

Town of Pearisburg
Subdivision Ordinance

Prepared by the New River Valley Planning District Commission

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25-01 Title

This chapter shall be known and may be cited as the “Town of Pearisburg Subdivision Ordinance” or as the “Subdivision Ordinance.”

(Code of Virginia § 15.2-2240)

25-02 USAGE

- 25-02-01 For the purpose of these regulations, certain numbers, abbreviations, terms, and words used herein shall be used, interpreted, and defined as set forth in this action.
- 25-02-02 Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the plural number include the singular; and words "herein" means "in these regulations"; the word "regulations" means "these regulations".
- 25-02-03 A "person" includes a corporation, a partnership, and an incorporated association of persons such as a club; "shall" is always mandatory; a "building" includes a "structure"; a "building" or "structure" includes any part thereof; "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."
- 25-02-04 For the purpose of these regulations, all masculine nouns are not intended to be gender specific.

25-03 WORDS AND TERMS DEFINED

- 25-03-01 Agent. The officer as appointed by the Town Council to administer these regulations and to assist administratively other Boards and/or Commissions. (Code of Virginia §§ 15.2-2241; 15.2-2255.)
- 25-03-02 Alley. See: “Road Type”
- 25-03-03 Applicant. The owner of land proposed to be subdivided or his representative. Consent shall be required from the legal owner of the premises.
- 25-03-04 Arterial Road. See “Road Classification.”
- 25-03-05 Block. A tract of land bounded by public roads, or by a combination of public roads and public parks, cemeteries, railroad Right-of-Way, shorelines of waterways, or boundary lines of municipalities.

- 25-03-06 Bond (Performance). Any form of security including a cash deposit surety bond, escrow account, collateral, property, or instrument of credit in an amount and form satisfactory to the Town Council. All bonds shall be approved by the Town Council wherever a bond is required by these regulations.
- 25-03-07 Building. Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or moveable property of any kind, and includes any structure.
- 25-03-08 Collector Roads.-See: "Road Classification."
- 25-03-09 Comprehensive Plan. A document or series of documents prepared by a Planning Commission and adopted by the Town Council, setting forth policies for the future land use of the Town. Elements of the plan may include such titles as housing, transportation, community facilities, economic base, environment, land use, and future land use.
- 25-03-010 Construction Plan. The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the Planning Commission as a condition of the approval of the plat.
- 25-03-011 Cul-De-Sac. See: "Road Type."
- 25-03-012 Developer. An individual, partnership or corporation (or agent thereof) that undertakes the responsibility for any or all of the activities covered by these regulations, particularly the designing of a subdivision or development plan or plat showing the layout of the land and the public improvements involved therein. Inasmuch as the subdivision plat is merely a necessary means to the end of assuring a satisfactory development, the term "developer" is intended to include the term "subdivider," even though the personnel involved in successive stages of the project may vary.
- 25-03-013 Development. A tract of land developed or to be developed as a unit under single ownership or unified control, which is to be used for any business or industrial purpose. The term "development" shall not be construed to include any property which will be principally devoted to agricultural production.
- 25-03-014 Easement. Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

- 25-03-015 Escrow. A deposit of cash with the local government in lieu of an amount required and still in force on a performance or maintenance bond. Such escrow funds shall be deposited by the Town in a separate account; or a deposit made to a Banking Institution in the Town's name in the amount required and still in force on a performance or maintenance bond.
- 25-03-016 Family, Immediate Member of. Any person who is a natural or legally defined offspring, spouse, sibling, grand parents or parent of the owner.
- 25-03-017 Final Plat. The map or plan or record of a subdivision and any accompanying material, as described in these regulations.
- 25-03-018 Floodplain. The land typically adjacent to a body of water with ground surface elevations that are inundated by the base flood and those areas defined by the Department of Housing and Urban Development (HUD), Flood Insurance Rate Map (FIRM), and in Natural Resources Conservation Service (NRCS) Soil Survey maps.
- 25-03-019 Frontage. The minimum width of a lot measured from one side lot line to the other, along a straight line on which no point shall be further away from the street upon which the lot fronts than the building setback line as defined.
- 25-03-020 Governing Body. The body of the local government having the power to adopt ordinances. This is the Pearisburg Town Council.
- 25-03-021 Governmental Attorney. The licensed attorney designated by the Town Council to furnish legal assistance for the administration of these regulations.
- 25-03-022 Grade. The slope of land specified in percentage (%) terms.
- 25-03-023 Health Department and Health Officer. The Virginia Department of Health.
- 25-03-024 Improvements. See "Lot Improvements or Public Improvements."
- 25-03-025 Individual Sewage Disposal System. A septic tank or any other approved individual sewage system.

- 25-03-026 Joint Ownership. Joint ownership among persons shall be construed as the same owner; "constructive ownership" for the purpose of imposing subdivision regulations.
- 25-03-027 Limited Access Highway. See: "Road Classification."
- 25-03-028 Local Road. See "Road Classification."
- 25-03-029 Lot. A tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for building development. A Lot is further defined into the following categories:
- a. Corner Lot. A lot situated at the intersection of two (2) roads (excluding Alleys), the interior angle of such intersection not to exceed 135 degrees. The shortest side fronting upon a street shall be considered the front of the lot, and the longest side fronting upon a street shall be considered the side of the lot.
 - b. Interior lot: A lot (other than a corner) with only one frontage on a street other than an alley.
 - c. Outlot: A parcel of land within a subdivision, which has been included on a preliminary plat or a final plat, but not designated as a buildable lot. Establishment shall only be due to the necessity of providing access to adjoining properties, a continuation of appropriate street patterns, approved governmental use, and those uses defined in the Zoning Ordinance.
 - d. Panhandle lot: A polygonal shaped lot with the appearance of a "frying pan" or "flag and staff" in which the handle is most often used as the point of access to a street or road. The "handle," when less than the minimum width for a building lot in the zoning district in which it is located, is not to be used in computing the minimum required area or delineating the minimum required "building envelope." This type of Lot should be discouraged except in areas with suitable topography.
 - e. Through lot: A lot other than a corner lot with frontage on more than one street other than an alley.
- 25-03-030 Lotline Revision. See: "Subdivision."
- 25-03-031 Lot Improvement. Any building, structure, place, work, or art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of

such betterment. Certain lot improvements shall be properly bonded as provided in these regulations.

