

SUBDIVISION ORDINANCE
GILES COUNTY, VIRGINIA

PREPARED BY THE
GILES COUNTY PLANNING COMMISSION

ASSISTED BY THE
NEW RIVER VALLEY PLANNING DISTRICT COMMISSION

AUGUST 4, 1987

As Amended

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**SECTION 1
PURPOSE AND TITLE**

SECTION 1 - PURPOSE AND TITLE

1-1 PURPOSE

The purpose of this ordinance is to establish certain minimum subdivision standards and administrative procedures for Giles County, Virginia, and such of its environs as come under the jurisdiction of the Board of Supervisors as provided for by Sections 15.1-465 through 15.1-485 inclusive of the *Code of Virginia, 1950*, as amended.

These regulations are part of the implementation efforts of the long-range plan to guide and facilitate the orderly beneficial growth of the community, and to promote the public health, safety, convenience, comfort, prosperity, and general welfare. More specifically, the purpose of these standards and procedures are to:

1. Provide a guide for the change that occurs when lands become urban in character as a result of development for residential, business, or industrial purposes;
2. Provide assurance that the purchasers of lots are buying a commodity that is suitable for development and use;
3. Make possible the provision of public services in a safe, adequate and efficient manner;
4. Insure proper legal description and marketing of subdivided land;
5. Provide for orderly development in accordance with the recommended policies of the County's Comprehensive Plan and applicable zoning regulations.

This ordinance assists the county in meeting these responsibilities.

1-2 TITLE

This ordinance is known and may be cited as the "Subdivision Ordinance of Giles County, Virginia."

1-3 NON-EXCLUSIONARY INTENT

It is not the intent of these regulations to exclude any economic, racial, religious, or ethnic groups from enjoyment of residence, land ownership, or tenancy within Giles County; nor is it the intent of this ordinance to use public powers in any way to promote the separation within Giles County of economic, racial, religious, or ethnic groups, except as may be an incidental result of meeting the purposes outlined in Section 1-1, herein.

1-4 RELATIONSHIP TO ZONING ORDINANCE

Compliance with this Ordinance and the Giles County Zoning Ordinance is mandatory. If conflicts in minimum dimensions or interpretations are found to exist the zoning ordinance shall be controlling.

1-5 SEVERABILITY

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

SECTION 2
ADMINISTRATION

SECTION 2 - ADMINISTRATION

There is a mutual responsibility between the subdivider and the County of Giles to divide the land so as to improve the general use pattern of the land being subdivided.

2-1 AGENT'S RESPONSIBILITIES

2-1.1 Agent's Authority to Administer

The Agent appointed by the Giles County Board of Supervisors is hereby delegated to administer and enforce the provisions of this Ordinance. In so doing, the Agent shall be considered the Agent of the Board of Supervisors, and approval or disapproval by the Agent shall constitute approval or disapproval as though it were given by the Board of Supervisors.

2-1.2 Definition of Agent

The "Agent" is an appointed role designated by the Board of Supervisors. This role is shared by the Giles County Planning Commission and Giles County's administrative staff. In the following text the "Agent" will mean the administrative staff and "Planning Commission" will mean the Giles County Planning Commission.

2-2 DUTIES OF THE AGENT

The Agent shall perform his duties with regard to subdivisions and subdividing in accordance with this Ordinance and Code of Virginia (1950, as amended), Sections 15.1-465 through 15.1-485 (inclusive).

The Agent shall defer final approval of any subdivision plat that requires the construction of streets to the Planning Commission and Board of Supervisors for approval. When any subdivision plat involves the construction of private streets, the Agent and/or Planning Commission shall defer final approval to the Board of Supervisors.

2-3 TO CONSULT

In the performance of its duties, the agent and Planning Commission may call for opinions or decisions, either verbal or written, from other departments in considering details of any submitted plat. This authority by the agent and Planning Commission shall have particular reference to the resident highway engineer and the health officer.

2-4 ADDITIONAL AUTHORITY

In addition to the regulations herein contained for the platting of the subdivisions, the agent may, with the approval of the governing body, establish any reasonable additional administrative procedures deemed necessary for the proper administration of this ordinance.

2-5 APPEAL TO THE BOARD OF SUPERVISORS

In the event a plan for subdivision is disapproved by the agent or Planning Commission, the subdivider may appeal to the governing body which may then over-ride the recommendation of the agent or Planning Commission and approve said plat.

2-6 SUMMARY OF ADMINISTRATIVE PROCESS

Figure 1 outlines the administrative process to be followed under the provisions of this ordinance.

2-7 STATUTORY PROVISIONS

Under the authority to establish subdivision regulations and the purposes, the regulations established herein constitute minimum requirements, which shall apply to all subdivision, except as herein provided. The following statutory provisions shall be effective in Giles County.

- 2-7.1 No person shall subdivide land without making and recording a plat of such subdivision in the office of the Clerk of the Circuit Court of Giles County and without fully complying with the provisions of this article.
- 2-7.2 No such plat of any subdivision shall be recorded unless and until it shall have been submitted to and approved by the local commission or by the Governing Body or its duly authorized agent of Giles County wherein the land to be subdivided is located; or by the commissions, Governing bodies, or agents, as the case may be, of each county or municipality having a subdivision ordinance, in which any part of the land lies.
- 2-7.3 No person shall sell, transfer, ~~or offer for sale~~ [amended 04/23/09] any land of a subdivision before such plat has been duly recorded as provided herein, unless such subdivision was lawfully created prior to the adoption of a subdivision ordinance applicable thereto or is a bona fide division in accordance with the authority provided by the Code of Virginia 1950, as amended, Article 7, Section 15.1-465 through 15.1-485.
- 2-7.4 Any person violating the foregoing provisions of this section shall be subject to a fine of not more than five hundred (\$500.00) dollars for each lot or parcel of land so subdivided or transferred or sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided. A violation of this ordinance shall be deemed to be a continuing offense and each day of such violation shall be a separate and distinct offense.
- 2-7.5 No clerk of any court shall file or record a plat of a subdivision required by this article to be recorded until such plat has been approved as required herein; and the penalties provided by Section 17-59 of the Code of Virginia shall apply to any failure to comply with the provisions of this subsection. (Code 1950, Section 15-784, Section 15-785, Section 15-794.1; Code 1950 (Suppl.), Section 15-967.8; 1962, c. 407).

2-8 RELATIONSHIP TO ZONING ORDINANCE

Compliance with this Ordinance and the Giles County Zoning Ordinance is mandatory. If conflicts in minimum dimensions or interpretations are found to exist the zoning ordinance shall be controlling.

2-9 FEES

When filing an application for final approval of a plat, the applicant shall pay a fee of ten dollars (\$10) per lot.

Section 2-9.1 *When filing an application for a hearing before the board for consideration of vacating a plat, or part thereof, the applicant shall pay a fee of one hundred fifty dollars (\$150.00).*

FIGURE 1 - ADMINISTRATIVE PROCESS SUMMARY

SECTION 3
PROCEDURE FOR MAKING AND RECORDING PLATS

SECTION 3 - PROCEDURE FOR MAKING AND RECORDING PLATS

3-1 PLATTING REQUIRED

The owner or developer of any tract of land situated within Giles County, Virginia, who proposes to divide the same shall cause a plat of such subdivision, with reference to known or permanent monuments, to be made and recorded in the Office of the Clerk of Court. No such plat of subdivision shall be recorded unless and until it shall have been submitted, approved, and certified by the agent, the Planning Commission, and/or the Board of Supervisors in accordance with the regulations set forth in this ordinance. No lot shall be sold in any subdivision before the plat shall have been recorded in the office of the Clerk of the Circuit Court, Giles County, Virginia.

3-2 SUBDIVISION REQUIREMENTS BY TYPE

There are seven types of subdivisions recognized by this Ordinance. The responsibilities assigned the subdivider and the Agent vary with the type of subdivision as described in the following.

3-2.1 Lot Subdivision

The Agent may permit the *division of a tract of land into three or less parcels* without approval by the planning commission if:

1. It is not in conflict with the general meaning, purpose, and requirements of this Ordinance, no new streets are required to serve the parcel, and all lots meet the requirements of setback and frontage for the zoning district in which it is located; or
2. It is a Re-subdivision of a parcel which is platted in an existing subdivision prior to July 1, 1979, which meets all the requirements of this Ordinance so long as all lots meet the requirements of setback and frontage for the zoning district in which it is located.

