restrained, corrected, or abated, as the case may be, by injunction or other appropriate proceeding. Such proceeding may be instituted by direction of the Board of Supervisors.

1242.12 Fees

To compensate the County for costs incurred for administration, examining plans and plats, making investigations, advertising, travel, or other work incidental to the review of plans or plats, a fee shall be payable to the County of Loudoun in the amount set by resolution of the Board of Supervisors.

1242.13 Implementation

The Director may promulgate application forms and administrative rules for the processing of any plats or plan submitted in accordance with these regulations.

1242.14 Computation of Time

When any section of this ordinance requires a notice to be given or any other act to be done within a certain time after any event or determination, that time shall be allowed in addition to the day on which the event or determination occurred.

1242.15 Inactive Applications

- (1) Any Preliminary Subdivision Application, Preliminary Site Plan Application, Preliminary/Record Plat Application, Preliminary/Final Site Plan Application, Record Plat Application, Final Site Plan Application, Construction Plans and Profiles Application, Boundary Line Adjustment Application, or Family Subdivision Application officially accepted by the County for processing, but which has had such processing suspended either by request of the applicant or by having no contact or activity occur in regards to the application by the applicant for a period of six months shall be deemed inactive.

- (2) An application may remain inactive for a period of up to three (3) years, at the end of which period it will be processed to a final decision. If an applicant wishes to reactivate their application prior to the end of this three (3) year period, they must notify the County in writing of their intent to proceed with their application, grant the County an appropriate timeline extension and pay a reactivation fee as established by the Board of Supervisors. Once reactivated, such application must proceed to a final decision.

CHAPTER 1243

SUBDIVISION PROCEDURE FOR SUBMISSION OF PLANS, APPROVAL ACTION, AND RECORDATION OF PLATS

1243.01 Applicability

Any subdivider of any tract of land in the County shall submit a plat of such subdivision.

1243.02 Condominium Development

For applicability of regulations, reference Section 1241.07 of this Ordinance.

1243.03 Boundary Line Adjustment

Notwithstanding the provisions of Sections 1243.04 through 1243.12, inclusive, of this Ordinance, when the boundary lines of any legal lot or parcel of record are proposed to be relocated, vacated or otherwise altered without creation of any additional lot or parcel, the following provisions shall apply:

- (A) The Director shall waive the requirements of this Ordinance and the Facilities Standards Manual and approve such boundary line adjustment (BLA) as evidenced by his signature on a plat thereof so long as the following conditions have been met:
 - (1) Such BLA shall not involve the relocation or alteration of streets, alleys, easements for public passage, or other public areas; and no easements or utility rights-of-way shall be relocated or altered without the express consent of all persons holding any interest therein.
 - (2) Such BLA shall be clearly depicted upon an otherwise valid plat of boundary line adjustment which shall be executed, acknowledged and recorded by the owner or owners of such land as provided in Section 15.2-2264 of the Virginia Code.
 - (3) Such BLA shall not result in any new violation of the area or other dimensional requirements of the Zoning Ordinance; provided, however, that any existing violation of minimum yard requirements or any existing non-conformity in any non-conforming lot (as defined in the Zoning Ordinance) shall be permitted to continue so long as such yard violation or non-conformity is not enlarged, expanded or extended.

(4) With respect to each lot or parcel resulting from any such BLA, the applicant shall satisfy one of the following two requirements:

(a) Submit appropriate documentation to demonstrate in accordance with Chapter 1245 of this Ordinance, that such parcel has an approved source of water and the capability of providing sanitary sewage service; or

(b) Place a conspicuous note upon the plat, in substantially the following form:

The Loudoun County Health Department has not approved this lot for water supply or sewage disposal. A certification from the Health Department that such lots meet the requirements concerning water supply, sewage disposal and well testing shall be required prior to any new construction in accordance with the provisions of the Loudoun County Zoning Ordinance. This boundary line adjustment shall not result in any off-site subsurface disposal field (e.g., drainfield) in violation of Section 1066.12(b) of the Loudoun County Codified Ordinances.

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

(B) For the purposes of the Zoning and Subdivision Ordinances of Loudoun County, the lots or parcels resulting from any such boundary line adjustment approved hereunder shall be considered as coming into existence as of the date of recordation in the Office of the Clerk of the Circuit Court of Loudoun County, Virginia, of the boundary line adjustment plat.

(C) The Director shall take action to approve or deny any boundary line adjustment plat filed hereunder within twenty (20) business days (excluding time that elapses awaiting applicant's response to County staff comments and requirements) after such plat has been officially submitted.

(D) Any boundary line adjustment plat approved hereunder shall be recorded by the applicant in the Office of the Clerk of the Circuit Court of Loudoun County, Virginia, within six (6) months of the date of final approval, or it is void.

1243.04 Family Subdivisions

A single division of a lot or parcel into no more than six (6) additional lots for the purpose of sale or as a gift of each of said lots to a member of the immediate family of the property owner is permitted subject to the provisions of the Code of Virginia, 1950, as amended, and the requirements of this Section 1243.04. No person who has previously

received a conveyance of land as a grantee under Section 15.2-2244, Section 15.1-466(A)(12) or (13) or Section 15.1-466(G) or any predecessor Section of the Code of Virginia, 1950, or any local ordinance enacted pursuant thereto shall be eligible to be a grantee of a lot or parcel created pursuant hereto. Any such division shall not be for the purpose of circumventing this chapter or other chapters of the Loudoun County Code. For the purpose of this section, "a member of the immediate family" is defined as any natural person who is a natural or legally defined child, stepchild, grandchild, spouse, brother, sister or parent of the property owner; and "property owner" is defined as the natural person(s) (a) who is the sole owner of the property; or (b) who is the

- (i) sole owner of all stock or other documents of ownership of the corporation, or
- (ii) sole partner of the general partnership, or
- (iii) sole managing partner of the limited partnership, or
- (iv) sole member of the limited liability company, or

sole trustee and sole beneficiary, with sole possession of any right of revocation, of the trust, that is the sole owner of the property. Such conveyance to a member of the immediate family may be made to such member and his or her spouse if title is conveyed to them as tenants by the entirety.

The Director shall have all authority to approve such subdivision as evidenced by his signature on the plat, provided the following requirements are met:

- (1) All applicable requirements of the Zoning Ordinance shall be met.
- (2) The proposed lot shall conform to applicable design standards set forth in this Ordinance and the Facilities Standards Manual and to the applicable Development Standards set forth in Chapter 1245 of this Ordinance, provided, however, that the requirements of Sections 1245.08 and 1245.10 to extend public water to all lots or to provide an approved location on each lot for a well shall be waived if the plat contains a conspicuously placed note substantially similar to either of the following:
 - (A) "**Note:** The lots on this plat have **NOT** been tested or approved for wells and there is no guarantee that an approvable well can be located on any lot. No zoning permit or building permit will be issued for any lot until a well has been approved for such lot by the Health Director."
 - or
 - (B) "**NOTE:** The lots on this plat are required to be served by public water. However, such service has **NOT** been extended to such lots. No zoning permit or building permit will be issued for any lot until public water has been extended to such lot in accordance with the regulations and specifications of the Facilities Standards Manual and the Loudoun County Sanitation Authority or other applicable federal, state or local agency. The owner of each lot on this

plat shall grant, without compensation, such reasonable easements as are necessary to permit such extension of public water to all lots."

