ARTICLE I – AUTHORITY, PURPOSE, TITLE, AND ADMINISTRATION

1-1 AUTHORITY

An ordinance to regulate the subdivision of property into lots, streets, alleys, and other public areas, to provide for the making and recording of plats of such subdivisions and the certification of same and provide for the approval of plats, and to provide for minimum standards of public improvements in subdivisions.

Whereas, the Code of Virginia 1950, as amended, Section 15.2-2240, et seq., the governing body of Dickenson County, Virginia, is authorized to adopt regulations to provide:

(a) For size, scale and other plot details which shall meet the standard for plats as adopted under § 42.1-82 of the Virginia Public Records Act;

(b) For the orderly development of the general area;

(c) 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 the coordination of such streets with existing or planned streets in existing or future adjacent or contiguous subdivisions;

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

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

(f) For the acceptance of dedication for the 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 sewerage system, waterline as part of a public system or other improvement dedicated for public use, and maintained by the locality, the Commonwealth, or other public agency, and for the provision of other site-related improvements required by local ordinances for vehicular ingress and egress, including traffic signalization and control, for public streets, for structures necessary to ensure stability of critical slopes, and for storm water management facilities, financed or to be financed in whole or in part by private funds only if the owner or developer (1) certifies to the governing body that the construction costs have been paid to the persons constructing such facilities; (2)
furnishes to the governing body a certified check or cash escrow in the amount of the estimated costs of construction or a personal, corporate or property bond, with the surety satisfactory to the governing body or its designated administrative agency, in an amount sufficient for and conditioned upon the construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned; or (3) furnishes to the governing body a bank or savings institution's letter of credit on certain designated funds satisfactory to the governing body 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 locality 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. "Such facilities," as used in this section, means those facilities specifically provided for in this section.

If a developer records a final plat which may be a section of a subdivision as shown on an approved preliminary plat and furnishes to the governing body a certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of the facilities to be dedicated within said section for public use and maintained by the locality, the Commonwealth, or other public agency, the developer shall have the right to record the remaining sections shown on the preliminary plat for a period of five years from the recordation date of the first section, or for such longer period as the local commission or other agent may, at the approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development, subject to the terms and conditions of this subsection and subject to engineering and construction standards and zoning requirements in effect at the time that each remaining section is recorded. In the event a governing body of a county, wherein the highway system is maintained by the Department of Transportation, has accepted the dedication of a road for public use and such road due to factors other than its quality of construction is not acceptable into the secondary system of state highways, then such governing body may, if so provided by its subdivision ordinance, require the subdivider or developer to furnish the county with a maintenance and indemnifying bond, with surety satisfactory to the governing body or its designated administrative agency, in an amount sufficient for and conditioned upon the maintenance of such road until such time as it is accepted into the secondary system of state highways. In lieu of such bond, the governing body or its designated administrative agency may accept a bank or savings institution's letter of credit on certain designated funds satisfactory to the governing body or its designated administrative agency as to the bank or savings institution, the amount and the form, or accept payment of a negotiated sum of money sufficient for and conditioned upon the maintenance of such road until such time as it is accepted into the secondary system of state highways and assume the subdivider's or developer's liability for maintenance of such road. "Maintenance of such road" as used in this section, means maintenance of the streets, curb, gutter, drainage facilities, utilities or other
street improvements, including the correction of defects or damages and the removal of snow, water or debris, so as to keep such road reasonably open for public usage;

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

(h) That unless a plat be filed for recordation within six months after the final approval thereof or such longer period as may be approved by the governing body, such approval shall be withdrawn and the plat marked void and returned by the approving official; however, in any case where construction of facilities to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the governing body or its designated administrative agency, or where the developer has furnished surety to the governing body 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 governing body or its designated administrative agency, whichever is greater;

(i) For the administration and enforcement of such ordinance, not inconsistent with provisions contained in the act, 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 any such ordinance 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 heretofore made are hereby validated;

(j) For conveyance 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, shall 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;

(k) 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 Virginia Code § 15.2-2244; and

(l) For the periodic partial and final complete release of any bond, escrow, letter of credit, or other performance guarantee required by the governing body under this section in accordance with the provisions of Virginia Code § 15.2-2245.
1-2 PURPOSE AND TITLE

The purpose of this ordinance is to establish certain subdivision standards and procedures for Dickenson County, Virginia, and such of its environs as come under the jurisdiction of the governing body as provided for by the 1950 Code of Virginia, as amended.

These are to guide and facilitate the orderly beneficial growth of the County and to promote the public health, safety, convenience, comfort, prosperity and general welfare. More specifically, the purpose of these standards and procedures is to provide a guide for the change in character that occurs when lands and acreage are developed for residential, business, or industrial purposes, to provide assurance that the purchasers of lots are buying a provision of public services in a safe, adequate, and efficient manner. Subdivided land must be maintained and numerous public services customary to such areas must be provided.

This ordinance is to assist the County in meeting these responsibilities.

This ordinance is known and may be cited as the “Subdivision Ordinance of Dickenson County, Virginia.”

1-3 ADMINISTRATION

1-3-1 ADMINISTRATION

The County Administrator appointed by the governing body is hereby appointed to administer this Ordinance.

1-3-2 DUTIES

The Administrator shall perform his or her duties as regards subdivisions and subdividing in accordance with this ordinance and the Land Subdivision and Development Act.

1-3-3 TO CONSULT

In the performance of his or her duties, the Administrator may call for opinions or decisions, either oral or written, from other departments in considering details of any submitted plat. This authority of the agent shall have particular reference to the Dickenson County Planning Commission, Resident Highway Engineer, and Health Officer of Dickenson County.

1-3-4 ADDITIONAL AUTHORITY

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

ARTICLE II – PROCEDURE FOR MAKING, RECORDING & APPROVAL OF PLATS

2-1 GENERAL

The procedure for review and approval of a proposed subdivision under the terms of this ordinance consists of three steps. The initial step is the preparation and submission to the Administrator of a preliminary sketch plat showing information as required herein. The second step is preparation and submission to the Administrator of a preliminary plat. The third step is submission to the Administrator of a final plat together with such additional materials as are required for final plats. When approved, the final plat becomes the instrument to be recorded in the Circuit Court Clerk’s Office of Dickenson County and must show written certification by the Administrator of said approval.

It is the intent of this ordinance to provide procedures for review and approval of proposed subdivisions in the most expeditious manner consistent with the legislative purposes of this ordinance. To this end, the subdivider is encouraged to consult early and informally with the Administrator for advice and assistance in preparation for any of the steps required herein. The requirements for submission and approval of preliminary sketch plats and preliminary plats shall be liberally construed to eliminate unnecessary, time consuming or costly requirements not consistent with the general legislative intent of this ordinance.

2-2 PRELIMINARY SKETCH PLATS AND PRELIMINARY PLATS

2-2-1 PRELIMINARY SKETCH PLATS

The subdivider shall submit to the Administrator two copies of a preliminary sketch plat showing, but not limited to, the following information:

a. Name of subdivision, owner or subdivider, date, and north point.

b. Location of proposed subdivision by an inset map drawn approximately to scale showing adjoining roads, towns, subdivisions, and sufficient other landmarks to clearly identify the location of the proposed subdivision.

c. The boundaries of the tract or part thereof to be subdivided drawn to scale with sufficient survey information to reproduce said boundary at another scale.
d. Sketches of all existing, platted and proposed streets, and their widths; natural water courses and other major landmarks.

e. Description of method and facilities for providing potable water and method and facilities for sewage disposal.

f. Any area which may be subject to inundation by flood as defined in Article V, Section 18 of this ordinance.

2-2-2 PRELIMINARY PLATS & DATA SHEETS, NUMBER SIZE AND FILING REQUIREMENTS

The subdivider shall submit to the Administrator three (3) copies of a preliminary plat of the proposed subdivision drawn on white paper, or on a print of a topographic map of the property to a scale of not less than one inch equal to 100 feet. A preliminary plat shall not be acceptable for submission unless it meets all the required standards of design and unless it contains all the required information or a written request for a variance from each specific deviation from the requirements with reasons therefore.

