

## **ARTICLE 1**

### **Intent**

#### **§ 144-1. Intent.**

This chapter is intended to establish subdivision standards to assist in the orderly, efficient and integrated development of land. These standards shall promote appropriate development practices, ensure conformance with Frederick County's Comprehensive Plan and County Code and provide for the public's health, safety, convenience, comfort, prosperity and general welfare. These standards shall guide public and private actions to ensure that adequate and efficient systems are provided for transportation, water, sewerage, fire protection, drainage, erosion control, recreation, open space and other public services and utilities to promote the development of an economically sound and stable community. This chapter shall provide for reasonable survey standards to ensure proper subdivision layout, appropriate recordation of all land divisions, legal descriptions, monument placement on urban land and appropriate procedures and standards for land development.

## **ARTICLE II**

### **Definitions**

#### **§ 144-2. Definitions and word usage. [Amended 6-9-1993; 11-12-2003; 4-26-2005; 2-28-2007]**

Words and terms set forth below shall have the meanings ascribed to them. Any word, term(s) or phrase used in the Frederick County Code Subdivision of Land chapter not defined below shall have the meaning ascribed to such word, term or phrase in the most recent edition of Merriam-Webster's Dictionary, unless in the opinion of the Subdivision Administrator, established customs or practices in Frederick County, Virginia, justify a different or additional meaning. Furthermore, for the purpose of this Code, certain words, terms and phrases are herein defined as follows:

**ABUT** – To physically touch or border upon, or to share a common property line.

**ADMINISTRATOR, SUBDIVISION** – The representative of the Board of Supervisors who has been appointed to serve as the agent of the Board in approving the subdivision plats.

**AFFIDAVIT** – A written declaration conducted before a notary public or other authorized official.

**AGRICULTURAL PURPOSES** – Any of the following activities on land which is eligible for land use assessment.

- A. Cultivating the soil, raising or harvesting any agricultural, aquacultural, horticultural, floricultural or viticultural commodity on a farm, including the raising, feeding, training or management of animals and poultry, excluding kennels.
- B. Handling, drying, packing, grading or storing on a farm any agricultural or horticultural commodity in its unmanufactured state but only if the owner, operator or tenant of the farm regularly produces more than half the commodity so treated.
- C. The proposal to develop or the actual development of a forest, either through planting or natural regeneration, or both, or the actual maintenance of a forest by applying proven forest management practices. Such land shall, at the time of consideration as forestland, be under a timberland plan or shall actually carry sufficient forest growth of suitable character and so distributed to give reasonable assurance that a stand of merchantable timber can be developed therefrom.

**AMENDMENT** – A revision to this chapter approved by the Frederick County Board of Supervisors.

**AVERAGE DAILY TRIPS** – The average number of vehicles forecast to travel over a specified segment of street during a twenty-four-hour period.

**AVIGATION EASEMENT** – An easement above the ground that covers the area designated by the Frederick County Comprehensive Plan as the Airport Support Area.

**BASE FLOOD ELEVATION** – The one-hundred-year flood elevation plus one foot.

**BOARD** – The Board of Supervisors of Frederick County.

**BOUNDARY LINE ADJUSTMENT** – A change in the boundary line between adjoining lots, tracts or parcels which does not create new lots or reduce the number of existing lots.

**BUFFER** – A required area used to separate and/or screen one use from another.

**BUILDING RESTRICTION LINE** – An imaginary line fixed at a specified minimum distance from the boundaries of a lot that limit the placement of structures.

**CENTRAL WATER AND SEWER FACILITY** – A water or sewer system serving more than one lot, dwelling or use that is owned and operated by a municipality, private individual or corporation, licensed by the State Water Control Board and Health Department and approved by the Frederick County Board of Supervisors.

**CODE OF VIRGINIA** – All applicable regulations of Title 15.2, Chapter 22, Article 6, of the Code of Virginia 1950, as amended.

**COMMISSION** – The Planning Commission of Frederick County.

**COMMON OPEN SPACE** – Land that is used for recreational purposes, environmental resource protection, buffer areas, stormwater management areas and passive areas that are dedicated to the residents of a development for use and maintenance, and is protected to ensure that it remains in such uses, unless utilized under the provisions of § 165-63A of this Chapter 165, Zoning.

**COMPREHENSIVE PLAN** – A general plan for the future of Frederick County, adopted by the Frederick County Board of Supervisors according to the provisions of the Code of Virginia.

**CONTIGUOUS** – Abutting or having a boundary or portion thereof which is coterminous.

**COVENANTS** – A legally recorded, private agreement between the buyer and seller that asserts legal requirements or restrictions on the use of the land being transferred.

**CONVEY** – To transfer ownership or title to another.

**COUNTY CODE** – All applicable rules and regulations of Frederick County.

**CUL-DE-SAC** – A street with only one outlet and having a turnaround for reverse traffic movement.

**DEED OF DEDICATION** – A legally recorded document specifying the transfer of property rights related to subdivision improvements and facilities.

**DEVELOPER** – The legal or beneficial owner or owners of a parcel of land included in a proposed development, including the holder of an option or contract to purchase or other persons having enforceable proprietary interests in such land.

**DEVELOPMENT** – The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining, excavation, landfill or land disturbance; and any use or extension of the use of land.

**DIRECT ACCESS** – A direct means of vehicular approach that provides immediate physical entrance to a property.

**DRAINAGE EASEMENT** – An easement established to maintain and protect a drainageway.

**DRAINAGEWAY** – Any natural or artificial watercourse trench, ditch, swale or similar depression through which surface water flows.

**DRIVEWAY, SHARED PRIVATE** – A deeded right-of-way or access easement serving as common access to two or more lots from a dedicated public road.

**EASEMENT** – A right granted by a property owner for the use of a specified piece of land for a specific purpose or purposes.

**ENGINEER** – A person duly licensed as such by the Commonwealth of Virginia.

**EROSION** – The process by which earth or rock material is moved from one location to another by wind or water.

**EROSION CONTROLS** – Measures that comply with the Virginia Erosion and Sediment Control Handbook and the standards of Frederick County<sup>1</sup> which prevent erosion and sedimentation on adjoining properties or in drainageways.

**FLOODPLAIN** – A relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation resulting from a storm with an average frequency of once per every 100 years, as defined by Federal Emergency Management Agency (FEMA) and depicted on Flood Insurance Rate Maps.

**GRADE** – The degree of rise or fall of a sloping surface.

**1. Editor's Note: See Ch. 79, Erosion and Sediment Control.**

GRADING – Any stripping, clearing, cutting, filling or stockpiling of earth or land.

GRANTEE – One to whom a conveyance is made.

GRANTOR – One who makes a conveyance.

GROSS RESIDENTIAL DENSITY – The total number of residential dwellings divided by the total gross area within the perimeter boundaries of a development. The “gross residential density” within a section or phase of a development shall be the number of residential dwellings in the section divided by the total area within that section.

HEALTH OFFICIAL – The Director of the Lord Fairfax Health District or his representative.

HIGHWAY ENGINEER – The resident engineer employed by the Virginia Department of Transportation who has jurisdiction over Frederick County.

HISTORICAL FEATURE – A structure or site of historical and cultural significance and recognized as such by the County, state or federal government.

IMPROVEMENT – Any man-made, immovable item which becomes part of or is affixed to real estate.

LAND – Ground, soil or earth above or below the surface.

LAND DIVISION – The subdivision of one parcel of land into two or more parcels or any changes to the boundary of any lot, tract or parcel of land.

LAND DISTURBANCE – Any activity involving the clearing, cutting, excavating, filling, grading or any other activity which alters land topography.

LAND DISTURBANCE PERMIT – A permit issued by the County allowing disturbance of the surface of a parcel of land.

LOT – A numbered and recorded portion of a subdivision intended for transfer of ownership or for building development which conforms to the requirements of Chapter 165, Zoning.

LOT CONSOLIDATION – Combination of two or more lots unto a single parcel.

LOT, CORNER – A lot abutting two or more streets at their intersection.

LOT, DOUBLE-FRONTAGE – An interior lot having frontage on two streets.

LOT, FRONT – The side of a parcel facing or coterminous with a street or right-of-way. For the purposes of this chapter, lots fronting on more than one street shall define the front property line as the shortest side having road frontage.

LOT LINE – A line described by metes and bounds, depicting the boundary of parcels of land.

LOT OF RECORD – A lot which has been recorded in the office of the Clerk of the Circuit Court of Frederick County.

MASTER DEVELOPMENT PLAN – A general plan depicting the development of a parcel or parcels in accordance with the requirements of Article XVIII of the Chapter 165, Zoning.

MISDEMEANOR – An offense of lesser gravity than a felony, for which punishment may be a fine or imprisonment.

MONUMENT – Markers placed in the ground to indicate the location of property boundaries.

