

Chapter 20

Subdivision Ordinance

Article I.... INTRODUCTION

I-1 **AUTHORITY.** Authority to adopt this section is granted to municipalities under Title 15.2, Chapter 22, Article 6 of the Code of Virginia (1950) as amended, Sections 15.2-2240 et seq. The governing body is required to adopt a subdivision ordinance.

I-2 **PURPOSE AND TITLE**

- a. **PURPOSE.** The purpose of this ordinance is to establish certain standards and procedure for the Town of Gate City, Virginia and such of its environs as come under the jurisdiction of the governing body as provided for by the Code of Virginia (1950) as amended. These procedures are to guide and facilitate the orderly, beneficial growth of the Town and to promote the public health, safety, comfort, convenience, prosperity and general welfare; and
1. more specifically, but not in limitation, 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 receiving a commodity that is suitable for development and use; and
 2. To make possible the provision of public services in a safe, consistent, adequate and efficient manner; and
 3. To set forth clear standards and guidelines for remunerating or reimbursing any part of the costs of developing any development or subdivision to any person involved in such development as provided by the Code of Virginia (1950).
- b. **TITLE.** This ordinance is known as and may be cited as the "Subdivision Ordinance of Gate City, Virginia"

I-3 **TOWN MANAGER TO ADMINISTER AND RECOMMEND**

- a. **ADMINISTRATOR.** The Town Manager of the Town of Gate City is hereby appointed to administer this ordinance. In so doing, the Administrator shall be considered the agent of the governing body. After review, the Administrator will present all final plats and site plans for development or subdivision to the Planning Commission for final approval/disapproval. The Administrator shall regularly consult with the Gate City Town Council and the Gate City Planning Commission on matters contained herein. The Administrator will make a report on activities relating to matters herein not less than once a month to the council.
- b. **DUTIES OF THE ADMINISTRATOR.** The Administrator shall perform his or her duties in regard to subdivisions and subdividing with this ordinance and the Land Subdivision and Development Act.
- c. **CONSULTATION.** In the performance of his or her duties, the Administrator may call for opinions or decisions in verbal or written form from other departments in considering the details of any submitted plat. This shall have particular reference to the town's Resident Engineer, the Residency Administrator for the Virginia Department of Transportation, the Scott County Health Department, the Scott County and Town Building Officials, and Town Attorney. In the case of verbal opinions or decisions, the Administrator shall document any such opinion or decision in sufficient detail that it may be referenced at a later date.
- d. **ADDITIONAL AUTHORITY.** In addition to the regulations contained herein for the platting of subdivisions, the Administrator may from time to time establish, with the approval of the council any reasonable administrative procedure needed for the orderly and efficient administration of this ordinance.

- e. PROCEDURES TO BE DOCUMENTED. In order to establish a fair and consistent application of this ordinance, the Administrator shall cause any procedures required by this ordinance and/or established by the Administrator and approved by the Town Council to be documented and made available to any office or agency of the governing body and to any person or entity seeking to develop a subdivision or subdivide land within the Town of Gate City, Virginia.
- I-4 NON-CONFORMING LOTS. No lot shall be created as the result of any subdivision of land that does not conform to the specifications of the Gate City Zoning Ordinance for the Zone in which the lot is located. Lots shall not contain peculiarly shaped elongations, solely to provide necessary square footage or area which would be unusable for normal purposes.
- I-5 SOIL AND WATER APPROVAL. Before grading is started, the entire right of way area shall be first cleared of all stumps, roots, brush and other objectionable material and all trees not intended for preservation. The developer shall be responsible to obtain approval from the local Soil & Water Conservation district, with the following areas from the E&S Regulations Section 1.8 specifically addressed:
 - a. If individual lots or sections in a residential development are being developed by different property owners, all land-disturbing activities related to the building construction shall be covered by an erosion and sediment control plan or an "Agreement in Lieu of a Plan" signed by the property owner.
 - b. Land-disturbing activity of less than 10,000 square feet on individual lots in a residential development shall not be considered exempt from the provisions of the act and these regulations.
 - c. The construction of permanent roads or driveways that disturb in excess of 10,000 square feet and that serve more than one single-family residence separately built is not exempt.
- I-6 ADDITIONAL APPROVAL. It shall be the duty of the developer or subdivider to ensure that all licenses, permits and documentation required by Town, County or State regulations are obtained and kept on file as required. Approval of any stage of subdivision or development by the Town of Gate City does not exempt any developer or subdivider from this section. 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 specifications established by the Town of Gate City. If other specifications have not been adopted by the local authority, the Administrator will accept specification equal to those of the Federal Housing Administration Minimum Property Standards, State Department of Health and State Department of Highways. The highest standard requirement shall govern.
- I-7 SUPERSEDED PROVISIONS. This ordinance supersedes the Subdivision Ordinance of Gate City dated March 7, 1978 and all changes and amendments thereto, and any portions of existing ordinances in conflict with this ordinance are hereby repealed to the extent of their conflict.

