

AT A REGULAR MEETING OF THE PLANNING COMMISSION OF THE CITY OF SALEM, VIRGINIA held in the Council Chambers of City Hall, 114 North Broad Street Salem, VA 24153

AGENDA ITEM:

Chapter 78 Code Changes

Consider amending Chapter 78 – Subdivisions – Articles I – Generally, Section 78-103, Article II – Administration, Sections 78-200, 201, 204, and 206, Article III – Definitions, Section 78-300, Article IV – Review of plats, Sections 78-400, 401, 402, 403, 404, 405, 406, 407, 408, 416, 421, and Article V – Security for the construction of public improvements, Sections, 78-501 and 503, Article VI – Requirements for design standards and public improvements, Sections 78-600, 602, 606, 607, 611, 615, 617, 625, 629, 634, and 642, Article VII – Vacation of plats, Sections 78-701 and 706 of the CODE OF THE CITY OF SALEM, VIRGINIA pertaining to plan review by designated agent and timeframe of local approvals.

SUBMITTED BY:

Mary Ellen Wines, Planning & Zoning Administrator

SUMMARY OF INFORMATION:

Largely in response to the current housing crisis, the Virginia General Assembly passed two bills affecting the subdivision ordinance and its regulated procedures during its 2025 Regular Session.

SB974: Subdivision ordinance; plan review by designated agent. Removes planning commission and governing body approval authority for the administrative review process for plats and plans and assigns such authority solely to a designated agent, defined in the bill for localities with a population of 5,000 or more. The bill also expedites the review process by shortening the timeframe for forwarding plats and plans to state agencies for review.

HB2660: Subdivision ordinance; local approvals; report. Shortens the timeframes for various local government approvals of subdivision plats and site plans. Additionally, the bill calls on the Virginia Code Commission to convene a work group consisting of various stakeholders to review existing provisions related to the submission, review, and approval of subdivision plats and site plans to hopefully create and organize procedural steps to streamline the Virginia Code and improve its usability. That group is to report to the General Assembly by November 1, 2025.

As a result of these two bills, an amendment to the subdivision ordinance is necessary. The proposed changes reflect the amendments as directed by the state.

REQUIREMENTS:

The request meets the requirements of Title 15.2, Chapter 22, Article 6 of the Code of Virginia pertaining to Land Subdivision and Development.

RECOMMENDATION:

Staff recommends approval of this request.

Chapter 78 SUBDIVISIONS¹

ARTICLE I. GENERALLY

Sec. 78-103. Jurisdiction and applicability of chapter.

- (a) These regulations shall govern the subdivision of all land located within the corporate limits of the city occurring on or after the effective date of this chapter. No land may be subdivided through the use of any legal description other than a plat approved by the ~~planning commission or~~ agent in accordance with this chapter.
- (b) No existing subdivision shall be modified except by approval in accordance with this and other applicable ordinances of the city.
- (c) This chapter shall govern residential and nonresidential subdivisions.

ARTICLE II. ADMINISTRATION

~~Sec. 78-200. Planning commission.~~

- (a) ~~The planning commission, or its designated agent, shall have the authority to review, approve and disapprove the preliminary and final plats for all subdivisions of land within the corporate limits of the City of Salem. The planning commission shall perform its duties in regard to subdivisions in accordance with this chapter, and the Land Subdivision and Development Act, Title 15.2, Chapter 22, Article 6 of the Code of Virginia.~~

Sec. 78-201. Designated Agent.

- (a) ~~The planning commission is appointed by city council to administer and enforce this chapter.~~
- (b) ~~The planning commission's agent shall be appointed by planning commission to administer and enforce this chapter.~~
- (c) ~~The planning commission or its agent shall exercise authority to review, approve and disapprove plans for the construction of public facilities within all new subdivisions within the corporate limits of the city.~~
- (a) The City Manager and his or her designee are appointed as the Designated Agent to administer and enforce this chapter.

¹Editor's note(s)—Printed herein is the Salem Subdivision Ordinance adopted by City Council on March 14, 2005, effective July 1, 2005.

Cross reference(s)—Health and sanitation, ch. 38; manufactured homes and trailers, ch. 54; planning, ch. 62; signs, ch. 66; streets, sidewalks and other public places, ch. 74; utilities, ch. 90; zoning, ch. 106.

State law reference(s)—Land subdivision and development, Code of Virginia, § 15.2-465 et seq.; Subdivided Land Sales Act of 1978, Code of Virginia, § 55-336 et seq.

- (b) The Designated Agent shall exercise authority to review, approve and disapprove preliminary and final plats for all subdivisions of land, and plans for the construction of public facilities within all new subdivisions within the corporate limits of the city in accordance with this chapter, and the Land Subdivision and Development Act, Title 15.2, Chapter 22, Article 6 of the Code of Virginia.
- (c) (d) All departments, officials and public employees of the city who are vested with the duty or authority to issue permits or approvals under this chapter shall adhere and conform to the provisions of this chapter. Any such approvals or permits issued in conflict with the provisions of this chapter shall be null and void.

Sec. 78-201.1. Designated Agent authority to consult.

- (a) The ~~planning commission or its agent~~ Designated Agent may call for opinions or decisions, either oral or written, from the city attorney, other departments or other agencies in considering details of any submitted plat.

Sec. 78-201.2. Designated Agent additional authority.

- (a) The Designated Agent may establish any reasonable administrative procedures deemed necessary for the proper administration of this chapter.

Sec. 78-204. Enforcement.

- (a) No person shall subdivide any tract of land that is located within the jurisdiction of the city except in conformity with the provisions of this chapter and any other applicable city ordinance.
- (b) No person shall subdivide land without making and recording a plat of such subdivision and without fully complying with the provisions of this subdivision chapter and of general law.
- (c) No such plat of any subdivision shall be recorded unless or until it shall have been submitted to and approved by the ~~planning commission~~ Designated Agent, or its designee, as appropriate.
- (d) No person shall sell or transfer any land of a subdivision before the plat has been approved and recorded as provided herein unless such subdivision was lawfully created prior to the adoption of this chapter or any predecessor subdivision ordinance; provided, however, that nothing herein shall be construed as preventing the passage of title of property.
- (e) Any person violating the foregoing provisions of this section shall be subject to a fine of not more than \$500.00 for each lot or parcel of land so subdivided or transferred or sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided.
- (f) The Designated Agent and city attorney may take such other legal action as may be necessary to enforce the provisions of this chapter, including suit for injunction, for abatement or restraining order or other appropriate proceeding.
- (g) The zoning administrator shall not approve a site development plan nor issue a zoning permit for any lot that was created in violation of this chapter.

