

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **October 27, 2009**

AGENDA ITEM NO.: 1

CONSENT:

REGULAR:

WORK SESSION: **X**

CLOSED SESSION:

(Confidential)

ACTION:

INFORMATION: **X**

ITEM TITLE: **Timeline for Establishing a Regional Airport Authority**

RECOMMENDATION: N/A

SUMMARY: The Airport Commission asked Airport Manager Mark Courtney to prepare a timeline for establishing a regional airport authority and to share it with City Council and other area governments. Although little progress has been made since the General Assembly adopted legislation authorizing the creation of the Lynchburg Regional Airport Authority this initiative remains a priority with the Airport Commission.

Accordingly, Mark has prepared the attached timeline and will attend Council's work session to review the timeline and answer any questions.

PRIOR ACTION(S): N/A

FISCAL IMPACT: N/A

CONTACT(S): Mark Courtney, 455-6089

ATTACHMENT(S): Timeline

REVIEWED BY: lkp

Lynchburg Regional Airport Airport Authority Implementation Plan September 1, 2009

I. Background

Over a period of more than 10 years, the possibility of Lynchburg Regional Airport becoming an independent airport authority has been explored and pursued. More recently, an ad hoc committee, first structured as an Air Commerce Park Advisory Committee and, later, as an Airport Authority Advisory Committee, was formed. This group eventually established as a goal the passage of legislation by the Virginia General Assembly that would authorize the formation of an independent airport authority to own and operate Lynchburg Regional Airport.

Draft legislation was subsequently developed throughout 2006, introduced in the House of Delegates early in 2007 and, after numerous sub-committee and committee reviews by both the House and the Senate, was passed in March of 2007 and signed into law by the governor in April 2007. Since that time, very little progress has been made in the second phase of the process: to secure the commitment of surrounding counties, localities and the City of Lynchburg in the actual formation of an independent airport authority.

II. Overview of Authorizing Legislation

HB 2800, *Virginia's Region 2000 Airport Authority Act*, authorizes the City of Lynchburg and the Counties of Amherst, Appomattox, Bedford, and Campbell to create an authority for the purpose of establishing, operating and maintaining an airport and an adjacent business/industrial park and related facilities for such participating city and counties. The legislation grants broad powers to the authority, including the power of eminent domain, in order to effectively operate the airport in the public interest as a fully independent governmental body.

III. Situation Analysis

Part of the delay in moving forward in the process has been the state of the airline industry and the resulting effect on airline service at Lynchburg Regional Airport. Following a series of reductions in domestic flights and seat capacity industry wide during the months after the legislation passed, air service levels at LYH continued to decline as well.

With the broader downturn in economic activity as a result of the recent recession, however, smaller communities became areas of opportunity for traditional legacy carriers like those that serve Lynchburg Regional Airport. The result was the introduction of a much more competitive airfare structure in July of 2008 that stimulated local air travel significantly and allowed the airport to re-capture passenger traffic that had previously been driving to other nearby airports. This stimulation in turn led to additional flights being introduced by both Delta and US Airways, bringing about further passenger growth that, in recent months, has resulted in a doubling of local passenger traffic.

At the same time, airport revenues also increased significantly from the subsequent growth in both direct and indirect airline-generated revenues, resulting in the airport's operating budget deficit being reduced from over \$600,000 annually in 2002 to just \$295,850 in 2009. Moreover, if current levels continue, airport officials now project that the airport could be self-sustaining by as early as FY 2012.

Consequently, it was determined that the time was right to once again pursue participation by surrounding counties and the City in a regional airport authority. In preparation for this effort, airport staff developed a comprehensive presentation for regional officials highlighting the various airline and airport developments that have contributed to recent growth at the airport, along with the continued improvement in the airport's finances and operating budget. Presentations before officials of the various localities were conducted throughout the spring and summer of 2009, and were augmented with presentations to area economic development agencies, business organizations and civic groups.