If the public water note is required on the plat, then the deeds of conveyance, or a separate deed of subdivision, must create and establish appropriate easements to permit the future extension of public water to all lots.

The Director shall determine which of the foregoing notes shall be required. If note (B) is chosen, the deed or deeds which subdivide or convey the lots shall create and establish appropriate easements to permit the future extension of public water to all lots.

- (3) The plat shall be drawn with all plan and plat detail requirements of this Ordinance and the Facilities Standards Manual.
- (4) The property owner requesting such subdivision shall have held fee simple title to the property to be subdivided for a period of more than one year prior to the filing of the family subdivision application with the County.
- (5) A fee is paid pursuant to Section 1242.12 of this Ordinance.

Enforcement Provisions:

- (A) The approved family subdivision plat and deed or deeds of sale or gift filed as part of the family subdivision application and approved in conjunction with the plat shall be recorded within six (6) months after the date of approval of the plat by the Director. Such approval shall automatically terminate with respect to any such family subdivision plat if such approved plat and approved deed or deeds of sale or gift have not been recorded within such six (6) months and, thereafter, such plat shall be null and void. A note to this effect must be placed conspicuously upon the family subdivision plat before it may be approved.
- (B) If a family subdivision grantee conveys a lot or parcel received pursuant to an approved family subdivision within one (1) year after the date of approval of the family subdivision plat, such family subdivision grantee shall be presumed to have intended at the time of the approval of the family subdivision to circumvent this chapter or other chapters of the Loudoun County Code. Such conveyance shall entitle the Director to take any reasonable actions necessary to ameliorate the effect of such circumvention, including without limitation recommending to the Board of Supervisors the adoption of an Ordinance vacating said subdivision in whole or in part as provided in Section 15.2-2272 of the Code of Virginia. A note to this effect must be placed conspicuously upon the family subdivision plat before it may be approved. This paragraph shall not apply

to a conveyance made to secure an obligation nor pursuant to the foreclosure of a lien provided the recordation of such lien against such lot or parcel occurs after the recordation required by paragraph (A) above, nor shall it apply to the lot or parcel retained by the subdivider.

- (C) No zoning permit nor building permit shall be issued for any lot or parcel with respect to which any of the foregoing provisions of this Section 1243.04 has been violated unless and until correction of such violation has been accomplished to the satisfaction of the Director. No zoning permit nor building permit shall be issued for any lot or parcel created pursuant to a family subdivision plat unless evidence of the required recordations has been supplied to the Department.
- (D) Upon satisfactory evidence of a conveyance as described in paragraph (B) above or other action constituting a circumvention or violation of any provision of this Ordinance, the Board of Supervisors may adopt an Ordinance vacating in whole or in part any such family subdivision plat in accordance with Section 15.2-2272 of the Code of Virginia.

It is the intent of this Ordinance that no application for further subdivision of any lot or parcel created and conveyed pursuant hereto shall be filed within one (1) year after the date of approval of the family subdivision plat.

1243.05 Waiver Provision

1243.05.1 Waiver Provisions - General

Where a single lot or parcel of land is to be subdivided into any two parcels, the Director may waive any and all of the requirements of this Ordinance and the Facilities Standards Manual, and approve the subdivision, as evidenced by his signature on the plat, as long as the following conditions are met.

- (1) All applicable requirements of the Zoning Ordinance shall be met.
- (2) No such lot or parcel created hereunder shall be eligible for further subdivision under this Section 1243.05.1 for a period of one (1) year after approval.

The Director shall not process such subdivision waiver application if any of the following conditions are found to be in existence:

- (A) Conflict with the governing Comprehensive Plan.
- (B) Bond requirements for public improvements requiring Board of Supervisors' action.

- (C) Conflict with an approved concept development plan.

The Director shall state, in writing, within 20 days of official submission of the subdivision application, the reasons for not processing such application.

1243.05.2 Low Density Development Waiver

Where a single lot or parcel of land is to be subdivided at an overall density of one unit per 25 acres in accordance with Section 5-701 of the Loudoun County Zoning Ordinance the Director, may waive any and all of the requirements of this Ordinance and the Facilities Standards Manual, and approve the subdivision, as evidenced by his signature on the plat, as long as the following conditions are met:

- (1) All applicable requirements of the Zoning Ordinance shall be met.
- (2) The creation of a subdivision in this manner shall not be for the purpose of circumventing this Ordinance or other chapters of the Loudoun County Code.
- (3) The lots created by the waiver will be protected by permanent open space or conservation easement dedicated in a manner acceptable to the County at the time of resolution.

The Department shall not process a subdivision proposal through the Low Density Development waiver process if any of the following conditions are found to be in existence:

- (1) Conflict with the Comprehensive Plan or area plan.
- (2) Conflict with an approved concept development plan.

The Director shall state its reasons in writing for not processing a subdivision proposal within 60 days of acceptance of the subdivision application.

1243.06 Preliminary Plat of Subdivision

- (1) Preliminary plats or preliminary/record plats shall be submitted for all subdivisions.
- (2) Preliminary plats and supporting data shall comply with the provisions of this Ordinance and the Facilities Standards Manual.
- (3) Blue line or black line prints shall be submitted to the Director.

- (4) The Director shall review the preliminary plat within ten (10) working days to determine if it is in substantial conformance with the application requirements of the Facilities Standards Manual, the Zoning Ordinance, and this Ordinance. If in accordance, then the plat is accepted for processing and so noted on the plat. Upon making a determination that all documents are in order, the preliminary plat shall be deemed to be officially submitted.

The date of this determination shall be deemed the filing date for the preliminary plat. If it is not accepted, the reasons shall be submitted, in writing, to the applicant within ten (10) working days. The Director's determination that the plat qualifies to be officially submitted shall not be deemed a determination that the plat meets requirements for approval.

1243.07 Staff Review

- (1) Copies of the preliminary plat may be distributed to the following agencies;
 - (a) County Boards, Commissions, and Departments.
 - (b) State or Federal Boards, Commissions, and Departments.
 - (c) Incorporated municipalities within one (1) mile of the proposed subdivision.
 - (d) Affected public utilities and franchise cable operators.
- (2) If the Director has determined that there is no need to distribute the preliminary plat to a state agency for its approval, the review by the above-mentioned agencies shall be completed and returned to the Director within thirty (30) days of the date on which the preliminary plat was officially submitted.
- (3) If the Director has determined that the preliminary plat requires approval by a state agency, the review by the above-mentioned agencies shall be completed and returned to the Director within forty-five (45) days of the date on which the preliminary plat was officially submitted.
- (4) The Director shall review the agencies' comments and determine whether revised plats or additional information are required for proper review by the Director. At such time that the Director determines that sufficient response has been received from the agencies, referral responses and County comments will be prepared and sent to the applicant. The applicant shall have the option of revising his application after reviewing the referral responses and County comments. The Director shall determine whether the revision is so substantive

as to render the application an amended application, based upon his opinion that additional substantive review of the application as revised is required by one or more agencies. If so, the date on which the amended application is submitted shall thereafter be deemed the filing date or the date on which the application was officially submitted for timeline purposes.

