

**SUMMARY OF PROPOSED CHANGES**  
**TO CURRENT SUBDIVISION ORDINANCE ARTICLES**

This document provides descriptive summaries of the substantive and technical changes to each Article of the current (2020) Clarke County Subdivision Ordinance. The document is not intended to be an all-inclusive list of changes and does not include descriptions of all minor formatting changes or wording changes for clarification purposes. For descriptive summaries of new provisions incorporated into the revised Subdivision Ordinance (Article II), consult the document titled Proposed Revision of the Clarke County Zoning and Subdivision Ordinances – Narrative Summary.

**ARTICLE 1 – Purpose, Title and General Provisions**

- Purpose (Section 1-A) moved to new Section 1.2 (Purposes and Intent). Title (Section 1-B) moved to new Section 1.1 (Ordinance Authority, Enactment, and Effective Date).
- General Provisions-Private Contracts (Section 1-C-1) moved to new Section 1.3.4. Section 1-C-2 (Interpretation) is deleted as unnecessary.

**ARTICLE 2 – Usage and Definitions**

- General usage provisions (Section 2-A) are moved to new Article III (Definitions), Section 1.2 (General Usage of Terms)
- Most Subdivision Ordinance definitions are moved to new Article III (Definitions). See document titled Summary of Proposed Changes to Zoning and Subdivision Ordinance Definitions.

**ARTICLE 3 – Administration**

- Moved Section 3-A (Administration by Planning Commission) to new Section 2.1.3 (Planning Commission) which outlines the role and responsibilities of the Commission under the Subdivision Ordinance. Language is edited to conform to the new format of this Section.
- Section 3-B (Performance of Duties) is deleted as unnecessary.
- Section 3-C (Regulations) is deleted – authority for administrative rules and procedures is included under the Zoning Administrator responsibilities in new Section 2.1.2.
- Section 3-D (Obtaining Opinions) is moved to new Section 2.1.6 (Federal, State, and Local Review Agencies and Departments) and edited to reference the typical agencies and departments that are consulted on applications.
- Section 3-E (Subdivision of Land in Two Jurisdictions) is moved to new Section 4.4.4 (Subdivisions and Boundary Line Adjustments along Jurisdictional Boundaries).

Language is edited to reference “lot” uniformly instead of “tract,” “parcel,” and “property.”

#### **ARTICLE 4 – Procedure for Subdivision Approval**

- Pre-Application Conference Requirement (Section 4-A) is moved to new Section 2.2.1B (Pre-Application Conference) and edited for clarity purposes.
- Application (Section 4-B) is edited extensively as follows:
  - New Section 3 (Review Processes) is developed to outline the application processes for subdivision and non-subdivision review processes:
    - Subdivision processes – Minor Subdivision (new Section 3.2.1) and Major Subdivision (new Section 3.2.2).
    - Non-subdivision processes – Administrative Land Division (new Section 3.3.1), Boundary Line Adjustment (new Section 3.3.2), Merger (new Section 3.3.3), Vacation of Plat (new Section 3.3.4), Public Utility Lot Division (new Section 3.3.5) and Court-Ordered Partitions of Land (new Section 3.3.6).
  - The preliminary plat process is eliminated as it is most applicable to large subdivisions and phased developments which do not occur under the County’s development regulations. Applicants will follow a single-step plat review process.
  - Technical requirements for plat submission in Section 4-B-4-a are deleted and will be moved to the Guidance Manual.
  - Payment of fees (Section 4-B-5) are now referenced in new Section 2.4 (Fees)
  - Plans for Water and Sewerage Facilities (Section 4-B-6) are incorporated into the required components for minor subdivisions (new Section 4.1.1A) and major subdivisions (new Section 4.1.2A). Current Section 4-B-6-c is deleted as being outdated and potentially in conflict with the County’s well and septic ordinances.
  - Section 4-B-7 regarding acceptance of public streets is incorporated into the required components for major subdivisions (new Section 4.1.2A-6).
- Acceptance for Filing (Section 4-C) is edited as follows:
  - Sections 4-C-1 and 4-C-2 regarding the scope of the Zoning Administrator’s authority to require additional necessary information, establish filing deadlines, and determine application completeness are incorporated into new Section 2.1.2C (Administrative Authority). Acceptance of a complete application is described

generally in new Section 2.2.1C.