Provided that:

1. *Reserved*
 2. *Reserved*
 3. *Reserved*
 4. *Reserved*
 5. *Reserved*
 6. *Reserved*
- (a) The Virginia Department of Health has approved the plat for private septic systems or public sewer is available to the lots, subject to the exception contained in Section 3-36.
 - (b) An additional lot subdivision may be permitted after a period of five (5) years but may not result in more than three residential structures using the same private road.
 - (c) Access to the lots must be provided by either a public or private road in conformance with Section 3-22.3 of this ordinance.

- (d) Lots must comply with the area, frontage and setback requirements of the zoning district in which the lots are located.

3-2.2 Family Subdivisions

A division of a lot or parcel is permitted for the purposes of sale or gift to a member of the immediate family of the property owner, and subject only to any express requirement contained in the Code of Virginia and the following provisions:

1. Only one such division shall be allowed per family member, and shall not be made for the purpose of circumventing this Ordinance.
2. For property not served with public water and public sewer, each lot shall have its septic system and water source approved by the Virginia Department of Health and shown on the subdivision plat as evidenced by applicable permits, plat review, or extension of public water and/or sewer to the site.
3. Each lot or parcel or property shall:
 - a. Front upon a public street; or
 - b. Front upon an access easement twenty (20) feet or greater in width or a private road which is in a right-of-way fifty feet or greater in width. Such right-of-way shall remain private and any drive or road within it shall be maintained by the adjacent property owners in a condition passable in all weather by emergency vehicles.
4. Reserved
5. Comply with minimum lot size and building line requirements of the Zoning Ordinance for the district in which it is located.
6. A final subdivision plat shall be submitted by the subdivider to the Agent for consideration as provided for in this Ordinance. Said plat shall indicate that the subdivision is a Family Subdivision. If approved, one copy bearing certification of such approval shall be returned to the subdivider. If disapproved, all papers shall be returned to the subdivider with the reason for disapproval in writing. In the event no action is taken in sixty (60) days, such subdivision shall be deemed approved.

3-2.3 Standard Subdivision

1. Division of land into two or more lots any one of which is less than 5 acres.
 - a. Such subdivisions shall meet all the requirements outlined in this ordinance.
 - b. Such subdivisions must provide each lot with frontage on a public street as required by the zoning district in which the lot is located.
2. Subdivisions proposed to be served by a right-of-way other than a public street, may be considered under the following conditions:

- a. The right-of-way width shall meet the criteria outlined for public subdivision streets in the Virginia Department of Transportation Subdivision street Requirements in effect at the time of approval of the plat.
- b. A property owner's association exists and accepts responsibility for maintenance of said right-of-way, and agree to never request funds from the County of Giles for construction or maintenance of a road on said right-of-way.
- c. The right-of-way shall be upgraded to the Virginia Department of Transportation's Subdivision Street Standards upon the construction of a third housing unit to be served by the right-of-way. The Giles County Building Inspector shall not issue a certificate of occupancy for such third housing unit until such upgrade has been completed and acceptance into the Virginia Department of Transportation system of highways has occurred, or unless a performance guarantee for such upgrade is provided pursuant to Section 4-10.

3-2.4. Townhouse and Condominium Subdivisions

Townhouse and Condominium Subdivisions shall meet all the requirements outlined for standard subdivisions. However, the Planning Commission may approve such subdivisions with:

1. Reduced side yard requirements,
2. Reduced lot size restrictions, and
3. Side lot lines that are not perpendicular or radial to the street line.
4. Reduced lot width at the setback requirements.

Townhouse and condominium subdivisions must also meet the following requirements:

1. The plat clearly indicates that the subdivision is a Townhouse or Condominium Subdivision.
2. Adequate parking areas are provided and shown on the plat.
3. Adequate water and sewage treatment facilities are available.

3-2.5 Large-Lot Subdivision

The division of land into two or more lots which are of 5 acres or more.

1. Streets constructed in large-lot subdivisions may be either public or private streets. All streets constructed in Large-Lot Subdivisions shall be constructed to comply with all applicable standards as outlined in this Ordinance.
2. Each new lot shall have road frontage as provided by the Zoning Ordinance for developments in the district in which it is located.

3-2.6 Cemetery Subdivision

Division of a lot or parcel of land for purposes of creating a private cemetery such as a family, church or community cemetery which is not operated for profit. No residential structures shall be permitted on any cemetery lot. Plats creating cemetery lots shall designate a reasonable means of access to such cemetery for vehicular and pedestrian traffic. There shall be no minimum lot size for a cemetery lot unless the cemetery is a public cemetery in which lots are offered for sale to the public. For public cemeteries operated such that lots are offered for sale to the public, minimum lot size requirements set forth in the zoning ordinance shall apply. Septic permit requirements need not be met unless restroom facilities or other sanitary facilities requiring septic disposal are proposed.

3-2.7 Industrial Subdivisions

Industrial subdivisions of property owned or developed by the Giles County Board of Supervisors or the Giles County Industrial Development Authority may be approved by the Agent, provided such subdivisions meet all the requirements of the Zoning Ordinance.

3-2.8 Public Water/Sewer Facility Lots

The creation of a lot upon which will be constructed facilities used to provide public water or sanitary sewer services shall not be deemed to be a subdivision as defined in this ordinance. Such lots may not be used for other purposes. Plats for such lots shall be required showing the public water/sewer facility lot only and shall be approved by the subdivision agent. A minimum of a twenty-foot right of way shall be required for access to any public water/sewer facility lot from a publicly maintained roadway unless the lot has a minimum of twenty feet of frontage on a public road.

3-3 DRAW AND CERTIFY

Every subdivision plat which is intended for recording shall be prepared by a certified professional engineer or licensed land surveyor, who shall endorse upon each such plat a certificate signed by him setting forth the source of the description the land to be subdivided and the place of record of the last instrument in the chain of title; when the plat is of land acquired from more than one ownership, the outlines of the several tracts shall be indicated upon such plat. (State Code, Section 15.1-476).

3-4 OWNER'S STATEMENT

Every such plat, or deed of dedication to which the plat is attached, shall contain in addition to the professional engineer's or licensed land surveyor's certificate a statement as follows: "The platting or dedication of the following described land (here insert a correct description of the land subdivided) is with the free consent and in accordance with the desire of the undersigned owners, proprietors, and trustees, if any". The statement shall be signed by such persons and duly acknowledged before some officer authorized to take acknowledgement of deeds. When thus executed and acknowledged, the plat, subject to the provisions herein, shall be filed and recorded in the office of the clerk of court where deeds are admitted to record for the lands contained in the plat, and indexed in the general index to deeds under the names of the owners of lands signing such statement, and under the name of the subdivision. (State Code, Section 15.1-477).

3-5 NO ONE EXEMPT

No person shall subdivide any tract of land that is located within Giles County, Virginia except in conformity with the provisions of this ordinance and any applicable provisions of the Code of Virginia, 1950 as amended.

3-6 PRIVATE CONTRACTS

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

3-7 CHANGES

No change, erasure or revision shall be made on any preliminary or final plat, nor on accompanying data sheets after approval of the agent has been endorsed in writing on the plat or sheets, unless authorization for such changes has been granted in writing by the agent and Planning Commission.

3-8 MUTUAL RESPONSIBILITY

There is a mutual responsibility between the subdivider and the County of Giles to divide the land so as to improve the general use pattern of the land being subdivided.

3-9 LAND MUST BE SUITABLE

The subdivision of land shall not be approved, 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 division and the development purpose of the kind proposed.

3-10 TOPOGRAPHICAL HAZARDS

Land subject to flooding and land deemed to be topographically unsuitable (for reasons such as unstable slopes, the presence of sinkholes, caves, and interior drainage,) shall not be platted for residential occupancy, nor for such other uses as may increase danger of 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.