NATURAL DRAINAGE – Original path of least resistance of surface water runoff.

NATURAL STORMWATER DETENTION AREAS – Areas of poorly drained soils which are subject to periodic flooding and act as areas to temporarily store stormwater. In some cases, “natural stormwater detention areas” will contain floodplain and wetland areas.

PEDESTRIAN WALKWAY – A pedestrian circulation network designed to enhance public safety by separating pedestrian traffic from vehicular traffic.

PERFORMANCE BONDING – A guaranty to cover the cost of public improvements in an approved subdivision.

PLAT – Includes the terms “plat”, “map”, “plot”, “replat” and “replot”; a map or plan of a tract or parcel of land prepared by a licensed surveyor or engineer.

POSITIVE DRAINAGE – Drainage which does not adversely affect property.

PRIVATE SEWAGE SYSTEM – A sewage disposal system not operated by the Frederick County Sanitation Authority that has approval of the State Water Control Board.

PROPERTY – Any tract, lot or parcel of land.

**PROPERTY OWNER'S ASSOCIATION** – A private, nonprofit organization or corporation of property owners, established to own, operate and maintain various common facilities or properties.

**PUBLIC WATER AND SEWER SYSTEM** – A water or sewer system owned and operated by a municipality or public authority.

**RECREATIONAL FACILITY** – An area or structure designed and equipped for the conduct of sports, leisure-time activities and other customary and usual recreational activities.

**RESERVE STRIPS** – A strip of land set aside during a subdivision to prevent adjoining properties from connecting to an interior road system.

**RIGHT-OF-WAY** – Land dedicated, reserved for or occupied by a street, railroad, utility or other similar use.

**ROAD** – A street dedicated to Frederick County or the Virginia Department of Highways. Also, an existing, privately owned right-of-way which serves as the principal means of access to more than one property.

**ROAD EFFICIENCY BUFFER** – A buffer separating residential uses from collector and arterial roads.

**SCREEN** – A method of visually shielding or obscuring adjoining property uses from each other by fencing, walls, berms or densely planted vegetation.

**SEDIMENTATION** – Deposited silt or soil that is being or has been moved by weathering or by man.

**SETBACK** – The required distance between a building or structure and a lot line.

**SETBACK LINE** – An imaginary line fixed at a specified minimum distance from the boundaries of a lot that limits the placement of structures.

**SIDEWALK** – A paved surfaced or leveled area, separated from the street, serving as a pedestrian walkway.

**SINKHOLE** – Any natural depression in the surface of the ground which provides a means through which surface water can enter into subsurface aquifers.

**SPITE STRIPS** – See “reserve strip”.

**STEEP SLOPES** – Land area where the slope exceeds 15%.

**STORM DRAINAGE CONVEYANCE SYSTEM** – A series of dedicated easements or facilities that provide for stormwater management.

**STORMWATER MANAGEMENT PLAN** – A plan showing the layout of all facilities and easements along with the appropriate drainage calculations necessary to provide for positive drainage from a parcel.

**STORMWATER RUNOFF** – The portion of precipitation that flows from a drainage area on the land surface in open channels or in stormwater conveyance systems.

**STORMWATER STORAGE SYSTEM** – A storage facility to provide for the detention or retention of stormwater.

**STREET** – The principal means of vehicular access to a property.

**STREET, ARTERIAL** – A street so classified by the Virginia Department of Transportation or by the standards of Frederick County which collects and distributes traffic to and from collector streets.

**STREET, COLLECTOR** – A street, so classified by the Virginia Department of Transportation or by the standards of Frederick County, designed to collect and distribute traffic to and from local streets. **[Amended 6-25-2008]**

**STREETLIGHT** – External lighting for the purpose of illuminating pedestrian and vehicular travelways.

**STREET, LOCAL** – A street, so classified by the Virginia Department of Transportation or by the standards of Frederick County, designed to provide access to adjoining or abutting properties. **[Amended 6-25-2008]**

**STREET, SERVICE DRIVE** – A right-of-way generally parallel and contiguous to a major highway, primarily designed to promote safety by eliminating promiscuous ingress and egress to such major highway by providing safe and orderly points of access to the highway and streets ending in culs-de-sac.

**STREET SIGN** – A sign, situated outdoors and located in the street right-of-way, which identifies a specific portion of a road network system.

**STREET WIDTH** – The total width of the strip from property line to property line, dedicated or reserved for public use or travel, including roadways, curbs, gutters, sidewalks and planting strips.

**SUBDIVIDE** – To divide a tract, parcel or lot of land into two or more parts.

**SUBDIVIDER** – An individual, group, corporation or registered partnership owning any tract, lot or parcel of land to be subdivided.

**SUBDIVISION** – The division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale, development or lease; or the tracts or parcels of land resulting from the division of property.

**SUBDIVISION ADMINISTRATOR** – See “administrator”.

**SUBDIVISION, MAJOR RURAL** – Any subdivision resulting in the cumulative total of four or more traditional five-acre lots, family division lots, agricultural lots or rural preservation lots from a single parcel in the RA Rural Area District.

**SUBDIVISION, MINOR RURAL** – Any subdivision resulting in the cumulative total of three or fewer traditional five-acre lots, family division lots, agricultural lots or rural preservation lots from a single parcel in the RA Rural Area District.

**SUBDIVISION ORDINANCE** – This chapter, as adopted and amended by the Frederick County Board of Supervisors.

**SURVEYOR** – A person duly licensed as such by the Commonwealth of Virginia.

**UTILITY, PUBLIC** – Any agency which, under public franchise or ownership or under certificate of convenience and necessity, provides the public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection or other similar service.

**VACATION OF PLAT** – Action by the Board of Supervisors to nullify a plat as specified by §§ 15.2-2270, 15.2-2271 and 15.2-2272 of the Code of Virginia, as amended.

**WATERSHED** – A basin in which all surface water drains to a centrally located stream, river or other body of water.

**WETLANDS** – Areas designated by the Corp of Engineers as marshes, swamps or wetlands, including all areas greater than one acre, where standing water is retained for a significant portion of the year and vegetation unique to swamp or wetland areas has adapted to the area.

**WOODLANDS** – Areas, groves or stands of manure or largely mature trees greater than six inches caliper covering an area greater than ¼ acre or groves of mature trees greater than 12 inches caliper consisting of more than ten individual trees.

**ZONING ORDINANCE** – Chapter 165, Zoning, as adopted and amended by the Frederick County Board of Supervisors.

## **ARTICLE III**

### **General Provisions**

#### **§ 144.3. Compliance required.**

All land development requiring submission and approval of a subdivision application under the provisions of this chapter shall conform with the Frederick County Comprehensive Plan, the Frederick County Code and the requirements of this chapter. This chapter establishes regulations governing the minimum requirements for the submission, review, disposition and recordation of subdivision development plans and subdivision plats. Design standards and installation procedures for all required improvements are provided, along with requirements for the layout and arrangement of all lots, streets, easements and drainage areas. All requirements of this chapter shall be complied with throughout the development process. No subdivision of land shall be recorded or land development occur without conforming with the requirements of this chapter.

#### **§ 144.4. Subdivision Administrator [Amended 5-22-1996]**

A Subdivision Administrator shall be appointed by the Board of Supervisors and entrusted to enact, administer and enforce the requirements of this chapter. The Subdivision Administrator shall have the powers and duties specified in this chapter as authorized by the Board of Supervisors. The Subdivision Administrator is authorized to administratively approve or disapprove all divisions of land in the RA Rural Areas District and all divisions of land in all other zoning districts that are within an approved master development plan. The Subdivision Administrator shall have the authority to forward any division of land, subdivision design plan or final plat to the Planning Commission or Board of Supervisors for final approval.

#### **§ 144.5. Interpretations and appeals.**

The Subdivision Administrator shall have the authority to make interpretations concerning the application of the requirements of this chapter. Any person aggrieved by an interpretation made by the Subdivision Administrator may appeal that interpretation to the Board of Supervisors, with a recommendation from the Planning Commission. Variations to or exceptions to the provisions of this chapter may be granted by the Board of Supervisors in cases of unusual situations or when strict adherence to the general regulations would result in substantial injustice or hardship.

#### **§ 144.6. Violations and penalties. [Amended 10-10-2001]**

All land divisions requiring subdivision approval shall conform to the provisions of this chapter. Any person(s), firm or corporation, whether owner, lessee, principal, agent, employee or otherwise, who violates any provision of this chapter shall be guilty of a misdemeanor, or otherwise, who violates any provision of this chapter shall be guilty of a misdemeanor. Upon conviction of such misdemeanor, such person(s), firm or

corporation shall be subject to punishment by a fine or not more than \$500 for each lot or parcel of land so subdivided, transferred or sold. The description of the 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 the penalties or remedies herein provided.

