

## APPENDIX B

### LAND SUBDIVISION AND DEVELOPMENT\*

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**\*Note--**Printed herein is the land subdivision and development ordinance, as adopted by the council on June 15, 1995, and effective on July 1, 1995. Amendments to the ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of capitalization, citation to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

**Charter references--**Subdivisions, ch. 2, § 1(51), (56); town plan, ch. 3.

**Cross references--**Buildings and building regulations, ch. 14; environment, ch. 22; floods, ch. 30; zoning, app. A; planning, subdivision of land and zoning enabling legislation, app. A, § 2.121; subdivision, app. A, § 2.159.

**State law references--**Land subdivision and development, Code of Virginia, § 15.2-2240 et seq.; Virginia Public Records Act, Code of Virginia, § 42.1- 76 et seq.; Subdivided Land Sales Act of 1978, Code of Virginia, § 55-336 et seq.

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## APPENDIX B—LAND SUBDIVISION AND DEVELOPMENT

### INTRODUCTION

An ordinance to regulate the subdivision of property into lots, parcels, streets and other public areas, to provide for the making and recording of plats of such subdivisions and the certification of same and provide for approval of plats.

WHEREAS, in article 6 of the Virginia Planning Act, found in Code of Virginia, § 15.2-2240 et seq., as amended, the town council of Chincoteague, Virginia is authorized to adopt a subdivision ordinance to provide:

1. For plat details which shall meet the standard for plats as adopted under § 42.1-82 of the Virginia Public Records Act (Code of Virginia, § 42.1-76 et seq.).
2. For the coordination of streets within and contiguous to the subdivision with other existing or planned streets within the general area as to location, widths, grades and drainage, including, for ordinances and amendments thereto adopted on or after January 1, 1990, for the coordination of such streets with existing or planned streets in existing or future adjacent or contiguous to adjacent subdivisions.
3. For adequate provisions for drainage and flood control and other public purposes, and for light and air, and for identifying soil characteristics.
4. For the extent to which and the manner in which streets shall be graded, graveled or otherwise improved and water and storm and sanitary sewer and other public utilities or other community facilities are to be installed.
5. For the acceptance of dedication for public use of any right-of-way located within any subdivision or section thereof, which has constructed or proposed to be constructed within the subdivision or section thereof, any street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, water line as part of a public system or other improvement dedicated for public use, and maintained by the locality, the commonwealth, or other public agency, and for the provision of other site-related improvements required by local ordinances for vehicular ingress and egress, including traffic signalization and control, for public access streets, for structures necessary to ensure stability of critical slopes, and for stormwater management facilities, financed or to be financed in whole or in part by private funds only if the owner or developer (i) certifies to the governing body that the construction costs have been paid to the person constructing such facilities; (ii) furnishes to the governing body 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 governing body or its designated administrative agency, in an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned; or (iii) furnishes to the governing body a bank or savings institution's letter of credit on certain designated funds satisfactory to the governing body or its designated administrative agency as to the bank or savings institution, the amount and the form. The amount of such certified check, cash

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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 locality 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.

If a developer records a final plat which may be a section of a subdivision as shown on an approved preliminary plat and furnishes to the governing body 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 locality, the commonwealth, or other public agency, the developer shall have the right to record the remaining sections shown on the preliminary plat for a period of five years from the recordation date of the first section, or for such longer period as the local commission or other agent may, at the approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development, subject to the terms and conditions of this subsection and subject to engineering and construction standards and zoning requirements in effect at the time that each remaining section is recorded. In the event a governing body of a county, wherein the highway system is maintained by the department of transportation, has accepted the dedication of a road for public use and such road due to factors other than its quality of construction is not acceptable into the secondary system of state highways, then such governing body may, if so provided by its subdivision ordinance, require the subdivider or developer to furnish the county with a maintenance and indemnifying bond, with surety satisfactory to the governing body or its designated administrative agency, in an amount sufficient for and conditioned upon the maintenance of such road until such time as it is accepted into the secondary system of state highways. In lieu of such bond, the governing body or its designated administrative agency may accept a bank, or savings institution's letter of credit on certain designated funds satisfactory to the governing body or its designated administrative agency as to the bank or savings institution, the amount and the form, or accept payment of a negotiated sum of money sufficient for and conditioned upon the maintenance of such road until such time as it is accepted into the secondary system of state highways and assume the subdivider's or developer's liability for maintenance of such road. "Maintenance of such road," as used in this section, means maintenance of the streets, curb, gutter, drainage facilities, utilities or other street improvements, including the correction of defects or damages and the removal of snow, water or debris, so as to keep such road reasonably open for public usage.

6. For conveyance, in appropriate cases, of common or shared easements to franchised cable television operators furnishing cable television and public service corporations furnishing cable television, gas, telephone and electric service to the proposed subdivision. Such easements, the location of which shall be adequate for use by public service corporations and franchised cable television operators which may be expected to occupy them, may be conveyed by reference on the final plat to a declaration of the terms and conditions of such common easements and recorded in the land records of the county or city.

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7. For monuments of specific types to be installed establishing street and property lines.
8. That unless a plat is filed for recordation within six months after final approval thereof or such longer period as may be approved by the governing body, such approval shall be withdrawn and the plat marked void and returned to the approving official; however, in any case where construction of facilities to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the governing body or its designated administrative agency, or where the developer has furnished surety to the governing body or its designated administrative agency by certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of such facilities, the time for plat recordation shall be extended to one year after final approval or to the time limit specified in the surety agreement approved by the governing body or its designated administrative agency, whichever is greater.
9. For the administration and enforcement of such ordinance, not inconsistent with provisions contained in this chapter [appendix], and specifically for the imposition of reasonable fees and charges for the review of plats and plans, and for the inspection of facilities required by any such ordinance to be installed; such fees and charges shall in no instance exceed an amount commensurate with the services rendered taking into consideration the time, skill and administrator's expense involved. All such charges heretofore made are hereby validated.
10. For payment by a subdivider or developer of land of the pro rata share of the cost of providing reasonable and necessary sewerage, water, and drainage facilities, located outside the property limits of the land owned or controlled by the subdivider or developer but necessitated or required, at least in part, by the construction or improvement of the subdivision or development; however, no such payment shall be required until such time as the governing body or a designated department or agency thereof has established a general sewer, water, and drainage improvement program for an area having related and common sewer, water, and drainage conditions and within which the land owned or controlled by the subdivider or developer is located or the governing body has committed itself by ordinance to the establishment of such a program. Such regulations or ordinance shall set forth and establish reasonable standards to determine the proportionate share of total estimated cost of ultimate sewerage, water, and drainage facilities required to adequately serve a related and common area, when and if fully developed in accord with the adopted comprehensive plan, that shall be borne by each subdivider or developer within the area. Such share shall be limited to the proportion of such total estimated cost which the increased sewage flow, water flow, and/or increased volume and velocity of stormwater runoff to be actually caused by the subdivision or development bears to total estimated volume and velocity of such sewage, water, and/or runoff from such area in its fully developed state. In calculating the volume and velocity of stormwater runoff, the governing body 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 therefor.

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Each such payment received shall be expended only for necessary engineering and related studies and the construction of those facilities identified in the established sewer, water, and drainage program; however, in lieu of such payment the governing body may provide for the posting of a personal, corporate or property bond, cash escrow or other method of performance guarantee satisfactory to it conditioned on payment at commencement of such studies or 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 bonds, payments, cash escrows or other performance guarantees hereunder 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 bond, payment, cash escrow or other performance guarantee.

11. (a) For reasonable provisions permitting a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner, subject only to any express requirement contained in the Code of Virginia and to any requirement imposed by the local governing body that all lots of less than five acres have reasonable right-of-way of not less than ten feet or more than 20 feet providing ingress and egress to a dedicated recorded public street or thoroughfare. Only one such division shall be allowed per family member, and shall not be for the purpose of circumventing this subsection. For the purpose of this provision, a member of the immediate family is defined as any person who is a natural or legally defined offspring, spouse, sibling, grandchild, grandparent, or parent of the owner. In addition, any such locality may include aunts, uncles, nieces and nephews in its definition of immediate family.
- (b) Notwithstanding provision (A) of this subsection, in a county having the urban county executive form of government, for reasonable provisions permitting a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner, subject only to any express requirement contained in the Code of Virginia and to any requirement imposed by the local governing body that all lots of less than five acres have frontage of not less than ten feet or more than 20 feet on a dedicated recorded public street or thoroughfare. Only one such division shall be allowed per family member, and the division shall not be for the purpose of circumventing a local subdivision ordinance. For the purpose of this provision, a member of the immediate family is defined as any person who is a natural or legally defined offspring or parent of the owner.
- (c) Notwithstanding provisions (A) and (B) of this subsection, reasonable provisions permitting divisions of lots or parcels for the purpose of sale or gift to a member of the immediate family of the property owner in (i) any county or city which has had population growth of ten percent or more from the next-to-latest to latest decennial census year, based on population reported by the United States Bureau of the Census; (ii) any city or county adjoining such city or county; (iii) any towns located within such county; and (iv) any county contiguous with at least three such counties, and any town

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located in that county. Such divisions shall be subject to all requirements of the Code of Virginia and to any requirements imposed by the local governing body.

