

AN ORDINANCE AMENDING CHAPTER 8 ENTITLED PLANNING AND DEVELOPMENT OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA SPECIFICALLY ARTICLE IV, SUBDIVISIONS BY AMENDING SECTIONS 8-150, 8-156, 8-157 AND 8-173 IN ORDER TO INCORPORATE EROSION AND SEDIMENT CONTROL AND STORMWATER MANAGEMENT REQUIREMENTS INTO THE SUBDIVISION ORDINANCE

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia that Chapter 8, entitled Planning and Development, Article IV, Subdivisions, Sections 8-150, 8-156, 8-157, and 8-173 respectively of the Code of the County of Montgomery, Virginia, shall be amended and reordained as follows:

**8 ARTICLE IV SUBDIVISIONS**

**8-IV DIVISION 3 IMPROVEMENT REQUIREMENTS**

**Sec 8-150 Subdivision Performance Agreements And Surety**

- (a) Before final approval and recordation of any subdivision plat, the subdivider shall construct all required improvements in accordance with the approved plan and standards set forth in this article and have said requirements accepted for maintenance.
- (b) In lieu of construction and acceptance of the required improvements, the subdivider shall execute a subdivision performance agreement with the county providing for construction of all required improvements, including any off-site improvements necessary for providing adequate access, drainage and stormwater management, and water and sewer service in accordance with the plat submission. The county administrator shall have the authority to execute the performance agreement on behalf of the county. The agreement shall be on forms supplied by the department and in a form approved by the county attorney. The agreement shall be supported by a surety. In the case of failure on the part of the subdivider or landowner to complete the improvements, the agreement shall provide that the financial institution shall immediately make the funds in the account available to the county for use in the completion of the improvements.
- (c) The subdivider shall furnish a cash bond or equivalent, or a certified check payable to the county in an amount equal to the total cost plus ten (10) percent of the improvements shown on the plat as determined by the agent. Such bond or check shall guarantee that the improvements will be installed in a manner acceptable to the county and within twelve (12) months from the issuance of the final building permit and prior to the final release of any outstanding securities, subject to the discretion of the agent for any reasonable time extensions. The bond or check shall accompany the final plat. Upon receipt of written notice by the subdivider, developer, or their duly licensed professional engineer or land surveyor that construction has been completed, approved and accepted on each section of the required improvements, the agent shall, within thirty (30) days, release the bond submitted for the amount for that completed

section of the required improvements. The periodic partial and final complete release of any bond, escrow, letter of credit, or other performance guarantee required herein shall be in compliance with Virginia Code, § 15.2-2245.

- (d) The subdivider shall file a maintenance bond with the county in an amount considered adequate and, in a form, satisfactory to the agent, in order to assure the satisfactory condition of the required improvements, for a period of one (1) year after the date of their acceptance by the county.
- (e) In the case where development is projected over a period of years, the commission may authorize submission of final plats by sections or stages of development, subject to such requirements or guarantees for improvements in future sections or stages of development as it finds essential for the protection of any approved section of development.
- (f) Sidewalks as required by this article shall be provided in accordance with the specifications of the state department of transportation.
- (g) Curbs and gutters as required by this article shall be installed on both sides of streets shown on the subdivision plat and shall be in accordance with the design standards and specifications of the state department of transportation.
- (h) A conceptual stormwater management plan shall be required at plat submittal and be subsequently approved prior to approval of the Plat. Infrastructure shall be installed as shown on the subdivision plat and in accordance with the Virginia Stormwater Management Program laws and regulations, and Article III Erosion and Sediment Control of the County Code of Montgomery County.

~~(h)~~(i) The subdivision agent, prior to final plat approval, shall verify all required erosion and sediment control, and stormwater management bonds and sureties are in place.