- 25-03-032 Nonresidential Subdivision. A subdivision whose intended use is other than residential, such as commercial or industrial, not to include Mixed-Use Development Options. Such subdivision shall comply with the applicable provisions of these regulations.
- 25-03-033 Off-Site. Any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the application for subdivision approval.
- 25-03-034 Official Map. The map established by the Town Council pursuant to law showing the public roads, highways, and parks, and drainage systems and set-back lines theretofore laid out, adopted and established by law, and any amendments or additions thereto adopted by the Town Council of additions thereto resulting from the approval of subdivision plats by the Planning Commission and the subsequent filing of such approved plats.
- 25-03-035 Ordinance. Any legislative action, however denominated, of a local government which has the force of law, including any amendment or repeal of any ordinance.
- 25-03-036 Owner. Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to, or sufficient proprietary interest in, the land sought to be subdivided under these regulations.
- 25-03-037 Perimeter Public Road. See: "Road Type."
- 25-03-038 Planning Commission. The local government's Planning Commission established in accordance with law. This is the Town of Pearisburg Planning Commission. (Code of Virginia § 15.2-2260.)
- 25-03-039 Preliminary Plat. The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Planning Commission for approval.
- 25-03-040 Private court. See "Road Type."
- 25-03-041 Private Road or Street: See: "Road Designation."
- 25-03-042 Public Improvement. Any drainage ditch, roadway, parkway, sidewalk, pedestrian-way, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may

ultimately assume the responsibility for maintenance and operation, or which may effect an improvement for which local government responsibility is established. All such improvements shall be properly bonded.

- 25-03-043 Public Road. See. "Road Designation."
- 25-03-044 Registered Engineer. An engineer properly licensed and registered in Virginia.
- 25-03-045 Registered Land Surveyor. A land surveyor properly licensed and registered in Virginia.
- 25-03-046 Resident Highway Engineer. The engineer assigned to this jurisdiction by the Virginia Department of Transportation (VDOT).
- 25-03-047 Re-subdivision. A change in a map of an approved or recorded subdivision plat if such change affects any public road layout on such map or area reserved thereon for public use, or any line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.
- 25-03-048 Right-of-Way. A strip of land occupied by a public road, private road, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another special use. The usage of the term "Right-of-Way" for land-platting purposes shall mean that every Right-of-Way hereafter established and shown on a final plat, is to be separate and distinct from the lots or parcels adjoining such Right-of-Way and not included within the dimensions or areas of such lots or parcels. Rights-of-Way intended for public roads, crosswalks, water mains, sanitary sewers, storm drains, shade trees or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such Right-of-Way is established.
- 25-03-049 Right-of-Way Easement Buffer. A Public Utility Easement placed on all newly created lots in the Town of Pearisburg. This Easement shall be offset a minimum of ten (10) feet from the Side and Rear Lot lines and shall be included on all subdivision plats, in accordance with these regulations.
- 25-03-050 Road Classification. The classification system groups roads into three basic categories identified as arterial, with two subclasses of "principal" and "minor", with the primary function to provide through movement of traffic; collector, with the function of supplying a combination of through movement and access to property; and

local, with the primary function of providing access to property and are further defined as follows:

- a. Principal Arterials: major highways of regional and statewide significance intended to serve through traffic where access to the highway is carefully controlled.
- b. Minor Arterials: Minor arterials interconnect with and augment the principal arterial system. Minor arterials distribute traffic to smaller geographic areas providing service between and within communities.
- c. Collector Roads: Collectors provide land access service and traffic circulation within residential, commercial, and industrial areas. The collector system distributes trips from the arterials through the area to the ultimate destination. Collector Roads also collect traffic from local streets in residential neighborhoods and channel it into the arterial system.
- d. Limited Access Highways: are the primary and interstate limited access highways, which provide inter-regional connections.
- e. Local Roads: are streets that transport general residential traffic. They do not carry the same volumes that are recorded on higher-level streets. These roads should be safe for pedestrians. These roads connect to collectors to provide access to other areas of the Town and then further to Arterials and further to Limited Access Highways.
- f. Service Roads: are limited use roads that provide access to non-residential development. The intent of this road is to limit access directly onto a collector or arterial.

25-03-051 Road, Dead-End. See: "Road Type"

25-03-052 Road Designation. Legal presumption of the Road defined as the following:

- a. Public Road: Any highway, street, avenue, boulevard, road, lane, alley or public way that is maintained by either a Virginia Municipality or the Virginia Department of Transportation and which provides unrestricted ingress and egress.
- b. Private Road: Any and all streets that are not constructed to meet the standards necessary for inclusion in the system of state highways. All such private roads and streets shall be privately maintained and will not be eligible for acceptance into the system of state highways unless improved to then current Department of Transportation standards with funds other than

those appropriated by the General Assembly and allocated by the Commonwealth Transportation Board.

- 25-03-053 Road, Right-of-Way Width. The distance between property lines measured at right angles to the center line of the public road.
- 25-03-054 Road Type. Features defining the roadway by the physical attributes defined as the following:
- a. Alley: The public or private Right-of-Way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other public road.
 - b. Cul-De-Sac: A local public road with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement. See: "Road Type"
 - c. Dead-End Road: A road or a portion of a street with only one (1) vehicular-traffic outlet.
 - d. Perimeter Public Road: Any existing public road to which the parcel of land to be subdivided abuts on only one (1) side.
 - e. Private court: A privately owned vehicular Right-of-Way in multifamily residential or commercial developments designated for ingress, egress and parking.
- 25-03-055 Sale or Lease. Any immediate or future transfer of ownership or any possessory interest in land, including contract of sale, lease, devise, intestate succession, or transfer of an interest in a subdivision or part thereof, whether by metes and bounds, deed, contract, plat, map lease, devise, intestate and succession or other written instrument.
- 25-03-056 Same Ownership. Ownership by the same person, corporation, firm, entity, partnership or unincorporated association or ownership by different corporations, firms, partnerships, entities or unincorporated associations in which a stockholder, partner or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity or unincorporated association.
- 25-03-057 Service Roads. See "Road Classification."
- 25-03-058 Setback. The distance between a building and the public road line nearest thereto. The distance provided by the current Town of Pearisburg Zoning Ordinance.

