



## **Town Code**

### **Chapter 17 Subdivisions – Article 1 – In General**

#### **Sec. 17-3. - Planning commission to administer chapter; authority of planning commission generally.**

The planning commission is hereby delegated general authority to administer this chapter. The commission is charged with the responsibility of approving preliminary plats in accordance with the regulations contained in this chapter, and its members shall be appointed for terms of two years or to fill the unexpired term of a vacant seat on the commission. The commission shall likewise consider final plats and make recommendations for approval or disapproval to the council, which retains unto itself the authority for final approval of final plats, and shall exercise all other powers conferred upon it by the Code of Virginia and the Charter of the Town of Vienna. No agent of the Town shall have authority to waive or authorize any departure or waiver from the application of this chapter.

### **Chapter 17 - Article 2 – Preliminary Plat**

#### **Sec. 17-18. - Discussions about plat with planning commission, etc.; recommended changes.**

The subdivider shall discuss the preliminary plat with the planning commission or zoning administrator in order to determine whether or not his preliminary plat generally conforms to the requirements of this chapter and of the zoning regulations. The subdivider shall then be advised in writing, which may be by formal letter or by legible markings on a copy of one of the preliminary plats submitted, concerning any additional data that may be required.

#### **Sec. 17-20. - Time within which planning commission to act.**

The planning commission shall act on the preliminary plat within 60 days after filing unless such time is extended by agreement with the subdivider, during which period it shall receive a written report with recommendations from each official or agency enumerated in [section 17-19](#). If no action is taken by the commission within the 60 days after filing or such longer period as may have been agreed upon, the preliminary plat as filed shall be deemed approved and it shall be the duty of the commission to comply with [section 17-21](#).

#### **Sec. 17-21. - Notice of action taken by planning commission.**

The planning commission shall, as soon as possible, consider the reports and pass on the plat. It shall then set forth its recommendations in writing, whether of approval, modification or disapproval. In case of modification or disapproval, it shall give its reasons therefor to the subdivider who may revise the plat accordingly. Upon approval of the preliminary plat by the



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commission, the commission shall forthwith return one copy of the approved preliminary plat to the subdivider and the subdivider may proceed with the preparation of the final plat.

### **Sec. 17-22. - Effect of approval.**

The approval of the preliminary plat by the planning commission is revocable, does not constitute a guarantee of approval of the final plat and does not constitute final approval or acceptance of the subdivision by the council or authorization to proceed on construction of improvements within the subdivision.

## **Article 4 - Design Standards - Division 5 - Lots**

### **Sec. 17-60.1. - Lot shape factor.**

No lot shall be created to be irregularly shaped or extended so that it has a "lot shape factor" in excess of 25. Lot shape factor equals the square of the lot perimeter divided by the lot area.

Any proposed variance, modification or waiver from the lot shape factor requirement shall follow the procedures as set forth in [section 17-12](#) of the Vienna Town Code.

## **Chapter 18 - Article 7 - RS-10 Single Family Detached Residential Zone Regulations**

### **Sec. 18-33. - Area requirements.**

The following area requirements shall apply in the RS-16 zone:

- A. *Lot area.* Minimum lot area shall be 10,000 square feet.
- B. *Lot width.* All lots shall provide a minimum width of 45 feet at the street right-of-way line, 60 feet at the front building line, and 75 feet at the lot midline.
- C. *Front yard.* The building line shall not be less than 50 feet measured from the centerline of the street, when fronting upon a street of less than 50 feet in width; and not less than 25 feet measured from the street line fronting upon a street of 50 feet or more in width. In case of a through lot, the building line on any street or streets shall be determined in the aforesaid manner or as hereinafter required.
- D. *Side yard.* Side yards shall be a minimum of 12 feet in width. Buildings other than dwellings and their accessory buildings shall have a side yard on each side of the building of not less than 40 feet in width. A corner lot shall have a side yard along its street side at least 25 feet in width.
- E. *Rear yard.* Rear yards shall be the same as specified for RS-16 zone.
- F. *Lot coverage.* Lot coverage shall be the same as specified for RS-16 zone.