Sec. 78-206. Waivers authorized.

- (a) In cases of unusual situations or where strict adherence to the general regulations in this chapter would result in substantial injustice or hardship, the ~~planning commission~~ Designated Agent may waive standards contained in Article VI of this chapter, under the terms, procedures, and conditions established in this chapter. No waiver shall be granted which is illegal or which would prejudice the health and safety of citizens of the city.

Sec. 78-206.1. Waiver process.

(a) Each request for a waiver from the terms of this chapter shall be made in writing by the subdivider, stating specifically the provision from which the waiver is requested, and the grounds therefore. Where possible, the subdivider should submit a request for a waiver with the preliminary plat submission. All waiver requests shall be accompanied by such plats, drawings, and engineering documents required by the **Designated Agent** to allow the **planning commission Designated Agent** to understand and act on the waiver.

Sec. 78-206.2. Authority to grant waiver.

(a) The **planning commission Designated Agent** shall review, approve or disapprove any request for a waiver.

Sec. 78-206.3. Time period for consideration of waiver request; notice.

(a) The **planning commission Designated Agent** shall take action on a request for a waiver within 60 days after the application is filed. At least ten days prior to final action, the **planning commission Designated Agent** shall give written notice by regular mail or by delivery to landowners adjoining the plat involved in the request.

Sec. 78-206.4. Action on waiver request.

(a) The **planning commission Designated Agent** shall grant or deny each request in writing, stating the reasons therefore. The action of the **Designated Agent** shall be final. As to each waiver, the **planning commission Designated Agent** shall preserve and record the application and the basis for the waiver or denial of the waiver.

ARTICLE III. DEFINITIONS

Sec. 78-300. Definitions.

(a) For the purposes of this chapter, the words and terms set out in this section shall have the meanings described below. Any word or phrase used in this chapter shall have the same meaning as that set forth in the City of Salem Zoning Ordinance.

(b) Definitions:

Acceptance: The point when the public improvement is either:

(1) Accepted by resolution of the city council; or
(2) Taken over for operation and maintenance by the city or other public authority which is responsible for maintaining and for operating such facility upon acceptance.

Designated Agent: ~~Representatives of the planning commission who have been appointed to The City Manager or his or her designee shall~~ serve as its **Designated Agent** in administering this chapter, as hereinafter is specifically provided.

Aggrieved person: A person or group of people with an immediate, pecuniary and substantial interest in a subdivision as opposed to a remote or indirect interest. The subdivider may be an aggrieved person. A person is also aggrieved if the person suffers a denial of some personal or property right or imposition of a burden or obligation different from that suffered by the public in general.

Alley: A service roadway providing a secondary means of access to abutting property and not intended for general traffic circulation.

Boundary line adjustment: The adjustment of a common lot line between two or more lots within a subdivision, or the vacation of a lot line for the purpose of combining two or more lots. A boundary line

adjustment shall not include any action which results in the creation of one or more additional building lots, nor the vacation of any street, alley, access easement, or other public feature.

CBR: California Bearing Ratio.

Chapter: The "Subdivision Ordinance of Salem Virginia.

Circuit Court: The Salem Virginia Circuit Court.

Commission: The planning commission of Salem, Virginia.

Dedication: The transfer of private property to public ownership and use as a requirement of plat and/or plan approval.

Final subdivision plat: The map of a subdivision submitted to the **Designated Agent** for final approval and subsequently to be recorded with the Clerk of the Salem Circuit Court.

Governing body: The City Council of Salem, Virginia.

Major subdivision: A subdivision creating six or more lots, or any subdivision involving the creation of a public or private rights-of-way.

Minor subdivision: A subdivision creating five or fewer lots.

Performance security: Cash in the form of a certified check payable to the city, cash escrow agreement, or letter of credit.

Preliminary plat: The preliminary drawing or drawings, including the elements required by this chapter, indicating the proposed manner or layout of the subdivision to be submitted for approval.

Public improvement: Any drainage ditch, roadway, parkway, sidewalk, bicycle or pedestrian way, or other facility for which the City may ultimately assume the responsibility for maintenance and operation, or which ~~eaffect~~ an improvement for which local government responsibility is established.

Resubdivision: A change in a map or an approved or existing subdivision plat if such change affects any street layout on such map or area reserved thereon for public use or any lot line.

Sidewalk: A paved walk located in a rights-of-way adjacent to the public street.

Street, arterial: A heavily traveled thoroughfare or highway that carries a large volume of through traffic.

Street, collector: A street that conducts traffic between arterial and local streets and provides for the collection of traffic within, or for an entrance to, or a principal means of circulation within one or more subdivisions.

Street, cul-de-sac: A street with only one outlet and an appropriate turnaround for a safe and convenient reversal of traffic movement.

Street, local: A street that provides direct public access to the abutting properties.

Street width: The total width of the improved vehicle travel way as measured from face of curb to face of curb, or edge of pavement to edge of pavement for roads without a curb.

Subdivide: To divide any tract, parcel or lot of land into two or more parts for the purpose, whether immediate or future, of transfer of ownership or building development, and including all changes in street or lot lines.

Subdivider: An individual, corporation, partnership, or other entity owning any property to be subdivided.

Subdivision site plan: The maps or drawings accompanying a subdivision plat and showing the specific location and design of public improvements to be installed in the subdivision in accordance with the requirements of the subdivision ordinance as a condition of approval of the plat.

ARTICLE IV. REVIEW OF PLATS

Sec. 78-400. Submission of plat and plans to **Designated Agent**.