25-03-059 Sketch Plat. A sketch preparatory to the preparation on the preliminary plat to enable the Developer to save time and expense in reaching general agreement with the Agent as to the form of the plat and the objectives of these regulations. A Sketch Plat shall be required for the following subdivisions:

All subdivisions with fifteen (15) or more residential Lots and/or residential units proposed (including the original Lot);

All subdivisions that have at least one (1) proposed road;

All subdivisions that have a commercial element.

25-03-060 Street. A public Right-of-Way.

25-03-061 Stormwater Management. "Reserved."

25-03-062 Subdivider. See "Developer."

25-03-063 Subdivision. The term subdivision or subdivide shall be deemed to be any division of a lot or parcel of land, for the purpose of transfer of ownership or building development, regardless of whether such building development shall be immediate or in the future. Building development shall be deemed to also include the erection of one or more structures designed to house or provide shelter for more than one single family unit, such as a mobile home park, apartment building, condominium, townhouse, or duplex. For the purposes of this ordinance, there shall be seven types of subdivisions as set forth below:

- a. Standard Subdivision: The division of a parcel of land into two (2) or more lots or parcels, any one of which as less than five (5) acres. Under this definition, the Town Council may also consider divisions of property proposing to be served by a Right-of-Way other than a public street. A standard subdivision must comply with all of the provisions of this ordinance.
- b. Family Subdivision: A single division of a lot or parcel of land for the purpose of sale or gift to a member of the immediate family of the property owner/ Only one such division shall be allowed per family member. Family divisions must comply with the requirements of this ordinance for plating, and the applicable Zoning Ordinance. The provisions for family divisions shall not be used for the purpose of circumventing the other provisions of this ordinance. Such lots may not be further divided unless there is full compliance with the provisions for street design set forth in 25-06-03.

- c. Townhouse and Condominium Subdivision. The division of a parcel or tract of land for one family dwellings where each unit has its own front and rear access and which is in a row of at least three units. Such divisions of property must conform to the provisions of 25-06-03.
- d. Cemetery Subdivision. The division of a lot or parcel of land for purposes of creating a private cemetery such as a family, church or community cemetery which is not operated for profit.
- e. Industrial Subdivision. The division of a parcel of land in a developed industrial park or similar layout.
- f. Lotline Revision. A division of a tract or parcel for the purpose of sale or conveyance of a portion of a tract or lot to an adjoining property owner. Lotline revisions may be approved by the Agent.
- g. Lot Subdivision. Division of a lot or parcel into three or less residential parcels.
- h. Re-subdivision. The term "subdivision" includes the re-subdivision of lots of record or the vacation of plats. The term shall apply either to the process of subdivision or the land subdivided.

25-03-064 Subdivider's Agent. Any person who represents, or acts for or on behalf of a subdivider or developer, in selling, leasing or developing or offering to sell, lease, or develop interest, lot, parcel, unit, site or plat in a subdivision, except an attorney-at-law whose representation of another person consists solely of rendering legal services.

25-03-065 Subdivision Plat. The final map or drawing, described in these regulations, on which the Developer's plan of subdivision is presented to the Planning Commission for approval and which, if approved, may be submitted to the Giles County Clerk.

25-03-066 Temporary Improvement. Improvements built and maintained by a Developer during construction of the subdivision and prior to the release of the performance bond.

25-03-067 Traffic Impact Analysis. "Reserved."

25-03-068 Virginia Department of Transportation Resident Administrator. Virginia Department of Transportation (VDOT) official assigned to this jurisdiction.

25-04 Statutory Provisions

Under the authority to establish subdivision regulations and the purposes, the regulations established herein constitute minimum requirements, which shall apply to all subdivision, except as herein provided.

25-04-01 No person shall subdivide land without making and recording a plat of the subdivision and without fully complying with the provisions of the Code of Virginia and of this subdivision ordinance.

25-04-02 No plat of any subdivision shall be recorded unless and until it has been submitted to and approved by the Pearisburg Town Council or its duly authorized Agent, in situations allowing Administrative Approvals.

25-04-03 No person shall sell or transfer any land of a subdivision, before a plat has been duly approved and recorded as provided herein, unless the subdivision was lawfully created prior to the adoption of a subdivision ordinance applicable thereto. 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

25-04-04 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 Code of Virginia and this 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.

25-04-05 No clerk of any court shall file or record a plat of a subdivision required by this article to be recorded until the plat has been approved as required herein. The penalties provided by § 17.1-223, or future amendments, of the Code of Virginia shall apply to any failure to comply with the provisions of this subsection.

25-04-06 The Subdivision regulation adopted by the Town of Pearisburg shall apply within its corporate limits.

(Code of Virginia § 15.2-2254)

25-05 Administration

There is a mutual responsibility between the developer and the Town of Pearisburg to divide the land so as to improve the general use pattern of the land being subdivided.

25-05-01 Agent's Authority to Administer. The Agent appointed by Town Council is hereby delegated to administer and enforce the provisions of this Ordinance. In so doing, the Agent shall be considered the Agent of the Town Council, and approval or disapproval by the Agent shall constitute approval or disapproval as though it were given by the Town Council.

25-03-069 25-05-02 Duties of the Agent. The Agent shall perform duties with regard to subdivisions and subdividing in accordance with this Ordinance and the Code of Virginia (Code of Virginia §§ 15.2-2241; 15.2-2255.)

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

25-05-03 To Consult. In the performance of its duties, the agent and Planning Commission may call for opinions or decisions, either verbal or written, from other departments in considering details of any submitted plat. This authority by the agent and Planning Commission shall have particular reference to the Resident Highway Engineer, Resident Administrator and the Health Officer.

