

ARTICLE 1 GENERAL PROVISIONS

1.1 Authority

Title 15.2 Article 6, Section 15.2-2240 et seq. Code of Virginia 1950, as amended, authorizes the governing body of any county or municipality to adopt an ordinance to assure the orderly subdivision of land and its development by regulating the subdivision of property into lots, streets, alleys and other public areas, and providing for the preparation, certification and recordation of plats of such subdivisions.

1.2 Jurisdiction

The jurisdiction of the regulations adopted herein shall apply to the incorporated area of the Town of Hamilton and within the ~~Urban Growth~~ **Joint Land Management Area (JMLA)** as defined by the Comprehensive Plan for the Town of Hamilton ~~and the Urban Growth Area~~ and the one (1) mile subdivision control jurisdiction except that where the corporate limits of any other municipality are closer together than the sum of the distances from their respective corporate limits as set forth in Section 15.2-2248 (3) of the Code of Virginia 1950, as amended, the jurisdiction of the Town of Hamilton shall be halfway between the limits of the overlapping boundaries.

1.3 Purpose

The purpose of this ordinance is to establish certain subdivision standards, procedures and site plans for the Town of Hamilton and the ~~Urban Growth Area~~ **JMLA** as defined by this Ordinance. ~~These standards and procedures are part of a long range plan to guide and facilitate the orderly, beneficial growth of the community, and to promote the public health, safety, convenience, comfort, prosperity and general welfare. More specifically, the purposes of these standards and procedures are to implement the comprehensive plan for the Town and to provide a guide for the change that occurs when lands and acreage become urban in character as a result of development for residential, business or industrial purposes; to provide assurance that the purchasers of lots are buying a commodity that is suitable for development and use; and to make possible the provision of public services in a safe, adequate and sufficient manner.~~ **This ordinance is adopted for the following purposes:**

- 1. To ensure that the growth of the community is consonant with the efficient and economical use of public funds;**
- 2. To ensure that residential developments are created to promulgate a healthy environment for family life;**
- 3. To improve the public health, safety, convenience, and welfare of the citizens of the Town;**
- 4. To clearly establish the procedure which must be followed in order to subdivide land in the Town, subject to this Ordinance;**
- 5. To ensure that this process includes appropriate and applicable reviews; and**
- 6. To ensure that all improvements required by this ordinance will be designed,**

constructed, and maintained so as not to become an undue burden on the Town and its citizens.

1.4 Horizontal Property Act/Condominium Development

The provisions of this ordinance shall apply to any condominium development in the same manner as they would apply to a physically similar project under a different form of ownership.

1.5 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 effect 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.

1.6 Amendment

This ordinance may be amended in whole or in part by the Town Council in accordance with the provisions and requirements of Section 15.2-2253 Code of Virginia 1950, as amended.

1.7 Repeal

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

1.8 Delinquent Taxes – Payment Required Prior to Plan Decision

Full settlement of any delinquent or outstanding real estate taxes payable to the Town of Hamilton on property subject to an application for subdivision or site plan approval or charges for other services rendered by the Town are required prior to a decision on any application required by this ordinance.

1.9 Variations and Exceptions

A variation or exception to Article I – General Provisions may be granted upon application to the Town Council and a finding that the strict adherence to the General Provisions where applicable would result in substantial injustice or hardship. Such hardship or injustice may result if property under application is in an estate, under probate, in reorganization under Chapter 11 of the Bankruptcy Statutes or similar condition as may be determined by the Council.

1.10 Title

This ordinance is known and may be cited as the “Land Development and Subdivision Ordinance of Hamilton, Virginia”.

1.11 Minimum Requirements

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, or

general welfare. It is not intended by this chapter to interfere with, abrogate or annul any subdivisions, recorded lots, easements, covenants, or other agreements between parties executed prior to the effective date of this Ordinance.

1.12 Effective Date

The effective date of this ordinance is: ~~August 10, 1998~~ XXX XX, 20XX.

**ARTICLE II
GENERAL REGULATIONS FOR SUBDIVISIONS**

2.1 General Effect

The effect of this Ordinance shall be consonant with the objectives of the Town to assure the orderly subdivision of land and its development, to coordinate the development of streets within and contiguous to any subdivision, to establish adequate provisions for water, sewer, drainage, flood control and other public purposes, to promulgate acceptable physical standards and criteria for subdivision improvements, to provide for dedication of public rights-of-way, and to serve in implementing the adopted Comprehensive Plan, Official Map, Zoning Ordinance and other land use plans.

2.2 Application and Compliance

- 1. No person shall divide or subdivide, or cause a subdivision to be made, by deed or plat, of any tract of land located within the Town of Hamilton or the JMLA, except in conformity with the provisions of this Ordinance.**
- 2. Whenever the owner of any tract of land located within the Town or JMLA desires to subdivide the same, the owner shall submit a plat of the proposed subdivision with reference to known or permanent monuments to the Planning Commission, or the Administrator, in accordance with the requirements of this Ordinance.**
- 3. No owner shall subdivide land without making and recording a Final Subdivision Plat of such subdivision in the office of the Clerk of the Circuit Court of Loudoun County, and no such plat of any subdivision shall be recorded unless and until it shall have been submitted to and approved by the Planning Commission or the Administrator in accordance with the regulations set forth in this Ordinance.**
- 4. No person, shall sell or transfer any land of a subdivision, before a plat of such subdivision has been duly approved, bonded, and recorded as provided herein.**
- 5. This Ordinance bears no relation to any private easement, covenant, agreement or restriction and the responsibility of enforcing such private easement, covenant, agreement or restriction is not implied to any public official.**
- 6. Nothing in this ordinance shall affect the power of a court of equity to order that property be partitioned.**
- 7. All references to any statute, regulation, guideline, manual, or standard shall be to that regulation, guideline, manual, or standard as it exists on the date of adoption**

of this Ordinance and includes any amendment thereafter or reissue in a subsequent edition.

8. All references to days shall be to “calendar days.”

2.3 Administration and Enforcement

1. Administration

The administration and enforcement of this Ordinance shall be vested in the Town Council, the Planning Commission and in cases of minor subdivisions and minor site plans, with the Administrator. The Administrator is hereby delegated as the agent of the Town Council and Planning Commission and is hereby authorized to administer this ordinance.

a. The Planning Commission, upon recommendation by the Administrator, shall review and act to approve or disapprove Preliminary Subdivision Plats and Final Subdivision Plats.

b. The Town Council, upon recommendation by the Administrator, Town Attorney, and Planning Commission, shall review forms of required surety and shall act to approve bonds and subdivision agreements required by this ordinance.

d. The Administrator shall review and act to approve or disapprove Minor Subdivision Plats.

In performance of their respective duties, the Town Council and the Planning Commission shall request and consider the comments of the Administrator, the Town Attorney, the Town Engineer and other applicable public agencies and officials in making recommendations and decisions on all subdivision plats and or required surety bonding.

2. Minor Subdivisions

Minor subdivisions of land are recognized where a single lot or parcel of land, which (a) is proposed to be divided into not more than three (3) lots, or (b) where the lot lines of existing lots are proposed to be changed or vacated. No lot(s) which has (have) been divided by utilizing the minor subdivision process may be further subdivided using this process, within a time limit of three (3) years.

With respect to minor subdivisions, any one or more of the requirements of this ordinance may be waived in writing by and at the sole discretion of the Administrator provided that such division of land :

a. conforms to all applicable zoning ordinance requirements and proffered conditions of zoning;

b. does not involve any new public street, road, or easement of access;

c. does not offer opportunity to obstruct the floodplain, marshes, rivers of the Town or any planned highway, transportation, public facility, public infrastructure, or public use;

- d. does not adversely affect any part of the Comprehensive Plan or any other adopted plan; and**
- e. does not in any way violate the intent of this ordinance or other applicable ordinances, agreements or conditions.**

A minor subdivision plat, prepared by a certified land surveyor or engineer licensed in the State of Virginia, showing the metes and bounds of the lots resulting from a minor subdivision of land under this section shall be presented to the Administrator, who shall act to approve or disapprove the plat within thirty (30) days of a complete submission. Upon approval by the Administrator, the minor subdivision plat shall be recorded in the Clerk's Office of the Circuit Court of Loudoun County, Virginia, within the time period as set forth in this ordinance.

The plat shall include the following surveyor's certification:

"This minor subdivision known as _____ Subdivision is approved by the undersigned pursuant to the Subdivision Ordinance of the Hamilton Town Code and may be admitted to record."

3. Changes and Revisions to Preliminary Subdivision Plat and Final Subdivision Plat

- 1. Changes and revisions may be made to an approved Preliminary Subdivision Plat or Final Subdivision Plat provided that prior written authorization by the Administrator has been received, except when the change has been required by the Planning Commission.**
- 2. The changes and revisions shall be submitted and reviewed in the same manner as a Preliminary Subdivision Plat or Final Subdivision Plat, as the case may be, provided that minor changes and revisions may be approved by the Administrator.**
- 3. A Final Subdivision Plat subject to a change or modification shall be signed by the owner or owners of the land being subdivided.**

4. Re-subdivision of Land

- 1. Property may be re-subdivided to eliminate, relocate or otherwise alter a boundary line without the formal vacation of a recorded plat provided that the re-subdivision does not involve the relocation or alteration of streets, alleys, public rights of way, easements for public access, easements for utilities and public infrastructure, and easements for public use or common areas.**
- 2. An application for the re-subdivision of land shall be submitted, reviewed and considered for approval by the Planning Commission in the same manner as a Final Subdivision Plat, provided that re-subdivisions involving minor changes and revisions may be approved by the Administrator pursuant to the requirements of a Minor Subdivision Plat.**
- 3. The Administrator shall sign plats of re-subdivision.**

4. The approval of a re-subdivision of land does not extend the period of validity of the Final Subdivision Plat in which the re-subdivided lot is located.

5. Vacation of Plat and Relocation of Boundary Lines

1. A duly recorded Final Subdivision Plat or any part thereof may be vacated, or its boundary lines may be relocated pursuant to Section 15.2-2271 through 15.2 2276 of the Code of Virginia.

2. An application for the vacation of a recorded plat shall be submitted, reviewed and considered for approval by the Planning Commission in the same manner as a Final Subdivision Plat.

3. The vacation of a recorded plat shall operate to destroy the force and effect of the recording of the plat so vacated, or any portion thereof.

6. Waivers, Variances and Substitutions

1. An applicant may request a waiver, variation or substitution to the requirements for a Preliminary Subdivision Plat, Final Subdivision Plat. A written request for a wavier, variation, or substitution shall state the rationale and justification for such request together with such alternatives as may be proposed by the applicant or owner.

2. Such request shall be submitted to the Administrator with the filing of a Preliminary Subdivision Plat or Final Subdivision Plat. For each requested individual waiver, variation or substitution, a separate letter of application for the request must be submitted, accompanied by relevant documentation.

3. The Planning Commission, at its sole discretion, may accept the request for waiver, variation or substitution for any requirement in a particular case upon a finding that the waiver, variation or substitute of such requirement would advance the purposes of this ordinance and otherwise serve the public interest in a manner equal to or exceeding the desired effects of the requirements of the ordinance. Alternately, the Planning Commission may recommend a conditional modification to the request or the Planning Commission may deny the request.

4. Approval or conditional approval of a waiver, variation, or substitution shall be accompanied by a statement from the Planning Commission as to the public purpose served by such waiver, variation, or substitution, particularly in regard to the purpose and intent of this article, this ordinance, the Zoning Ordinance, and the Comprehensive Plan.

5. No such waiver, variation, or substitution shall be detrimental to the public health, safety or welfare, orderly development of the area, sound engineering practice, or to properties located within the project impact area.

6. The Planning Commission, in its deliberation on the request, may require the submission of a formal engineering report or other related technical documentation or graphic exhibits to support the applicant's request for waiver, variation, or substitution. At its discretion, the Planning Commission may solicit the input from a professional engineer or other consultant to assist in the review of the applicant's documentation.

