

ORDINANCE NO. 30A-2

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 17, SUBDIVISIONS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING CERTAIN SECTIONS, DELETING CERTAIN SECTIONS AND REORDAINING THE REMAINING SECTIONS.

BE IT ORDAINED, by the Board of Supervisors of James City County, Virginia, that Chapter 17, Subdivisions, of the Code of the County of James City, Virginia, be and the same is, hereby, amended and reordained by amending certain sections, deleting certain sections and reordaining the remaining sections, as follows:

CHAPTER 17

SUBDIVISIONS

Article 1. In General.

Section 17-2. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section; all distances and areas refer to measurements in a horizontal plane.

AGENT. The representative of the governing body who has been appointed to serve as the agent of the governing body in approving the subdivision plats.

ALLEY. A permanent service way providing a secondary means of access to abutting properties.

APPROVED. The word "approved" shall be considered to be followed by the words "or disapproved," when the sense so requires.

BUILDING LINE. The distance which a building is from the front lot line or front boundary line.

COMMISSION. The planning commission of James City County, Virginia.

CUL-DE-SAC. A street with only one outlet and having an appropriate turn-around for a safe and convenient reverse traffic movement.

DEVELOPER. An owner of property being subdivided, whether or not represented by an agent.

EASEMENT. A grant by a property owner of the use of land for a specific purpose or purposes.

ENGINEER. An engineer licensed by the Commonwealth of Virginia.

GOVERNING BODY. The Board of Supervisors of James City County, Virginia.

HEALTH OFFICIAL. The health officer or sanitarian of James City County, Virginia.

HIGHWAY ENGINEER. The resident engineer employed by the Virginia department of highways.

JURISDICTION. The area or territory subject to the legislative control of the governing body.

LOT. A numbered and recorded portion of a subdivision intended for transfer of ownership or for building development for a single building and its accessory building. The word "lot" shall be construed to be synonymous with "parcel."

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

LOT, DEPTH OF. The mean horizontal distance between the front and rear lot lines.

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

LOT, INTERIOR. A lot other than a corner lot.

LOT OF RECORD. A lot which has been recorded in the office of the clerk of the appropriate court.

LOT, WIDTH OF. The mean horizontal distance between the side lot lines.

PARCEL. The word "parcel" shall be construed to be synonymous with "lot."

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."

PROPERTY. Any tract, lot, parcel or several of the same collected together for the purposes of subdividing.

STREET. A publicly dedicated right-of-way, the principal means of access to abutting properties, which is presently a portion of the Virginia State Highway Department street and road system, or is a proposed addition to the Virginia State Highway Department street and road system, plans for which have been approved and bonds for the improvements of same shall have been posted in accordance with provisions elsewhere in this chapter.

STREET, COLLECTOR. Providing for traffic movement between major arterials and local streets, and direct access to abutting property.

STREET, MAJOR. A heavily traveled thoroughfare or highway that carries a large volume of through traffic, or anticipated traffic exceeding five hundred vehicles per day.

STREET or ALLEY; PUBLIC USE OF. The unrestricted use of a specified area or right of way for ingress and egress to two or more abutting properties.

STREET, OTHER. A street that is used primarily as a means of public access to the abutting properties with anticipated traffic of less than five hundred vehicles per day.

STREET, SERVICE DRIVE. A public right of way generally parallel and contiguous to a major highway, primarily designed to promote safety by eliminating promiscuous ingress and egress to the right of way by providing safe and orderly points of access to the highway.

STREET WIDTH. The total width of the strip of land dedicated or reserved for public travel, including roadway, curbs, gutters, sidewalks and planting strips.

SUBDIVIDE. To divide any tract, parcel or lot of land into two or more parts. The agent may however, permit the separation of one parcel from a tract of land without complying with all requirements of this chapter if it is: (1) not in conflict with the general meaning and purpose of this chapter; and (2) no new streets are required to serve the parcel; and (3) at least one acre in area; and (4) not less than one hundred fifty (150) foot frontage.

The word "subdivide" and any derivative thereof shall have reference to the term "subdivider" as defined hereafter in this section.

SUBDIVIDER. An individual, corporation or registered partnership 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, who have given their power of attorney to one of their group or to another individual to act on their behalf in planning, negotiating for, in representing, or executing the legal requirements of the subdivision.

ZONING ADMINISTRATOR. The agent of the Board of Supervisors of this County, as hereinbefore defined in this section; the officer designated by the governing body to administer and enforce the provisions of this chapter.

Section 17-11. Improvements.

(a) Generally. All required improvements shall be installed by the subdivider at his cost. In cases where specifications for streets or roads have been established either by the State Department of Highways 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 by the appropriate engineer.

(b) Utilities. All utility facilities including but not limited to wires, cables, pipes, conduits and appurtenant equipment, carrying or used in connection with the furnishing of electric, telephone, telegraph, cable television or similar service shall be placed below the surface of the ground, provided that the following utility facilities shall be permitted above ground:

1. Electric transmission lines and facilities in excess of 50 kilovolts;
2. Equipment such as electric distribution transformers, switch gear, meter pedestals, telephone pedestals, outdoor lighting poles or standards, radio antenna and associated equipment, which is, under accepted utility practices, normally installed above ground;
3. Meters, service connections and similar equipment normally attached to the outside wall of the customer's premises.