25-05-04 Additional Authority. In addition to the regulations herein contained for the platting of the subdivisions, the agent may, with the approval of the governing body, establish any reasonable additional administrative procedures deemed necessary for the proper administration of this ordinance.

25-05-05 Appeals. In the event a plan for subdivision is disapproved by the agent or Planning Commission, the Developer may appeal to the governing body which may then over-ride the recommendation of the agent or Planning Commission and approve said plat.

- 25-05-06 SUBDIVISION PROCEDURE (See Appendix A)
- 25-06 **Design Standards**
- 25-06-01 Lot Requirements
- 25-06-01-01 LOT SHAPE. The lot arrangement, design, and shape shall be such that lots will provide satisfactory and desirable sites for buildings, and be properly related to the topography, and conform to the requirements of these regulations. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage by adding area which would be unusable for normal purposes, as determined by the Agent, Planning Commission, and/or the Town Council.
- 25-06-01-02 Lot Size. The minimum lot size shall be in accordance with the lot requirement for the zoning district in which the subdivision is located as prescribed in the Town of Pearisburg Zoning Ordinance
- 25-06-01-03 Lot Shall Abut on a Street. Each lot shall abut on a street dedicated by the subdivision plat, or an existing publicly dedicated street, or on a street which has become public by right of use except as provided by this ordinance. If the existing street right of way does not meet the Virginia Department of Transportation Subdivision Street Requirements, the developer shall make provisions in the deeds to the lots for all buildings to be so constructed as to permit the widening by dedication of said roads or street to the current Virginia Department of Transportation requirements for right of way for public streets.
- 25-06-01-04 Lot Side Lines. Side lines of lots shall be approximately at right angles, or radial to the street line.
- 25-06-01-05 Lots must be solely in the Town of Pearisburg. No Lot Platted under the provisions of this ordinance shall be divided by the Municipal or County Boundary Line.
- 25-06-01-06 Remnants. Land subject to flooding, land deemed to be topographically unsuitable for residential occupancy and all remnants of lots below minimum size left over after subdividing a tract must be added to adjacent lots, or become the property of a homeowners association rather than allowed to remain as unusable parcels, to be used in the form of an Outlot.
- 25-06-01-07 Setbacks. Setback requirements shall be shown clearly upon the preliminary and final plat. Minimum setback requirements shall be

those required in the Town of Pearisburg Zoning Ordinance for the zoning district in which the lot is located. For the purposes of setback requirements, lots shall be deemed to front on the street or right of way which provides access to the lot.

25-06-02 Blocks

25-06-02-01 Block Formation. All Blocks shall be designed specifically for the land uses corresponding to the areas within the subdivision that are proposed, with adequate space for off street parking and delivery if deemed necessary by the agent.

25-06-02-02 Block Length. The maximum length of blocks shall be twelve hundred (1200) feet, and the minimum length of blocks upon which lots have frontage shall be three hundred (300) feet.

25-06-02-03 Block Width. Blocks shall be wide enough to allow two tiers of lots of minimum depth, except where fronting on major streets, unless prevented by topographical conditions or size of the property, in which case the agent may approve a single tier of lots of minimum depth.

25-06-02-04 Block Orientation. Where a proposed subdivision adjoins an arterial road, and/or where a potential traffic hazard would be created if driveways serving such subdivisions lots were to intersect such thoroughfare, the Town may require that the greater dimension of the block shall front or back upon such thoroughfare to avoid unnecessary ingress or egress.

25-06-03 Streets

25-06-03-01 Street Design and Standards. All public streets shall be constructed in accordance with current Virginia Department of Transportation guidelines. Private Streets should be utilized in Town home developments only with the exception of private courts.

For the purposes of this section, public access shall be deemed to exist when a lot abuts (as described in Section 25-06-01-03) on an existing street maintained by either the Town of Pearisburg or the Virginia Department of Transportation.

25-06-03-02 For all Standard Subdivisions (divisions of land into two or more lots, any one of which contains an area of less than five (5) acres) all streets shall be designed and constructed in accordance with Virginia Department of Transportation (VDOT) Subdivision Street

Requirements and Sections 211 and 315 of VDOT's Road and Bridge Specifications in accordance with Urban Street Standards.

For all subdivisions pursuant to Section 25-06-03-01 and all Large Lot Subdivisions pursuant to Section 25-06-03-06, access may be proposed which is either public or private. If public streets are proposed, they must meet the standards specified in Section 25-06-03-01. Plats proposing private streets shall clearly provide rights-of-way width as set forth in the Virginia Department of Transportation Subdivision Street Requirements in effect at the time of subdivision approval which include easements for public utilities and provide rights of access to public utilities without further approval or conveyance. Plats and other documents used to describe or transfer ownership of such parcels served by private streets shall clearly inform the purchaser of his responsibilities for construction, reconstruction, and maintenance of streets within the development. The following statement shall be included on each plat containing a private street and on the deed to each lot in such a subdivision:

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

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

25-06-03-05 For Family Subdivisions, all lots shall have public or private access as set forth in 25-06-03-02, except that only twenty (20) foot rights of way are required for private access, if deemed appropriate by the agent. While not required, careful consideration should be given to the right of way width specified in the Virginia Department of Transportation Subdivision Street Requirements. All other provisions of 25-06-03 and 25-06-03-01 shall apply. Lots divided under the Family Subdivision provisions of this ordinance (Section 25-03-063 b and 25-06-03-01) may not be further divided, even for purposes of sale or gift to another family member, unless access is provided in full compliance with Section 25-06-03-01.