2-2-3 REQUIRED INFORMATION TO BE SHOWN ON PRELIMINARY PLATS AND DATA SHEETS

The preliminary plat and data sheets shall show improvements meeting the minimum standards of design as set forth in Article III and the general requirements for the construction of public improvements as set forth in the Appendix and shall give the following information insofar as applicable:

a. Name of subdivision, owner, subdivider, surveyor or engineer, date of drawing, number of streets, north point and scale. If true north is used, method of determination must be shown.

b. Location of proposed subdivision by an inset map at a scale of not less than one (1) inch equal to two thousand (2,000) feet showing adjoining roads, their names and numbers, towns, subdivisions, and other landmarks.

c. The boundary line survey or existing survey of record provided such survey shows a closure with an accuracy of not less than one in twenty-five hundred (1 in 2,500): total acreage, acreage of subdivided area; number and approximated area and frontage of all building sites, existing buildings within the boundaries of the tract, names of owners and their property lines within the boundaries of the tract and adjoining such boundaries.

d. All existing, platted and proposed streets, their names, numbers, and widths; existing utility or other easements, public areas and parking
spaces; culverts, drains and water courses, their names and other pertinent data.

e. The complete drainage layout, including all pipe sizes, types drainage easements and means of transporting the drainage to the nearest natural drainage flow, and a copy of the drainage calculations.

f. A cross section showing the proposed street construction, depth and type of base, type of surface, etc.

g. A profile or contour map showing the proposed grades for the streets and drainage facilities including elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the center line of streets together with proposed grade lines in connection therewith.

h. A location map tying the subdivision into the currently existing water supply or alternate means of sewage disposal and water supply.

i. Proposed connections with existing sanitary sewers and existing water supply or alternate means of sewage disposal and water supply.

j. All parcels of land to be dedicated for public use and the conditions of such dedication.

k. Utility companies shall execute quit claims to any easement within, over or under street right-of-way.

l. If any portion of the land being subdivided is subject to flood, as defined in Article V, Section 18, the area subject to flood shall be shown.

2-2-4 PROCEDURE FOR APPROVAL OF PRELIMINARY SKETCH PLATS OR PRELIMINARY PLATS

The subdivider shall then be advised in writing within sixty (60) days, which may be by formal letter or by legible markings on his copy of the preliminary plat or sketch plat concerning any additional data that may be required, the character and extent of public improvements that will have to be made, and the amount of the performance bond which will be required as a prerequisite to approval of the final subdivision plat. Bond required by the Virginia Department of Highways shall be in the Department’s possession. In determining the amount of the performance bond, the Administrator may consult with a duly licensed engineer who shall prepare this data for the Administrator, or may require a bona fide estimate of the cost of improvements to be furnished by the subdivider.
If approval of a feature or features of the preliminary plat by a state agency is necessary, the Administrator shall forward the preliminary plat to the appropriate state agency or agencies for review. Upon receipt of the approvals from all state agencies, the Administrator shall act upon a preliminary plat within 35 days.

If the Administrator does not approve the preliminary plat, the Administrator shall set forth in writing the reasons for such denial and shall state what corrections or modifications will permit approval by the Administrator. However, the Administrator shall not be required to approve a preliminary subdivision plat in less than sixty (60) days from the date of its original submission to the Administrator, and all actions on preliminary subdivision plats shall be completed by the Administrator and, if necessary, state agencies, within a total of ninety (90) days of submission to the Administrator.

If the Administrator fails to approve or disapprove the preliminary plat within ninety (90) days after it has been officially submitted for approval, the subdivider after ten (10) days’ written notice to the Administrator, may petition the Dickenson County Circuit Court to enter an order with respect thereto as it deems proper, which may include directing approval of the plat.

If the Administrator disapproves a preliminary plat and the subdivider contends that the disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he may appeal to the Dickenson County Circuit Court and the court shall hear and determine the case as soon as may be, provided that his appeal is filed with the circuit court within sixty (60) days of the written disapproval by the Administrator.

2-2-5 COPIES

One (1) copy of the preliminary sketch plat or preliminary plat will be retained by the Administrator and one (1) copy shall be returned to the subdivider with any notations at the time of approval or disapproval and the specific changes, if any, required.

2-2-6 NO GUARANTEE

The approval of the preliminary sketch plat or preliminary plat by the Administrator will not constitute acceptance of the final plat and will not be indicated on the preliminary sketch plat or preliminary plat.

2-2-7 SIX MONTHS’ LIMIT

Unless a plat is filed for recordation within six (6) months after final approval thereof or such longer period as may be approved by the governing body, such approval shall be withdrawn and the plat marked void and returned to the approving official; however, in any case where construction of facilities to be
dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the governing body or its designated administrative agency, or where the developer has furnished surety to the governing body 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 recodation shall be extended to one year after final approval of to the time limit specified in the surety agreement approved by the governing body or its designated administrative agency, whichever is greater.

2-3 FINAL PLAT

A final plat may be filed for all or any part of the territory shown on the approved preliminary plat or preliminary sketch plat. The subdivision of land shown on the final plat must conform substantially to the layout shown on the approved preliminary plat. No deviation from the preliminary plat will be accepted which substantially alters the subdivision layout shown thereon or which does not conform to all the requirements of the standards of this ordinance. No final plat will be accepted for submission which does not contain all the required information for final plats or a written request for a variance from the requirements for final plats with reasons therefore. No final plat where a variance from the requirements has been requested will be approved unless and until the Administrator has consented in writing to the variance.

2-3-1 PROCEDURE

At least ten (10) days prior to consideration by the Administrator, the subdivider shall submit the original of the final plat drawn on transparent material in black drawing ink and sufficient copies, together with any street profiles or other plans that may be required by the Administrator.

2-3-2 DRAWING

The plat shall be drawn to an engineering scale of one (1) inch equals not more than one hundred (100) feet on sheets not larger than 18 by 24 inches. When more than one sheet is required, an index sheet of the same size shall be filed showing the entire subdivision with the streets shown and identified as a key.

2-3-3 COPIES

When the plat has been approved by the Administrator, one (1) copy will be returned to the subdivider with the approval of the Administrator certified thereon. One approved copy shall be properly filed for recordation with the County Clerk by the subdivider as the official plat of record. The original tracing containing all required certificates will be returned to the subdivider for his records. Sufficient copies will be retained in the Administrator’s records.
2-3-4 APPROVAL

The Administrator shall approve or disapprove this final plat within sixty (60) days after its submission. If the plat is disapproved, the grounds for disapproval shall be stated in writing by the Administrator. Specific reasons for disapproval shall be contained either in a separate document or on the plat itself. The reasons for disapproval shall identify deficiencies in the plat that cause the disapproval by reference to specific duly adopted ordinances, regulations, or policies and shall identify modifications or corrections as will permit approval of the plat. The local Administrator shall act on any proposed plat that it has previously disapproved within 45 days after the plat has been modified, corrected and resubmitted for approval.

If the Administrator fails to approve or disapprove the plat within 60 days after it has been officially submitted for approval, or within 45 days after it has been officially resubmitted after a previous disapproval, the subdivider, after 10-days' written notice to the Administrator, may petition the Dickenson County Circuit Court to decide whether the plat should or should not be approved. The court shall give the petition priority on the civil docket, hear the matter expeditiously in accordance with the procedures prescribed in Article 2 (§ 8.01-644 et seq.) of Chapter 25 of Title 8.01 and make and enter an order with respect thereto as it deems proper, which may include directing approval of the plat.

If the Administrator disapproves a plat and the subdivider contends that the disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he may appeal to the Dickenson County Circuit Court and the court shall hear and determine the case as soon as may be, provided that his appeal is filed with the court within 60 days of the written disapproval by the Administrator.