~~(i)~~(j) Extensions of agreements. Not less than thirty (30) days prior to the specified date for completion of improvements, the subdivider may file a written request for an extension of the improvement completion date in its subdivision performance agreement for a maximum period of one (1) year. The subdivider shall include in this request the reasons and conditions which have precluded it from completing the required physical improvements and a timetable for completion. The subdivider shall rebond the remaining improvements with the extension request. If the request is granted by the County, the subdivider shall executed an amended subdivision performance agreement and provide bond or check in a form acceptable to the county.

### **Sec 8-156 Drainage**

- (a) The subdivider shall make adequate provisions for storm and floodwater runoff, including the installation of all necessary drainage improvements and the dedication of all necessary drainage easements. Such easements shall be at least fifteen (15) feet in width. The program administrator ~~director of environmental services~~, with the assistance of the agent, has the authority, in all cases, to determine the adequacy of proposed drainage improvements and easements. In addition, the program administrator ~~county engineer~~, with the assistance of the agent, may require:
  1. Drainage easements through adjoining property to be provided by the subdivider.
  2. Low-lying lands along watercourses subject to flooding or overflowing during storm periods to be preserved and retained in their natural state of drainageways.

3. Grading plans in conformance with Section 8-64.

- (b) If a subdivision involves new streets, the subdivider shall submit to the Virginia Department of Transportation all necessary information for the determination that adequate provision for storm and floodwater will be made. Written approval by the Virginia Department of Transportation of the drainage plans shall be submitted to the agent prior to the approval of the final plat.
- (c) When required by chapter 8, article III of the Montgomery County Code, the subdivider shall submit an erosion and sediment control plan and a stormwater management plan for the portion of the overall subdivision requesting a final plat. Such plan must be approved by the plan-approving authority prior to approval of the final plat.

**Sec 8-157 Stormwater Detention Facilities In Residential Subdivisions**

- (a) The design for all stormwater detention facilities shall be in accordance with professionally accepted hydraulic engineering practices, ~~the Virginia Erosion and Sediment Control Handbook~~ the Virginia BMP Clearinghouse, or any later comparable source.
- (b) Stormwater ~~detention~~ facilities shall be located in perpetual, unobstructed ~~public~~ access easements of appropriate width for inspection and maintenance purposes. They shall be shown on the subdivision plat. They shall be constructed in accordance with accepted construction standards and specifications.
- (c) Approval by the county of the stormwater ~~detention~~ facilities shall be conditioned upon an agreement being entered into between the county and the homeowners association or property owner, whereby the homeowners association or property owner assumes all liability for the maintenance and operation of the stormwater ~~detention~~ facilities. A homeowners association responsible for such facilities must have the authority to levy assessments for maintenance and the authority to place a lien against property for unpaid assessments. The county attorney shall review the articles of incorporation and bylaws of an association before the county enters into any agreement with the association.

**Sec 8-173 Preliminary Plat, Major Subdivisions**

- (a) Preliminary plats shall be submitted for major subdivisions involving fifty (50) or more lots. For major subdivisions involving fewer than fifty (50) lots, a preliminary plat may be submitted at the option of the landowner.
- (b) The subdivider shall submit required copies of a preliminary plat to the agent. Preliminary plats must be drawn to scale and shall contain the following items:
  - 1. When the parcel to be subdivided is located within a previously platted subdivision, the name of such subdivision. When the property is not located within a previously platted subdivision, either the proposed name of the subdivision or the locally known name of the property.
  - 2. The name and address of the legal owner, date of purchase, previous owner and, if the deed is recorded, deed book and page number and plat book and page number. If the subdivider is other than the owner, the name and address of the subdivider shall also be given. When the legal owner or the subdivider is a corporation, then the name and address of the chief officer of the corporation shall also be given.