- Routing of applications to review agencies is described for minor subdivisions in new Section 3.2.1D and for major subdivisions in new Section 3.2.2D.
- The location of documents for public review (Section 4-C-4 and Section 4-D) is moved to new Section 2.2.5 (Public Disclosure).
- Fees (Section 4-C-5) are addressed in new Section 2.4.
- Review agencies listed in Section 4-E-1 are now referenced in Section 2.1.6 (Federal, State, and Local Review Agencies and Departments). Preparation of a staff report referenced in Section 4-E-2 are incorporated into the review processes for minor and major subdivisions (new Sections 3.2.1 and 3.2.2).
- Public Hearings (Section 4-F) are described generally in new Section 2.3 and are edited to reflect current State code requirements. Public hearings are required only for major subdivisions and are described in new Section 3.2.2D (Application Filing, Processing, and Review by Approval Authority).
- Section 4-G (Action on Preliminary Plat) is deleted entirely with the elimination of the preliminary plat process.
- Section 4-H (Submission of Plans and Profiles) is incorporated to new Section 4.5 (Subdivision and Construction Plan Design Standards) which expands the requirements for submission of construction plans. Review of construction plans is now listed as a review process in new Section 3.4 (Construction Plan Review Process). The numbers of copies to be provided are addressed in the Guidance Manual.
- Section 4-I (Submission of Record Plat) moved to new Section 4.1.3 (Record Plat Requirements for Subdivisions) and expanded to contain all required components of a record plat submission. The numbers of copies to be provided are addressed in the Guidance Manual.
- Provisions in Section 4-J (Action on Record Plat) have been incorporated into the review processes for minor subdivisions (new Section 3.2.1) and major subdivisions (new Section 3.2.2).
- Provisions in Section 4-K (Recordation of Plats) pertaining to plat recordation generally have been moved to new Section 3.1.3 (Plat Recordation).
- Section 4-L (Burden of Proof) is deleted as unnecessary.

- Section 4-M (Administrative Land Divisions) is moved to new Section 4.4.5 (Administrative Land Divisions – Special Regulations). Administrative land divisions are established as a review process in new Section 4.2.1.
- Section 4-N (Applications for Subdivisions in the Forestal-Open Space-Conservation (FOC) District) is moved to new Section 4.4.2 (Subdivision of Land in the Forestal-Open Space-Conservation (FOC) District) with minor edits for clarity and consistency purposes.

#### **ARTICLE 5 – Environmental Inventory and Impact Statement**

- Moved to new Section 4.6.2. Current Section 5-A-1-l is deleted as vague and confusing.

#### **ARTICLE 6 – Consumer Disclosure Statement**

- Moved to new Section 4.6.3. Cost estimates for public utility services in Section 6-A-6 is deleted as unnecessary and unenforceable. Section 6-A-10 regarding statements in the consumer disclosure statement being binding covenants is deleted as unenforceable. Deleted Section 6-C (Recordation) as the consumer disclosure statement should not be recorded with the record plat.

#### **ARTICLE 7 – Details of Plat Requirements**

- Section 7-A (Exploratory Sketch Plans) is deleted. These plans only apply to sectional development described in Section 9-D-1 which will also be deleted.
- Section 7-B (Preliminary Plat) and Section 7-C (Record Plat) are merged into a new Section 4.1.3 (Record Plat Requirements for Subdivisions) with the preliminary plat process being eliminated. New sections are edited for clarity and consistency purposes. Additional modifications to these two Sections are described as follows:
  - Section 7-B-4-a – Third sentence referencing future lots is deleted. Future lots should not be shown on a record plat.
  - Section 7-B-5-c – Moved to new Section 4.5.3B-8 (Restrictive Covenants Requirement) and edited for clarity and consistency purposes.
  - Section 7-C-2 – Deleted with elimination of preliminary plat process.
  - Section 7-C-3-a – Deleted as requirements for original tracings are outdated.
  - Section 7-C-3-d – Moved to new Section 4.5.6 (Private Wells and Onsite Sewage Disposal Systems) and edited for clarity and consistency purposes. Edited Subsection 3 to require drainfield capacity to be provided with the record plat application but not shown on the record plat.