Article II.. MAKING, RECORDING, AND APPROVAL OF PLATS

Plat details shall meet the standard for plats as adopted under § 42.1-82 of the Virginia Public Records Act (§42.1-76 et seq.)

- II-1 GENERAL. The procedure for review and approval of a proposed subdivision under the terms of this ordinance consists of three separate steps.
 - a. The initial step is the preparation and submission to the Administrator of a preliminary sketch plat showing information as required herein.
 - b. The second step is preparation and submission to the Administrator of a preliminary plat unless a waiver is obtained as hereinafter provided.
 - c. The third step is submission to the Planning Commission 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 Clerk's office of Scott 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, preliminary plats, shall be liberally construed to eliminate unnecessary, time consuming or costly requirements not consistent with the general legislative intent of this ordinance.

II-2 PRELIMINARY SKETCH PLATS AND PRELIMINARY PLATS

- a. **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:
 1. Name of subdivision, owner or subdivider, date and north point.
 2. 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.
 3. 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.
 4. Sketches of all existing, platted and proposed streets, and their widths; natural water courses and other major landmarks.
 5. Description of method and facilities for providing potable water and method and facilities for sewage disposal.
 6. Any area which may be subject to inundation by flood as defined in Article (V), Section (18), of this ordinance.
 7. Such other information as the Administrator may require, if the subdivider is seeking a waiver of the requirement for a preliminary plat.
- b. **PRELIMINARY PLATS & DATA SHEETS, NUMBER SIZE AND FILING REQUIREMENTS.** The subdivider shall submit to the Administrator three 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 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.
- c. **REQUIRED INFORMATION TO BE SHOWN ON PRELIMINARY PLATS 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:
 1. 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.
 2. 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.
 3. The boundary surveyor existing survey of record provided such survey shows a closure with an accuracy of not less than one in twenty-five hundred: total acreage, acreage of subdivided area; number and approximate area and frontage of all building sites, existing buildings within the boundaries of the tract, names of owners and their property lines within the

- boundaries of the tract and adjoining such boundaries.
4. All existing, platted and proposed streets, their names, numbers and widths; existing utility, or other easements, public areas and parking spaces; culverts, drains and water courses, their names and other pertinent data.
 5. The complete drainage layout, including all pipe sizes, types, drainage easements and means of transporting the drainage to the nearest natural drainage flow.
 6. A cross section showing the proposed street construction, depth and type of base, type of surface, etc.
 7. 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 centre line of streets together with proposed grade lines connection therewith.
 8. A location map tying the subdivision into the currently existing water supply or alternate means of sewage disposal and water supply.
 9. Proposed connections with existing sanitary sewers and existing water supply or alternate means of sewage disposal and water supply.
 10. All parcels of land to be dedicated for public use and the conditions of such dedication in accordance with Section 15.2-2241 (5) of the Code of Virginia and any future amendments thereto.
 11. Utility companies shall execute quit claims to any easement within, over or under street rights-of-way.
 12. 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
- d. **WAIVERS** In order to facilitate expeditious review and approval of proposed subdivisions, the Administrator is empowered to grant a waiver of requirement for either the preliminary sketch plat or the preliminary plat requiring the submission of only one of the above if the following conditions are met:
1. **Conditions for waiver of preliminary sketch plat:**

The subdivider has consulted with the Administrator on the proposed course of action and receives written consent by the Administrator certifying that a preliminary plat is required, and that the requirements of this ordinance can be met and shown on the preliminary plat.
 2. **Conditions for waiver of preliminary plat:**
 - (a) The subdivider has submitted a preliminary sketch plat and received written notice of waiver from the Administrator for filing the preliminary plat setting forth his reasons for the action, and
 - (b) All public improvements as set forth in the Appendix are already installed or because of the nature of the development deemed not necessary by the Administrator. Any construction, installation, or improvement of any public improvements shall require the submission of a preliminary plat, and
 - (c) The subdivider has consulted informally with the Administrator for advice and assistance before preparation of the final plat and its formal application for approval.
- e. **PROCEDURE FOR APPROVAL OF PRELIMINARY SKETCH PLATS OR PRELIMINARY PLATS.** The subdivider shall be advised in writing within thirty (30) 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 Transportation 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.