- 25-06-03-06 For any subdivision proposing public streets or roads, the plat shall include a signature block for the Virginia Department of Transportation (VDOT). The signature block shall include the following language: "The streets depicted on this plat satisfy the requirements of VDOT's current Subdivision Street Requirements (SSRs). When designed and built accordingly and all other provisions of the SSRs are satisfied, VDOT will accept jurisdiction over the streets at the request of the local governing body. VDOT responsibility to maintain drainage easements outside of the public right of way shall only be to the degree required to protect public transportation interests."
- 25-06-03-07 Curb and Gutter. All public streets should have curb and gutter, whether newly created, or extensions of existing streets. In the event Curb and Gutter cannot be utilized alternatives with regard to Stormwater Management, The Planning Commission can consider other viable design options with justification provided by the Developer in the form of Engineering studies or other applicable data.
- 25-06-03-08 Sidewalks. All Sidewalks should conform to the Americans with Disabilities Act Accessibility Guidelines.
- 25-06-03-09 Privately-Owned Streets. Privately-owned and maintained streets allowed in townhouse developments, including curbs, gutters, and sidewalks shall be developed according to generally accepted standards in street design.
- 25-06-03-10 Street Alignment and Layout. The arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in adjoining areas. The street arrangement must be such as to cause no unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. Where, in the opinion of the Town, it is desirable to provide for street access adjoining property, proposed streets shall be extended by dedication to the boundary line of such property. Half streets along the boundary of land proposed for subdivision are not permitted. Wherever possible, streets should intersect at right angles. In all hillside areas, streets running with contours shall be required to intersect at angles of not less than sixty (60) degrees, unless approved by the Agent.
- 25-06-03-11 Street Access to Adjoining Property. Where in the opinion of the Town, it is desirable to provide public street access to adjoining property, proposed public streets shall be extended by dedication to the boundary line of such property.

25-06-03-12 Street Names. The Developer shall name all streets, subject to coordination with the emergency services in the County with approval by the Planning Commission. Names shall be sufficiently different in sound and in spelling from other road names in Giles County so as not to cause confusion. A road which is or is planned as a continuation of an existing road shall bear the same name.

25-06-03-13 Alleys. Alleys, where proposed, shall have a right-of-way of not less than twenty (20) feet.

25-06-03-14 Cul-De-Sacs. Streets designed to have one end permanently closed must be terminated by a turn-around conforming to at a minimum current VDOT standards.

25-06-03-15 Reserve Strips. There shall be no reserve strips controlling access to public streets with the exception of temporary facilities.

25-06-03-16 Street Identification Signs. Street identification signs of an approved design shall be installed at all intersections.

25-06-04 Monuments

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

Lot corners, street corners, points where streets intersect the exterior boundaries of the subdivision, and points of curve shall be marked with iron rods or other permanent material. Monuments shall be not less than five-eighths inch in diameter and approximately twenty four inches long, and shall be driven so as to be securely anchored. (Code of Virginia § 15.2-2241)

25-06-05 Preservation of Land for Public Purposes.

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

25-06-05-01 Reimbursement Required. Developers shall not be required to dedicate land for parks or playgrounds, exclusive of street and drainage without reimbursement by the Town. Where land is

required in excess of this amount, the reimbursement by the Town shall be based on a proportionate share of the: 1) cost of raw land; 2) cost of improvements, including interests or investments; 3) development costs; plus 4) not more than ten (10) percent profit on the total of such costs;

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

25-06-05-02 Land to be Divisible. The Agent and/or Planning Commission shall make certain that lands so reserved are divisible in the same manner as the remainder of the subdivision so that the Developer will not be required to reserve an unusable portion of his subdivision.

25-06-06 Utility Requirements

25-06-06-01 Utility Plans Required. Utility Plans and Specifications for Utility Fixtures and Systems are to be submitted for approval to all local, state and federal agencies having authority over such installations. Authorities may also include the provider of such service. (E.g. power company, gas company, etc.) (Code of Virginia § 15.2-2269)

25-06-06-02 Giles County Department of Health Approval Required. Final subdivision plats shall clearly indicate Virginia Department of Health approval information or when permitted, indicate that the lot or residue has not been evaluated for onsite sewage disposal. (Code of Virginia § 15.2-2242)

25-06-06-03 Public Water Required. All Subdivisions within the Town of Pearisburg shall be served by Public Water.

25-06-06-04 Public Sewer. Where public sewer is viable, the service shall be extended to all lots within a subdivision by the developer.

25-06-06-05 Private Sewer. Where public sewer is not viable, nothing in this regulation shall prevent the installation of privately owned sewage collection and treatment facilities, provided, however, that any such installations must meet all of the requirements of the State Health Department, and any other State or local regulations having authority over such installations.

25-06-06-06 Fire Protection. The installation of adequate fire hydrants in a subdivision at approved locations is required.

25-06-07 Storm Water Management and Flood Control

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

25-06-07-01 The Developer shall provide plans for meeting all applicable stormwater management criteria. The design for all stormwater management facilities shall be in accordance with generally accepted hydraulic engineering practices, the Virginia Erosion and Sediment Control Handbook and all Virginia Stormwater Management laws and regulations. The design shall be certified by a licensed engineer to contain facilities that when properly installed, will comply with all applicable stormwater management laws and regulations.

Stormwater management facilities shall be located in perpetual unobstructed public easements of a width and location appropriate for the purpose of the easement and shall be clearly shown on the subdivision plat. All such facilities must be constructed in accordance with the plans and specifications for such facilities and generally accepted construction standards for stormwater management facilities.

Approval of the stormwater management facilities shall be conditioned upon an agreement being entered into between the Town and a properly constituted Homeowner's Association for the subdivision, whereby the Homeowner's Association assumes all liability and responsibility for maintenance and operation of the stormwater management facilities. The Homeowner's Association must have the authority to levy assessments for maintenance of such facilities and the authority to place a lien against lots for unpaid assessments. The Town Attorney shall review the articles

of incorporation and bylaws or other organizational documents of any such Association prior to the Town entering into any agreement with the Association. Nothing contained in this provision shall be deemed to impose any liability upon the Town to maintain or operate any stormwater management facilities in a subdivision. (Code of Virginia § 15.2-2241)

25-06-07-02 FEMA Floodplain. If any portion of the proposed subdivision is determined by the agent to be in the 100 year floodplain, the Developer shall provide the necessary information to demonstrate that the presence of the 100 year floodplain was considered in the layout of the subdivision.

25-06-07-03 Stormwater Management Regulations. All Local, State, and Federal Stormwater Management Regulations shall apply.

25-06-08 Erosion and Sediment Control

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

25-06-08-01 Subdivision Development Included as Land-disturbing Activity. The Code of Virginia includes the term subdivision development along with activities disturbing 10,000 or more square feet of land for commercial or noncommercial uses.