**§ 144.7. Amendments. [Amended 11-12-2003]**

This chapter may be amended in part or in its entirety through the initiative of the Planning Commission or at the request of the Board of Supervisors. No amendment shall be adopted without a public hearing being held by the Board of Supervisors, pursuant to public notice as required by § 15.2-2204 of the Code of Virginia.

**§ 144.8. Fees.**

The Board of Supervisors, by resolution, may establish a schedule of fees for the application, review and inspection of subdivision plans. A public hearing shall be required prior to the adoption of a schedule of fees.

## **ARTICLE IV**

### **Subdivision Review Procedures**

#### **§ 144.9. General procedure. [Amended 5-22-2002]**

All land divisions shall require the submittal of a subdivision plat for review and approval prior to recordation. Unless specifically exempted, all residential subdivisions and their associated amenities shall be required to submit a subdivision design plan for review and approval prior to final plat approval.

#### **§ 144.10. Master development plan.**

Unless specifically waived or exempted under Article XVIII, § 165-134, of Chapter 165, Zoning, all subdivision of land shall require an approved master development plan. The master development plan shall conform with all requirements of Chapter 165, Zoning, Article XVIII, of the Frederick County Code.

#### **§ 144.11. Preliminary sketches. [Amended 6-9-1993]**

A preliminary sketch may be required for any subdivision that does not require a Master Development Plan. Within the Rural Areas (RA) Zone, a preliminary sketch shall be required for any proposed subdivision which contains roads intended for dedication to the Virginia Department of Transportation for state maintenance or rural preservation lots. Preliminary sketch plans, complete with all materials required by § 144-35 of this chapter, shall be submitted to the Subdivision Administrator for review and comment prior to preparation of final plans.

- A. Review. The Subdivision Administrator shall review the preliminary sketch for conformance to the requirements of the regulations of the zoning district where the property is located and the applicable sections of this chapter. The Subdivision Administrator shall make this determination within 30 days of the sketch submission.
- B. Approval. The Subdivision Administrator shall convey his findings in writing. In the case of denial, a listing of those deletions, alterations or additions necessary for the sketch to receive approval shall be included in the correspondence.

#### **§ 144.12. Subdivision design plan. [Amended 5-22-2002]**

- A. The intention of the subdivision design plan is to provide all review agencies with a comprehensive design of the proposed layout and improvements required under § 144-36 of this chapter, as well as all requirements of Chapter 165, Zoning. The subdivider shall submit two copies of the subdivision design plan, applicable fees, and all required subdivision application materials to the Subdivision Administrator for review and comment. At least five copies of the final subdivision design plan shall be submitted for approval.
- B. The Department of Planning and Development shall act on a proposed subdivision design plan within 60 days after it has been officially submitted by

either approving or disapproving it in writing, and giving with the latter specific reasons therefore. The Planning Commission may request to review any subdivision design plan for approval. In cases where subdivision design plans are submitted for land not included in an approved master development plan, the Board of Supervisors shall approve, approve with modifications or disapprove such plans after a recommendation has been provided by the Planning Commission.

**§ 144.13. Final plat approval.**

- A. The subdivider shall file four copies of the final subdivision plat with the Subdivision Administrator within six months of receiving official notification of subdivision design plan approval. The final subdivision plat shall contain signatures of all owners, surveyors and review agencies, along with all other required materials. Failure to file the final plats within this time shall make the approval of the subdivision design plan null and void. The Subdivision Administrator may, on written request by the subdivider, grant an extension of this time limit.
- B. The Subdivision Administrator has approval authority over all final subdivision plats. Approval of the subdivision design plan does not guarantee approval of the final plats. The Subdivision Administrator shall review all final plats to ensure conformance with the approved subdivision design plan. The Subdivision Administrator shall notify the subdivider, in writing, of any noncompliance within 15 days of final plat submittal and shall approve or deny the final plats within 30 days after their submission.
- C. All final subdivision plats shall be legally recorded in the Frederick County Clerk of Court's office within six months of final approval by the Subdivision Administrator. Failure to record final subdivision plats within this time shall make the approval signatures null and void and required reapproval by all applicable agencies, except in cases specifically identified in § 15.2-2241(8) of the Code of Virginia. A copy of the final legally recorded plat, with appropriate agency approval signatures and notations signifying that the plat has been appropriately recorded, shall be returned to the Subdivision Administrator within 30 days of recordation. **[Amended 1-23-2002]**

**§ 144.14. Boundary line adjustments; lot consolidations.**

- A. Any boundary line adjustments or lot consolidations between contiguous properties shall be approved by the Subdivision Administrator. Preliminary sketch review and subdivision design plan approval are not required for boundary line adjustments and lot consolidations.
- B. Final plats of boundary line adjustments and lot consolidations shall be submitted to the Subdivision Administrator for approval, approval with modifications or disapproval. The Subdivision Administrator shall notify the subdivider of any action made on the plats within 30 days of their complete submittal.

- C. A copy of the final plat, with appropriate notations signifying that the plat has been appropriately recorded, shall be returned to the Subdivision Administrator within 30 days after final plat approval.

**§ 144.15. Minor rural subdivisions.**

Three copies of final plats for a minor rural subdivision shall be submitted to the Subdivision Administrator for review and approval. Preliminary sketch review and subdivision design plan review are not required for minor rural subdivisions.

- A. In the case of divisions created under the provisions of § 165.54B, Family division lots, of Chapter 165, Zoning, of the Frederick County Code, an affidavit with the notarized signature of the grantor must be provided. The affidavit shall state to whom the lot will be conveyed, the relationship of the grantor to the grantee and the grantors understanding of § 165-54B, Family division lots, of Chapter 165, Zoning, of the Frederick County Code and § 15.2-2244 of the Code of Virginia 1950, as amended. **[Amended 11-12-2003]**
- B. Prior to submission to the Subdivision Administrator, all final plats shall be signed by a representative of the Health Department as required by this chapter, to certify that lots within the minor rural subdivision have been approved for sewage disposal.
- C. Plats which are reviewed and are determined to meet the requirements of this chapter shall be approved by the Subdivision Administrator, as evidenced by his signature on all final plats, within 90 days of the submittal date. No plat shall be recorded or lot sold in a minor rural subdivision until the requirements of this chapter have been met.
- D. A copy of the final plats, with appropriate notations signifying that the plat has been appropriately recorded, shall be returned to the Subdivision Administrator within 30 days after final plat approval.

## **ARTICLE V**

### **Design Standards**

#### **§ 144.16. General standards.**

The design of and physical improvements to a property being subdivided shall be constructed and installed in accordance with the requirements of this Article and as depicted on the approval subdivision design plan. All subdivisions shall conform to the requirements of the Frederick County Code, policies set forth in the County's Comprehensive Plan and the master development plan approved for the land being subdivided.

#### **§ 144.17. Streets.**

It is the intention of Frederick County, through its Comprehensive Plan and the following standards, to ensure that an adequate network of streets is created which provides multiple access points to subdivisions. All proposed subdivision streets shall be public streets dedicated to Frederick County for eventual acceptance into the state secondary road system and shall meet the following design standards, as well as the subdivision street requirements of the Virginia Department of Transportation. Where conflicts occur, the more restrictive requirement shall apply.

A. Streets prior to state acceptance.

- (1) No residence shall be occupied within an approved subdivision to contain state-maintained streets until the portion of the street serving that residence is provided with a compacted CBR base and a prime-and-single-seal surface. If, because of weather conditions, the developer cannot prime and single seal the street surface, occupancy permits may be issued if an appropriate letter of credit or bond for not longer than four months is issued to the County to cover all costs associated with stripping and recompacting of the CBR base and providing a prime-and-single-seal surface.
- (2) Application to have a street accepted into the state system shall be completed by the developer and submitted to the County and the Virginia Department of Transportation within six months after the County has issued a third certificate of occupancy for a residence addressed on said street. No application shall be submitted to the County and the Virginia Department of Transportation until the street is built to state standards and inspected by the Virginia Department of Transportation. The developer shall be responsible for maintenance and snow removal until the street is accepted into the state road system. Snow removal from all streets that serve residences shall be undertaken whenever the State Highway Department removes snow from state maintained roads. Snow removal shall be included under Article VII, Improvements and Guaranties, of this chapter.