12. (a) For the periodic partial and final complete release of any bond, escrow, letter of credit, or other performance guarantee required by the governing body under this article [introduction] 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 hereunder unless the governing body or its designated administrative agency notifies the subdivider or developer in writing of nonreceipt of approval by an applicable state agency, or of any specified defects or deficiencies in construction and suggested corrective measures prior to the expiration of the 30-day period.

If no such action is taken by the governing body or administrative agency within the time specified above, the request shall be deemed approved, and a partial release granted to the subdivider or developer. No final release shall be granted until after expiration of such 30-day period and there is an additional request in writing sent by certified mail return receipt to the chief administrative officer of such governing body. The governing body or its designated administrative agency shall act within ten working days of receipt of the request; then if no action is taken the request shall be deemed approved and final release granted to the subdivider or developer.

After receipt of the written notices required above, if the governing body or administrative agency takes no action within the times specified above and the subdivider or developer files suit in the local circuit court to obtain partial or final release of a bond, escrow, letter of credit, or other performance guarantee, as the case may be, the circuit court, upon finding the governing body or its administrative agency was without good cause in failing to act, shall award such subdivider or developer his reasonable costs and attorneys' fees.

No governing body or administrative agency shall 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 the facilities covered by said bond, escrow, letter of credit or other performance guarantee.

Upon written request by the subdivider or developer, the governing body or its designated administrative agency shall be required to 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 bond, escrow, letter of credit, or other performance guarantee was taken, and may make partial releases to such lower amounts as may be authorized by the governing body or its designated administrative agency based upon the percentage of facilities completed and approved by the governing body, local administrative agency, or state agency having jurisdiction. Periodic partial releases may not occur before the completion of at least 30 percent of the facilities covered by any bond, escrow, letter of credit, or other performance guarantee. The governing body or administrative agency shall not

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be required to execute more than three periodic partial releases in any 12-month period. Upon final completion and acceptance of the facilities, the governing body or administrative agency 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 state agency, local government department or agency, or other public authority which is responsible for maintaining and operating such facility upon acceptance.

For the purposes of this subsection, a certificate of partial or final completion of such facilities from either a duly licensed professional engineer or land surveyor, as defined in and limited to Code of Virginia, § 54.1-400, or from a department or agency designated by the locality may be accepted without requiring further inspection of such facilities.

- (b) A subdivision ordinance may include:
- (1) Provisions for variations in or exceptions to the general regulations of the subdivision ordinance in cases of unusual situations or when strict adherence to the general regulations would result in substantial injustice or hardship.
  - (2) A requirement for the furnishing of a preliminary opinion from the applicable health official regarding the suitability of a subdivision for installation of subsurface sewage disposal systems where such method of sewage disposal is to be utilized in the development of a subdivision.
  - (3) A requirement that, in the event streets in a subdivision will not be constructed to meet the standards necessary for inclusion in the secondary system of state highways or for state street maintenance moneys paid to municipalities, the subdivision plat and all approved deeds of subdivision, or similar instruments, must contain a statement advising that the streets in the subdivision do not meet state standards and will not be maintained by the department of transportation or the localities enacting the ordinances. Grantors of any subdivision lots to which such statement applies must include the statement on each deed of conveyance thereof. However, localities in their ordinances may establish minimum standards for construction of streets that will not be built to state standards.

For streets constructed or to be constructed, as provided for in this provision, a subdivision ordinance may require that the same procedure be followed as that set forth in Code of Virginia, § 15.2-2241(5). Further, the subdivision ordinance may provide that the developer's financial commitment shall continue until such time as the local government releases such financial commitment in accordance with Code of Virginia, § 15.2-2241(11).

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- (4) Reasonable provision for the voluntary funding of off-site road improvements and reimbursements of advances by the governing body. If a subdivider or developer makes an advance of payments for or construction of reasonable and necessary road improvements located outside the property limits of the land owned or controlled by him, the need for which is substantially generated and reasonably required by the construction or improvement of his subdivision or development, and such advance is accepted, the governing body may agree to reimburse the subdivider or developer from such funds as the governing body may make available for such purpose from time to time for the cost of such advance together with interest, which shall be excludable from gross income for federal income tax purposes, at a rate equal to the rate of interest on bonds most recently issued by the governing body on the following terms and conditions:
  - a. The governing body shall determine or confirm that the road improvements were substantially generated and reasonably required by the construction or improvement of the subdivision or development and shall determine or confirm the cost thereof, on the basis of a study or studies conducted by qualified traffic engineers and approved and accepted by the subdivider or developer.
  - b. The governing body shall prepare, or cause to be prepared, a report accepted and approved by the subdivider or developer, indicating the governmental services required to be furnished to the subdivision or development and an estimate of the annual cost thereof for the period during which the reimbursement is to be made to the subdivider or developer.
  - c. The governing body may make annual reimbursements to the subdivider or developer from funds made available for such purpose from time to time, including but not limited to real estate taxes assessed and collected against the land and improvements on the property included in the subdivision or development in amounts equal to the amount by which such real estate taxes exceed the annual cost of providing reasonable and necessary governmental services to such subdivision or development.
- (5) In a county having the urban county executive form of government, in any city located within or adjacent thereto, or any county adjacent thereto or a town located within such county, in any county with a population between 57,000 and 57,450, or in any county with a population between 60,000 and 63,000, and in any city with a population between 140,000 and 160,000, provisions for payment by a subdivider or developer of land of a pro rata share of the cost of reasonable and necessary road improvements, located outside the property limits of the land owned or controlled by him but serving an area having related traffic needs to which his subdivision or development will contribute, to reimburse an initial subdivider or developer who has advanced such costs or

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constructed such road improvements. Such ordinance may apply to road improvements constructed after July 1, 1988, in a county having the urban county executive form of government; in a city located within or adjacent to a county having the urban county executive form of government, or in a county adjacent to a county having the urban county executive form of government or town located within such county and in any county with a population between 57,000 and 57,450, or in any county with a population between 60,000 and 63,000, such ordinance may only apply to road improvements constructed after the effective date of such ordinance.

Such provisions shall provide for the adoption of a pro rata reimbursement plan which shall include reasonable standards to identify the area having related traffic needs, to determine the total estimated or actual cost of road improvements required to adequately serve the area when fully developed in accordance with the comprehensive plan or as required by proffered conditions, and to determine the proportionate share of such costs to be reimbursed by each subsequent subdivider or developer within the area, with interest (i) at the legal rate or (ii) at an inflation rate prescribed by a generally accepted index of road construction costs, whichever is less.

For any subdivision ordinance adopted pursuant to provision (5) of this subsection after February 1, 1993, no such payment shall be assessed or imposed upon a subsequent developer or subdivider if (i) prior to the adoption of a pro rata reimbursement plan the subsequent subdivider or developer has proffered conditions pursuant to Code of Virginia, § 15.2-2303 for off-site road improvements and such proffered conditions have been accepted by the locality, (ii) the locality has assessed or imposed an impact fee on the subsequent development or subdivision pursuant to Code of Virginia, § 15.2-2317 et seq., or (iii) the subsequent subdivider or developer has received final site plan, subdivision plan, or plan of development approval from the locality prior to the adoption of a pro rata reimbursement plan for the area having related traffic needs.

The amount of the costs to be reimbursed by a subsequent developer or subdivider shall be determined before or at the time the site plan or subdivision is approved. The ordinance shall specify that such costs are to be collected at the time of the issuance of a temporary or final certificate of occupancy or functional use and occupancy within the development, whichever shall come first. The ordinance also may provide that the required reimbursement may be paid (i) in lump sum, (ii) by agreement of the parties on installment at a reasonable rate of interest or rate of inflation, whichever is less, for a fixed number of years, or (iii) on such terms as otherwise agreed to by the initial and subsequent subdividers and developers.

Such ordinance provisions may provide that no certificate of occupancy shall

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be issued to a subsequent developer or subdivider until (i) the initial developer certifies to the locality that the subsequent developer has made the required reimbursement directly to him as provided above or (ii) the subsequent developer has deposited the reimbursement amount with the locality for transfer forthwith to the initial developer.

(6) Provisions for establishing and maintaining access to solar energy to encourage the use of solar heating and cooling devices in new subdivisions. The provisions shall be applicable to a new subdivision only when so requested by the subdivider.

(c) Site plans or plans of development which are required to be submitted and approved in accordance with Code of Virginia, § 15.2-2286(8) shall be subject to the provisions of Code of Virginia, §§ 15.2-2241-15.2-2245, *mutatis mutandis*.