(c) Flood control and drainage. The subdivider shall provide all necessary information needed to determine what improvements are necessary to properly develop the subject property, including contour intervals, drainage plans and flood control devices. The subdivider shall also provide plans for all such improvements together with a properly qualified certified engineer's statement that such improvements, when properly installed, will be adequate for proper development. The highway engineer shall then approve or disapprove the plans. The subdivider shall also provide any other information required by the highway engineer.

(d) Lot size. The minimum lot size in any area shall be in accordance with the Zoning Ordinance, except that where public water or public sewer systems or both such systems are not available such minimum lot sizes may be increased by the agent in accordance with the recommendations of the health officer, which shall be submitted to the agent in writing, either by notations on the plat or by letter. The health officer may be guided by appropriate tests in determining the area required for the sanitary and safe disposal of septic tank effluent.

Section 17-23. Same -- Corner.

Corner lots shall have extra width sufficient for maintenance of required building lines on both streets. The building line shall be thirty feet on the public streets and roads having a right-of-way of fifty feet or more, and fifty-five feet if of less width.

Section 17-23 is hereby deleted.

Section 17-35. Same -- Construction Requirements.

In cases where state department of highways specifications are lacking or are less restrictive than the requirements of this chapter, the following construction standards shall prevail:

(a) The roadway shall be graded to thirty feet exclusive of side ditches.

(b) Base for pavement shall be at least twenty-four feet in width and six inches in depth and be of stone, gravel or other satisfactory material approved by the state department of highways.

(c) Pavement width shall be a minimum of twenty-two feet, constructed of material passing the state department of highways specifications. The pavements shall consist of a bituminous oil primer treatment and double sealed treatment with rates of application to be in accordance with the state department of highways specifications.

(d) All excavations and other disturbed soil shall be reseeded in accordance with existing Highway Department procedures and during construction, soil erosion control procedures in accordance with existing Highway Department procedures shall be used. An action plan for these requirements shall be made a part of the specifications for the project. The grades of streets submitted on subdivision plats shall be approved by the agent upon recommendation of the highway engineer prior to final action by the agent. Wherever feasible, street grades shall not exceed ten per cent.

Section 17-45. Exceptions to Requirements of Chapter.

Where the subdivider can show that a provision of the Standards set out in this chapter 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 commission, a departure may be made without destroying the intent of such provisions, the commission may authorize an exception. Any exception thus authorized is to be stated in writing in the report of the commission with the reasons for such departures clearly set forth. No such exception may be granted which is opposed in writing by the County or highway engineer or health official.

Section 17-47. How Chapter May Be Amended.

This chapter 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 commission for recommendation prior to adoption; and further provided, that no such amendment shall be adopted without a public hearing having been held by the governing body.

Article II. Plats.

Division 1. Generally.

Section 17-48. Platting Required Prior to Sale of Lots: Plats to be Approved and Recorded.

Any owner or developer of any tract of land situated within this County who subdivides 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 the appropriate court. No such plat shall be recorded unless and until it shall have been submitted, approved and certified by the agent in accordance with the regulations set forth in this chapter. No lot shall be sold or transferred in any such subdivision before the plat shall have been recorded.

Section 17-54. Fees.

There shall be a charge for the examination of every plat reviewed by the agent or commission. At the time of filing the preliminary plat, the subdivider shall deposit with the agent, checks payable to the treasurer in the amount of twenty-five dollars (\$25.00) per plat plus one dollar (\$1.00) per lot, if the subdivision contains five (5) or more lots; if the subdivision contains less than five (5) lots, the charge shall be twenty-five (\$25.00) per plat.

Division 2. Approval of Plats

Section 17-55. Approval and Recording Required Prior to Granting of Building Permit or Sale of Lots; Preliminary Plats.

Whenever any subdivision of land is proposed, and before any permit for the erection of a structure shall be granted, the subdivider or his agent shall apply in writing to the agent for the approval of the subdivision plat and submit three copies of the preliminary plat including the lot, street and utilities layout. No lot shall be sold or transferred until a final plat for the subdivision shall have been approved and recorded as provided in this article.

Section 17-58. Procedure Following Submittal of Preliminary Plat.

The commission or their appointed representative shall discuss the preliminary plat with the subdivider in order to determine whether or not his preliminary plat generally conforms to the requirements of this chapter and of the Zoning Ordinance. The subdivider shall then be advised in writing within forty-five 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 that will have to be made, and an estimate of the cost of construction or improvements and the amount of the performance bond which will be required as a prerequisite to approval of the final subdivision plat. In determining the cost of required improvements and the amount of the performance bond, the agent may consult with a duly licensed engineer who shall prepare this data for the agent, or preferably, may require a bona fide estimate of the cost of improvements to be furnished by the subdivider.

Section 17-59. Effect of Approval of Preliminary Plat.

Approval by the commission of the preliminary plat does not constitute a guarantee of approval of the final plat.

Adopted by the Board of Supervisors, James City County, Virginia, this 11th day of February, 1974.