7. The Town shall adopt a schedule of fees for consideration of waivers, variances and substitutions, with said fee to be paid by the applicant upon submission of a request for waiver, variance or substitution.

ARTICLE III

PREPARATION AND RECORDATION OF PLATS

3.1 Preparation of Subdivision Plat, Filing and Recordation

The owner of any tract of land in the incorporated area of the Town of Hamilton or in the area within the Town's subdivision control authority, who subdivides the same as herein provided, shall cause a plat of such subdivision to be made in accordance with the regulations set forth in this Ordinance and as set forth in the Code of Virginia Sections 15.2-2240 through 15.2-2276 (Virginia Public Records Act). Such subdivision plat shall be submitted to the Hamilton Town Planning Commission **or the Administrator** for review and appropriate action as set forth in ~~this Article II of this Ordinance~~. In the review, and approval where required, the Commission shall require strict adherence to the provisions of this Ordinance and the Town of Hamilton Zoning Ordinance or the Loudoun County Zoning Ordinance, as applicable. The Planning Commission is responsible for providing approval of the Preliminary Plat of Subdivision which action allows for the preparation of a Final Plat of Subdivision which is resubmitted to the Planning Commission for ~~a recommendation of approval, approval with modifications or disapproval~~. The Planning Commission recommendation shall include a statement that the Final Plat of Subdivision is in substantial accord with the approved Preliminary Plat of Subdivision. ~~The Town Council upon recommendation of the Planning Commission shall approve, approve with modifications or disapprove the Final Plat of Subdivision. An action rejecting the plat shall be accompanied with a written statement setting forth the reasons for the action.~~ Upon approval of the Final Plat of Subdivision by the ~~Town Council~~ **Planning Commission**, the plat shall be recorded no later than six (6) months, or one (1) year, where the construction of facilities to be dedicated for public uses has commenced, after the final action of the ~~Town Council~~ **Planning Commission**, in the Office of the Clerk of Loudoun County, Virginia, pursuant to Section 15.2-2241 (8) of the Code of Virginia, 1950, as amended.

3.2 General Requirements

1. Source of Title

Every plat shall be prepared by a surveyor or engineer, duly licensed by the State of Virginia, who shall endorse upon each such plat a certificate signed by him, setting forth the source of title of the land 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 source of title, the outlines of the several tracts shall be indicated on the plat. Nothing herein shall be deemed to prohibit the preparation of preliminary studies, plans or plats of a proposed subdivision by the owner of the land, land planners, architects, landscape architects or others having training or experience in subdivision planning or design.

2. 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 land surveyors 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 an officer authorized to take acknowledgments of deeds, and when thus executed and the final plat approved by the Planning Commission as herein specified, shall be filed and recorded in the Office of the Clerk of the circuit Court of Loudoun County, and indexed under the names of the landowners signing such statement and under the name of the subdivision.

3. Reference to Established Controls

The bearing and coordinate values on all plats shall be referenced to the Virginia State Grid Control Monument for Hamilton. At least four grid tics with coordinate values shall be on all sheets.

3.3 Preliminary Plat

1. Submission Requirements

Twelve (12) black-line or blue-line copies of a Preliminary Plat shall be submitted with a fee as determined by the Development Fee Schedule to the ~~Town Planner/Zoning~~ Administrator for review. The Administrator shall determine within ten (10) working days if the preliminary plat meets the submission requirements. Once certified that the plats are in order, the Administrator shall forward the plat to the appropriate review agencies and the Town consulting engineers for comments and recommendations. In addition to the requirements of Section 2.2 above, such preliminary plat shall adhere to the following requirements:

- a. It shall be drawn to a scale not smaller than one (1) inch to two hundred (200) feet, on one or more sheets.
- b. It shall contain the following information:
 - i. Name of subdivision, its location, owner, subdivider, planner, and sources of data used. Subdivision names shall not duplicate nor too closely approximate those of existing subdivisions near Hamilton.
 - ii. Scale, Virginia State Grid, North Arrow, key location maps, vicinity map, date and number of sheets.
 - iii. Names of adjoining landowners, subdivisions, streets, roads, municipalities, tax map and parcel number or other pertinent references.
 - iv. Boundary lines of the proposed subdivision (shown by the heavy line), and

the acreage therein, all existing property lines within the tract with the names of such owners.

v. All existing or platted streets, road, other public spaces and easements, with their names and widths, utilities, water courses, buildings, wooded areas, and any other significant feature.

vi. Topographic contours on at least a contour interval of five (5) feet, intervals based on sea-level datum.

vii. Locations, dimensions, and names of all proposed streets, roads, alleys, easements, or other public ways or areas, with preliminary grades and profiles if required by the Commission because of topography.

viii. Locations and assumed or approximate dimensions of proposed lots, building sites, building lines, and easements, with tentative lot and block numbers. Proposed uses of lots shall be indicated, if other than residential, and proposed deed restrictions and covenants shall be outlined.

ix. Locations and general descriptions of proposed utilities, including drainage facilities.

x. Zoning of property.

2. Plan Review

The preliminary plan shall be referred to the appropriate reviewing agencies and authorities including but not limited to the following:

- Loudoun County Department of Building and Development
- Loudoun County School Board
- Virginia Department of Transportation (VDOT)
- Town Consulting Engineers
- Town Planning and Zoning Office
- Town Public Works
- Local telephone and cable service
- Loudoun County Health Department
- Volunteer Fire Department
- Police (Sheriff's Department)
- Loudoun County Office of Mapping

Pursuant to Section 15.2-2260 of the Code of Virginia 1950, as amended, any state agency reviewing a preliminary plat shall complete its review within forty-five (45) days of receipt of the subdivision plat. The Commission shall act upon such preliminary plat thirty five (35) days after receipt of response by such state agencies unless review by other than state agencies is not completed in which instance the Town may request an extension of Commission action with the concurrence of the applicant until such review is complete.

3. Planning Commission Action

The Planning Commission shall act on any proposed plat within sixty (60) days after the plat has been officially submitted for approval, unless extended as set forth in 2.3.2 above. The Commission shall either approve or disapprove such plat giving its specific

reasons in writing for disapproval. Specific reasons for disapproval may be contained in a separate document or may be written on the plat itself. The reasons for disapproval shall identify the deficiencies in the plat which cause the disapproval by reference to specific duly adopted ordinances, regulations, or policies and shall generally identify such modifications or corrections as may permit approval of the plat. If only minor changes are required, a conditional approval may be granted or an extended time may be given the applicant for submission of a revised plat. Such approval shall be certified by the Planning Commission Chairman or his/her deputy on two (2) duplicate mylar.

One duplicate drawing shall then be returned to the applicant. Approval of the preliminary plat shall be valid for one (1) year, during which time the final plat may be submitted. Approval of the preliminary plat may be extended for an additional period of one (1) year upon application for such an extension. A section of an approved final plat may be recorded, in compliance with Section 15.2-2241 (5) or the Code of Virginia, 1950, as amended. Where a section of an approved final plat is recorded, the remaining sections shown on the approved preliminary plat may be submitted for final approval and recorded for up to five (5) years from the recordation date of the first section. A developer may appeal the decision of the Planning Commission in accordance with Section 15.2-2260 (D) and (E) of the Code of Virginia, 1950, as amended.

4. Sale or Transfer

No lot or other portion of a proposed subdivision shall be transferred or offered for sale, nor shall a location permit or building permit be issued, on the basis of a preliminary plat.

5. Revisions

The applicant may revise and resubmit an application and fee for preliminary plat review after said plat has been disapproved by the Planning Commission. The resubmitted preliminary plat application shall be reviewed and processed in accordance with the procedures used for the initial preliminary plat submission. An applicant may also submit an approved preliminary plat for revision with appropriate fee and the revised plat will be reviewed in accordance with the procedures used for the initial review.

3.4 Final Plat

1. Preparation and Required Information

Following approval of the preliminary plat, the applicant may proceed with the preparation of the final plat. This plat shall be prepared by a surveyor or civil engineer, as required by Section 15.2-2262 of the Code of Virginia 1950, as amended. It shall be substantially in accordance with the approved preliminary plat together with any changes or additions required by the Commission as a condition for its approval. In addition to the requirements of Section 2.2 above, it shall conform to the following requirements:

a. It shall be legibly and accurately drawn, to a scale not smaller than one (1) inch to one hundred (100) feet, in India ink, on mylar, on sheets eighteen (18) inches by

twenty-four (24) inches in size, including a margin of one-half (1/2) inch outside ruled border lines. If the subdivision is shown on more than one sheet, the sheet number, total number of sheets and subdivision name shall be shown on each sheet and match lines shall clearly indicate where the several sheets join.

b. It shall show the following title information:

- i. Subdivision name and location, including town, where such subdivision name and town exist.
- ii. Magisterial district, county and state and election district
- iii. Scale
- iv. Date
- v. Virginia State Grid
- vi. North Arrow
- vii. Key location or vicinity map
- viii. Loudoun County Tax Parcel Identification Number
- ix. Existing and proposed easements

c. It shall show the following graphic information:

- i. Boundaries of the subdivision with accurate dimensions and bearings, and the acreage included, also the boundaries and acreage of any separately owned parcels comprising the land being subdivided. Boundary surveys shall close with an error of not more than 1 in 10,000. All dimensions shall be shown in feet and decimals of a foot to the closest one-hundredth of a foot and all bearings in degrees, minutes and seconds to the nearest ten sections.
- ii. True bearings and distances to the nearest recorded property corners or their monuments.
- iii. Names of adjoining property owners.
- iv. Exact location, name and width of each street, alley, easement, or other public or private way within or adjoining the plat, both existing and proposed, with the lengths and bearings of all tangents, lengths of arcs, radii, internal angles, points of curvature and any other necessary engineering data.
- v. Accurate location of each lot line within the plat, showing dimensions and bearings.
- vi. Building lines shown to scale in accordance with the zoning ordinance.
- vii. All block and lot numbers, and the area of such lot.
- viii. Accurate locations and descriptions of all monuments.
- ix. Identification of any areas to be dedicated to or reserved for public use, or for the common use of property owners in the subdivision.
- x. Proposed Purpose for which lots are to be used.
- xi. Accurate location of Town Corporate Line, if within or closely related to the subdivision.

d. It shall provide space for the following, with signatures and dates:

- i. Statements by the landowner, proprietor or trustee, if any, including

dedication of land for public use, with signatures acknowledged, all as required under Section 15.2-2264 of the Code of Virginia 1950, as amended.

ii. Certificate by the surveyor or civil engineer.

iii. Certificate of approval or disapproval by the County Health Officer or his designated agent, if required, as to lot sizes and on-site water sewage systems.

iv. Approval by the Town Planning commission and the appropriate agent of another jurisdiction where applicable.

e. It shall contain or refer to an accompanying summary of the protective covenants, including the following:

“Not more than one principal building shall be permitted on any residential lot shown on the plat, except where the Loudoun County Zoning Ordinance otherwise provides, and no such lot shall be resubdivided so as to produce a building site of less area or width than the minimum required herein, or otherwise specified by the County Health Officer.”

f. Approval of plats and issuance of zoning permits shall not occur without adequate provisions for sewage disposal and water.

g. It shall conform in all other respects to the requirements of Article 7, Section 15.2-2240 through 15.2-2276 of the Code of Virginia, 1950 as amended and the applicable Town and Loudoun County Zoning Ordinances.

2. Partial Plats or Sections

The Planning Commission may, in its discretion, permit a developer to submit a final plat which may be a section of a subdivision shown on an approved preliminary plat. In considering whether to allow a developer to do so, the Commission may consider, among other things, the availability of Town water and sanitary sewer services. A developer who wishes to submit a final plat on one section of a proposed subdivision at a time shall make application to the Town by submitting a section plan and the required processing fees to the Zoning Administrator. The section plan shall be the approved preliminary plat with heavy solid lines drawn to indicate the boundary of each section. Each section is to be numerically labeled. The Zoning Administrator shall perform a review of the plans to ensure conformance with all applicable standards and criteria, conformance with previous plats and plans, proffers and other applicable documents. The Zoning Administrator shall refer the plans to the reviewing agencies as set forth in Section 2.3.2. If the developer records a section of a plat, in compliance with Section 15.2-2241 (5) of the Code of Virginia, as amended, then the developer shall have the right to submit the remaining sections of the plat for final approval and recordation within five (5) years from the date of recordation of the first section.