**State law reference--**Similar provisions, Code of Virginia, §§ 15.2-2241-15.2-2246.

And whereas such subdivision may contain reasonable provisions that apply to or provide: [sic]

Now therefore be ordained as follows:

### **Section 1. Title and purpose.**

1.01. *Title.* This ordinance shall be known and may be cited as the "Land Subdivision and Development Ordinance of the Town of Chincoteague, Virginia."

1.02. *Purpose.* The purpose of this ordinance is to establish standards and procedures for the orderly subdivision of land and its development within the Town of Chincoteague, as part of a comprehensive and long-range plan to facilitate the orderly economic growth of the community, and to promote the public health, safety, convenience, comfort, prosperity and general welfare.

### **Section 2. Definitions.**

2.01. *General provisions.* For the purpose of this ordinance, terms or words used herein shall have the following meanings:

- (a) The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
- (b) The present tense includes the future tense.
- (c) The singular numbers include the plural; the plural number includes the singular.
- (d) The word "shall" is mandatory; the word "may" is discretionary.
- (e) Any reference to "this ordinance" includes all amendments thereto.

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2.02. *Definitions.* For the purpose of this ordinance the following definitions shall apply:

*Agent.* The designated representative of the governing body who has been appointed to serve as the agent of the council in approving plats to act hereunder. The zoning administrator shall be designated as the minor subdivision agent. The planning commission shall be designated as the major subdivision agent.

*Board of zoning appeals.* The board of zoning appeals of the Town of Chincoteague.

*Building.* Any structure having a roof supported by columns or walls, for the housing or enclosure of persons, animals or chattels.

*Campgrounds and travel trailer parks.* Campgrounds and travel trailer parks where sites are rented or leased shall not be required to comply with this ordinance.

*Chincoteague.* The incorporated Town of Chincoteague, Virginia.

*Clerk of the court.* The clerk of the circuit court of Accomack County, Virginia.

*Community sewer system.* A central sewer system, privately operated, designed to serve two or more dwellings, lots or structures; as opposed to a public system established under the rules and regulations of the State of Virginia state [sic] and operated by [a] municipality or other public entity.

*Comprehensive plan.* The comprehensive plan of the Town of Chincoteague.

*Cul-de-sac.* A short street having one end open to traffic and having the other end terminated by a vehicle turnaround space.

*Developer.* Any owner of real estate intending to have such property subdivided, or his duly authorized agent.

*Easement.* A grant by a property owner to another person or a public entity the use of land for a specific purpose, which grant does not convey fee simple title.

*Engineer.* A professional engineer licensed by the Commonwealth of Virginia.

*Governing body.* The town council, Chincoteague, Virginia.

*Health officer.* The health director or a designated representative for Accomack County, Virginia.

*Highway engineer.* The director of public works for the Town of Chincoteague.

*Improvements.* Physical additions, installations and changes such as roads, curbs, sidewalks, drainways, water mains, sewers, and septic systems, public utilities and other items customarily

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associated with making land suitable for the use proposed.

*Jurisdiction.* The area or territory subject to legislative control of the governing body.

*Lot.* A numbered and recorded portion of a subdivision intended for transfer of ownership, lease, rental, building development or any other purpose, and such definition shall not include any land within the limits of a public or private right-of-way.

*Lot, corner.* A lot abutting upon two or more streets at their intersection. The shortest side fronting upon a street shall be considered the front of the lot and the longest side fronting upon a street shall be considered the side of the lot.

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

*Lot, double frontage.* An interior lot having frontage of two streets.

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

*Lot of record.* A lot which has been recorded among the land records in the office of the clerk of the circuit court of Accomack County, Virginia prior to enactment of this ordinance.

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

*Open space.* An area designated, developed or set aside for recreational or agricultural use, and not including space devoted to roads or parking.

*Parcel.* A contiguous area of land in single ownership and described within a single deed. The term "parcel" includes the words "lot," "tract," and "plot."

*Performance bond.* A bond with approved surety and/or cash deposit, approved by the governing body in an amount equal to the full cost of improvements to be dedicated to public use or which will affect the public health, safety and welfare; such as drainage facilities, soil erosion and sedimentation [control] measures, and utilities, as may be required by the ordinance and providing for completion of such improvements within a definite term.

*Planning commission.* The planning commission of the Town of Chincoteague acting as major subdivision agent for the town council.

*Plat.* A map or plan of a tract or parcel of land which is to be or which has been subdivided. When used as a verb "plat" is synonymous with "subdivide."

*Property.* Any parcel or contiguous parcels collected together for the purpose of subdividing.

*Remnants or outlot.* Any parcel or portion thereof other than specified for open space, parkland, drainfield lots or other designated area approved by the subdivision agent which are below the

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minimum lot size as required by the zoning ordinance.

*Right-of-way.* A strip of land dedicated or reserved for a road, crosswalk, sanitary or storm sewer, water main, drainage facility, public utility or other special use. The term "right-of-way" for land platting purposes under this ordinance shall mean that every right-of-way hereafter established and shown on a plat is to be separate and distinct from lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels.

*Road.* Any public or private way set aside as a permanent right-of-way for motor vehicle travel and affording the principal means to abutting properties. For the purpose of this ordinance, the word "road" shall include the words "streets," "highway," "land," "avenue," "boulevard," "alley," "lane" and "drive."

*Road, collector.* A heavily traveled road that carries a large volume of through traffic or anticipated traffic as well as affording access to abutting properties.

*Road, local.* A lightly traveled road which is used primarily as a means of public access to abutting properties, and which may carry a small amount of through traffic.

*Road, private.* A road owned by one or more persons, restricted in use and not maintained by the Town of Chincoteague, the Virginia Department of Highways [Transportation] or one not intended for acceptance into the state highway system.

*Road, public.* A road maintained by the Town of Chincoteague, the Virginia Department of Highways [Transportation] or one intended for acceptance into the state highway system and approved by the roads engineer as meeting Virginia Department of Highway [Transportation] specifications.

*Road right-of-way width.* The total width of the strip of land dedicated or reserved for travel including roadway, curb, gutters, drainage ditches, sidewalks, medians and planting strips.

*Roads engineer.* The public works director for the Town of Chincoteague.

*School board.* The school board of Accomack County, Virginia.

*Sediment basins, debris basins.* A temporary or permanent earth-fill-type dam or barrier downstream from a development area which serves to regulate runoff and trap sediment.

*Sedimentation.* The action or process of depositing material caused by water or wind.

*Setback lines.* Lines which describe the front, rear and side yard and shoreline building setbacks required for the subject land by the Town of Chincoteague zoning ordinance.

*Subdivide.* The process of dividing land to establish a subdivision.

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*Subdivider.* An individual, corporation, proprietor, trust, trustee, joint venture, partnership, or other unincorporated association, owning any tract, lot, or parcel of land to be subdivided, who have [has] given their power of attorney to one of their group or to another individual or entity to act on their behalf in planning, negotiating for, in representing or executing the legal requirements of the subdivision.

*Subdivision.* See section 13.

*Surveyor.* A professional surveyor licensed by the Commonwealth of Virginia.

*Zoning administrator.* The zoning administrator of the Town of Chincoteague, acting as minor subdivision agent for the town council.

*Zoning ordinance.* The zoning ordinance of the Town of Chincoteague.

### **Section 3. Conformance required.**

3.01. It shall hereafter be unlawful to subdivide any land within the subdivision jurisdiction of the Town of Chincoteague, except in conformance with the standards and procedures of this ordinance. Specifically, any owner or developer of any parcel of land who subdivides the same shall cause a proper plat of such subdivision to be made and recorded in the office of the clerk of the court. No such plat of subdivision shall be recorded unless and until it shall have been submitted, approved and certified in accordance with the regulations set forth in this ordinance. No lot shall be sold or transferred in any such subdivision before a plat of the subdivision shall have been recorded. Furthermore, no subdivision plat shall be exhibited in promoting the sale of such subdivision lots until said plat has been recorded.

The clerk of the court, in accordance with Code of Virginia, § 15.2-2254(5), shall not file or record a plat of a subdivision until such plat has been approved as required herein.

### **Section 4. Interpretation and application of standards.**

4.01. In their interpretation and application, the standards of this ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety and general welfare. Whenever these standards are at variance with the standards of any other lawfully adopted laws, rules, regulations or ordinances, the most restrictive or that imposing the higher standard shall govern.

### **Section 5. Private contracts.**

5.01. This ordinance bears no relation to any private easement, deed restriction, covenants, agreement or other contract, except those to which the town council are a party, and the town has no responsibility for enforcing such private contracts except those to which it is a party.

### **Section 6. [Fees and charges.]**

6.01. The town council shall establish a schedule of fees and charges to examine and approve

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or disapprove every plan or plat reviewed under this ordinance. Such schedule of fees and charges shall be posted in the office of the zoning administrator and may be amended only by action of the town council upon the recommendation of the planning commission. All applicable fees and charges shall be paid at the time the plan or plat is submitted. No plan or plat shall be considered complete, and no action shall be taken on any plan or plat until all applicable fees and charges have been paid.