25-06-08-02 Erosion and Sedimentation Plan Required. At the time of filing the preliminary plat, an erosion and sedimentation control plan will also be filed in accordance with the Town Code and the provisions of the Virginia Erosion and Sediment Control Handbook.

25-06-08-03 Approval Required. No construction or land-disturbing activity of any kind (e.g. grading, installation of utilities, installation of streets, etc.) shall begin without prior approval of the erosion and sediment control plan by the appropriate reviewing agencies.

25-06-09 Easements

25-06-09-01 Drainage Easements. The Developer shall make adequate provisions for controlling storm and flood water run-off; including the installation of all necessary drainage improvements in accordance with approved plans required by the Town Erosion and

Sediment Control Ordinance (as outlined in Chapter 30, Environment Section, of the Town Code) and the dedication of all necessary drainage easements. Where required, drainage easements through adjoining property are to be provided by the Developer.

25-06-09-02 Public Utility Easements. Easements of not less than twenty (20) feet in width shall be provided for water, sewer, power lines, and other utilities to serve the subdivision are required. (Code of Virginia § 15.2-2241)

25-06-10 Town of Pearisburg's Non Obligation for Procuring on Site Improvements.

Nothing herein shall be construed as creating an obligation upon the Town to pay for grading or paving, or for sidewalks, sewers, water systems, curb and gutter improvements, or other construction. (Code of Virginia § 15.2-2243)

25-06-11 Pearisburg Subdivision Design Standards Specifications (See Appendix B)

25-07 Sketch Plat

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

25-07-01 Sketch Plat Required in Certain Subdivisions: A Sketch Plat shall be required for the following types of subdivisions:

- a. All subdivisions with fifteen (15) or more residential Lots and/or residential units proposed (including the original Lot);
- b. All subdivisions that have at least one (1) proposed road;
- c. All subdivisions that have a commercial and/or industrial element.

25-07-02 Sketch Plat Requirements. The Sketch Plat shall conform to the following:

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

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

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

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

25-08 Preliminary Plat

The Developer shall apply in writing to the Agent for approval of the subdivision plat and submit two (2) copies of the Preliminary Plat. If the Preliminary Plat is to be considered by the Planning Commission, an additional ten (10) copies of the plat shall be submitted. (Code of Virginia § 15.2-2260)

25-08-01 Requirements Prior to Submission. Prior to submitting a preliminary plat, the Developer shall submit the preliminary plat to the Virginia Department of Health and Virginia Department of Transportation for their review. A revised plat incorporating Virginia Department of Health and Virginia Department of Transportation comments may then be submitted to the Agent for review.

25-08-02 Plat Requirements.

a. Two blue or black line prints of the plans and specifications for all required physical improvements to be installed shall be prepared by a certified engineer and shall be submitted to the Agent.

b. The Developer shall present the preliminary plat to the Agent at an appropriate engineering scale.

c. Whenever part of a tract is proposed for platting and it is intended to subdivide additional parts in the future, a sketch plan for the entire tract shall be submitted with the preliminary plat. This sketch is merely for informational

purposes and is not binding on the Developer or the governing body.

25-08-03 Plat to Include. The Preliminary Plat shall include the following information:

a. Name of subdivision, owner, Developer, surveyor, or engineer, date of drawing, number of sheets, north point, and scale.

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

c. 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.

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

e. Topography at an appropriate interval.

f. Elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the center line of streets together with proposed grade lines connecting therewith.

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

h. Provisions for collecting and discharging surface drainage and preliminary designs of any structure that may be required.

i. Location of Lots indicating street and Lot identification numbers.

25-08-04 Preliminary Plat Procedure. The Agent and/or Planning Commission shall discuss the preliminary plat with the Developer in order to determine whether or not the preliminary plat generally conforms to the requirements of this ordinance. The Developer shall then be advised in writing within forty five (45) days, which

may be by formal letter or by legible markings on a copy of the preliminary plat, concerning any additional data that may be required, the character and extent of public improvements that will have to be made, and notice of the performance guaranty which will be required to be submitted as a prerequisite to approval of the final subdivision plat. In determining the cost of required improvements and the amount of the performance guaranty, the Agent shall require a bona fide estimate of the cost of improvements to be furnished by the Developer. (Code of Virginia § 15.2-2259)

25-08-05 Final Plat not Guaranteed. Approval by the Agent and/or the Planning Commission of the preliminary plat does not constitute guarantee of approval of the final plat.

25-08-06 Six Month Limit on Approvals. The Developer shall have not more than six (6) months after the date of approval of the preliminary plat to file a final subdivision plat in accordance with this section with the Agent. Failure to do so shall make preliminary approval null and void. The Agent may, on written request by the Developer, grant an extension of this time limit. (Code of Virginia § 15.2-2260)

25-09 Final Plat

The Developer shall submit six (6) copies of the plat, one of which shall be reduced to eleven inches by seventeen inches. The subdivision plats submitted for final approval by the Town and subsequent recording shall be clearly and legibly drawn in ink upon stable based material at an appropriate engineering scale, i.e. one hundred (100) feet to the inch, on sheets measuring no larger than 18 inches by 24 inches and no smaller than 11 inches by 17 inches in size. Plats shall further comply with all of the requirements imposed by law for recordation standards. Current recordation standards may be obtained from the Clerk of the Circuit Court. When a subdivision cannot be platted on sheets of this size, it is suggested that it be platted in sections, numbering the sections numerically, as Section 1, 2, etc., of subdivision.(Code of Virginia § 15.2-2259)

25-09-01 Final Plat Requirements. The Final Plat shall contain at least the following information:

a. Name of subdivision, community, state, owner, north point, scale of drawing, and number of sheets. If shown on more than several sheets join. A space containing the Certificate of Approval shall be provided for the use of the approving authority.

b. Location of proposed subdivision by an insert map, at a scale of not less than 1 inch equals 2000 feet, indicating

adjoining roads, their names and numbers, towns, subdivisions, and other landmarks.

c. A boundary survey with an error of closure within the limits established under current state standards related to the true meridian and showing the location of all monuments and their type of material. The survey may be related to the Virginia State Plane Coordinate grid, if the Coordinates of two (2) adjacent corners of the subdivision are shown.

d. A statement to the effect that the subdivision as it appears on this plat is with the free consent and in accordance with the desires of the owners, proprietors, and trustees, if any, which shall be signed by the owners, proprietors, and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgements of deeds on the form.