Detailed construction plans for streets, water and sewer service, landscaping and other infrastructure requirements shall be reviewed and commented on by the Town Engineer,

the Director of Public Works, the Virginia Department of Highways and Loudoun County Department of Building and Development if applicable. Once comments are received and a response is obtained by the applicant, the section shall be submitted to the Planning Commission for review and appropriate action. The Planning Commission shall take action to approve, approve with modifications or disapprove. The Commission shall provide a written explanation of a disapproval or approval with modifications.

3. Construction Drawings Required

Construction drawings illustrating the required public service improvements shall be submitted to the Zoning Administrator no later than the time of submission of the final plat and shall be referred to the reviewing agencies as noted in Section 2.4.2 above. These construction drawings shall include, but not be limited to, the following:

- Street plan and profile
- Water line plan and profile
- Sewer line plan and profile including lateral lines
- Erosion control
- Stormwater management
- Landscaping plan
- Typical details

These plans shall be reviewed in conjunction with the final plat review and shall be submitted jointly for final approval to the Planning Commission together with the estimated cost of all public improvements including erosion control, stormwater management and landscape design implementation.

These plans shall be prepared in accordance with the Facilities Standards Manual for the ~~Town of Hamilton~~ **Loudoun County**, applicable VDOT standards and the applicable standards contained in the Zoning Ordinance for the Town of Hamilton and/or the Loudoun County Zoning Ordinance, as applicable.

4. Performance Bond

All physical improvements required by this ordinance must be constructed prior to the recordation of the final plat, unless the applicant submits a construction agreement, performance bond and surety or a letter of credit as described in Article 4. The applicant shall also submit a construction agreement, performance bond and surety or letter of credit satisfactory to the County of Loudoun for all physical improvements which will be dedicated to the County. The following procedures apply:

- a. Construction drawings for physical improvements must be submitted to the Commission for approval in accordance with Article 4 of this ordinance.
- b. No improvements shall be constructed until the construction plans have been approved as set forth above.
- c. Prior to the release of the final plat for recordation, the applicant shall have completed all public improvements or have posted a performance bond as

required by Article 4.

5. Construction Plans – Approval/Disapproval

After receiving comments from the reviewing agencies and the appropriate response from the applicant, the Zoning Administrator shall forward the plans to the Planning Commission for review and action. The Planning Commission shall have a period of sixty (60) days from the official submission to act on the construction plans. The Planning Commission may act to approve or disapprove the plans. If the commission disapproves the plans, a statement in writing must accompany the disapproval or the reasons may be written on the plan. If significant modifications are required to meet the objections of the Planning Commission, a resubmission shall commence with a referral to the reviewing agencies as appropriate.

ARTICLE IV DESIGN STANDARDS AND REQUIREMENTS

In the design of **all major subdivisions, or in certain instances when, in the determination of the administrator certain sections are required for minor subdivisions**, the following standards and requirements shall be observed, except as otherwise provided herein.

4.1 Site Analysis

For all major subdivisions, an analysis shall be made of the characteristics of the development site, such as geology and soils; topography; climate; existing vegetation, structures and road networks and visual features.

4.2 Subdivision Design

1. Comprehensive Plan

Design of the subdivision shall take into consideration all Town and County plans for the site and surrounding area.

2. Compatibility with Site Analysis

The design of the subdivision shall be in harmony with the natural features and constraints of the site as identified in the site analysis. Design of the site shall preserve the natural features of the site to the maximum extent possible, to minimize if not avoid impact on identified environmental features as identified in the Comprehensive Plan for the Town of Hamilton and the Comprehensive Plan for the County of Loudoun.

3. Open Space

The following areas shall be preserved as undeveloped open space to the extent consistent with the reasonable use of the land and in accordance with applicable State and Town regulations:

- a. Wetlands, as defined in Section 404, Federal Water Pollution Control Act Amendments of 1972 and field verification by on-site inspection;
- b. Floodplain as defined by the Federal Emergency Management Agency of the Floodplain Map of Loudoun County for the Town of Hamilton;
- c. Slopes in excess of twenty-five (25) percent as measured over a ten (10) foot interval unless appropriate measures are taken concerning slope stability and erosion.

4. General Standards

The development shall be designed to reduce cut and fill; avoid unnecessary impervious surfaces; prevent flooding; provide adequate access to lots; and mitigate adverse impacts on adjacent land.

4.3 Streets and Alleys

1. Design Standards

- a. Streets shall conform to any official plan of the Town and the County of Loudoun's Transportation, as required by the Town Planning Commission, and/or ~~the~~ **Loudoun County**.
- b. Streets shall connect with existing streets and shall provide access to adjoining subdivisions **where ever possible**.
- c. Streets shall intersect as nearly as possible at right angles, and jogs or offsets shall be avoided.
- d. So far as possible, streets shall conform to natural contours and shall provide for good drainage. Grades shall not be less than one-half (1/2) of one (1) percent nor more than five (5) percent unless a modification is approved by the ~~Town~~ **Planning Commission**.
- e. Streets shall have the following minimum right-of-way width unless otherwise modified by the Planning Commission **in instances of private streets or the Virginia Department of Transportation in instances of public streets**.
 - i. Local residential streets: 50 feet.
 - ii. Other residential streets, all business streets and highways: 60 feet or more, according to potential traffic requirements, or as may be designated on any official master plan for the area concerned, or any officially adopted highway widening plan.
- f. Dead-end streets are to be no more than 600 feet long, except for streets located in districts zoned by the county as "Countryside Residential, A-3 or A-10, where streets may be as long as 2,000 feet. All dead-end streets shall be provided with a turn-around at the end, having a radius at the property line of at least fifty (50) feet for a maximum length of 650 feet, except as noted for Countryside Residential, from the flow-line of gutter at the entrance to the property line at the radius of the cul-de-sac.
- g. There shall be no private streets created in any subdivision or development except for common parking courts in townhouse developments as provided in Section 4.4; provided, however, that private streets may be permitted ~~in districts zoned A-10, A-3 and~~

Countryside Residential by the County in compliance with the Loudoun County Zoning Ordinance.

h. Street names shall not duplicate nor be similar to the names of existing streets in or near Hamilton, unless they are extensions thereof. All street names shall be subject to approval by the Town Council, Town Planning Commission and the Board of Supervisors, as applicable.

i. **Private alleys are permitted in both residential and commercial areas.** ~~should not be provided in residential areas, but may be required in business areas.~~ Where provided, they should be at least twenty (20) feet wide. In the absence of alleys, utility easements shall be provided along rear lot or side lot lines wherever and in such width as may be required. Utility poles and wires shall be located therein.

j. Utility easements shall be provided to accommodate all required utilities including storm drainage.

4.4 Private Access Easements

1. Limitation

~~Private access easements designated and constructed in accordance with the standards in Section 4.4.2 may serve as frontage in lieu of a public street for a maximum of one (1) lot in any subdivision or resubdivision.~~

2. Standards

~~Private access easements shall conform to the following standards:~~

- ~~a. The width of any such easement shall be fifteen (15) feet.~~
- ~~b. No structure of any kind shall be erected closer than ten (10) feet from the nearest point of the easement to the structure.~~
- ~~e. Roadway construction on easements shall meet the following minimum standards:~~
 - ~~i. Graded Width: 12'~~
 - ~~ii. Travelway Width: 10'~~
 - ~~iii. Travelway Construction: 6" crushed stone~~

3. Hold Harmless Statement

~~For any subdivision or development of a tract of land involving a private access easement, or other designated right of way which is to be privately maintained, the plats, plans and deed record for the subdivision or development and for the lot served by such easement shall contain the following statement:~~

~~"The access serving this lot is private and its maintenance including snow removal, is **not** a public responsibility. It shall not be eligible for acceptance into the State Secondary System for maintenance unless it complies in all respects to the standards and criteria for the Virginia Department of Transportation for the acceptance of such streets at the current time of such request. Any costs associated with making this street eligible for addition to the State Secondary System shall come from funds other than from the Virginia Department of Transportation and the Town of Hamilton."~~

4. Recordation of Agreement

~~An agreement, in proper form, shall be recorded in the land records of Loudoun County~~

~~and reflected in the chain of title of such lot in order to set forth that the construction, repair and maintenance of the roadway connecting such lot to the public road is not the responsibility of the Town or the State and to set forth legally binding responsibility of the Town or the State and to set forth legally binding responsibilities for the parties who are responsible for construction, repair and maintenance, including snow removal, and all pertinent details. The agreement shall be between the owner of the lot, the contract purchaser and other parties, if pertinent to the purpose of the agreement.~~

~~5. Private Access Easements Outside Corporate Limits~~

~~The design standards for private easements outside the corporate limits within the one mile jurisdiction shall be in accordance with the Loudoun County Land Development and Subdivision Ordinance as follows:~~

- ~~a. All private easements shall have a minimum of thirty (30) feet.~~
- ~~b. No telescoping, stacking, paralleling or similar design configuration of private access easement shall be permitted.~~
- ~~c. In approving Item (b.), the Commission, or its authorized agent shall consider no private access easement, the centerline of which is located at least 600 feet from the centerline of any other private access easement, to be in parallel with other access easements.~~
- ~~d. Where topographic or safety features warrant, the Commission may waive the requirements of Item (c.), and set such reasonable requirements as the Commission may deem appropriate, on a case by case basis.~~
- ~~e. No parcel of land, less than fifty (50) acres in size and served by a private access easement shall be recorded unless the Planning Commission, or its authorized agent, has reviewed a plat of the proposed parcel, and finds it as being in accordance with the regulations stated herein.~~
- ~~f. No private access easements shall be permitted to serve lots in any of the following zoning districts as set forth in the Loudoun County Zoning Ordinance.~~
 - ~~Residential: PDH-3 Planned Development Housing—3~~
 - ~~PDH-4 Planned Development Housing—4~~
 - ~~PDH-6 Planned Development Housing—6~~
 - ~~Commercial: PD-CC Planned Development—Shopping Center~~
 - ~~PD-OP Planned Development—Office Park~~
 - ~~Industrial: PD-IP Planned Development—Industrial Park~~
 - ~~PD-GI Planned Development—General Industrial~~
 - ~~PD-SA Planned Development—Special Activities~~
 - ~~PD-RDP Planned Development—R & D Park~~
- ~~g. Private access easements shall be permitted in large lot developments or hamlets, in accordance with County requirements.~~

4.4 Blocks and Lots

1. Length of Blocks

Length of blocks shall not exceed 1,200 feet in length.

2. Configuration Compatible with Location and Ordinance

The lot area, width, depth, shape and orientation shall be appropriate for the location of

the subdivision and for the type of development and use contemplated and in accordance with the zoning ordinance requirements. Lots shall not contain peculiarly shaped elongations or other distortions of lot configuration solely to provide the necessary square footage of the area which would be unusable for normal purposes. Lots shall have at least the minimum areas specified in the Zoning Ordinance of the Town of Hamilton and the Loudoun County Zoning Ordinance, as applicable.

3. Lot Width and Depth for Townhouse Development

In any townhouse development, the minimum lot width shall be no less than twenty (20) feet and the minimum lot depth shall be not less than one hundred (100) feet. Each group of townhouses shall have at least fifteen (15) feet of side yard. Townhouse developments outside the corporate limits of the Town may conform to the Lot Widths and Depths permitted by the County.

4. Corner Lots

Corner lots shall have extra width to provide a front yard on each street side of the corner lot.

5. Measurement of Lot Width

Lot width shall be measured at the Building Restriction Line. The Building Restriction Line is determined as that dimension prescribed by **either the Hamilton or Loudoun County** zoning ordinance as the minimum front yard requirement.

