

ARTICLE III.

SUBDIVISIONS*

* **Cross References:** Any ordinance relative to a plat of a subdivision, an amendment to a zoning map, or the zoning or rezoning of specific property saved from repeal, § 1-17(11); community development, ch. 22; trailers and trailer parks, ch. 70; utilities, ch. 74.

State Law References: Land subdivision and development, Code of Virginia, § 15.2-2240 et seq.; Virginia Public Records Act, Code of Virginia, § 42.1-76 et seq.; Subdivided Land Sales Act of 1978, Code of Virginia, § 55-336 et seq.

DIVISION 1.

GENERALLY

Sec. 50-241. Authority.

Pursuant to Code of Virginia, § 15.2-2240 et seq., as amended, the town council is authorized to adopt regulations to provide:

(1) For plat details which shall meet the standard for plats as adopted under Code of Virginia, § 42.1-82 of the Virginia Public Records Act (Code of Virginia, § 42.1-76 et seq.);

(2) For the coordination of streets within and contiguous to the subdivision with other existing or planned streets within the general area as to location, widths, grades and drainage, including, for ordinances and amendments thereto adopted on or after January 1, 1990, for the coordination of such streets with existing or planned streets in existing or future adjacent or contiguous to adjacent subdivisions;

(3) For adequate provisions for drainage and flood control and other public purposes, and for light and air, and for identifying soil characteristics;

(4) For the extent to which and the manner in which streets shall be graded, graveled or otherwise improved and water and storm and sanitary sewer and other public utilities or other community facilities are to be installed;

(5) For the acceptance of dedication for public use of any right-of-way located within any subdivision or section thereof, which has constructed or proposed to be constructed within the subdivision or section thereof any street, curb, gutter, sidewalk, bicycle trail, drainage or sewer system, water line as part of a public system or other improvement dedicated for public use, and maintained by the town, the commonwealth, or other public agency, and for the provision of other site-related improvements required by local ordinances for vehicular ingress and egress, including traffic signalization and control, for public access streets, for structures necessary to ensure stability of critical slopes, and for stormwater management facilities, financed or to be financed in whole or in part by private funds only if the owner or developer (i) certifies to the town council that the construction costs have been paid to the person constructing such facilities; (ii) furnishes to the town council a certified check or cash escrow in the amount of the estimated costs of construction or a personal, corporate or property bond, with surety satisfactory to the town council or its designated administrative agency, in an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned; or (iii) furnishes to the town council a bank or savings institution's letter of credit on certain designated funds satisfactory to the town council or its designated administrative agency as to the bank or savings institution, the amount and the form. The amount of such certified check, cash escrow, bond, or letter of credit shall not exceed the total of the estimated cost of construction based on unit prices for new public or private sector construction in the town and a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities, which shall not exceed 25 percent of the estimated construction costs;

(6) For conveyance, in appropriate cases, of common or shared easements to franchised cable television operators furnishing cable television and public service corporations furnishing cable television, gas, telephone and electric service to the proposed subdivision. Such easements, the location of which shall be adequate for use by public service corporations and franchised cable television operators which may be expected to occupy them, may be conveyed by reference on the final plat to a declaration of the terms and conditions of such common easements and recorded in the land records of the county or city;

(7) For monuments of specific types to be installed establishing street and property lines;

(8) That unless a plat is filed for recordation within six months after final approval thereof or such longer period as may be approved by the town council, such approval shall be withdrawn and the plat marked void and returned to the approving official; however, when construction of facilities to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the town council or its designated administrative agency or where the developer has furnished surety to the town council or its designated administrative agency by certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of such facilities, the time for plat recordation shall be extended to one year after final approval or to the time limit specified in the surety agreement approved by the town council or its designated administrative agency, whichever is greater;

(9) For the administration and enforcement of this article, not inconsistent with provisions contained in Code of Virginia, § 15.2-2240 et seq., and specifically for the imposition of reasonable fees and charges for the review of plats and plans, and for the inspection of facilities required by this article to be installed; such fees and charges shall in no instance

exceed an amount commensurate with the services rendered taking into consideration the time, skill and administrator's expense involved. All such charges made are hereby validated;

(10) For reasonable provisions permitting a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner in accordance with the provisions of Code of Virginia, § 15.2-2244;

(11) For the periodic partial and final complete release of any bond, escrow, letter of credit, or other performance guarantee required by the town council under this section in accordance with the provisions of Code of Virginia, § 15.2-2245; and