2-3-5 REQUIREMENTS, FINAL PLATS

The final plat shall show and include the following:

a. The boundaries of the tract to be subdivided, or part thereof, together with the names and location of adjoining subdivisions and streets or highways and the location and ownership of adjoining unsubdivided property.

b. Sufficient survey data to determine and reproduce on the ground the location and end points of every street line, lot line, boundary line, block line, curve or angle point.
Each line shall contain a bearing and length. Data for curves shall include the radius, central angle, and tangent distance unless said curves are on streets where the above required data may be given for the street center line. All distance shall be given to the nearest one hundredth of a foot and all bearing angles to the nearest one minute of angle. Required building setback lines or other space restricted from building shall be shown as dashed lines. The area of lots shall be shown to the nearest 1/100 sq. ft. or to the nearest 1/1000 of acre.

c. Lots shall be numbered in numerical order, and blocks shall be numbered in numerical or alphabetical order. Any easements, rights-of-way, or other lands shown for public ownership or shown to be retained for public ownership or for public improvements shall be clearly indicated.

d. The location and description of permanent monuments, any grave, object or structure marking a place of burial and other required survey markers shall be indicated clearly on the plat.

e. All streets proposed in the subdivision and all adjoining streets shall be named.

f. The final plat shall contain the name of the proposed subdivision, the date of the plat, the scale, the north point, and all other information required in Section 2-2-3, subparagraph “a” of this ordinance.

g. There shall be place on the final plat, or on the cover sheet if more than one sheet constitutes the final plat a blank outlined space 3” X 5” suitable for indicating final approval data by the Administrator. In addition to this blank, sufficient space shall be provided for the certification statement contained in Section 2-3-6, subparagraph “a” of this ordinance and said statement shall be shown on the final plat.

h. When any part of the land proposed for subdivision lies in a drainage district such fact shall be set forth on the plat of the proposed subdivision.

i. Every subdivision plat which is intended for recording shall be prepared by a certified professional engineer or land surveyor. However, nothing herein shall be deemed to prohibit the preparation of preliminary studies, plans or plats of a proposed subdivision by the owner of the land, city planners, land planners, architects, landscape architects or others having training or experience in subdivision planning or design.

2-3-6 CERTIFICATION

The following certificates shall be presented with the final plat:
a. 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 acknowledgment of deeds.

b. Certification showing that applicant is the landowner and dedicates streets, rights-of-way, and any sites for public use.

c. Certification by registered surveyor or engineer to accuracy of survey and plat, placement of monuments, and the source of title of the owners of the land subdivided and the place of record of the last instrument in the chain of title.

d. Certification by the county health officer when individual sewage disposal or water systems are to be installed.

e. Certification by the Administrator and/or highway engineer that the subdivider has complied with one of the following alternatives:

(1) Prior installation of all improvements in accordance with the requirements of the standards, or

(2) Posting of a security bond in sufficient amount to assure the completion of all required improvements.

f. Certification of approval to be signed by the Administrator.

g. When the subdivision consists of land acquired from more than one source of title the outlines of the various tracts shall be indicated by dash-lines, and identification of the respective tracts shall be placed on the plat.

h. Every plat, or deed of dedication to which the plat is attached, shall contain in addition to the professional engineer’s or 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 and duly acknowledged before an officer authorized to take acknowledgment 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 the circuit court for the lands contained in the plat, and indexed in the general index to deeds under the names of the owners of lands signing the statement, and under the name of the subdivision.
Owners shall notify the appropriate commissioner of the revenue of improvements to real property situated in platted subdivisions.

2-3-7 RECORDATION OF PLAT AS TRANSFER OF STREETS

The recordation of an approved plat shall operate to transfer, in fee simple, to the respective localities in which the land lies the portion of the premises platted as is on the plat set apart for streets, alleys or other public use and to transfer to the locality any easement indicated on the plat to create a public right of passage over the land. The recordation of such plat shall operate to transfer to the locality, or to such association or public authority as the locality may provide, such easements shown on the plat for the conveyance of stormwater, domestic water and sewage, including the installation and maintenance of any facilities utilized for such purposes, as the locality may require. Nothing contained in this article shall affect any right of a subdivider of land heretofore validly reserved. The clerk shall index in the name of all the owners of property affected by the recordation in the grantor's index any plat recorded under this section. Nothing in this section shall obligate the locality, association or authority to install or maintain such facilities unless otherwise agreed to by the locality, association or authority.

When the authorized officials of a locality within which land is located, approve in accordance with the subdivision ordinances of the locality a plat or replat of land therein, then upon the recording of the plat or replat in the circuit court clerk's office, all rights-of-way, easements or other interest of the locality in the land included on the plat or replat, except as shown thereon, shall be terminated and extinguished, except that an interest acquired by the locality by condemnation, by purchase for valuable consideration and evidenced by a separate instrument of record, or streets, alleys or easements for public passage subject to the provisions of Virginia Code § 15.2-2271 or § 15.2-2272 shall not be affected thereby.

2-3-8 PETITION TO RESTRICT ACCESS TO CERTAIN PUBLIC STREETS

Notwithstanding the provisions of § 2-3-7, when the streets in a subdivision have not been accepted into the highway system and serve only, or are primarily for, the general welfare of the inhabitants of the subdivision and do not serve as a connector to other public rights-of-way, then upon petition to the governing body of the locality, signed by the owners of two-thirds of the subdivision lots, including the subdivider if he has an interest in the subdivision, requesting that they be allowed to restrict ingress and egress to the subdivision, the governing body may permit the restriction subject to the following conditions:

1. The restriction may be abolished at any time in the sole discretion of the governing body,
2. The restriction shall not be asserted in opposition to the public ownership,

3. The streets shall not be blocked to ingress and egress of government or public service company vehicles,

4. Necessary maintenance of the streets will be paid for by the owners, and

5. Such other conditions as may be imposed by the governing body.

2-3-9 SUBMISSION OF PLANS AND SPECIFICATIONS FOR UTILITY FIXTURES AND SYSTEMS

If the owners of any such subdivision desire to construct in, on or under any streets or alleys located in such subdivision any gas, water, sewer or electric light or power works, pipes, wires, fixtures or systems, they shall present plans or specifications therefor to the Administrator, for approval. The Administrator shall have thirty (30) days in which to approve or disapprove the same. In event of the failure of the Administrator to act within such period, such plans and specifications may be submitted, after ten days' notice to the County, to the Dickenson County Circuit Court for its approval or disapproval, and its approval thereof shall, for all purposes of this article be treated and considered as approval by the locality or its authorized agent.

2-3-10 RECORDATION

Unless a plat be filed for recordation within six months after the final approval thereof or such longer period as may be approved by the governing body, such approval shall be withdrawn and the plat marked void and returned by the approving official; however, in any case where construction of facilities to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the governing body or its designated administrative agency, or where the developer has furnished surety to the governing body 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 governing body or its designated administrative agency, whichever is greater.

An approved final subdivision plat which has been recorded or an approved final site plan, hereinafter referred to as "recorded plat or final site plan," shall be valid for a period of not less than five years from the date of approval thereof or for such longer period as the Administrator may, at the time of approval, determine to be reasonable, taking into consideration the size and phasing of the proposed
development. A site plan shall be deemed final once it has been reviewed and approved by the locality if the only requirement remaining to be satisfied in order to obtain a building permit is the posting of any bonds and escrows.

Upon application of the subdivider or developer filed prior to expiration of a recorded plat or final site plan, the Administrator may grant one or more extensions of such approval for additional periods as the Administrator may, at the time the extension is granted, determine to be reasonable, taking into consideration the size and phasing of the proposed development, the laws, ordinances and regulations in effect at the time of the request for an extension.

If the Administrator denies an extension requested as provided herein and the subdivider or developer contends that such denial was not properly based on the ordinance applicable thereto, the foregoing considerations for granting an extension, or was arbitrary or capricious, he may appeal to the Dickenson County Circuit Court, provided that such appeal is filed with the circuit court within sixty days of the written denial by the Administrator.

For so long as the final site plan remains valid in accordance with the provisions of this section, or in the case of a recorded plat for five years after approval, no change or amendment to any local ordinance, map, resolution, rule, regulation, policy or plan adopted subsequent to the date of approval of the recorded plat or final site plan shall adversely affect the right of the subdivider or developer or his successor in interest to commence and complete an approved development in accordance with the lawful terms of the recorded plat or site plan unless the change or amendment is required to comply with state law or there has been a mistake, fraud or a change in circumstances substantially affecting the public health, safety or welfare.