- (5) Once an application has been submitted for preliminary plat approval, any preliminary plat filed thereafter for the same property while the initial application is still pending shall be deemed a withdrawal of the initial application; provided, however, that this paragraph shall not apply where the subsequently filed plat proposes only a further subdividing of the lots or parcels proposed in the initial application. Any such subsequently filed plat may not be approved until the initial application has been approved or withdrawn.

1243.08 Action on Preliminary Plat

- (1) (a) The Director shall act on any proposed preliminary plat and/or plats within ninety (90) days after the date on which the preliminary plat was officially submitted. The Director may delay its action on a preliminary plat or plats beyond such time limits if the applicant has submitted a written request for a delay. The Director shall act on a preliminary plat or plats by either approving, conditionally approving, or disapproving such plat or plats in writing, transmitted to the applicant by certified mail, and giving with the latter specific reasons therefore. The Director shall approve such preliminary plat provided that the requirements and provisions of this Ordinance, the Facilities Standards Manual, and other applicable Ordinances have been met. Approval or conditional approval of a preliminary plat shall constitute approval of the subdivision. 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. The subdivider shall be advised by the Department in writing as to the decision of the Director within five (5) working days after the decision. A disapproval of the plat may be appealed to the Planning Commission in accordance with the provisions of Section 1242.04. Nothing herein shall be interpreted so as to preclude the subdivider from filing a new preliminary plat of subdivision for the same property if no appeal to the Circuit Court is pending.
- (b) If a subdivider objects to any condition imposed by the Director upon the approval of a preliminary plat, such conditional approval may be deemed a disapproval which may be appealed to the Planning Commission in accordance with the provisions of Section 1242.04.

- (2) After approval or conditional approval of a preliminary plat, a record plat application may be officially submitted within two (2) years, hereafter called the Initial Approval Period, after the date of such action. If no record plat is eligible to be officially submitted within such time, approval or conditional approval of the preliminary plat shall become void.
- (3) Extensions of up to one (1) year each, provided that the total of all such extensions shall not exceed an aggregate of three (3) years beyond the Initial Approval Period established in the preceding paragraph, may be granted by the Director as provided in this paragraph (3), upon the written justification of the subdivider. The procedure for the request, review, and grant or denial of an extension of a preliminary plat shall be as follows:
 - (a) The subdivider shall submit its written request for extension along with payment of the appropriate fees as established by the Board of Supervisors to the Director at least twenty-one (21) days prior to the end of the Initial Approval Period or current extension period, whichever applies.
 - (b) The Director shall review the request and the reasons supplied by the subdivider. The factors considered by the Director shall include the following:
 - (i) Whether the subdivider has agreed in writing that all future submission of construction plans and profiles, subdivision plats and site plans for the subject application (hereinafter collectively referred to as plans) shall comply with all applicable provisions of the Zoning Ordinance, the Official Zoning Maps, the Land Subdivision Development Ordinance, and the Facilities Standards Manual in effect as of the date of the granting of such extension (hereinafter collectively referred to as the Ordinance).
 - (ii) Whether compliance of the Plans with the Ordinances is feasible without rendering the record plat no longer capable of substantial conformance with the approved preliminary plat and the conditions, if any, imposed at the time of such approval.
 - (c) The Director shall take action to approve or disapprove such extension request within twenty-one (21) days after submission thereof, provided that no such action shall be required to be taken more than forty-five (45) days prior to the date upon which such preliminary plat would become void. If within the said twenty-one (21) days and before the Director has taken any such action the Initial Approval Period or current extension period expires, then the preliminary plat shall become void and the Director shall not be required to take any further action. Disapproval of such extension request shall be in writing by certified mail with return receipt requested stating the

specific reasons therefore. The failure or inability of the subdivider to satisfy the requirements of subparagraphs (b)(i) and (b)(ii) hereof shall be a sufficient basis for denial of the extension request.

- (d) The subdivider may appeal a disapproval to the Planning Commission by submitting within five (5) working days of receipt of such written disapproval a written notice of appeal to the Director along with payment of the appropriate fee as established by the Board of Supervisors. The Director shall promptly schedule the matter for the next available Planning Commission meeting, allowing a reasonable amount of time for the Director and the subdivider to prepare for such meeting, provided that the matter shall be presented to the Commission for decision prior to the date upon which the preliminary plat would become void. The Planning Commission, whether hearing the request on appeal or upon a direct submission, as provided for in subparagraph (a) hereof, shall consider these factors set forth in subparagraphs (b)(i) and (b)(ii) hereof. Failure or inability of the subdivider to satisfy the requirements of subparagraphs (b)(i) and (b)(ii) shall be a sufficient basis for denial of this extension request.
 - (e) In no event shall any extension request be granted which would extend the validity of any preliminary plat to a date more than five (5) years after the date of the original approval or conditional approval of said plan.
- (4) If a subdivider has (a) obtained approval of a preliminary plat of a proposed subdivision and (b) submitted within two (2) years of preliminary plat approval, or any extended period as approved by the Director under Section 1243.08(3), a record plat meeting the submission requirements of this ordinance for a portion of the lots shown on the preliminary plat, then the subdivider may submit record plats for remaining portions shown on the approved preliminary plat within five (5) years of the date of recordation of the record plat for the first recorded portion, or within such longer period as the Director may, at the time of preliminary plat approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development which such longer period shall be specifically set forth as a condition of the approval of the preliminary plat; provided, however, that no record plat for any portion of the lots on an approved preliminary plat shall be approved unless such record plat is in conformance with the provisions of the Zoning Ordinance, the official zoning maps, Land Subdivision and Development Ordinance, and the Facilities Standards Manual in effect at the time it is submitted for approval.
- (5) Once the time limit of approval for a preliminary plat expires, a new submission and payment of all fees are required.

- (6) Approval or conditional approval of the preliminary plat shall not obligate the Director to approve the record plat, unless it is in conformance with the preliminary plat, the Zoning Ordinance, and the standards of this Ordinance and the Facilities Standards Manual, and nothing has come to the attention of the Director subsequent to approval or conditional approval of the preliminary plat which is materially adverse or contrary to the requirements or purpose of these regulations.