(12) For payment by a subdivider or developer of land of the 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 the subdivider or developer but necessitated or required, at least in part, by the construction or improvement of the subdivision or development; however, no such payment shall be required until such time as the town council or a designated department or agency thereof has established a general sewer, water, and drainage improvement program for an area having related and common sewer, water, and drainage conditions and within which the land owned or controlled by the subdivider or developer is located or the town council has committed itself by ordinance to the establishment of such a program. Such regulations or ordinance shall set forth and establish reasonable standards to determine the proportionate share of total estimated cost of ultimate sewerage, water, and drainage facilities required to adequately serve a related and common area, when and if fully developed in accord with the adopted comprehensive plan, that shall be borne by each subdivider or developer within the area. Such share shall be limited to the amount necessary to protect water quality based upon the pollutant loading caused by the subdivision or development or to the proportion of such total estimated cost which the increased sewage flow, water flow, and/or increased volume and velocity of stormwater runoff to be actually

caused by the subdivision or development bears to total estimated volume and velocity of such sewage, water, and/or runoff from such area in its fully developed state. In calculating the pollutant loading caused by the subdivision or development or the volume and velocity of stormwater runoff, the town council shall take into account the effect of all on-site stormwater facilities or best management practices constructed or required to be constructed by the subdivider or developer and give appropriate credit therefor. Each such payment received shall be expended only for necessary engineering and related studies and the construction of those facilities identified in the established sewer, water, and drainage program; however, in lieu of such payment the town council may provide for the posting of a personal, corporate or property bond, cash escrow or other method of performance guarantee satisfactory to it conditioned on payment at commencement of such studies or construction. The payments received shall be kept in a separate account for each of the individual improvement programs until such time as they are expended for the improvement program. All such bonds, payments, cash escrows or other performance guarantees shall be released and used, with any interest earned, as a tax credit on the real estate taxes on the property if construction of the facilities identified in the established water, sewer and drainage programs is not commenced within 12 years from the date of the posting of the bond, payment, cash escrow or other performance guarantee.

(Ord. of 6-29-1977, Introduction)

State Law References: Similar provisions, Code of Virginia, §§ 15.2-2241, 15.2-2243.

Sec. 50-242. Scope.

(a) This article is hereby adopted for the subdivision of land within the corporate town limits from and after June 29, 1977. Every owner or proprietor of any tract of land to which this article applies who subdivides such tract as provided in this article shall cause a plat of such subdivision, developed and prepared in accordance with this article, with reference to known or permanent monuments, to be made and recorded in the office of the clerk of the court wherein

deeds conveying such land are required by law to be recorded.

(b) This article is divided into four divisions as follows:

(1) Division 1 includes pertinent portions of the state enabling legislation; the general purpose and title of this article; definitions of important words and phrases used in this article; and legal information dealing with amendments, modifications, and penalties, etc., for this article.

(2) Division 2 states the submission process which must be followed by the applicant and town officials and the review procedure which must be followed by the town officials for the sketch, preliminary and final plats. General guidance for review of plats is also given.

(3) Division 3 provides the applicant and town with the requirements for the type of information which must be shown on each plat and accompanying material.

- (4) Division 4 presents detailed design standards and specifications for the plats.

These standards must be met by all applicants in preparing plats and are used by town officials in reviewing the submissions. Some guidance is also given for review of each type of plat.

(Ord. of 6-29-1977, Introduction)

Sec. 50-243. Purpose.

(a) The purpose of this article is to establish certain subdivision standards and procedures for the town, as provided for by the Code of Virginia, as amended.

(b) This article is part of a long-range plan to guide and facilitate the orderly, beneficial growth of the community and to promote the public health, safety, convenience, comfort, and general welfare. More specifically, the purposes of the standards and procedures in this article are to:

(1) Provide a guide for the change that occurs when land becomes 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; and

(3) Make possible the provision of public services in a safe, adequate and efficient manner.

(Ord. of 6-29-1977, § 101)

Sec. 50-244. Title.

This article is known and may be cited as the "Subdivision Ordinance of Shenandoah, Virginia."

(Ord. of 6-29-1977, § 102)

Sec. 50-245. Rules of construction.

For the purpose of this article, certain words and terms used shall be interpreted or defined as follows:

(1) The word "lot" includes the word "parcel."

(2) The word "approve" shall be considered to be followed by the words "or disapprove."