Application for minor modifications to recorded plats or final site plans made during the periods of validity of such plats or plans established in accordance with this section shall not constitute a waiver of the provisions hereof nor shall the approval of minor modifications extend the period of validity of such plats or plans.

The provisions of this section shall be applicable to all recorded plats and final site plans valid on or after January 1, 1992. Nothing contained in this section shall be construed to affect (i) any litigation concerning the validity of a site plan pending prior to January 1, 1992, or any such litigation nonsuited and thereafter refiled; (ii) the authority of a governing body to impose valid conditions upon approval of any special use permit, conditional use permit or special exception; (iii) the application to individual lots on recorded plats or parcels of land subject to final site plans, to the greatest extent possible, of the provisions of any local ordinance adopted pursuant to the Chesapeake Bay Preservation Act (§ 10.1-2100 et seq.); or (iv) the application to individual lots on recorded plats or parcels of land subject to final site plans of the provisions of any local ordinance adopted to
comply with the requirements of the federal Clean Water Act, Section 402 (p.) of the Stormwater Program and regulations promulgated thereunder by the Environmental Protection Agency.

ARTICLE III – GENERAL REQUIREMENTS & MINIMUM STANDARDS OF DESIGN

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

3-1 STREETS

3-1-1 CONFORMITY TO THE OFFICIAL MAP AND THOROUGHFARE PLAN

The location and width of all streets and roads shall conform to the Virginia Department of Transportation Subdivision Standards.

3-1-2 RELATION TO ADJOINING STREET SYSTEM

The proposed street system shall extend existing streets or projects. They shall be extended at a width no less than the required minimum width.

3-1-3 STREET ELEVATION

No street shall be approved if it is more than two (2) feet below the elevation of flood as defined in Section 18 of Article V. The Administrator may require, where necessary, profiles and elevations of streets for areas subject to flood. Fill may be used for streets provided such fill does not unduly increase flood heights. Drainage openings shall be so designed as to not restrict the flow of water and unduly increase flood heights.

The street pattern shall be designed so that in time of flood each lot shall be readily accessible to emergency vehicles.

3-1-4 STREET WIDTHS

The minimum width of right-of-way, measured from lot line to lot line shall not be less than the widths established and determined by the Virginia Department of Transportation in their current subdivision standards regulations.

Through proposed neighborhood or local business areas, the street width shall be increased ten (10) feet on each side to provide for movement of vehicles into and out of necessary off-street parking areas without interference to traffic.

3-1-5 ADDITIONAL WIDTH ON EXISTING STREETS
Subdivisions that adjoin existing streets shall dedicate additional right-of-way to meet the minimum street width requirements.

a. The entire right-of-way shall be provided where any part of the subdivision is on both sides of the existing street.

3-1-6 RESTRICTION OF ACCESS

When a tract fronts on an arterial street or highway, the Administrator may require such lots to be provided with frontage on a marginal access street.

3-1-7 DEAD-END STREETS

a. Minor terminal streets or courts designed to have one end permanently closed shall be no more than seven hundred fifty (750) feet long unless necessitated by topography. They shall be provided at the closed end with a turn-around having an outside roadway diameter of at least one hundred (100) feet or the Administrator may approve an alternate design.

b. Where, in the opinion of the Administrator, it is desirable to provide for street access to adjoining property, proposed streets shall be extended by dedication to the boundary of such property.

3-1-8 PRIVATE STREETS AND RESERVE STRIPS

There shall be no private streets platted in any subdivision. Every lot in subdivided property shall be served from a publicly dedicated street.

3-1-9 STREET NAMES

Proposed streets which are obviously in alignment with others already existing and named shall bear the names of existing streets. In no case shall the name for proposed streets duplicate existing street names, irrespective of the use of the suffix street, avenue, boulevard, driveway, place or court. The Administrator can assist the subdivider in avoiding duplication.

3-1-10 ALLEYS

Alleys may be required to the rear of all lots used for business proposed by the Administrator. Alleys shall not be provided in residential blocks except where the subdivider produces evidence satisfactory to the Administrator of the need for alleys.
3-1-11 CONSTRUCTION AND DESIGN REQUIREMENTS FOR STREETS

Subdivision streets shall be constructed and plans submitted in accordance with the current Virginia Department of Transportation Subdivision Street Requirements when new streets are created to serve the lots, tracts, or parcels in the subdivision. Construction and design requirements or streets and sidewalks in the Appendix of this ordinance are therefore deleted.

3-2 BLOCKS

3-2-1 LENGTH

Blocks shall not be less than five hundred (500) feet nor more than twelve hundred (1,200) feet in length, except as the Administrator considers necessary to secure efficient use of land or desired features of street patterns. In blocks over eight hundred (800) feet in length, the Administrator may require one (1) or more public crosswalks of not less than ten (10) feet in width to extend directly across the block and at a location deemed necessary.

3-2-2 WIDTH

Blocks shall not be less that two hundred (200) feet in width, except where reverse frontage on major streets and roads is provided or where prevented by topographical conditions or size of the property; in which case the Administrator will approve a single row of lots of minimum depth.

3-2-3 ORIENTATION

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

3-2-4 FIRE PROTECTION

The installation of adequate fire hydrants in a block at locations approved by the Administrator may be required, provided unnecessary public water is available. The Administrator shall consult with the proper authority before approving such location.

3-3 LOTS

3-3-1 ADEQUATE BUILDING SITES

Each lot shall contain a building site not subject of flood as defined in Article V, Section 18 of the Subdivision Ordinance and comply with the building setback lines required in Subsection 3-3-5 of the Subdivision Ordinance. Land within a
floodway as defined in Article V, Section 20, shall not be platted for residential sites. Said land may be counted as part of the lot in computing lot sizes.

3-3-2 ARRANGEMENT

Insofar as practical, side lot lines shall be at right angles to straight lines or radial to curved street lines. Each lot must front upon a public street or road.

3-3-3 MINIMUM SIZES

The size, shape, and orientation of lots shall be such as the Administrator deems appropriate for the type of development and use contemplated. Where public water and sanitary sewer systems are reasonably accessible, the subdivider shall connect with systems and provide a connection or connections to each lot. Where a public sewer is not accessible, an alternate method of sewage disposal may be used, if it meets all applicable public health regulations. When a public water supply is not accessible, a water well or other source may be used upon approval by the county sanitary.

a. The minimum lot frontage shall be seventy-five (75) feet with a minimum area of 13,000 square feet where public water and sewer is available; 100 feet frontage and 20,000 square feet where both are not available. “Frontage” means the minimum width of a lot measured for one side lot line to the other along a line on which no point shall be further away from the street upon which the lot fronts than the building setback line as required herein.

b. The Administrator may require greater lot size than indicated on the plat based upon the date from percolation tests, soil condition, and investigations or as determined by the county health officer(s).

c. Size of properties reserved or laid out for commercial or industrial properties shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated. Platting of individual lots shall be avoided in favor of an overall design of the land to be used for such purposes.

3-3-4 SEPARATE OWNERSHIP

Where the land covered by a subdivision includes two or more parcels in separate ownership, and lot arrangement is such that a property ownership line divides one or more lots, the land in each lot so divided shall be transferred by deed to single ownership simultaneously with the recording of the final plat. Said deed is to be deposited with the Clerk of the Court and held with the final plat until the subdivider is ready to record same, and they both shall then be recorded together.
3-3-5 BUILDING SETBACK LINES

a. The minimum depth of building setback lines from the right-of-way of minor streets shall not be less than thirty-five (35) feet from the side street. On collector streets, the minimum setback lines shall be thirty-five (35) feet and on the arterial streets, the minimum setback lines shall be forty (40) feet unless a greater distance is deemed to be necessary by the Administrator for a protection of the contemplated development of the property.

b. In areas subject to flood where no fill is proposed, the building setback line shall be located no closer to the stream than the edge of areas subject to flood as defined in Section 18 of Article V; in areas subject to flood where fill is proposed to raise the land for a building site, no fill will be placed in the floodway and the building setback lines shall be located not less than fifteen (15) feet landward from the outer edge of the fill.