1243.09 Preliminary/Record Plat

A preliminary/record plat may be submitted for subdivisions of five (5) lots or less. Such preliminary/record plat shall be designed in accordance with the provisions of this Ordinance and the Facilities Standards Manual and shall contain all required detail as specified for both a preliminary plan of subdivision and a record plat. All documents that are required by this Ordinance and the Facilities Standards Manual for a preliminary plan of subdivision and a record plat shall be submitted.

The review and approval procedure for a preliminary/record plat shall follow that of a record plat, as specified in this Ordinance.

1243.10 Construction Plans and Profiles

- (1) Subsequent to approval or conditional approval on the preliminary plat and prior to the submission of the record plat, the subdivider shall submit copies of the construction plans and profiles when public improvements are required by this or other applicable County ordinances; provided, however, that, unless the preliminary plat has been submitted in conjunction with a rezoning application pursuant to Section 6-1509 or similar provision of the Zoning Ordinance, the subdivider may submit the construction plans and profiles subsequent to the first submission comments transmitted by the Director to the applicant regarding the preliminary plat. This paragraph shall not apply to construction plans and profiles submitted pursuant to Section 1243.11 Dedication Plats.
- (2) Copies shall be submitted to the Director, who in turn shall distribute them. The subdivider shall submit a copy of the construction plans and profiles directly to the Loudoun County Sanitation Authority.

1243.11 Dedication Plats

When the purpose of a plat is to dedicate land for public street purposes only, and such plat does not create any additional lot or lots of record, the subdivider may submit a Dedication Plat to create such public street under the following circumstances and in accordance with the following procedures:

- (1) Such plat shall dedicate for public street purposes

- (a) additional right-of-way for an existing road in the state system; or
 - (b) a street (or streets) identified in the Comprehensive Plan; or
 - (c) a street (or streets) identified in approved proffers or on an approved special exception plat or Concept Development Plan, and
 - (i) having a projected traffic volume of not less than 4000 vehicles per day (“VPD”), or
 - (ii) as otherwise approved by the Director.
- (2) Such plat may be submitted subsequent to, or concurrently with, the Construction Plans and Profiles for the street(s) dedicated on the plat.
- (3) Such plat shall comply with all of the requirements of the Facilities Standards Manual for plats except that no preliminary subdivision plat shall be required, provided, however, that any action required by any applicable proffer or special exception condition to have been performed in conjunction with the preliminary plat for such street shall be required in conjunction with such Dedication Plat.

1243.12 Record Plat

- (1) After approval or conditional approval of the preliminary plat, any subdivider who proposes to record a plat of the subdivision approved or conditionally approved on the preliminary plat shall submit paper copies of the record plat to the Director for staff review along with all other documents, as specified in this Ordinance and the Facilities Standards Manual. The Director may require additional copies of the record plat as necessary at any time during the processing of the application.
- (2) (a) Upon receipt of the record plats and all required documents as specified in this Ordinance and the Facilities Standards Manual, the Director shall determine, within five (5) working days, if the record plats and documents comply with all applicable rules and regulations relating to the submission of a record plat application for processing and review. Except as otherwise expressly provided in this Chapter for preliminary/record plats, the Director shall not accept a record plat unless there is a preliminary plat for the same property which has been approved or conditionally approved by the Director and which remains valid pursuant to the limitations of Section 1243.08. Upon acceptance of record plats and documents the Director shall forward said plats and documents to the affected agencies.
- (b) Upon acceptance of the documents and record plat, the application shall be deemed to be officially submitted, and the date upon which such determination is made, shall be noted in the official records of the Department shall be deemed the filing date for the record plat.

- (c) If it is not accepted, the reasons for not accepting the record plat for processing shall be indicated in writing, the record plat and documents shall be returned to the subdivider with a full refund of any fees rendered, and no review of the record plat shall be conducted.
 - (d) The Director's determination that the record plat qualifies to be officially submitted shall not be deemed a determination that the record plat meets requirements for approval, which approval may only be given by the Director subject to the standards provided in this Section after the procedural requirements of this Ordinance for review and responsive comment have been met.
 - (e) Once an application has been submitted for record plat approval, any record plat application filed thereafter for the same property while the initial application is still pending shall be deemed withdrawal of the initial application.
- (3) (a) Within sixty (60) days after the filing date of the record plat and plans, and after the submission of copies of the record plat, and the compliance with all other requirements, the Director shall approve such record plats, pursuant to Section 15.2-2259 of the Code of Virginia, such approval to be evidenced by the signature of the Director on the record plat, provided that
- (1) The record plat is in substantial conformance with the approved preliminary plat, including the character and proposed layout depicted thereon and any and all conditions imposed by the Director upon the approval of the preliminary plat, and is in conformance with the requirements and provisions of this Ordinance and all other applicable County ordinances and laws; and
 - (2) A letter is signed by the Director that all construction plans and profiles for all public improvements are designed in accordance with the Facilities Standards Manual.
- (b) If such conditions are not met, the Director shall not approve such record plats. Written reasons for such disapproval shall identify deficiencies in the record plats which cause the disapproval by reference to specific duly adopted ordinances, regulations, or policies and shall generally identify such modifications or corrections as will permit approval of the plat. A disapproval may be appealed in accordance with the provisions of Section 1242.04. Nothing herein shall be interpreted so as to preclude the filing of a new record plat application for the same property if no appeal is pending and if the corresponding preliminary plat remains valid pursuant to the limitations of Section 1243.08.

- (4) The Director shall not release an approved record plat and approval of the record plat shall not be deemed final until all required agreements and surety relating to the record plat have been submitted, approved, and executed in accordance with the Bonding Policy in effect at the time the record plat is approved.
- (5) An approved record plat shall be recorded by the subdivider in the Office of the Clerk of the Circuit Court of Loudoun County within six (6) months of the date of final approval, or it is void.
- (6) Prior to approval of the record plat, the subdivider shall submit a request for assignment of addresses as provided in the Facilities Standards Manual, Chapter 7, as amended.

1243.13 Exception Procedures

- (1) Upon application to the Board of Supervisors, a subdivider may request an exception to the substantive regulations contained in the Facilities Standards Manual or in Chapter 1245 of these Subdivision Regulations. The Board of Supervisors may grant such an exception upon evidence presented by the subdivider that an exception is warranted due to an unusual situation or that strict adherence to general requirements would result in substantial injustice or hardship.
- (2) No exception shall be granted by the Board of Supervisors that it finds would:
 - (a) Be in conflict with the governing Comprehensive Plan;
 - (b) Be in conflict with applicable requirements of the Zoning Ordinance;

Further, no exception granted pursuant to this section shall affect the subdivider's obligation to comply with requirements which are established by separate authority in accordance with State or County law, nor may any exception to Section 1245.13 relating to agreements and surety be granted pursuant to this section.

- (3) Applications for exceptions shall be made to the Board of Supervisors prior to submittal of the record plat.
- (4) The Board of Supervisors shall give notice of a public hearing to consider an application for an exception. Such notice and hearing shall be done in conformance with Section 15.2-2204 of the Code of Virginia.