(3) Any reference to this article includes all ordinances amending or supplementing this article.

(Ord. of 6-29-1977, § 501)

Sec. 50-246. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrator means the representative of the town council who has been appointed by the town council to serve as the agent of the council for the administration of this article. The administrator may be but is not limited to the town clerk or the town manager, town secretary, etc., if officially designated as such.

Alley means a public permanent serviceway providing a secondary means of vehicular access to the side or rear of abutting properties and not intended for general traffic circulation.

Applicant means the owner of land proposed to be subdivided or his representative authorized in writing; a subdivider.

Architect means a person licensed to practice as such in the state.

Arterial means a road designated as such by the state department of transportation.

Bearings means an angular direction measured from one position to another using reference lines.

Block means a tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, or boundary lines of municipalities.

Bond means any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the town council. All bonds shall be approved by the town's attorney whenever a bond is required by this article.

Building means any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind, and includes any structure.

Building (setback) line means the minimum distance which a building is from the front boundary line or front lot line.

Building, main, means a building or structure in which the principal use of a lot is carried out.

Collector road means a road determined by the state department of transportation as being a collector road.

Commission means the planning commission of the town.

Community sewer system means a community sewer system including collection and treatment facilities established by the developer to serve a subdivision.

Community water system means a private water company formed by a developer to serve a community development. It includes water treatment and distribution facilities.

Comprehensive plan means the town comprehensive plan adopted June 28, 1977.

Cul-de-sac means a local street with only one outlet and having an appropriate turnaround for a safe and convenient reverse traffic movement.

Dedication means the deliberate appropriation of land by its owner for any general and/or public use, reserving to himself no other rights than those that are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.

Easement means authorization by a property owner of any designated part of his property for

use by another for a specified purpose.

Endorsement means the application of the reviewing and/or approving authority's stamp and the signature of the appropriate authority on the record plat.

Engineer means a person licensed to practice as such in the state.

Final plat means the final map or plan of a subdivision and any accompanying material, as described in this article.

Functional classification means a classification of roads, established by the state department of transportation to determine the function of such roads.

Grade means the slope of a road, street, or other right-of-way, specified in percentage terms.

Health department means the health department of the state.

Health director means the legally designated health authority of the state health department for the county, or his authorized representative.

Highway engineer means the resident engineer for the county employed by the state department of transportation.

Highway, limited access, means a freeway, or expressway, providing a trafficway for through traffic, in respect to which owners or occupants of abutting property or lands and other persons have no legal right to access to or from, except at such points and in such manner as may be determined by the state department of transportation.

Improvements means all required utilities and facilities as specified in this article, including but not limited to streets, storm and sanitary sewers, and water lines.

Individual on-site sewage disposal system means a septic tank, seepage tile sewage disposal system, or any other sewage treatment device approved by the state health department.

Joint ownership means joint ownership of any type among persons, which shall be construed as the same owner.

Jurisdiction means the area or territory subject to the legislative control of the town council.

Land surveyor means a person licensed to practice as such in the state.

Landscape architect means a person licensed to practice as such in the state.

Local road means a road so designated by the state department of transportation.

Lot means a tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose of transfer of ownership or for building development.

Lot, corner, means 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. If the lot lines on a street are equal in length, both shall be considered front lot lines.

Lot, depth of, means the mean horizontal distance between the front and rear lot lines.

Lot, interior, means a lot other than a corner lot.

Lot of record means a lot which has been recorded among the land records in the office of the clerk of the circuit court of the county.

Lot, reverse frontage, means an interior lot having frontage on two streets.

Lot, width of, means the mean horizontal distance between the side lot lines.

Main building. See *Building, main*.

Monument means a permanent steel pin and/or iron identifying marker meeting the requirements and specifications of this article (see section 50-357).

N.G.S. means National Geodetic Survey.

Owner means any person, group of persons, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under this article.

Performance bond means a bond with surety and/or cash deposit, approved by the town council and town attorney, in an amount equal to the full cost of improvements required by this article and providing for completion of such improvements within a definite period.

Planning commission means the planning commission of the town.

Plat includes the term "map," "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 the term "plat" is synonymous with the tem "subdivide."

Preliminary plat means the preliminary drawing, described in this article, indicating the proposed manner or layout of the subdivision to be submitted to the planning commission for preliminary approval.

Private street means a street not to be offered for dedication.

Property means any tract, lot, or parcel of land, or several of such collected together for the purpose of subdividing.