B. Street layout. The layout, width, grade, design and location of all streets shall conform to the approved final master development plan, the standards contained

in the Frederick County Comprehensive Plan, Virginia Department of Transportation requirements and the following regulations:

- (1) Residential streets shall be laid out to discourage through traffic. New residential lots shall not have direct vehicle access to roads defined as major collector or arterial by the Frederick County Comprehensive Plan or the Virginia Department of Transportation. **[Amended 9-13-1995]**
  - (2.) Provisions shall be made for the continuation of planned, existing or platted streets on adjoining parcels. The design of such streets shall be coordinated in terms of location, width, grades and drainage. Such continuations shall be made to provide access to adjoining parcels, to provide for streets identified in the Comprehensive Plan and to provide for safe and adequate traffic patterns and access between existing neighborhoods. Where no lots front on the road, the Planning Commission may require the design and grading of the right-of-way to conform to the Virginia Department of Transportation standards with a minimum of temporary or permanent seeding.
  - (3) Final engineered construction documents shall be provided to the Subdivision Administrator prior to the complete release of the performance guaranties as specified in Article VII, § 144-44, of this chapter.
- C. Street names. Proposed street names shall not duplicate or approximate phonetically the names of existing or recorded streets in the County and the City of Winchester unless the proposed street is a continuation of an existing or platted street. Prior to filing a plat for approval, proposed street names shall be reviewed and approved by the Subdivision Administrator.
- D. Intersections.
- (1) Streets shall intersect at approximately right angles. The Planning Commission may allow intersections of lesser angles. In no case shall a street intersect another at an angle of less than 80 degrees.
  - (2) No more than two streets shall intersect at the same point.
  - (3) Wherever possible, the intersection of two streets on the opposite sides of a street shall be cross intersections. The center-line offsets of local or collector streets not at cross intersections shall not be less than 300 feet. Any street intersecting with an arterial street shall have a minimum center-line offset of 800 feet from any other street intersecting that same arterial street. Distances shall be measured from center line to center line of the two intersecting streets along the center line of said arterial street.
- E. Expansion of existing right-of-way. Whenever a property proposed for subdivision abuts one side of an existing or platted public street, the subdivider shall dedicate  $\frac{1}{2}$  of the total right-of-way width standards for the street as contained in this chapter or for future expansion of the street as determined by the Virginia Department of Transportation or Frederick County. Any required setbacks or buffers shall be measured from the edge of this dedicated right-of-way.
- F. Motor vehicle access.

- (1) All new lots created on collector or arterial roads shall meet the requirements regarding minimum driveway spacing as specified in Article IV of Chapter 165, Zoning. Any lot created that cannot meet the requirements of the Chapter 165, Zoning, shall provide easements for shared access that will be reviewed for approval at the subdivision design plan or final plat review stage.
- G. Culs-de-sac.
- (1) Culs-de-sac, permanently designed as such, shall not exceed 1,000 feet in length. The Planning Commission may waive this requirement in cases where extreme topography or other factors make it impractical. In no case shall the street serve more than 25 lots. The turnaround provided shall have a right-of-way radius of not less than 50 feet and a paved radius of not less than 45 feet. Loop streets are preferred to culs-de-sac, where possible.
  - (2) Any street dead-ended for access to an adjoining property or because of approved stage development, which is over 200 feet in length, shall be provided with a temporary, all-weather, fifty-foot turnaround. The plan shall note that the land outside of the normal street right-of-way shall revert to the adjoining landowners whenever the street is continued. Temporary culs-de-sac used to accommodate approved phasing or to provide access to adjoining properties shall not be restricted in length to the one-thousand-foot requirement for culs-de-sac. The length of temporary culs-de-sac shall not exceed the length specified by the phasing plan on an approved master development plan.
- H. Reserve strips. Reserved-land spite strips, serving solely to restrict access to existing or planned streets, shall not be permitted, provided that nothing herein shall prohibit areas for planting and landscaping where adequate access is otherwise available.
- I. Grades. Street grades shall not exceed 10% on local streets or 8% on collector streets. Ditches on grades greater than 5% shall be properly stabilized to prevent erosion and ensure positive drainage. Catch basins shall be installed where required under the current Virginia Department of Transportation standards.
- J. Widths. The right-of-way width for major streets shall conform to the Frederick County Comprehensive Plan and the requirements of this chapter.
- K. Classification. The classification of proposed streets shall be determined by the Frederick County Comprehensive Plan or by the standards of the Virginia Department of Transportation. The subdivider may be required to reserve rights-of-way for and/or construct major roads as well as minor streets where applicable and construct appropriate road improvements and access points.
- (1) Local street. A “local street” shall be a street within a subdivision which may be required to serve as access to adjoining property or to connect with streets in an adjoining subdivision and having an average daily projected traffic count at full build out of zero to 400 average daily trips and shall be constructed to the following standards in accordance with projected traffic:
    - (a) Minimum right-of-way width shall be as required by VDOT.

- (2) Minor collector. A “minor collector” shall be a street within a subdivision that collects traffic from local streets and distributes it to the major collector and arterial system. These streets provide land access service and traffic circulation within residential, commercial and industrial areas and may be required to serve as access to adjoining properties or to connect with streets in adjoining subdivisions. Minor collectors shall have a projected average daily traffic count at full build out from 401 to 3,000 daily trips or be streets designated as minor collectors by the Frederick County Comprehensive Plan. Minor collectors shall be constructed to the Virginia Department of Transportation Urban Design Standards. **[Amended 9-13-1995]**
    - (a) Minimum right-of-way shall be as required by the Virginia Department of Transportation.
  - (3) Major collector. A “major collector” shall be a street that collects traffic from local streets and minor collectors and distributes it in the arterial system. These streets provide links to higher classified routes and serve as important intracounty travel corridors. Major collectors shall have a projected average daily traffic count at full build out from 3,001 to 6,000 average daily trips or be streets designated as major collectors by the Frederick County Comprehensive Plan. **[Amended 9-13-1995]**
  - (4) Minor arterial. A “minor arterial” shall be a street designated to provide for either primary or secondary through traffic movement between major secondary roads, collectors, arterials or other major thoroughfares. Minor arterials interconnect and supplement the principal arterial system with a greater emphasis on land access and a lower level of traffic mobility. The minor arterial shall have a projected average daily traffic count at full build out from 6,000 to 8,000 average daily trips or be street designated as a minor collector by the Comprehensive Plan and shall be constructed to the following standards in accordance with projected traffic: **[Amended 9-13-1995]**
    - (a) Minimum right-of-way shall be 90 feet.
  - (5) Major arterial. A “major arterial” shall be a street designated as a major carrier of through traffic having a projected average daily traffic count at full build out of over 8,000 average daily trips or be designated as a major collector by the Frederick County Comprehensive Plan and shall be constructed to the following standards:
    - (a) Minimum right-of-way width shall be 100 feet.
    - (b) Controlled access with service drives shall be required.
- L. Curbs and gutters. Curbs and gutters shall be constructed along both sides of all streets in any subdivision containing lot(s) less than 15,000 square feet or lot widths of 80 feet or less at the street. The subdivider shall determine the curb cuts necessary for entrance locations for any subdivision that requires curbs and gutters at the subdivision design plan stage. The Planning Commission may allow for alternatives to curbs and gutters where it is determined that improved stormwater management, such as reduced concentration of peak flow for a drainage shed, would be achieved without it. **[Amended 8-24-2004]**

- M. Street signs. Street signs shall be required at all street intersections in all subdivisions. Signs other than those conforming to typical Virginia Department of Transportation standards may be permitted by the Planning Commission if the size and design are deemed appropriate. The subdivider shall submit a maintenance plan for any sign that does not conform to Virginia Department of Transportation standards, which must be approved by the Planning Commission. No occupancy permit will be issued for any dwellings within a subdivision prior to the placement of required street signs serving those residences.

**§ 144.18. Sidewalks and pedestrian walkways.**

- A. Sidewalks shall be installed in the right-of-way and adjacent to the boundary of the right-of-way of all proposed streets and shall contain adequate handicapped ramps at all intersections at intervals acceptable to the Virginia Department of Transportation. These shall be a grass border strip between the street edge of the sidewalk and the curb face where sidewalks are required. Sidewalks are required as follows:
- (1) Along both sides of all local streets in any subdivision containing one or more lots of less than 15,000 square feet in size.
  - (2) Along both sides of all collector and arterial streets.
- B. The Planning Commission may waive the sidewalk requirement along local streets when pedestrian walkways are provided that allow pedestrian access to each lot or use. Such walkways must provide appropriate connections to pedestrian systems on adjoining properties.
- C. All sidewalks and walkways shall be a minimum of four feet wide. Sidewalks shall conform to VDOT standards. Alternative walkways shall be approved by the Planning Commission and shall be constructed in a manner that is acceptable to the Subdivision Administrator.

**§ 144.19. Streetlights.**

Streetlights of adequate type and intensity shall be required to promote public health and safety in any subdivision containing lots of less than 15,000 square feet in size. Streetlights shall be provided at all intersections when required. The design proposal for streetlighting shall be approved by the Subdivision Administrator. The Planning Commission may waive the requirement for streetlights.

**§ 144.20. Sewer and water service.**

Generally, in the sewer and water service area designated by the Frederick County Comprehensive Plan or where public sewer and water is available, such service shall be extended by the developer to all lots within a subdivision and throughout the limits of the property to adjoining properties. Such facilities shall meet all regulations and specifications of the Frederick County Sanitation Authority or other applicable federal, state or local agencies.