IV. Lynchburg Regional Airport Commission Action

An initial draft of this implementation plan was developed and circulated to the Lynchburg Regional Airport Commission in early June 2009. The commission subsequently reviewed and discussed the draft at its August 31, 2009 meeting, with the recommendation that it next be presented to Lynchburg City Council for discussion at a future work session.

V. Strategic Plan

The following timeline outlines the major steps and critical path involved in forming an independent airport authority by the target date of July 2011.

<u>TARGET DATE</u>	<u>ACTION ITEM</u>
June 2009	Implementation plan distributed to Airport Commission
July 2009	Commission discussion of plan
August 2009	Implementation plan finalized
September 2009	Initiate airport economic impact study in cooperation with the Virginia Department of Aviation with special emphasis on the airport's economic impact on each locality
October 2009	Report to City Council on plan and timetable
Nov 2009 - Jan 2010	Develop framework for financial sharing between participating localities and authority structure and make-up
Jan 2010 – Mar 2010	Develop draft proposal for presentation to localities
March 2010	Present draft proposal to Commission for discussion
April 2010	Finalize proposal
May 2010	Present proposal to City Council
June 2010	Finalize proposal based on City Council input
July 2010	Develop proposals for other localities. Integrate economic impact results into proposals

September 2010	Finalize proposals
September 2010	Hold public hearing
Sept – Dec 2010	Present proposals to prospective participating localities
January 2011	Develop draft authority contract
February 2011	Finalize contract
Mar – May 2011	Present contracts to authority participants for approval
April – June 2011	Develop transition plan for authority and schedule of services needed once independent
July 1, 2011	Formal transition to airport authority begins with FY 2012 budget

FOR MORE INFORMATION CONTACT:

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LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **October 27, 2009**

AGENDA ITEM NO.: 2

CONSENT:

REGULAR:

WORK SESSION: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **SUBDIVISION ORDINANCE AMENDMENTS – Section 24.1**

RECOMMENDATION: Approval of the *Subdivision Ordinance* amendments.

SUMMARY: The purpose of this petition is to amend Section 24.1, *Subdivision Ordinance* of the City Code to update the requirements for the subdivision of property. The Planning Commission recommended approval of the amendments because:

- The *Subdivision Ordinance* amendments would correct outdated terminology, reflect current City policies within the context of the ordinance and incorporate changes regarding access management, connectivity and infrastructure.
- The City's *Comprehensive Plan 2002-2020* recommends the City review existing *Zoning* and *Subdivision Ordinance* requirements for renovating older buildings to ensure that standards are not burdensome to property owners. **(pg. 5.12)**
- The City's *Comprehensive Plan 2002-2020* recommends the implementation of appropriate City policies designed to maximize citywide economic development strategies and determine if code changes will meet these objectives without negative impacts on environmental sensitivity, cultural resources and surrounding land uses. **(pg.7.8)**
- The City's *Comprehensive Plan 2002-2020* recommends developing Access Management Guidelines for new development that promotes and requires shared joint access between sites and provides adequate driveway and median opening spacing to minimize vehicular conflicts. **(pg 14.7)**

PRIOR ACTION(S):

September 22, 2009	City Council conducted a public hearing and referred to work session.
August 12, 2009	Planning Commission recommended approval (5-1 with one member absent, Worthington) of the <i>Subdivision Ordinance</i> amendments.
July 22, 2009	Planning Commission conducted a public hearing on the proposed <i>Subdivision Ordinance</i> amendments. The Planning Commission closed the public hearing and tabled discussion about the ordinance until the August 12, 2009 meeting.
July 22, 2009	Planning Division recommended approval of the <i>Subdivision Ordinance</i> amendments.
July 8, 2009	Planning Commission conducted a second work session on the proposed <i>Subdivision Ordinance</i> amendments.
June 24, 2009	Planning Commission conducted a work session on the proposed <i>Subdivision Ordinance</i> amendments.
June 10, 2009	The Subdivision Ordinance Committee concluded its review of the ordinance and recommended changes for consideration by the Planning Commission.
June 25, 2008:	Planning Commission appointed a Subdivision Ordinance Committee to review proposed changes to Section 24.1 of City Code regarding the subdivision of land.