3-11 IMPROVEMENTS

All required improvements shall be installed by the subdivider at his cost. In cases where specifications have been established either by the Virginia Department of Transportation for public roads, curbs, etc., or by local ordinances and codes, such specifications shall be followed. The subdivider's bond shall not be released until construction has been inspected and approved, except as provided under "Consideration of Final Plats". All public roads in the proposed subdivision shall be designed by the developer at not cost to the locality in accordance with Virginia Department of Transportation (VDOT) Subdivision Street Requirements and Sections 211 and 315 of VDOT's Road and Bridge Specifications.

3-12 PRO RATA SHARE OF OFF-SITE IMPROVEMENTS

The subdivider or developer shall pay a pro rata share of the cost of providing reasonable and necessary sewerage, water and drainage facilities, located outside the property limits of the land owned or controlled by him but necessitated or required, at least in part, by the construction or improvement of his subdivision or development; provided, however, that no such payment shall be required until such time as the Board of Supervisors or a designated department or agency shall have established a general sewer, water, and

drainage improvement program for an area having related and common sewer and drainage conditions and within which the land owned or controlled by the subdivider or developer is located. Each such payment received shall be expended only for the construction of those facilities for which the payment was required, and until so expended shall be held in an interest-bearing account for the benefit of the subdivider or developer; in lieu of such payment other methods of performance guarantee satisfactory to the Board of Supervisors shall be posted conditioned on payment at the commencement of such construction.

3-13 LOT SIZE

The minimum lot size shall be in accordance with the lot requirement for the zoning district in which the subdivision is located as prescribed in the Giles County Zoning Ordinance.

3-14 LOT SHAPE

The lot arrangement, design, and shape shall be such that lots will provide satisfactory and desirable sites for buildings, and be properly related to the topography, and conform to the requirements of these regulations. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage by adding area which would be unusable for normal purposes.

3-15 LOT SIDE LINES

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

3-16 LOT SHALL ABUT ON A STREET

Each lot shall abut on a street dedicated by the subdivision plat, or an existing publicly dedicated street, or on a street which has become public by right of use except as provided by this ordinance. If the existing street right of way does not meet the Virginia Department of Transportation Subdivision Street Requirements, the subdivider shall make provisions in the deeds to the lots for all buildings to be so constructed as to permit the widening by dedication of said roads or street to the current Virginia Department of Transportation requirements for right of way for public streets.

3-17 SETBACK

Setback requirements shall be shown clearly upon the preliminary and final plat. Minimum setback requirements shall be those required in the Giles County Zoning Ordinance for the zoning district in which the lot is located. For the purposes of setback requirements, lots shall be deemed to front on the street or right of way which provides access to the lot.

3-18 REMNANTS

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

3-19 BLOCK LENGTH

The maximum length of blocks shall be twelve hundred (1200) feet, and the minimum length of blocks upon which lots have frontage shall be five hundred (500) feet.

3-20 BLOCK WIDTH

Blocks shall be wide enough to allow two tiers of lots of minimum depth, except where fronting on major streets, unless prevented by topographical conditions or size of the property, in which case the agent may approve a single tier of lots of minimum depth.

3-21 BLOCK ORIENTATION

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

3-22 STREET DESIGN AND STANDARDS

3-22.1 For the purposes of this section, public access shall be deemed to exist when a lot abuts (as described in Section 3-16) on an existing street maintained by either the County of Giles or the Virginia Department of Transportation. Such street must be contained within a dedicated right of way which is a minimum of forty (40) feet in width. In the event that the existing street is located within a prescriptive easement or a right of way which is less than forty (40) feet in width, the Developer is required to dedicate such right of way for street purposes, including any additional width required to provide for a forty (40) foot right of way (amended 05/2014).

3-22.2 For all Standard Subdivisions (divisions of land into two or more lots, any one of which contains an area of less than five (5) acres) all streets shall be designed and constructed in accordance with Virginia Department of Transportation (VDOT) Subdivision Street Requirements and Sections 211 and 315 of VDOT's Road and Bridge Specifications.

3-22.3 For all subdivisions pursuant to Section 3-2.1 and all Large Lot Subdivisions pursuant to Section 3-2.5, access may be proposed which is either public or private. If public streets are proposed, they must meet the standards specified in Section 3-22.2. Plats proposing private streets shall clearly provide rights-of-way width as set forth in the Virginia Department of Transportation Subdivision Street Requirements in effect at the time of subdivision approval which include easements for public utilities and provide rights of access to public utilities without further approval or conveyance. Plats and other documents used to describe or transfer ownership of such parcels served by private streets shall clearly inform the purchaser of his responsibilities for construction, reconstruction, and maintenance of streets within the development. The following statement shall be included on each plat containing a private street and on the deed to each lot in such a subdivision:

"The streets in this subdivision do not meet the standards necessary for inclusion in the system of state highways and will not be maintained by the Department of Transportation or the County of Giles and are not eligible for rural addition funds or any other funds appropriated by the General Assembly and allocated by the Commonwealth Transportation Board. Prior to any future request for their addition to the state highway system they shall be constructed in full compliance with Virginia Department of Transportation requirements in effect at that time."

All such documents shall be submitted to the subdivision agent for approval prior to recordation.

3-22.4 For Family Subdivisions, all lots shall have public or private access as set forth in 3-22.3, except that only twenty (20) foot rights of way are required for private access. While not required, careful consideration should be given to the right of way width specified in the Virginia Department of Transportation Subdivision Street Requirements. All other

provisions of 3-2.2 and 3-22.1 shall apply. Lots divided under the Family Subdivision provisions of this ordinance (Section 5-2-55 [c] and 3-2.2) may not be further divided, even for purposes of sale or gift to another family member, unless access is provided in full compliance with Section 3-22-3.

3-22.5 For any subdivision proposing public streets or roads, the plat shall include a signature block for the Virginia Department of Transportation (VDOT). The signature block shall include the following language: "The streets depicted on this plat satisfy the requirements of VDOT's current Subdivision Street Requirements (SSRs). When designed and built accordingly and all other provisions of the SSRs are satisfied, VDOT will accept jurisdiction over the streets at the request of the local governing body. VDOT responsibility to maintain drainage easements outside of the public right of way shall only be to the degree required to protect public transportation interests."

3-23 PRIVATELY OWNED STREETS

Privately-owned and maintained streets allowed in townhouse developments, including curbs, gutters, and sidewalks shall be developed according to generally accepted standards in street design.

3-24 STREET ALIGNMENT AND LAYOUT

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

3-25 STREET NAMES

The subdivider shall name all streets, subject to coordination with the emergency services in the County and approval by the Planning Commission. Names shall be sufficiently different in sound and in spelling from other road names in the local government so as not to cause confusion. A road which is or is planned as a continuation of an existing road shall bear the same name.

3-26 ALLEYS

Alleys, where proposed, shall have a right-of-way of not less than 20 feet.

3-27 CUL DE SACS

Streets designed to have one end permanently closed must be terminated by a turn-around conforming to current VDOT standards.

3-28 RESERVE STRIPS

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

3-29 STREET IDENTIFICATION SIGNS

Street identification signs of an approved design shall be installed at all intersections.

3-30 RESERVED

3-31 RESERVED

3-32 MONUMENTS

3-32.1 Upon completion of subdivision streets and other improvements, the subdivider shall make certain all monuments required by this ordinance are clearly visible for inspection and use. Such monuments shall be installed by the subdivider. All monuments must include enough metal that they can be located with a metal detector.

3-32.2 Lot corners, street corners, points where streets intersect the exterior boundaries of the subdivision, and points of curve shall be marked with iron rods or other permanent material. Monuments shall be not less than five-eighths inch in diameter and approximately twenty four inches long, and shall be driven so as to be securely anchored.