6. Lot Line Orientation

Lot lines should to the extent possible be perpendicular to the street line.

7. Double Frontage Lots

Lots may have double frontage on streets provided that where the rear property line abuts a main street or highway, an additional ten (10) foot buffer strip will be provided along the main street or highway without the right of access across such buffer strip.

8. Lot Length/Width Ratio

Except for townhouse development, lot depths shall not exceed two and one-half (2 ½) times the width of the lot. Provided however, that for land located outside the Town's corporate limits and zoned by the County, the lot depth shall meet the requirements of the Loudoun County Zoning Ordinance.

9. Public Street Frontage Required

Every lot shall front on an approved street, **either public or private**, except as otherwise provided herein.

10. Building Restriction Lines

Building restriction lines or building setback lines shall be established along all streets and shall be shown on all plats. In no case shall such building lines be less than as required by the **applicable** zoning ordinance.

11. Easements for Storm Water Drainage

Where a subdivision is traversed by a stream or other natural drainage way, the Town Council may require an easement for storm water drainage or for the construction of storm water drainage structures.

4.5 Dwellings Abutting Common Parking Courts

1. Criteria for the Establishment of Common Parking Courts

The ~~Town Council~~ **Planning Commission** may approve subdivision and site plan applications with common parking courts provided that all the design standards as prescribed by this ordinance, the **Loudoun County** Facilities Standards Manual and the Town Zoning Ordinance and the County Zoning Ordinance are satisfied and the ~~Council~~ **Commission** determines that:

- a. The development design will provide a greater amount of usable open space than if a public road section were required.
- b. Perpetual maintenance of the common parking court by a Homeowner's Association (HOA) or other approved entity is guaranteed through appropriate legal instruments.
- c. The common parking courts will provide adequate and convenient parking for all residents and their guests (adequate shall be deemed to mean a minimum number of spaces as required by the Town and/or County Zoning Ordinance, as applicable).
- d. The development design will not conflict with any future road extensions identified on the Town and/or County Comprehensive Plan for land use, transportation and community facilities.
- e. Use of the common parking courts will not conflict with the requirement for an adequate network of through streets in the surrounding area.

2. Standards for Common Parking Courts

- a. Minimum acreage: A minimum of two (2) acres shall be required for all developments proposing the use of common parking courts.
- b. The following design standards shall be applied:
 - i. Travelway widths shall not be less than twenty-five (25) feet, exclusive of any parking spaces, except when parallel parking is provided widths may be reduced to twenty-two (22) feet, exclusive of any parking spaces.
 - ii. No common parking court shall be located closer than twenty-five (25) feet to any abutting residential zoning district or the lot line of any residential property which is not directly served by the common parking court.
 - iii. The minimum centerline radius of the travelway shall be fifty (50) feet. The travelway must be able to accommodate a WB-40 design vehicle within the full travelway.

- iv. Distance from public right-of-way: No common parking court may extend more than six hundred (600) feet from a public right-of-way, as measured along the travelway centerline.
- v. A minimum separation of one hundred (100) feet shall be provided between internal intersections with the travelway as measured centerline to centerline.
- vi. The maximum grade for travelways shall not exceed nine (9) percent with provisions for a landing not exceeding five (5) percent.
- vii. Provisions shall be made for adequate drainage of travelways and parking areas in accordance with Virginia Department of Transportation standards and specification for drainage facilities.
- viii. Traffic volume: No entrance to a common parking court shall serve more than thirty (30) dwelling units.

4.6 Tree Preservation and Landscaping

1. Existing Tree Cover

Existing tree cover within any proposed subdivision or development shall be preserved to the fullest extent possible and taken into account in the design of the grading the improvements of the property.

2. Retention of Healthy Trees

Every development shall retain to the maximum extent possible all existing healthy trees at least six (6) inches in diameter measured at a point three (3) feet above the ground. ~~Removal of healthy trees of at least a six inch diameter three feet above the ground shall occur only with the approval of the Town Arborist or Town Council.~~

3. Limits of Clearing and Grading

Limits of clearing and grading shall be clearly shown on every plan of development.

4. Disturbance Within Dripline Area

No excavation, embankment or other subsurface disturbance shall be undertaken within an area equal to one (1) foot of horizontal distance for every inch in diameter of any tree to be retained, and no impervious surface may be located within twelve and one-half (12 ½) feet of any such tree.

5. Reduction of Parking for Tree Preservation

If the preservation of trees required in subsections 4.6.2 and 4.6.3 above involves an area that would otherwise be devoted to required parking and as a result the provision of required parking cannot be complied with, the number of parking spaces required may be reduced by the number of spaces lost up to a maximum of fifteen (15) percent of the

required parking spaces. In areas outside the corporate limits of the Town, the requirements of the County's Zoning Ordinance shall prevail.

4.7 Drainage

1. Adequacy of Drainage

Each subdivision and development shall provide for adequate drainage of stormwater. The drainage design shall comply with the standards contained in the **Loudoun County Facilities Standards Manual** and must account for onsite and offsite stormwater and convey the stormwater to an adequate outfall.

2. Discharge/Outfall

Concentrated stormwater runoff leaving a subdivision or development shall be discharged directly into a well-defined, natural or man-made off-site receiving channel or pipe.

3. Existing Drainageways

Existing natural drainageways shall be utilized for stormwater management facilities, where required. Best Management Practices (BMP's) are to be utilized as required where stormwater management facilities are located within existing watercourses and/or where stormwater detention facilities are located within existing watercourses and/or where stormwater detention facilities are deemed necessary. Controlling Urban Runoff – A Practical Manual for Planning and Designing Urban BMP's, by the Metropolitan Washington Council of Governments and the Northern Virginia BMP Handbook, A Guide to Planning and Designing Best Management Practices in Northern Virginia, prepared by the Northern Virginia Planning District Commission and the Engineers and Surveyors Institute (11-6-92) should be consulted to determine the most appropriate and effective design for a specific site. Standards and criteria applicable to the design of stormwater management facilities for a subdivision or development are those contained in the **Loudoun County Facilities Standards Manual** ~~for the Town of Hamilton.~~

ARTICLE V PHYSICAL IMPROVEMENTS

The applicant/developer shall submit to the Town through its duly appointed agent, a final record plat and plans and specifications herein referred to as Construction Plans for all public improvements as required by this ordinance.

5.1 Construction of Improvements

1. Options for Required Improvements

The applicant/developer shall have the following options for the construction of the required public improvements once the final record plat is approved but prior to recordation. Provided however, that any such option shall be implemented prior to the expiration date for recordation.

a. Install all improvements as required by this ordinance and specified in the construction drawings.

b. Post an agreement and a performance bond with the Town to guarantee the installation of all improvements as specified in the construction drawings. The performance bond may be one of the following:

- A letter of credit from a recognized financial institution.
- A surety bond underwritten by a company approved in the State of Virginia.
- A cash deposit **in the form of a certified check**.
- Any other device approved by the Town Attorney.

2. Agreement and Performance Bond Approval Required

The agreement and performance bond shall be approved by the Town Attorney as to form and content.

3. Authorization to Record Final Plat

Upon approval of the agreement and performance bond by the Town Attorney, the Zoning Administrator/~~Town Planner~~ shall release the final record plat for recordation by the applicant/developer.

5.2 Bonding Policy

1. Purpose

To obtain an acceptable guarantee of performance to assure the timely construction and completion of public and other physical improvements in accordance with the approved construction plans, ~~Town~~ **The Loudoun County** Facilities Standards Manual and applicable state code requirements. This policy may be amended from time to time by resolution of the Town Council. The Town is authorized to require bonds in conjunction with subdivision/site plan approval or any other review procedure requiring the approval of the Town Council pursuant to Sections 15.2-2241 through 15.2-2246, 15.2-2286 through 15.2-2288, 15.2-2299, 15.2-2303, 15.2-2309 of the Code of Virginia 1950, as amended.

2. Agreement

An agreement, supported by surety, whose terms include any of the forms of performance guarantee identified in this section, will be required on all projects which obligate the developer to construct required improvements in approved subdivisions, site plans or other review plans in a timely manner.

a. The maximum period of the initial agreement shall be 24 months, except that agreements secured by a letter of credit or by set-aside agreement shall be for an initial period of 12 months.

b. The agreement shall be between the developer and the Town of Hamilton. A suggested agreement format will be provided to all developers for their guidance in preparation of the agreement. A separate bond available to the County shall be required if determined necessary by the County.

c. Any and all forms of surety shall be at least equivalent to 100 percent of the estimated cost of improvements, including engineering costs, plus a percentage of such cost based on the rate of inflation at the time of filing of such bond. This percentage should be equal to the annual percentage change in the Construction Index Code, as published weekly in the Engineering News Record. This inflation factor is to be applied over the life of the bond, using the equation $C(p)(I)(E) + E$; where P = the period of the bond (years); I = annual inflation factor; and E = the estimated cost of improvements, including engineering cost C = total bond value.

d. The performance of temporary siltation and erosion control obligations will be guaranteed separately from other public improvements and will be made between the developer and Loudoun County. Road construction shall also be guaranteed separately by the developer in an agreement with the County.

e. Where two or more sureties are provided in conjunction with one performance agreement, the agreement shall identify and incorporate each surety separately.

5.3 Forms of Guarantee

1. Corporate Surety Bond

This surety will be furnished by an insurance company licensed to transact fidelity and surety insurance in Virginia and will guarantee the full amount of the bond.

2. Cash Escrow

The face amount of the bond will be submitted to the ~~Treasurer~~ **Zoning Administrator** of the Town of Hamilton and deposited by the Treasurer to a separate account for Performance Bond Escrow.

3. Letter of Credit

A letter of credit meeting the following minimum conditions will be accepted.

a. The lending institution must be insured by the Federal Deposit Insurance Corporation (FDIC) or Federal Savings and Loan Insurance Corporation (FSLIC), unless otherwise agreed to by the Town Attorney.

b. The agreement must expire a minimum of 6 months prior to the termination of the Letter of Credit. A minimum of a 12 month agreement, with an 18 month letter of credit is required.

c. A minimum notification period of 90 days of the lending institution's election not to extend the validity of the letter of credit is required and must be sent by certified mail to the Town with a copy to the Town's attorney (this statement must be included in the letter of credit).

d. All extensions of time of the performance agreement completion date will be granted only in minimum increments of 6 month periods.

e. The new letter of credit and/or time extensions are subject to all the minimum requirements outlined in items (a.) through (d.).

4. Set-Aside Agreement

A set-aside agreement among the developer, a lending institution which is insured by FDIC or FSLIC, unless otherwise agreed to by the Town and which is making the development or construction loan to the developer for the project, and the Town:

- a. The agreement must commit the bond funds to payment of required/bonded improvements and no other purpose.
- b. The Town will have 30 days in which to approve or disapprove any expenditure, upon written request for approval identifying the project and agreement and nature of proposed expenditure and balance of the completion fund.
- c. The agreement will acknowledge that the fund cannot be drawn below 50 percent of the starting balance, or such other minimum reduction permitted by this policy, until final release and the maximum limit of draws that can be made shall be limited to four.
- d. In determining whether to approve or disapprove an expenditure out of the setaside fund, the Town may require the certified statement of a licensed architect and/or engineer as to the extent and quality to which the improvement has been completed.
- e. The developer shall pay a fee for the processing of a request for approval, in accordance with a fee schedule established by the Town Council.
- f. A performance agreement secured by a set-aside agreement must state that the physical improvements will be completed within 12 months or less following the date of the performance agreement. Such time period may be extended in accordance with the provisions of this policy.