3-3-6 YARD REGULATIONS

a. The minimum side yard shall be fifteen (15) feet measured from the lot line to the building line.

b. The main building on the lot shall have a minimum rear yard of fifteen (15) feet measured from the lot line to the building line.

3-3-7 REMNANTS

All remnants of lots left over after subdividing of a tract must be added to adjacent lots unless the use of such remnants are approved for use for public services by the Administrator.

3-3-8 CORNER LOTS

On corner lots setback lines shall apply to all streets on which the lots front.

3-4 PUBLIC USE AND SERVICES AREAS

Due consideration shall be given to the allocation of areas suitably located and of adequate size for playgrounds and parks for local or neighborhood use as well as for use as public service areas.

3-4-1 PUBLIC OPEN SPACES
Where a school, neighborhood park or recreation area, or public access to water frontage, shown on an official map or in the plan made and adopted by the Planning Commission, is located in whole or in part in the applicant's subdivision, the Administrator may require the dedication of reservation of such open space within the subdivision up to a total of ten (10) percent of the gross area of the subdivision of the plat for park, school or recreation purposes.

3-4-2 EASEMENTS FOR UTILITIES

Except where alleys are permitted for the purpose, the Administrator may require easements, not exceeding twelve (12) feet in width for poles, wires, conduits, storm and sanitary sewer, gas, water, heat mains, cable TV, and public corporation service utilities, along rear lot lines or side lot lines, if in the opinion of the Administrator such action is desirable. Easements of the same or greater width may be required along the lines or across lots where necessary for the extension of existing or planned utilities.

3-4-3 COMMUNITY ASSETS

In all subdivisions due regard shall be shown for all natural features, such as large trees and water courses, and for historical spots and similar community assets which, if preserved, will add attractiveness and value to the property.

3-5 SUITABILITY OF THE LAND

The Administrator shall not approve the subdivision of land if, from adequate investigations conducted by all public agencies concerned, it has been determined that in the best interest of the public the site is not suitable for platting and development purposes of the kind proposed.

Land subject to flooding and land deemed to be topographically unsuitable shall not be platted for residential occupancy or for any other uses that may increase flood hazard, endanger health, life, or property, or aggravate erosion. Such land within the plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation or shall not produce unsatisfactory living conditions.

The Administrator may require the furnishing of a preliminary opinion from the applicable health official regarding the suitability of a subdivision for installation of subsurface sewage disposal systems where such method of sewage disposal is to be utilized in the development of a subdivision.
3-5-1 FILL

In other areas subject to flood, fill may be used in floodway areas defined in Section 20 of Article V, if the fill proposed does not restrict the flow of water and unduly increase flood heights upstream.

3-6 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 or surveyor’s statement that such improvements, when properly installed, will be adequate for proper development. The resident engineer shall then approve or disapprove the plans. The subdivider shall also provide any other information required by the resident engineer.

3-7 MONUMENTS

3-7-1 VISIBLE FOR INSPECTION

Upon completion of subdivision streets, sewer and other improvements, the subdivider shall make certain that all monuments required by the Administrator are clearly accessible for inspection and use. Such monuments shall be inspected and approved by the Administrator before any improvements are accepted by the governing body. All points in the outer boundary of the subdivision shall be marked by concrete or stone monuments of a permanent nature.

3-7-2 LOCATION – IRON PIPE

All other lot corners shall be marked with iron pipe not less than three-fourths (3/4) inch in diameter and twenty-four (24) inches long and driven so as to be flush with the finished grade line.

3-8 LARGER TRACTS

3-8-1 PART OF TRACT

Whenever part of a tract is proposed for platting and it is intended to subdivide additional parts in the future, a preliminary sketch 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.
3-8-2 LARGE TRACTS OR PARCELS

When land is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow for the opening of streets in the future and for logical future subdivision.

3-8-3 TOWN HOUSE AND PLANNED COMMUNITIES

A comprehensive Town House development and Planned Communities may be approved by the Administrator although the design of the project does not meet the specific regulations of this ordinance. In no case will such projects be approved that are in conflict with the intent of this ordinance.

3-9 ZONING OR OTHER REGULATIONS

No final plat of land within the force and effect of an existing zoning ordinance shall be approved unless it conforms to such ordinance.

Whenever there is a discrepancy between minimum standards or dimensions noted herein and those contained in zoning regulations, building codes, or other official regulations, the highest standard shall apply.

3-10 BONDING

No final subdivision plat shall be approved by the Administrator or accepted for record by the County Clerk until the required improvements listed in the Appendix shall be constructed in a satisfactory manner and approved by the Administrator. In lieu of completed improvements, the Administrator may (1) accept a corporate surety bond, certified check, or escrow account in an amount equal to the established cost of installation of the required improvements, whereby improvements may be made and utilities installed without cost to the county in the event of default of the subdivider; or (2) furnishes to the governing body a bank or savings institution’s letter of credit on certain designated funds satisfactory to the governing body 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 locality 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.

Within thirty days after receipt of written notice by the subdivider or developer of completion of part or all of any public facilities required to be constructed hereunder, shall execute a periodic partial or final complete release of any bond, escrow, letter of credit, or other performance guarantee required by the governing body under this section unless the governing body or its designated administrative
agency notifies the subdivider or developer in writing of nonreceipt of approval by an applicable state agency, or of any specified defects or deficiencies in construction and suggested corrective measures prior to the expiration of the thirty-day period. Any inspection of such public facilities shall be based solely upon conformance with the terms and conditions of the performance agreement and the approved design plan and specifications for the facilities for which the performance guarantee is applicable, and shall not include the approval of any person other than an employee of the governing body, its administrative agency, the Virginia Department of Transportation or other political subdivision or a person who has contracted with the governing body, its administrative agency, the Virginia Department of Transportation or other political subdivision.

If no such action is taken by the governing body or administrative agency within the time specified above, the request shall be deemed approved, and a partial release granted to the subdivider or developer. No final release shall be 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.

After receipt of the written notices required above, if the governing body or administrative agency takes no action within the times specified above and the subdivider or developer files suit in the local circuit court to obtain partial or final release of a bond, escrow, letter of credit, or other performance guarantee, as the case may be, the circuit court, upon finding the governing body or its administrative agency was without good cause in failing to act, shall award such subdivider or developer his reasonable costs and attorneys' fees.

No governing body or administrative agency shall 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 public facilities covered by said bond, escrow, letter of credit or other performance guarantee.

Upon written request by the subdivider or developer, 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 ninety percent of the original amount for which the bond, escrow, letter of credit, or other performance guarantee was taken, and may make partial releases to such lower amounts as may be authorized by the governing body or its designated administrative agency based upon the percentage of public 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
public facilities covered by any bond, escrow, letter of credit, or other performance guarantee. 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 the public 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" means: when the 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 operating such public facility upon acceptance.

For the purposes of this section, a certificate of partial or final completion of such public facilities from either a duly licensed professional engineer or land surveyor, as defined in and limited to Virginia Code § 54.1-400, or from a department or agency designated by the locality may be accepted without requiring further inspection of such public facilities.

3-10-1 PERFORMANCE BOND

A performance bond shall be required from a corporate surety company on the subcontractor or contractor hired by the subdivider to make the improvements in this subdivision.

3-11 DEVELOPERS PRO RATA SHARE SEWER, WATER, AND DRAINAGE

A subdivider or developer of land shall be responsible for 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 governing body 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 improvement programs 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 Dickenson County Board of Supervisors has committed itself by ordinance to the establishment of such a program. A subdivider or developer shall be responsible for the pro rata share of the 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 storm water 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 storm water runoff, the Dickinson County Board of Supervisors shall take into account the effect of all on-site storm water facilities or best management practices constructed or required to be constructed by the divider or developer and give appropriate credit therefor.