## **Article 5 - RS-16 Single Family Detached Residential Zone Regulations**

### **Sec. 18-15. - Area requirements.**



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The following area requirements shall apply in the RS-16 zone:

- A. *Lot area.* All lots other than in approved subdivisions shall have a minimum area of 16,000 square feet.
- B. *Lot width.* All lots shall provide a minimum width of 50 feet at the street right-of-way line, 65 feet at the front building line and 90 feet at the lot midline.
- C. *Front yard.* The building line shall not be less than 60 feet measured from the centerline of the street, when fronting upon a street of less than 50 feet in width and not less than 35 feet measured from the street line fronting upon a street of 50 feet or more in width. In case of a through lot, the building line on any street shall be determined in the aforesaid manner, or as hereinafter required.
- D. *Side yard.* Side yards shall be a minimum of 15 feet each in width. Buildings other than dwellings and their accessory buildings shall have a side yard on each side of the building of not less than 30 feet in width. A corner lot shall have a side yard along its street side at least 25 feet in width.
- E. *Rear yard.* The rear yard shall be a minimum of 35 feet in depth. Decks may encroach into a rear yard, provided that no deck may cause the reduction of any rear yard to less than 25 feet in depth.
- F. *Lot coverage.* Not more than 25 percent of a lot shall be covered by buildings, accessory buildings, automobile parking spaces and access, stoops, sport courts, tennis courts, patios and terraces.
- G. *Outdoor living coverage.* Not more than an additional 5 percent of a lot shall be covered by decks. Up to 400 square feet of decks may be covered and not count towards lot coverage with the following conditions:
  - a. Covered decks must be single-story and cannot be converted into conditioned, interior living space;
  - b. Covered decks cannot be located in the front yard; and
  - c. Covered decks must provide for stormwater BMPs in accordance with the Stormwater Manual for Outdoor Living Areas and meet all criteria included in said manual.

## Code of Virginia

### **§ 15.2-2258. Plat of proposed subdivision and site plans to be submitted for approval.**

Whenever the owner or proprietor of any tract of land located within any territory to which a subdivision ordinance applies desires to subdivide the tract, he shall submit a plat of the proposed subdivision to the planning commission of the locality, or an agent designated by the governing body thereof for such purpose. When any part of the land proposed for subdivision lies in a drainage district such fact shall be set forth on the plat of the proposed subdivision. When any part of the land proposed for subdivision lies in a mapped dam break inundation zone such fact shall be set forth on the plat of the proposed subdivision. When any grave, object or structure marking a place of burial is located on the land proposed for subdivision, such grave, object or structure shall be



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identified on any plans or site plans required by this article. When the land involved lies wholly or partly within an area subject to the joint control of more than one locality, the plat shall be submitted to the planning commission or other designated agent of the locality in which the tract of land is located. Site plans or plans of development required by subdivision A 8 of § 15.2-2286 shall also be subject to the provisions of §§ 15.2-2258 through 15.2-2261, mutatis mutandis.

### **§ 15.2-2259. Local planning commission to act on proposed plat.**

A. 1. Except as otherwise provided in subdivisions 2 and 3, the local planning commission or other agent shall act on any proposed plat within 60 days after it has been officially submitted for approval by either approving or disapproving the plat in writing, and giving with the latter specific reasons therefor. The Commission or agent shall thoroughly review the plat and shall make a good faith effort to identify all deficiencies, if any, with the initial submission. However, if approval of a feature or features of the plat by a state agency or public authority authorized by state law is necessary, the commission or agent shall forward the plat to the appropriate state agency or agencies for review within 10 business days of receipt of such plat. The state agency shall respond in accord with the requirements set forth in § 15.2-2222.1, which shall extend the time for action by the local planning commission or other agent, as set forth in subsection B. Specific reasons for disapproval shall be contained either in a separate document or on the plat itself. The reasons for disapproval shall identify deficiencies in the plat that cause the disapproval by reference to specific duly adopted ordinances, regulations, or policies and shall identify modifications or corrections as will permit approval of the plat. The local planning commission or other agent shall act on any proposed plat that it has previously disapproved within 45 days after the plat has been modified, corrected and resubmitted for approval.

2. The approval of plats, site plans, and plans of development solely involving parcels of commercial real estate by a local planning commission or other agent shall be governed by subdivision 3 and subsections B, C, and D. For the purposes of this section, the term "commercial" means all real property used for commercial or industrial uses.