3. The name and address of any surveyor, engineer or other professional involved in the plat design and preparation.
4. Delineation of any existing and proposed easements and rights-of-way affecting the use of the property.
5. Delineation and notation of existing or proposed private access easements and any adjacent parcels that are served or will be served by the easement.
6. The location of the proposed subdivision by an inset map at a scale of not less than one (1) inch to two thousand (2,000) feet, showing adjoining roads, their names and numbers, towns, subdivisions, true north arrow and other landmarks.
7. Location of the property by tax parcel map number, parcel ID number, zoning district magisterial district, north arrow, with source of meridian, date of drawing, number of sheets and graphic scale.
8. Location and dimensions of property lines, location of building setback lines, total acreage, acreage of subdivided area, acreage of dedicated right-of-ways, number and approximate area and frontage of all lots, existing buildings within the boundaries of the tract and names of owners and their property lines within the boundaries of the tract and adjoining such boundaries.
9. All existing, platted and proposed streets, their names, numbers and widths; existing utility or other easements; public areas; culverts, drains and watercourses and their names; and other pertinent data.
10. All parcels of land to be dedicated for public use and the conditions of such dedication.
11. Proposed connections with existing sanitary sewers and existing water supply or alternate means of sewage disposal and water supply.
12. Provisions for collection and discharging surface drainage, including types and location of stormwater management facilities.
13. Location of any lot to be designated as a remainder, as defined in this article.
14. Any additional data deemed necessary by the agent, such as topography.
15. Table listing acreage and frontage for each lot.
16. Table of assignment of lots under sliding scale, if applicable.
17. Location of lands within the one hundred-year floodplain and base flood elevations when required.
18. Location of any grave, object or structure marking a place of burial.
19. Street names and addresses of lots assigned by the county.
20. Whenever a lot or tract involved in a subdivision is within a conservation easement, a notation shall be placed on the plat identifying the lots or tracts affected including any pertinent easement information such as deed book/page number, and/or instrument number.
21. Whenever a lot or tract involved in a subdivision is within the dam inundation zone, a notation shall be placed on the plat identifying the lots or tracts affected.
22. Location of all known drainage easements, utility easements, sewer lines, water lines, gas lines, power lines, manholes, or fire hydrants.
23. Whenever a lot or tract involved in a subdivision has a special use permit, rezoning, or variance associated a notation shall be placed on the plat identifying the lots or tracts affected. The notation shall provide the date of approval for the special use permit, rezoning, or variance with any applicable proffers or conditions listed on the plat.
24. Whenever a subdivision is to be served by private streets or private access easements a note shall be placed on the plat and on the deeds of subdivision stating "The streets and/or private access easements in this subdivision do not meet the standards necessary for inclusion in the system of state highways and

shall not be maintained by the Department of Transportation or the County of Montgomery and are not eligible for rural addition funds or any other funds appropriated by the General Assembly of Virginia and allocated by the Commonwealth Transportation Board".

- (c) The agent shall make a recommendation to the planning commission concerning approval or disapproval of the preliminary plat. The commission shall then approve or disapprove the preliminary plat.
- (d) The commission shall advise the subdivider in writing of approval or disapproval of the preliminary plat. In the case of disapproval, the commission shall state the reasons for disapproval and notify the subdivider of all changes needed to make the plat acceptable. Approval by the commission of the preliminary plat does not constitute a guarantee of approval of the final plat.
- (e) The subdivider shall submit a final plat within five (5) years of the approval of a preliminary plat. Failure to do so shall make the preliminary plat null and void. The commission may, on written request from the subdivider, grant an extension of this time limit.
- (f) The approval of a preliminary plat is valid for five (5) years provided a final subdivision plat for all or a portion of the property is submitted and diligently pursued. The five (5) year period shall be based upon the date of the last recorded plat.
- (g) In accordance with the Code of Virginia, § 15.2-2209.1, notwithstanding the time limits for validity stated above any preliminary plat approved under subsections (a) through (e) above and outstanding as of January 1, 2011, shall remain valid until July 1, 2020 or such later date provided by the terms of the county's approval, local ordinance, resolution or regulation, or for a longer period as agreed by the county

**Sec 8-174 Final Plat, Minor Subdivisions, Boundary Line Adjustments, Resubdivisions, And Family Subdivisions**

- (a) The subdivider shall submit required copies of a final plat to the agent along with a digital copy in a GIS or CAD format approved by the agent.