Each such payment received shall be expended only for the necessary engineering and related studies and construction of those facilities identified in the established sewer, water and drainage program; however, in lieu of such payment, the Dickinson County Board of Supervisors may provide for the posting of a personal, corporate or property bond, cash escrow or other method of performance guarantee satisfactory to 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 bonds, payments, cash escrows or other performance guarantees hereunder 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 twelve years from the date of the posting of the bond, payment, cash escrow or other performance guarantee.

Any funds collected for pro rata programs under this section prior to July 1, 1990, shall continue to be held in separate, interest bearing accounts for the project or projects for which the funds were collected and any interest from such accounts shall continue to accrue to the benefit of the divider or developer until such time as the project or projects are completed or until such time as a general sewer and drainage improvement program is established to replace a prior sewer and drainage improvement program. If such a general improvement program is established, the Dickinson County Board of Supervisors may abolish any remaining separate accounts and require the transfer of the assets therein into a separate fund for the support of each of the established sewer, water, and drainage programs. Upon the transfer of such assets, subdividers and developers who had met the terms of any existing agreements made under a previous pro rata program shall receive any outstanding interest which has accrued up to the date of transfer, and such subdividers and developers shall be released from any further obligation under those existing agreements. All bonds, payments, cash escrows or other performance guarantees hereunder 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 twelve years from the date of the posting of the bond, payment, cash escrow or other performance guarantee.
Nothing herein shall be construed as creating an obligation upon any locality to pay for grading or paving, or for sidewalk, sewer, curb and gutter improvements or construction.

ARTICLE IV – EFFECTUAL CLAUSES

4-1 VARIANCE

Variance may be granted under the following conditions:

4-1-1 Where the subdivider can show that strict adherence to these regulations would result in substantial injustice or hardship, or

4-1-2 Where the Administrator decides that there are topographical or other conditions peculiar to the site, and a departure from these regulations will not destroy their intent. Any variance thus authorized shall be stated in writing by the Administrator with the reasoning on which the departure is justified set forth. All variances granted must conform to the Virginia Department of Transportation Subdivision Street Requirements.

4-2 PENALTIES

Any person violating the foregoing provisions of this ordinance shall be subject to a fine of not more than one hundred dollars ($100.00) 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 herein provided. Each and every day such a violation continues shall be deemed a separate offense.

4-3 SEVERABILITY

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.

4-4 REPEAL

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

4-5 AMENDMENTS
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 five (5) days prior to the hearing.

4-6 EFFECTIVE DATE

This ordinance was duly considered, following a required public hearing held on May 28, 1996 and adopted by the governing body of Dickenson County, Virginia at its regular meeting held on May 28, 1996.

This ordinance shall be effective on and after August 1, 1996.

4-7 VACATION

4-7-1 VACATION OF INTERESTS GRANTED TO LOCALITY AS CONDITION OF SITE PLAN APPROVAL

Any interest in streets, alleys, easements for public rights of passage, easements for drainage, and easements for a public utility granted to a locality as a condition of the approval of a site plan may be vacated according to either of the following methods:

1. By a duly executed and acknowledged written instrument of the owner of the land which has been or is to be developed in accordance with the site plan, declaring the interest or interests to be vacated, provided the governing body or authorized agent of the locality consents to the vacation. The instrument shall be recorded in the same clerk’s office wherein is recorded the written instrument describing the interest in real property to be vacated. The execution and recordation of the instrument shall operate to divest all public rights in, and to reinvest the owner with the title to the interests which formerly were held by the governing body; or

2. By ordinance of the Dickenson County Board of Supervisors, provided that no interest shall be vacated in an area in which facilities, for which bonding is required pursuant to Virginia Code §§ 15.2-2241 through 15.2-2245, have been constructed.

The ordinance shall not be adopted until after notice has been given as required by Virginia Code § 15.2-2204. The notice shall clearly describe the interest of the governing body to be vacated by reference to the recorded instrument on which it
was created 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 the 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 of the adoption of the ordinance with the circuit court having jurisdiction of the land over which the governing body's interest is located. Upon appeal, the court may nullify the ordinance if it finds that the owner of the property, which has been developed or is to be developed in accordance with the approved site plan, 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 the court in which the plat is recorded.

The execution and recordation of an ordinance of vacation shall operate to destroy the effect of the instrument which created the governing body’s interest so vacated and to divest all public rights in and to the property and vest title in the streets, alleys, easements for public rights of passage, easements for drainage, and easements for a public utility as may be described in, and in accordance with, the ordinance of vacation.

4-7-2 VACATION OF PLAT BEFORE SALE OF LOT THEREIN

Where no lot has been sold, the recorded plat, or part thereof, may be vacated according to either of the following methods:

1. With the consent of the governing body, or its authorized agent, of the locality where the land lies, by the owners, proprietors and trustees, if any, who signed the statement required by section 2-3-6(h) at any time before the sale of any lot therein, by a written instrument, declaring the plat 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 the 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 the plat; or

2. By ordinance of the governing body of the locality in which the property shown on the plat or part thereof to be vacated lies, provided that no facilities for which bonding is required pursuant to Virginia Code §§ 15.2-2241 through 15.2-2245 have been constructed on the property and no facilities have been constructed on any related section of the property located in the subdivision within five years of the date on which the plat was first recorded.
The ordinance shall not be adopted until after notice has been given as required by Virginia Code § 15.2-2204. The 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 the 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 of the adoption of the ordinance with the Dickenson County Circuit Court. Upon appeal the court may nullify the ordinance if it finds that the owner of the property 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.

The execution and recordation of the ordinance of vacation shall operate to destroy the force and effect of the recording of the plat, or any portion thereof, so vacated, and to divest all public rights in and to the property and reinvest the owners, proprietors and trustees, if any, with the title to the streets, alleys, and easements for public passage and other public areas laid out or described in the plat.

4-7-3 VACATION OF PLAT AFTER SALE OF LOT

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

1. By instrument in writing agreeing to the vacation signed by all the owners of lots shown on the plat and also signed on behalf of the governing body of the locality in which the land shown on the plat or part thereof to be vacated lies for the purpose of showing the approval of the vacation by the governing body. In cases involving drainage easements or street rights-of-way where the vacation does not impede or alter drainage or access for any lot owners other than those lot owners immediately adjoining or contiguous to the vacated area, the governing body shall only be required to obtain the signatures of the lot owners immediately adjoining or contiguous to the vacated area. 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 the plat is recorded.

2. By ordinance of the governing body of the locality 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. The ordinance shall not be adopted until after notice has been given as required by Virginia Code § 15.2-2204. The 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 the 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 Dickenson County Circuit Court. Upon 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.

Roads within the secondary system of highways may be vacated under either of the preceding methods and the action will constitute abandonment of the road, provided the land shown on the plat or part thereof to be vacated has been the subject of a rezoning or special exception application approved following public hearings required by Virginia Code § 15.2-2204 and provided the Commonwealth Transportation Commissioner or his agent is notified in writing prior to the public hearing, and provided further that the vacation is necessary in order to implement a proffered condition accepted by the governing body pursuant to Virginia Code §§ 15.2-2297, 15.2-2298 or 15.2-2303 or to implement a condition of special exception approval. All abandonments of roads within the secondary system of highways sought to be effected according to either of the preceding methods before July 1, 1994, are hereby validated, notwithstanding any defects or deficiencies in the proceeding; however, property rights which have vested subsequent to the attempted vacation are not impaired by such validation. The manner of reversion shall not be affected by this section.

4-7-4 FEE FOR PROCESSING APPLICATION UNDER SECTIONS 4-7-2 AND 4-7-3

There shall be a $150.00 fee for processing an application pursuant to sections 4-7-2 and 4-7-3 of this ordinance for the vacating of any plat.