FISCAL IMPACT: N/A

CONTACTS:

Tom Martin, City Planner - 455-3900

Bonnie Svrcek, Deputy City Manager/Acting Director of Community Development - 455-3900

ATTACHMENT(S):

Ordinance

Section 24.1 - Subdivision Ordinance

Planning Commission Minutes – August 12, 2009

Planning Commission Minutes – July 22, 2009

Planning Commission Minutes – July 8, 2009

Planning Commission Minutes – June 24, 2009

Planning Division Memo Section 24.1-30(k) Subdivision Ordinance – August 6, 2009

Planning Division Memo Section 24.1 Subdivision Ordinance – June 19, 2009

City of Lynchburg State Classified Roads

Speaker Sign-Up Sheet

REVIEWED BY: lkp

ORDINANCE

AN ORDINANCE TO AMEND AND REENACT THE CODE OF THE CITY OF LYNCHBURG, 1981, BY AMENDING SECTIONS 24.1-1. SUBDIVISION REGULATIONS, 24.1-3. PURPOSE, 24.1-5. WORDS AND TERMS, 24.1-6. AGENT, OR HIS DESIGNEE, 24.1-7. DUTIES, 24.1-9. PLATTING AND RECORDING REQUIRED, 24.1-10. DRAW AND CERTIFY, 24.1-11. OWNER'S STATEMENT, 24.1-12. NO LAND EXEMPT, 24.1-16.1. POSSIBLE FLOOD PLAIN, 24.1-17.1. BUILDING LINE, 24.1-18. LOT SIZES, 24.1-19. LOT SIZE, WATER OR SEWER, 24.1-20. LOT SIZE, NEITHER WATER NOR SEWER AVAILABLE, 24.1-21. SEPTIC TANKS, 24.1-21.1. DEVELOPMENT OF LARGE LOTS GENERALLY, 24.1-23. EASEMENTS, 24.1-24. FIRE PROTECTION, 24.1-25. BOND, 24.1-26. IMPROVEMENTS, 24.1-27. CITY OBLIGATION, 24.1-28. LOTS, 24.1-28.1. FLAG LOTS, 24.1-30. STREETS, 24.1-31. PUBLIC WATER SUPPLY AND SANITARY SEWER SYSTEM REQUIRED, 24.1-32. STORM DRAINAGE, 24.1-33. MONUMENTS, 24.1-34. RESERVATION OF LAND FOR PUBLIC PURPOSES, 24.1-36. PRELIMINARY SKETCH (NOT REQUIRED), 24.1-37. PRELIMINARY PLAT, 24.1-38. PROCEDURE, 24.1-39. PRELIMINARY PLAT MAY BE SUBMITTED AS FINAL PLAT, 24.1-42. FINAL PLAT, 24.1-44. APPROVAL, 24.1-45. EXCEPTIONS, 24.1-46. PENALTIES, 24.1-49. AMENDMENTS; TO AMEND AND REENACT THE CODE OF THE CITY OF LYNCHBURG, 1981, AS AMENDED, BY ADDING THERETO SECTIONS 24.1-16.2. FLOOD CONTROL AND DRAINAGE AND 24.1-25.1. PARTIAL AND FINAL RELEASE OF CERTAIN PERFORMANCE GUARANTEES; TO AMEND AND REENACT THE CODE OF THE CITY OF LYNCHBURG, 1981, BY REPEALING SECTIONS 24.1-4. MUTUAL RESPONSIBILITY, 24.1-8. TO CONSULT, 24.1-22. FLOOD CONTROL AND DRAINAGE AND 24.1-50. EFFECTIVE DATE, THE AMENDED, NEW AND REPEALED SECTIONS RELATING TO THE REGULATION OF THE SUBDIVISION OF LAND WITHIN THE CITY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. That in order to promote the public necessity, convenience, general welfare, and good zoning practice Sections 24.1-1, 24.1-3, 24.1-5, 24.1-6, 24.1-7, 24.1-9, 24.1-10, 24.1-11, 24.1-12, 24.1-16.1, 24.1-17.1, 24.1-18, 24.1-19, 24.1-20, 24.1-21, 24.1-21.1, 24.1-23, 24.1-24, 24.1-25, 24.1-26, 24.1-27, 24.1-28, 24.1-28.1, 24.1-30, 24.1-31, 24.1-32, 24.1-33, 24.1-34, 24.1-36, 24.1-37, 24.1-38, 24.1-39, 24.1-42, 24.1-44, 24.1-45, 24.1-46, and 24.1-49 of the Code of the City of Lynchburg, 1981, be and the same are hereby amended and reenacted as follows:

Sec. 24.1-1. Subdivision regulations.

The following regulations are hereby adopted for the subdivision of land within the corporate limits of the City of Lynchburg and from and after the effective date of this ordinance, every ~~owner or proprietor~~ subdivider of any tract of land to which these regulations apply who subdivides such tract as provided in these regulations shall cause a plat of such subdivision developed and prepared in accordance with these regulations, with reference to known or permanent monuments, to be made and recorded in the office of the clerk of the circuit court, within deeds conveying such land are required by law to be recorded. A copy of said plat shall also be filed in the office of the city assessor. For any subdivision plat recorded prior to the adoption of this ordinance for which construction contracts for required improvements have not been signed, the subdivider shall be required to submit final plat documentation for approval by the agent before such contracts are signed and sale or development of lots may be undertaken.

Sec. 24.1-3. Purpose.

The purpose of this ordinance is to establish certain subdivision standards and procedures for the City of Lynchburg, Virginia, and such of its environs as come under the jurisdiction of the governing body as provided for by the Code of Virginia, as amended.

These are part of a long-range plan to guide and facilitate the orderly beneficial growth and restoration of the community, and to promote the public health, safety, convenience, comfort, prosperity and general welfare. More specifically, the purposes of these standards and procedures are to provide a guide for the change that occurs when land and acreage become urban in character as a result of development for residential and non-residential purposes; to encourage the redevelopment of the central city; to provide assurance that the purchasers of lots are buying a commodity that is suitable for development and use; and to make possible the provision of public services in a safe, adequate and efficient manner.

Sec. 24.1-5. Words and terms.

For the purpose of this ordinance, certain words and terms used herein shall be interpreted or defined as follows: Words used in the present tense include the future, words in the singular number include the plural, and the plural the singular, unless the natural construction of the word indicates otherwise; the word "lot" includes the word "parcel"; the word "shall" is mandatory; the word "approve" shall be considered to be followed by the words "or disapprove"; any reference to this ordinance includes all ordinances amending or supplementing the same; all distances and areas refer to measurement in a horizontal plane.

(1) Agent: ~~The representative of the City of Lynchburg who has been designated to serve as the agent of the city in administering this ordinance.~~ See Sec. 24.1-6. Agent, or designee.

(2) Alley: A permanent service way providing a secondary means of access to abutting properties.

(3) Arterial road: A moderate or high-capacity road which carries large volumes of traffic between areas in urban centers. Arterial roads are designated on the Virginia Department of Transportation's Virginia Highway Functional Classification map for the City of Lynchburg.

~~(3)~~ (4) Block: An area of land containing two (2) or more lots and bounded by streets providing access to such lots.

~~(4)~~ (5) Building line: A line set with respect to the frontage of a ~~plot~~ lot of land which is fixed by statute, ordinance, deed or contract and beyond which the ~~owner~~ subdivider of the land may not build.

~~(5)~~ (6) Building setback: The minimum distance that a building must be set back from the street line on which the lot abuts.

