

*(Also See General Provisions Amendment 15-17-1,
Property Under County Control Amendment 16-17-2,
Taxation and Finance Amendment 17-17-4,
Minimum Private School and Child Care Facility Standards Amendment 18-17-30,
Building Provisions Amendment 19-17-61,
Excavation and Utility Line Installation Amendment 20-17-63,
Individual Sewage Disposal Facilities Amendment 21-17-68.1,
Expedited Building Plan Review Amendment 22-17-71,
Streets and Sidewalks Amendment 24-17-102,
Air Pollution Control Amendment 25-17-103,
Erosion and Sedimentation Control Amendment 26-17-104,
Problem Soils Amendment 27-17-107,
Zoning Ordinance Amendment ZO-17-466,
Expedited Land Development Review Amendment 28-17-117,
Chesapeake Bay Preservation Ordinance Amendment 29-17-118,
Grass or Lawn Area Amendment 30-17-119,
Tree Conservation Ordinance Amendment 31-17-122,
Stormwater Management Ordinance Amendment 32-17-124,
Flood Plains Amendment 33-17-A, and
Land Development Services Fee Schedule Amendment 34-17-Q,
adopted simultaneously on July 11, 2017.)*

***ADOPTION OF AN AMENDMENT TO
CHAPTER 101 (SUBDIVISION PROVISIONS)
OF THE 1976 CODE OF THE COUNTY OF FAIRFAX, VIRGINIA***

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium, Lobby Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday, July 11, 2017, the Board after having first given notice of its intention so to do, in the manner prescribed by law, adopted an amendment to Chapter 101 (Subdivision Provisions) of the 1976 Code of the County of Fairfax, Virginia, said amendment so adopted being in the words and figures following, to-wit:

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA:

That the Code of the County of Fairfax, Virginia, Chapter 101 (Subdivision Provisions), is amended, as follows:

Amend Article 2, Subdivision Application Procedure and Approval Process, Section 101-2-1, Procedure, paragraph (1)(B) Notice required, by revising subparagraph (i), to read as follows:

(i) Any person who submits a preliminary subdivision plat, a final subdivision plat when a preliminary subdivision plat and a construction plan are not required, or a construction plan when a preliminary subdivision plat is not required for approval under the provisions set forth in this Section shall submit written proof of notification of all owners of property wholly or partially within 500 feet of the parcel to be subdivided and at least one homeowners' or civic association within the immediate area as approved by ~~the Department of Public Works and Environmental Services~~ Land Development Services. Such notice shall include notice to owners of properties wholly or partially within 500 feet which lie in an adjoining county or municipality. This notification must be to a minimum of 25 property owners other than the owner of the parcel to be subdivided. If there are fewer than 25 different owners of property wholly or partially within 500 feet of the subject property, then additional notices shall be sent to other property owners in the immediate vicinity so that notices are sent to different owners of not less than 25 properties.

Amend Article 2, Subdivision Application Procedure and Approval Process, Section 101-2-2, Minimum requirements, by revising the introduction to read as follows:

The following shall be considered desirable minimum requirements and may be varied or waived only in specific cases by the County Executive or, only in the case of specific requests to waive the public street frontage requirement, by the Board of Supervisors; such variance or waiver may be granted with or without conditions only upon a finding, after consideration of a recommendation from the Director of ~~the Department of Public Works and Environmental Services~~ Land Development Services subsequent to the notice provisions contained in ~~Section Paragraph~~ 101-2-2(19) herein, or in the case of a specific request to waive the public street frontage requirement, after notice of the public hearings has been sent as provided below, that the waiver or variance of any minimum requirement will not adversely affect adequacy of provisions for those items set forth in Section 101-2-2; provided however, that lots in the R-A, R-P, R-C, or R-E Districts which were created on private streets shall be ineligible for a waiver of the requirement that all parcels shall front on dedicated recorded public streets for any subsequent divisions or redivisions under the Subdivision Ordinance. In the case of a specific request to waive the public street frontage requirement, the Board of Supervisors may grant such a waiver provided the private street which provides access to the application property has been constructed and recorded among the Fairfax County land records on or before June 28, 1993 and

provided further that such waiver is in conformance with the applicable recommendations of the Comprehensive Plan. A lot shall not be eligible for a waiver of public street frontage requirements unless:

1. The requirements of the Subdivision Ordinance pose an unusual hardship not generally shared by other landowners, and
2. The waiver will result in a lot or lots that will be harmonious with and will not adversely affect neighboring properties.