- (a) Whenever the owner of any tract of land located at least in part within the city desires to subdivide the tract, and before the sale of any lot located in said subdivision, the subdivider shall submit a plat and subdivision site plan of the proposed subdivision to the **Designated Agent**. The **Designated Agent** shall process the plat and plan in accordance with the provisions of this article.
- (b) Any change in a recorded subdivision plat that modifies, or creates lot lines shall be approved in the manner and under the requirements provided herein. This section applies to any subdivision plat of record, whether or not recorded prior to the adoption of a subdivision ordinance. Where a street, alley, easement for public passage, or other public area or easement laid out or described in such plat is affected, the plat, or pertinent part thereof, shall be vacated prior to resubdivision.

Sec. 78-401. Boundary line adjustments.

- (a) Notwithstanding, subsection 78-400(b) above, the **Designated Agent** may waive the procedural requirements of this chapter and approve the minor adjustment of boundary lines of any two legal lots or record, provided no additional lots are created. No such boundary line adjustment shall involve the relocation of any street, alley, easement for public passage, or other public area. No easement or utility rights-of-way shall be adjusted or relocated without the express consent of all persons holding any interest therein.
- (b) All boundary line adjustments shall be depicted on a valid plat which shall be executed, acknowledged, and recorded by the owner or owners of such land as provided in § 15.2-2264 of the Code of Virginia.
- (c) No boundary line adjustment shall result in the creation of any new violation of the zoning ordinance, however, any existing nonconformity of lot size, frontage or setback may continue so long as such nonconformity is not enlarged, extended, or expanded.

Sec. 78-402. Approval process, major subdivision.

- (a) Any applicant for a major subdivision involving more than 50 lots shall submit a preliminary plat to the **Designated Agent** for review. Any applicant for a major subdivision involving 50 or fewer lots may submit a preliminary plat. After the approval of the preliminary plat by the **Designated Agent**, the applicant shall submit a final plat to the **planning commission Designated Agent** and a subdivision site plan to the **Designated Agent** for review and approval.

Sec. 78-403. Approval process, minor subdivision.

- (a) Any applicant for a minor subdivision shall submit a preliminary plat and final plat and subdivision site plan, if required, to the city director of community development, who shall be authorized to coordinate the review and approval of said plats and plans. The director of community development shall have the right to refer any minor subdivision to the **planning commission Designated Agent** for its review and approval.

Sec. 78-404. Series of minor subdivision plats.

- (a) The **Designated Agent** may determine that a series of minor subdivision plats in fact constitutes a major subdivision if the series of plats relates to the same parcels or related groups of parcels. If the **Designated Agent** determines that the series of plats in fact constitutes a major subdivision then the **Designated Agent** shall require the subdivider to follow the process for the review of major subdivision plats.

Sec. 78-405. Changing plats after approval.

(a) No change, erasure or revision shall be made on any preliminary or final plat of a subdivision, nor on accompanying plans, after approval by the **planning commission or Designated Agent**, unless authorization for such change has been granted in writing by the **planning commission or Designated Agent**. In no case shall the **planning commission or Designated Agent** approve a revision of a previously approved plat unless the date of the revision and the fact that it is a revised plat is clearly stated thereon.

Sec. 78-406. Pre-application conference.

(a) The applicant may schedule a conference with the **Designated Agent** to review a concept sketch for any proposed minor or major subdivision, in order to determine whether the sketch generally meets the requirements of the zoning and subdivision ordinances, and to identify any concerns or issues raised by the proposed subdivision. The **Designated Agent's** comments on the sketch shall be informal, and shall not constitute a formal approval or disapproval of the subdivision plat.

Sec. 78-407. Concept sketch standards.

(a) The concept sketch should conform to the following guidelines:

- (1) Be drawn on white paper or on a print of a topographic map of the property.
- (2) Be at a scale of not less than 200 feet to the inch.
- (3) Include the name, location, dimensions of all streets entering the property, adjacent to the property or terminating at the boundary of the property to be subdivided.
- (4) Show the approximate location of natural features, such as watercourses and slopes with approximate gradients.
- (5) Show the approximate location and dimensions of all proposed streets, lots, parks, playgrounds and other proposed uses of the land to be subdivided.
- (6) Include the approximate dimensions of the property to be subdivided.

Sec. 78-408. Preliminary plats.

Sec. 78-408.1. Size and information required on a preliminary plat.

(a) All preliminary plats shall be 18 by 24 inches in size, and submitted in digital format.

(b) Prior to final approval by the **planning commission or Designated Agent**, the preliminary plat shall be signed by the owner of the land proposed for subdivision. The signature shall certify that the owner is aware of the requirements imposed by the plat and applicable city codes, and shall further certify that the owner agrees to comply with these requirements, unless modified in accordance with the City Code.

(c) The preliminary plat shall demonstrate compliance with the requirements of the Salem Zoning Ordinance and this chapter. The **Designated Agent** may require the following elements:

- (1) Name of the subdivision, with the notation, "Preliminary Plat".
- (2) Name(s) of owner(s) of subdivision.
- (3) Name of surveyor or engineer.
- (4) Location of proposed subdivision by vicinity map showing adjoining roads, and names of roads.
- (5) Adjoining subdivisions.
- (6) Parcel tax numbers.

- (7) Deed references.
- (8) True, record or grid north.
- (9) Identification of any graves, objects, or structures marking a place of human burial.
- (10) Scale of drawing.
- (11) Boundary survey.
- (12) Total acreage in overall parcel or parcels involved.
- (13) Total acreage of subdivided area.
- (14) Number of lots.
- (15) Area of each lot.
- (16) Frontage of each lot.
- (17) Purpose of dedication of land to public use, if any.
- (18) Area, if any, in common open space, park or public lands.
- (19) Names of all existing, platted and proposed streets.
- (20) Width of existing, platted and proposed streets.
- (21) Location of existing buildings within the boundaries of the tract.
- (22) Existing and proposed utility and other easements.
- (23) Any sidewalks or bikeways proposed.
- (24) Existing and proposed storm drainage facilities and provisions for stormwater management.
- (25) Location and names of water courses.
- (26) Topography at contour intervals satisfactory to the **Designated Agent** for full engineering review.
- (27) Road profiles showing existing and proposed street grades.
- (28) Proposed connections with existing sanitary sewers.
- (29) Proposed connections with existing water supply.
- (30) Contiguous land owned or controlled by the subdivider.