### **Section 7. Municipal liability.**

7.01. The approval of a subdivision plat shall not be interpreted as a guarantee by the Town of Chincoteague of the suitability of any parcel or lot within the subdivision for development or use, freedom of such lot from flood hazard, or any other dangers, hazards, inconveniences or expenses related thereto.

### **Section 8. Territory affected.**

8.01. This ordinance shall apply to all lands, wetlands, and water areas within the Town of Chincoteague.

### **Section 9. Administration and enforcement.**

9.01. *Administration.* This ordinance shall be administered and enforced by the zoning administrator. The zoning administrator may develop such forms, administrative procedures and files and may delegate such duties and responsibilities in connection with the administration and enforcement of this ordinance as are appropriate, in his judgment.

In the performance of his duties, the zoning administrator may request the comments and recommendations, either verbal or written, from town, county, and state departments.

9.02. *Other officials shall comply.* All Town of Chincoteague officials and departments that are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this ordinance and shall not issue any permit or license for any use, building or purpose if such use, building or purpose is in conflict with the provisions of this ordinance. Any permit or license issued in conflict with the provisions of this ordinance shall be null and void.

9.03. *Violations.* If the zoning administrator shall find that any of the provisions of this ordinance are being violated, he shall notify by certified mail the person responsible for such violation and the chairman of the planning commission and the mayor of Chincoteague, indicating the nature of the violation and ordering the violation corrected within a reasonable period of time as determined by the zoning administrator. If at the conclusion of such reasonable period, the violation has not, in his judgment, been satisfactorily corrected, then the zoning administrator shall consult with the commonwealth's attorney and, with the attorney's assistance, may seek a court order or injunction to bring about correction of the violation, and he may take any other action authorized by law to insure compliance with or prevent future violations of the provisions of this ordinance. The zoning administrator, or his agent, shall have the right to enter all private property, after proper notification has been given to the property owner, during normal business hours, as may be reasonably necessary for the purpose of administering and enforcing this ordinance.

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9.04. *Penalties.* Any person who subdivides a parcel of land, except in accordance with the provisions of this ordinance, or who otherwise violates any of the provisions of this ordinance, shall be guilty of a misdemeanor, punishable by a fine of not more than \$500.00 per day for each lot or parcel so subdivided, transferred, sold or offered for sale in violation of this ordinance. The description of such lots or parcels by metes and bounds or other means 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.

Any conveyance of a lot or parcel of land in violation of the provisions of these regulations shall be voidable at the option of the purchaser.

The governing body or its agent, in addition to other remedies, may institute any appropriate action or proceeding at law or in equity, to prevent violation or attempted violation; to restrain, correct, or abate such violation; or to prevent any act which would constitute such violation.

**Cross reference--**Administration, ch. 2.

### **Section 10. Variance.**

10.01. Where the developer can show that a provision of these standards would cause unnecessary hardship if strictly adhered to, and where, because of topographical or other conditions peculiar to the site, in the opinion of the board of zoning appeals, a departure from the provisions of this ordinance may be made without being inconsistent with the intent of such provisions, the board of zoning appeals may authorize a variance. Any variance thus authorized shall be stated in writing in the authority's report and shall be granted justification for granting such a variance. No such variance shall be granted under this ordinance, which is opposed in writing by the Virginia Department of Transportation Engineer, Chincoteague Public Works Director, health officer, zoning administrator or building inspector, except as provided for in section 11.

### **Section 11. Appeals.**

11.01. *Appeals from the zoning administrator.* Any individual who believes he has been aggrieved by a decision of the zoning administrator may appeal such decision to the planning commission by submitting a written statement to the planning commission setting forth the particulars of the matter. The planning commission shall investigate the matter and may interview the plaintiff, the zoning administrator and others. By a majority vote, the planning commission shall either affirm, modify or overturn the decision of the zoning administrator.

11.02. *Appeals from the planning commission.* Any individual who believes he has been aggrieved by a decision of the planning commission may appeal such decision to the town council by submitting a written statement to the town council setting forth the particulars of the matter. The town council shall investigate the matter and may interview the plaintiff, the planning commission and others. By a majority vote, the town council shall either affirm, modify or overturn the decision of the planning commission.

11.03. *Appeals from the town council.* Any individual who believes he has been aggrieved by a decision of the town council may appeal such decision to the circuit court of Accomack County,

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Virginia in the manner prescribed by state law.

### **Section 12. Amendments.**

12.01. Any individual or government agency may propose an amendment to this ordinance by addressing such proposal in writing to either the town council or the planning commission, and forwarding it to the office of the zoning administrator. The planning commission on its own initiative may, or at the request of the governing body shall, prepare and recommend a draft amendment.

All proposed amendments shall be referred to the planning commission for its review. The planning commission may undertake studies and may hold a public hearing as part of its review. At the conclusion of its review, the planning commission shall formulate and forward to the town council a written recommendation concerning the proposed amendment. If the amendment was referred to the planning commission by the town council, the planning commission shall submit its recommendation to the town council not later than 60 days from the date of such referral.

The town council shall not act on any proposed amendment to the ordinance without first receiving the planning commission's recommendation or until the 60-day referral period has expired and without first conducting a public hearing. Notice of such public hearing shall be in compliance with Code of Virginia, § 15.2-2204, as amended.

### **Section 13. Subdivision defined.**

13.01. The division of a parcel of land and the establishment of any condominium regime, into four or more lots or parcels less than three acres each for the purpose of transfer of ownership or building development, or if a new street or road is involved in such division, any division of a parcel of land. The term includes resubdivision and when appropriate to the context shall relate to the process of subdividing or to the land subdivided; except that the following division of land shall not be deemed a subdivision:

- (a) The sale and exchange of parcels between adjoining landowners where such separation does not create additional building sites.
- (b) The release of a portion of the security of any mortgage or deed of trust, provided that any sale of property presented to any mortgage or deed of trust which would otherwise constitute a subdivision of land shall be subject to the provisions of this ordinance.
- (c) The division of any parcel occasioned by an exercise of eminent domain by any public agency.
- (d) The division of land made solely for bona fide agricultural or natural resource conservation purposes.
- (e) The division of land for sale or gift to a member of the owner's immediate family.

13.02. *Major subdivision defined.* A "major subdivision" is a subdivision as defined in subsection

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13.01 above which complies with the following:

- (a) Creates 11 or more lots from a parcel or parcels of land.

13.03. *Minor subdivision defined.* A "minor subdivision" is a subdivision as defined in subsection 13.01 above, which does not meet any of the conditions of a major subdivision as defined in subsection 13.02 above.

### **Section 14. Major subdivision.**

14.01. *Purpose.* The purpose of the major subdivision review process is to ensure that larger scale developments are fully reviewed by the planning commission for compliance with the provisions of this ordinance and other applicable county and state regulations.

14.02. *Procedure for review of a subdivision.*

- (a) Submittal of sketch plan (optional), zoning administrator review.
- (b) Submittal of preliminary (mandatory), zoning administrator approval.
- (c) Submittal of final (mandatory), planning commission approval.

Before the preparation of a subdivision plat or plan, a subdivider shall confer with the zoning administrator for the town council, relative to the regulations contained in this ordinance, the comprehensive plan, the zoning ordinance, and other applicable ordinances. The purpose of such a conference is to assure that the applicant is made fully aware of all the requirements and interpretations of the existing ordinance, plus any amendments which are pending at the time of the plan or plat preparation. A sketch plan for discussion purposes may be submitted at the conference and shall be optional at the developer's discretion and shall not be a prerequisite for any final approvals.

14.03. *Procedures for review of the preliminary plat.* The purpose of the preliminary plat is to provide for the formal review of the developer's detailed and engineered subdivision plans, by the zoning administrator, to determine what changes must be made prior to the submission of a final plat. Submission of preliminary plat is mandatory and is a prerequisite for approval of the final plat by the planning commission. The following procedure shall be used to review a preliminary plat:

- (a) The developer shall prepare an application on forms (addendum 3) available from the zoning administrator and shall prepare the preliminary plat and applicable supporting documents in accordance with the provisions of subsection 14.05 and section 16 hereof. The preliminary plat and plans shall be prepared and signed by a qualified surveyor or engineer as defined herein.
- (b) The developer shall submit four paper copies of the plat and supporting documents and three copies of the application along with the appropriate fees to the zoning administrator. (Please refer to addendum 2.) The zoning administrator may request additional copies of the

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submission.