5. Extensions and Rebonding of Agreements

Terms of the agreement, when default occurs and the procedure for extensions of the agreement are defined and prescribed as follows:

- a. When a developer enters into an agreement with the Town, it is understood that all the necessary physical improvements must be completed within a specific period of time. If the developer acts, or fails to act, in a manner which could constitute a breach of the agreement or all the noted improvements are not completed within this time period and no extension has been obtained, or a replacement agreement and bond have not been submitted and approved with a new expiration date, the agreement will be deemed in default.
- b. Approximately 60 days prior to the expiration of an agreement, the Town will prepare a report which provides the completion status of the physical improvements as noted on the approved plans. If inspection of the site indicates that the balance of work

cannot be completed within the remaining 60 days, then the developer and the surety underwriter will be notified in writing. The letter will caution the developer and the surety underwriter that, unless the work is completed by the expiration date of the agreement or an extension of the bond is obtained, the developer will be in default.

c. The developer may make a formal request to the Town for an extension of the expiration date for a maximum of one (1) year. The developer must indicate the reasons and conditions which have prevented him from completing the required physical improvements. The developer must also have all sureties' written consent to the request, including corporate surety companies. All signatures must be notarized. The developer shall be responsible for all consultant fees as per Section 7.2.

d. Where a developer has requested an extension or a new agreement and surety, the Town will review the reasons supplied by the developer and prepare a written response to the request applying the following criteria:

i. Percentage of project completion

ii. Number of homes completed, occupied and connected to public utilities

iii. Rate of construction activity

iv. Historical experience of developer's ability to complete project public improvements in the Town and in other jurisdictions

v. Current projected completion cost

e. In the event that a response to the Town's warning concerning possible default is not received or in the event the project is deemed in default, the matter will be referred to the Town Attorney for guidance and appropriate legal action as may be deemed necessary.

6. Bond Reduction

The following standards shall apply for any request for a bond reduction:

a. No more than three reductions shall be permitted in any twelve (12) month period.

b. The cumulative amount of all bond reductions shall equal no less than eighty percent (80%) of the original bond value. Periodic partial releases may not occur before the completion of at least thirty percent (30%) of the facilities covered by the bond.

c. The developer will pay the Town a fee for processing such reductions according to a fee schedule established by the Town Council. The developer shall also be responsible for all consultant fees established by Section 6.2.

7. Bond and Agreement Release and Reduction Procedures

- a. After all physical improvements, or those improvements for which a bond reduction is requested, are completed and a set of as-built plans, certified as to construction by a licensed engineer, are submitted to the Town, the developer must submit a request to the Town for an inspection.
- b. A date will be set for a field inspection, and a punch list of those items requiring correction or revision within thirty (30) days of receipt of the developer's request for an inspection.
- c. The developer will have (30) days to complete the items requiring correction. If these punch list corrections are not done or completed by the end of the time period, the entire project may be subject to reinspection.
- d. The developer will notify the Town that he has completed the punch list items and desires final inspection. A date will be set for the final inspection by the Town with the developer and representative of the receiving authority (homeowner's association or other agency) if applicable.
- e. Final inspection will be made once the developer has supplied all necessary plats, quitclaims, as-built plans and other required items to the Town. Failure to supply these required items will necessitate rescheduling the joint inspection. The developer shall be responsible for all consultant fees as per Section 7.2.
- f. If the final inspection indicates that any improvements, or parts thereof for which bond reduction is requested, are satisfactorily completed, the improvements bond may be replaced or supplemented with a maintenance bond. The value of such bond will be five percent (5%) of the original bond amount and shall be for a period of one (1) year from the date of completion of the project. Maintenance responsibility for the improvements will remain with the developer until such time as the homeowner's association or other ultimate receiving authority accepts such improvements for maintenance.
- g. The Town will process all necessary items in order to schedule bond release or reduction.
- h. The Town Council will be responsible for the release of or reduction of a bond and the approval of a maintenance bond. At this time, any bonds or parts thereof applicable to the completed improvements will be released, or reduced as appropriate. The developer shall pay all consultant fees and any other fees as per Section 7.2 prior to the conveyance of the streets to the Town. Street construction and acceptance into the Virginia Department of Transportation (VDOT) Secondary System subject to compliance with the standards and procedures:
- i. After all streets, or that portion of the streets for which a bond reduction is requested, are completed and, for fully completed projects, a set of as-built plans, certified as to construction by a licensed engineer, are submitted to the Town, the developer must request in writing, to the Town that a joint inspection be made with VDOT. The

developer shall pay all consultant fees and any other fees as per Section 6.2 prior to the conveyance of the streets to the Town and/or VDOT.

ii. A date will be set for a field inspection by the Town in consort with VDOT and the developer. A punch list of those items requiring correction or revision within thirty (30) days of the developer's request for inspection.

iii. The developer will have thirty (30) days to complete the corrective work. This punch list does not relieve the developer of any defects which might arise at a later date. If the punch list corrections are not done or completed by the end of the time period, the entire project may be subject to reinspection.

iv. The developer will notify the Town that he has completed the punch list items and desires final inspection. The Town will briefly check the project and then set a date for joint inspection with VDOT and the developer.

v. Final inspection will be made once the developer supplies all plats, quitclaims, as-built plans and any other required items to VDOT. Failure to supply these required items will necessitate rescheduling the joint inspection.

vi. Following the joint inspection, if the improvements have been satisfactorily completed and the streets meet all other necessary requirements for acceptance into the State Secondary System, VDOT will forward a letter to the Town indicating that inspection has been made and the facilities have been constructed in accordance with the approved construction plans. If the streets do not meet all requirements for acceptance into the secondary system, but final inspection indicates the Developer has performed as to construction, the improvements bond or part thereof may be replaced with a maintenance bond. The value of such bond will be five percent (5%) of the original bond. Maintenance responsibility will remain with the developer until such time as the streets are accepted in the secondary system. Once the streets are eligible for acceptance, normal bond release procedures will be instituted.

vii. Once it is determined that the street qualifies for acceptance into the secondary system, the Town will formally by resolution request acceptance of the street(s) into the secondary system for maintenance.

viii. Upon receipt of notice of formal acceptance of the street(s) into the secondary system, any bonds or parts thereof, applicable to the completed streets, will be released.

5.4 Improvements Required

Such required improvements shall include the following:

1. Monuments

Monuments shall be located at all corners, angles and points of curvature in the subdivision boundaries, in the right-of-way lines of all streets and other public areas within the subdivision, and in at least two points on each block. Such monuments shall be four (4) inches in diameter and two (2) feet in length, set in concrete with the top not less

than one (1) inch nor more than four (4) inches above the finished grade. An iron pipe shall be set at the corners of each lot.

2. Street Improvements

Street improvements shall be required on any street not already in the State System of highways (primary and secondary), sufficient to qualify such street for acceptance into the State System. Curb and gutters shall be required for all lots that are less than one (1) acre in size. Provided however, that in areas outside the corporate limits of the Town, the county Ordinance provisions for the hamlet development option shall prevail, where this requirement directly conflicts with the County Ordinance provisions.

3. Sidewalks

Sidewalks shall be required on both sides of each street, whether in the State System or not, composed of concrete or brick not less than ~~four (4)~~ **five (5)** feet wide and shall be installed according to the specifications set forth in the **Loudoun County** Facilities Standards Manual for the Town, except where trails are provided along streets already within the state System, the composition may be asphalt as specified in the **Loudoun County** Facilities Standards Manual. Sidewalks shall only be required on one side of the street if the developer does not own or is not developing the opposite side of the street. This does not relieve the developer of the requirement of placing a sidewalk on property that he controls. Sidewalks shall be required for all lots less than one (1) acre in size. Provided however, that in areas outside the corporate limits of the Town, the County Ordinance provisions for the hamlet development option shall prevail, where this requirement directly conflicts with the County Ordinance provisions.

4. Drainage Features

Drains, culverts, curbs, gutters, ditches, catch basins or any other facility designed for proper drainage and disposal of surface waters shall be approved by the Town Council in consultation with the Resident Engineer of the Virginia Department of Transportation.

5. Street Signs

Street signs, of an appropriate design approved by the ~~Town Council~~ **administrator** and in conformance with the County Ordinance shall be located at all street intersections.

6. House Numbers (buildings)

Numbers of a minimum height of four (4) inches shall be assigned and placed on all structures and houses in accordance with the provisions of the **Loudoun County** Facilities Standards Manual.

7. Street Lights

Street lights shall be installed in accordance with the specifications of the **Loudoun County** Facilities Standards Manual, the Virginia Department of Transportation and the Virginia Power Company once approved by the Town Council.

8. Water Supply

Water supply and distribution facilities, including fire hydrants, as approved by the Town

Council shall be installed in accordance with the specification of the **Loudoun County** Facilities Standards Manual. Fire hydrants shall be installed in accordance with the Loudoun County Fire and Rescue standards (approximately one hydrant every 300 feet).

9. Sewage Disposal

Sewers and sewage disposal facilities shall be provided as required by the **Loudoun County** Facilities Standards Manual after approval by the Town Council. No on-site disposal shall be permitted except where public sewer is not available or within 300 feet of existing public sewer. Where on-site disposal (septic system) is proposed, all applicable health department requirements shall be complied with.

10. Utilities

All utilities including but not limited to electric power, telephone, cable, etc. shall be placed underground. **The Hamilton Town Council may waive the requirements of this section, upon application by the developer, within the corporate limits of the town if topographical, soil or any other conditions make such underground installations unreasonable or impractical.**

5.5 Road and Other Improvements

1. Road Improvements

Whenever the need for reasonable and necessary road improvements on roads located outside the property limits of the land owned or controlled by a developer is substantially generated or reasonably required by construction or improvement of the developer's subdivision or other development project(s), the developer may provide funds for such off-site road improvements. In the event a developer provides funding for off-site road improvements, the Town may agree to reimburse the developer in accordance with and pursuant to the provisions of Section 15.2-2243 of the Code of Virginia 1950, as amended. Notwithstanding the standards of the Subdivision Control Ordinance for Loudoun County, all lots less than one (1) acre in size shall provide streets with curb and gutter and sidewalks. Provided however, that in areas outside the corporate limits of the Town, the County Ordinance provisions for the hamlet development option shall prevail, where this requirement directly conflicts with the County Ordinance provisions.

2. Water, Sewer and Other Improvements

Whenever reasonable and necessary sanitary sewer, storm sewer, water and other drainage facilities located outside the property limits of the land owned or controlled by a developer are necessitated or required, at least in part, by the construction or improvement of such developer's subdivision or other development project(s), the Town may require the developer to pay a pro rata share of the cost of constructing such facilities, pursuant to and in accordance with the provisions of Section 15.2-2243 of the Code of Virginia 1950, as amended.

5.6 Plans and Approvals

1. Submission of Plans for Approval

Plans and specifications for all improvements whether to be constructed before or after

approval of a final plat shall be submitted to the Planning Commission for review ~~and the Town Council for approval.~~

2. Required Review

Prior to their review and ~~recommendation~~ **approval** by the Planning Commission, all such plans and specifications shall first be reviewed and commented on by those agencies and parties designated by the Town to perform such review including the Virginia Department of Transportation, Loudoun County, the Town's consulting engineers and the Town staff.

3. Final Inspection

All improvements shall be subject to final inspection and approval by a duly designated representative of the Town. Upon such approval, the developer shall convey all improvements to the Town of Hamilton, in fee simple, before release of any performance bond, surety, cash or letter of credit. Absent a Town of Hamilton inspection, the developer must submit evidence of construction meeting Town approved standards.

ARTICLE VI SITE PLAN REQUIREMENTS AND PROCEDURES

6.1 Site Plan Regulations

1. Site Plan Required

Any developer of any tract of land in the Town shall submit a site plan for the following uses as established by the Hamilton Zoning Ordinance. Site plans involving areas located outside the corporate limits of the Town shall ~~also~~ be submitted to the County for its **review &** approval.

