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Subdivision Ordinance

July 1 - 2005

July 1 - 2005 START DATE

AN ORDINANCE TO REGULATE THE SUBDIVISION
AND DEVELOPMENT OF LAND IN RUSSELL COUNTY, VIRGINIA
AND TO ESTABLISH CERTAIN SUB-DIVISION STANDARDS AND PROCEDURES
FOR RUSSELL COUNTY, VIRGINIA, OR SO MUCH THEREOF AS COMES
UNDER THE JURISDICTION OF THE GOVERNING BODY OF
RUSSELL COUNTY, VIRGINIA,
AS PROVIDED BY SECTION 15.2-2240 et. seq. CODE OF VIRGINIA, 1950.

ARTICLE 1

Purpose

§ 15.2-2200. This ordinance is intended to guide and facilitate the orderly subdivision of land and its development for the beneficial growth of Russell County, Virginia and to promote the public health, safety, convenience, comfort, prosperity and general welfare of the County.

ARTICLE 2

Title

§ 15.2-2201 This ordinance is known and is to be cited as:

"SUBDIVISION ORDINANCE OF RUSSELL COUNTY, VIRGINIA."

ARTICLE 3

Authority

§ 15.2-2202. (A) This ordinance is adopted pursuant to the provisions and under the authority of Title 15.2, Chapter 22, Article 7, § 15.2-2240 et. seq. of the 1950 Code of Virginia, as amended.

(B) Platting Required. From and after the first day of adoption of this ordinance any owner or developer of any tract of land situated in Russell County, Virginia, or as much of it as comes under the jurisdiction of The Board of Supervisors of Russell County, who intends to subdivide or cause any division of said tract of land, shall record a plat of the same in the Office of the Clerk of the Circuit Court of Russell County, Virginia; the Office of County Administrator, Russell County, Virginia; the Russell County Health Department; and the Office of Building Inspector, Russell County, Virginia. No such plat of a subdivision shall be recorded unless and until it shall have been submitted, approved, and certified, in accordance with the regulations set forth in this ordinance and shall meet the standard for plats as adopted under § 42.1-82 of the Virginia Public Records Act (§ 42.1-76 et seq.).

ARTICLE 4
Definitions

§ 15.2-2203. For the purpose of this ordinance, certain words and terms used herein shall be interpreted or defined as follows: Words used in the present tense include the future, words in the singular include the plural, and the plural the singular, unless the natural construction of the word indicates otherwise; the word "lot" includes the word "parcel"; the word "shall" is mandatory and not directory; the word "approve" shall be considered to be followed by the words "or disapprove"; any reference to this ordinance includes all ordinances amending or supplementing the same; all distances of [or] areas refer to measurement in a horizontal plane.

§ 15.2-2203.1. Agent. The officer or agency of county government designated by the Board of Supervisors to review and approve the subdivision of land and the plats of such subdivision when located wholly or partially in the county.

§ 15.2-2203.2. Agriculture. The tilling of the soil, the raising of crops, horticulture, forestry and gardening, including the keeping of animals and fowl.

§ 15.2-2203.3. Alley. A permanent service way providing a secondary means of access to abutting properties.

§ 15.2-2203.4. Block. The distance between consecutive street intersection.

§ 15.2-2203.5. Bond. A sum of cash, a certified check, a surety bond or a letter of credit put on deposit with the county treasurer to assure complete and proper installation of required site improvements as specified by §15.2-2241(5) of the Code of Virginia, 1950, as amended.

§ 15.2-2203.6. Building setback. The minimum distance that a building must be set back from the front, rear, side or boundary line.

§ 15.2-2203.7. Community. Lots within a given subdivision.

§ 15.2-2203.8. Commission. Means the Russell County, Virginia, Planning Commission.

§ 15.2-2203.9. County. Russell County, Virginia.

§ 15.2-2203.10. Days. Calendar days.

§ 15.2-2203.11. Dead end street. A street with only one outlet, and having one end permanently closed, and having an appropriate turnaround for a safe and convenient reverse traffic movement.

§15.2-2203.12. Development. Means a tract of land developed or to be developed as a unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three (3) or more residential dwelling units, but no more than one residential dwelling unit shall be erected on each individual lot unless reserved for the construction of an apartment complex or condominium complex. The term "development" shall not be construed to include any property which will be principally devoted to agricultural production. Commercial and industrial use of any lot or parcel within the geographical boundaries of a residential sub-division shall be prohibited. Any adjacent properties owned by the developer of a "subdivision" as defined herein shall clearly mark and indicate any areas that are being reserved for commercial and industrial use. Any change in designation of the reserved areas herein shall be submitted to the Local Planning Commission for approval. No street within the boundaries of a subdivision, as defined in this Ordinance, may be used to gain access to any reserved commercial and or industrial use property.

§15.2-2203.13. Developer. Means an owner of property, whether individual, partnership or corporation being subdivided.

§15.2-2203.14. Easement. A grant by a property owner of the use of land for a specific purpose or purposes.

§15.2-2203.15. Engineer. A professional engineer, highway engineer, or land surveyor licensed by the Commonwealth of Virginia.