- (c) The zoning administrator shall check the submission for compliance with the requirements of this ordinance and other applicable ordinances. If deficiencies are found, the zoning administrator shall return the submission to the developer with notations of the additions or corrections needed.
- (d) Upon receipt of a complete submission, the zoning administrator shall distribute copies of the submission to the following agencies and officials who shall review the submission and forward their comments to the zoning administrator within 21 days:
  - 1. Highway engineer.
  - 2. Sanitarian, Eastern Shore Health District.
  - 3. Each utility company which would be responsible for providing utility service to the subdivision.
  - 4. Such other agencies as the zoning administrator believes appropriate, either for comment or information purposes.
  - 5. All abutting property owners shall be notified.
- (e) Upon the compliance with 14.03(D), the zoning administrator shall review the submission for compliance with comments received and return the preliminary submission to the applicant with a written statement referring to its approval or disapproval, with reason for disapproval within eight days of the time specified in subsection 14.03(D).
- (f) Upon an approval by the zoning administrator, the zoning administrator shall indicate to the applicant a date and time for review and action on the final plan or plat by the planning commission.

14.04. *Approval of the preliminary plat.* Subdividers shall have not more than 12 months after receiving official notification of approval to file with the zoning administrator a final subdivision plat in accordance with this ordinance. Failure to do so shall render preliminary approval null and void. The town council may, on written request by the subdivider, grant a one-year extension of this time limit.

14.05. *Information and drafting standards required for the preliminary plat.*

- (a) *Drafting standards.* The plat shall be drawn on one or more numbered sheets at a scale of 100 feet to the inch or less. Where conditions warrant, as determined by the zoning administrator, preliminary plats at 1" = 200' may be accepted. All drafting and lettering shall be clear and neat and drawn so as to be legible if the sheets should be reduced to half size. The plat shall clearly indicate which features are existing and which are proposed. The perimeter boundary line of the subdivision shall be shown as a heavy solid line. When more than one sheet is used, each sheet shall be numbered and shall show its relationship to the

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total number of sheets.

- (b) *Surveying accuracy.* Distances shall be expressed in feet or meters and decimal parts thereof, and bearings shall be expressed in degrees, minutes and seconds. The data for all curves along road frontage shall be shown in detail on a curve data table containing the following: delta, radius, arc, tangent, chord and chord bearing; all survey data shall show a closure with an accuracy of not less than one in 7,500.
- (c) *General data.* The preliminary plat shall state the following:
1. The title under which the subdivision is proposed to be recorded and the name and address of the record owner and subdivider and holders of any easements affecting the property. The plat shall also show the name of the individual responsible for the preparation of the plat; the date of drawing; number of streets; the north arrow; and the scale. The grid north of the Virginia State Coordinate System shall be used and tied to the National Geodetic Survey horizontal control marker.
  2. A vicinity sketch map at a scale of one inch to 2000 feet shall be included on the plat showing the relationship of the proposed subdivision to the adjoining property and the area within one mile showing all adjoining roads, their names, numbers, town boundaries, and subdivision, and other landmarks.
  3. A topographic map compiled by either accepted field or photogrammetric methods with a contour interval of not greater than two feet showing all the area covered by the subdivision property related to coast and geodetic survey data showing the boundary lines of the tract to be subdivided, the floodplain and wetland limits delineated where applicable.
  4. The location, width, and names of all existing or platted streets within or adjacent to the subdivision, easements, and land lot lines, total acreage in each use, both proposed and existing, including utilities and watercourses.
  5. Location and dimensions of proposed streets, alleys, lots, building lines, and easements, including a boundary survey or existing survey of record with a closing error not in excess of one foot in 10,000 feet.
  6. All parcels of land intended to be dedicated or reserved for public use, or to be reserved in deed for the common use of property owners in the subdivision.
  7. Areas shown in the comprehensive plan as proposed sites for schools, parks or other public uses, which are located wholly or in part within the land being subdivided.
  8. Preliminary sketch plans indicated [indicating] the provisions for all utilities, including but not limited to, the proposed method of accomplishing drainage, water supply, and sewage disposal. Preliminary sketch plans for any bridges or culverts that may be

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submitted.

9. When the subdivision consists of land acquired from more than one source of title, the outlines of the various tracts shall be indicated by dashed lines, and identification of the respective tracts shall be placed on the plat.
10. The zoning classifications and proposed use for the area being subdivided.
11. Sedimentation and erosion control measures proposed on advice by the area conservationist of the Eastern Shore Soil and Water Conservation District of which the Town of Chincoteague is a member in accordance with the zoning ordinance.
12. The lot number, designated dimensions, and area of all lots.
13. Written and signed statements of the appropriate officials concerning the availability of gas, electricity, water and sewer to the proposed subdivision.
14. The developer shall submit a copy of any deed restrictions or private contracts that will be part of the sale or transfer of any lot within the subdivision.
15. The developer shall state how any common property or facilities within the subdivision such as private roads, joint driveways, waterfront structures and community association facilities will be improved, managed and maintained during and after the sale of the subdivision lots.

14.06. *Procedures for the review of the final plat.* The purpose of the final plat is to require formal approval by the planning commission, the roads engineer and the health officer, in keeping with submittal requirements for "major subdivisions" and before such subdivisions are recorded and lots sold or transferred.

The final plat shall be submitted conforming to the approved preliminary plat and any changes or conditions attached to its approval within one year of the receipt of notification of approval of the preliminary plat as specified under section 14.08. The following procedures shall be used to review a final plat:

- (a) The developer shall make application on forms (addendum 4) available from the zoning administrator and shall prepare a final plan and supporting documents in accordance with subsection 14.07 and section 16 hereof.
- (b) The developer shall submit three copies of the application and four paper copies of the final plat, plus four copies of any supporting documents, along with appropriate fees to the zoning administrator. If required for review purposes, the zoning administrator may request additional copies of the submission.
- (c) The zoning administrator shall check the submission for compliance with the ordinance and

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other applicable ordinances and with the approved preliminary plat and any conditions attached thereto. If deficiencies are found, return the submission to the developer with a notation of the additional information or corrections needed.

- (d) Upon receipt of a complete submission, the zoning administrator shall accomplish the following:
1. Distribute copies of the submission to the roads engineer, the health officer, and each utility company which would be responsible for providing utility service to the subdivision and such other agencies as the zoning administrator believes appropriate.
  2. Establish a date and time for planning commission's review and inform the developer of such.
  3. Prepare a recommendation for planning commission consideration.
  4. Upon receipt of a favorable comment from the roads engineer and health officer, the zoning administrator shall secure the signatures of these two officials on the three paper copies of the final plat attesting that the final plat conforms with all applicable requirements of their respective departments. These signatures shall be prerequisites for planning commission approval.

### 14.07. *Information and drafting standards required for the final plat.*

- (a) The plat shall be drawn to the scale of 100 feet to the inch, and the sheet size for recording purposes shall not exceed 18 inches by 24 inches with a one-inch border on all sides. If [the] plat is reduced for recording purposes, the type size after reduction shall be no less than pica (ten characters per inch). The top of the sheet shall be approximately north. The plat shall be accompanied by certification from the public works director stating that the highway specifications as to streets, grades and drainage have been met. In addition to the requirements of the preliminary plat and plans, the final plat shall include the following:
1. The name or number of the section if part of a larger tract.
  2. A statement that "The Subdivision of the land described herein is within the free consent and in accordance with the desires of the undersigned owner, proprietors, and trustees." The statement shall be signed by such persons and duly acknowledged before some officer authorized to take acknowledgments of deeds.
  3. The plat shall bear a statement signed by the surveyor or engineer who prepared the plat setting forth the sources of title of the land to be subdivided and the place of record of the last instrument in the chain of title. The statement shall also state that the plat has been accurately prepared in accordance with all applicable ordinances and state regulations.

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4. The boundary lines of the area being subdivided shall be determined by an accurate field survey with bearings shown in degrees, minutes and seconds to the nearest ten seconds and dimensions to the [area] shown in feet to the nearest hundredth of a foot to an accuracy to one in 10,000. Total area [of] each proposed use plus floodplain delineation shall be shown.
5. Streets shall be named, but shall not duplicate existing or platted street names unless the new street is a continuation of an existing or platted street. All dimensions both linear and angular for location of lots, streets, alleys, public easements, and private easements; the linear dimensions shall be expressed in feet to the hundredths of a foot, and all angular measurements shall be expressed by bearings or angles expressed to the nearest ten seconds. All curves shall be defined by their radius, central angle, tangent distances, cord [chord] bearing and length and arc lengths. Such curve data shall be expressed by a curve being tabulated and numbered to correspond with the respective numbered curve shown throughout the plat.
6. Lot numbers in numerical order and block identification.
7. Location of all minimum building setback lines specified in the zoning ordinance, with the area, in square feet, of lots indicated for each individual parcel.
8. Location and type of material of all permanent reference monuments. Monuments found or installed shall be indicated prior to plat recordation [and] may be referenced if permanent and undisturbed.
9. A definite bearing and distance tie shown between not less than two permanent monuments on the exterior boundary of the subdivision and further ties to existing street intersections where possible and reasonably convenient.
10. Date, north arrow and the drainage district in which the division of land lies.
11. Restrictions imposed by the governing body and their period of existence. Should these restrictions be of such length as to make their lettering on the plat impractical, and does not necessitate the preparation of a separate instrument, reference shall be made thereto on the plat.
12. Signature panels shall be provided for the chairman of the Chincoteague Planning Commission, the zoning administrator, and for the health officer and the resident highway engineer.
13. Temporary cul-de-sacs where needed. When one or more temporary turnarounds are shown, the following shall be included on the plat: The area on this plat designated as temporary turnaround will be constructed and used as other streets in the subdivision until (street name) is/are extended to (street name) at which time the land in the temporary turnaround area will be abandoned for street purposes and will revert to

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adjoining property owners in accordance in specific provisions in their respective deeds.