A waiver of public street frontage requirements shall allow no more than one additional lot to be created. The waiver shall be recorded in the land records and shall state that further division of the property by waiver of the public street frontage requirement is precluded.

A waiver of public street frontage requirements may be granted by the Board of Supervisors only following a public hearing before the Planning Commission and the Board of Supervisors and after comment by relevant public safety, land use, and transportation agencies. Notice of such public hearings shall consist of certified letters, return receipt requested, postmarked at least ten (10) working days prior to the Planning Commission public hearing, sent by the applicant to all owners of property abutting and immediately across the street from the parcel to be subdivided and which notice shall advise the recipient of the dates, times and location of the public hearings. Such notice shall also be sent by the applicant to all owners of property on the private street ("affected owners"), civic associations contiguous to affected owners and on file with ~~the Department of Public Works and Environmental Services~~ Land Development Services, and the appropriate district council as designated by the Department. The Planning Commission will provide its recommendation on the proposed waiver to the Board of Supervisors within 60 days of the public hearing before the Planning Commission unless that time limit is waived by the Board of Supervisors.

An application for a waiver or variance shall be deemed to be an acceptance by the applicant that the time period within which the submitted subdivision plat must be acted upon will be stayed until the decision on the pending application for waiver or variance has become final. When a request to vary or waive a requirement of the Subdivision Ordinance is submitted, except for requests to waive the public street frontage requirement, the recommendation of the Director shall not be made for thirty (30) days after notice of the application has been provided pursuant to Chapter 101, Section 101-2-2(19). Interested parties may file written comments which shall become part of the record and considered by the Director prior to his recommendation to the County Executive. The County Executive or the Board of Supervisors, as the case may be, may require, as a condition of any variance or waiver pursuant to this Section, dedication of right-of-way or construction of road improvements or an agreement to dedicate and/or construct such improvements as may now or in the future be reasonably required to assure the adequate provision of the requirements of this Section. Any person aggrieved by the County Executive's decision to grant or deny a variance or waiver pursuant to this Section may appeal such decision to the Board of Supervisors. Appeals of the County Executive's decision concerning any amendment to a previously granted variance or waiver shall relate to that amendment only, and shall not be brought with regard to any other decisions of the County Executive previously subject to appeal. All appeals shall be brought within ten (10) working days of the decision at

issue and shall be made by submitting a written statement of appeal to the County Executive and to the Clerk of the Board. All written statements of appeal shall include the following information: The name(s) and address(es) of the appellant(s); the date of the County Executive's decision; the date of the appeal; the interest of the appellant(s) in the action; and the statute, ordinance, standard or requirement which the appellant(s) believe has been violated by the County Executive.

Amend Article 2, Subdivision Application Procedure and Approval Process, Section 101-2-2, Minimum requirements, by revising paragraph (16) Soil Identification and Soil Report, subparagraph (G) to read as follows:

(G) The following note will be placed on the final subdivision plat where a soil report was required. "Engineering geology and/or soil reports have been reviewed and approved by the Director of ~~the Department of Public Works and Environmental Services~~ Land Development Services for the property described herein and are available for review at ~~the Department of Public Works and Environmental Services~~ Land Development Services. Site conditions are of such a nature that land slippage or foundation problem possibilities required the submittal of soil reports. A copy of said soil report is available at ~~the Department of Public Works and Environmental Services~~ Land Development Services."

Amend Article 2, Subdivision Application Procedure and Approval Process, Section 101-2-2, Minimum requirements, by revising paragraph (19) Variance or waiver (notice required) to read as follows:

(19) *Variance or waiver (notice required).*

(A) Any person who submits a request for a variance or waiver of the minimum requirements as set forth in this Section shall submit written proof of notification of all owners of property abutting and immediately across the street from the parcels to be subdivided. This notification must be to a minimum of five (5) property owners other than the owner of the parcel to be subdivided, one (1) civic association within the immediate area as approved by ~~the Department of Public Works and Environmental Services (DPWES)~~ Land Development Services (LDS) and to the appropriate district council as designated by ~~DPWES~~ LDS and will include adjacent property owners where there are fewer than five (5) property owners abutting and across the street. Notice shall be sent to the last known address of the owner(s) as shown in the current Real Estate Assessment files. All written notice shall be sent by certified mail, return receipt requested.