§15.2-2203.16. Floodplain. All lands that would be inundated by flood water as a result of a storm event of a specified return interval to include the 100, 50, 10 and 2 year storm return intervals as designated by the Army Corps of Engineers, the Federal Emergency Management Act and the U. S. Geological Survey.

§15.2-2203.17. Governing body. The Board of Supervisors of Russell County, Virginia.

§15.2-2203.18. Health official. The official in charge of the Russell County Health Department and/or his designee.

§15.2-2203.19. Highway engineer. The resident engineer employed by the Virginia Department of Transportation (VDOT).

§15.2-2203.20. Land Area. The area of a lot or tract exclusive of the area normally occupied by a pond, river or branch thereof for purposes of determining land available for subdivision.

§15.2-2203.21. Lot. A numbered and recorded portion of a subdivision intended for transfer of ownership, whether involving the sale of land or horizontal space under the Virginia Horizontal Property Act and the Virginia Condominium Act.

§15.2-2203.22. Lot, pipistem. A lot which does not abut a public street other than by its driveway which affords access to the lot.

§15.2-2203.23. Official map. Means a map of legally established and proposed public street, waterways, and public areas adopted by Russell County, Virginia in accordance with the provisions of §15.2-2233 et seq. of the Code of Virginia, 1950, as amended.

§15.2-2203.24. Owner. The title owner of record of property being subdivided whether or not represented by an agent.

§15.2-2203.25. Parcel. A measured piece of land. A tract.

§15.2-2203.26. Planned unit development (PUD). A development in which the subdivision is considered a "unit" with over-all planning provided by the developer or his agent. Planning to include, but is not limited to, construction of roads, erosion and sediment control, provisions for water supply and sewage disposal and other common utility service, maintenance of common areas and provisions of such other desired community amenities as deemed appropriate.

§15.2-2203.27. Plat. Includes the terms: map, plan, plot, replat, or replot; a map or plan of a tract or parcel of land which is to be, or which has been subdivided. When used as a verb "plat" is synonymous with "subdivide".

§15.2-2203.28. Plat of subdivision. Means the final schematic representation of land divided or to be divided, presented to the Commission for approval.

§15.2-2203.29. Private maintained roads, streets. A road or street, where access by the general public is restricted or unrestricted, that is maintained solely at the expense of the property owners within the subdivision.

§15.2-2203.30. Private road. A roadway, located on a 50-foot right-of-way, which is maintained solely at the expense of the property owners served within the subdivision and is not intended to be taken into the state highway system.

✓ §15.2-2203.31. Private streets. The right of way of which is owned by those served and from which the public is restricted except as to hours of access or by expressed permission of the owner(s).

§15.2-2203.32. REPEALED.

§15.2-2203.33. Property. Any tract, lot, parcel or several of the same collected together for the purpose of subdividing, whether involving the sale of land or horizontal space under the Virginia Horizontal Property Act.

50 ft
§15.2-2203.34. Right-of-way. The area of land over which a public or private road is built or the existence of a legal right of passage over another property owner's land.

§15.2-2203.34.1 Russell County Subdivision Agent. A county employee designated by the Russell County Board of Supervisors with the authority to perform those acts designated in this ordinance.

§15.2-2203.35. State secondary highway system. Secondary highway system maintained by the Virginia Department of Transportation.

§15.2-2203.36(A). Street. Means highway, street, avenue, boulevard, road, lane, alley, or any public way constituting the principal means of vehicular access to abutting properties. This term includes roadways of less than fifty (50) feet in width that provide a means of ingress and egress to property, which roadways were in existence prior to July 1, 2003, whether or not such roadways are publicly maintained.

§15.2-2203.36(B). Street, connecting. Such streets as may be necessary to connect one or more subdivision streets to a public street.

§15.2-2203.36(C). Street, publicly maintained. Unrestricted to access by the public and maintained by a public body.

✓ §15.2-2203.36(D). Street, privately maintained. Unrestricted to access by the public but privately maintained streets, for which the landowners served have the responsibility to perform all maintenance.

§15.2-2203.37. Street width. The shortest distance between the lines which delineate the right of way of a street.

§15.2-2203.38. Subdivision. Means the division of a parcel of land into (A) three or more lots or parcels of less than five acres each for the purpose of transfer of ownership or building development, or, (B) if a new street is involved in such division, any division of a parcel of land, or (C) any change of lot line in an existing subdivision. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided and solely for the purpose of recordation of any single division of land into two lots or parcels.

The following shall not be considered a "Subdivision" as defined herein, unless a new street, road or right-of-way is constructed by the developer, subdivider or owner or is to be constructed by the purchaser providing unrestricted access to the public and publicly maintained. Provided, however, the developer, subdivider or owner of land divided into parcels as described in (A) through (C) below shall file a plat of such division with the Planning Commission or Subdivision Agent for verification that the division is not a Subdivision or Development as defined in this ordinance prior to the sale or transfer of lots or parcels of land.

- (A) The sale or exchange of adjacent property between adjoining lot owners.
- (B) A bona fide division of land consisting of tracts or parcels of a minimum of six (6) acres each.