3-33 RESERVATION OF LAND FOR PUBLIC PURPOSES

The County may require subdividers of land for residential use to set aside land for parks, playgrounds, schools, libraries, municipal buildings, and similar public and semipublic uses, subject to the following regulations:

3-33.1 Subdividers shall not be required to dedicate land for parks or playgrounds, exclusive of street and drainage without reimbursement by the County. Where land is required in excess of this amount, the reimbursement by the County shall be based on a proportionate share of the: 1) cost of raw land; 2) cost of improvements, including interests or investments; 3) development costs; plus 4) not more than ten (10) percent profit on the total of such costs;

3-33.2 Subdividers shall not be required to reserve land for public purposes other than streets, drainage, sidewalk, sewer system, or water systems or other site improvements for vehicular ingress and egress, public access, structures necessary to ensure stability of critical slopes, or for storm water management facilities, except on a reimbursement basis. They shall be reimbursed by the county or agency requiring the land. The amount of reimbursement shall be determined as in 3-33.1. They shall not be required to hold land longer than eighteen (18) months following the recording of the plat for such purchase. If the land is not purchased within the said eighteen (18) months, it may be sold as lots for the same purposes for which the subdivision was platted. To facilitate such possible eventual sale of reserved land as separate lots, the subdivider shall show on his final plat, by dotted lines and dotted numbers, the area and dimensions of lots to be created within the boundaries of any such reserved land, and may sell such lots, after the expiration date of the reservation, by lot number, without filing an amended plat.

3-34 LAND TO BE DIVISIBLE

The Commission shall make certain that lands so reserved are divisible in the same manner as the remainder of the subdivision so that the subdivider will not be required to reserve an unusable portion of his subdivision.

3-35 UTILITY REQUIREMENTS

Plans and Specifications for Utility Fixtures and Systems are to be submitted for approval to all local, state and federal agencies having authority over such installations. Authorities may also include the provider of such service. (i.e. power company, gas company, etc.)

3-36 HEALTH DEPARTMENT APPROVAL REQUIRED

- A. Notwithstanding any provision of this ordinance, Health Department approval shall not be required for any lot, which contains fifteen acres or more, or for any residue of 2 acres or more, which is the remainder of property platted as a lot subdivision or a family subdivision.
- B. Final subdivision plats shall clearly indicate Virginia Department of Health approval information or when permitted, indicate that the lot or residue has not been evaluated for onsite sewage disposal.

3-37 PUBLIC WATER AND/OR SEWER

Where public water and/or sewer is available, the service shall be extended to all lots within a subdivision by the developer.

3-38 PRIVATE WATER AND/OR SEWER

Where public water and/or sewer is not available, nothing in this regulation shall prevent the installation of privately owned water distribution systems or sewage collection and treatment facilities, provided, however, that any such installations must meet all of the requirements of the State Health Department, and any other State or local regulations having authority over such installations. Off site septic systems will not be permitted.

3-39 FIRE PROTECTION

The installation of adequate fire hydrants in a subdivision at approved locations is required, provided that the necessary water supply is available.

3-40 FLOOD CONTROL, DRAINAGE AND STORMWATER MANAGEMENT

Subdivisions shall be designed so as to comply with all applicable flood control, drainage and stormwater management laws, ordinances and regulations.

- 3-40.1 If any portion of the proposed subdivision is determined by the agent to be in the 100 year floodplain, the subdivider shall provide the necessary information to demonstrate that the presence of the 100 year floodplain was considered in the layout of the subdivision.
- 3-40.2 The subdivider shall provide plans for meeting all applicable stormwater management criteria. The design for all stormwater management facilities shall be in accordance with generally accepted hydraulic engineering practices, the Virginia Erosion and Sediment Control Handbook and all Virginia Stormwater Management laws and regulations. The design shall be certified by a licensed engineer to contain facilities that when properly installed, will comply with all applicable stormwater management laws and regulations.
- 3-40.3 Stormwater management facilities shall be located in perpetual unobstructed public easements of a width and location appropriate for the purpose of the easement and shall be clearly shown on the subdivision plat. All such facilities must be constructed in accordance with the plans and specifications for such facilities and generally accepted construction standards for stormwater management facilities.

3-40.4 Approval of the stormwater management facilities shall be conditioned upon an agreement being entered into between the County and a properly constituted Homeowner's Association for the subdivision, whereby the Homeowner's Association assumes all liability and responsibility for maintenance and operation of the stormwater management facilities. The Homeowner's Association must have the authority to levy assessments for maintenance of such facilities and the authority to place a lien against lots for unpaid assessments. The County Attorney shall review the articles of incorporation and bylaws or other organizational documents of any such Association prior to the County entering into any agreement with the Association. Nothing contained in this provision shall be deemed to impose any liability upon the County to maintain or operate any stormwater management facilities in a subdivision.

3-41 DRAINAGE EASEMENTS

The subdivider shall make adequate provisions for controlling storm and flood water run-off; including the installation of all necessary drainage improvements in accordance with approved plans required by the County Erosion and Sediment Control Ordinance and the dedication of all necessary drainage easements. Where required, drainage easements through adjoining property are to be provided by the subdivider.

3-42 PUBLIC UTILITY EASEMENTS

Easements of not less than twenty (20) feet in width shall be provided for water, sewer, power lines, and other utilities to serve the subdivision when required.

3-43 COUNTY NOT OBLIGATED TO PAY FOR GRADING, PAVING, ETC.

Nothing herein shall be construed as creating an obligation upon the County to pay for grading or paving, or for sidewalks, sewers, water systems, curb and gutter improvements, or other construction.

3-44 RELATION TO EROSION AND SEDIMENT CONTROL LAWS

The General Assembly has determined that the lands and waters comprising the watersheds of the State are great natural resources which are being adversely affected by the rapid shift in land use from agricultural to nonagricultural uses. The General Assembly found it necessary to establish and implement the Virginia Erosion and Sediment Control law to control erosion and sedimentation from land-disturbing activities.

3-44.1 Subdivision Development Included as Land-disturbing Activity. The Code of Virginia includes the term subdivision development along with activities disturbing 10,000 or more square feet of land for commercial or noncommercial uses.

3-44.2 Erosion and Sedimentation Plan Required. At the time of filing the preliminary plat, an erosion and sedimentation control plan will also be filed in accordance with the County Erosion and Sediment Control Ordinance and the provisions of the Virginia Erosion and Sediment Control Handbook.

3-45 PLANNED DEVELOPMENT DESIGN

The requirements of design for planned developments shall be as set forth in Section 607 and other applicable sections of the Giles County Zoning Ordinance.

3-46 MOBILE HOME PARK DESIGN

The requirements for the design requirements for mobile home parks shall be as set forth in the Section 608 of the Giles County Zoning Ordinance.

**SECTION 4
APPROVAL OF PLATS**

SECTION 4 - APPROVAL OF PLATS

4-1 PLAT REQUIRED -- APPROVAL BEFORE SALE

Whenever any ~~division~~ subdivision of land is proposed, ~~and before any~~ no building permit for the erection of a structure shall be granted, ~~or any~~ and no lot shall be sold ~~or offered for sale~~ until the Final Plat for the subdivision ~~will have~~ has been approved and recorded in the Giles County Clerk's Office. *(amended 10/2013)*

4-2 PRELIMINARY SKETCH

The subdivider may submit to the Agent and the Resident Highway Engineer a preliminary sketch of the proposed subdivision prior to his preparing detailed preliminary and final plats. The purpose of such preliminary sketch is to permit the Agent and the Resident Engineer to advise the subdivider whether his plans, in general, are in accordance with the requirements of this Ordinance and the regulations of the Virginia Department of Transportation. Upon submission of any such preliminary sketch, it shall be studied and the subdivider advised where it appears that changes would be necessary. The preliminary sketch may be marked indicating necessary changes and any such marked sketch shall be returned to the Commission with the preliminary plat.

The preliminary sketch shall be as follows:

It shall be drawn on white paper, or on a print of a topographic map of the property.

It shall be drawn to an appropriate scale i.e., two hundred (200) feet to the inch.

It shall show the name, location, and dimensions of all streets entering the property, adjacent to the property, or terminating at the boundary of the property to be subdivided.

It shall show the location of all proposed streets, lots, parks, playgrounds, and other proposed uses of the land to be subdivided and shall include the approximate dimensions.

4-3 PRELIMINARY PLAT

The subdivider shall apply in writing to the Agent for approval of the subdivision plat and submit two (2) copies of the Preliminary Plat. If the Preliminary Plat is to be considered by the Planning Commission, an additional seven (7) copies of the plat shall be submitted.

4-3.1 General

Prior to submitting a preliminary plat, the subdivider shall submit the preliminary plat to the Virginia Department of Health and Virginia Department of Transportation for their review. A revised plat incorporating Virginia Department of Health and Virginia Department of Transportation comments may then be submitted to the Agent for review.