Public improvement means any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, off-street parking area, lot improvement, or other facility for which the town council may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which town responsibility is established. All such improvements shall be properly bonded if required.

Record plat means the copy of the final plat which contains the original endorsements of the planning commission and the town council and which is intended to be recorded with and meets the requirements of the county clerk of the circuit court.

Resubdivision means a change in a map of an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved thereon for public use or any lot line thereon or if it affects any map or plan legally recorded as a subdivision prior to the adoption of any regulations controlling subdivisions.

Reverse frontage lot. See *Lot, reverse frontage*.

Right-of-way means a strip of land occupied or intended to be occupied by a street, 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 means that every right-of-way established and shown on a final plat is to be separate and distinct from the lots or parcels and adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, 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 each right-of-way is established.

Road means a street.

Sale and *lease* mean any present or future transfer of ownership, or 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 succession, or other written instrument.

Setback. See *Building (setback) line*.

Sketch plat means a sketch preparatory to the preparation of the preliminary plat to enable the applicant to save time and expense in reaching general agreement with the planning commission as to the form of the plat and the objectives of this article.

Street means a strip of land, other than private driveways serving a single structure, subject to vehicular and/or pedestrian traffic providing means of access to property; also designated as "street," "road," "lane," "drive," "avenue," "right-of-way," "highway," "boulevard," "trail," "court," "place," "terrace," etc.

Street, public use of, and *alley, public use of*, mean the unrestricted use of a specified area or right-of-way for ingress and egress to two or more abutting properties.

Street of record means any street shown on any subdivision plat recorded in the office of the clerk of the circuit court, whether such street is constructed or not.

Street, service drive, means a public right-of-way generally parallel with and contiguous to a major highway, primarily designed to promote safety by eliminating pernicious ingress and egress to the major highway right-of-way by providing safe and orderly points of access to the major highway.

Street width means the total width of the strip of land dedicated or reserved for public travel, including roadway, curb and gutter, sidewalks, planting strips and, where necessary, utility easements.

Structure. See *Building*.

Subdivide means the process of creating new lots to establish a subdivision.

Subdivider means an individual, corporation, proprietor, trust, trustee, joint venture, registered partnership or other entity, owning any tract, lot, or parcel of land to be subdivided or a group of two or more persons or entities 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 or entity to act on their behalf in planning, negotiating for, in representing or executing the legal requirements of the subdivision regulations. The applicant.

Subdivision means the division of a parcel of land into two or more lots or parcels of less than five acres each for the purpose of transfer of ownership or building development, or, if a new street is involved in such division, any division of a parcel of land. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided. The town council may, however, permit the separation of one parcel from a tract of land through the use of a modified subdivision submission and review procedure if the separation is (i) not in conflict with the general meaning and purpose of this article, and (ii) no new streets are required to serve the parcel. The procedure to be followed for this separation of one parcel shall be as indicated in sections 50-284(a)(2) and 50-286(a). Such modified procedure may be applied no more than two times to each parcel on record with the clerk of the circuit court at the effective date of the ordinance from which this article is derived. For the next separation, full submission and review procedures as required by this article for preliminary and final plats must be complied with.

Subdivision agent means any person who represents or acts for or on behalf of a subdivider or applicant in selling, leasing, or developing or offering to sell, lease, or develop any 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.

Surveyor means a person licensed as such by the state.

(Ord. of 6-29-1977, § 502)

Cross References: Definitions generally, § 1-2.

Sec. 50-247. Modification.

Where the subdivider can show that a section of this article 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 town council a departure may be made without destroying the intent of such section, the council may authorize an exception. Any exception thus authorized is to be stated in writing in the minutes of the commission and town council with the reasoning on which the departure was justified. No such modification may be granted by this article which is opposed in writing by the highway engineer or health official. Modifications shall be clearly defined and entered on the final plat and signed by the mayor. The planning commission, in its review, shall make recommendations on the granting of such modifications.

(Ord. of 6-29-1977, § 601)

Sec. 50-248. Compliance.

(a) 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 in this article, and the penalties provided in this article shall apply to any failure to comply with this section.

(b) No permit will be issued by any administrative officer of the town or the county for the construction of any building or other improvements requiring a permit upon any land concerned for which a plat is required by this article, unless and until the requirements of this article have been complied with. Any person aggrieved by the decision of any administrative official whose decision is required pursuant to this article may appeal such decision to the town council.