(B) The written notification required in Paragraph (A) shall include the tax map reference number, the street address of the parcel, the preliminary subdivision plat, final subdivision plat,

or construction plan name and County identification number and shall state that: (1) A request for a variance or waiver of the minimum requirements contained in Section 101-2-2 of the Subdivision Ordinance of Fairfax County has been submitted to ~~the Department of Public Works and Environmental Services~~ Land Development Services and the nature of the variance or waiver request (summarize the requested variance or waiver); (2) persons wishing to be notified of the approval of the variance or waiver should submit a written request to that effect to the County Office identified in the notice; (3) the address and telephone number of the County Office where a copy of the variance or waiver request may be reviewed; (4) the variance or waiver request is subject to approval after the expiration of thirty (30) days after the postmark date of the notice unless releases are executed by all property owners, the local civic association, and the district council required to be notified; and (5) if releases are executed by all property owners, the local civic association, and the district council required to be notified, the waiver or variance may be approved sooner than thirty (30) days after the postmark date of the notice.

(C) No waiver or variance shall be approved within thirty (30) days following the postmark date on the white receipts for the certified mailings unless releases are executed by all property owners, the local civic association, and the district council required to be notified. If releases are executed by all property owners, the local civic association, and the district council required to be notified, the waiver or variance may be approved sooner than thirty (30) days after the postmark date on the white receipts for the certified mailings. The original executed releases shall be submitted to the Director on a standard form available from the Director.

Amend Article 2, Subdivision Application Procedure and Approval Process, Section 101-2-

5, Final subdivision plat, by revising paragraph (c)(3) to read as follows:

(3) A boundary survey of the site, with a maximum permissible error of closure within the limit of one in 20,000, related to the Virginia Coordinate System of 1983 (VCS 83) North Zone. Two (2) adjacent corners or two points on every plan sheet shall be referenced to the VCS 83 with coordinate values shown in feet. If a conversion from meters to feet is necessary, the foot definition used for conversion is the U.S. Survey Foot of 1 ft. = 1200/3937 E+00 meters. Plats may be related to true north or meridian of record for properties located more than 1.24 miles (2.0 kilometers) from one or both of the two (2) nearest VCS 83 monuments, with distance measured along a straight line from each monument to the closest point on the property boundary. Plats for subdivisions creating no more than two (2) lots may be related to true north or meridian of record. Plats referenced to VCS 83 shall be annotated as follows: "The plat of the property shown hereon is referenced to the Virginia Coordinate System of 1983 as computed from a field run boundary and horizontal control survey that ties this boundary to the Fairfax County Survey Monument (insert number and name of monument and show combined grid and elevation factor) or NOAA/NGS Survey Monument (insert PID number and designation with the combined scale factor)." It is the surveyor's responsibility to ascertain the existence of VCS 83 control monuments to be utilized in their surveys. Assistance will be provided by the ~~Land Survey Branch, Construction Management Division, DPWES~~ County Surveyor, Department of Public Works and Environmental Services, to the extent of granting access to ~~their~~ County records on VCS 83 control data. If using a GPS Static, or Virtual Reference System for deriving

horizontal and/or vertical control, coordinates must be stated in VCS 83, North Zone, U.S. Survey Foot units, with NGVD 1929 vertical datum and so stated in the above format.

Amend Article 2, Subdivision Application Procedure and Approval Process, Section 101-2-

5, Final subdivision plat, by revising paragraph (d)(6) to read as follows:

(6) The subdivider or developer shall be entitled to periodic partial releases and final complete release of any bond, escrow, letter of credit, or other performance guarantee required in support of the obligation to construct the facilities covered by such performance guarantee. For purposes of partial and final complete releases, as provided for in *Virginia Code* §§ 15.2-851.1 and 15.2-2245 and the Public Facilities Manual, the designated administrative agency shall be ~~the Department of Public Works and Environmental Services~~ Land Development Services and all notices, requests and correspondence required under that statute shall be sent to the Director.