Sec. 78-408.3. Acceptance of preliminary plat and plan.

- (a) The **Designated Agent** is authorized to reject a preliminary plat or subdivision site plan on account of significant deficiencies.
- (b) Preliminary plats or subdivision site plans which are found deficient shall not be accepted until the deficiencies have been properly addressed and remedied. Resubmittals shall reactivate the review period.
- (c) A preliminary plat or subdivision site plan accepted for review and accompanied by the correct fee shall be deemed officially submitted to the city.
- (d) For all subdivisions, the **Designated Agent** shall review the accepted preliminary plat and subdivision site plan.

Sec. 78-408.4. Review of preliminary plats.

- (a) The preliminary plat for each phase of a multi-phased development shall demonstrate compliance with this chapter, the zoning ordinance, and other applicable city standards and ordinances.

(b) The **Designated Agent** shall act to approve or disapprove the preliminary plat within ~~60~~ 45 days of its acceptance; provided, however, that if referral to a state agency for review is necessary, the **Designated Agent** shall act within ~~45~~ 20 days after receiving approval from all state agencies. If a plat is disapproved, the **Designated Agent** shall state the reasons therefore and shall state what corrections or modifications will permit approval of the preliminary plat by the ~~planning commission or~~ **Designated Agent**.

Sec. 78-408.5. Term of validity of preliminary plat.

(a) A preliminary subdivision plat remains valid for five years from the date of approval provided the subdivider submits a final subdivision plat for all or a portion of the property within one year of such approval and thereafter diligently pursues approval of the final subdivision plat. "Diligent pursuit of approval" means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications thereto. However, no sooner than three years following such preliminary subdivision plat approval, and upon 90 days' written notice by certified mail to the subdivider, **Designated Agent** may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the final subdivision plat.

(b) The final plat and final plan shall meet all of the submittal requirements established by this chapter for the subdivision or section thereof. Failure to do so shall make the preliminary plat approvals null and void.

Sec. 78-408.6. Multi-phase subdivisions.

(a) After approval of the preliminary plat by the **Designated Agent**, the subdivider may request an extension for the recordation of the final plats of the subdivision from the ~~planning commission~~ **Designated Agent**. The final plats for all phases must be recorded within five years of the first recordation of a final plat for any phase, unless this period is extended by the ~~planning commission~~ **Designated Agent** within 45 days of the approval of the preliminary plat. The ~~planning commission~~ **Designated Agent** may grant the extension for such time as it may deem to be reasonable, taking into consideration the size and phasing of the proposed subdivision. The final plats for unrecorded phases shall be subject to the terms and conditions of the engineering and construction standards and zoning requirements in effect at the time that each remaining phase is recorded, except if they conflict directly with the approved preliminary plat.

(Ord. of 3-14-05(1); Ord. of 3-28-2022(1))

Sec. 78-408.7. Appeal of failure to act on preliminary plat.

(a) If the **Designated Agent** fails to approve or disapprove the preliminary plat within 90 days after it has been officially submitted for approval, the subdivider, after ten days' written notice to the ~~planning commission or~~ **Designated Agent**, may petition the circuit court for an order with respect thereto as it deems proper, which may include directing approval of the plat.

Sec. 78-408.8. Appeal of disapproval of preliminary plat.

(a) If the **Designated Agent** disapproves a preliminary plat and the subdivider contends that the disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, the subdivider may appeal to the circuit court which shall hear and determine the case as soon as may be. The appeal must be filed with the circuit court within 60 days of the written disapproval by the ~~planning commission or~~ **Designated Agent**.

Sec. 78-416. Subdivision site plans.

Sec. 78-416.1. Subdivision site plan specifications.

- (a) Every subdivision site plan shall be 24 by 36 inches in size and at a scale of not smaller than 50 feet to the inch (1" = 50'), except in cases where the **Designated Agent** has approved an alternate scale.
- (b) Prior to final approval by the city, subdivision site plans shall be signed by the owner of the land proposed for subdivision. The signature shall certify that the owner is aware of the design requirements imposed by the plan and other applicable city codes, and shall further certify that the owner agrees to comply with these requirements, unless modified in accordance with the City Code.
- (c) The subdivision site plan shall include the following:
 - (1) *General information:*
 - a. Name of subdivision.
 - b. True, record, or grid north (identified as such).
 - c. Scale of drawing.
 - d. Number of sheets.
 - e. Name and address of person and firm preparing the plan.
 - f. Approval block providing for signature and date.
 - g. Vicinity map indicating adjoining roads and road names, and at a scale not smaller than 1" = 2,000'.
 - h. Date drawing prepared, and revision dates.
 - (2) *General notes:*
 - a. Name and address of owner and developer.
 - b. Address and tax parcel number of property to be subdivided.
 - c. Zoning district.
 - d. Number of lots.
 - e. Total area of subdivision.
 - f. Means of providing public water and sewer service to each lot.
 - (3) *Street information:*
 - a. Plan and profile of all streets.
 - b. Vertical and horizontal curve data for all streets.
 - c. Sight distances.
 - d. Typical section of all streets including pavement structure proposed and typical grading.
 - e. Traffic projections and analysis where necessary to estimate warrants for signalization, turn lanes, and other related features.
 - (4) *Stormwater management information:*
 - a. Engineering calculations establishing pre- and post-development runoff for the subdivision.
 - b. Detention facility calculations establishing the adequacy of proposed measures and downstream channels.

- c. Erosion and sediment control plan and narrative.
- d. Plan and profile and grading of a typical section of proposed detention facilities.

(5) *Drainage information:*

- a. Plan and profile of all proposed street drain pipes and channels identifying all inlets, specifying material type and size, with design of invert and top elevation.
- b. All existing and proposed drainage easements.
- c. Watercourses, springs and other natural drainage features.