- f. **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.
- g. **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.
- h. **SIX MONTHS' LIMIT** The subdivider shall not have more than six (6) months after receiving official notification that a final plat may be submitted to file with the Administrator a final subdivision plat in accordance with this ordinance. Failure to do so shall make preliminary approval null and void. The Administrator on written request by the subdivider may, for good cause shown, grant extension of this time limit, not to exceed 90 days.

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.

II-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

- a. **PROCEDURE.** At least 10 days prior to consideration by the Administrator, the subdivider shall submit the original of the final plat and sufficient copies, together with any street profiles or other plans that may be required by the Administrator.
- b. **DRAWING.** The plat shall be drawn to an engineering scale of one (1) inch equals not more than 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.
- c. **APPROVAL.** The Planning Commission shall approve or disapprove this final plat within thirty (30) days after its submission. If the plat is disapproved, the grounds for disapproval shall be stated in writing by the Administrator. Approval of the final plat shall be written on the face of the plat by the Administrator. The subdivider shall record the plat within sixty days of final approval. Extension may be granted by the Administrator upon due cause shown for not more than sixty (60) days additional.
- d. **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.

- e. **REQUIREMENTS. FINAL PLATS.** The final plat shall show and include the following:
1. 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.
 2. 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 centre line. All distances 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.
 3. 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.
 4. The location and description of permanent monuments and other required survey markers shall be indicated clearly on the plat.
 5. All streets proposed in the subdivision and all adjoining streets shall be named.
 6. 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 II-2 (c), subparagraph 1 of this ordinance.
 7. There shall be placed on the final plat or on the cover sheet if more than one sheet constitutes the final plat a blank outlined space 3" by 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 11-3 (f), subparagraph 1 of this ordinance and said statement shall be shown on the final plat.
- f. **CERTIFICATION.** The following certificates shall be presented with the final plat:
1. 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.
 2. Certification showing that applicant is the landowner and dedicates streets, rights-of-way, and any sites for public use.
 3. 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.
 4. Certification by the county health officer when individual sewage disposal or water systems are to be installed.
 5. Certification by the Administrator and/or residency administrator that the subdivider has complied with one of the following alternatives:
 - (a) Prior installation of all improvements in accordance with the requirements of the standards, or
 - (b) Posting of a security bond in sufficient amount to assure the completion of all required improvements; and if a street, which, may be released upon posting of a security bond to assure performance of a street to required VDOT standards until acceptance for maintenance by VDOT. The amount of the construction and maintenance bonds shall be

determined by VDOT.

6. Certification of approval to be signed by the Administrator.
7. 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.

Article III. GENERAL REQUIREMENTS & MINIMUM STANDARD.

There is a mutual responsibility between the subdivider and The Town of Gate City to divide the land so as to improve the general use pattern of the land being subdivided. The developer or subdivider shall be responsible for the costs of all improvements required under this ordinance.

III-1 STREETS

- a. **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 Street Requirements.
- b. **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.
- c. **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 shall 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.
- d. **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 Street Requirements.
- e. **ADDITIONAL WIDTH ON EXISTING STREETS.** Subdivisions that adjoin existing streets shall dedicate additional right-of-way to meet the minimum street width requirements. The entire right-of-way shall be provided where any part of the subdivision is on both sides of the existing street.
- f. **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.
- g. **DEAD-END STREETS**
 1. 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.
 2. 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.
- h. **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.
- i. **STREET NAMES:** Street names will created in accordance with Scott County E-911 standards and procedures. 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 may assist the subdivider in this matter. The subdivider is urged to consult with the Scott County E-911 office and the Administrator regarding street names.
- j. **ALLEYS:** One or more 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. Alleys will not be considered private property, and may not be gated or fenced in or otherwise obstructed so as to prevent reasonable public access.