4-3.2 Plans and Specifications

1. Two blue or black line prints of the plans and specifications for all required physical improvements to be installed shall be prepared by a certified engineer and shall be submitted to the Agent for approval or disapproval within sixty days (Code of Virginia (1950) as amended, Section 15.1-475.
2. The subdivider shall present the preliminary plat to the Agent at an appropriate scale.

3. 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.

4-3.3 The preliminary plat shall include the following information:

- 4-3.3-1 Name of subdivision, owner, subdivider, surveyor, or engineer, date of drawing, number of sheets, north point, and scale.
- 4-3.3-2 Location of proposed subdivision by an inset map at a scale of not less than one inch equal to 2000 feet showing adjoining roads, their names and number, towns, subdivisions, and other landmarks.
- 4-3.3-3 Reserved.
- 4-3.3-4 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.
- 4-3.3-5 All parcels of land to be dedicated for public use and the conditions of such dedication.
- 4-3.3-6 Topography at an appropriate interval.
- 4-3.3-7 Elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the center line of streets together with proposed grade lines connecting therewith.
- 4-3.3-8 Proposed connections with existing sanitary sewers and existing water supply or alternate means of sewage disposal and water supply.
- 4-3.3-9 Provisions for collecting and discharging surface drainage and preliminary designs of any structure that may be required;

4-4 PROCEDURE

The Agent and/or Planning Commission shall discuss the preliminary plat with the subdivider in order to determine whether or not the preliminary plat generally conforms to the requirements of this ordinance. The subdivider shall then be advised in writing within forty five (45) days, which may be by formal letter or by legible markings on a copy of the preliminary plat, concerning any additional data that may be required, the character and extent of public improvements that will have to be made, and notice of the performance guaranty which will be required to be submitted as a prerequisite to approval of the final subdivision plat. In determining the cost of required improvements and the amount of the performance guaranty, the Agent shall require a bona fide estimate of the cost of improvements to be furnished by the subdivider.

4-5 NO GUARANTEE

Approval by the Agent and/or the Planning Commission of the preliminary plat does not constitute guarantee of approval of the final plat.

4-6 SIX MONTHS LIMIT

The subdivider shall have not more than six (6) months after receiving official notification concerning the preliminary plat to file a final subdivision plat in accordance with this section with the Agent. Failure to do

so shall make preliminary approval null and void. The Agent may, on written request by the subdivider, grant an extension of this time limit.

4-7 FINAL PLAT

The subdivider shall submit three (3) copies of the plat, one of which shall be reduced to eleven inches by seventeen inches. The subdivision plats submitted for final approval by the county and subsequent recording shall be clearly and legibly drawn in ink upon stable based material at an appropriate scale, i.e. one hundred (100) feet to the inch, on sheets measuring no larger than 18 inches by 24 inches and no smaller than 11 inches by 17 inches in size. Plats shall further comply with all of the requirements imposed by law for recordation standards. Current recordation standards may be obtained from the Clerk of the Circuit Court. When a subdivision cannot be platted on sheets of this size, it is suggested that it be platted in sections, numbering the sections numerically, as Section 1, 2, etc., of subdivision. Plat should contain at least the following information:

- 4-7.1 Name of subdivision, community, state, owner, north point, scale of drawing, and number of sheets. If shown on more than several sheets join. A space containing the Certificate of Approval, (see Appendix A), shall be provided for the use of the approving authority.
- 4-7.2 Location of proposed subdivision by an insert map, at a scale of not less than 1 inch equals 2000 feet, indicating adjoining roads, their names and numbers, towns, subdivisions, and other landmarks.
- 4-7.3 A boundary survey with an error of closure within the limits established under current state standards related to the true meridian and showing the location of all monuments and their type of material. The survey may be related to the Virginia State Plane Coordinate grid, if the Coordinates of two (2) adjacent corners of the subdivision are shown.
- 4-7.4 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, which 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 on the form shown in Appendix A.
- 4-7.5 When the subdivision consists of land acquired from more than one source of title, the outlines of the various tracts shall be indicated by dashed lines, and identification of the respective tracts shall be placed on the plat.
- 4-7.6 The accurate location and dimensions by bearings and distances with all curve data on all lots and street lines or center lines of streets; boundaries of all proposed or existing easements; all existing public and private streets, their names, numbers, and widths; water courses and their names, names of owners and their property lines, both within the boundary of the subdivision and adjoining said boundaries.
- 4-7.7 Tax Parcel Identification number (s) for the parcel (s) being subdivided.
- 4-7.8 The data of all curves along the street frontages shall be shown in detail at the curve or in a curve data table containing the following: Delta, radius, arc, tangent, chord, and chord bearings.
- 4-7.9 Reserved

4-8 CONSIDERATION OF FINAL PLATS

The Agent or the Board of Supervisors shall act on proposed final plats within sixty (60) days after it has been officially submitted for approval by either approving or disapproving such plat in writing, and giving

with the latter specific reasons therefore. The specific reasons for disapproval may be contained in a separate document or may be written on the plat itself, and shall relate in general terms such modifications or corrections as will permit approval of the plat.

- 4-8.1 If the Agent or Board of Supervisors fails to act on the proposed plat within sixty (60) days after it has been officially submitted for approval, the subdivider, after ten (10) days written notice to the Board of Supervisors may petition the Circuit Court of the County to decide whether the plat should or should not be approved. The Court shall hear the matter and make and enter such order with respect thereto as it deems proper.
- 4-8.2 If the Board of Supervisors disapproves a plat and the subdivider contends that such disapproval was not properly based on the Ordinance applicable thereto, or was arbitrary or capricious, he may appeal to the Circuit Court having jurisdiction of such land, and the Court shall hear and determine the case as soon as possible, provided that his appeal is filed with the Circuit Court within sixty (60) days of the written disapproval by the Board of Supervisors.
- 4-8.3 If the Agent disapproves a plat and the subdivider contends that such disapproval was not properly based on the Ordinance applicable thereto, or was arbitrary or capricious, he may appeal to the Board of Supervisors who shall hear and determine the case as soon as possible, provided that his appeal is filed within sixty (60) days of the written disapproval by the Agent.
- 4-8.4 The subdivider shall have not more than six (6) months after receiving final approval to file the subdivision plat for recordation. If a plat is not filed for recordation within the time limit such approval shall be withdrawn and the plat marked void and returned.
- 4-8.5 Upon recordation of the final plat, the sub-divider shall submit or cause to be submitted, the approved final plat in digital format for use by the Giles County Geographic Information System (GIS) Department. Digital information shall include a scanned image of the final approved plat (signatures not required), and a digital file showing boundary lines and corners in computer assisted drafting (CAD) format. Acceptable and compatible format for digital submittal to be as specified by the Giles County GIS Department.

4-9 IMPROVEMENTS CONSTRUCTED AND ACCEPTED

Before the acceptance of improvements and release of surety by the Board Chairman, the Agent, or the Planning Commission, all applicants shall be required to complete all of the public roads, curbs, gutters, sidewalks, drainage, sewer, water facilities, or other improvements constructed for public use and financed in whole or part or in part by private funds and to provide as built drawings of the improvements constructed.

4-10 PERFORMANCE GUARANTEE IN LIEU OF CONSTRUCTION

The Planning Commission and Board of Supervisors at their discretion may waive the requirements for complete construction provided the owner or developer furnish the county a performance guarantee for construction in the amount of the estimated cost of the construction or surety such as: a personal, corporate, or property bond; certified check, letter of credit, cash escrow, or other guaranteed instrument acceptable to the county. The Planning Commission and the Board of Supervisors shall have the full authority to determine the amount and sufficiency of the performance guarantee and the surety for such guarantee.

4-11 PERIODIC RELEASE OR PERFORMANCE GUARANTEE

The subdivider or developer may request periodic release of the performance guarantee upon completion of part or all of any facilities required to be constructed, unless the governing body or its designated

administrative agency notifies said subdivider or developer in writing of nonreceipt of approval by applicable state agency, or of any specified defects or deficiencies in construction and suggested corrective measure prior to expiration of the thirty-day period.