In addition, each application shall be posted by the applicant, using a form of placard approved by the Board of Supervisors, at least twenty-one (21) and no more than thirty (30) days prior to the public hearing. Certification of posting shall be provided to the Director prior to public hearing.

Placards shall be affixed to a pole, post, fence or other structure to be clearly visible from each public road abutting the property. If no public roads abut the property, then the placard shall be posted so as to be clearly visible from at least two abutting properties and at access points to said property. Placards shall be weatherproof.

Placards shall contain:

- (a) The time, date and place of the hearing;
- (b) A brief description of the matter being heard; and
- (c) Identification of the land that is the subject of the application including the tax map number and complete address of the property.

The applicant shall maintain all placards up to the time of the public hearing and shall remove all posted placards no later than fifteen (15) days after the public hearing has been closed.

It shall be unlawful for any person to destroy, deface or remove such placard notice. Any person taking such action shall be subject to the penalties set forth in Section 6-503 of the Zoning Ordinance.

- (5) The Board of Supervisors shall act upon such application within ninety (90) days from the date the application was officially submitted and shall adopt written findings of fact supporting its decision regarding the approval of each request for an exception.

CHAPTER 1244

SITE PLAN PROCEDURES

1244.01 Applicability of Site Plan Regulations

Any developer of any tract of land in the County shall submit a site plan for the following uses as established by the Loudoun County Zoning Ordinance:

- (1) All uses in the commercial districts.
- (2) All uses in the industrial districts.
- (3) All permitted uses in the residential districts, except for agricultural structures and single-family attached and detached dwellings, and accessory uses and structures allowed under Section 5-101 of the Zoning Ordinance.
- (4) Those special exception uses and structures which require a site plan.
- (5) Any development in which any required off-street parking space is to be used by more than one establishment.
- (6) When an alteration is proposed to the site improvements or design of a previously approved site development plan.
- (7) When an existing residential use is proposed for a change to a commercial, industrial, or multi-family residential use.
- (8) All public buildings and institutions.
- (9) All other uses involving a building required to be reviewed by the Planning Commission under Section 15.2-2232 of the Code of Virginia, as amended.

1244.02 Site Plan

- (1) The developer shall submit paper copies of the site plan to the Director for staff review along with all other documents specified in this Ordinance and the Facilities Standards Manual. The Director may require a greater or fewer number of copies of the site plan as it determines to be appropriate.

- (2) (a) Upon receipt of the site plans and all documents and requirements specified in this Ordinance and the Facilities Standards Manual, the Director shall determine, within five (5) working days, if the site plan and documents comply with all applicable rules and regulations. If all plans and documents are in order, the Director shall forward said plans and documents to the Virginia Department of Transportation, and other affected agencies. Upon making a determination that all documents are in order, the site plan shall be deemed to be officially submitted and the date of such official submittal shall establish the filing date. The Director's determination that a site plan application qualifies to be officially submitted shall not be deemed a determination that the plan meets requirements for approval, which approval may only be given by the Director subject to the standards set forth in this Section after the procedural requirements for review and responsive comment have been met.
- (b) Once an application for site plan approval has been submitted, any site plan application submitted thereafter for the same property while the initial application is still pending shall be deemed withdrawal of the initial application.
- (3) (a) Within sixty (60) days after the acceptance of the site plan, the Director shall approve such site plan, to be evidenced by his signature on the site plan, provided that the requirements and provisions of this Ordinance, the Facilities Standards Manual, and all other applicable ordinances shall be met.
- (c) If such requirements are not met, the Director shall not approve such site plan. Specific reasons for disapproval shall be set forth in writing and shall identify deficiencies in the plan which cause the disapproval by reference to specific duly adopted ordinances, regulations or policies, and shall generally identify such modifications or corrections as will permit approval of the plan. A disapproval may be appealed to the Planning Commission in accordance with the provisions of Section 1242.04(3). Nothing herein shall be interpreted so as to preclude the filing of a new site plan for the same development or property if no such appeal is pending.
- (4) After approval of a site plan, construction shall begin within five (5) years, or the site plan is void. Construction shall be defined as to include the placing of construction materials in permanent position and fastened in a permanent manner and work carried on diligently. Where excavation or demolition or removal of an existing building has been substantially begun prior to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

- (5) An extension of the validity of the site plan may be made on a yearly basis by the Director upon the written request of the developer. The reasons for this request must be stated. The Director may deny the request if the reasons submitted with the request do not demonstrate that development, in accordance with the approved site plan, has been diligently pursued. In conjunction with the request for any extension, the site plan shall be reviewed for conformance with all current regulations contained in the Subdivision Ordinance, the Facilities Standards Manual, and the Zoning Ordinance at the time such review is undertaken. No extension shall be granted until any non-conformance is corrected.
- (6) Prior to approval of the site plan and any related performance agreements and surety, the developer shall submit a request for assignment of addresses as provided in the Codified Ordinances of Loudoun County, as amended. Zoning and Building permits shall be issued in accordance with the approved site plan following the assignment of addresses.

1244.03 Site Plan Amendment

- (1) The developer shall submit paper copies of the amended site plan to the Director for staff review along with all other documents specified in this Ordinance and the Facilities Standards Manual. The Department may require a greater or fewer number of copies of the amended site plan as it determines to be appropriate.
- (2) (a) Upon receipt of the amended site plans, construction plans, and all documents and requirements specified in this Ordinance and the Facilities Standards Manual, the Director shall determine within five (5) working days, whether the amended site plan and documents comply with all applicable rules and regulations. If all plans and documents are in order, the amended site plan shall be deemed to be officially submitted, and the date of such official submittal shall establish the filing date. The Director's determination that an amended site plan application qualifies to be officially submitted shall not be deemed approval, which approval may only be given by the Director subject to the standards set forth in this Section after the procedural requirements for review and responsive comments have been met.
- (b) Once an application for an amended site plan approval has been submitted, any site plan application submitted thereafter for the same property while the initial application is still pending shall be deemed withdrawal of the initial application.
- (3) (a) Within thirty (30) days after official submittal of the amended site plan, the Director shall approve such plan to be evidenced by his signature on the amended site plan, provided that the requirements and provisions of this Ordinance, the Facilities Standards Manual, and all other applicable ordinances have been met.

- (b) If such requirements are not met, the Director shall not approve such amended site plan. Specific reasons for disapproval shall be set forth in writing and shall identify deficiencies in the plan which cause the disapproval by reference to specific duly adopted ordinances, regulations or policies, and shall generally identify such modifications or corrections as will permit approval of the plan. A disapproval may be appealed to the Planning Commission in accordance with the provisions of Section 1242.04(3). Nothing herein shall be interpreted so as to preclude the filing of a new amended site plan for the same development or property if no such appeal is pending.