- k. **CONSTRUCTION AND DESIGN REQUIREMENTS FOR STREETS** All new streets serving more than two parcels of land not otherwise served by a state maintained roadway shall be designed and constructed in accordance with the prevailing Subdivision Street Requirements of the Virginia Department of Transportation, regardless of whether said parcels are otherwise served by a town maintained roadway.
- l. **STORM DRAINAGE.** An adequate drainage system, including necessary open ditches, pipes, culverts, inter sectional 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. Adequate curb and gutter shall be constructed when deemed necessary by the Resident Engineer and shall be constructed in accordance with Virginia Department of Highways specifications.

III-2 BLOCKS

- a. **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 entirely across the block and at location deemed necessary.
- b. **WIDTH.** Blocks shall not be less than 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,
- c. **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.
- d. **FIRE PROTECTION.** The installation of adequate fire hydrants in a block at locations approved by the Administrator may be required, provided necessary public water is available. The Administrator shall consult with the proper authority before approving such location.

III-3 LOTS

- a. **ADEQUATE BUILDING SITES** Each lot shall contain a building site not subject to flood as defined in Section 18 of Article (V) and outside the limits of any existing easements and building setback lines required by the Gate City Comprehensive Zoning Ordinance. Land within a floodway, as defined in Section 20 of Article (V), shall not be platted for residential sites. Said land may be counted as part of the lot in computing lot sizes.
- b. **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.
- c. **MINIMUM SIZE:** The size, shape, and orientation of lots shall be in accordance with the Gate City Comprehensive Zoning Ordinance. Where public water and sanitary sewer systems are reasonably accessible or currently planned, the subdivider shall connect with such 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 sanitarian.
- d. **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.
- e. **BUILDING SETBACK LINES.** The minimum depth of building setback lines shall be in accordance with the Gate City Comprehensive Zoning Ordinance.
 - f. **YARD REGULATIONS.** The minimum side yard shall be in accordance with the Gate City Comprehensive Zoning Ordinance.
 - g. **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.
 - h. **CORNER LOTS.** On corner lots setback lines shall apply to all streets on which the lots front.
 - i. **SIDEWALKS** Lots subdivided in R1, R2, C1 and C2 zones under this ordinance shall have public sidewalks constructed along boundaries fronting on a roadway or side street in accordance with VDOT standards. Where sidewalks are not possible due to the limitations of topography or other hardship, the developer shall pay a fee determined by the Administrator and approved by the Council, not less than the cost of constructing a similar section of sidewalk on level land into a fund to be used for repair of existing sidewalks within the town.
- III-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 as required by the Gate City Comprehensive Zoning Ordinance.
- a. **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 or reservation of such open space within the subdivision up to a total often (10) percent of the gross area of the subdivision of the plat for park, school, or recreation purposes.
 - b. **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 sewers, gas, water, and heat mains, or other utility lines, 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 of or across lots where necessary for the extension of existing or planned utilities.
 - c. **EASEMENTS, DRAINAGE:** Where a subdivision is traversed by a water course, drainage way channel, or stream, there shall be provided a storm water easement or drainage right-of-way along each side of the water course, drainage way channel or stream for the purpose of widening, deepening, relocating, improving, or protecting such drainage easement.
 - d. **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.
 - e. **INSTALLATION OF UTILITIES, DRIVEWAYS, WATER SUPPLY SYSTEMS, AND SANITARY SEWERS.** All of the underground work and service connections shall be installed and approved before any base is applied. All driveways for houses shall be cut and drained. 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 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 20,000 square feet per lot. When the subdivision is located within the service area for a public sewage system, sanitary sewer shall be installed in sure a manner as to serve adequately all lots with connection to the public system. Septic tanks will not be permitted. Where lots cannot be connected with a sewage system, they must contain adequate area for the installation

of an approved septic tank and disposal fields and must be approved in writing by the Virginia Department of Health.