- ~~a. All uses in the commercial districts.~~
- ~~b. All uses in the industrial districts.~~
- ~~c. All single family attached (townhouse) residential uses.~~
- ~~d. All uses permitted under a Special Use Permit.~~
- ~~e. Any development in which any required off-street parking space is to be used by more than one establishment.~~
- ~~f. When an alteration or modification is proposed to the site improvements or design of a previously approved site development plan.~~
- ~~g. When an existing residential structure is converted to a commercial use or a commercial freestanding structure previously vacated is to be occupied by another commercial use.~~
- ~~h. All public buildings and institutions.~~

- a) New Development: On a vacant lot or parcel containing no buildings or structures, a site plan shall be required for the following:**
- 1) Construction of a new building or structure;**
 - 2) Construction of parking areas or other impervious areas greater than 10,000 square feet in total area, with the exception of vehicle or equipment display areas,**

and provided that this provision shall not apply to the construction of such an area on a lot used principally for a single-family dwelling; or

3) Land disturbing activities 10,000 square feet or greater in area as defined in Erosion and Sediment Control Ordinance of Loudoun County, as applicable.

b) **Redevelopment:** On a lot or parcel upon which buildings, structures or impervious areas have been previously constructed, a site plan shall be required for the following:

1) Enlargement or expansion of the floor area of an existing permanent building by more than 2,500 square feet;

2) Enlargement of a parking area or other impervious area by more than 10,000 square feet, with the exception of vehicle or equipment display areas, and provided that this provision shall not apply to the construction of such an area on a lot used principally for a single-family dwelling; or

3) Change in use of an existing parcel or building to a more intensive use category. This determination shall be made by the administrator, who will use Article 6, Section 1.1 of the Hamilton Zoning Ordinance to determine if a more intensive use is being proposed. All changes from a residential use to a commercial or industrial use shall require a site plan. ; or

6) Land disturbing activities 10,000 square feet or greater in area as defined in the Erosion and Sediment Control Ordinance of Loudoun County, as applicable.

c) All building and uses subject to a Commission Permit under Section 15.2-2232 of the Code of Virginia 1950, as amended.

d) All uses permitted under a Special Use Permit.

5.2 Preliminary Site Plan

1. Compliance with Ordinance

~~Preliminary site plans and support data shall comply with the provisions of this Ordinance.~~

2. Submission of Preliminary Plan

~~Twelve (12) blue line or black line prints shall be submitted to the Administrator. The Administrator shall determine within ten (10) working days if the preliminary site plan meets the minimum submission requirements. If the plat is in order, the Administrator shall forward said plat to the appropriate review agencies for review and to the appropriate consultants for construction requirement compliance and estimate review per Section 6.2.2. Once the Town receives a check for the fees as determined by the fee schedule, the plan shall be considered officially submitted. The Zoning Administrator's review is only to determine whether the documents submitted meet the minimum submission requirements.~~

3. ~~Conformance with Application Requirements~~

~~The Zoning Administrator shall, within an additional ten (10) working days, review the preliminary site plan to determine if it is in conformance with the application requirements of this Ordinance, the Town of Hamilton Zoning Ordinance and the requirements of the Facilities Standards Manual. If the preliminary site plan is in accordance, then the plan shall be considered as accepted for application and the preliminary site plan shall be forwarded to the Planning Commission.~~

5.3 Preliminary Site Plan Submission Requirements

1. ~~Conformance with Ordinance~~

~~All preliminary site plans shall provide all the information necessary to show conformance with this ordinance.~~

2. ~~Required Information~~

~~All preliminary site plans shall be drawn on numbered sheets 24" x 36" in size and shall contain the following information:~~

~~a. General information to include the name of the proposed development, proposed use of the property, names and addresses of the owner of record and the developer, names and addresses, signature and registration of the engineer or surveyor preparing the plan.~~

~~b. Deed reference, tax map and parcel number, date plan was drawn and dates of any revision, vicinity map at a scale of 1" = 1,000' and existing zoning.~~

~~c. Zoning requirements, including the district, as well as the required and proposed minimum lot size, floor area in square feet, maximum building coverage expressed as floor area ration (FAR), open space in square feet, open space ratio, building setback (restriction) lines for front, rear and sides, parking and setback lines and number of proposed and required parking spaces.~~

~~d. Boundary survey or survey of record provided such survey shows an error of closure within the limit or one in twenty five hundred (1/2,500), existing easements, buildings, water courses, existing utilities, culverts and drainage outlets.~~

~~e. A topographic map, conforming to National Map Accuracy Standards indicating by whom and what means it was made, having a contour interval of no greater than five feet and related to the United States Coast and Geodetic Survey sea level datum.~~

~~f. Location and width of existing right of way and roadways, location and dimension of existing driveways and access points to the site and within 200 feet of the site.~~

~~g. Location of the 100 year floodplain as shown on the most recent Federal Emergency Management Agency (FEMA) maps or the Floodplain Map of Loudoun County and all overland watercourses and drainage structures within the proposed development or within 200 feet of the development.~~

~~h. Names of all owners of record of abutting properties, zone and use of all abutting properties.~~

- ~~i. Preliminary layout plans of streets, sidewalks, sanitary sewer, storm sewers, water mains, curbs and gutter, including connections to existing watermains, sanitary sewer mains and storm drainage structures.~~
- ~~j. Preliminary layout of provision for collection and discharging of surface drainage.~~
- ~~k. Preliminary plans for sediment and erosions control and stormwater management.~~
- ~~l. A soils overlay map at a scale of not less than 1" = 200' with accompanying narrative.~~
- ~~m. The approximate location and type of all existing trees six inches in diameter and greater. If the property is densely wooded, the limits of such wooded area may be shown on the plans in lieu of locating individual trees within those areas.~~
- ~~n. All sheets shall be clearly marked "Preliminary Site Plan" and plans shall have a signature block for approval.~~

~~3. Accompanying Documents~~

~~If applicable, an unexecuted copy of the following documents, with a notarized statement of authenticity for each, shall be submitted:~~

- ~~a. Proposed deed of dedication.~~
- ~~b. Proposed road maintenance agreement if applicable.~~
- ~~c. Proposed protective or restrictive covenants.~~
- ~~d. Where land is to be dedicated to and held by a lot owner's (homeowner's) association or similar organization, bylaws and other organizational documents shall be submitted for review.~~

~~4. Items to Accompany Initial Submission~~

~~The following items shall accompany the initial submission of the site plan:~~

- ~~a. For applicable residential and commercial construction, a certificate from the Town Clerk or Town Treasurer confirming that the applicant has purchased the necessary water and sanitary sewer availability and connection fees, and that any monthly minimum charges are paid in full and any outstanding taxes have been paid and that the Town has approved the additional connections.~~
- ~~b. A check payable to the Town of Hamilton for the required fees and other charges as may be applicable.~~

5.4 Review of Preliminary Site Plan

1. Distribution

Copies of the preliminary site plan shall be distributed to the following agencies as deemed necessary by the Zoning Administrator.

- a. The Town Engineer, the Town Council and the Planning Commission**
- b. The consulting Town Engineer (contract engineer)**
- c. The Virginia Department of Transportation**
- d. Loudoun County Department of Building and Development**
- e. Loudoun County School Board (residential only)**
- f. Bell Atlantic (residential only)**
- g. Office of Mapping**

~~2. Review Period Without State Agency Referral~~

~~If the Administrator determines that there is not a need to distribute the preliminary site plan to a state agency for its review, the review by the agencies to whom the plan was referred shall be completed and returned to the Administrator within thirty (30) days after the date on which the preliminary site plan was officially submitted. If an agency cannot respond within this thirty (30) day period, the agency shall so inform the Administrator, in writing, stating the reason for the delay and the expected date of the reply.~~

~~3. Review Period With State Agency Referral~~

~~If the Administrator determines that the preliminary site plan requires the review of a state agency, the review by such state agency shall be completed and returned to the Administrator within forty five (45) days after the date on which the preliminary site plan was officially submitted. If the agency cannot respond within forty five (45) day period, the agency shall so inform the Administrator, in writing, state the reason for the delay and the expected date of the reply.~~

~~4. Planning Commission Required to Act~~

~~The Planning Commission shall act on any proposed preliminary site plan within ninety (90) days after the date on which the preliminary site plan was officially submitted, except that the Planning Commission shall act within sixty (60) days after the official submittal of any proposed preliminary site plan that did not, in the discretion of the Administrator, need to be distributed to a state agency for its approval, by either approving or disapproving such plan in writing, and giving with the letter specific reasons therefore. Specific reasons for disapproval may be contained in a separate document or may be written on the plan itself. The reasons for disapproval by reference to specific duly adopted ordinances, regulations or policies and shall generally identify such modifications or corrections as will permit approval of the plan. Such approval shall be certified in writing by the Chairman of the Planning Commission on two blue/line or black/line sets of the plan. One set shall be returned to the Developer.~~

~~5. Waiver of Required Planning Commission Action~~

~~The required time for action by the Planning Commission may be waived for a period agreed to by the Developer and the Town if such waiver is agreed to in writing by the developer and the Town setting forth the reasons for the waiver and a time frame for action on the preliminary site plan.~~

5.5 Action on Preliminary Site Plan

~~1. Period for Which Preliminary Site Plan is Valid~~

~~After approval of a preliminary site plan, a final site plan application may be accepted within one (1) year after the date of such action. If a final site plan application is not submitted within such time, approval or conditional approval of the preliminary site plan shall become void.~~

~~2. Location Permit Not to be Issued~~

~~No location permit shall be issued on the basis of an approved preliminary site plan.~~

~~3. Final Site Plan Approval not Obligated by Preliminary Approval~~

~~Approval or conditional approval of the preliminary site plan shall not obligate the Town Council to approve the final site plan.~~

~~**5.6 Preliminary/Final Site Plan**~~

~~1. Submission Criteria~~

~~A preliminary/final site plan may be submitted on those developments which have a lot size of five (5) acres or less. A preliminary/final site plan shall be designed in accordance with the provisions of this Ordinance and shall contain all the required detail as specified for both a preliminary site plan and a final site plan. All documents that are required by this Ordinance for a preliminary site plan and a final site plan shall be submitted.~~

~~2. Review and Approval Procedures~~

~~The review and approval procedures for a preliminary/final site plan shall follow that of a final site plan as specified in this Ordinance.~~

~~**5.7 Construction, Erosion and Drainage Control Plans**~~

~~1. Submission of Plans Required~~

~~Following action on a preliminary site plan and concurrent with the submission of the final site plan, the developer shall submit sixteen (16) copies of the Construction, erosion and Drainage Control Plans.~~

~~2. Distribution for Review~~

~~Copies shall be submitted to the Administrator, who in turn shall distribute to all appropriate agencies for review.~~

~~**5.8 Final Site Plan**~~

~~1. Submission of Plans Required~~

~~Following action on the preliminary site plan, the developer shall submit sixteen (16) copies of the final site plan to the Administrator for review along with all other documents specified in this Ordinance.~~

~~2. Compliance with Submission Requirements, Distribution~~

~~Upon receipt of the final site plans, construction plans and all documents and requirements as specified in this Ordinance, the Administrator shall determine, within ten (10) working days, if the final site plan meets the minimum submission requirements. If the plan is in order, the Administrator shall determine the applicable fees for the processing and review of said plans. Once the applicable fees are determined and said fees are paid to the Town, the plans will be considered officially submitted.~~

3. Required Town Council Action

~~Within sixty (60) days after the official submission of the final site plan, the Town Council, after a recommendation by the Planning Commission shall act on such final site plan by either approving or disapproving such plan in writing, and giving with the letter specific reasons therefore. Specific reasons for disapproval may be contained in a separate document or may be written in the plan itself. The reasons for disapproval shall identify deficiencies in the plan which cause the disapproval by reference to specific duly adopted ordinances, regulations or policies and shall generally identify such modifications or corrections as will permit approval of the plan. A plan shall be approved provided that the final site plan is substantially in accordance with all related approved plats and plans. The requirements and provisions of this Ordinance and all other applicable ordinances shall be met. Such approval shall be certified by the Mayor or his/her deputy on two (2) duplicate mylar drawings. One duplicate drawing shall then be returned to the Developer.~~

4. Validity of Final Site Plan Approval

~~After approval of a final site plan, construction shall begin within five (5) years, or the site plan shall be considered void. Construction shall be defined as to include the placing of construction materials in permanent position and fastened in a permanent manner and work carried on diligently. Where excavation or demolition or removal of an existing building has been substantially begun or prior to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.~~