All tracts of land platted under this exemption shall be served by a right of way of not less than ten (10) feet nor more than fifty (50) feet providing ingress and egress to a dedicated recorded public street or thoroughfare. No more than two (2) parcels may be served by a single right of way. Multiple rights of way serving no more than two (2) parcels and/or rights of way serving a single parcel shall be separated by a minimum of one hundred (100) feet. The deed of conveyance must contain the following language: "THIS TRACT OF LAND IS SERVED BY A (HERE INSERT THE WIDTH) FOOT RIGHT OF WAY AND IS NOT ELIGIBLE FOR PUBLIC FUNDED CONSTRUCTION OR MAINTENANCE. THIS RIGHT OF WAY CAN SERVE NO MORE THAN TWO PARCELS OF LAND WITHIN THIS DEVELOPMENT".

No more than one residential dwelling unit shall be erected on each individual parcel sold or transferred under this exemption. The deed of transfer shall contain the following language: "THIS PARCEL OF LAND IS BEING CONVEYED PURSUANT TO THE SIX ACRE EXEMPTION OF THE RUSSELL COUNTY SUBDIVISION ORDINANCE. NO MORE THAN ONE RESIDENTIAL DWELLING UNIT SHALL BE ERECTED ON THIS PARCEL OF LAND."

- (C) There shall be permitted a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner, provided that any such lot or lots of less than six (6) acres shall have reasonable right-of-way of not less than ten (10) feet or more than twenty (20) feet providing ingress and egress to a dedicated recorded public street or thoroughfare. Only one such division shall be allowed per family member, and shall not be for the purpose of circumventing this ordinance. For the purpose of this subsection, a member of the immediate family is defined as any person who is a natural or legally defined offspring, spouse, sibling, grandchild, grandparent, aunts, uncles, nieces and nephews, or parent of the owner.

All deeds of conveyance to an immediate family member herein shall contain the following language: "THIS IS A PRIVATELY MAINTAINED ROAD SUBDIVISION AND IS NOT ELIGIBLE FOR PUBLIC FUNDED CONSTRUCTION OR MAINTENANCE.

§15.2-2203.39. Subdivider. Any individual, firm, corporation, partnership, or developer, owning any tract, lot or parcel of land to be subdivided, or a group of two or more persons owning any tract, lot or parcel of land to be subdivided, and any individual who has received power of attorney or authority to act on the behalf of the owners in planning, negotiating for, in representing, conducting the sale of lots or parcels or executing the legal requirements of the subdivision.

§15.2-2203.40. Subdivision street requirements. Subdivision Street Requirements promulgated by the Virginia Department of Transportation as set forth in 24 VAC-30-90-10 et seq. and amendments thereto.

§15.2-2203.41. Surveyor. Land surveyor as licensed by the Commonwealth of Virginia.

§15.2-2203.42. VDOT. Virginia Department of Transportation.

ARTICLE 4.1 Russell County Subdivision Agent

§15.2-2203.1.01 Agent. The Subdivision Agent appointed by the Russell County Board of Supervisors and a member of the Planning Commission designated by the Planning Commission acting jointly are authorized to approve divisions of land that are exempt from this ordinance.

§15.2-2203.1.02 Review, consultation and information. In the performance of his duties, the Subdivision Agent shall receive and review all plats submitted to him. If it appears that a proposed division is not or may not be exempt from this ordinance, the Subdivision Agent shall refer the person submitting the plat to the Russell County Planning Commission for its review and/or decision. The Subdivision Agent may consult with other departments and agencies and shall require the developer to secure approval of the county's resident engineer and health official, and other officials as necessary. If it appears that a proposed division is exempt from this ordinance and any and all other requirements for approval have been met, the Subdivision Agent shall consult with the designated member of the Planning Commission. If the designated member of the Planning Commission concurs with the Subdivision Agent, the Subdivision Agent and the designated member of the Planning Commission shall note on the plat the specific exemption which applies, and sign and date it. If the designated

member of the Planning Commission does not concur, the person submitting the plat shall be referred to the full Planning Commission.

§15.2-2203.1.03 Review by Planning Commission. In any circumstance where the Subdivision Agent and designated member of the Planning Commission decline to approve a proposed division of land, the developer may submit the same to the Russell County Planning Commission for its consideration.

§15.2-2203.1.04 Sale or transfer of parcels. No parcel exempt from this ordinance shall be sold or transferred unless and until the plat of the same has been approved by the Subdivision Agent and designated member of the Planning Commission or Planning Commission.

ARTICLE 5 **General Regulations**

§15.2-2204.01. Sale of subdivision lots and/or parcels. No lot shall be advertised or offered for sale or sold in any subdivision before the final plat shall have been approved in accordance with this ordinance. "Sold" shall be defined as delivery of a deed from the owner of a parcel of land to a grantee. For every division of land, whether exempt from or subject to this Ordinance, a plat of such division shall be submitted to the Russell County Planning Commission or the Russell County Subdivision Agent for its review and approval or exemption in accordance with §15.2-2258 of the Code of Virginia, 1950, as amended.

§15.2-2204.02. Drawings and certification. Every such final plat shall be prepared by a licensed surveyor or engineer, who shall endorse upon each final plat a certificate signed by him setting forth the source of the title of the land subdivided, and the place of record of the last instrument in the chain of title. When the final plat is of land acquired from more than one source of title, the outlines of the several tracts shall be indicated upon such plats, within an inset block, or by means of a dotted boundary line upon the plat.