- Section 7-C-3-e – Deleted as redundant.
- Section 7-C-3-p – Edited the wording of the Emergency Services Notice per County Attorney review.
- Section 7-C-4-c – Addressed in new Section 5 (Performance and Maintenance Guarantees).
- Section 7-C-4-e – Moved to new Section 4.3 (Construction Plan Requirements).
- Section 7-C-4-i – Moved to new Section 4.3 and expanded to require an erosion and sediment control plan for any project that meets the minimum threshold for plan submission.

## **ARTICLE 8 – Design Requirements**

- Section 8-A (Design Principles) contains subdivision design principles that are advisory and not compulsory in nature. These are deleted from the Ordinance and moved to the Guidance Manual.
- Section 8-B (Lots and Building Areas) is moved to new Section 4.5.1 with edits for clarity and consistency purposes. Additional edits are as follows:
  - Second sentence in Section 8-B-1 is deleted as confusing. Provisions are divided into separate subsections in new Section 4.5.1 as there is no reason to group them.
  - Section 8-B-4 – Deleted as the Planning Commission cannot require greater setbacks.
  - Section 8-B-5 – Deleted as lot design cannot be mandated on a case-by-case basis according to the proposed use.
  - Section 8-B-6 – Deleted as the Planning Commission cannot have broad discretion to allow double-frontage lots and review criteria does not make sense.
  - Section 8-B-7 is deleted as unnecessary.
- Section 8-C (Streets) is moved to new Section 4.5.2 (Public Streets) with edits for clarity and consistency purposes. Additional edits are as follows:
  - Section 8-C-2 – Deleted as you cannot legally require dedication for road improvements.
  - Section 8-C-3 and 4 – Deleted as these two subsections conflict with one another and you cannot require interparcel access.

- Section 8-C-5 – Replaced with reference to County Code Section 56 which supersedes this section for street naming.
- Section 8-C-8 – Deleted as you cannot require road features to control ingress/egress as described in this subsection.
- Section 8-C-11 – Deleted as redundant.
- Section 8-C-14 – Deleted as you cannot impose more stringent requirements on a case-by-case basis.
- Section 8-D (Pedestrian Circulation) is deleted as it is vague and inapplicable to subdivisions under County regulations.
- Section 8-E (Common Open Space) is deleted as you cannot require dedication of common open space in an administrative review process.
- Section 8-F (Public Facilities) is deleted as you cannot require dedication of land for public facilities in an administrative review process.
- Section 8-H (Unsafe Land) is deleted as the current section is not enforceable as written.
- Section 8-I (Drainage) is incorporated into new Section 4.5.5 (Stormwater Management) and updated.
- Section 8-J (Private Access Easements) is moved to new Section 4.5.3 with edits for clarity and consistency purposes. Additional edits are as follows:
  - Section 8-J-1-b is deleted as unnecessary.
  - Section 8-J-1-b is deleted as erosion and sediment control is addressed in conjunction with construction plan requirements in new Section 4.3.
  - Section 8-J-1-f regarding private driveways longer than 150 feet is deleted. New driveway standard is proposed in Zoning Ordinance Section 7.4.4 (Private Driveway Standards).

## **ARTICLE 9 – General Regulations**

- Section 9-A (Mutual Responsibility) is deleted as unnecessary.
- Section 9-B (Transfers, Sales, and Permits to Build) is edited and moved to new Section 3.1.2 (Transfers and Permits to Build) with reference to sale of land deleted.
- Section 9-C (Subdivision Not Exempt from Other Laws) is deleted as unnecessary.

- Section 9-D (Sectional Development) – This section is deleted as it imposes time-based limitations which are not allowed by the Code of Virginia. Language requiring phases of construction to be outlined is added to new Section 4.3 (Construction Plan Requirements).
- Section 9-E (Normal Requirements and Variances) – This section is deleted as the Code of Virginia does not authorize variances to subdivision ordinance requirements.
- Section 9-F (Dedication of Streets) – First sentence is retained and moved to new Section 4.5.2A-1. Remainder of current section is deleted as unnecessary.
- Section 9-G (Planning Commission Agenda) – This section is deleted and the concept is incorporated into the review processes in new Section 3 in which the Commission is the approval authority.
- Section 9-H (Planned Development) is deleted as outdated -- planned development regulations were removed from the Zoning Ordinance many years ago.
- Section 9-I (Conflicts in Regulations) is moved to new Section 1.3.2 (Conflict with Statutes, Local Ordinances, or Regulations) and edited with clearer and more detailed language.