- III-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.
- a. **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 up stream.
- III-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 engineers or surveyor's statement that such improvements, when properly installed, will be adequate for proper development. The Virginia Department of Transportation Residency Administrator shall then approve or disapprove the plans. The subdivider shall also provide any other information required by the Virginia Department of Transportation Residency Administrator.
- III-7 **MONUMENTS**
- a. **VISIBLE FOR INSPECTION** Upon completion of subdivision streets, sewers 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.
- b. **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.
- III-8 **LARGER TRACTS**
- a. **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.
- b. **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.
- c. **TOWN HOUSE AND PLANNED COMMUNITIES** A comprehensive Town House Development and Planned Communities may be approved by the Administrator after consultation -with the Planning Commission and any additional necessary consultations, 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.
- d. **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 code, or other official regulations, the highest standard shall apply.
- e. BONDING No final subdivision plat shall be approved by the Administrator or accepted for record by the County Clerk until the required improvements shall be constructed in a satisfactory manner and approved by the Administrator. In lieu of completed improvements; the Administrator may 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 city in the event of default of the subdivider.
 - f. 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 his subdivision.

Article IV. EFFECTUAL CLAUSES

IV-1 VARIANCES AND EXCEPTIONS:

A variance may be granted by the Administrator upon approval by the Town Council under the following conditions:

- a. Where the subdivider can show that strict adherence to these regulations would cause unnecessary hardship, or
- b. 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,
- c. No variances shall be granted from the Virginia Department of Transportation Subdivision Street Requirements.
- d. EXCEPTIONS

Submission for approval of a subdivision plat under this Ordinance shall not be required in the following cases:

- (1) Division by Partition: A bona fide division or partition by descendants or devisees of lands acquired by descent or devise.
- (2) Agriculture and Timberland: A bona fide division or partition of agricultural or timberland not for development purposes.
- (3) Court Action: A partition of land by will or through actions of a court of competent jurisdiction.
- (4) 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 any remainder may be clearly determined by reference to the previously recorded plats.
- (5) 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 this Ordinance.
- (6) 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 as a building site for 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.
- (7) 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. 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, or parent of the owner.

IV-2 PENALTIES

- a. No person shall subdivide land without making and recording a plat of the subdivision and without fully complying with the provisions of this subdivision ordinance.
- b. No plat of any subdivision shall be recorded unless and until it has been submitted to and approved by the governing body.
- c. No person shall sell or transfer any land of a subdivision, before a plat has been duly approved and recorded as provided herein. However, nothing herein contained shall be construed as preventing the recordation of the instrument by which such land is transferred or the passage of title as between the parties to the instrument.
- d. Any person violating the foregoing provisions of this section shall be subject to a fine of not more than \$500 for each lot or parcel of land so subdivided, transferred or sold and, shall be required to comply with all provisions of the subdivision ordinance. The description of the lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from the penalties or remedies herein provided.
- e. No clerk of any court shall file or record a plat of a subdivision required by the ordinance to be recorded until the plat has been approved as required herein. The penalties provided by Virginia Code Section 17.1-223 shall apply to any failure to comply with the provisions of this subsection.
- f. A violation or threatened violation of this ordinance may be enjoined by application to the circuit court by the Administrator without the necessity of showing that an adequate remedy at law does not exist.

IV-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.

IV-4 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 be in accordance with the provisions of the Code of Virginia. Any such amendments will be immediately caused to appear in the, official copy of Town Ordinances with reference to the effective date of amended sections.