If action is not taken by the governing body or administrative agency within the time specified above, the request shall be deemed approved, and a partial release granted until after expiration of such thirty-day period and there is an additional request in writing sent by certified mail return receipt to the chief administrative officer of such governing body. The governing body or its designated administrative agency shall act within ten working days of receipt of the request; then if no action is taken the request shall be deemed approved and final release granted to the subdivider or developer.

The Board of Supervisors shall not refuse to make a periodic partial or final release of a bond, escrow, letter of credit, or other performance guarantee for any reason not directly related to the specified defects or deficiencies in construction of the facilities covered by said bond, escrow, letter of credit or other performance guarantee.

4-12 LIMITS ON RELEASE

The governing body or its designated administrative agency shall be required to make periodic partial releases of such bond, escrow, letter of credit, or other performance guarantee in a cumulative amount equal to no less than eighty percent of the original amount for which the bond, escrow, letter of credit, or other performance guarantee was taken, based upon the percentage of facilities completed and approved by the governing body, local administrative agency, or state agency having jurisdiction.

Periodic partial releases may not occur before the completion of at least thirty percent of the facilities covered by any bond, escrow, letter of credit, or other performance guarantee, or after completion of more than eighty percent of said facilities. The governing body or administrative agency shall not be required to execute more than three periodic partial releases in any twelve-month period. Upon final completion and acceptance of said facilities, the governing body or administrative agency shall release any remaining bond, escrow, letter of credit, or other performance guarantee to the subdivider or developer. For the purpose of final release the term "acceptance" is deemed to mean: when said public facility is accepted by and taken over for operation and maintenance by the state agency, local government department or agency, or other public authority which is responsible for maintaining and for operating such facility upon acceptance.

4-13 TEMPORARY IMPROVEMENTS

The applicant shall build and pay for all costs of temporary improvements required by the Planning Commission and shall maintain same for the period specified by the Planning Commission. Prior to the construction of any temporary facility or improvement, the developer shall file with the local government separate suitable bond for temporary facilities, which bond shall insure that the temporary facilities will be properly constructed, maintained, and removed.

4-14 FAILURE TO COMPLETE IMPROVEMENTS

For subdivisions for which no performance bond has been posted, if the improvements are not completed within the period specified by the Planning Commission in the resolution approving the plat, the approval shall be deemed to have expired. In those cases where a performance bond has been posted and required improvements have not been installed within the terms of such performance bond, the local government may thereupon declare the bond to be in default and require that all the improvements be installed, regardless of the extent of the building development at that time the bond is declared to be in default.

4-15 PREVIOUS ACCEPTANCE OF DEDICATED FACILITIES

Should the County have accepted the dedication of a road for public use and such road is not acceptable for inclusion in the State Highway System due to factors other than its quality of construction, the County may require the subdivider or developer to furnish a maintenance and indemnifying bond or letter of credit with surety satisfactory to the County, in an amount sufficient for, and conditioned upon, the maintenance of such road until such time as it is accepted into the State Highway System.

4-16 RECORDATION

The recordation of such plat shall operate to transfer, in fee simple, to the County of Giles such portion of the premises platted for streets, alleys, or other public use and to transfer to the County any easement indicated on such plat to create public right of passage.

4-17 CONDITIONS

The 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 bonds, the satisfaction of the Agent. Approval of final plat shall be written by the Agent on the face thereof.

4-18 LOTLINE REVISIONS

A lot line on an existing parcel may be revised as long as the revision will not be in conflict with any provisions of this ordinance. The portion of land sold shall become a part of the adjoining tract. If the owner or the owner of the adjoining tract whose boundaries are adjusted decides to sell such tract, the owner must either sell the entire tract, including the area within the adjusted boundary, or fully comply with the provisions of the subdivision ordinance in effect at the time of the proposed conveyance, the same as if the boundary adjustment had never occurred. For conveyance made under this section, the deed of conveyance shall contain the following language:

"This conveyance is made in compliance with the Lotline Revision provisions of the Giles County Subdivision Ordinance (Section 4-18 or its replacement). For the purposes of such ordinance, the tract herein conveyed becomes a part of that certain tract of real estate described in Deed Book at page _____. Any future conveyance of this tract must comply fully with the provisions of the Giles County Subdivision Ordinance in effect at the time of such future sale."

Such revision shall not result in the creation of a nonconforming lot.

4-19 RESERVED

4-20 VACATION OF PLAT

A plat may be vacated by Ordinance of the Board of Supervisors on motion of one of its members, or on application of any interested person. Such Ordinance shall not be adopted until after notice has been given as required by 15.1-431. Said notice shall clearly describe the plat or portion thereof to be vacated and state the time and place of the meeting of the Board of Supervisors at which the adoption of the Ordinance is to be considered. An appeal from the adoption of the Ordinance may be filed within thirty days with the Circuit Court having jurisdiction of the land shown on the plat or part thereof to be vacated. Upon such appeal, the court may nullify the Ordinance if it finds that the owner of any lot shown on the plat will be irreparably damaged. If no appeal from the adoption of the Ordinance is filed within the time provided or if the Ordinance is upheld on appeal, a certified copy of the Ordinance of vacation shall be recorded in the clerk's office of the court in which the plat is recorded. In cases where any lot has been sold, the plat or part thereof may be vacated according to either of the following methods:

4-20.1 Any such plat recorded, or part thereof, may be vacated with the consent of the governing body, or its authorized Agent, of the county or municipality where the land lies, by the

owners, proprietors and trustees, if any, who signed the statement required by 3-3 at any time before the sale of any lot therein by a written instrument, declaring the same to be vacated, duly executed, acknowledged or proved and recorded in the same clerk's office wherein the plat to be vacated is recorded and the execution and recordation of such writing shall operate to destroy the force and effect of the recording of the plat so vacated and to divest all public rights in, and to reinvest such owners, proprietors and trustees, if any, with the title to the streets, alleys, easements for public passage and other public areas laid out or described in such plat.

4-20.2 In cases where any lot has been sold, the plat or part thereof may be vacated according to either of the following methods:

- (a) By instrument in writing agreeing to said vacation signed by all the owners of lots shown on said plat and also signed on behalf of the governing body of the county or municipality in which the land shown on the plat or part thereof to be vacated lies for the purpose of showing the approval of such vacation by the governing body. The word "owners" shall not include lien creditors except those whose debts are secured by a recorded deed of trust or mortgage and shall not include any consort of an owner. The instrument of vacation shall be acknowledged in the manner of a deed and filed for record in the clerk's office of any court in which said plat is recorded.
- (b) By ordinance of the governing body of the county or municipality in which the land shown on the plat or part thereof to be vacated lies on motion of one of its members or on application of any interested person. Such ordinance shall not be adopted until after notice has been given as required by 15.1-431 Code of Virginia. Said notice shall clearly describe the plat or portion thereof to be vacated and state the time and place of the meeting of the governing body at which the adoption of the ordinance will be voted upon. Any person may appear at said meeting for the purpose of objecting to the adoption of the ordinance. An appeal from the adoption of the ordinance may be filed within thirty days with the circuit court having jurisdiction of the land shown on the plat or part thereof to be vacated. Upon such appeal the court may nullify the ordinance if it finds that the owner of any lot shown on the plat will be irreparably damaged. If no appeal from the adoption of the ordinance is filed within the time above provided or if the ordinance is upheld on appeal, a certified copy of the ordinance of vacation may be recorded in the clerk's office of any court in which the plat is recorded

4-21 ADVERTISING STANDARDS

In advertising lots for sale the developer, subdivider, or subdivider's agent shall include the following points:

- 4-21.1 A subdivider, when advertising a subdivided tract of land for sale, shall be specific as to whether or not officially approved water and sewage facilities are available.
- 4-21.2 Whether or not the road in the subdivision is proposed to become part of the State's Public Road System.
- 4-21.3 If private roads are not part of the State's Road System, who is responsible for their maintenance.
- 4-21.4 If any deed restrictions are placed upon the lots in subdivision, such restrictions shall be advertised or a statement given as to where a copy of the restrictions can be obtained.