§15.2-2204.03. Owner's statement. Every such final plat, or the deed of dedication to which said final plat is attached, shall contain in addition to the surveyor's or engineer's certificate, a statement to the effect that "the above and foregoing subdivision of (here insert correct description of the land subdivided) as appears in this final plat is with the free consent and in accordance with the desire of the undersigned owners, proprietors, and trustees, if any which any such final plat shall be signed by the owners, proprietors, and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgements of deeds, and when thus executed and approved as herein specified, shall be filed and recorded in the office of the Clerk of the appropriate court, and indexed under the names of the land owners signing such statement and under the name of the subdivision.

§15.2-2204.04. No exemptions. No person shall subdivide any tract of land that is located within Russell County without complying with the provisions of this ordinance.

§15.2-2204.05. Private contracts. This ordinance bears no relation to any private covenant, easement, agreement, or restriction, nor is the responsibility of enforcing such private easement, covenant, agreement, or restriction implied herein to any public official or commission. When this ordinance calls for more restrictive standards than are required by private contract the provisions of this ordinance shall control.

§15.2-2204.06. Necessary changes. No changes, erasure, or revision shall be made on any preliminary plat or final plat, nor any accompanying sheets after approval of the agent has been endorsed in writing on any plat or sheets, unless authorization for such changes has been granted in writing by the agent.

§15.2-2204.07. Streets and alleys. All streets and alleys shall be installed by the subdivider at his own proper costs. All streets in the proposed subdivision other than privately maintained roads restricting public access shall be publicly dedicated streets and shall be designed and constructed in accordance with current VDOT Subdivision Street Requirements, as well as other applicable regulations of the department. The developer shall provide to the Local Planning Commission proof of approval of the design and proposed construction by VDOT before final approval of the plat will be granted. The primary access street to the subdivision shall be connected with a state maintained highway or road at a boundary of the subdivision, and all streets in the subdivision shall connect either directly or by other streets in the subdivision, and all streets in the subdivision to the primary access street.

§15.2-2204.08. Minimum Widths. The minimum width of proposed streets measured from lot line to lot line shall be: Not less than 50 feet wide.

§15.2-2204.09. Cul-de-sacs. Terminal streets (cul-de-sacs), designed to have one end permanently closed, must be terminated by a circular turn around of not less than 100 feet in diameter.

§15.2-2204.10. Private streets and reserve strips. All subdivided property shall be served from a publicly dedicated street. There shall be no reserve strips controlling access to streets.

§15.2-2204.11. Monuments. As required by this ordinance, all monuments must be installed by the subdivider and shall meet the minimum specifications. Upon completion of the subdivision streets, sewers and other improvements, the subdivider shall make certain that all monuments required by the Board of Supervisors or its designated agent are clearly visible for inspection and use. Such monuments shall be inspected by the Local Planning Commission or designated member thereof and approved by the Board of Supervisors before any improvements are accepted by the governing body.

§15.2-2204.12. Location – concrete. Reinforced concrete monuments 4 inches in diameter or square, 3 feet long, with a flat top, may be set at all street corners, at all points where the street line intersects the exterior boundaries of the subdivision and at

right angle points, and points of curve in each street. The top of the monument shall be set flush with the finished grade of lot line.

§15.2-2204.13. Location – iron rods. All corners, unless marked with a concrete monument described in paragraph (L) above, shall be marked with iron rods not less than $\frac{3}{4}$ inch in diameter and 24 inches long and driven so as to be flush with the finished grade of lot line. When rock is encountered, a hole shall be drilled one (1) inch deep in the rock, into which shall be cemented a steel rod $\frac{1}{2}$ inch in diameter, the top of which shall be flush with the finished grade of lot line.

§15.2-2204.14. Lot size:

- A) Public Water and Sewer: Residential lots served by both public water and public sewer systems shall be 100 feet or more in width, measured on street frontage, and 22,000 square feet or more in area.
- B) Public Water or Sewer: Residential lots served by only one public water or public sewer systems shall be 100 feet or more in width, measured on street frontage, and 22,000 square feet or more in area.
- C) Neither Public Water Nor Sewer: Residential lots served by neither public water nor public sewer systems shall be 100 feet or more in width, measured on street frontage and 30,000 square feet or more in area excluding right of ways.

§15.2-2204.14. Bond. Pursuant to §15.2-2241(5) of the Code of Virginia and this ordinance prior to any subdivision plat being finally approved by the Board of Supervisors or the Commission, the subdivider shall furnish a bond in the amount of one hundred (100%) per cent of the estimated construction costs of the improvements to be built to secure the required improvements in a workmanlike manner, and in accordance with specifications and requirements under this ordinance, which bond shall be payable to and held by the county treasurer. In those subdivisions where the improvements have been completed at the time of the submission of the final plat for approval the subdivider or developer may provide a certification that the construction costs of the improvements have been paid to the person or persons constructing the improvements.

§15.2-2204.15. Plans and specifications. Four (4) blue or black line prints of the plans and specification for all required physical improvements to be installed shall be prepared by a surveyor or engineer and shall be submitted to the Commission with comments from VDOT. If approved, one (1) copy, bearing certification of such approval shall be recorded in the Office of the Clerk of the Circuit Court of Russell County, Virginia. If disapproved one (1) copy shall be returned to the subdivider with reason for disapproval in writing.