(Ord. of 6-29-1977, § 602)

Sec. 50-249. Penalties.

Any person violating this article shall be subject to a fine of not more than \$500.00 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 provided in this section.

(Ord. of 6-29-1977, § 603)

Sec. 50-250. Private contracts.

This article 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 to any public official unless required by this article. When this article calls for more restrictive standards than are required by private contracts, this article shall control.

(Ord. of 6-29-1977, § 604)

Sec. 50-251. Necessary changes.

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

(Ord. of 6-29-1977, § 605)

Sec. 50-252. Amendments.

This article may be amended in whole or in part by the town council, provided that any such amendment shall either originate with or be submitted to the planning commission for recommendation. No such amendment shall be adopted without a public hearing having been held in accordance with Code of Virginia, § 15.2-2204. The planning commission shall have 60 days after referral by the council to make a recommendation.

(Ord. of 6-29-1977, § 608)

Sec. 50-253. Filing of article and amendments.

When this article is adopted or an amendment to this article is adopted, a certified copy of this article and any and all amendments thereto shall be filed in the office of the administrator and in the clerk's office of the court in which deeds are admitted to record in the county.

(Ord. of 6-29-1977, § 609)

Sec. 50-254. Effective date.

This article shall be effective on and after 12:01 a.m. June 29, 1977.

(Ord. of 6-29-1977, § 610)

Secs. 50-255--50-280. Reserved.

DIVISION 2.

SUBMISSION AND REVIEW PROCEDURES

Sec. 50-281. Scope.

(a) Whenever any subdivision of land is proposed, before any contract is made for the sale of any part thereof and before any permit for the erection of a structure in such proposed subdivision shall be granted, the applicant or his agent authorized in writing shall apply for and secure approval and endorsement of such proposed subdivision, and such subdivision shall be recorded in the office of the clerk of the circuit court.

(b) The town shall not approve the subdivision of land if, from adequate investigations conducted by all public agencies concerned in accordance with this article, it has been determined that, in the best interest of the public, the site is not suitable for platting and development purposes of the kind proposed. Sections of this article shall be relied upon to determine suitability.

(c) Land within a 100-year floodplain or known to be subject to flooding and land deemed to be topographically or geologically unsuitable shall not be platted for residential occupancy nor for such other uses as may increase danger to health, life or property or aggravate erosion. 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 erosion and shall not produce conditions contrary to the public welfare.

(d) All plans for the subdivision of land within the corporate town limits shall be reviewed by the planning commission and other town, state or other officials as deemed necessary and shall be approved or disapproved by the town council in accordance with procedures specified in this article. The sections and requirements of this article shall apply to and control all land subdivisions which have not been recorded in the office of the clerk of the

circuit court in and for county prior to the effective date of the ordinance from which this article is derived; provided, however, that any change in a recorded plat shall constitute a resubdivision and shall make such plat subject to any and all of the regulations in this article.

(Ord. of 6-29-1977, § 201)

Sec. 50-282. Submission of sketch plat (optional).

(a) *Plat to be filed with administrator.* The applicant may, if he so chooses, submit to the administrator a sketch plat of the proposed subdivision prior to his preparation of engineered preliminary and final plats. The purpose of such sketch is to permit the administrator and planning commission to advise the applicant whether his plans, in general, are in accordance with the requirements of this article. The commission, upon submission of any sketch plat, shall study it and advise the applicant wherein it appears that changes would be necessary. The commission may mark the sketch plat indicating necessary changes, and any such marked copy shall be returned to the subdivider. Plats shall fully comply with requirements of section 50-316.

(b) *Number of copies.* Eight legible black-line or blue-line paper prints, which may be prepared in ink or pencil, of the sketch plat shall be required for this optional submission.

(Ord. of 6-29-1977, § 202)

Sec. 50-283. Review of sketch plat.

(a) *Generally.* A subdivision sketch plat shall be considered a submission for informal discussion between the applicant and the town. Submission of a sketch plat shall not constitute official submission of a plat to the town.

(b) *Review by planning commission.* Procedures for review of the sketch plat by the planning commission are as follows:

(1) When a sketch plat has been submitted to the administrator, the plat shall be reviewed by the planning commission at its next scheduled meeting, provided that such submission has occurred no less than seven calendar days prior to the scheduled meeting.

(2) Such submission shall include application forms available at the office of the administrator.