- A. Central sewer or water systems. Any person proposing the construction of a central sewer or water facility shall obtain a written agreement with the Frederick County Sanitation Authority, prior to final subdivision plat approval, which states that said facility shall become the property of the Sanitation Authority. Such systems shall only be constructed if they are in conformance with the policies set forth in the Comprehensive Plan.
- B. Private sewage systems. Installation of privately owned sewage collection and treatment facilities shall meet all the requirements of the State Water Control Board, the Virginia Department of Health and any other state or local agencies having authority over such installations. Such facilities shall not be designated or utilized to serve more than one residence.
- C. Individual on-lot systems. The Subdivision Administrator shall not approve any subdivision where a public sanitary sewer system is not provided unless a written statement from the local health official is present to the effect that the area contained in each subdivided lot is satisfactory for the installation of an on-site sewage disposal system. These requirements shall not apply to tracts subdivided for agricultural purposes in minor rural subdivision.

**§ 144.21. Stormwater management. [Amended 12-11-1991]**

- A. An overall stormwater management plan shall be provided with each subdivision to ensure that the requirements of the Frederick County Code and applicable state regulations are met. Stormwater management facilities shall be designed to provide stormwater quantity and quality controls and to convey the flow of surface water without damage to persons or property. The system shall ensure drainage at all points along streets and provide positive drainage from all lots and away from all buildings. All development in Frederick County shall meet the requirements of Chapter 79, Erosion and Sediment Control, of the Frederick County Code and the Virginia Department of Conservation and Recreation stormwater management regulations, as applied to communities with local stormwater management programs.
- B. In addition, a stormwater management plan for a land development project shall be developed so that, from the site, the postdevelopment peak runoff rate from a two-year storm and a ten-year storm, considered individually, shall not exceed the predevelopment rates. Predevelopment and postdevelopment runoff rates shall be verified by calculations that are consistent with good engineering practices, County and state standards and acceptable to Frederick County. The Planning Commission shall exempt subdivisions in which all lots are 15,000 square feet or more in area from the above requirements. In such cases, the exempted subdivision shall meet the requirements of the State Erosion and Sediment Control Regulations, VR 625-03-22, Paragraph 19.
  - (1) Stormwater conveyance.
    - (a) Storm drainage conveyance systems for subdivision shall be designed to convey a storm with a ten-year frequency without surcharging inlets. The storm conveyance system shall be designed to pass the one-hundred-year storm through overland

relief and channelization without damage to private property or threat to public safety. Dams and embankments shall be designed to include a controlled emergency spillway adequate to carry the entire peak one-hundred runoff.

- (b) Drainage flowing through a site from off-site areas upstream shall be determined using runoff coefficients or curve numbers for the anticipated land use per the Comprehensive Plan, not by existing conditions.
- (2) Natural drainageways. Natural drainageways shall be used whenever possible to carry stormwater runoff.
- (3) Drainage easements.
  - (a) Whenever a subdivision is traversed by a watercourse, drainageway, channel or stream, a drainage easement shall be provided. Such easement shall substantially follow the line of such drainageway and shall be of sufficient width to preserve the natural drainage. A deed of dedication shall be submitted to the Zoning Administrator for such drainage easements, describing the manner in which drainage is to be protected.
  - (b) Where a proposed subdivision will be traversed by a drainageway not located within the street right-of-way, a drainage easement shall be provided in a location and of a width adequate to maintain an unimpeded flow of natural drainage. The subdivider shall grade and seed the slopes of such easement after construction where necessary to prevent erosion and sedimentation and in a manner that will not adversely affect the function of the drainageway. Nothing shall be placed or planted within the easement which will impede the flow of drainage.
- (4) Lot drainage.
  - (a) Lots shall be established to provide positive drainage away from buildings. Individual lot drainage shall be coordinated with the overall stormwater management plan of the subdivision. Concentration or collection of water shall not occur outside of drainage easements.
  - (b) Absolute minimum floor elevations for any habitable space, including basements, shall be included on the subdivision design plan and established as part of the stormwater management plan to prevent residential flooding or other drainage problems.
- (5) Sinkhole protection. Nothing shall be done to negatively alter the quality and quantity of runoff entering sinkholes from predevelopment conditions. Best management practices shall be applied for stormwater control.
- (6) Regional facilities.

- (a) Where land to be subdivided lies within a watershed designated by the Frederick County Comprehensive Plan as one in which the most efficient stormwater management would be achieved through regional stormwater facilities, the subdivider shall contribute a pro rata share of the cost of the necessary drainage facilities which may be outside the limits of the land owned or controlled by the subdivider but which are required, at least in part, by the proposed improvements, as provided for in § 15.2-2245.1 of the Code of Virginia. In such cases, the Planning Commission may waive some or all of the stormwater management requirements in this section. **[Amended 11-12-2003]**
- (b) The policy and criteria for determining the pro rata share of total costs of regional facilities shall be adopted by the Board of Supervisors following a public hearing.

**§ 144.22. Erosion and sediment control.**

- A. Whenever earthmoving or grading activities are proposed as part of the development of a subdivision, the developer shall plan for practical and effective erosion controls of both a temporary and permanent nature for the purpose of alleviating adverse effects on and off the site before, during and after development.
- B. Plans and specifications for erosion and sedimentation controls shall be reviewed for approval by the County Engineer and shall comply with the Virginia Erosion and Sedimentation Control Law and Chapter 79, Erosion and Sediment Control, of the Frederick County Code.
- C. No site improvement may be initiated prior to posting a performance bond and the issuance of a land disturbance permit in accordance with the specifications of Chapter 79, Erosion and Sediment Control, of the Frederick County Code.

**§ 144.23. Environmental requirements; floodplain development; wetlands.**

- A. All environmental features described by Chapter 165, Zoning, of the Frederick County Code, shall be protected in subdivision according to requirements of that chapter.
- B. Floodplain development.
  - (1) Floodplains. When any stream or substantial surface drainagecourse is located in an area proposed to be subdivided, provisions shall be made for an adequate floodplain easement, encompassing the area of the one-hundred-year flood, along the stream or drainagecourse for the purpose of protecting the stream or drainagecourse for drainage purposes.
  - (2) Floodplain study.
    - (a) When an area proposed to be subdivided contains a stream or drainagecourse which has not had the one-hundred-year floodplain delineated by the United States Corp of Engineers or the United

States Geological Survey, the subdivider shall be required to show the one-hundred-year floodplain on the plat of the property to be subdivided. The limits of such floodplain shall be located by a floodplain study prepared by a qualified engineer or by other qualified persons or methods approved by the Subdivision Administrator.

- (b) Any proposal which would in any way alter or modify an area determined to be within a designated floodplain, must be accompanied by a floodplain study which establishes the impacts of such alteration or modification.
- (3) Building lots. In floodplain areas, to ensure development of lots containing sufficient land upon which to place structures without impeding natural drainage, the subdivider shall provide elevation and flood profile data as may be required by the Subdivision Administrator. All building sites shall conform to all requirements of Chapter 165, Zoning, and all building floor elevations shall be a minimum of two feet above the one-hundred-year floodplain elevation.
- C. Any disturbance to existing wetlands shall require all necessary permits from the Environmental Protection Agency, the Corp of Engineers and the State Water Control Board.

#### **§ 144.24. Lot requirements.**

- A. Lot arrangement. All lots shall be established and arranged so that no foreseeable difficulties will occur in providing and constructing allowed uses on any lot due to lot size, shape, topography or other conditions.
- B. Lot dimensions. The dimensions of all lots shall conform with the requirements of Chapter 165, Zoning, of the Frederick County Code, concerning lot area, minimum lot width, setbacks and other dimensional requirements. Insofar as practical, side lot lines shall be at right angles to straight front lot lines or radial to curved front lot lines.
- C. Lot access. All lots shall abut and have direct access to a public street or right-of-way dedicated for maintenance by the Virginia Department of Transportation.
  - (1) Multiple-frontage lots. Corner lots with public street frontage on two adjacent sides shall be allowed. Double-frontage lots with public street frontage on two streets that do not intersect at the lot shall be avoided, except where required to prevent direct access to collector or arterial streets. Lots with public street frontage on more than two sides shall be avoided.
  - (2) Single-family small lot housing, single-family attached housing and multifamily housing. **[Amended 10-27-1999; 12-10-2008]**
    - (a) Lots in subdivisions to be used for the following housing types, as defined by Chapter 165, Zoning, need not abut public streets:
      - [1] Duplexes.
      - [2] Multiplexes.
      - [3] Atrium houses.
      - [4] Townhouses.