(6) *Water supply information:*

- a. Plan and profile, including material, size, cover and utility crossings, of existing and proposed water mains.
- b. Existing and proposed hydrants, valves and other associated features.
- c. Existing and proposed service laterals and meter locations.
- d. Existing and proposed easements.
- e. Fire flow and water pressure calculations.

(7) *Sanitary sewer information:*

- a. Plan and profile, including material, size, cover, grade, structures, invert, top elevation and utility crossings.
- b. Existing and proposed service laterals and clean out locations.
- c. Existing and proposed easements.
- d. Downstream sewer capacity analysis.
- e. Lowest floor elevation sewerable by gravity on each lot.

(8) *Other information:*

- a. Information, details or design as necessary to demonstrate or achieve compliance with the standards of this chapter.
- b. Existing and proposed topographic lines at two-inch intervals.

Sec. 78-416.2. Waiver of subdivision site plan elements.

- (a) The **Designated Agent** may waive the requirement to show on the subdivision site plan specific items if, in his or her opinion, and based on recognized engineering principles and in an effort to achieve the goals of this chapter, they are unnecessary to determine compliance with appropriate codes and standards and ordinances. Such waiver shall not be construed to authorize the reduction or waiver of any standard or required improvement.

Sec. 78-416.4. Process for approval of subdivision site plans.

- (a) Subdivision site plans for the design and construction of required public facilities shall be submitted with the final plat. The **Designated Agent** shall approve or disapprove plans within **6040** days of their submission. In the event of the failure of the **Designated Agent** to act within such period, the plans may be submitted, after ten days' notice to the city, to the circuit court for its approval or disapproval.

Sec. 78-416.5. Effect of approval.

(a) Approval by the **Designated Agent** of the subdivision site plan shall, upon issuance of all necessary permits including, but not limited to, land disturbing permits constitute authority to commence development and construction activities which are in accordance with the approved plan but only within such section or sections which have received approval. Nothing in this provision however, shall be interpreted to authorize the construction of any structure on any proposed lot other than such structures which are appurtenant to utility installations.

Sec. 78-421. Final plats.

Sec. 78-421.1. Elements of final plats.

(a) All final subdivision plats shall be clearly and legibly drawn in ink, at a scale of not smaller than 50 feet to the inch (1' = 50'), except in cases where the **Designated Agent** has approved an alternate scale, on sheets being 18 by 24 inches in size.

(b) The final plat shall show the following information:

- (1) *General information:*
 - a. Name of subdivision.
 - b. True, record, or grid north.
 - c. Scale of drawing, which shall be not smaller than 1" = 50', without approval of the **Designated Agent**.
 - d. Number of sheets.
 - e. Name and address of person and firm preparing plat.
 - f. Vicinity map indicating adjoining roads and road names, and at a scale not smaller than 1" = 2,00'.
 - g. Date drawing prepared, and revision dates.
- (2) *General notes:*
 - a. Name and address of owner and developer.
 - b. Address and tax parcel number of property to be subdivided.
 - c. Zoning district.
 - d. Number of lots.
 - e. Total area of subdivision.
 - f. Means of providing water and sewer service to each lot.
- (3) *Plat information:*
 - a. Metes and bounds of the perimeter of the subdivision.
 - b. Interior tract lines.
 - c. Departing lot lines for adjacent parcels.
 - d. Property owner names for adjacent parcels.
 - e. Area of each proposed lot.

- f. Proposed lot numbers.
- g. Boundaries of proposed and existing rights-of-way with metes and bounds description, stated in one consistent direction.
- h. Rights-of-way width of each existing and proposed, interior and adjacent, rights-of-way.
- i. Names (and state route numbers where applicable) of all existing and proposed streets and alleys.
- j. Boundaries of any proposed common area or open space or public dedicated area, with metes and bounds.
- k. Intended use of any common area, open space, or public dedicated area.
- l. Boundaries of proposed and existing easements, with bearings and distances where necessary to establish location.
- m. Curve data table including curve number, arc length, tangent length and bearing, and radius.
- n. Major watercourses.
- o. Floodplain boundaries.
- p. Identification of graves, objects or structures marking a place of burial.
- q. All conditional zoning proffers, special exception conditions, or Board of Zoning Appeals actions applicable to the site.

(4) *Statements and certifications:*

- a. Owner's consent and dedication statement (notarized).
- b. Surveyors source of title statement (signed and dated by a Virginia Licensed Surveyor).
- c. Owner's conforming statement (notarized).
- d. Approval block providing for signature and date.

Sec. 78-421.4. Deadline for filing final plat and plans for major subdivisions.

(a) The subdivider shall file with the **Designated Agent** the final plat and final subdivision site plans meeting the standards of this chapter for all or one or more sections of the subdivision within one year of the **Designated Agent's** approval of the preliminary plat.

Sec. 78-421.5. Review of final plat.

(a) The **Designated Agent**, or the **planning commission**, as appropriate, shall approve the final plat, if found to be in conformity with the requirements of law and this chapter, within **6040** days after it has been officially submitted or resubmitted for approval.

(b) The final subdivision plat, including the final plat for each phase of a multi-phase development, shall demonstrate compliance with this chapter, the zoning ordinance, and other applicable city standards and ordinances.

(c) The **Designated Agent** shall not approve a final plat until any necessary deed of dedication has been submitted and approved by the city attorney. A deed of dedication is required to convey parkland, pump station sites, and other property to the city. One is not necessary to convey streets, alleys, any easement for public passage, or an easement for the conveyance of stormwater, domestic water or sewage.

(d) The **Designated Agent** shall not approve a final plat until any necessary subdivision agreement, with surety has been submitted and approved by the city attorney.

- (e) Where appropriate, the **Designated Agent** shall not approve a final plat until any required deeds of easement to a homeowner's association are submitted and approved by the city attorney.
- (f) After final plat approval by the **Designated Agent**, no change, erasure or revision shall be made on the plat or accompanying data sheets unless authorization for such change has been granted in writing by the **Designated Agent**.