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

f. The accurate location and dimensions by bearings and distances with all curve data on all lots and street lines or center lines of streets; boundaries of all proposed or existing easements; all existing public and private streets, their names, numbers, and widths; water courses and their names, names of owners and their property lines, both within the boundary of the subdivision and adjoining said boundaries.

g. Tax Parcel Identification number (s) for the parcel (s) being subdivided.

h. The data of all curves along the street frontages shall be shown in detail at the curve or in a curve data table containing the following: Delta, radius, arc, tangent, chord, and chord bearings.

i. Location of Lots indicating street and Lot identification numbers.

25-09-02 Considerations for the Final Plat. The Agent, Planning Commission or Town Council shall act on proposed final plats within sixty (60) days after it has been officially submitted for approval by either

approving or disapproving such plat in writing, and giving with the latter specific reasons therefore. The specific reasons for disapproval may be contained in a separate document or may be written on the plat itself, and shall relate in general terms such modifications or corrections as will permit approval of the plat. (Code of Virginia § 15.2-2259)

25-09-03 After Sixty Day Consideration. If the Agent, Planning Commission or Town Council fails to act on the proposed plat within sixty (60) days after it has been officially submitted for approval, the Developer, after ten (10) days written notice to the Town may petition the Circuit Court to decide whether the plat should or should not be approved. The Court shall hear the matter and make and enter such order with respect thereto as it deems proper. (Code of Virginia § 15.2-2260)

25-09-04 Appeals To Circuit Court. If the Town Council disapproves a plat and the Developer contends that such disapproval was not properly based on the Ordinance applicable thereto, or was arbitrary or capricious, the Developer may appeal to the Circuit Court having jurisdiction of such land, and the Court shall hear and determine the case as soon as possible, provided that his appeal is filed with the Circuit Court within sixty (60) days of the date of disapproval by the Town Council. (Code of Virginia § 15.2-2259)

25-09-05 Recordation of Final Plat Required. The Developer shall have not more than six (6) months after receiving final approval to file the subdivision plat for recordation. If a plat is not filed for recordation within the time limit such approval shall be withdrawn and the plat marked void and returned. (Code of Virginia § 15.2-2241)

25-09-06 Additional Data Required. Upon recordation of the final plat, the Developer shall submit or cause to be submitted, the approved final plat in digital format for use by the Town of Pearisburg in a format easily accessible by the Town.

25-09-07 Draw and Certify. Every subdivision plat which is intended for recording shall be prepared by a certified engineer or licensed Land Surveyor, who shall endorse upon each plat a certificate signed by said professional, setting forth the source of the description the land to be subdivided and the place of record of the last instrument in the chain of title; when the plat is of land acquired from more than one ownership, the outlines of the tracts shall be indicated upon such plat (Code of Virginia § 15.2-2262)

25-09-08 Owners Statement. Every such plat, or deed of dedication to which the plat is attached, shall contain in addition to the professional engineer's or licensed land surveyor's certificate a statement as follows: "The platting or dedication of the following described land (here insert a correct description of the land subdivided) is with the free consent and in accordance with the desire of the undersigned owners, proprietors, and trustees, if any". The statement shall be signed by such persons and duly acknowledged before some officer authorized to take acknowledgement of deeds. When thus executed and acknowledged, the plat, subject to the provisions herein, shall be filed and recorded in the office of the clerk of court where deeds are admitted to record for the lands contained in the plat, and indexed in the general index to deeds under the names of the owners of lands signing such statement, and under the name of the subdivision. (Code of Virginia § 15.2-2264)

25-10 Improvements and Guarantees

25-10-01 Improvements Accepted and Constructed. Before the acceptance of improvements and release of surety by the Town Council, the Agent, or the Planning Commission, all applicants shall be required to complete all of the public roads, curbs, gutters, sidewalks, drainage, sewer, water facilities, or other improvements constructed for public use and financed in whole or part or in part by private funds and to provide as built drawings of the improvements constructed.

25-10-02 Performance Guarantee in lieu of Construction. The Planning Commission and Town Council at their discretion may waive the requirements for complete construction provided the owner or developer furnish the Town a performance guarantee for construction in the amount of the estimated cost of the construction or surety such as: a personal, corporate, or property bond; certified check, letter of credit, cash escrow, or other guaranteed instrument acceptable to the Town. The Planning Commission and the Town Council shall have the full authority to determine the amount and sufficiency of the performance guarantee and the surety for such guarantee. (Code of Virginia § 15.2-2241)

25-10-03 Periodic Release of Performance Guarantee. The developer may request periodic release of the performance guarantee upon completion of part or all of any facilities required to be constructed, unless the governing body or its designated administrative agency notifies said developer in writing of non-receipt of approval by applicable state agency, or of any specified defects or deficiencies

in construction and suggested corrective measure prior to expiration of the thirty-day period.

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

The Town Council shall not refuse to make a periodic partial or final release of a bond, escrow, letter of credit, or other performance guarantee for any reason not directly related to the specified defects or deficiencies in construction of the facilities covered by said bond, escrow, letter of credit or other performance guarantee. (Code of Virginia § 15.2-2245)

25-10-04 Limits on Release. The governing body or its designated administrative agency shall be required to make periodic partial releases of such bond, escrow, letter of credit, or other performance guarantee in a cumulative amount equal to no less than eighty percent of the original amount for which the bond, escrow, letter of credit, or other performance guarantee was taken, based upon the percentage of facilities completed and approved by the governing body, local administrative agency, or state agency having jurisdiction.