§15.2-2204.16. Lots: In addition to the area and width requirements already specified, lots shall be arranged in order that the following considerations are satisfied.

- A) Shape: The lot arrangement, design and shape shall be such that all lots will provide satisfactory and desirable sites for buildings, and to be properly related to topography, and conform to requirements of this ordinance. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage of area which would be unusable for normal purposes.
- B) Location: Each lot shall abut on a street dedicated by the subdivision plat or on an existing publicly dedicated street.
- C) Corner Lots: Corner lots shall have extra width, not less than 100 linear feet of street abutment and/or adjacent lot abutment, sufficient for maintenance of any required building lines on both streets as determined by the Board of Supervisors or its designated agent.
- D) Side Lines: Side lines of lots shall be approximately at a right angle or radial to the street line.
- E) Remnants. All remnants of lots below minimum size left over after subdividing a tract must be added to adjacent lots or otherwise disposed of rather than be allowed to remain as unusable parcels.
- F) Business, Commercial or Industrial: Lots intended for business, commercial or industrial use shall be designed specifically for such purposes with adequate space set aside for off-street parking and delivery services and facilities and not be included in a residential subdivision. The developer shall give notice of adjacent business, commercial or industrial lands at the public sale, if any, of said subdivided lots, and shall clearly mark, identify and designate reserved business, commercial or industrial lands adjacent to the lands being subdivided.

§15.2-2204.16. Number of residences per lot. There shall be no more than one single family residence erected on each subdivision lot. However, the commission may allow multiple family units to be erected on a subdivision lot that is reserved by the developer for apartment complexes and condominiums pursuant to the Condominium Act of Virginia as set forth in §55-79.39 of the Code of Virginia, 1950, as amended.

§15.2-2204.17. Inoperable motor vehicles. It shall be unlawful for any person to keep, except within a fully enclosed building or garage, on any property within a residential subdivision, any motor vehicle, trailer or semitrailer, as such is defined in §46.2-100 of the Code of Virginia, 1950, as amended, which is inoperable. As used in this section "inoperable motor vehicle" means any motor vehicle which is not in operating condition; or which for a period of sixty days or longer has been partially or

totally disassembled by the removal of tires and wheels, the engine or other essential parts required for operation of the vehicle or on which there are displayed neither valid license plates nor a valid inspection.

§15.2-2204.18. Removal of inoperable motor vehicles. The owners of property lying in a residential subdivision shall, at such time or times as prescribed by Russell County, remove from their property any such inoperable motor vehicles, trailers or semitrailer's that are not kept within a fully enclosed building or garage. In the event the owner refuses to remove said inoperable motor vehicle after ten (10) days written notice, Russell County through its agents or employees may remove any such inoperable motor vehicles, trailers or semitrailer's. In the event Russell County, through its own agents or employees, removes any such inoperable motor vehicles, trailers or semitrailers, after having given such written notice, Russell County, may dispose of such inoperable motor vehicles, trailers or semitrailers after giving an additional ten (10) days written notice to the owner of the vehicle. The cost of any such removal and disposal shall be chargeable to the owner of the vehicle or premises and may be collected by Russell County in the same manner and fashion as taxes are collected. Every cost authorized by this section with which the owner of the premises has been assessed shall constitute a lien against the property from which the inoperable vehicle was removed, the lien to continue until actual payment of such costs has been made to Russell County. Any lien contemplated herein shall be recorded in the Office of the Treasurer of Russell County in the delinquent tax books.

§15.2-2204.19. Common or shared utility easements. For conveyance, in appropriate cases, of common or shared easements to franchised cable television operators furnishing cable television and public service corporations furnishing cable television, gas, telephone and electric service to the proposed subdivision. Such easements, the location of which shall be adequate for use by public service corporations and franchised cable television operators which may be expected to occupy them, may be conveyed by reference on the final plat to a declaration of the terms and conditions of such common easements and recorded in the land records of Russell County.

§15.2-2204.20. Flooding. Land subject to flooding as determined by the Federal Emergency Management Agency and land deemed to be topographically unsuitable shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property, or aggravate erosion or flood hazard. Such land within the subdivision shall be set aside on the plat for such uses as shall not be endangered by periodic or occasional inundation or shall not produce conditions contrary to public welfare.

§15.2-2204.21. Land must be suitable. The Commission shall not approve the subdivision of land if from adequate investigations conducted by all public agencies concerned, it has been determined that in the best interest of the public the site is not suitable for platting and development purposes of the kind proposed. Factors which may be considered in this connection shall include, but not be limited to, the following:

A) Permanent means of sewage disposal acceptable to the health official and the Commission must be provided. The criteria for adequacy is as follows:

- (i) Central sewer provided by a public water and sewer authority or its agent within Russell County.
- (ii) Where public sewer is planned to be in existence and the state water control board has approved the plans, adequate drainfield area to temporarily sustain the dwelling units with dry sewers installed, or where permitted an interim sewage treatment plant, package, or otherwise, capable of providing treatment until such time as county sewer is available. Adequacy of interim sewage treatment solution shall be determined by the appropriate office of the Virginia Department of Health.
- (iii) Where county sewer is not planned, sufficient drainfield and replacement area is to be provided to last the expected life of the dwelling units. The adequacy of the area is to be approved by the health official. No lot may be sold until such time as it has been approved as suitable to accommodate sewage treatment by a subsurface drainfield system.