- [5] Weak-link townhouses.
  - [6] Garden apartments.
  - [7] Single-family small lot housing.
  - [8] Age-restricted multifamily housing.
- (b) When such lots do not abut public streets, they shall abut private roads, parking lots or access easements. The length and extent of private roads, driveways and parking aisles providing access to lots shall be minimized, and public streets shall be provided in larger subdivision when substantial distances are involved. Individual lots shall be no more than 500 feet from a state-maintained road, as measured from the public street along the access road. The Planning Commission may allow lots to be located as much as 800 feet from a state-maintained road in cases where enhanced calculation is provided with a driveway loop. **[Amended 2-28-2007]**
- (c) The Board of Supervisors may provide a waiver to the public street requirement specified in § 144-24C to allow for a complete system of private streets within proffered age-restricted communities. This waiver may be requested by the applicant during the consideration of a rezoning application or during consideration of the master development plan. The applicant is required to provide a conceptual design which demonstrates the proposed private street system layout and provides both the cross section (horizontal and vertical) section dimensional base and pavement detail that meets or exceeds VDOT standards as a condition of requesting approval of a waiver by the Board of Supervisors. **[Added 3-22-2006]**
- D. Remnants. No remnants shall remain after establishing lots. All land on the final subdivision plat shall be contained in lots, streets or common open space. All parcels of land on the final subdivision plat shall meet the requirements for those uses as specified in the Frederick County Code.

#### **§ 144.25. Utilities and easements.**

- A. Easements shall be recorded in subdivisions for all utility lines according to the requirements of the relevant utility companies.
- B. Underground utilities. All electric, telephone and cable television lines shall be installed underground. This requirement may be waived by the Planning Commission for subdivisions and lots in business and industrial zoning districts not requiring an approved master development plan or subdivisions in business and industrial zoning districts that were approved prior to the adoption of this chapter. Underground utilities shall be required in new industrial parks, office parks and shopping centers, as defined by Chapter 165, Zoning, of the Frederick County Code. Underground utilities shall be required in new subdivisions zoned B1 (Neighborhood Business).

**§ 144.26. Buffers and screens; recreational facilities.**

Appropriate provisions shall be made for the location of buffers and screens and recreational facilities on subdivision plans. Provisions shall be made for the protection of all environmental features required to remain undisturbed.

**§ 144.27. Avigation easements.**

Any new residential subdivision that is located within the area designated as the Airport Support Area by the Frederick County Comprehensive Plan shall be required to provide an avigation easement for the Winchester Regional Airport. This avigation easement shall be included in all deeds and shall hold harmless the Winchester Regional Airport Authority from any lawsuit regarding noise pollution.

**§ 144.28. Dedication of common open space.**

- A. Common open space, required to be located within the subdivision by the County Code, shall be dedicated to a property owners' association. The property owners' association shall own, maintain and be liable for the required open space. In lieu of dedication to a property owners' association, the subdivider may choose to dedicate the open space to Frederick County. Such open space will be accepted by Frederick County only with specific approval by the Board of Supervisors. The Board of Supervisors shall be under no obligation to accept such dedication of open space.
- B. The subdivider shall submit a plan that specifies the utilization and maintenance of all parts of a subdivision to be included in open space. This plan shall be submitted along with the subdivision design plan and shall specifically list what each section of common open space is intended to be used for, who will maintain each section and what type of maintenance will be required to keep all sections of common open space in compliance with all applicable County codes. Where appropriate, common open space shall be free of debris and weeds and shall be graded, stabilized and completely improved for its intended use prior to its dedication to the property owners' association or the County.

**§ 144.29. Grading requirements.**

All grading of roads, lots and other areas shall be carried out to ensure positive drainage away from buildings. Individual lot grading shall be coordinated with the overall stormwater management plan of the subdivision. Grading which results in the concentration or collection of water outside of drainage easements shall not be allowed.

**§ 144.30. Monuments and markers.**

- A. Monuments shall be placed at all corners, angles and points of curvature of all lots, parcels and open space areas. Such monuments shall consist of iron pipes or iron rods no less than ½ inch nor more than one inch in diameter and no less than 18 inches in length. The tops of said monuments shall be no more than four inches and no less than one inch above the finished grade of the ground surface, with a witness stake set beside the monument identifying the corner. If a corner is located on a rock ledge, a one-half-inch hole shall be drilled not less than six inches deep.
- B. One concrete monument shall be placed for each 50 lots or fraction thereof within a subdivision. At least two concrete monuments shall be placed in each subdivision. Such concrete monuments shall be of stone or precast concrete, not less than four inches square or four inches in diameter and appropriately scribed with vertical and horizontal controls.

**§ 144.31. Rural subdivisions.**

The requirements of this section shall apply to all subdivisions of land zoned RA (Rural Areas) under Article V of Chapter 165, Zoning, of the Frederick County Code.

- A. Design standard exemptions. Rural subdivisions shall be exempted from the following design standards:
  - (1) Section 144-17L, Curbs and gutters.
  - (2) Section 144-18, Sidewalks and pedestrian walkways.
  - (3) Section 144-19, Streetlights.
  - (4) Section q44-25, Utilities and easements.
- B. Major rural subdivisions.
  - (1) Any subdivision which results in a cumulative total of more than three lots being divided from a single parent parcel within the RA (Rural Areas) Zone shall be considered a major rural subdivision. Lots described in § 165-54B, Family division lots; and § 165-54C, Agricultural lots, of Chapter 165, Zoning, of the Frederick County Code, shall not count toward this three-lot limit. Prior to review and approval of final plats for such divisions, a preliminary sketch plan must be reviewed and approved by the Zoning Administrator.
  - (2) Access. All roads serving lots within a major rural subdivision shall be built to the Tertiary Subdivision Street Standards of the Virginia Department of Transportation and dedicated to Frederick County for eventual acceptance into the state secondary road system. **[Amended 6-9-1993]**
- C. Minor rural subdivisions.
  - (1) The division of the following types of lots is permitted under the regulations for minor rural subdivision:
    - (a) Lots described by § 165-54B, Family division lots; and § 165-54C, Agricultural lots, of Chapter 165, Zoning, of the Frederick County Code.
    - (b) Lots described in § 165-54A, Traditional five-acre lots, and § 165-54D, Rural preservation lots, provided that a total of no more than

three such lots may be created from any one parcel under these regulations.

- (2) Shared private driveways. Vehicular access to minor rural subdivision may be provided by means of shared private driveways. The owners of lots provided with access via such driveways shall be responsible for the improvement and maintenance of said driveways. When shared driveways are used, the Subdivision Administrator shall be provided with copies of the deeds of transfer. Such deeds shall contain the following language:

The proposed shared private driveway is not building according to street standards and will not be maintained by the Virginia Department of Transportation or the County of Frederick. The improvement and maintenance of said driveway shall be the sole responsibility of the owners of lots which are provided with access via the driveway. Said shared private driveways will not be considered for inclusion into the state secondary system until they meet the applicable construction standards of the Virginia Department of Transportation. The cost of bring said driveways to acceptable standards shall not be borne by the Virginia Department of Transportation nor by Frederick County.

- (3) Minimum width for shared private driveway. The minimum right-of-way width for a shared private driveway shall be 50 feet.

#### **§ 144.32. Property owners' associations.**

- A. Intent. The intent of this section is to require the establishment of a nonprofit organization to be known as the "property owners' association". The property owners' association shall be created by the subdivider. The property owners' association shall be financially responsible for its own operations and shall be charged with the continuous maintenance and management of all common areas, easements, stormwater management facilities and dedicated facilities associated within an approved subdivision.
- B. Establishment. The subdivider shall file legal documents that establish procedures for the establishment of a nonprofit property owners' association prior to the sale of any lot in an approved subdivision. These legal documents shall be submitted to the Subdivision Administrator and the County Attorney for review and approval prior to the approval of the final subdivision plats. These documents shall include but not be limited to provisions for dedication of common properties, declarations of covenants, conditions and restrictions, articles of incorporation, bylaws and deed clauses for common areas. All final contracts between the subdivider and all lot purchasers shall include a consumer disclosure statement listing the property owners' association's annual assessments and the copy of the final approved property owners' association bylaws. Membership in the property owners' association shall be mandatory for each original purchaser and each successive purchaser of a lot in any approved subdivision. A liability insurance policy of \$1,000,000 shall be mandatory for

any property owners' association containing 20 or more lots. **[Amended 6-11-2208]**

- C. Management. The subdivider shall be responsible for the management and maintenance of all private common areas, easements and improvements in the approved subdivision until the improvements are taken over by the property owners' association. The subdivider shall exercise all powers and duties of the property owners' association, including assessment and collection of charges. Prior to the sale of the lot constituting 50% of all approved buildable lots, all common areas, easements and improvements shall be transferred from the developer to the property owners' association. All private common areas, easements and improvements shall be in good operating order and condition and in compliance with all applicable laws, codes and regulations at the time of transfer to the property owners' association. The subdivider shall notify the Department of Planning and Development when the transfer of control to the property owners' association occurs.
- D. Financial procedures. Within subdivision containing 20 or more lots, all funds associated with a property owners' association shall be maintained in interest-bearing escrow accounts approved by the property owners' association's board of directors. The treasurer of the property owners' association shall be bonded and shall be responsible for providing annual statements, preparing and submitting an annual budget and making financial recommendations to the board of directors.
- E. Maintenance. All private common areas, easements, stormwater management facilities and dedicated facilities shall be continuously maintained in a fashion where the use, function and appearance are in conformance to the provisions of the Frederick County Code. The County shall have the right to inspect any common area, easement, stormwater management facility or dedicated facility to ensure that the requirements of the Frederick County Code are complied with. If the maintenance of common areas, easements, stormwater management facilities or dedicated facilities is neglected or becomes a danger to public health or safety, the locality shall have the authority to perform the work necessary to bring the area into compliance with all applicable codes and recover all costs from the owner(s).
- F. Penalties. In the event that the subdivider or the property owners' association is found to be in violation of any provision established in this section, the County of Frederick shall have all powers of enforcement to ensure compliance with all applicable laws, codes and regulations.