4-22 EXCEPTIONS

Where the subdivider can show that a provision of these standards would cause unnecessary hardship if strictly adhered to, and where because of topographical or other conditions peculiar to the site, in the

opinion of the County a departure may be made without destroying the intent of such provisions, the Agent may authorize an exception. Any exception thus authorized is to be stated in writing in the report of the Agent with the reasoning, on which the departure was justified, set forth. No exception to this Ordinance may be granted which is opposed in writing by the County or Highway Engineer or Health Official, unless the opposition is found by the Planning Commission and the Board of Supervisors to be arbitrary and capricious.

4-23 VARIANCES

Where the Planning Commission finds that extraordinary hardship or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve variances to these subdivision regulations so that substantial justice may be done and the public interest secured, provided that such variance shall not have the effect of nullifying the intent and purpose of these regulations; and further provided the Planning Commission shall not approve variances unless it shall make findings based upon the evidence presented to it in each specific case that:

- (a) The granting of the variance will not be detrimental to public safety, health, or welfare or injuries to other property as located;
- (b) The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property.
- (c) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations are carried out;
- (d) The variances will not in any manner vary the provision of the Zoning Ordinance, comprehensive plan, or Official Map.

4-23-1 Conditions. In approving variances, the Planning Commission may require such conditions as well, in its judgment, secure substantially the objectives of the standards or requirements of these regulations.

4-23-2 Procedure. A petition for any such variance shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the Planning Commission. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

SECTION 5
DEFINITIONS

SECTION 5 - DEFINITIONS

5-1 USAGE

- 5-1.1 For the purpose of these regulations, certain numbers, abbreviations, terms, and words used herein shall be used, interpreted, and defined as set forth in this action.
- 5-1.2 Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the plural number include the singular; and words "herein" means "in these regulations"; the word "regulations" means "these regulations".
- 5-1.3 A "person" includes a corporation, a partnership, and an incorporated association of persons such as a club; "shall" is always mandatory; a "building" includes a "structure"; a "building" or "structure" includes any part thereof; "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."

5-2 WORDS AND TERMS DEFINED

- 5-2.1 Agent. The officer as appointed by the Board of Supervisors to administer these regulations and to assist administratively other Boards and Commissions.
- 5-2.2 Alley. The public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other public road.
- 5-2.3 Applicant. The owner of land proposed to be subdivided or his representative. Consent shall be required from the legal owner of the premises.
- 5-2.4 Block. A tract of land bounded by public roads, or by a combination of public roads and public parks, cemeteries, railroad right-of-way, shorelines of waterways, or boundary lines of municipalities.
- 5-2.5 Bond (Performance). Any form of security including a cash deposit surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the Board of Supervisors. All bonds shall be approved by the Board of Supervisors wherever a bond is required by these regulations.
- 5-2.6 Building. Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or moveable property of any kind, and includes any structure.
- 5-2.7 Central Water System. A private water company formed by a developer to serve a new community development in the outlying area. It includes water treatment and distribution facilities. Reference is hereby made to the Commonwealth of Virginia Waterworks Regulations for the definition of a "public water supply".
- 5-2.8 Central Sewerage System. A community sewer system including collection and treatment facilities established by the developer to serve a new subdivision in an outlying area.
- 5-2.9 Collector Roads. A road intended to move traffic from local roads to secondary arterials. A collector road serves a neighborhood or large subdivision and would preferably be designed so that no residential properties face onto it.

- 5-2.10 Comprehensive Plan. A document or series of documents prepared by a Planning Commission and adopted by the Board of Supervisors, setting forth policies for the future land use of the County. Elements of the plan may include such titles as housing, transportation, community facilities, economic base, environment, land use, and future land use.
- 5-2.11 Construction Plan. The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the Planning Commission as a condition of the approval of the plat.
- 5-2.12 Cul-De-Sac. A local public road with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.
- 5-2.13 Developer. The owner of land proposed to be subdivided or his representative. Consent shall be required from the legal owner of the premises.
- 5-2.14 Development. 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. The term "development" shall not be construed to include any property which will be principally devoted to agricultural production.
- 5-2.15 Easement. Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.
- 5-2.16 Escrow. A deposit of cash with the local government in lieu of an amount required and still in force on a performance or maintenance bond. Such escrow funds shall be deposited by the County Treasurer in a separate account.
- 5-2.17 Family, Immediate Member of. Any person who is a natural or legally defined offspring, spouse, sibling, grand parents or parent of the owner.
- 5-2.18 Final Plat. The map or plan or record of a subdivision and any accompanying material, as described in these regulations.
- 5-2.19 Frontage. The minimum width of a lot measured from one side lot line to the other, along a straight line on which no point shall be further way from the street upon which the lot fronts than the building setback line as defined.
- 5-2.20 Governing Body. The body of the local government having the power to adopt ordinances. This is the County Board of Supervisors.
- 5-2.21 Governmental Attorney. The licensed attorney designated by the Board of Supervisors to furnish legal assistance for the administration of these regulations.
- 5-2.22 Grade. The slope of a road, public road, or other public way, specified in percentage (%) terms.
- 5-2.23 Health Department and Health Officer. The County Health Department.
- 5-2.24 Improvements. See Lot Improvements or Public Improvements.
- 5-2.25 Individual Sewage Disposal System. A septic tank or any other approved individual sewage system.

- 5-2.26 Joint Ownership. Joint ownership among persons shall be construed as the same owner; "constructive ownership" for the purpose of imposing subdivision regulations.
- 5-2.27 Lot. A tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for building development.
- 5-2.28 Lot, Corner. A lot situated at the intersection of two (2) roads, the interior angle of such intersection not to exceed 135 degrees. The shortest side fronting upon a street shall be considered the front of the lot, and the longest side fronting upon a street shall be considered the side of the lot.
- 5-2.29 Lotline Revision. A division of a tract or parcel for the purpose of sale or conveyance of a portion of a tract or lot to an adjoining property owner. The portion of land sold shall become a part of the adjoining tract. If the owner or the owner of the adjoining tract whose boundaries are adjusted decides to sell such tract, the owner must either sell the entire tract, including the area within the adjusted boundary, or fully comply with the provisions of the subdivision ordinance in effect at the time of the proposed conveyance, the same as if the boundary adjustment had never occurred. For conveyance made under this section, the deed of conveyance shall contain the following language:
- "This conveyance is made in compliance with the Lotline Revision provisions of the Giles County Subdivision Ordinance (Section 4-18 or its replacement). For the purposes of such ordinance, the tract herein conveyed becomes a part of that certain tract of real estate described in Deed Book _____ at page _____. Any future conveyance of this tract must comply fully with the provisions of the Giles County Subdivision Ordinance in effect at the time of such future sale."
- 5-2.30 Lot Improvement. Any building, structure, place, work, or art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment. Certain lot improvements shall be properly bonded as provided in these regulations.
- 5-2.31 Nonresidential Subdivision. A subdivision whose intended use is other than residential, such as commercial or industrial. Such subdivision shall comply with the applicable provisions of these regulations.
- 5-2.32 Off-Site. Any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the application for subdivision approval.
- 5-2.33 Official Map. The map established by the Board of Supervisors pursuant to law showing the public roads, highways, and parks, and drainage systems and set-back lines theretofore laid out, adopted and established by law, and any amendments or additions thereto adopted by the Board of Supervisors of additions thereto resulting from the approval of subdivision plats by the Planning Commission and the subsequent filing of such approved plats.
- 5-2.34 Ordinance. Any legislative action, however denominated, of a local government which has the force of law, including any amendment or repeal of any ordinance.
- 5-2.35 Owner. Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to, or sufficient proprietary interest in, the land sought to be subdivided under these regulations.
- 5-2.36 Perimeter Public Road. Any existing public road to which the parcel of land to be subdivided abuts on only one (1) side.