(3) The planning commission shall study the sketch plat, taking into consideration the requirements of division 4 of this article and the best use of the land being subdivided. Particular attention will be given to the arrangement, location, and width of streets; their relation to the topography of the land; sewage disposal; drainage; lot sizes and lot arrangement; the further development of adjoining lands as yet unsubdivided; the guidelines for the town comprehensive plan; and the requirements of other plans and ordinances as adopted by the town.

(4) The planning commission may seek the advice of other officials or consultants in reviewing a sketch plat.

(5) Within seven calendar days after the meeting at which the sketch plat is reviewed by the planning commission, the administrator shall send written notice of the planning commission's action, including changes or modifications, and what environmental protection analyses, plans, development controls or other information it may require as a condition for approval of later subdivision plat submissions. Such notice shall be sent to the applicant or his agent and the town council. The planning commission and/or town council may require additional changes as a result of further study of the subdivision at the time of submission and review of preliminary plat and/or final plat.

(Ord. of 6-29-1977, § 203)

Sec. 50-284. Official submission of preliminary plat.

(a) *Filing.* The subdivision preliminary plat is to be filed with the administrator in accordance with the following:

(1) Copies of the preliminary plat and all required supporting data shall be officially submitted to the administrator by the applicant or his representative authorized in writing to submit the plat. The preliminary plat shall be considered the first official submission of a plat for subdivision. If a sketch plat has not been submitted, the subdivider may confer with the administrator or planning commission as to the proper procedure for filing and obtaining approval of plats. Plats shall fully comply with the requirements of section 50-317. The subdivider should also contact the department of transportation to obtain design and construction standards, the department of health regarding water and sewer system design standards, and/or the state water control board concerning public sewer system design standards.

(2) Two-lot subdivisions. When subdividing land into two lots, submission of a preliminary plat is optional the first two times a tract on record with the clerk of the circuit court at the effective date of the ordinance from which this article is derived undergoes such division. A subdivider with these two lots is not required to submit the preliminary plat and may submit a final plat in accordance with section 50-286(a) as the first submission to the town. Such plat shall be drawn in accordance with sections 50-317 and 50-318. The third time a parcel is separated from the original tract, both preliminary and final plats will be required for review. In all cases, a filing fee in accordance with subsection (c) of this section shall be required. The filing of preliminary and final plats is mandatory for all other subdivisions.

(b) *Contents.* Official submission of the preliminary plat by the applicant to the administrator shall consist of the following:

(1) Four completed copies of the application for review of preliminary subdivision plat available at the office of the administrator.

(2) Eleven legible black-line or blue-line paper prints of the preliminary plat as described in this article.

(3) Five copies of all other information as required by section 50-317.

(c) *Filing fee.* The administrator shall collect a nonrefundable filing fee as established by the town council for all subdivisions. Fees shall be charged in order to cover the costs of examining all plats and other expenses incidental to the approval of subdivisions. The applicant shall pay the fee at the time of filing the application for approval of a preliminary plat. The filing fee shall be \$25.00 per plat and \$1.00 for each lot if the subdivision contains five or more lots; if the subdivision contains less than five lots, the charge shall be \$10.00 per plat and \$1.00 for each lot. Such fee shall be paid by check or money order and shall be made payable

to the town.

(d) *Distribution.* The administrator shall distribute copies of the preliminary plat (black-line or blue-line prints) as follows:

- (1) Four copies to the planning commission.
- (2) Three copies to the state department of transportation.
- (3) Four copies to the state health department (county office).

(Ord. of 6-29-1977, § 204)

Sec. 50-285. Review of preliminary plat.

Procedures for review of the subdivision preliminary plat by the planning commission are as follows:

(1) When a preliminary plat drawn in accordance with section 50-317 has been officially submitted, such plat shall be reviewed by the planning commission at its next regularly scheduled meeting, provided such submission has occurred no less than seven calendar days prior to such meeting. At the discretion of the planning commission, the plat may be reviewed at a special meeting.

(2) During review of the preliminary plat, the planning commission shall seek the advice of the town zoning administrator if applicable, the health department, the department of transportation, and other officials or consultants as required before making its decision on the plat. Such review shall ensure that the preliminary plat is in accordance with the requirements of division 4 of this article, the streets in the proposed subdivision are designed to fit into the existing street system, and no harmful effects are created for the present and future residents of the town. All subdivisions shall be reviewed considering the policies of the town comprehensive plan and the requirements and recommendations of all the town plans and ordinances.