Article V .. DEFINITIONS

Words and Terms For the purpose of this ordinance, certain words and terms used herein shall be interpreted or defined as follows: Words used in the present tense include the future, words in the singular number include the plural, and the plural the 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 distances 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 or sale as residential building lots. In computing net acreage, street rights-of-ways, restricted floodways, 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 of 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 front lot line or front boundary line.
- 5-9 Commission: The Planning Commission of The Town of Gate City, 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:
- a Land lying below the elevation of the regional flood as shown on the chart, "High Water Profiles, Clinch River, Vicinity of Dungannon, Fort Blackmore, Virginia, Tennessee Valley Authority, June, 1961."
 - b Land lying below the elevation of the regional flood as shown on the chart, "High Water Profiles, Clinch River and Stock Creek, Vicinity of Clinchport, Virginia, Tennessee Valley Authority, March, 1966."
 - c Land lying below the elevation of the regional flood as shown on the chart, "High Water Profiles, and Stony Creek, Virginia of Fort Blackmore, Virginia," Tennessee Valley Authority, June, 1961"
 - d Land lying below the elevation of the regional flood as shown on the chart, "High Water Profiles, North Fork Clinch River, Vicinity of Duffield, Virginia," Tennessee Valley Authority, Hay, 1967."
 - e. Along those streams for which flood information is not available, the Administrator will secure from the Tennessee Valley Authority the data necessary to adequately define land subject to flooding.
- 5-19 Flood - Regional: A flood used in the Tennessee Valley Authority Flood Studies 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:
- a Floodway districts as designated by zoning or subdivision regulations of communities.
 - b Along streams for which data 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 the regional flood as determined by competent engineers action on behalf of the subdivider, but in no case less than within fifteen (15) feet of the top of the banks.
 - c Along small streams and drainage channels, areas within fifteen (15) feet of the top of the banks.
- 5-21 Governing Body: The Town Council of the Town of Gate City, located in Scott County, Virginia.
- 5-22 Health Official: The Health Director or County Sanitarian of Scott County, Virginia.
- 5-23 Highway Engineer: The resident engineer employed by the Virginia Department of Highways.
- 5-24 Jurisdiction: The area or territory subject to the legislative control of the governing body.
- 5-25 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.
- 5-26 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.
- 5-27 Lot, Depth of: The mean horizontal distance between the front and the rear lot lines.
- 5-28 Lot, Double Frontage; An interior lot having frontage on two streets. 5-29 Lot, Interior: A lot other than a corner lot.
- 5-30 Lot of Record; A lot which has been recorded in the office of the Clerk of the appropriate court.
- 5-31 Lot, Width of: The mean horizontal distance between the side lot lines.
- 5-32 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.
- 5-33 Off-Street Parking: Off-Street Parking means any space specifically allotted to the parking of motor vehicle, which space shall not be in a dedicated right-of-way.
- 5-34 Owner: Owner means the person having legal title to the land involved or holding a lease for a term of not least than thirty years.
- 5-35 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.
- a Preliminary Sketch: The rough, initial drawing of a proposed subdivision showing information as required in this ordinance.
- 5-36 Property: Any tract, lot, parcel, or several of the same collected together for the purpose of subdividing.
- 5-37 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.
- a 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.

- b 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.
- c 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.
- d 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.
- e Street, Minor: A street that is used primarily as a means of access to the abutting properties with anticipated traffic of less than four hundred (400) vehicles per day.
- f 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.
- g 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, any division of parcel of land. The term includes re-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.

Notwithstanding any provision of this Ordinance to the contrary, in subdivision involving a new street in which each lot or parcel of the subdivision is two acres or more in size, the street construction and design requirements of this Ordinance and of the Virginia Department of Transportation shall not apply, except that the right-of-way for the new street(s) shall be forty feet in width; however, the plat of such subdivision not meeting said street construction and design requirements and each deed of conveyance to the original and to any subsequently conveyed lot or parcel of land of any size contained within such subdivision shall contain the following statement which shall be underlined in each such legal instrument:

The streets in this subdivision do not meet State standards and will not be maintained by the Virginia Department of Transportation or Scott County, Virginia.

Furthermore, prior to any future request for the streets' addition to the Secondary System of State Highways, they must be brought into compliance with the applicable subdivision street requirements of the Virginia Department of Transportation in effect at that time and without cost to funds administered by the Department.

- b Where a single lot or parcel of land is to be subdivided into only two (2) parcels, and both resulting parcels meet the zoning requirements applied to the original parcel, any or all the requirements of this subdivision ordinance may be waived. No such waiver to this ordinance shall be granted which is opposed in writing by the county or highway engineer or health official.
- c The word "subdivide" and any derivative thereof shall have reference to the term " Subdivider " as defined in ARTICLE V - 40-4.
- d Subdivider: An Individual, corporation registered partnership, owning any tract, lot or parcel of land to be subdivided, or a group of two or more persons owning any tract, lot or parcel of land to be subdivided, who have given their power of attorney to one of their group or to another individual to act on their behalf in planning, negotiating for, in representing, or executing the legal requirements of the subdivision.

- 5-41 Surveyor: Surveyor means an individual who is recognized by the State and who is registered with the State as a registered land surveyor.
- 5-42 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 unity above another) and semi-detached (two dwelling units having a common vertical party wall).
- 5-43 Town House: Town House means a single family dwelling forming one of 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.

Article VI. EFFECTIVE DATE

This ordinance is adopted and effective as of 11:59 p.m., 8 December 2009.

Mayor _____ Date _____

Town Clerk _____ Date _____
Seal