Amend Article 2, Subdivision Application Procedure and Approval Process, Section 101-2-

6, Condominium conversion and cooperative conversion documents, by revising paragraph

(b) to read as follows:

(b) *Notification to tenants.* The formal notice required to be given to tenants pursuant to Sections 55-79.94(B) and 55-487(A), Virginia Code, 1950, as amended, shall include a statement informing the tenants of the filing of the documents and information required by Sections 55-79.89, and 55-498, Virginia Code, 1950, as amended, with the Virginia Real Estate Commission and the Director of ~~the Department of Public Works and Environmental Services~~ Land Development Services and that said documents and information are available for inspection during normal business hours at such County offices as may be designated by the Director.

Amend Article 3, Pro Rata Road Reimbursement Districts, Section 101-3-5, Initiation of

Pro Rata Road Reimbursement Districts by revising it to read as follows:

Section 101-3-5. Initiation of Pro Rata Road Reimbursement Districts.

A Pro Rata Road Reimbursement District may be initiated pursuant to this Article either by motion of the Board of Supervisors or by the filing of a petition with the Director, Department of Transportation and a copy with the Director, ~~Department of Public Works and Environmental Services~~ Land Development Services by a subdivider or developer who has constructed substantial public road improvements under permits issued after July 1, 1988, which serve an area having related traffic needs. If initiated by motion of the Board, the initial subdivider or developer who would receive the pro rata road reimbursement payments should a district be adopted shall provide staff with the Submission Requirements contained in Section 101-3-7.

Amend Article 3, Pro Rata Road Reimbursement Districts, Section 101-3-8, Calculation of pro rata road reimbursement payments, by revising paragraph (i)(2) to read as follows:

(2) The required pro rata road reimbursement payments for all uses within the District shall be the sum of the adopted pro rata reimbursement rate, as adjusted above, multiplied by the number of vehicle trips per day estimated to be generated for each use based upon the ITE Trip Generation Manual, provided, however, that trip generation estimates which are lower than those set forth in the ITE Trip Generation Manual may be used if the Director of the Department of Transportation concludes that such lower trip generation rates more accurately reflect the traffic expected to be generated by a particular use. Any such request shall be submitted by the owner of the property which is the subject of a proposed subdivision or site plan at the time the subdivision plat/site plan is filed with ~~the Department of Public Works and Environmental Services~~ Land Development Services, with the original of the request being submitted to the Director of the Department of Transportation, and a copy being submitted to ~~the Department of Public Works and Environmental Services~~ Land Development Services with the subdivision plat/site plan. Any such request shall also include evidence that such owner has provided the initial subdivider or developer with a copy of the request, and has informed the initial subdivider or developer that responses to the request must be filed with the Director of the Department of Transportation and ~~the Department of Public Works and Environmental Services~~ Land Development Services within thirty (30) days of the filing of the request.

Amend Article 3, Pro Rata Road Reimbursement Districts, Section 101-3-9, Adoption of Pro Rata Road Reimbursement Districts, by revising paragraph (a) to read as follows:

(a) Upon receipt of a petition requesting the establishment of a Pro Rata Road Reimbursement District including all submission requirements, staff of the Department of Transportation will evaluate the request, assisted by staff of ~~the Department of Public Works and Environmental Services~~ Land Development Services, the Department of Planning and Zoning and such other staff as may be necessary.

Amend Article 3, Pro Rata Road Reimbursement Districts, Section 101-3-11, Payment of pro rata road reimbursements, by revising paragraph (g) to read as follows:

(g) In order to be entitled to continue to receive pro rata road reimbursement payments, the initial subdivider or developer must give written notice by certified mail to the Directors of ~~the Department of Public Works and Environmental Services~~ Land Development Services and the Department of Planning and Zoning of any change in his mailing or street addresses from the date of adoption of the District. If the initial subdivider or developer has designated an agent for the purposes of receiving pro rata road reimbursement payments and signing notarized

certifications pursuant to paragraph (b) above, then either the agent or the initial subdivider or developer must give such written notice of any change in the mailing or street addresses of the agent from the date of adoption of the District. Failure to give the written notice as required herein within thirty (30) days of such change may cause the initial subdivider or developer to forfeit pro rata road reimbursement payments collected or due after such change

Amend Article 5, Definitions, Section 101-4-1, Definitions, by revising paragraph (4) to read as follows:

(4) Director shall mean the Director of ~~the Department of Public Works and Environmental Services~~ Land Development Services or his agent.

This amendment shall become effective on July 12, 2017 at 12:01 a.m.

GIVEN under my hand this 11th day of July, 2017.

CATHERINE A. CHIANESE
Clerk to the Board of Supervisors