Sec. 78-421.6. Disapproval of final plat.

- (a) In the case of disapproval, the **Designated Agent** shall give the subdivider specific reasons for denial, and these may be contained in a separate document or may be written on the plat. They shall relate in general terms such modifications or corrections as will permit approval of the plat.

Sec. 78-421.7. Effect of approval of final plat.

- (a) Only a final plat approved by the city may be recorded with the clerk of the circuit court.
- (b) An approved final plat must be recorded with the clerk of the circuit court within six months of the date of approval. However, this time period shall be extended to one year if:
 - (1) The subdivider has commenced the construction of facilities to be dedicated to public use, pursuant to an approved plan, or permit with security approved by the **Designated Agent**; or, if
 - (2) The subdivider has furnished surety to the **Designated Agent** by certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction for such facilities.

These exceptions apply only if construction has commenced or security has been approved and accepted before the expiration of the six-month time period. The deadline for filing the plat may be extended for the period specified in the security agreement.

- (c) In any case where a deed of dedication accompanies the final plat, the **Designated Agent** shall record both the final plat and the deed of dedication.
- (d) The subdivider shall record any required deeds of easement to a homeowner's association contemporaneously with the final plat.
- (e) If the subdivider fails to timely record the final plat, then the approval shall become null and void and the subdivider shall return the plat to the **Designated Agent** so that it may be so marked.

Sec. 78-421.8. Final plat—Recordation in phases.

- (a) If the subdivider records a final plat which is a section or phase of a subdivision as shown on the approved preliminary plat within the period established in section 78-421.7 above, then the subdivider may record the remaining sections or phases for a period of five years from the recordation date of the first section, in accordance with this section. The subdivider shall furnish the city with a certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of the facilities to be dedicated within said section for public use and maintained by the **planning commission Designated Agent** at the time of approval of the preliminary plat, as provided in section 78-408.6 above.

Sec. 78-421.9. Effect of recordation of approved plat.

- (a) The recordation of an approved plat shall operate to transfer, in fee simple, to the city, the portion of the premises set apart for streets, alleys, bikeways, sidewalks or other public use, and to convey facilities and easements for the conveyance of stormwater, public water and sewage.
- (b) When the **Designated Agent** approves in accordance with this chapter a plat or replat of land, then upon the recording of the plat or replat in the circuit court clerk's office, all rights-of-way, easements or other

interest of the city in the land included on the plat or replat, except as shown thereon, shall be terminated and extinguished.

Sec. 78-421.10. Appeal of failure to act on final plat.

(a) If the **Designated Agent or planning commission** fails to approve or disapprove a final plat within ~~60~~ 40 days after it has been officially submitted for approval, or 30 days if the plat had previously been disapproved, the subdivider, after ten days' written notice to the **Designated Agent**, may petition the circuit court to decide whether the plat should or should not be approved. The court shall hear the matter and make and enter an order with respect thereto as it deems proper, which may include directing approval of the plat.

Sec. 78-421.11. Appeal of disapproval of final plat.

(a) If the **Designated Agent or planning commission** disapproves a final plat and the subdivider contends that the disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, the subdivider may appeal to the circuit court within 60 days of the written disapproval.

~~ARTICLE V. SECURITY FOR THE CONSTRUCTION OF PUBLIC IMPROVEMENTS~~

Sec. 78-501. Subdivision agreement.

(a) When a subdivider chooses to post surety in lieu of completion of those physical improvements shown on an approved plan and/or final plat in order to allow recordation prior to completion and acceptance of all required improvements, the subdivider shall enter into a subdivision agreement, approved as to content and form by the city attorney, with the city prior to approval of the final plat. The **Designated Agent** shall provide the subdivider with a sample subdivision agreement during review of the final plat.

Sec. 78-501.1. Time of agreement.

(a) The period within which improvements or installations shall be completed and inspected for acceptance shall be specified in the subdivision agreement. In approving the time of performance of the subdivision agreement, the **Designated Agent** shall require a report containing the following information from the subdivider:

- (1) Percent of public improvements already completed; and
- (2) Rate of construction activity including the estimated completion date for each major feature (roads, sewer, water, lights, etc.) remaining to be completed.

(b) The **Designated Agent** shall not permit a subdivision agreement to be executed where, on the basis of the report submitted by the subdivider, it is apparent that the improvements or installations covered by said agreement cannot reasonably be expected to be completed by the deadline established therein.

(Ord. of 3-14-05(1))

Sec. 78-502. Reserved.

Sec. 78-503. Security required.

- (a) The subdivider shall furnish to the city a certified check or cash escrow in the amount of the estimated costs of construction or a personal, corporate or property bond, with surety satisfactory to the **Designated Agent**, in an amount sufficient for and conditioned upon the construction of such facilities.
- (b) The subdivider may furnish a bank or savings institution's letter of credit on certain designated funds, satisfactory to the **Designated Agent** as to the bank or savings institution, the amount and the form. The letter of credit may be used in lieu of the certified check, cash escrow, or bond in subsection (a).
- (c) The amount of the certified check, cash escrow, bond, or letter of credit shall not exceed the total of the estimated cost of construction based on unit prices for new public or private sector construction in the city and a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities, which shall not exceed 25 percent of the estimated construction costs.

Sec. 78-503.1. Periodic partial release of security.

- (a) Upon completion of at least 30 percent of the facilities covered by any bond, escrow, letter of credit, or other performance guarantee, the **Designated Agent** is authorized to make periodic partial releases of the security.
- (b) A maximum of three periodic partial releases per any 12-month period shall be authorized. The **Designated Agent** shall make periodic partial releases of such bond, escrow, letter of credit, or other performance guarantee in a cumulative amount equal to no less than 90 percent of the original amount for which the performance guarantee was taken.
- (c) The **Designated Agent** shall provide for the periodic partial release of any bond, escrow, letter of credit, or other performance guarantee required by this chapter within 30 days after receipt of written notice by the subdivider or developer of completion of part or all of any facilities required to be constructed.
- (d) No such release need be made if the **Designated Agent** notifies the subdivider or developer in writing of non-receipt of approval by the applicable state agency or of any specified defects or deficiencies in construction and suggested corrective measures prior to the end of the 30-day period.
- (e) If no such action is taken by the **Designated Agent** within the 30-day time period, the request shall be deemed approved and a partial release granted to the subdivider or developer.