B) Adverse environmental impact of the development should be minimal. The criteria for determination is as follows:

- (i) Water Supplies: The impact shall be deemed excessive if the health official finds the development will jeopardize the safety of present or future water supplies or that by reason of topography, soil type and condition, surface and subsurface drainage condition, water table, history of failures of septic systems in adjacent areas, and the extent of septic system development there appears to be doubt of the proper functioning of septic systems with respect to contamination of water supplies.
- (ii) Lack of adequate drainage: Excessive environmental impact with respect to drainage shall be deemed to exist if surface or subsurface water retention and/or runoff is such that it constitutes a danger to the structural security of proposed dwelling units or other onsite structures. In addition, inadequate drainage shall be deemed to exist where proposed site grading and developmental creates harmful or damaging effects from erosion and siltation on downhill and/or downstream land and no adequate remedy is provided. Recommendations are to be requested from the Clinch Valley Soil and Water Conservation District ("CVSWCD") based on the evaluation of submitted sedimentation and erosion control plan. Compliance with permitting requirements and regulation relating to

storm water discharge, streams, wetlands, and floodplains are the ultimate responsibility of landowner and/or developer.

ARTICLE 6 Approval of Plats

§15.2-2205.1. Preliminary sketch. The subdivider may, if he so chooses, submit to the agent a preliminary sketch of the proposed subdivision prior to his preparing engineered preliminary and final plats. The purpose of such preliminary sketch is to permit the agent to advise the subdivider whether his plans in general are in accordance with the requirements of this ordinance. The Board of Supervisors or its designated agent, upon submission of any preliminary sketch, shall study it and advise the subdivider wherein it appears that changes would be necessary. The agent shall mark the preliminary sketch indicating necessary changes and any such marked sketch shall be returned to the Board of Supervisors or its designated agent with the preliminary plat. The preliminary sketch shall be as follows:

A) Drawing and Scaling: It shall be drawn on white paper or on print of a topographic map of the property. It shall show the name, location and dimensions of all streets or roads providing access to the property, adjacent to the property or terminating at the boundary of the property to be subdivided and shall include the approximate dimensions.

B) Part of Tract: Whenever part of a tract is proposed for platting and it is intended to subdivide additional parts in the future, a sketch plan for the entire tract shall be submitted with the preliminary plat. This sketch is merely for informational purposes and is not binding on the subdivider or the governing body.

§15.2-2205.2. Preliminary Plat. The subdivider shall present to the Commission three (3) prints of a preliminary layout at a scale of one hundred (100) feet to the inch as a preliminary plat. The preliminary plat required by this subpart shall be filed a period of not less than forty-five (45) days prior to approval as a final plat or submission of the final plat for approval as contemplated in §15.2-2205.6 of this Ordinance. The forty-five (45) days approval period shall not be waived in whole or part. The preliminary plat shall include at a minimum the following information:

- A) Name of subdivision, owner, subdivider, surveyor or engineer, date of drawing, number of sheets, north point and scale. If true north is used, method of determination must be shown.
- B) Location of proposed subdivision by an inset map at a scale not less than 2 inches equal one (1) mile showing adjoining roads, their names and numbers, town, subdivision and other landmarks.
- C) The boundary survey or existing survey of record, provided such survey shows a closure with an accuracy of not less than one in

twenty-five hundred: total acreage of subdivided area, number and approximate area and frontage of all building sites, existing buildings within the boundaries of the tract, names of owners and their property lines within the boundaries of the tract adjoining such boundaries.

- D) All existing, platted and proposed streets, their names, numbers and widths, existing utility or other easements, public areas and parking spaces, culverts, drains and water courses, their names and other pertinent data.
- E) The complete drainage layout, including all pipe sizes, types, drainage easements and means of transporting the drainage to a well defined open stream which is considered natural drainage.
- F) Where public water is available the service shall be extended to all lots within a subdivision, including fire hydrants by the developer in accordance with the design standards and specifications for water, construction and improvements in Russell County. Availability of public water shall be determined by the appropriate authority or provider and shall mean that the service will be extended to the boundary of the subdivision at no cost to the developer except that the developer may agree to pay such cost.
- G) Where public sewage facilities are available the service shall be extended to all lots within a subdivision and septic tanks will not be permitted. Every subdivision shall be provided by the developer with a satisfactory and sanitary means of sewage collection and disposal in accordance with the design standards and specifications for sewerage construction and improvements in Russell County. Where an individual sewage disposal system for each lot will be established by means of "Subsurface Drainfields", a system will be installed within the soil and designed to accommodate treated sewage. The adequacy of the area is to be approved as suitable to accommodate sewage treatment by a subsurface drainfield system. The developer shall provide proof of same to the local planning commission prior to the approval of the final plat.
- H) A cross section showing the proposed street construction, depth and type of base, type of surface, etc.
- I) A profile or contour map showing the proposed grades for the streets and drainage facilities, including elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the centerline of streets together with proposed grade lines connecting therewith.