3. The local planning commission or other agent shall act on any proposed plat, site plan or plan of development within 60 days after it has been officially submitted for approval by either approving or disapproving the plat in writing, and giving with the latter specific reasons therefor. The local planning commission or other agent shall not delay the official submission of any proposed plat, site plan, or plan of development by requiring presubmission conferences, meetings, or reviews. The Commission or agent shall thoroughly review the plat or plan and shall in good faith identify, to the greatest extent practicable, all deficiencies, if any, with the initial submission. However, if approval of a feature or features of the plat or plan by a state agency or public authority authorized by



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state law is necessary, the commission or agent shall forward the plat or plan to the appropriate state agency or agencies for review within 10 business days of receipt of such plat or plan. The state agency shall respond in accord with the requirements set forth in § 15.2-2222.1, which shall extend the time for action by the local planning commission or other agent, as set forth in subsection B. Specific reasons for disapproval shall be contained either in a separate document or on the plat or plan itself. The reasons for disapproval shall identify deficiencies in the plat or plan that caused the disapproval by reference to specific duly adopted ordinances, regulations, or policies and shall identify, to the greatest extent practicable, modifications or corrections that will permit approval of the plat or plan.

In the review of a resubmitted proposed plat, site plan or plan of development that has been previously disapproved, the local planning commission or other agent shall consider only deficiencies it had identified in its review of the initial submission of the plat or plan that have not been corrected in such resubmission and any deficiencies that arise as a result of the corrections made to address deficiencies identified in the initial submission. In the review of the resubmission of a plat or plan, the local planning commission or other agent shall identify all deficiencies with the proposed plat or plan that caused the disapproval by reference to specific duly adopted ordinances, regulations or policies and shall identify modifications or corrections that will permit approval of the plat or plan. Upon the second resubmission of such disapproved plat or plan, the local planning commission or other agent's review shall be limited solely to the previously identified deficiencies that caused its disapproval.

The local planning commission or other agent shall act on any proposed plat, site plan or plan of development that it has previously disapproved within 45 days after the plat or plan has been modified, corrected and resubmitted for approval. The failure of a local planning commission or other agent to approve or disapprove a resubmitted plat or plan within the time periods required by this section shall cause the plat or plan to be deemed approved.

Notwithstanding the approval or deemed approval of any proposed plat, site plan or plan of development, any deficiency in any proposed plat or plan, that if left uncorrected, would violate local, state or federal law, regulations, mandatory Department of Transportation engineering and safety requirements, and other mandatory engineering and safety requirements, shall not be considered, treated or deemed as having been approved by the local planning commission or other agent. Should any resubmission include a material revision of infrastructure or physical improvements from the earlier submission or if a material revision in the resubmission creates a new required review by the Virginia Department of Transportation or by a state agency or public authority authorized by state law, then the local planning commission or other agent's review shall not be limited to only the previously identified deficiencies identified in the prior



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submittals and may consider deficiencies initially appearing in the resubmission because of such material revision.

B. Any state agency or public authority authorized by state law making a review of a plat forwarded to it under this article, including, without limitation, the Virginia Department of Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.), shall complete its review within 45 days of receipt of the plat upon first submission and within 45 days for any proposed plat that has previously been disapproved, provided, however, that the time periods set forth in § 15.2-2222.1 shall apply to plats triggering the applicability of said section. The Virginia Department of Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.) shall allow use of public rights-of-way dedicated for public street purposes for placement of utilities by permit when practical and shall not unreasonably deny plat approval. If a state agency or public authority authorized by state law does not approve the plat, it shall comply with the requirements, and be subject to the restrictions, set forth in subsection A, with the exception of the time period therein specified. Upon receipt of the approvals from all state agencies and other agencies, the local agent shall act upon a plat within 35 days.

C. If the commission or other agent fails to approve or disapprove the plat within 60 days after it has been officially submitted for approval, or within 45 days after it has been officially resubmitted after a previous disapproval or within 35 days of receipt of any agency response pursuant to subsection B, the subdivider, after 10-days' written notice to the commission, or agent, may petition the circuit court for the locality in which the land involved, or the major part thereof, is located, to decide whether the plat should or should not be approved. The court shall give the petition priority on the civil docket, hear the matter expeditiously in accordance with the procedures prescribed in Article 2 (§ 8.01-644 et seq.) of Chapter 25 of Title 8.01 and make and enter an order with respect thereto as it deems proper, which may include directing approval of the plat.

D. If a commission or other agent disapproves a plat and the subdivider contends that the disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he may appeal to the circuit court having jurisdiction of such land and the court shall hear and determine the case as soon as may be, provided that his appeal is filed with the circuit court within 60 days of the written disapproval by the commission or other agent.