Sec. 78-503.2. Final and complete release of security.

- (a) In addition to the written request for release of security and 30-day time period as established, above, the subdivider or developer shall submit a second written request for the final and complete release of security. The **Designated Agent** shall approve or deny the request within ten working days of receipt of the request for final release. If no action is taken the request shall be deemed approved and final release granted to the subdivider or developer.
- (b) Upon final completion and acceptance of the facilities, the **Designated Agent** shall release any remaining bond, escrow, letter of credit, or other performance guarantee to the subdivider or developer. For the purpose of final release, the term "acceptance" means: when the public facility is accepted by and taken over for operation and maintenance by the city or other public agency which is responsible for maintaining and operating such facility.

Sec. 78-503.3. Grounds for refusal to release security.

- (a) The **Designated Agent** shall not refuse to make a periodic partial or final release of a bond, escrow, letter of credit, or other performance guarantee for any reason not directly related to the specified defects or

deficiencies in construction of facilities covered by said bond, escrow, letter of credit, or other performance guarantee.

Sec. 78-503.4. Use of security.

- (a) In those cases where performance surety has been posted and the required improvements or installations have not been completed within the terms of the subdivision agreement, the **Designated Agent** shall declare the subdivider to be in default and shall draw on the posted surety. After the funds or proceeds from the property have been received, the **Designated Agent** shall cause such improvements to be completed. The subdivider shall be fully and completely responsible and liable for the entire cost of completing the improvements, even when such cost exceeds the amount of surety.
- (b) If the funds or proceeds from the surety are insufficient to complete the improvements, the **Designated Agent** and the city attorney shall proceed to obtain such funds from the subdivider, its successor or assigns including such reasonable costs as may be expended in the process.
- (c) If any funds remain after all improvements or installations are completed and accepted with all necessary fees paid and no defects are found therein which must be repaired, such remaining funds, less any such reasonable administrative or overhead costs which may have accrued, shall be returned to the subdivider within 180 days of final acceptance of the final improvement or installation.

ARTICLE VI. REQUIREMENTS FOR DESIGN STANDARDS AND PUBLIC IMPROVEMENTS

Sec. 78-600. Land must be suitable.

- (a) In addition to the requirements established by this chapter, all subdivision plats shall comply with the Salem Zoning Ordinance; all applicable chapters of the Salem City Code, as amended; the rules and regulations of the Virginia Department of Transportation; and any other applicable federal, state, or local requirement.
- (b) Each lot shall be suitable for a building site. Land not suitable for a building site shall be combined with other lots. The **planning commission****Designated Agent** shall have the authority to deny any preliminary or final subdivision plat if the **planning commission****Designated Agent** finds the land to be unsuitable for the purposes for which it was intended.
- (c) All lots subdivided under the authority of this chapter shall lie wholly within the municipal boundary of the City of Salem.

Sec. 78-602. Off-site improvements.

- (a) Where the construction or improvement of a subdivision of land makes necessary, at least in part, the installation of new or improved sewerage, water, or drainage facilities located outside the property limits of the subdivision, the subdivider or developer of the subdivision shall pay a proportionate share of the cost of the facilities, in accordance with this section.
- (b) No such payment shall be required until the city council has established (or has committed itself by ordinance to the establishment of) a general sanitary sewer, water or drainage improvement program for an area having related and common sanitary sewer, water and drainage conditions, or any of them, and within which the land to be subdivided is located. The city may develop and administer all three programs together or any one, or other number, separately or jointly.

- (c) The program shall include regulations that establish reasonable standards to determine the proportionate share of the total estimated cost of ultimate sanitary sewerage, water and drainage facilities required adequately to serve a related and common area, when and if fully developed in accord with the comprehensive plan, that shall be borne by each subdivider or developer within the area.
- (d) The share to be borne by each subdivider shall be limited to the proportion of such total estimated cost which the increased sanitary sewerage flow, water use or increased volume and velocity of stormwater runoff to be caused by the proposed subdivision bears to the total estimated volume and velocity of such sanitary sewerage, water or runoff from such area in its fully developed state. In calculating the volume and velocity of stormwater runoff, the city shall take into account the effect of all on-site stormwater facilities or best management practices constructed or required to be constructed by the subdivider or developer and give appropriate credit therefore.
- (e) Each such payment received shall be expended only for the necessary engineering and related studies and the construction of those facilities for which the payment was required and, until so expended, shall be held in an interest-bearing account for the benefit of the subdivider. In lieu of such payment, the **Designated Agent** may accept a letter of credit satisfactory to the **Designated Agent** conditioned upon the payment at the commencement of construction. The payments received shall be kept in a separate account for each of the individual improvement programs until such time as they are expended for the improvement program. All payments shall be released and used, with any interest earned, as a tax credit on the real estate taxes on the property if construction of the facilities identified in the established water, sewer and drainage programs is not commenced within 12 years from the date of the posting of the payment.
- (f) Nothing in this section shall imply or constitute an obligation on the part of the city to upgrade or construct any sanitary sewerage, water or storm drainage facilities or prevent the subdivider from constructing on his own account and to satisfy his own schedule such off-site facilities necessary or desirable for the safe and proper provision of utility service to the subdivision in accordance with this subdivision chapter and other ordinances and standards of the city.

Sec. 78-606. Lot dimensions.

- (a) Lot dimensions shall comply with the minimum standards of the Salem Zoning Ordinance. Where lots are more than double the minimum required area for the zoning district, the **planning commission****Designated Agent** or agent may require that those lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve potential lots, all in compliance with the zoning ordinance and this chapter.
- (b) In general, side lot lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will give a better street or lot plan. Depth and width of properties reserved or laid out for business, commercial, or industrial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of use and development contemplated, as established in the zoning ordinance. Townhouse lots may be subdivided along the party walls into lots smaller than those normally allowed for single-unit dwellings.