- J) A location map tying the subdivision into our present road system, either by aerial photographs or topographic maps of the U.S. Department of Interior.
- K) Proposed connections with existing sanitary systems and existing water supply.
- L) All parcels of land to be dedicated for public use and the conditions of such dedication.
- M) Restrictive Covenants, if any, affecting the subdivision may be submitted to the local planning commission with the preliminary plat. The final plat as approved must state on the fact of the plat "THIS SUBDIVISION IS SUBJECT TO THOSE RESTRICTIVE COVENANTS OF (INSERT DATE) AND OF RECORD IN DEED BOOK _____ AT PAGE _____, RUSSELL COUNTY RECORDS."
- N) All Preliminary Plats that do not conform to these requirements, may at the option and request of the subdivider be treated as a sketch by the Commission.

§15.2-2205.3. Procedure. The Commission or its agent shall discuss the preliminary plat with the subdivider in order to determine whether or not his preliminary plat generally conforms to the requirements of the subdivision ordinance. After receiving comments from VDOT, the subdivider shall then be advised by the Commission in writing or orally within thirty-one (31) days, which may be by formal letter or by legible markings on his copy of the preliminary plat, concerning any additional data that may be required; the character and extent of public improvements and the amount of the performance bond which will be required as a prerequisite to approval of the final subdivision plat.

§15.2-2205.4. No guarantee. Approval by the Commission of the preliminary plat does not constitute a guarantee of approval of the final plat.

§15.2-2205.5. Six months' limit. The subdivider shall have not more than six months, or such longer period as may be approved by the Commission, after receiving official notification concerning the preliminary plat to file with the Commission a final subdivision plat in accordance with this ordinance. Failure to do so shall make the preliminary plat approval null and void.

§15.2-2205.6. Final plat. The subdivision submitted for final approval by the governing body and subsequent recording shall be clearly and legibly drawn in ink upon tracing cloth at a scale of one hundred (100) feet to the inch on sheets having a size of not more than 18 inches by 24 inches. In addition to the requirements of the preliminary plat, the final plat shall include the following:

- A) A blank, oblong space 3" x 5" shall be reserved for the use of the approving authority.
- B) Certificates signed by the surveyor or engineer setting forth the source of title of the owners of the land subdivided and the place of record of the last instrument in the chain of title.
- C) A statement to the effect that the subdivision as it appears on this plat is with the free consent and in accordance with the desires of the owners, proprietors and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgments of deeds.
- D) When the subdivision consists of land acquired from more than one source of title, the outlines of the various tracts shall be indicated by dash lines, and identification of the respective tracts shall be placed on the plat.
- E) The accurate location and dimensions by bearings and distances with all curve data on all lots and street lines and center lines of streets, boundaries of all proposed or existing easements, parks, school sites or other public areas, the number and area of all building sites, all existing public and private streets, their names, numbers and widths, existing utilities, onsite sewage treatment facilities, water source location, and those to be provided, such as sanitary sewers, storm drains, water mains, manholes and underground conduits, including their size and type, water courses and their names, names of owners and their property lines, both within the boundary of the subdivision and adjoining said boundaries.
- F) Distances and bearings must balance and close with an accuracy of not less than one 10,000.
- G) The data of all curves along the street frontage shall be shown in detail at the curve or in a curve data table containing the following: delta, radius, arc, tangent, chord and chord bearings.
- H) Restrictive covenants shall be referenced on the final plat in the same manner and fashion as on the preliminary plat as required in Section 6 (B)(14) above.
- I) All final plats shall be accompanied by an approved Soil Erosion and Sediment Control Plan.
- J) Restrictions established by the Health Official, if any, shall be recorded on the final plat.

§15.2-2205.7. Performance Bond. For the acceptance of dedication for public use of any right-of-way located within any subdivision or section thereof, which has constructed or proposed to be constructed within the subdivision or section thereof, any street, curb, gutter, sidewalk, bicycle trail, drainage or sewage system, waterline as part of a public system or other improvement dedicated for public use, and maintained by the locality, the Commonwealth, or other public agency, and for the provision of other site-related improvements required by local ordinances for vehicular ingress and egress, including traffic signalization and control, for public access street, for structures necessary to ensure stability of critical slopes, and for storm water management facilities, financed or to be financed in whole or in part by private funds only if the owner or developer (i) certifies to the governing body that the construction costs have been paid to the person constructing such facilities; (ii) furnishes to the governing body a certified check or cash escrow in the amount of one hundred (100%) percent of the estimated costs of construction or a personal, corporate or property bond, with surety satisfactory to the commission and the governing body or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned; or (iii) furnishes to the commission and the governing body as to the bank or savings institution, the amount and the form. The amount of such certified check, cash escrow, bond or letter of credit shall be in the amount of one hundred (100%) percent of the estimated construction costs.

If a developer records a final plat which may be a section of a subdivision as shown on an approved preliminary plat and furnishes to the commission and the governing body a certified check, cash escrow, bond or letter of credit in the amount of one hundred (100%) percent of the estimated cost of construction of the facilities to be dedicated within said section for public use and maintained by the locality, the Commonwealth, or other public agency, the developer shall have the right to record the remaining sections shown on the preliminary plat for a period of five years from the recordation date of the first section, or for such longer period as the commission at the approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development, subject to the terms and conditions of this subsection and subject to engineering and construction standards in effect at the time that each remaining section is recorded.