(3) If the preliminary plat is approved or disapproved or the commission deems changes or modifications of the plat submitted are advisable or necessary in the public interest, such decision, the reasons therefor, and the sections of this article relied upon shall be put in written form by the administrator. Such notice shall be sent to the following:

- a. The applicant or his agent.

- b. The town council.

- c. The town engineer, if applicable, or highway resident engineer.

Such report shall be only a notification of planning commission activity to the town council. Such report may also include an estimate of the cost of construction of all improvements as required by this article and the amount of the performance bond which may be required as a prerequisite for approval of the final subdivision plat as provided in section 50-286(f)(3)e. In determining the cost of required improvements and the amount of the performance bond, the commission may consult with a duly licensed engineer who shall prepare this data for the commission, or the commission may require an estimate of the cost of improvements, prepared and certified by a duly licensed engineer, to be furnished by the applicant.

One copy of the plat with all comments shall be maintained for the permanent records of the

town, and one copy shall be sent to the applicant or his agent.

(4) Except as otherwise provided by law, the planning commission shall render its decision and communicate it to the applicant within 60 days of submission. Failure of the planning commission to render such a decision and communicate it to the applicant within the time and in the manner required shall be deemed an approval unless the town requests an extension of time and the applicant has agreed, in writing, to such extension.

(5) If the planning commission requires changes to the preliminary plat, the planning commission shall approve or disapprove the plat at its next regularly scheduled meeting, provided such changes are made to the satisfaction of the planning commission, and communicate such decision forthwith; provided, however, the resubmission has occurred no less than seven days prior to such meeting.

(6) Approval of the preliminary plat shall not constitute acceptance of a subdivision for recording and does not constitute a guarantee of approval of the final plat. Approval is only an expression of approval of a general plan to be used in preparing the final subdivision plat for final approval and recording upon fulfillment of all requirements of this article.

(7) When a preliminary plat has been approved or approved subject to conditions, no subsequent changes or amendment in the zoning, subdivision, or other governing ordinance or plan shall be applied to adversely affect the right of the applicant to commence and to

complete any item for which the approval was granted. If such ordinance is amended after preliminary approval of such plat, the plat will be rendered nonconforming and will be subject to all requirements placed on such nonconformities.

(Ord. of 6-29-1977, § 205)

Sec. 50-286. Official submission of final plat (mandatory).

(a) *Two-lot subdivisions.* A person subdividing land into two lots may make the final plat his first submission to the town, subject to the limitations as defined in this article (see section 50-284(a)(2) and the definition of subdivision). All others must file both a preliminary plat and final plat. For such two-lot subdivisions, as permitted, three copies of the final plat, drawn in accordance with sections 50-317 and 50-318, and accompanying data shall be submitted to the administrator. Within 30 days of such submission, the administrator shall review the plat for compliance with this article. At his discretion, the administrator may seek the review of the planning commission in accordance with section 50-287(a), in which case, all regulations contained in this section and section 50-287 shall be complied with. If the administrator deems that planning commission review is not necessary for such plat, he may review and forward such plat and written recommendation to the town council within 30 days after his receipt of the final plat. The town council shall review such plat in accordance with section 50-287(b), and the subdivider shall comply with section 50-288.

(b) *Effect of preliminary plat review.* For all plats which were submitted for preliminary plat review, subsections (c) through (f) of this section shall apply along with other requirements of this article.

(c) *Time limits for submission.* Within six months of planning commission approval of the preliminary plat, a final plat shall be officially submitted to the administrator. However, an extension of time may be granted by the planning commission upon written request. A final plat submitted after this expiration of time for which no time extension has been granted shall be considered as a new preliminary plat and subject to all regulations in effect at the time of submission.

(d) *Conformance to preliminary plat.* The final plat shall conform in all respects to the preliminary plat as previously reviewed by the planning commission and shall incorporate all modifications required by the town in its review of the preliminary plat.

(e) *Filing with administrator.* Copies of the final plat and all required supporting data shall be officially submitted to the administrator by the applicant or his representative authorized in writing to submit the plat. Plats should fully comply with the requirements of section 50-318.

(f) *Number of copies and contents.* Official submission of the final plat by the applicant to the administrator shall consist of the following:

(1) Four completed copies of the application for review of the final subdivision plat available in the office of the administrator.

(2) Eleven legible black-line or blue-line paper prints of the final plat which shall comply with this article.