Each plat shall contain the following items:

1. All certifications required by section 8-134;
2. A note identifying the plat as either a minor subdivision, boundary line adjustment, resubdivision, or a family subdivision;
3. Location of all existing easements and any new easements required under the provisions of this article;
4. Location of approved septic drainfields and reserve areas and private wells, located by a licensed surveyor. Location of existing dwellings and their septic drainfields and reserve areas;
5. Any additional data deemed necessary by the agent, such as topography;
6. A space for the agent to sign the plat.
7. Table of assignment of lots under sliding scale, if applicable.
8. Location of lands within the one hundred-year floodplain.
9. Location of any grave, object or structure marking a place of burial.
10. Street names and addresses of lots assigned by the county.
11. Whenever a lot or tract involved in a subdivision is within an agricultural and forestal district a note shall be placed on the plat and on the deeds of subdivision stating "The property depicted hereon lies within an agricultural and

forestal district and shall abide by the requirements set forth the Montgomery County Code until (district renewal date) or upon removal of the property from the Agricultural and Forestal District."

12. Whenever a lot or tract involved in a subdivision is within a conservation easement, a notation shall be placed on the plat identifying the lots or tracts affected including any pertinent easement information such as deed book/page number, and/or instrument number.
13. Whenever a lot or tract involved in a subdivision is within the dam inundation zone, a notation shall be placed on the plat identifying the lots or tracts affected.
14. Location of all drainage easements, utility easements, stormwater management facilities and easements, sewer lines, water lines, gas lines, power lines, manholes, or fire hydrants.
15. Whenever a lot or tract involved in a subdivision has a Special Use Permit, Rezoning, or Variance associated a notation shall be placed on the plat identifying the lots or tracts affected. The notation shall provide the date of approval for the Special Use Permit, Rezoning, or Variance with any applicable proffers or conditions listed on the plat.
16. Whenever a subdivision is to be served by private streets or private access easements a note shall be placed on the plat and on the deeds of subdivision stating "The streets and/or private access easements in this subdivision do not meet the standards necessary for inclusion in the system of state highways and shall not be maintained by the Department of Transportation or the County of Montgomery and are not eligible for rural addition funds or any other funds appropriated by the General Assembly of Virginia and allocated by the Commonwealth Transportation Board".
17. The location of the proposed subdivision by an inset map at a scale of not less than one (1) inch to two thousand (2,000) feet showing adjoining roads, their names and numbers, towns, subdivisions, true north arrow and other landmarks.

(b) If a proposed subdivision is using the family exemption provision, in addition to the above requirements, the following must also be included:

1. A note stating "Approval of this subdivision is subject to the condition that the parcel subdivided can only be conveyed to a member of the immediate family and shall not be transferred for a period of no less than three (3) years as set forth in Montgomery County's Subdivision Ordinance, as amended, and the Code of Virginia, as amended. Conveyance to any other person or entity not an immediate family member voids approval. This restriction does not apply to subsequent reconveyance after the three-year period".
2. Signed affidavits that are available in the county planning department stating that the family subdivision is for the passing of real property interest from one family member to another, rather than for the purpose of short-term investment.
3. A copy of the proposed deed(s) conveying the property from one family member to the other.
4. A description of the family relationship in the consent statement or the following shown and notarized on the plat: "I \_\_\_\_\_, do hereby verify that \_\_\_\_\_ is my legal \_\_\_\_\_. New tract \_\_\_\_\_ is being conveyed to \_\_\_\_\_ and shall not be reconveyed for a period of no less than three (3) years unless subject to an involuntary transfer per Montgomery County Code."

- (c) When all requirements of this article have been met, the agent shall sign the plat to indicate that it is approved for recordation.
- (d) It shall be the responsibility of the subdivider to file the approved final plat with the office of the clerk of the appropriate court within six (6) months after final approval; otherwise, the agent shall mark such plat "void" and notify the office of the clerk of the appropriate court. At the same time of filing of the final plat, the subdivider shall record the agreement of dedication and such other legal documents as the county attorney requires to be recorded.