§15.2-2205.8. Conditions: The final plat shall not be approved until the subdivider has complied with the general requirements and minimum standards of design in accordance with this ordinance and has made satisfactory arrangements for performance bond, cash or cash bond to cover the cost of necessary improvements to the satisfaction of the commission and the governing body. Approval of the final plat shall be written on the face of the plat by the commission and the governing body. The subdivider shall record the plat within sixty (60) days after final approval; otherwise, the plat shall be deemed void.

§15.2-2205.9. Special Conditions for Replats. The Commission may approve any replat of a lot or lots in an existing subdivision immediately at the time of submission

provided that: (i) only the lot lines are being changed or altered and (ii) no new roads or streets are constructed that are intended to be maintained by public funds.

ARTICLE 7
Privately Maintained Road Subdivision

§§15.1-2206.1 THROUGH 15.2-2206.10 ARE REPEALED

§15.2-2206.11. Russell County Building Official.

- (A) A copy of all subdivision plats must be on file with the Russell County Building Official.
- (B) A copy of the restrictive covenants, if any, shall be on file with the Russell County Building Official.
- (C) A copy of the Soil and Erosion plan shall be on file with the Russell County Building Official.
- (D) A copy of the approval by the local department of health for subsurface drainfield system to accommodate sewage treatment for the subdivision shall be on file with the Russell County Building Official.
- (E) Building permit restrictions.
 - (i) No building permit shall be issued for the construction of any building or structure on a lot or parcel if the lot or parcel is created or established in violation of the provisions of this ordinance.
 - (ii) No building permit shall be issued on a proposed lot the plat of which has not been recorded.
 - (iii) No building permit shall be issued on parcels that have not been reviewed and approved in accordance with the provisions of this ordinance.
 - (iv) No building permit shall be issued on a lot or parcel until such time as the county has assigned all necessary addressing and tax mapping.
 - (v) No building permit shall be issued on parcels not in compliance with an approved Soil Erosion and Sediment

Control Plan, when such a plan is required by this ordinance or State or Federal law.

ARTICLE 8
Advertising Standards

§15.2-2207.1. Notice Requirements. A subdivider when advertising a subdivided tract of land for sale shall be specific as to the following items:

- (A) Whether officially approved public water and sewage facilities are provided or not.
- (B) Whether officially approved private water and sewage facilities are provided or not.
- (C) Notice that the lots have been officially approved for purposes of installing within the soil a subsurface drainfield system to accommodate sewage treatment.
- (D) Notice that the lots to be sold are subject to restrictive covenants, if any.

ARTICLE 9
Effectual Clauses

§15.2-2208.1. Enforcement. This ordinance shall be enforced by the Commission and any enforcement action shall be styled in the name of the Planning Commission of Russell County, Virginia verses the alleged violator.

§15.2-2208.2. Restraining violations of subdivision ordinance. Any violation or attempted violation of this ordinance may be restrained, corrected, or abated as the case may be by injunction or other appropriate proceeding in the Circuit Court of Russell County, Virginia.

§15.2-2208.3. Notice of violation. All notices of violation of this ordinance shall be prepared and served by the Russell County Building Official, at the direction and request of the commission. All notices of violation shall contain the specific section of this ordinance alleged to have been violated.

§15.2-2208.4. Validity. Should any article, section, subsection or provision of this subdivision ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the subdivision ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

§15.2-2208.5. Repeal. All ordinances or portions of ordinances in conflict with this ordinance are hereby repealed to the extent of their conflict.

§15.2-2208.6. Recordation. A certified copy of this subdivision ordinance, after adoption shall be filed in the Office of the County Administrator; Planning Commission and in the Office of the Clerk of the Circuit Court of Russell County, Virginia.

§15.2-2208.7. Statutory provisions effective after ordinance adopted. After adoption of this subdivision ordinance the following provisions of the Code of Virginia, 1950, as amended shall apply.

- (A) No person shall subdivide land without making and recording a plat of the subdivision and without fully complying with the provisions of the subdivision ordinance.
- (B) No plat of any subdivision shall be recorded unless and until it has been submitted to and approved by the commission and governing body.
- (C) No person shall advertise or offer for sale or sell or transfer any land of a subdivision, before a plat has been duly approved as provided herein. However, nothing herein contained shall be construed as preventing the recordation of the instrument by which such land is transferred or the passage of title as between the parties to the instrument.

§15.2-2208.8. Civil penalties for violations of subdivision ordinance. Any person violating the foregoing provisions of this ordinance shall be subject to a civil penalty of \$500.00 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. If a person charged with a violation does not enter a waiver of trial and admit liability, the violation shall be tried in the General District Court of Russell County, Virginia in the same manner and with the same right of appeal as provided for by law. In any trial for a violation it shall be the burden of the commission to show the liability of the alleged violator by a preponderance of the evidence. All civil penalties assessed herein shall be made payable to the Treasurer of Russell County, Virginia.

Please see "Attachments".

Recommended to the Russell County Board of Supervisors this the _____ day
of _____, 2005 upon proper motion made and passed.

Secretary

Chairman