14. Supporting data shall include previously approved plans for drainage of streets, including cross sections and profiles; water supply and sewage disposal, including drainage courses and name; sedimentation and erosion control measures; existing sewers, water mains, culverts, and other underground structures within the tract showing all pipe sizes, invert elevations, grades and computations; and deed restrictions and maintenance agreements stating how common property and facilities, including private roads and easements, within the subdivision will be improved, managed and maintained, as may be required by the governing body or its agent.
  15. Monuments after recording of plat: No monuments other than the permanent control monuments required in section 18.07 of this ordinance shall be required to be set before the recording of the plat or the conveyance of land by reference to plat if the land surveyor includes in his certification on such plat that any additional monuments required by this ordinance shall be set on or before a specified later date. The placement of any monument at any time after the recording of the plat shall be established both at law and in equity, at prorated positions as determined from direct remeasurements between the established monuments of record rather than as precisely stated or shown on the recorded plat.
- (b) Bonding requirements. All improvements to be dedicated to public use and maintained by the locality, the commonwealth, or other public agency shall be bonded before approval of the final plat or construction.
1. In keeping with the above, the owner or developer shall:
    - a. Construct the public improvements and certify to the governing body that the construction costs have been paid to the person constructing such facilities in compliance with the requirements of the appropriate approving public agency or office.
    - b. Furnish to the town council a certified check, cashier check, savings certificate, a bank's or saving and loan association's letter of credit on certain designated funds or certificate of deposit payable to the Town of Chincoteague in the amount of the estimated cost of construction, or a bond with surety satisfactory to the town council in such an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities, and the contractor's bond, with like surety, in like amount and so conditioned or real estate (at 75% of assessed value with no liens). (See addendum 6.)
  2. The amount of such 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 locality and a reasonable allowance for

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estimated administrative costs, inflation, and potential damage to existing roads or utilities.

3. If a developer records a final plat which may be a section of a subdivision as shown on an approved preliminary plat and furnishes to the governing body 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 locality, the commonwealth, or other public agency, the developer shall have the right to record the remaining sections shown on the preliminary plat for a period of five years from the recordation date of the first section, subject to the terms and conditions of this subsection and subject to engineering and construction standards and zoning requirements in effect at the time that each remaining section is recorded. In the event a governing body of a county, wherein the highway system is maintained by the Virginia Department of Transportation, has accepted the dedication of a road for public use and such road due to factors other than its quality of construction is not acceptable into the state highway system, then the governing body may require the subdivider or developer to furnish the town with a maintenance of such road until such time as it is accepted into the state highway system. In lieu of such bond, the governing body may accept a bank or savings and loan association's letter of credit on certain designated funds satisfactory to the governing body as the bank or savings and loan association, the amount and the form. "Maintenance of such road" shall be deemed to mean maintenance of the streets, curb, gutter, drainage facilities, utilities or other street improvements, including the correction of defects of damages and the removal of snow, water or debris, so as to keep such road reasonably open for public usage.
4. The developer shall set a time, subject to the approval of the governing body, or its agent, by which it is estimated the improvements shall be installed or complied [completed]. Unless an extension of that time is approved by the town council, or its agent, and a new estimated date of completion established, the town council or its agent shall take the necessary steps to proceed with the accomplishment and completion of the improvements, making use of the certified check or calling on the surety of the bond. No building permit shall be issued until final approval of the plat and all inspections have been made.
5. Upon the completion of the installation of all subdivision improvements, the subdivider shall furnish a statement under oath that all construction conforms to the requirements of this ordinance and the plan as approved by the town council or its agent, to the best of its knowledge and belief.
6. When all required improvements have been properly inspected and certified satisfactory, the town council or its agent shall release or cancel the bond as the case may be, except that the town council or its agent may retain ten percent of the bond or bonds after completion of the construction work to insure that such work was properly installed; and to be held until such time as the roads are accepted into the secondary system of roads of Virginia Department of Transportation.

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7. Upon written request of the developer, the town council may release or cancel a portion of the bond to reflect the satisfactory completion of a usable portion of the required improvements, as outlined below. The town council has 30 days after receipt of such written request to release any bond, escrow, letter of credit, or other performance guarantee required by the governing body unless the governing body or its designated administrative officer notifies the subdivider or developer in writing of nonreceipt of approval by applicable state agency, or of any specified defects or deficiencies in construction and suggested corrective measures prior to the expiration of the 30-day period.

If no such action is taken by the governing body or administrative agency within the time specified above, the request shall be deemed approved, and a partial release granted to the subdivider or developer. No final release shall be granted until after expiration of such 30-day period and there is an additional request in writing sent by certified mail return receipt to the chief administrative officer of such governing body. The governing body or its designated administrative agency shall act within ten working days of receipt of the request; then if no action is taken the request shall be deemed approved and final release granted to the subdivider or developer.

No governing body or administrative agency shall 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 the facilities covered by said bond, escrow, letter of credit or other performance guarantee.

Upon written request by the subdivider or developer, the governing body or its designated administrative agency shall be required to make periodic partial releases of such bond, escrow, letter of credit, or other performance guarantee in a cumulative amount equal to no less than 80 percent of the original amount for which the bond, escrow, letter of credit, or other performance guarantee was taken, based upon the percentage of facilities completed and approved by the governing body, local administrative agency, or state agency having jurisdiction. Periodic partial releases may not occur before the completion of at least 30 percent of the facilities covered by any bond, escrow, letter of credit, or other performance guarantee, or after completion of more than 80 percent of said facilities. The governing body or administrative agency shall not be required to execute more than three periodic partial releases in any 12-month period. Upon final completion and acceptance of said facilities, the governing body or administrative agency 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" is deemed to mean: when said public facility is accepted by and taken over for operation and maintenance by the state agency, local government department of agency, or other public authority which is responsible for maintaining and for operating such facility upon acceptance.

14.08. *Effect of recordation of the final plat.* Upon the recordation of final plat, and only after such recordation, the developer may transfer or sell lots included within such final plat, and the

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developer may exhibit such final plat in promoting the sale of such lots. Furthermore, the developer or a subsequent owner may acquire a building permit for construction on a lot covered by such final plat. In all advertising of lots covered by a final plat, the developer shall:

- (a) State whether officially approved water and sewerage facilities are available or not.
- (b) State whether roads are public or private.
- (c) State whether [the] lot is located in the floodplain.

14.09. *Improvements required to be provided in a major subdivision.* The following improvements shall be provided by the developer in a major subdivision as a prerequisite for recordation of the final plat, as may be required:

- (a) Public roads as may be required.
- (b) Drainage improvements.
- (c) Installation of water and/or sewer mains, if public service is available.
- (d) Surveying monuments.
- (e) Street signs on public roads.
- (f) Such other improvements as the planning commission may have made a part of its approval of the final plat.

All such improvements shall be made in conformance with the construction plans and specifications approved with the final plat.

### **Section 15. Minor subdivisions**

15.01. *Purpose.* The purpose of the minor subdivision is to insure that every new lot created receives at least administrative review to insure that it meets applicable town and state regulations. It is the intent of the minor subdivision review process to keep the town abreast of development activity and to prevent the creation of unusable, hazardous, unsanitary, inconvenient or uneconomical lots.

15.02. *Procedure for review of minor subdivisions.*

- (a) The procedure for review shall be the same as that for major subdivision, except that the final approving authority shall be the zoning administrator.
- (b) The requirement for the preliminary plat approval is waived; however drafting and surveying requirements of the preliminary plat will be required in addition to the requirements for plat submittal for final approval.

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15.03. *Improvements, information and drafting standards required for minor subdivision plat.* The improvements, information and drafting standards required for minor subdivisions shall be the same as those required for major subdivision.

15.04. *Effect of recordation of the final plat.* Upon the recordation of final plat, and only after such recordation, the developer may transfer or sell lots included within such final plat, and the developer may exhibit such final plat in promoting the sale of such lots. Furthermore, the developer or a subsequent owner may acquire a building permit for construction on a lot covered by such final plat. In all advertising of lots covered by a final plat, the developer shall:

- (a) State whether officially approved water and sewerage facilities are available or not.
- (b) State whether roads are public or private.
- (c) State whether [the] lot is located in the floodplain.