4-7-5 EFFECT OF VACATION UNDER SECTION 4-7-3

The recordation of the instrument as provided under provision 1 of section 4-7-3 or of the ordinance as provided under provision 2 of section 4-7-3 shall operate to destroy the force and effect of the recording of the plat or part thereof so vacated, and to vest fee simple title to the centerline of any streets, alleys or easements for public passage so vacated in the owners of abutting lots free and clear of any rights of the public or other owners of lots shown on the plat, but subject to the rights of the owners of any public utility installations which have been previously erected therein. If any street, alley or easement for public passage is located on the periphery of the plat, the title for the entire width thereof shall vest in the abutting lot owners. The fee simple title to any portion of the plat so vacated as was set apart for other public use shall be re vested in the owners, proprietors and trustees,
if any, who signed the statement required by section 2-3-6(h) free and clear of any rights of public use in the same.

4-7-6 RELOCATION OR VACATION OF BOUNDARY LINES

The boundary lines of any lot or parcel of land may be vacated, relocated or otherwise altered as a part of an otherwise valid and properly recorded plat of subdivision or resubdivision (i) approved as provided in the subdivision ordinance or (ii) properly recorded prior to the applicability of a subdivision ordinance, and executed by the owner or owners of the land as provided in section 2-3-6(h). The action shall not involve the relocation or alteration of streets, alleys, easements for public passage, or other public areas. No easements or utility rights-of-way shall be relocated or altered without the express consent of all persons holding any interest therein.

4-7-7 VACATING PLAT OF SUBDIVISION

Any plat of subdivision recorded in any clerk's office, whether or not pursuant to this article, may be vacated in the manner prescribed by section 4-7-3 and the provisions of 4-7-5 and Virginia Code § 15.2-2276 shall be applicable to such vacation.

ARTICLE V – DEFINITIONS

WORDS AND TERMS

For the purposes of this ordinance, certain words and terms used herein shall be interpreted or defined as follows: Words used in the present tense include the future, words in the singular number included the plural, and the plural is singular, unless the natural construction of the word indicated otherwise; the word “lot” includes the word “parcel”; the word “shall” is mandatory and not directory; the word “approve” shall be considered to be followed by the words “or disapproved”; any reference to this ordinance includes all ordinances amending or supplementing the same; all distance and areas refer to measurement in a horizontal plane.

5-1 Acreage, Gross: Gross Acreage means total tract acreage.

5-2 Acreage, Net: Net Acreage is the remaining acreage after subtracting from gross acreage all land not intended for use as residential building lots. In computing net acreage, street rights-of-ways, restricted floodway, parks, school sites, other permanent open spaces and land intended or shown for public use shall be subtracted as well as land intended for other than residential use.
5-3 Agent: The representative of the governing body, the Administrator who has been appointed to serve as the agent of the governing body in approving the subdivision plats.

5-4 Alley: A permanent service way providing a secondary means of access to abutting properties.

5-5 Approving Authority: Those persons delegated the responsibility of approving any portion or part of the requirements in this ordinance.

5-6 Architect: Architect means an individual who is recognized by the states of Virginia, Tennessee, or Kentucky, and who is registered with the State Department of Professional and Occupational Registration as an architect.

5-7 Building: Building means any structure built for the support, shelter, housing or enclosure of persons, animals, or property of any kind.

5-8 Building Line: The distance which a building is from the lot line or front boundary line.

5-9 Commission: The Planning Commission of Dickenson County, Virginia.

5-10 Construction Standard: Construction standard means the design and construction standards of the State Department of Highways.

5-11 Dead-End Street: A street with only one outlet having an appropriate turn around for a safe and convenient reverse traffic movement.

5-12 Developer: An owner of property being subdivided, whether or not represented by an agent.

5-13 Driveway: Driveway means that space specifically designated and reserved on the site for the movement of vehicles from one site to another or from a site to a public street.

5-14 Dwelling Unit: Dwelling Unit means a group of one or more rooms designated for or intended for occupancy of a single family.

5-15 Easement: Easement means a grant by a property owner of the use of his land by another party for a specific purpose.

5-16 Engineer: Engineer means an individual who is recognized by the State and who is registered with the State as a professional engineer.

5-17 Flood: An overflow of land not normally covered by water that results in significant adverse effects in the vicinity.
5-18 Flooding – Land Subject to: For the purpose of these regulations, land subject to flooding shall be defined as follows:

Land lying below the elevation of the regional flood as described in the Flood Insurance Study conducted by FEMA for Dickenson County, Virginia and unincorporated towns.

Along those streams for which flood information is not available, the Administrator will secure from the Corps of Engineers of FEMA the data necessary to adequately define land subject to flooding.

5-19 Flood – Regional: A flood used in the Flood Insurance Study comparable to the largest floods known to have occurred on streams of similar physical characteristics in the same geographic region.

5-20 Floodway: The natural channel in the portion of the flood plain along the channel which must be retained for the passage of flood waters to prevent an undue increase in flood heights upstream. For the purpose of these regulations the floodway shall be further defined as follows:

Floodway districts as designated by zoning or subdivision regulations of communities.

Along streams for which date on the regional flood is available, the floodway shall consist of the stream channel and that portion of the adjacent flood plain which would be required to safely pass regional flood as determined by competent engineers acting on behalf of the subdivider, but in no case less than within fifteen (15) feet of the top of the banks.

Along small streams and drainage channels, areas within fifteen (15) feet of the top of the banks.

5-21 Governing Body: The Board of Supervisors of Dickenson County, Virginia.

5-22 Health Official: The Health Director or County Sanitarian of Dickenson County, Virginia.

5-23 Resident Engineer: The resident engineer employed by the Virginia Department of Transportation.

5-24 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 a transfer of ownership or for building development for a single building and its accessory building.

Lot, Corner: A lot abutting on two or more streets at their intersections, 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 the 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.

Multiple Family Dwelling: Multiple Family Dwelling means a building arranged or designed to be occupied by more than two families, the structure having more than two dwelling units.

Off-Street Parking: Off-Street Parking means any space specifically allotted to the parking of motor vehicles, which space shall not be in a dedicated right-of-way.

Owner: Owner means the person having legal title to the land involved or holding a lease for a term of not less than thirty years.

Plat: Includes the terms: map, plan, plot, replat, 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.

Preliminary Sketch: The rough, initial drawing of a proposed subdivision showing information as required in this ordinance.

Property: Any tract, lot, parcel, or several of the same collected together for the purpose of subdividing.

Residential Plan Community: Residential Plan Community means a variety of the residential and other land uses developed in an orderly relationship to one another so as to produce as nearly as possible a self-sustaining community of land uses of a compatible nature.
5-38 Single Family Dwelling: Single Family Dwelling means a detached building designed for or intended to be occupied by one family.

5-39 Street: The principal means of access to abutting properties.

5-39-1 Street, Arterial: A heavily traveled thoroughfare or highway that carries a large volume of through traffic or anticipated traffic exceeding five thousand five hundred (5,500) vehicles per day.

5-39-2 Street, Collector: A highway that carries a through volume of anticipated traffic between four hundred and one to three thousand (401-3,000) vehicles per day.

5-39-3 Street, Major: A heavily traveled thoroughfare or highway that carries a large volume of through traffic or anticipated traffic between three thousand and one to five thousand five hundred (3,001-5,500) vehicles per day.

5-39-4 Street, Marginal: A street that is used primarily as a means of public access to abutting properties with anticipated traffic of less than two hundred fifty (250) vehicles per day.

5-39-5 Street, Minor: A street that is used primarily as a means of access to abutting properties with anticipated traffic of less than four hundred (400) vehicles per day.

5-39-6 Street or Alley, Public Use of: The unrestricted use of a specific area of right-of-way for ingress and egress to two or more abutting properties.

5-39-7 Street Width: The total width of the strip of land dedicated or reserved for public travel, including roadway, curbs, gutters, sidewalks, and planting strips.

5-40 SUBDIVIDE

"Subdivide" means the division of a parcel of land into three or more lots or parcels of less than two acres each for the purpose of transfer of ownership or building development, or, if a new street is involved in any such division, and division or parcel of land. The term includes subdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided and solely for the purpose of recordation of any single division of land into two lots or parcels, a plat of any such division shall be submitted for approval in accordance with this ordinance.