- (4) If the amended site plan proposes alteration of an existing structure, construction shall begin within one (1) year or the amendment to the site plan is void. If the amended site plan proposes to amend a currently valid approved site plan which construction has not yet been completed, the validity of the amended site plan shall be for the same period of time as the originally approved plan. The approved site plan amendment shall be deemed to merge with the original approved site plan, and that plan as amended shall be deemed the final site plan, and shall be subject to the provisions of Section 1244.02 of this Ordinance. " Construction" shall be defined as to include the placing of construction and materials in permanent position and fastened in a permanent manner and work carried on diligently. Where excavation or demolition or removal of an existing building has begun prior to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that the work shall be carried on diligently.

- (5) Prior to the approval of the site plan amendment and any related performance agreements and surety, the developer shall submit a request for assignment of addresses as provided in the Codified Ordinances of Loudoun County, as amended. Zoning and Building permits shall be issued in accordance with the approved amended site plan following the assignment of addresses, if applicable.

CHAPTER 1245

DEVELOPMENT STANDARDS

The provisions of the Chapter shall apply to subdivision and site plan applications filed pursuant to Chapters 1241-1244 and to any other land use application as made applicable by proffer, condition, or other requirements. Such development standards are supplemented by the provisions of the Facilities Standards Manual.

1245.01 Lots and Building Areas

- (1) The lot area, width, depth, shape, orientation, yards and other lot requirements shall conform to the requirements of the Zoning Ordinance and shall be such that all lots provide sites for homes or buildings conforming to these regulations.
- (2) Except where otherwise specifically provided for in these regulations or in the Zoning Ordinance, all lots shall front on an existing or recorded public street dedicated by the subdivision plat and maintained or designed and built to be maintained by the Virginia Department of Transportation.
- (3) Double frontage or reversed frontage lots should be avoided except where essential to provide separation of residential development from streets or to overcome disadvantages of topography.
- (4) No outlot shall be created except in accordance with the specific provisions of the Zoning Ordinance.

1245.02 Private Access Easement Roads and Private Streets

Any and all streets that are not constructed to meet the standards necessary for inclusion in the system of state highways will be privately maintained and will not be eligible for acceptance into the system of state highways unless improved to current Department of Transportation standards with funds other than those appropriated by the General Assembly and allocated by the Commonwealth Transportation Board.

Private access easement roads designed and constructed in accordance with the Facilities Standards Manual may serve as frontage in lieu of public street for the following types of development lots:

- (1) Up to a maximum of seven (7) lots
 - (a) Family Subdivisions (See Chapter 1243).

- (b) Structures contained in a Historic Site (HS) District (See Section 6-1800, Zoning Ordinance).
 - (c) Cluster subdivisions in the A-10, Low Density Rural District.
 - (d) Subdivisions in the A-10 Zoning Districts.
 - (e) Subdivisions utilizing the Rural Hamlet Option or Countryside Hamlet Option.
 - (f) Development in accordance with the provisions of the Rural Village Conservancy in the PD-RV District (See Section 4-1204, Zoning Ordinance).
 - (g) Lots created for use by LCSA, VDOT, municipal utilities, public utilities as defined in section 56-232 of the Virginia State Code, or public service corporation as defined in Section 56-1 of the Virginia State Code and meets the requirements of Section 5-621 (See Section 1-404(B)(2), Zoning Ordinance).
 - (h) Divisions as defined in Chapter 1241 of this Ordinance in the AR-1 and AR-2 Zoning Districts.
- (2) Up to a maximum of 25 lots.
- (a) Subdivisions in the AR-1, AR-2, RR-1, and RR-2 Zoning Districts.

1245.02.1 Class III Roads

Class III roads designed and constructed in accordance with the Facilities Standards Manual may serve as frontage in lieu of public street for the development of lots in the A-10 Zoning District.

1245.02.2 Private Access Easement - Low Density Residential Development

A looped private access easement designed and constructed in accordance with the Facilities Standards Manual may serve as frontage in lieu of a public street for the following types of development lots, up to a maximum of 14 lots, provided that a minimum distance of 600' is maintained between entrances on a Class I road.

- (1) Low Density 25 Acre Residential Developments (See Section 5-701, Zoning Ordinance).

1245.03 Required Improvements

The subdivider/developer shall make all improvements provided herein for record plat/final site plan approval. Such improvements shall be installed at the cost of the

subdivider/developer and in compliance with the requirements of any or all plans and plats approved by the Commission, the Director, the Virginia Department of Transportation, the Loudoun County Sanitation Authority, the County Health Department, or any other applicable State or local agency. All improvements shall be designed and constructed in accordance with the specifications of the Facilities Standards Manual.

1245.04 Monuments

- (1) Monuments shall be placed in the ground at all corners, angles, and points of curvature in the subdivision boundaries, in the right-of-way lines of all streets and other public areas within the subdivision, and at all corners of all lots. Such monuments shall be of iron pipe, rebar or some suitable material and no less than 18 inches in length.
- (2) The tops of all monuments shall be set no more than four (4) inches, nor less than one (1) inch, above the finished grade of the ground surface at their respective locations. Upon completion of subdivision streets, sewers, water lines, and other required improvements, the subdivider shall make certain that all required monuments are clearly visible for inspection and use.

1245.05 Street Improvements

- (1) As to all street improvements:
 - (a) The subdivider/developer shall lay out, grade, construct, and otherwise improve all streets designated on the approved plat or that directly serve the subdivision in accordance with the specifications in the Facilities Standards Manual and the standards of the Virginia Department of Transportation. For the purpose of this section, a street improvement shall be deemed to directly serve the subdivision or development when the need for such improvement is substantially generated by the proposed use.
 - (b) The streets and roads shall be designed and constructed in accordance with the specifications of the Virginia Department of Transportation and the specifications of these regulations and the Facilities Standards Manual.
 - (c) The roadways within and contiguous to any development shall be designed and constructed so as to ensure coordination with other existing and planned roads within the general area as to arrangement, character, extent, width, grade, location, and drainage. Existing and planned roads shall be deemed to include, without limitation, roads depicted in the General Plan and existing and planned roads and/or future adjacent subdivisions and contiguous to adjacent subdivisions.

(2) As to half streets:

- (a) Half streets shall not be permitted except where such streets are essential to the reasonable development of the proposed subdivision/site plan in conformance with the other requirements of these regulations, and where the approving authority finds it will be practical to require the dedication of the other half of the street when the adjoining property is subdivided or developed.
- (b) When deemed essential for the development and construction of a half street when a subdivision/site plan abuts one side of any public street which is in the State highway system, the subdivider/developer shall be required to construct street improvements, storm drainage facilities, the pavement, curb and gutter, and the sidewalk on the one-half of such street abutting such subdivision as may be required by the approving authority, upon recommendation of the Virginia Department of Transportation.
- (c) Whenever a previously permitted half street is adjacent to a tract to be subsequently subdivided/developed, the other half of the street shall be platted and dedicated as part of such subsequent application.
- (d) Half streets shall be constructed to no less than one-half the standard width for the appropriate right-of-way, as required by the Virginia Department of Transportation, for that street.