15.05. *Improvements required to be provided in a minor subdivision.* The following improvements shall be provided by the developer in a minor subdivision as a prerequisite for recordation of the final plat, as may be required:

- (a) Public roads as may be required;
- (b) Drainage improvements;
- (c) Installation of water and/or sewer mains, if public service is available;
- (d) Surveying monuments;
- (e) Street signs on public roads; and
- (f) Such other improvements as the planning commission may have made a part of its approval of the final plat.

All such improvements shall be made in conformance with the construction plans and specifications approved with the final plat.

### **Section 16. Design standards.**

16.01. *Mutual responsibility.* There is a mutual responsibility between the developer and the Town of Chincoteague to divide the land in any subdivision so as to provide for a harmonious and efficient land use pattern.

16.02. *Zoning and other requirements.* No land shall be subdivided unless such subdivision conforms to the provisions of the zoning ordinance of the Town of Chincoteague and other applicable town and state regulations.

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16.03. *Public roads.* The following standards shall apply to the layout of public roads:

- (a) The arrangement, character, extent; grade, width, and location of all roads shall be acceptable to the roads engineer and shall be considered in their relation to existing and planned roads, to topography, to public convenience and safety and to the proposed uses of the land to be served by such roads.
- (b) The road layout shall provide for the continuation or projection of roads already existing in the area, unless such extension is undesirable for reasons of topography, design, or safety.
- (c) The name of any proposed road shall not be the same or similar to the name of any existing road, and shall be approved by the governing body, except that extensions of existing roads shall bear the same name as the existing road.
- (d) Local roads shall be laid out so as to discourage their use by through traffic.
- (e) If a portion of a parcel is not to be subdivided at the present time, suitable access for the future subdivision of such portion shall be provided, unless such unsubdivided portion is clearly unsuitable for development.
- (f) Where stub roads are provided abutting unsubdivided land, temporary easements for turnarounds may be required by the roads engineer, zoning administrator or planning commission.
- (g) Where natural features or the design concepts employed make their use appropriate, cul-de-sacs may be used. Cul-de-sacs shall not be more than 800 feet in length, except by permission of the town, and each cul-de-sac shall be terminated with a turnaround of not less than a 30-foot radius in diameter.
- (h) Layout of roads shall minimize the number of access points to collector roads and arterial highways.
- (i) Layout of roads shall minimize pedestrian and vehicle conflict points. The town may require the installation of sidewalks when such improvements are important to traffic safety.
- (j) Alleys should be avoided whenever possible.
- (k) Multiple intersections involving the junction of more than two roads shall not be used, except by permission of the town. Roads shall be laid out to intersect as nearly as possible at right angles.
- (l) The minimum width of proposed roads, measured from lot line to opposite lot line, shall be as shown on the town's major road plan, or if not shown on such plan, shall be:

- 1 Collector roads, not less than 50 feet.

## APPENDIX B—LAND SUBDIVISION AND DEVELOPMENT

2. Local roads, not less than 50 feet.
3. Service roads and other roads, not less than 50 feet.
4. Alleys, if permitted, not less than 20 feet.

When any subdivision abuts an existing public road with inadequate right-of-way, the town may require the developer to dedicate the necessary right-of-way to meet the minimum right-of-way requirement as indicated above to the Virginia Department of Transportation.

- (m) All proposed roads shall be constructed by the developer in accordance with Virginia Department of Transportation secondary roads specifications and requirements.
- (n) The developer shall install at all intersections street signs of a design approved by the roads engineer at the expense of the developer.

16.04. *Private roads.* The following standards shall apply to private roads:

- (a) Private roads may not be platted within a subdivision, except when the subdivision is designated a small scale or low density development with the total number of lots to be served not exceeding ten. The developer shall specify on all plats that the roads are private and not subject to be maintained by the Commonwealth of Virginia or the Town of Chincoteague. The developer by written statement shall further agree to release, discharge and absolve all governmental agencies from all immediate and future responsibility with regard to the improvements or maintenance of the private roads and rights-of-way so established, and shall record such statement with the deeds of transfer for each lot fronting on a private road. (See addendum 5 for example.)
- (b) Private roads shall have a right-of-way of not less than 30 feet for their entire length and shall connect to a public road, unless the town shall waive such requirement. In making such exceptions, the town may attach such additional requirements and limitations on the subdivision as it may judge appropriate.
- (c) No private road access shall be established nor the number of lots served by an existing private road right-of-way increased unless the roads engineer approves the access of that private right-of-way to the public road system.
- (d) No private road right-of-way shall be platted until the developer has specified in writing who is responsible for its improvement and maintenance. Such statement shall appear on the face of the plat and in each deed for abutting lots.

16.05. *Drainage.* The developer shall construct all necessary drainage ditches and other drainage improvements along private roads and along public roads as specified on the final plat and in accordance with Virginia Department of Highways [Transportation] specifications and requirements. When proper drainage requires a drainage easement through adjoining property, such easement shall

## CHINCOTEAGUE CODE

be acquired by the developer and shall be not less than ten feet in width.

16.06. *Monuments.* Permanent monuments shall be placed by the developer in the ground at all comers and angle points in the outer lines of the subdivision. Such permanent monuments shall be constructed with a stable material not less than four inches in diameter and at least 30 inches long. Permanent monuments shall also be placed at all lot comers within the subdivision and at all points of angles and curvature in the right-of-way lines of all streets. Such monuments shall be iron or steel pipe not less than two inches nor more than three inches in diameter, and at least 30 inches long. The top of all permanent monuments shall be set not less than one-half inch, nor more than four inches above the finished grade at their respective locations.

16.07. *Water / sewerage service.* The following standards shall apply (also, see addendum 1):

- (a) Where a public water system is made available at the perimeter of the subdivision, the service shall be extended to all lots within the subdivision. Fire hydrants shall be installed where the water supply is adequate. All such water system improvement shall be constructed in accordance with state health department regulations.
- (b) Where a public sewerage system is made available at the perimeter of the subdivision, the service shall be extended to all lots within the subdivision, and private on-lot sewage disposal shall not be permitted.
- (c) Where public water and/or public sewerage services are not available, private (on-lot or community) systems shall be permitted; provided, however, that such installations shall meet requirements of the state water control board, the state health department and all other applicable county and state regulations.
- (d) Lots using on-site sewage disposal and private well systems shall provide one primary drainfield site and an additional nonoverlapping replacement drainfield site.

16.08. *Easements.* Easements for drainage and utility service shall be provided wherever necessary for proper maintenance. Such easements shall be not less than 15 feet in width.

16.09. *Lots.* In addition to the requirements of the zoning ordinance, lots shall be arranged in order that the following considerations are satisfied:

- (a) The lot arrangement, design and shape shall be such that lots will provide satisfactory and desirable sites for buildings and be properly related to topography. Side lot lines shall be approximately at right angles or radial to the road lines. Lots shall not contain peculiarly shaped elongations solely to provide necessary area, which would be unusable for normal purposes. Lots intended for business or industrial use shall be designed for such purposes with adequate space for off-street parking and loading.
- (b) No remnants shall be permitted. All such lands shall be combined with adjacent usable lots, unless the town permits another means of disposal.

## APPENDIX B—LAND SUBDIVISION AND DEVELOPMENT

- (c) Blocks shall be laid out to facilitate access to all lots. Block length greater than 1,200 feet shall be prohibited, unless permitted by the roads engineer. Blocks shall be wide enough to allow two tiers of lots, except where it is desirable to avoid frontage on collector roads or arterial highways or where topographic feature or parcel size prevent such arrangement.

### **Section 17. Validity clause.**

17.01. Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of this ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

17.02. *Repeal of conflicting ordinances.* All ordinances or portions of ordinances in conflict with this ordinance are hereby repealed to the extent necessary to give this ordinance full force and effect.

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### ADDENDUM 1

For the creation of a new community water supply, the following standards shall be adhered to:

1. A plat showing location of supply, location, and size of water lines and water meters and sufficient technical data and drawings to show the system will conform to current standards for public water supplies.
2. Conformance to current standards must be documented by a letter approving the water supply plan from the division of engineering of the Virginia State Health Department.
3. Documentation showing that the system will be properly operated and maintained such as being incorporated under the rules and regulations of the Virginia State Corporation Commission.

For the creation of a new community sewage treatment or disposal facility, the following standards shall be adhered to:

1. A plat showing location of treatment and/or disposal facility, location and size of lines, and sufficient technical data and drawings to show that the system will conform to current standards for sewage treatment and/or disposal facilities.
2. Conformance to current standards must be documented by a letter approving the sewage treatment facilities from the Virginia State Health Department, Division of Engineering, and a certificate of discharge from the state water control board.
3. Documental showing that the system will be properly operated and maintained shall be submitted.

## APPENDIX B—LAND SUBDIVISION AND DEVELOPMENT

### ADDENDUM 2

There shall be a charge for the examination and approval or disapproval of both a preliminary and final plat reviewed by the zoning administrator or the planning commission. At the time of filing the preliminary or final plat, the subdivider shall deposit with the agent, checks payable to the Chincoteague Town Treasurer in the amount of \$500.00 per plat and \$10.00 for each lot for a subdivision containing 11 or more lots; if the subdivision contains less than 11 lots, the charge shall be \$200.00 per plat and \$10.00 per each lot.