- 5-2.37 Planning Commission. The local government's Planning Commission established in accordance with law. This is the Giles County Planning Commission.
- 5-2.38 Preliminary Plat. The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Planning Commission for approval.
- 5-2.39 Public Improvement. Any drainage ditch, roadway, parkway, sidewalk, pedestrianway, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may effect an improvement for which local government responsibility is established. All such improvements shall be properly bonded.
- 5-2.40 Public Road. Any highway, street, avenue, boulevard, road, lane, alley or public way that is maintained by either a Virginia Municipality or the Virginia Department of Highways and Transportation and which provides unrestricted ingress and egress.
- 5-2.41 Private Road or Street: Any and all streets that are not constructed to meet the standards necessary for inclusion in the system of state highways. All such private roads and streets shall be privately maintained and will not be eligible for acceptance into the system of state highways unless improved to then current Department of Transportation standards with funds other than those appropriated by the General Assembly and allocated by the Commonwealth Transportation Board.
- 5-2.42 Registered Engineer. An engineer properly licensed and registered in Virginia.
- 5-2.43 Registered Land Surveyor. A land surveyor properly licensed and registered in Virginia.
- 5-2.44 Resident Highway Engineer. The engineer assigned to this jurisdiction by the Virginia Department of Highways and Transportation.
- 5-2.45 Resubdivision. A change in a map of an approved or recorded subdivision plat if such change affects any public road layout on such map or area reserved thereon for public use, or any line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.
- 5-2.46 Right-of-way. A strip of land occupied by a public road, private road, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another special use. The usage of the term "right-of-way" for land-platting purposes shall mean that every right-of-way hereafter established and shown on a final plat, is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for public roads, crosswalks, water mains, sanitary sewers, storm drains, shade trees or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.
- 5-2.47 Road, Dead-End. A road or a portion of a street with only one (1) vehicular-traffic outlet.
- 5-2.48 Road, Right-of-way Width. The distance between property lines measured at right angles to the center line of the public road.
- 5-2.49 Sale or Lease. Any immediate or future transfer of ownership or any possessory interest in land, including contract of sale, lease, devise, intestate succession, or transfer of an interest in a subdivision or part thereof, whether by metes and bounds, deed, contract, plat, map lease, devise, intestate and succession or other written instrument.
- 5-2.50 Same Ownership. Ownership by the same person, corporation, firm, entity, partnership or unincorporated association or ownership by different corporations, firms, partnerships, entities or unincorporated associations in which a stockholder, partner or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity or unincorporated association.

- 5-2.51 Setback. The distance between a building and the public road line nearest thereto. The distance shall be 35 feet, unless otherwise provided by the then current Giles County Zoning Ordinance.
- 5-2.52 Sketch Plat. A sketch preparatory to the preparation on the preliminary plat to enable the subdivider to save time and expense in reaching general agreement with the Agent as to the form of the plat and the objectives of these regulations.
- 5-2.53 Street. A public right-of-way.
- 5-2.54 Subdivider. Any person who (1) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision, or who (2) directly or indirectly, sells, leases, or develops or offers to sell, lease or develop, or advertises for sale, lease or development, any interest, lot parcel, site, unit or plat in a subdivision, or who (3) engages directly or through an Agent in the business of selling, leasing, developing, or offering for sale, lease or development, a subdivision or any interest, lot parcel site, unit or plat in a subdivision and who (4) is directly or indirectly controlled by or under direct or indirect common control with any of the foregoing.
- 5-2.55 Subdivision. The term subdivision or subdivide shall be deemed to be any division of a lot or parcel of land, for the purpose of transfer of ownership or building development, regardless of whether such building development shall be immediate or in the future. Building development shall be deemed to also include the erection of one or more structures designed to, house or provide shelter for more than one single family unit, such as a mobile home park, apartment building, condominium, townhouse, or duplex. For the purposes of this ordinance, there shall be seven types of subdivisions as set forth below:
- (a) Standard Subdivision. The division of a parcel of land into two (2) or more lots or parcels, any one of which as less than five (5) acres. Under this definition, the Board of Supervisors may also consider divisions of property proposing to be served by a right-of-way other than a public street (See Section 3-2.3 2). A standard subdivision must comply with all of the provisions of this ordinance.
 - (b) Large Lot Subdivision. The division of any parcel of land into lots or parcels of five (5) acres as provided in Section 3-2.5. Large Lot Subdivisions must comply with the requirements of this ordinance for platting and street design.
 - (c) Family Subdivision. A single division of a lot or parcel of land for the purpose of sale or gift to a member of the immediate family of the property owner (See Section 3-2.2). Only one such division shall be allowed per family member. Family divisions must comply with the requirements of this ordinance for platting. The provisions for family divisions shall not be used for the purpose of circumventing the other provisions of this ordinance. Such lots may not be further divided unless there is full compliance with the provisions for street design set forth in 3-22.4.
 - (d) Townhouse and Condominium Subdivision. The division of a parcel or tract of land for one family dwellings where each unit has its own front and rear access and which is in a row of at least three units. Such divisions of property must conform to the provisions of 3-2.4.
 - (e) Cemetery Subdivision. The division of a lot or parcel of land for purposes of creating a private cemetery such as a family, church or community cemetery which is not operated for profit.
 - (f) Lot Subdivision. Division of a lot or parcel into three or less parcels which meet the provisions of Section 3-2.1

- (g) Industrial Subdivision. The division of a parcel of land in a developed industrial park or similar layout.
- (h) Lotline Revision. A division of a tract or parcel for the purpose of sale or conveyance of a portion of a tract or lot to an adjoining property owner. The portion of land sold shall become a part of the adjoining tract. If the owner or the owner of the adjoining tract whose boundaries are adjusted decides to sell such tract, the owner must either sell the entire tract, including the area within the adjusted boundary, or fully comply with the provisions of the subdivision ordinance in effect at the time of the proposed conveyance, the same as if the boundary adjustment had never occurred. For conveyance made under this section, the deed of conveyance shall contain the following language:

"This conveyance is made in compliance with the Lotline Revision provisions of the Giles County Subdivision Ordinance (Section 4-18 or its replacement). For the purposes of such ordinance, the tract herein conveyed becomes a part of that certain tract of real estate described in Deed Book _____ at page _____. Any future conveyance of this tract must comply fully with the provisions of the Giles County Subdivision Ordinance in effect at the time of such future sale."
- (i) Re-subdivision. The term "subdivision" includes the re-subdivision of lots of record or the vacation of plats. The term shall apply either to the process of subdivision or the land subdivided.

- 5-2.56 Subdivider's Agent. Any person who represents, or acts for or on behalf of a subdivider or developer, in selling, leasing or developing or offering to sell, lease, or develop interest, lot, parcel, unit, site or plat in a subdivision, except an attorney-at-law whose representation of another person consists solely of rendering legal services.
- 5-2.57 Subdivision Plat. The final map or drawing, described in these regulations, on which the subdivider's plan of subdivision is presented to the Planning Commission for approval and which, if approved, may be submitted to the County Clerk.
- 5-2.58 Subdivision Subcommittee. A committee of at least three (3) members of the County Planning Commission that have the responsibility to examine and recommend all applications for subdivision.
- 5-2.59 Temporary Improvement. Improvements built and maintained by a subdivider during construction of the subdivision and prior to the release of the performance bond.

SECTION 6
EFFECTUAL CLAUSES

SECTION 6 - EFFECTUAL CLAUSES

6-1 PENALTIES

Any person violating the foregoing provisions of this section shall be subject to a fine or not more than five hundred dollars (\$500) for each lot or parcel of land so subdivided or transferred or sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided. Each day of violation shall be deemed a separate offense.

6-2 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 this subdivision ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

6-3 REPEAL

All ordinances or portions of ordinances in conflict with this ordinance are hereby repealed to the extent of their conflict.

6-4 AMENDMENT

This ordinance may be amended in whole or in part by the governing body provided that any such amendment shall either originate with or be submitted to the Planning Commission for recommendation; and further provided that no such amendment shall be adopted without a public hearing having been held by the governing body. Notice of the time and place of the hearing shall have been given at least once a week for two weeks, and the last notice at least six (6) days prior to the hearing.

6-5 EFFECTIVE DATE

This ordinance was duly considered, following a required public hearing held on July 21, 1987, and was adopted by the governing body of Giles County, Virginia at its regular meeting held on August 4, 1987, the members voting:

Voting for:	Herbert H. Brown
	Howard C. Morris
	Ray Neely
	Samuel G. Timberlake
Voting against:	None

This ordinance shall be effective on and after 12:01 a.m. on August 4, 1987.

This Amendment becomes effective upon adoption.

As Amended.