(3) As to Class III roads and private access easements:

- (a) For any subdivision or development of a tract of land involving a Class III road, a private access easement, or other designated right-of-way which is to be privately maintained, the plats recorded for the subdivision or development and for each such lot therein shall contain the following note (i) and either note (ii) or note (iii) or both, as applicable:
 - (i) "The access serving this lot is private and its maintenance, including snow removal, is NOT a public responsibility."

For streets or roads which shall be constructed to a standard less than those set by the Virginia Department of Transportation (VDOT) for acceptance as part of the secondary system of state highways:

- (ii) The Streets in this subdivision do not meet the standards necessary for inclusion in the system of state highways and will not be maintained by the Department of Transportation or the County and

are not eligible for rural addition funds or any other funds appropriated by the General Assembly and allocated by the Commonwealth Transportation Board.

For streets or roads which are required to meet VDOT standards for design and construction but which are not intended for acceptance as part of the secondary system of state highways

- (iii) The streets in this subdivision are not intended for inclusion in the system of state highways and will not be maintained by the Department of Transportation or the County and are not eligible for rural addition funds or any other funds appropriated by the General Assembly and allocated by the Commonwealth Transportation Board.
- (b) An agreement, in proper form, shall be recorded in the land records and reflected in the chain of title of each lot in order to set forth that the construction, repair, and maintenance of the roadway connecting such lot to the public road is not the responsibility of the County or the State and to set forth legally binding responsibilities for the parties who are responsible for construction, repair, and maintenance, including snow removal, and all pertinent details. The agreement shall be between the owner of the lot, the contract purchaser, and other parties, if pertinent to the purpose of the agreement.

1245.06 Street Name Signs and Addresses

- (1) The subdivider/developer shall install, at his cost, traffic control devices and street signs showing the names of all street at all intersections. The signs and devices shall conform to the specifications of the Virginia Department of Transportation and with the provision contained in the Codified Ordinances of Loudoun County, as amended.
- (2) The Subdivider/Developer shall display on each primary building in the subdivision/development, the address(es) approved for such building in conformance with the provisions contained within the Codified Ordinances of Loudoun County, as amended.

1245.07 Drainage

When required by this Ordinance or other County ordinances, drainage systems shall be provided by means of culverts, ditches, catch basins, cross drains, curbs and gutters and any other facilities that are necessary to provide adequate drainage and disposal of surface

and storm waters from or across all streets and adjoining properties. All drainage systems shall be designed and constructed in accordance with the specifications contained in the Facilities Standards Manual.

1245.08 Water and Sewerage Facilities

Where public water supply and public sewerage systems are available or required by the Loudoun County Zoning Ordinance, such services shall be extended to all lots within a subdivision. All water supply and sewerage systems shall be designed and constructed in accordance with the specifications contained in the Facilities Standards Manual, and such systems shall meet all the regulations and specifications of the Loudoun County Sanitation Authority or other applicable federal, state or local agency.

Where public water supply and public sewerage systems are not available or not required by the Loudoun County Zoning Ordinance, locations for a sewage disposal system and well approved pursuant to the provisions of Section 1245.10 shall be provided for each building lot in the subdivision. The groundwater source must be an approved source of supply reasonably calculated to be capable of furnishing the needs of the eventual inhabitants of the subdivision.

Any sewerage system, sewage disposal system, water supply or well shall be designed to serve the proposed use and shall conform to all applicable federal, state and local regulations.

1245.09 Utility Easements

- (1) Easements for utilities shall be provided and delineated on the record plat in the location and to the width designated by the approving authority after receiving recommendations from the agencies responsible for the installation of the same.
- (2) In appropriate cases as determined by the Director, common or shared easements may be conveyed to franchised cable television operators furnishing cable television and public service corporations furnishing cable television, gas, telephone, and electric service to the proposed subdivision. Any such easements, the location of which shall be adequate for use by the public service corporations which may be expected to occupy it, may be conveyed by reference on the record plat, and in the deed of dedication to which the plat is attached, to the Deed Book and Page number of a recorded Declaration of the terms and conditions of such common easement agreed to by such franchised cable television operators furnishing cable television or such public service corporations provided that such Declaration has been recorded among the Land Records of Loudoun County. Any such proposed conveyance of common or shared easements shall be subject to the Director's determination of whether or not the

recorded Declaration achieves the purposes of this Ordinance and complies with any applicable design requirements of the Facilities Standards Manual. The failure of any such franchised cable television operator to agree to the terms and conditions set out in such Declaration shall not defeat or impair any such common easement conveyance.

- (3) All utility easements and the installation of utilities shall be in conformance with the specifications contained in the Facilities Standards Manual.

1245.10 On-site Sewage Disposal Systems

No preliminary plan of subdivision shall be approved where a well and/or sewage disposal system is to be provided for each building lot in the subdivision, until written approval of proposed locations for such systems has been secured from the Health Director. Such approved locations shall be shown to scale on the preliminary plan and on the record plat.

The Health Director, or his designee, shall review and approve or deny the applicant's proposal for wells and sewage disposal systems and shall advise the Commission of its findings. The groundwater source must be an approved source of supply reasonably calculated to be capable of furnishing the needs of the eventual inhabitants of the subdivision. The Health Director, or his designee, may require geotechnical or other tests to determine the suitability of the soil for subsurface disposal; and may require hydrogeologic or other tests to determine the adequacy of the groundwater supply for the proposed use or uses. Hydrogeologic tests shall be in conformance with Section 6.200 of the Facilities Standards Manual, which is incorporated herein by reference. Geotechnical, hydrogeologic and/or other tests shall be the responsibility of the developer, with supervision by the Health Director. Where hydrogeologic testing has been required pursuant to preliminary subdivision plat review and approval, no record plat of subdivision shall be approved for any lot under 80,000 square feet until written approval of a constructed well has been secured from the Health Director.

Any proposed lots which have been completely tested and do not meet Health Department requirements may be approved with a note similar to the following placed on the plat:

"NOTE: This lot is not considered to be approved as a building lot as it is unsuitable for the installation of an on-site sewage disposal system and/or individual water supply under the current standards of the Loudoun County Health Department."

1245.11 Construction Responsibilities

When construction begins, the subdivider and/or the contractor shall have available on the property at all times a clearly readable copy of all approved plans and specifications.

1245.12 Record Drawings

Upon the satisfactory completion of the installation of the required improvements shown on the approved site plan or construction plan and profiles, whichever is applicable, the developer shall submit to the Director copies of the completed record drawings. Such shall be submitted at least one (1) week prior to the anticipated occupancy of any building for the review and approval by the Director for conformance with the approved site plan and the ordinances and regulations of the County and State agencies.

The approval of the final site plan or the installation of the improvements as required in this Ordinance shall in no case serve to bind the County to accept such improvements for maintenance, repair or operation thereof. Such acceptance shall be subject to the County and/or State regulations, where applicable, concerning the acceptance of each type of improvement.

The final bond shall not be released until after the approval of the record drawings plan.