**§ 144.33. Commercial and industrial design standard exemptions.**

All commercial and industrial subdivisions shall be exempted from the following sections of Article V of this chapter:

- A. Section 144-17L, Curbs and gutters.
- B. Section 144-18, Sidewalks and pedestrian walkways.
- C. Section 144-19, Streetlights.

## **ARTICLE VI**

### **Plan Requirements**

#### **§ 144.34. Certification required.**

All subdivision design plans and final plats shall be prepared by a registered engineer or certified surveyor duly licensed by the State of Virginia, who shall practice within the limits of his license.

#### **§ 144-35. Preliminary sketches.**

The following items shall be shown on the preliminary sketch unless waived by the Subdivision Administrator:

- A. Scale (no greater than one to one hundred (1:100).
- B. North arrow.
- C. Zoning and total acreage of property and adjoining properties.
- D. Proposed and existing uses of property and adjoining properties.
- E. Street layout, street width, street connections, proposed and existing streets and road networks.
- F. Lot layouts, number of lots and building restriction lines.
- G. All drainage and utility easements.
- H. Location of common open space or 40% of parcel to remain intact and all environmental features, including prime agricultural or locally significant soils as defined by Chapter 165, Zoning.
- I. Topographic contours at intervals no greater than ten feet.
- J. Gross residential density.

#### **§ 144.36. Subdivision design plan contents. [Amended 5-22-2002]**

The subdivision design plan shall be drawn at a scale that is acceptable to the Subdivision Administrator. The subdivision design plan shall include a sheet depicting the full subdivision submitted. The subdivision design plan shall include the following information:

- A. The title of the subdivision (“Subdivision Design Plan for .....”), with a notation of all previous names of the subdivision.
- B. The original property identification number.
- C. The page number and total pages on each page.
- D. The name of the owner or subdivider.
- E. A vicinity map [scale of 1:2,000], showing all roads, properties and subdivisions within 1,000 feet of the subdivision.
- F. A written and graphic scale.
- G. A day, month and year plan, prepared and revised. The dates of revisions should be clearly listed.
- H. A North arrow.
- I. The name of the magisterial district in which the subdivision is located.
- J. The zoning of all land to be subdivided.

- K. A boundary survey of all lots, parcels and rights-of-way. The perimeter boundary line and section lines shall show bearings to the nearest minute and distances to the nearest 1/100 of a foot.
- L. The topography shown at a contour interval acceptable to the Subdivision Administrator but in no case greater than five feet.
- M. The names of the owners, zoning and use of all adjoining properties and deed-book and page-number references for each adjoining parcel.
- N. A tabulation illustrating the following shall be provided together on the subdivision design plan:
  - (1) The total land area of the subdivision;
  - (2) A breakdown of the number of lots in each use category;
  - (3) The total land area of all common open space;
  - (4) The total land area of all residential lots;
  - (5) Perimeter and interior landscaping calculations (if required); and
  - (6) All parking space calculations, including handicap spaces (if required).

All of the above information should be broken down into phases on the subdivision design plan, where applicable.

- O. The location of each residential use category area.
- P. The location of each parcel of common open space and the total area of common open space.
- Q. The location, names, right-of-way widths and classifications of existing and planned roads, streets and shared private driveways adjacent to and on the property.
- R. Existing or proposed utilities, sewer and water lines, manholes, fire hydrants and easements.
- S. Existing and proposed drainageways, drainage facilities, culverts and drainage easements with dimensions and design details.
- T. A stormwater management plan, with calculations describing how stormwater management requirements are being met, including the location and design details of proposed facilities.
- U. A proposed grading plan, including spot elevations and flow arrows.
- V. Cross sections, profiles and design details of all proposed streets, roads, culverts, storm sewers, sanitary sewers and water mains.
- W. The location, dimensions and cross sections of existing and proposed sidewalks and walkways.
- X. The location of all environmental features, including floodplains, steep slopes, wetlands, sinkholes, woodlands and natural stormwater detention areas.
- Y. The names of all streams and bodies of water, including all one-hundred-year flood limits as mapped by FEMA.
- Z. The location of all land to be dedicated or reserved for public use.
- AA. All required setback information.
- BB. The location of proposed recreational areas and facilities.
- CC. The location of proposed buffers and screening, with design details, locations and types of plants and screening.
- DD. Proposed landscaping, with location, types of plants and size specifications.

- EE. Certification by an engineer, surveyor or other qualified professional of the accuracy of the plat.
- FF. The signature of the owner, certifying ownership of property.
- GG. A signature line for the Subdivision Administrator.
- HH. A statement listing all requirements and conditions placed on the land included in the subdivision resulting from approval of conditional zoning or a conditional use permit.
- II. A table illustrating the relationship between the Master Development Plan and the Subdivision Plan. The intent of this table is to provide an incremental update which will tabulate the expended acreage, lot counts, open space and special environmental areas disturbed for each phase of development.
- JJ. The location of all required regular and handicap parking spaces, aisles, curb and gutter, and pavement striping.
- KK. Facilities necessary to meet the requirements of the Fire Code.
- LL. Other information necessary to ensure that all requirements of the Frederick County Code have been met.

**§ 144.37. Final plats.**

The subdivider shall be required to submit a deed of dedication, a copy of all covenants or restrictions, an estimate of all public improvements, all required guaranties for improvements and all final plats to the Subdivision Administrator. All final plats shall be drawn at a scale that is acceptable to the Subdivision Administrator. All final plats shall contain the following information:

- A. The title of the subdivision (“Final Subdivision Plat for .....”).
- B. The page number and total pages on each page.
- C. A vicinity map [scale of one to two thousand (1:2,000)], showing all roads, properties and subdivision within 1,000 feet of the subdivision.
- D. A written and graphic scale.
- E. A day, month and year plan, prepared and revised.
- F. A North arrow.
- G. The name of the magisterial district in which the subdivision is located.
- H. The zoning and use of all land to be subdivided and all adjoining land.
- I. A boundary survey of all lots, parcels and rights-of-way, showing bearings to the nearest degree, minute and second and listing distances to the nearest 1/100 of a foot.
- J. The names of owners of all adjoining properties and deed-book and page-number references for each adjoining parcel.
- K. The area of each lot and parcel, the total area of the subdivision and the total area in lots.
- L. The location and area of each parcel of common open space and the total area of common open space.
- M. The location, names and right-of-way widths of existing and planned roads, streets and shared private driveways adjacent to and on the property.
- N. Existing or proposed utilities, utility easements and other easements, with dimensions and locations.

- O. Existing and proposed drainage easements, with dimensions and locations.
- P. The location of floodplain limits.
- Q. The location of all land to be dedicated or reserved for public use.
- R. The location of required setback lines on each lot.
- S. The location of proposed recreational areas.
- T. The location of proposed buffers.
- U. The location and description of monuments and markers.
- V. Certification by a registered engineer or surveyor qualified to practice in the State of Virginia, verifying the accuracy of the plat.
- W. The signature of the owner, certifying ownership of property.
- X. Signature lines for the Subdivision Administrator and relevant reviewing agencies.
- Y. A statement listing all requirements and conditions placed on the land included in the subdivision resulting from approval of conditional zoning or a conditional use permit.
- Z. An indication of the portion of the allowable density from the parent tract, (as determined by § 165-52, Permitted residential density; exception, of Chapter 165 of the Frederick County Code) which is to be allocated to each parcel resulting from the subdivision. **[Added 6-9-1993]**
- AA. Notarized owner's certification as required by § 15.2-2264 of the Code of Virginia. **[Added 6-19-1993; Amended 11-12-2003]**

**§ 144.38. Deed of dedication.**

The subdivider shall be required to submit a deed of dedication to the Subdivision Administrator for review and approval prior to the approval of any final plat. The deed of dedication shall provide for the following:

- A. Dedication of streets and roadways to Frederick County for public use.
- B. Covenants and use restrictions.
- C. Establishment of a nonprofit property owners' association.
- D. Dedication of all common open space to the property owners' association for its use or as specified by the approval of the subdivision.
- E. Dedication of all drainage easements and facilities for public use and access.
- F. Specification of maintenance provisions and use restrictions for all drainage easements and facilities.
- G. Dedication of recreational facilities for use by the property owner's association.
- H. Dedication and maintenance of any other public improvements.