5-40-1 EXCEPTIONS

Submission for approval of a subdivision plat under this Ordinance shall not be required in the following cases:
a. Division by Partition: A bona fide division or partition by descendants or devises of land acquired by descent or devise.

b. Agriculture and Timberland: A bona fide division or partition of agricultural or timberland not for development purposes.

c. Court Action: A partition of land by will or through actions of a court of competent jurisdiction.

d. Public Taking: When a property has been changed in size or shape by reason of taking of a part of such property for public use by referring to a properly drawn and recorded plat; provided, that the outline dimensions of such remainder may be clearly determined by reference to the previously recorded plats.

e. Adjoining Properties: The sale or exchange of parcels of land between owners of adjoining properties for the purpose of small adjustments in boundaries; provided, that additional lots are not thereby created and that the original lots are not reduced below the minimum sizes required by the Ordinance.

f. Utility Right-of-Way: A bona fide division of a tract of land in order that one or more of the resulting parcels may be used as a part of a public utility right-of-way; provided, that if a parcel resulting from such a division is ever to be used building site other than right-of-way purposes, then before a building permit may be issued for such other use, a plat must be filed and recorded.

g. Immediate Family Transfer: 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, subject only to any express requirement contained in the Code of Virginia and to any requirement imposed by the governing body that all lots less than five acres have reasonable right-of-way of not less than ten (10) feet or more than twenty (20) feet providing ingress and egress to a dedicated recorded public street or thoroughfare. Only one such division shall be allowed per family member, and shall not be for the purpose of circumventing this Ordinance. For the purpose of this Ordinance, a member of the immediate family is defined as any person who is a natural or legally defined offspring, spouse, grandchild, grandparent, or parent of the owner.

5-40-2 Subdivide: The word “subdivide” and any derivative thereof shall have reference to the term “subdivider” as defined in Article 5-40-3.

5-40-3 Subdivider: An individual, corporation registered partnership, owning a 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.

5-40-4 Surveyor: surveyor means an individual who is recognized by the State and who
is registered with the State as a registered land surveyor.

5-41 Two-Family Dwelling: “Two-Family Dwelling” means a building designed for or
intended to be occupied by not over two families, living independently of each
other, including both duplex (one dwelling unit above another) and semi-detached
(two dwelling units having a common vertical party wall).

5-42 Town House: Town House means a single family dwelling forming one of a
group or series of three or more attached single family dwellings separated from
one another by party walls without doors, windows, or other provisions for human
passage or visibility through such walls from basement to roof, and having roofs
which may extend from one such dwelling unit to another.

APPENDIX

A perfectly prepared and recorded subdivision or plat means little to a prospective
buyer until he can see actual physical transformation of raw acreage into lots
suitable for building purposes and human habitation. Improvements by the
subdivider spare the community of a potential tax liability. The following
tangible improvements or provision for their estimated cost are required before
final plat approval in order to assure the physical reality of a subdivision which
approval and filing will establish legally.

REQUIRED IMPROVEMENTS

Every subdivision development shall be required to grade and improve streets and
alleys, and to install curbs, sidewalks, monuments, sewers, storm water inlets and
water mains in accordance with any specification established by Dickenson
County. If other specifications have not been adopted by the county or local
authorities, the Administrator will accept specifications equal to those of the
Federal Housing Administration Minimum Property Standards, State Department
of Health, and State Department of Highways. The highest standard requirement
whether in local regulations or in the following standards, shall govern.

MONUMENTS

a. There shall be a minimum of three (3) concrete monuments set in any
subdivision of twenty-five (25) lots or less and one (1) additional
monument for each ten lots in any subdivision of more than twenty-five
(25) lots. Concrete monuments shall be four (4) inches in diameter or four
(4) inches square, three (3) feet long, with a flat top. Monuments shall be set at points where the street lines intersect the exterior boundaries of the subdivision, and at angle points and points of curve in streets. The top of the monument shall have an indented cross to identify properly the location and shall be set flush with the finished grade.

b. All other lot corners shall be marked with iron pipe not less than three-fourths (3/4) inches in diameter and eighteen (18) inches long and driven so as to be flush with the finished grade.

GRADING

All streets, roads, and alleys shall be graded by the subdivider so that pavements and sidewalks can be constructed to the required cross section. Deviation from the above due to special topographical conditions will be allowed only with special approval of the Administrator. Where streets are constructed under or adjacent to existing electric transmission lines or over gas transmission lines, the nearest edge of the pavement shall be a minimum of fifteen (15) feet from any transmission line structure and all grading for the street shall be done in a manner which will not disturb the structure or result in erosion endangering the structure. In the case of electric transmission lines, the clearance from the pavement to the nearest conductor shall meet the requirements of the National Electrical Safety Code.

a. Preparation: Before grading is started, the entire right-of-way area shall be first cleared of all stumps, roots, brush, and other objectionable materials and all trees not intended for preservation.

b. Cuts: All tree stumps, boulders, and other obstructions shall be removed to a depth of two (2) feet below the subgrade. Rock, when encountered, shall be fragmented to a depth of twelve (12) inches below the subgrade.

c. Fill: All suitable material from roadway cuts may be used in the construction of fills, approaches, or at other places as needed. Excess materials, including organic materials, soft clay, etc. shall be removed from the development site. The fill shall be spread in layers not to exceed twelve (12) inches loose and compacted by a sheep’s foot roller. The filling of utility trenches and other places not accessible to a roller shall be mechanically tamped, but where water is used to assist compaction, the water content shall not exceed the optimum of moisture.

STORM DRAINAGE

a. An adequate drainage system, including necessary open ditches, pipes, culverts, intersection drains, drop inlets, bridges, etc. shall be provided for the proper drainage of all surface water. Drainage
structures including culverts shall be in accordance with Virginia Department of Highways specifications.

b. Adequate curb and gutter shall be constructed when deemed necessary by the Resident Engineer and shall be constructed in accordance with Virginia Department of Transportation specifications.

THE INSTALLATION OF UTILITIES AND DRIVEWAYS

After grading is completed and approved and before any base is applied, all of the underground work – water mains, etc., and all service connections shall be installed completely and approved throughout the length of the road and across the flat section. All driveways for houses to be built by the developer shall be cut and drained.

WATER SUPPLY SYSTEM

The provision of a public water supply is deemed necessary to the public welfare in the case of all development contemplating the growth of homes in close proximity to each other. An exception may be granted in the case where a single small parcel is separated from a large tract without the intention of further subdivision.

Where a public water supply system is available the service shall be constructed to serve all lots shown on the subdivision plat with water for both domestic use and fire protection.

Every subdivision containing twenty-five (25) lots or more to which public water cannot or will not be provided shall be supplied by the subdivider with a complete central water supply and distribution system to serve each and every lot containing less than twenty thousand (20,000) square feet per lot.

SANITARY SEWERS

When the subdivision is located within the service area of a public sewerage system, sanitary sewers shall be installed in such a manner as to serve adequately all lots with connection to the public system. Septic tanks will be permitted.

Where lots cannot be economically connected with a sewerage system, they must contain adequate area for the installation of approved septic tank and disposal fields and must be approved in writing by the County Health Officer.

IDENTIFICATION SIGNS
Street identification signs shall be installed at all intersections according to the following minimum specifications:

a. Posts are to be two (2) inches galvanized steel and set two (2) feet deep and capped to prevent the entrance of water.

b. Street name assemblies are to be of steel, treated to prevent rust; or aluminum.

c. The bottom most street sign in the assembly is to be set at least eight (8) feet above the finished grade at the point where the post enters the ground.

d. Street name assemblies are to be long enough and wide enough to carry the full name of the street in letters at least three (3) inches tall.

e. The brackets used to attach the street name assemblies to the post shall be steel, treated to prevent rust; or aluminum.

f. The lettering on the street name assemblies shall be black and will have a white background and post which shall be painted aluminum.

DATE OF APPROVAL: MARCH 22, 2005

[Signature]
CHAIRMAN
DICKENSON COUNTY BOARD OF SUPERVISORS

ATTEST:

[Signature]
DICKENSON COUNTY ADMINISTRATOR