5. Request for the Assignment of Building Numbers

~~Prior to the approval of the final site plan and any related performance agreements and surety, the developer shall submit a request for assignment of building numbers (addresses). Location and building permits shall be issued in accordance with the approved site plan following the assignment of building numbers (addresses).~~

5.9 Final Site Plan Submission Requirements

1. Submission Standards

~~The final site plan shall be clearly and legibly drawn on numbered sheets 24" x 36" in size and shall include the following:~~

- ~~a. Cover sheet showing vicinity map, development name, cost estimates and the required signature approval blocks.~~
- ~~b. General information and zoning requirements for preliminary plan, boundary survey with an error of closure of not less than one in ten thousand, location and widths of existing rights of way, roadways and easements. A statement of any proffers, variances, waivers, conditions or prior subdivision granted, including any conditions resulting from any of such actions.~~
- ~~c. Street and utility improvement plans shall consist of plan and profile drawn to a scale of not less than 1" = 50' horizontally and 1" = 5' vertically. The plan view~~

of streets shall include the location of all streets, lots, storm drainage, sanitary sewerage and water distribution systems.

d. ~~Details of standard street sections and miscellaneous construction items, including street name signs and street lighting, shall appear on the sheets as well as any construction notes pertaining to the proposed improvements.~~

e. ~~Grading and drainage plans drawn at a scale of not less than 1" = 50' showing the proposed street and lot layout including dimensions. The existing topography shall be shown at not less than a two foot contour interval. Proposed grading shall be shown by proposed contour lines. In addition, proposed elevations of the finished grade shall be shown at all building corners, high points and low points, and all other appropriate locations necessary to accurately define the finished grade. Storm drainage pipes and structures with sizes and elevations shall be shown on the plans. Two benchmarks shall be indicated on the plans.~~

f. ~~Water, sanitary sewer and storm drainage calculations, with a statement of the basis of design and drainage area map showing individual and cumulative drainage areas tributary to each point of concentration shall be included.~~

g. ~~Location, type and dimensions of vehicular ingress and egress to the site, including sight distance at all entrances shall be included.~~

h. ~~Location, type, size and height of all fencing, screening and retaining wall shall be included with all necessary details for construction.~~

i. ~~All off street parking and parking bays, indicating the type of surfacing, size and angle of stalls, widths of aisles and a specific schedule showing the number of parking spaces provided and the number required according to the applicable Zoning Ordinance provisions.~~

j. ~~The number of floors, floor area ration (FAR), height, exterior dimensions, location and proposed use of each building and location of building ingress and egress shall be indicated.~~

k. ~~Erosion and sediment control plans including all necessary measures and specifications so as to comply with the requirements of the Virginia Erosion and Sediment Control Handbook.~~

l. ~~A landscape plan showing the location and type of all existing trees, identifying trees to be retained and those to be removed, and showing the location, type number and size of all proposed plant material.~~

m. ~~A plan for the symmetrical transition at intersections with existing streets and road edges.~~

n. ~~A Type II geotechnical report shall be submitted with all final site plans. The report shall be prepared under the direction of and certified by a professional engineer licensed in the Commonwealth of Virginia with experience in geotechnical engineering. The report shall meet all the requirements for a Type II report as specified in the Town of Hamilton Facilities Standards Manual.~~

2. Roadways, Sidewalks, Storm Drainage Designed to Standards

Roadways, sidewalks, storm drainage, curb and gutter shall be designed and constructed in accordance with the standards as prescribed by the Town of Hamilton's Facilities Standards Manual and the specifications of the Virginia Department of Transportation.

~~3. Water Systems Designed to Standards~~

~~Water systems shall be designed and constructed in accordance with the Town of Hamilton's Facilities Standards Manual and all applicable Virginia Department of Health regulations.~~

~~4. Sanitary Sewer Systems Designed to Standards~~

~~Sanitary sewers shall be designed and installed in accordance with the Town of Hamilton's Facilities Standards Manual and all applicable Virginia Department of Health regulations.~~

6.2 Pre-Application Meeting

A pre-application conference with the Zoning Administrator and other Town staff is recommended prior to submission of a site development plan. The intent of the conference is to clarify the requirements of this Ordinance, and other ordinances of the Town that may be applicable, in order that the site plan can be prepared in an efficient manner, and to facilitate plan review by the Zoning Administrator. Any conceptual plans discussed and/or requirements communicated during the conference shall not be considered binding on the Town or applicant.

6.3 Site Plan Submission Requirements

Every site development plan required by this ordinance shall contain the following minimum information:

a) General Information:

- 1) Name of the proposed development.**
- 2) Existing and proposed uses of the property.**
- 3) Name and addresses of the owner of record and of the applicant.**
- 4) Names of any holders of easements affecting the property.**
- 5) Deed reference, instrument number, and tax map and parcel number and/or parcel identification number (PIN).**
- 6) Names, addresses, signatures, and registrations of professionals preparing the site plan.**
- 7) Date plan was drawn and date of any revision(s).**
- 8) Vicinity map at a scale not less than one inch equals 2,000 feet, indicating thereon roads and their names and numbers, Town Corporate Limits, subdivisions and other landmarks.**
- 9) Boundary survey, with an error of closure within the limit of one in ten thousand, certified by a licensed land surveyor and indicating the date completed. The survey must show the location and type of boundary evidence, except where a tract or site is a part of a subdivision of record. If only a portion of a parcel is proposed for development, the limits of development shall be shown.**
- 10) Existing zoning and all required building setback lines and/or build-to lines.**
- 11) Owner(s), zoning, tax map and parcel number and/or parcel identification number (PIN), and present use of each adjoining parcel.**
- 12) North arrow, date, and scale of drawing and number of sheets.**

13) A blank space four (4) inches by (4) inches in size on the plan face for the use of the approving authority for required signatures.

b) Project Tabulations:

- 1) Gross acreage of the total lot area to the nearest one-hundredth of an acre.**
- 2) Number of lots.**
- 3) Number of parking spaces required and provided based on the proposed use.**
- 4) Proposed permitted uses by square footage.**
- 5) Total square footage of all proposed buildings by floor area.**
- 6) Proposed lot coverage for all buildings and uses.**
- 7) Gross residential density for each type of residential use, if applicable.**
- 8) Total area of all open spaces areas, common areas and recreation areas by square footage and as a percentage of the lot.**
- 9) Total impervious area by square footage.**
- 10) Minimum Lot or parcel size for residential subdivisions.**

c) Existing & Proposed Site Conditions:

- 1) Number of floors, floor area, height, general use, and location of each building.**
- 2) Location, type, size, and height of all fencing, walls and screening proposed and/or required under the provisions of this Ordinance.**
- 3) Location, name, route number and full width, if applicable, of existing and proposed streets and travelways, access easements, alleys and right-of-ways.**
- 4) Existing and proposed property lines.**
- 5) Existing and proposed topography with maximum two-foot contours for the entire site.**
- 6) All existing and proposed utilities of all types, including locations, sizes, dimensions, materials, profiles and grades of all public water, sanitary sewer, and storm drainage facilities and proposed connections to existing water lines, sanitary sewer lines, drainage channels and storm drainage structures. Meter sizes for all buildings and estimated water consumption must be indicated.**
- 7) Location of proposed fire hydrants and/or distance to nearest existing fire hydrant.**
- 8) Water courses, wetlands, and their names.**
- 9) One-hundred (100) year flood plain limits.**
- 10) Proposed location, width and typical pavement section of all existing & proposed entrances, parking lots, sidewalks, and trails.**
- 11) Projected average number of vehicle trips generated by the proposed use per day and per AM and PM peak hour based upon the latest edition of the ITE Trip Generation Manual.**
- 12) Boundaries, purposes, and widths of all easements.**
- 13) Identification and location of known areas of contamination, remediation, and other adverse environmental conditions of the property.**
- 14) Identification and location of any known grave, object, or structure marking a place of burial.**
- 15) Location and type of all outdoor trash receptacles and dumpsters and proposed screening methods.**

16) Location and size of areas intended to be dedicated or reserved for public use, open space, or common areas, including location and design of facilities proposed within such areas.

17) Locations, heights, and specifications of all outdoor lighting for parking lots, sidewalks and pedestrian walkways, public spaces and common areas, and all other areas designed or intended for use during evening hours, including a diagram of each type of outdoor luminaire and photometric plan indicating lighting patterns and footcandles.

18) An indication of phases or sections within the proposed development and the order of development.

19) The location, character, size, height and orientation of proposed signs.

d) Supplemental Information:

1) Landscape Plan in conformance with Article XX of the Hamilton Zoning Ordinance.

2) Erosion and Sediment Control Plan in conformance with the requirements of the Erosion and Sediment Control Ordinance of Loudoun County, as applicable.

3) For sites with the presence of potential wetlands and jurisdictional streams, a Joint Permit and Virginia Water Protection Permit, approved by the U.S. Army Corps of Engineers and the Virginia Department of Environmental Quality, as applicable.

4) A deed of dedication with plat and/or deed of easement with plat for all rights-of-way, easements, or other properties which will be conveyed to the Town of Hamilton as a result of the development, in a form approved by the Town Attorney.

5) Front elevations shall be shown on all commercial, industrial, townhouse, and multifamily developments, regardless of height, the purpose of which is to show scale and massing of the proposal. Changes to these elevations may be approved by the administrator after final approval of the site plan.

6) A bond estimate of public improvements, in a form approved by the Town Attorney.

6.4 Administration & Review Procedures

a) A minimum of twelve (12) clearly legible blue or black line copies of a site plan shall be submitted to the Zoning Administrator. Submitted plans shall include a completed application, and payment of review fees, as established by the Town.

b) The Zoning Administrator shall be responsible for the receipt, review, processing, of site plans, including any modifications which conform to the standards and requirements in this Article or Ordinance. The Zoning Administrator may from time to time establish reasonable procedures and forms for the administration of this section. The Zoning Administrator may request opinions and/or decisions from other departments, divisions, agencies, or authorities of the Town and County government; from officials, departments, or agencies of the Commonwealth of Virginia; or from other qualified persons as may from time to time be retained.