## **ARTICLE 10 – Special Regulations**

- Section 10-A (Cluster Subdivisions) – This section is deleted as cluster subdivisions are only allowed in Annexation Area districts where the Town of Berryville has extraterritorial jurisdiction over subdivisions. Not necessary to retain.
- Section 10-B (Septic Tanks) – Moved to new Section 4.5.6 (Private Wells and Onsite Sewage Disposal Systems) and edited with clearer, modernized language.
- Section 10-C (Flood Plains) – This section is moved to new Section 4.4.3 (Subdivision of Land in the Flood Plain (FP) Overlay District) and replaced with language referencing the Flood Plain Overlay District regulations in new Zoning Ordinance Section 4.2.1. Changes made in conjunction with the mandated update of the County’s flood plain regulations.
- Section 10-D (Boundary Line Adjustments) – This section is established as a non-subdivision review process in new Section 3.3.2 with the boundary line adjustment regulations moved to new Section 4.4.1 (Boundary Line Adjustments – Special Regulations). Additional edits are as follows:
  - Current Section 10-D-1-a-1 is moved to new Section 4.4.1A-1 with language added to clarify that in no case may an agricultural lot be reduced in size below 20 acres. Also added low quality land characteristics language from new Zoning

Ordinance Section 6.2.6 (Maximum Lot Size Exception).

- Moved Section 10-D-2 to new Section 3.3.2A and added language from Code of Virginia Section 15.2-2275.
- Replaced Section 10-D-4 with language from new Zoning Ordinance Section 3.9 regarding the allocation of dwelling unit rights with a boundary line adjustment.
- Section 10-E (Merger) is moved to new Section 3.3.3 and formatted as a non-subdivision review process.
- Section 10-F (Certain Mergers, Boundary Line Adjustments, and Administrative Land Divisions) – This section is deleted and authority for review of applications under these scenarios is moved to the Zoning Administrator. As a matter of practice, the Planning Commission’s Plans Review Committee will evaluate these applications as a review agency.

## **ARTICLE 11 – Improvements and Bonds**

- Section 11-A (Improvements) – Edits and deletions as follows:
  - Sections 11-A-1-a and b are incorporated into the language of new Sections 4.1.3 (Record Plat Requirements for Subdivisions) and 4.3 (Construction Plan Requirements).
  - Section 11-A-1-c is replaced with new language in Section 6.4 (Violations and Penalties) to reflect the County’s remedies under the Code of Virginia.
  - Section 11-A-2 (Monuments) is replaced with new language in Section 4.5.7 that directs to State standards for land boundary surveying practice.
  - Section 11-A-3 (Street Improvements) is deleted as redundant. Applicable language is now found in new Section 4.5.2 (Public Streets).
  - Section 11-A-4 (Street Name Signs) is deleted as it has been superseded by County Code Chapter 56.
  - Section 11-A-5 (Half Streets) is moved to new Section 4.5.2I.
  - Section 11-A-6 (Improvements; Stormwater Management) is incorporated into new Section 4.5.5 (Stormwater Management) with clarified and modernized language.
  - Section 11-A-7 is moved to new Section 4.5.4A (Public Utilities)



- Section 11-B (Agreements and Bonds) is replaced with new Section 5 (Performance and Maintenance Guarantees) which contains clearer and more detailed language and processes for posting sureties for subdivision construction and ongoing maintenance of applicable improvements.
- Section 11-C (Construction Responsibilities) is moved to new Section 4.3C-4.

## **ARTICLE 12 – Effectual Clauses**

- Section 12-A (Violations and Penalties) is replaced with new language in Section 6.4 to reflect the County’s remedies under the Code of Virginia.
- Section 12-B (Appeals) is moved to new Section 3.5.
- Section 12-C (Validity) is moved to new Section 1.3.3 (Severability) and replaced with clearer language.
- Section 12-D (Amendments) is moved to new Section 2.5 (Text Amendments) and edited to reference Code of Virginia requirements and to remove the 63-day review period as inconsistent with State Code.
- Section 12-E (Vacation of Plat) is moved to new Section 3.3.4 and formatted as a non-subdivision review process.
- Section 12-F (Fees) is moved to new Section 2.4 and edited to reference the Department’s fee schedule.
- Section 12-G (Effective Date) is incorporated into new Section 1.1 (Ordinance Authority, Enactment, and Effective Date).