(7) Collector road: A moderate-capacity road which leads traffic from local roads or sections of neighborhoods to activity areas within the city. Collector roads are designated on the Virginia Department of Transportation's Virginia Highway Functional Classification map for the City of Lynchburg.

~~(6)~~ (8) Commission: The planning commission of the City of Lynchburg, Virginia.

~~(7)~~ (9) Cul-de-sac: A street with only one (1) outlet and having an appropriate turnaround for a safe and convenient reverse traffic movement.

~~(8)~~ (10) Dedicate(tion): An appropriation of land to some public use, made by the ~~owner~~ subdivider, and accepted for such use by or on behalf of the public.

~~(9) Developer: An owner of property being subdivided, whether or not represented by an agent.~~

~~(10)~~ (11) Driveway: The means of access to the building on a lot, connecting the building to the street on which the lot has frontage.

~~(11)~~ (12) Easement: A grant by a property ~~owner~~ subdivider of the use of land for a specific purpose or purposes.

~~(12)~~ (13) Flag lot: A lot which has less than the usual required street frontage and which meets the requirements of Section 24.1-28.1. Flag lots. Lots fronting on a cul-de-sac are not considered flag lots and are regulated by Section 35.1-22. Buildings, uses and lots.

~~(13)~~ (14) Governing body: The city council of the City of Lynchburg, Virginia.

~~(14)~~ (15) Health official: The ~~Health~~, director of the ~~City of Lynchburg~~, or a ~~sanitarian~~. Central Virginia Health District of the Virginia Department of Health.

~~(15)~~ (16) Jurisdiction: The area or territory subject to the legislative control of the governing body.

~~(16)~~ (17) Lot: A tract or parcel of land intended for transfer of ownership, use or improvement.

~~(17)~~ (18) Lot, double frontage: A lot, the opposite ends of which abut on streets.

~~(18)~~ (19) Lot of record: A lot, the plat of which has been recorded in the office of the clerk of the circuit court.

~~(19)~~ (20) Lynchburg ~~general plan~~ comprehensive plan: The comprehensive plan of the City of Lynchburg as adopted and amended by the city council.

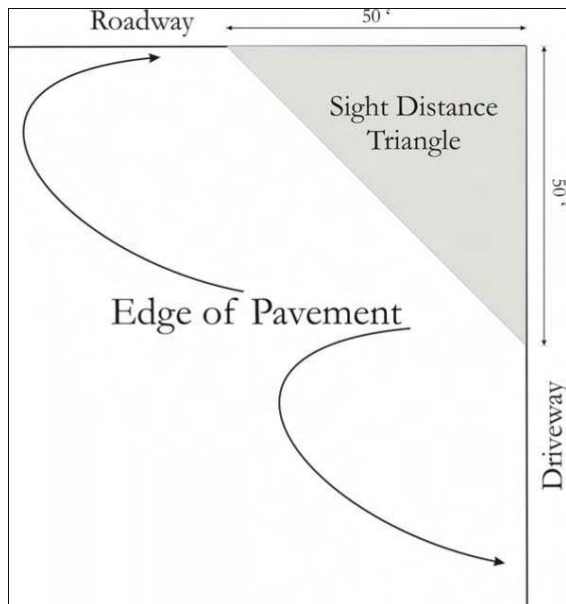
~~(20)~~ (21) Monuments: Visible marks or indications left on natural or other objects indicating the lines and boundaries of a survey.

~~(21)~~ (22) Plat: Includes the terms: map, plan, plot, replat or replot; a map or plan of a tract or parcel of land which is to be, or which has been, subdivided. When used as a verb "plat" is synonymous with "subdivide."

~~(22)~~ (23) Property: Any tract, lot, parcel or several of the same collected together for the purpose of subdividing.

~~(23)~~ (24) Public water or sewer: A water or sewer system designed to accommodate more than two (2) family residences, whether owned by the City of Lynchburg or by a private individual ~~or concern~~. This definition shall not apply to nonresidential subdivisions.