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

which is responsible for maintaining and for operating such facility upon acceptance. (Code of Virginia § 15.2-2245)

25-10-05 Temporary Improvements. The applicant shall build and pay for all costs of temporary improvements required by the Planning Commission and shall maintain same for the period specified by the Planning Commission. Prior to the construction of any temporary facility or improvement, the developer shall file with the local government separate suitable bond for temporary facilities, which bond shall insure that the temporary facilities will be properly constructed, maintained, and removed.

25-10-06 Failure to Complete Improvements. For subdivisions for which no performance bond has been posted, if the improvements are not completed within the period specified by the Planning Commission in the resolution approving the plat, the approval shall be deemed to have expired. In those cases where a performance bond has been posted and required improvements have not been installed within the terms of such performance bond, the local government may thereupon declare the bond to be in default and require that all the improvements be installed, regardless of the extent of the building development at that time the bond is declared to be in default. (Code of Virginia § 15.2-2245)

25-10-07 Previous Acceptance of Dedicated Facilities. Should the Town have accepted the dedication of a road for public use and such road is not acceptable for inclusion in the State Highway System due to factors other than its quality of construction, the Town may require the developer to furnish a maintenance and indemnifying bond or letter of credit with surety satisfactory to the Town, in an amount sufficient for, and conditioned upon, the maintenance of such road until such time as it is accepted into the State Highway System.

25-11 Lot Line Revisions

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

"This conveyance is made in compliance with the Lotline Revision provisions of the Town of Pearisburg Subdivision Ordinance (Section 25-11 or its replacement). For the purposes of such ordinance, the tract herein conveyed becomes a part of that certain tract of real estate described in Deed Book _____ at page _____. Any future conveyance of this tract must comply fully with the provisions of the Town of Pearisburg Subdivision Ordinance in effect at the time of such future sale."

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

(Code of Virginia § 15.2-2275)

25-12 Vacation of Plat

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

25-12-01 Any such plat recorded, or part thereof, may be vacated with the consent of the governing body, or its authorized Agent, of the Town of Pearisburg where the land lies, by the owners, proprietors and trustees, if any, who signed the statement required by 25-09-07 at any time before the sale of any lot therein by a written instrument, declaring the same to be vacated, duly executed, acknowledged or proved and recorded in the same clerk's office wherein the plat to be vacated is recorded and the execution and recordation of such writing shall operate to destroy the force and effect of the recording of the plat so vacated and to divest all public rights in, and to reinvest such owners, proprietors and trustees, if any, with the title to the streets, alleys, easements for public passage and other public areas laid out or described in such plat. (Code of Virginia § 15.2-2271)

25-12-02 In cases where any lot has been sold, the plat or part thereof may be vacated according to either of the following methods:

- (a) By instrument in writing agreeing to said vacation signed by all the owners of lots shown on said plat and also signed on behalf of the governing body in which the land shown on the plat or part thereof to be vacated lies for the purpose of showing the approval of such vacation by the governing body. The word "owners" shall not include lien creditors except those whose debts are secured by a recorded deed of trust or mortgage and shall not include any consort of an owner. The instrument of vacation shall be acknowledged in the manner of a deed and filed for record in the clerk's office of any court in which said plat is recorded.

- (b) By ordinance of the governing body in which the land shown on the plat or part thereof to be vacated lies on motion of one of its members or on application of any interested person. Such ordinance shall not be adopted until after notice has been given as required by Code of Virginia. Said notice shall clearly describe the plat or portion thereof to be vacated and state the time and place of the meeting of the governing body at which the adoption of the ordinance will be voted upon. Any person may appear at said meeting for the purpose of objecting to the adoption of the ordinance. An appeal from the adoption of the ordinance may be filed within thirty days with the circuit court having jurisdiction of the land shown on the plat or part thereof to be vacated. Upon such appeal the court may nullify the ordinance if it finds that the owner of any lot shown on the plat will be irreparably damaged. If no appeal from the adoption of the ordinance is filed within the time above provided or if the ordinance is upheld on appeal, a certified copy of the ordinance of vacation may be recorded in the clerk's office of any court in which the plat is recorded

(Code of Virginia § 15.2-2272)

25-13 Exceptions

Where the Developer can show that a provision of these standards would cause unnecessary hardship if strictly adhered to, and where because of topographical or other conditions peculiar to the site, in the opinion of the Town of Pearisburg a departure may be made without destroying the intent of such provisions, the Agent may authorize an exception. Any exception thus authorized is to be stated in writing in the report of the Agent with the reasoning, on which the departure was justified, set forth. No exception to this Ordinance may be granted which is opposed in writing by the Town or Highway Engineer/Resident Advisor or Health Official, unless the opposition is found by the Planning Commission and the Town Council to be arbitrary and capricious.

25-14 Advertising Standards

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

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

25-15 Variances

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

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

Zoning Ordinance, Comprehensive Plan, or Official Map.

(Code of Virginia § 15.2-2242)

25-15-01 Conditions. In approving variances, the Planning Commission may require such conditions and will, in its judgment, secure substantially the objectives of the standards or requirements of these regulations.

25-15-02 Procedure. A petition for any such variance shall be submitted in writing by the Developer at the time when the preliminary plat is filed for the consideration of the Planning Commission. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

25-16 Effectual Clauses

25-16-01 Penalties. Any person violating the foregoing provisions of this section shall be subject to a fine or not more than five hundred dollars (\$500) for each lot or parcel of land so subdivided or transferred or sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided. Each day of violation shall be deemed a separate offense.

25-16-02 Validity. Should any article, section, subsection or provision of this subdivision ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of this subdivision ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

25-16-03 Repeal. All ordinances or portions of ordinances in conflict with this ordinance are hereby repealed to the extent of their conflict.

25-16-04 Amendment. This ordinance may be amended in whole or in part by the governing body provided that any such amendment shall either originate with or be submitted to the Planning Commission for recommendation; and further provided that no such amendment shall be adopted without a public hearing having been held by the governing body. Notice of the time and place of the hearing shall have been given at least once a week for two weeks, and the last notice at least six (6) days prior to the hearing.

25-16-05 Effective Date. This ordinance was duly considered, following a required public hearing held on November 10, 2008, and was adopted by the governing body of The Town of Pearisburg, Virginia at its regular meeting held on November 10, 2008.