Sec. 78-607. Lot orientation.

- (a) Except as may be allowed by the zoning ordinance, each lot shall be served by and abut on a public street dedicated by the subdivision plat or on an existing public street. Lots shall be arranged so that each lot may access a local street, unless the parent parcel fronts only on an arterial or collector street and the parcel depth is insufficient to accommodate the construction of a new local street.
- (b) No lot shall have reverse frontage on any public street. **Planning commission****The Designated Agent** may waive this requirement.

Sec. 78-611. Street names.

(a) Street names shall be indicated on the preliminary and final plats and shall be approved by the **Designated Agent** or planning commission, as appropriate. Proposed streets which are in alignment with others already existing and named shall bear the name of the existing street. In no case shall the name of the proposed streets duplicate or be similar, literally or phonetically, to existing street names, regardless of the use of the terms street, avenue, boulevard, driveway, place, lane, court, etc. Names of existing streets shall not be changed except by the approval of the city council.

Sec. 78-615. Approach angle.

(a) All streets shall approach arterial or collector streets at an angle of not less than 80 degrees unless the **planning commission** **Designated Agent**, by waiver, shall approve a lesser angle of approach for reasons of contour, terrain, or matching existing patterns.

Sec. 78-617. Minimum rights-of-way widths.

(a) The minimum rights-of-way width of proposed streets shall be 50 feet.

(b) If the existing streets within the subdivision are not 50 feet in width the subdivider shall dedicate by subdivision plat so that such streets will meet the standards of this chapter.

(c) If the existing streets abutting the subdivision are not 50 feet in width, and if the need for additional rights-of-way width is generated, in whole or in part, by the proposed subdivision, the subdivider shall dedicate by subdivision plat additional rights-of-way so that such streets will have a width of 25 feet from the center line where the street abuts the subdivided parcel.

(d) The **Designated Agent** may require additional rights-of-way width where Virginia Department of Transportation standards for the traffic generated by the subdivision require additional width.

(Ord. of 3-14-05(1))

Sec. 78-625. Blocks.

(a) Design standards for blocks are as follows:

- (1) *Length:* The length of blocks shall be determined by public safety, traffic flow, and natural topography considerations. Where streets are approximately parallel, connecting streets shall be provided between the parallel streets at reasonable intervals as established by application of the criteria in the preceding sentence. In general, residential blocks should be between 500 feet and 1,200 feet in length.
- (2) *Width:* Blocks shall be designed in two tiers of lots, except where prevented by the natural topography, size of the property, or adjoining railroads or waterways, in which case the **Designated Agent** may approve a single tier of lots. Where the property to be subdivided adjoins an arterial road, the **Designated Agent** may require a single tier of lots and a restricted access easement along the arterial road.
- (3) *Orientation:* Where a proposed subdivision adjoins an arterial or collector road, the **Designated Agent** may require that blocks be oriented and designed to limit or reduce the number of points of access to that road.

Sec. 78-629. Monuments visible for inspection.

(a) Upon completion of subdivision streets, sewers and other improvements, the subdivider shall install at his expense all monuments required by the **Designated Agent** or planning commission. Such monuments shall be clearly visible and shall be inspected and approved by the **Designated Agent** before any improvements are accepted by the governing body.

Sec. 78-634. Sanitary sewer required.

- (a) Sanitary sewerage facilities shall connect with existing public sanitary sewerage systems where available and adequate capacity exists.
- (b) If public sanitary sewerage facilities are reasonably available to serve the proposed subdivision, but inadequate capacity, as determined by the city engineer, in such facilities exists, the subdivider shall at his or her expense upgrade the sanitary sewerage lines or facilities to provide the additional capacity.
- (c) In considering the availability of a public sewer, the **Designated Agent** shall consider the following criteria: the proximity of public sewer lines; engineering feasibility and cost of extension of such lines to serve the subdivision; appropriateness of the area and soils for septic sewer service; public health and safety of the proposed subdivision; and the city's plans for sewer line extension or service in the area.
- (d) Unless public sewer is determined not to be available, the subdivider shall install the sanitary sewer system within the subdivision, in accordance with city standards and upon its completion, shall dedicate and convey title to the sanitary sewer system to the city.

Sec. 78-642. Public utility easements.

- (a) The subdivider shall convey a 15-foot wide common or shared public utility easement centered on all interior lot lines and interior to all perimeter lot lines, to franchised cable television operators furnishing cable television and public service corporations furnishing cable television, gas, telephone, and electric service to the subdivision. Such easements may be conveyed by reference on the final recorded plat.
- (b) The **Designated Agent** may require a wider easement where necessary to provide adequate separation between water, sewer, and/or stormwater management facilities

~~ARTICLE VII. VACATION OF PLATS~~

Sec. 78-701. Vacation of plat before sale of lot therein; by the owners.

- (a) The owners, proprietors and trustees, if any, who signed the statement of consent to subdivide on the final recorded subdivision plat of any subdivision, may apply in writing for the vacation of the recorded plat or part thereof. The **Designated Agent** shall refer the application to the planning commission, which shall review the application for its consistency with the comprehensive plan. The **planning commission** **Designated Agent** shall forward the application, with its recommendation, to the city council for action.
- (b) With the consent of the city council, the owners, proprietors and trustees shall duly execute, acknowledge and record in the Salem Circuit Court Clerk's Office a written instrument declaring the plat or part thereof to be vacated. The city council's consent shall appear on the face of the instrument, by the signature of the mayor or agent. The effect of recording this instrument shall be to divest all public rights in, and to reinvest the owners, proprietors and trustees, if any, with the title to the streets, alleys, easements for public passage and other public areas laid out or described in the plat.

Sec. 78-706. Notation on vacated plat.

- (a) Immediately upon the vacation of a recorded subdivision plat, or part thereof, the clerk of the circuit court shall write in plain legible letters across such plat or part thereof, the word, "VACATED" and also make a reference on the same to the volume and page in which the instrument of vacation is recorded. The **Designated Agent** shall cause similar notations to be made on any official copy of the plat retained by the city.

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