#### EXAMPLES

##### Minor Subdivision

Two lots:  $\$200.00 + \$ 20.00 = \$220.00$

Five lots:  $\$200.00 + \$ 50.00 = \$250.00$

Ten lots:  $\$200.00 + \$100.00 = \$300.00$

##### Major Subdivision

Eleven lots:  $\$500.00 + \$110.00 = \$610.00$

Thirty lots:  $\$500.00 + \$300.00 = \$800.00$

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ADDENDUM 3

APPLICATION FOR PRELIMINARY PLAT APPROVAL

DATE \_\_\_\_\_

1. NAME OF SUBDIVISION \_\_\_\_\_ MINOR \_\_\_\_\_ MAJOR \_\_\_\_\_

2. NAME OF APPLICANT \_\_\_\_\_ PHONE \_\_\_\_\_

ADDRESS \_\_\_\_\_

(Street No. and Name) (P.O.) (State) (Zip Code)

3. NAME OF LOCAL AGENT \_\_\_\_\_

ADDRESS \_\_\_\_\_

(Street No. and Name) (P.O.) (State) (Zip Code)

4. OWNER OF RECORD \_\_\_\_\_ PHONE \_\_\_\_\_

ADDRESS \_\_\_\_\_

(Street No. and Name) (P.O.) (State) (Zip Code)

5. ENGINEER \_\_\_\_\_ PHONE \_\_\_\_\_

ADDRESS \_\_\_\_\_

(Street No. and Name) (P.O.) (State) (Zip Code)

6. LAND SURVEYOR \_\_\_\_\_ PHONE \_\_\_\_\_

ADDRESS \_\_\_\_\_

(Street No. and Name) (P.O.) (State) (Zip Code)

7. ATTORNEY \_\_\_\_\_ PHONE \_\_\_\_\_

ADDRESS \_\_\_\_\_

(Street No. and Name) (P.O.) (State) (Zip Code)

8. SUBDIVISION LOCATION: On the \_\_\_\_\_ side of \_\_\_\_\_ (Street)

\_\_\_\_\_ feet \_\_\_\_\_ (Direction) of \_\_\_\_\_ (Street)

9. POSTAL DELIVERY AREA \_\_\_\_\_

SCHOOL DISTRICT \_\_\_\_\_

10. TOTAL ACREAGE \_\_\_\_\_ ZONE \_\_\_\_\_ NO. LOTS \_\_\_\_\_

11. TAX MAP DESIGNATION: SECTION \_\_\_\_\_ LOT(S) \_\_\_\_\_

12. Has the zoning board of appeals granted variance, exception, or special permit concerning this property \_\_\_\_\_. If so, list case no. and name \_\_\_\_\_.

APPENDIX B—LAND SUBDIVISION AND DEVELOPMENT

13. Date of sketch plat approval\_\_\_\_\_.
14. Have any changes been made since this plat was last before the commission?\_\_\_\_\_
- If so, describe\_\_\_\_\_
- \_\_\_\_\_
15. List all land proposed to be subdivided\_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
16. Owners of land 250 feet adjacent or opposite\_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
17. Attach five copies of proposed preliminary plat.

I, \_\_\_\_\_, hereby depose and say that all the above statements and the statements contained in the papers submitted herein are true.

MAILING ADDRESS:\_\_\_\_\_

CHINCOTEAGUE CODE

ADDENDUM 4

APPLICATION FOR FINAL PLAT APPROVAL

DATE \_\_\_\_\_

1. NAME OF SUBDIVISION \_\_\_\_\_ MINOR \_\_\_\_\_ MAJOR \_\_\_\_\_

2. NAME OF APPLICANT \_\_\_\_\_ PHONE \_\_\_\_\_

ADDRESS \_\_\_\_\_

(Street No. and Name) (P.O.) (State) (Zip Code)

3. NAME OF LOCAL AGENT \_\_\_\_\_

ADDRESS \_\_\_\_\_

(Street No. and Name) (P.O.) (State) (Zip Code)

4. OWNER OF RECORD \_\_\_\_\_ PHONE \_\_\_\_\_

ADDRESS \_\_\_\_\_

(Street No. and Name) (P.O.) (State) (Zip Code)

5. ENGINEER \_\_\_\_\_ PHONE \_\_\_\_\_

ADDRESS \_\_\_\_\_

(Street No. and Name) (P.O.) (State) (Zip Code)

6. LAND SURVEYOR \_\_\_\_\_ PHONE \_\_\_\_\_

ADDRESS \_\_\_\_\_

(Street No. and Name) (P.O.) (State) (Zip Code)

7. ATTORNEY \_\_\_\_\_ PHONE \_\_\_\_\_

ADDRESS \_\_\_\_\_

(Street No. and Name) (P.O.) (State) (Zip Code)

8. SUBDIVISION LOCATION: On the \_\_\_\_\_ side of \_\_\_\_\_ (Street)

\_\_\_\_\_ feet (Direction) of \_\_\_\_\_ (Street)

9. POSTAL DELIVERY AREA \_\_\_\_\_

SCHOOL DISTRICT \_\_\_\_\_

10. TOTAL ACREAGE \_\_\_\_\_ ZONE \_\_\_\_\_ NO. LOTS \_\_\_\_\_

11. TAX MAP DESIGNATION: SECTION \_\_\_\_\_ LOT(S) \_\_\_\_\_

12. Has the zoning board of appeals granted variance, exception, or special permit concerning this property \_\_\_\_\_. If so, list case no. and name \_\_\_\_\_.

APPENDIX B—LAND SUBDIVISION AND DEVELOPMENT

13. Date of sketch plat approval \_\_\_\_\_.
14. Have any changes been made since this plat was last before the commission? \_\_\_\_\_  
If so, describe \_\_\_\_\_  
\_\_\_\_\_
15. List all land proposed to be subdivided \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
16. Owners of land 250 feet adjacent or opposite \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
17. Attach five copies of proposed preliminary plat.

I, \_\_\_\_\_, hereby depose and say that all the above statements and the statements contained in the papers submitted herein are true.

MAILING ADDRESS: \_\_\_\_\_

## CHINCOTEAGUE CODE

### **ADDENDUM 5**

Model restrictions for property served by private roads and easements:

"The roadway shown on this plat is a private road/easement, the maintenance for which shall not be the responsibility of the Commonwealth of Virginia, the Town of Chincoteague, or any other public body. Maintenance of the said roadway shall be the responsibility of the owner of lots abutting thereon, each of whom shall be responsible for his pro rata share of such maintenance. Assessments for such maintenance shall be made whenever a majority of the owners of lots abutting on said roadway deem necessary and such assessments shall constitute a lien on all lots from the time of such assessments until paid."

APPENDIX B-LAND SUBDIVISION AND DEVELOPMENT

ADDENDUM 6

(EXAMPLE)

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, That We, \_\_\_\_\_ as Principals, \_\_\_\_\_, State of \_\_\_\_\_, and the \_\_\_\_\_ INSURANCE COMPANY, a \_\_\_\_\_ Corporation authorized to do business in the State of \_\_\_\_\_, having an office and place of business at \_\_\_\_\_, as Surety, are held and firmly bound unto the municipality, as Oblige, in the sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_ ) lawful money of the United States, for the payment whereof to the Oblige, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly to these presents:

SIGNED, SEALED, AND DATED, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ .

WHEREAS, application was made to the Oblige for approval of a subdivision shown on plat entitled "

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ "

filed with the Zoning Administrator of the Town of Chincoteague, Virginia, on \_\_\_\_\_, \_\_\_\_\_, said final plat was approved upon certain conditions, one of which is that a performance bond in the amount of \_\_\_\_\_ (\$ \_\_\_\_\_), to be filed with the Town of Chincoteague Treasurer to guarantee certain improvements in said subdivision:

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the above named Principal shall within two years from the date hereof (time may be extended for one year only by the Planning Commission of the Town of Chincoteague with the consent of the parties) will and truly make and perform the required improvements and construction of public improvements in said subdivision in accordance with the local government specifications and the Resolution of \_\_\_\_\_, \_\_\_\_\_, then this obligation to be void; otherwise to remain in full force and effect.

It is hereby understood and agreed that in the event that any required improvements have not been installed as provided by said Resolution, within the term of this Performance Bond, the Governing Body may thereupon declare this bond to be in default and collect the sum remaining payable thereunder and upon receipt of the proceeds thereof, the local government shall install such improvements as are covered by this bond and commensurate with the extent of building development that has taken place in the subdivision but not exceeding the amount of such proceeds.

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\_\_\_\_\_  
PRINCIPAL

\_\_\_\_\_  
PRINCIPAL

\_\_\_\_\_  
INSURANCE COMPANY

By

\_\_\_\_\_  
Attorney-In-Fact

BOND NO. \_\_\_\_\_