**§ 144.39. Minor rural subdivisions.**

A plat for a minor rural subdivision shall be prepared by a certified professional engineer or land surveyor and shall contain the following information:

- A. A cover sheet to contain the following:
  - (1) A title indicating "Final Plat for Minor Rural Subdivision of the Land of ....."; "Boundary Line Adjustment Between the Land of ..... and .....", or "Lot Consolidation of the Land of ..... and ....."

- (2) The Tax Map number, magisterial district, County and state where the parcel is located.
  - (3) The name and signature of the owner(s) of record, with the deed book and page number of the last instrument in the chain of title and a statement that the division is with the owner's consent.
  - (4) A vicinity map, showing the location of the parcel to be subdivided at a scale of not more than one to two thousand (1:2,000).
  - (5) A notation of the zoning on the parent tract that is being divided.
  - (6) A signature block for a representative of the Frederick County Health Department and the Subdivision Administrator.
  - (7) In the case of a lot being created under the provision for a family division (§ 144-15A of this chapter), a statement listing to whom the lot is to be conveyed and their relationship to the recorded owner.
  - (8) A statement indicating the portion of the allowable density of the parent tract (as determined by § 165-52, Permitted residential density; exception, of Chapter 165 of the Frederick County Code) which is to be allocated to each parcel resulting from the subdivision. **[Amended 6-9-1993]**
  - (9) The page number and the number of total pages making up the plat, for example, "Sheet 1 of 3".
  - (10) Notarized owner's certification as required by § 15.2-2264 of the Code of Virginia. **[Added 6-9-1993, amended 11-12-2003]**
- B. The actual plat of the subdivision shall contain at least the following information:
- (1) A North point and scale.
  - (2) The date the plat was prepared along with the signature and seal of the licensed surveyor or engineer preparing the plat.
  - (3) A dashed line showing the location of the front, rear and side setback requirements for principal structures.
  - (4) A boundary survey and acreage of all lots created or altered by the division or adjustment. Unchanged lot lines of residual parcels of over 20 acres in size are not required to be shown, provided that the general location of the perimeter boundary of the tract is shown on an insert map and the acreage of the unsurveyed lot(s) is given.
  - (5) In the case of boundary line adjustments, the amount of acreage to be added to or deleted from any parcel, with the tabulation of the resulting acreage for all lots.
  - (6) The zoning, use (vacant, agricultural, residential, commercial or industrial) and name of owners of all adjoining parcels.
  - (7) The location of all existing streets with their names and numbers and any existing or proposed right-of-way adjacent to or providing access to any of the subject lots.
  - (8) The location and names of any watercourses, ponds and designated floodplain areas.
  - (9) The location of existing buildings and drainfields, along with any designated environmental or historical features on the site.

- (10) The location, width and design details of shared private driveways and/or private roads. All plats with shared private driveways and/or private roads should contain the following language:

The proposed private driveway/road is not built according to street specifications of and will not be maintained by, the Virginia Department of Transportation or Frederick County. The improvement and maintenance of said driveway/road shall be the sole responsibility of the owners of lots which are provided with access via the drive/road. Said driveway/roads will not be considered for inclusion into the state secondary system until they meet the applicable construction standards of the Virginia Department of Transportation. The cost of bringing said driveway/road to acceptable standards shall not be borne by the Virginia Department of Transportation nor by Frederick County.

## **ARTICLE VII**

### **Improvements and Guaranties**

#### **§ 144.40. General requirements.**

All improvements shown on the subdivision design plan and the final subdivision plats shall be provided by the applicant. In order to obtain approval of the final subdivision plats, all improvements must be constructed or sufficient guaranties must be provided so that the improvements will be constructed within an appropriate length of time. Such guaranties are required to assure the timely completion, competent construction and maintenance of all physical improvements (streets, curbs, gutters, sidewalks, aboveground facilities, underground utilities and facilities, recreational facilities, drainage systems or other improvements) located within an approved subdivision. The applicant is required to post a bond or other acceptable surety before the final subdivision plats and deeds of dedication are finalized by the Subdivision Administrator. All performance guaranties shall be in a format and amount that is acceptable to the Subdivision Administrator.

#### **§ 144.41. Forms of guaranties.**

Guaranties for required improvements shall be in one of the following forms:

- A. A certification to the governing body that the construction costs have been paid to the person constructing such facilities.
- B. A certified check or cash escrow in the amount of the estimated costs of construction.
- C. A corporate or property bond, with surety satisfactory to the Subdivision Administrator, in an amount sufficient for and conditioned upon the construction of such facilities.
- D. A contract for the construction of such facilities and the contractor's bond, with surety satisfactory to the Subdivision Administrator, sufficient for and conditioned upon the construction of such facilities.
- E. An irrevocable letter of credit from a bank or savings and loan association on certain designated funds satisfactory to the Subdivision Administrator.

#### **§ 144.42. Amounts of guaranties.**

The applicant shall provide guaranties at an amount that is acceptable to the Subdivision Administrator. The applicant shall provide the Subdivision Administrator with sufficient proof that the performance bond will cover all costs associated with the construction and maintenance of all improvements. Sufficient proof of cost may be in the form of a signed statement from a registered engineer, copies of all bids associated with construction costs or some other means acceptable to the Subdivision Administrator. At a minimum, the amount of the bond shall cover the cost of construction and maintenance of all improvements in the subdivision. The Subdivision Administrator may require the amount of the bond to be greater than the projected cost of the subdivision improvements to cover the costs associated with price inflation and potential damage to improvements.

**§ 144.43. Period of guaranties.**

Any bond, escrow, irrevocable letter of credit or other performance guaranty required by the County shall be good for a minimum period of one year. The guaranty must be submitted in a format specified by the Subdivision Administrator. Guaranties will be required to have automatic renewal provisions placed on them. The provisions will stipulate that the instrument containing an expiration date will be automatically extended for an additional six months from the present or future expiration date, unless 60 days prior to such date the bank or financial institution issuing the instrument notifies the County, in writing, by certified mail, that it elects not to renew the instrument for such additional period. If the applicant fails to maintain the performance guaranty as required, the Subdivision Administrator shall undertake necessary actions to enforce the guaranties. At the time of renewal, the Subdivision Administrator may require the applicant to provide sufficient proof to ensure that the performance guaranty will cover all costs associated with improvements.

**§ 144.44. Reduction of guaranties.**

The Subdivision Administrator shall make provisions for the partial and final release of any bond, escrow, irrevocable letter of credit or other performance guaranty required by the County. The applicant shall submit a written request to the Subdivision Administrator for any partial or final release of any performance guaranty, which will be acted on within ten working days of its receipt. The Subdivision Administrator may conduct an inspection of any improvements prior to the partial or final release of the performance guaranty. Periodic release of any portion of a performance guaranty may not occur before the completion of at least 30% of the bonded improvements or after the completion of more than 80% of said facilities. The Subdivision Administrator shall not be required to execute more than three partial releases in any twelve-month period. The complete release of the performance guaranty shall occur upon the receipt of the final engineered construction documents and final completion and acceptance of the public facilities for operation and maintenance by the state agency, local government agency or other public authority.

**§ 144.45. Maintenance bonds.**

In the event that Frederick County has accepted the dedication of a road for public use and such road, due to factors other than its quality of construction, is not acceptable into the secondary system of state highways, then the subdivider or developer shall be required to furnish the County with a maintenance and indemnifying bond, with surety satisfactory to the Subdivision Administrator, in an amount sufficient for and conditioned upon the maintenance of such road until such time as it is accepted into the secondary system of state highways. In lieu of such bond, the Subdivision Administrator may accept a bank or savings and land association's irrevocable letter of credit satisfactory to the Subdivision Administrator or accept payment of a negotiated sum of money sufficient for and conditioned upon the maintenance of such road until such time as it is accepted into the secondary system of state highways. "Maintenance of such road" shall be

deemed to mean maintenance of the streets, curbs, gutters, drainage facilities, utilities, street signs or other street improvements, including the correction of defects or damages and the removal of snow, water or debris so as to keep such road reasonable open for public usage.