1245.13 Agreements and Surety

All public improvements required by these regulations or as a contingency to approval of a record plat or final site plan for development or subdivision as platted shall be installed therein and thereon at the expense of the subdivider or developer. Pending such actual installation thereof, the subdivider/developer shall execute and file with the Department an agreement and surety (or agreements and sureties) unless waived by the Director in accordance with the provisions for such waiver as specifically set forth in the Bonding Policy. Such agreement and surety shall conform to the said Bonding Policy which is set forth in the Facilities Standards Manual.

1245.14 Tree Preservation

All subdivision and site plans shall be designed to encourage the preservation of existing trees. A Tree Preservation/Landscape Plan shall be developed in accordance with the Zoning Ordinance using criteria contained in the Facilities Standards Manual.

CHAPTER 1246

EXPEDITED LAND DEVELOPMENT REVIEW

1246.01 Purpose of Chapter

The governing body of Loudoun County, Virginia, acting pursuant to Virginia Code Section 15.2-2263, hereby establishes a separate processing procedure for the review of certain land development plans. The procedure is called the Plans Examiner and Plans Reviewer Specialist Program and its purpose is to expedite the County's review of staff approved plans. Persons who satisfy the criteria of Section 1246.02(2) below shall qualify as plans examiners. Persons who satisfy the criteria of Section 1246.02(3) below shall qualify as plans reviewer specialists. Plans reviewed and recommended for submission by a plans examiner and certified by the appropriately licensed professional engineer, architect, certified landscape architect or land surveyor who is also licensed pursuant to Virginia Code Section 54.1-408 shall qualify for the separate processing procedure.

1246.02 Plans Examiner Program

- (1) Persons who meet the qualifications set forth in 1246.02(2) below are eligible to submit plans for expedited review under this Chapter only upon their designation as plans examiners by the Board of Supervisors following their recommendation to be so designated by the Advisory Plans Examiner Board (APEB) established in 1246.03 below.
- (2) Persons who apply to become plans examiners and to use the separate procedure must meet the following qualifications:
 - (a) A bachelor of science degree in engineering, architecture, landscape architecture or related science or equivalent experience or a land surveyor certified pursuant to Virginia Code Section 54.1-408.
 - (b) Board of Supervisors' Specified Program: Successful completion of an education program conducted under the auspices of a State institution of higher education comprised of four college-level, land development courses developed by the Engineers and Surveyors Institute (ESI), the Department of Building and Development (BAD), Loudoun County Sanitation Authority (LCSA), and the Virginia Department of Transportation (VDOT). The instructors in the educational program shall consist of persons in the private and public sectors who are qualified to prepare land development plans. The educational program shall include the comprehensive and detailed study of County Ordinances and regulations relating to plans and how they are applied.

- (c) A minimum of two years of land development engineering design experience acceptable to the Board of Supervisors.
 - (d) Attendance at continuing educational courses, as specified by the Board of Supervisors, including, but not limited to, courses designed to up-date plans examiners on amendments to the Zoning Ordinance, the Land Subdivision and Development Ordinance (LSDO), and the Facilities Standards Manual (FSM), and County Land Use and Construction Policies.
 - (e) Consistent preparation and submission of plans which meet all applicable ordinances and regulations.
- (3) Plans reviewer specialists may be designated by the Board of Supervisors following a recommendation that such individual to be designated by the APEB established in 1246.03 below. Persons who apply to become plans reviewer specialists must meet the following qualifications:
- (a) A bachelor of arts degree in planning or a related field or equivalent experience.
 - (b) Board of Supervisors' Specified Program: Successful completion of an educational program conducted under the auspices of a State institution of higher education comprised of four college-level, land development courses developed by the Engineers and Surveyors Institute (ESI), the Department of Building and Development (BAD), Loudoun County Sanitation Authority (LCSA), and the Virginia Department of Transportation (VDOT). The instructors in the educational program shall consist of persons in the private and public sectors who are qualified to prepare land development plans. The educational program shall include the comprehensive and detailed study of County Ordinances and regulations to plans and how they are applied.
 - (c) A minimum of two years of land development planning design and/or review experience acceptable to the Board of Supervisors.
 - (d) Attendance at continuing educational courses, as specified by the Board of Supervisors, including, but not limited to, courses designed to up-date plan reviewer specialists on amendments to the Zoning Ordinance, the Land Subdivision and Development Ordinance, the Facilities Standards Manual (FSM), and County Land Use and Construction Policies.
 - (e) Consistent preparation, submission or review of plans which meet all applicable ordinances and regulations.

1246.03 Advisory Plans Examiner Board

- (1) Establishment and purposes. There is hereby established an Advisory Plans Examiner Board (APEB) which shall make recommendations to the Board of Supervisors on the general operations of the program, on the qualification of plans examiners and plans reviewer specialists who may participate in the expedited processing procedure, on initial and continuing educational programs needed to qualify and maintain qualifications for such a program and on the administration and operation of such a program. In addition, APEB shall submit recommendations to the Board of Supervisors as to those persons who meet the established qualifications for participation in the program, and APEB shall submit recommendations to the Board of Supervisors as to whether those persons who have previously qualified to participate in the program shall be disqualified, suspended or otherwise disciplined for failure to continue to meet the qualifications set out in 1246.02(2)(d) and (e) and 1246.02(3)(d) and (e).

- (2) Membership and terms of office. The Advisory Plans Examiner Board (APEB) shall consist of three persons in private practice certified as licensed professional engineers or land surveyors pursuant to Virginia Code Section 54.1-408, at least one of whom shall be a certified land surveyor, one person employed by the County; one person employed by the Virginia Department of Transportation who shall serve as a non-voting advisory member; and one citizen member. All members of the Board who serve as licensed engineers or surveyors must maintain their professional license as a condition of holding office and all such persons shall have at least two years of experience in land development procedures of the County. The experience in land development procedures of the County. The citizen member of the Board shall meet the qualifications provided in Virginia Code Section 54.1-107; provided such member, notwithstanding the proscription of Paragraph (i) of that section, shall have training as an engineer or surveyor and may be currently licensed, certified or practicing his profession. The members of the APEB shall be appointed by the Board of Supervisors for staggered four-year terms. Initial terms may be less than four years so as to provide for staggered terms. The Loudoun County Sanitation Authority will be advised of all meetings of the APEB and will be asked to have a representative in attendance at all such meetings.

1246.04 Expedited Review

A separate processing system may include a review of selected or random aspects of plans as determined by the Director of Building and Development rather than a detailed review of all aspects; however, it shall also include periodic detailed review of plans prepared by any or all persons who qualify for the system. The APEB and the Board of Supervisors shall be advised of the separate processing system and all subsequent changes thereto prior to any implementation.

1246.05 Responsibilities and Obligations

Nothing contained in this Section shall be construed as relieving persons who prepare and submit plans of the responsibilities and obligations which they would otherwise have with regard to the preparation of plans, nor shall it relieve the County of its obligations to review other plans in the time periods and manner prescribed by law.