The reviewing departments, agencies and officials may include, but need not be limited to the Town Attorney, the Director of Public Works, the Town Engineer or consulting engineer, the Loudoun County Fire Marshall or the Virginia Department of Transportation.

c) The Zoning Administrator shall check the plan for completeness within thirty (30) days of receipt. If the plan does not contain all information required by this Article or by other provisions of this Ordinance, the Zoning Administrator may return the plans as incomplete, provided that he shall identify the deficiencies or omissions in the submitted plan in writing to the applicant and stamp the plan "Incomplete". If the Zoning Administrator determines that the omissions or deficiencies are minor in nature and will not affect the ability of the Town to adequately review the plan, he may accept the plans as substantially complete, provided that he shall identify the deficiencies or omissions in writing to the applicant and require that the applicant address the omissions or deficiencies prior to final approval.

d) The applicant shall mail a written notice, on a form provided by the Zoning Administrator, to all abutting property owners, and owners of property directly across the street from the site, indicating the general nature and intent of the proposed activities indicated on the site plan as submitted. Notices sent by registered or certified mail to the last known address of such owner shown on the real estate tax assessment records of the Town shall be deemed adequate compliance with this requirement. The applicant shall provide copies of all such notices and receipts to the Zoning Administrator. No site development plan shall be approved within five (5) calendar days of any such notice.

e) Once the plan is deemed complete or substantially complete, the site plan together with the comments received from Town staff shall be forwarded to the Planning Commission prior to the next regular meeting. The Zoning Administrator shall make a report on the site plan to the Planning Commission and identify any required modifications. The Planning Commission shall consider the site plan, staff comments, and the Zoning Administrator's report and make a non-binding recommendation to the Zoning Administrator as to whether the plan should be approved, approved with modifications, or disapproved.

f) Approval, approval with modifications, or disapproval of a site plan by the Zoning Administrator shall occur within sixty (60) days of official acceptance of the plan as complete or substantially complete. Approval with modifications shall be deemed preliminary approval of the site plan, provided that the Zoning Administrator shall indicate final approval or disapproval of the plan with thirty (30) days of official acceptance of the revised plan containing the required modifications. If the plan is disapproved, written notification shall be provided to the applicant or the applicant's designated agent stating the deficiencies in the plan that caused the disapproval by reference to specific adopted ordinances, regulations, or policies and identifying the modifications or corrections that would permit approval of the plan.

g) No public easement, right-of-way, or public dedication shown on any site plan shall be accepted for dedication for public use until such proposed dedication shall

first be approved by the Town Council, upon recommendation by the Town Attorney and evidence of such approval is shown on the instrument to be recorded.

h) No permit shall be issued for the construction of any building or improvement requiring a permit in any area covered by the site plan unless it is in compliance with the provisions of this Article and the duly approved site plan.

i) Any approved site plan may be revised, provided request for revision shall be filed with the Zoning Administrator and processed in the same manner as the original site plan, except that Planning Commission review and recommendation shall not be required if the proposed revisions do not substantially affect the overall plan. Approval, approval subject to modifications, or disapproval of revisions to a site plan shall occur within sixty (60) days of official acceptance of the request by the Zoning Administrator.

j) The Town, County, and State agencies responsible for the supervision and enforcement of this

Article or Ordinance shall retain the right to periodically inspect the site during the period of construction.

k) Approval of a site plan pursuant to this Article shall expire five (5) years after the date of approval unless a building permit has been obtained for construction in accordance with Section 15.2-2261 of the Code of Virginia. The site plan shall be deemed final once it has been reviewed and approved by the Town if the only requirement remaining to be satisfied in order to obtain a building permit is the posting of any bonds and escrows. Extensions may be granted upon request by the applicant to the Zoning Administrator, sixty (60) days prior to lapse of approval, and may include a request to extend all bond and surety agreements. A six (6) month extension may be granted one time at the discretion of the Zoning Administrator taking into consideration the size and phasing of the proposed development. Further extension may be authorized only by Planning Commission approval upon demonstration of a good cause by the applicant and taking into consideration the time and phasing of the proposed development.

l) One (1) set of approved plans shall be at the job site at all times when work is being performed.

m) Upon compliance with the terms of this Ordinance and satisfactory completion of construction, as determined by an on-site inspection by Town staff, the Zoning Administrator shall furnish a Certificate of Occupancy in accordance with the standards laid out in Article XX, Section XX of the Hamilton Zoning Ordinance.

ARTICLE VII ADMINISTRATION AND ENFORCEMENT

7.1 Administration

1. Authority to Administer

The Town Council is authorized and directed to administer this Ordinance. The Zoning Administrator, as an agent of the Town Council, shall administer and enforce the provisions of this ordinance. The Zoning Administrator shall have authority in the name

of the Town of Hamilton to invoke any legal measures necessary to prevent, restrain, correct, or abate any violation or attempted violation of any of the provisions of the regulations contained herein, provided, however, that the Zoning Administrator may not act for the Town Council in approving or disapproving any preliminary plat or final plat.

7.2 Fees

1. Authority to Charge Fees for the Review of Application

The Town may charge fees for processing and reviewing any application requiring the approval of the Town Council or the Planning Commission. The fees charged shall be consistent with the costs of the Town to process, administer and to inspect the work on site so as to ensure compliance with all applicable codes and regulations. The fees established for these services are set separately by Council action with service fees for other applications and by reference are made a part of this ordinance.

2. Fees to be Determined

For engineering, legal and planning consultant fees incurred by the Town in connection with the processing, review and inspection of plats, plans, construction drawings, development plans, location permits, rezoning applications, zoning permits, specifications, establishment of grades, construction improvements, agreements for construction improvements, bond documents, revisions and the addressing of specific questions, a fee equal to the actual cost incurred by the Town shall be charged. The cost of such engineering, legal, inspection and planning services shall be estimated in advance and a deposit equal thereto paid prior to the Town processing the plans for review. Prior to approval of any plans by the Town or permits being approved, the actual cost of review including legal and inspections shall be determined and, if in excess of the amount deposited, such excess shall be paid. Any deposit in excess of the actual cost shall be refunded to the applicant. **However, any actual costs higher than 10% of the initial estimated costs shall not be required to be paid by the developer.**

3. Fees Due From Prior Review

All expenses incurred from the review of a prior application for the same project or an adjoining project including plats, plans, construction drawings, development plans, location permits, rezoning applications, zoning permits, inspections, drafting and review of documents including bonding agreements, response to specific questions and revisions, shall be paid before any new plats, plans, permits, inspections, agreements or bonds are reviewed by the Town.

4. Review After Approval

Any plat or plan that is revised after approval by the **Town Council**, Planning Commission, **or Zoning Administrator** shall be subject to the applicable fee for a preliminary plat revision and actual staff and administrative costs plus applicable reviewing fees if in excess of the revision fee. Costs associated with any revisions,

review, inspections or other administrative service associated with other than preliminary plans shall be charged on the basis of actual staff cost.

7.3 Variations and Exceptions

1. Variations and Exceptions to the Minimum Requirements

Upon application by a developer, the ~~Commission~~ Town Council may authorize an exception to the minimum subdivision **or site plan** requirements when unusual conditions exist or when adherence to the requirements would result in practical difficulty that would deprive the developer of the reasonable use of the land. Provided however, that any application a variance or exception involving areas located outside the corporate limits of the Town, must also be submitted to the County for determination.

2. Standards for a Variation or an Exception

In making an application for a variation or an exception, the applicant must demonstrate in writing that:

- a. The requested variations or exceptions are in keeping with the purpose and intent of the Subdivision **and/or Zoning** Ordinance.
- b. The granting of said variance or exception would not be of substantial detriment to adjacent properties.
- c. The granting of said variation or exception would not be contrary to the public health, safety and general welfare.

3. Additional Standards to be Considered by Town Council

In deciding an application for variations/exceptions, the Town Council shall be guided by its findings with regard to the preceding test, together with the following items and any other such pertinent information as is necessary for the Town Council to make its findings:

- a. The plans reflecting the requested variation/exception is reviewed by the Town Engineer and/or ~~Town Planner~~ **Zoning Administrator**.
- b. Any variation/exception in street requirements is reasonable in relation to ultimate projected traffic generation and will not result in street sections that do not satisfy minimum VDOT standards.

4. Compliance with Applicable Regulations

No variation/exception granted pursuant to this section shall relieve the obligation of the developer to comply with any other applicable local or state regulations. In authorizing a variation/exception, the Town Council may impose such conditions regarding location, character and other features of the proposed subdivision or development as it may deem necessary in the public interest, and may require a guarantee or bond to insure compliance with the conditions imposed. The developer shall pay the fee established plus any review fees prior to a motion being made on the exception.

5. Applications Made by Any Developer

Applications for variations/exceptions may be made by any developer. Once the application has been officially submitted, the application and accompanying information shall be transmitted promptly to the Commission for recommendation prior to Town Council action.

6. Determination if Public Hearing is Necessary

Upon the initial public meeting to consider a variation/exception application, the Town Council shall determine whether the potential public impacts of the request warrant a public hearing. If it is determined that a public hearing is warranted, such hearing shall be scheduled within thirty (30) days of said determination. Notice of a public hearing shall satisfy all the requirements of the Code of Virginia 1950, as amended, for such hearings. The Town Council shall make a motion on the application within thirty (30) days of the initial public meeting if no public hearing is held or within sixty (60) days of the initial public meeting if a public hearing is held. The cost of a public hearing is in addition to service fees.

7.4 Penalties

1. Offense and Fine

Any violation of this Ordinance shall constitute a misdemeanor and shall be punishable by a fine of not more than \$1,000 plus \$100 for every day after the first day that such violation shall continue after notification that it shall cease.

ARTICLE VIII DEFINITIONS

8.1 Terms Defined

For the purposes of this Ordinance, certain words and phrases are defined as follows:

Adequate outfall: A natural or man-made channel or pipe capable of conveying the runoff from a 2-year design storm without overtopping its banks or eroding after development of the site in question. A receiving channel may also be considered adequate at any point where the total contributing acreage is at least 100 times greater than the drainage area of the development site in question or it can be shown that the peak rate of runoff from the site for a 2-year design storm will not be increased after development.

Administrator: The Zoning Administrator or other duly appointed agent of the Town.

Alley: A narrow public way giving only secondary access to abutting property.

Building restriction line or Building setback line: A line showing the minimum distance by which any structure must be separated from the property lines of a lot.

Board of Supervisors: The Board of Supervisors of Loudoun County, Virginia.

Commission: The Planning Commission of the Town of Hamilton, Virginia.

Condominium: Any real property, and any incidents thereto or interests therein, in which individual dwelling units or apartments or a multi-unit structure or area are owned individually in conjunction with an undivided unit and which undivided interest is vested in each owner by any individual unit or apartment. Any real property for which condominium instruments have been recorded pursuant to Section 55-79.49 of the Code of Virginia 1950, as amended (The Virginia Condominium Act), and which is subject to

the terms and conditions of that Act shall be deemed to be a “condominium” for the purposes of this Ordinance.

Council: The Town Council of Hamilton, Virginia.

County: The County of Loudoun, Virginia

Developer or Subdivider: The person or persons subdividing, developing a parcel or land or submitting a subdivision plat or a site plan to the Town Planning Commission for approval.

Easement: A grant by a property owner of the use of land for a specific purpose or purposes, and running with the land. The land continues to be owned by the property owner.

Engineer: The consulting engineers retained by the Town of Hamilton, Virginia.

Jurisdiction: The area or territory subject to the legislative control of the governing body. The jurisdiction affected by the Land Development and Subdivision Control Ordinance shall include the incorporated area of the Town of Hamilton and the Urban Growth Area as defined by the Comprehensive Plan for the Town of Hamilton and the ~~one (1) mile~~ subdivision control jurisdiction, as limited by Section 15.2-2248 (3).

Local street: A street giving access primarily to abutting property rather than to other streets or through traffic.

Lot: A numbered and recorded portion of a subdivision intended for transfer of ownership or for building development for a single building and its accessory building or buildings.

Lot, corner: A lot abutting upon two (2) or more streets at their intersection; said corner lot shall be considered to have two (2) front yards.

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

Lot, double frontage: An interior lot that has frontage on two (2) streets.

Lot, interior: A lot other than a corner lot.

Lot of record: A lot which has been recorded in the Office of the Clerk of the Circuit Court of Loudoun County.

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

Owner: As applied to a building or land, the term “owner” shall include the person (as that term is defined below) who is part owner, joint owner, tenant in common, joint tenant or tenant by the entirety of the whole or part of any such building or land.

Person: Any individual, firm, partnership, corporation, association or any other group acting as a unit having an interest, whether legal or equitable, sole or partial, in any land which may be subdivided under the provisions of this Ordinance.

Plat: Includes the terms: Map, plan, plot, replat or replot; a map or plan of a tract or parcel of land which is to be, or which has been subdivided. When used as a verb, “plat” is synonymous with “subdivide.”

Street: A public way for the passage of vehicles and pedestrians, and giving primary access to

abutting property. The term “street” shall include road, lane, drive, trail, court, place, terrace, avenue, highway, boulevard or any other thoroughfare for a similar purpose.

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

Subdivide: To divide any tract, parcel or lot of land into two(2) or more parts.

Subdivision: The division of any tract of land into two (2) or more lots for the purpose, either immediate or future, of transfer of ownership of record and shall include condominium development. Division of land for the purpose of lease, transfer of (partial) undivided interest, granting or extinguishment of easements, creation of or extinguishment of dower or curtesy rights, subordinating or otherwise affecting the priority of liens, plats of conformation, and related transfers of interests in land not directed at the creation of lots or parcels for sale, shall not be considered as an act of subdivision.

Town: The Town of Hamilton, Virginia.