~~(24)~~ (25) Sight distance (across intersections): ~~A straight line with unobstructed view measured in either direction across the corner between points, each fifty (50) feet back from the theoretical intersection of the edges of the pavement prolonged; both points three (3) feet above the grade of the pavement edge.~~
Sight distance triangle: A straight line with unobstructed view measured fifty (50) feet along the edge of pavement lines from their points of junction with points being three (3) feet above the pavement edge.



~~(25)~~ (26) Sight distance ~~(along road)~~: A straight line with unobstructed view measured between a point three (3) feet above the finished grade of a road, at the center line of each traffic lane, and a point at a given minimum distance away from the first point, located six (6) inches above finished grade at a center line of the same traffic lane.

~~(26)~~ (27) Street, private: An improved access road which has been approved by the City of Lynchburg as part of a planned unit development, cluster commercial development, or townhouse ~~lots for sale~~ complex development, where an owners' association owns and maintains the access road. Also an improved access road which by a plat, deed or agreement recorded on or before September 12, 1989, has established joint usage rights and maintenance responsibilities among the owners of properties fronting on said improved access road.

~~(27)~~ (28) Street, public: An improved dedicated right-of-way, or an improved road which has become public by right of use, for access use by the public, usually having a minimum pavement width of thirty (30) feet and a minimum right-of-way width of fifty (50) feet unless the regulations of the City of Lynchburg require otherwise.

~~(28)~~ (29) Street, width: The total width of the strip of land dedicated or reserved for public travel, including roadway, curbs, gutters, sidewalks and planting strips.

~~(29)~~ (30) Subdivision: Division of any tract, parcel or lot of land into two (2) or more parts ~~at one time or any extended period of time~~. For the purposes of this ordinance, the alternation or reconfiguration of existing lot lines is also considered to be a subdivision. ~~However, the following exceptions apply:~~

a. The term "subdivision" shall not include the division of land into ten (10) acres or more for agricultural purposes, provided no new streets are required.

b. The agent may, however, permit the separation of one (1) parcel from a tract of land without complying with all requirements of this ordinance if it is (1) not in conflict with the general meaning and purpose of the ordinance, and (2) no new streets are required to serve the parcel.

~~c. The word "subdivide" and any derivative thereof shall have reference to the term "subdivision" as defined in Section 24.1-5(26).~~

~~(30)~~ (31) Subdivider: Any ~~one (1) or more individual, corporation or registered partnership, owning any owner of a~~ tract, lot or parcel of land to be subdivided, ~~or a group of two (2) or more persons owning any~~

~~tract, lot or parcel of land to be subdivided, who have given their power of attorney to one of their group or to another individual to act on their behalf in planning, negotiating for, in representing or their legal representative executing the legal requirements of the subdivision.~~

~~(31)~~ (32) Technical review committee (TRC): A committee for review and recommendation to the city manager, planning commission, and city council, consisting of the city planner, city engineer, city traffic engineer, ~~superintendent of inspections~~ building official, director of utilities, urban forester and city fire marshal or their designees and other city staff as appropriate.

Sec. 24.1-6. Agent, or his designee.

This ordinance ~~will~~ shall be administered by the city planner, or his designee, in collaboration with the technical review committee who shall jointly determine compliance with the regulations contained herein. The city planner shall administer ~~with these~~ these regulations contained herein. The ~~city planner~~ agent shall administer all subdivisions, ~~provided no new streets are required to serve the parcel, in which case final approval may only be given by the city council~~ not approve any subdivision requiring a new street or street extension until the right-of-way has been accepted by city council after review by the planning commission. ~~Where a subdivision has been approved administratively by the city planner, no additional subdivision of these lots or of the residue tract will be approved within a period of two (2) years from the date of approval, unless the land is industrially zoned or the two-year time limit is waived by the planning commission.~~ In so acting, the city planner shall be considered the agent of the governing body, and approval or disapproval by the agent shall constitute approval or disapproval as though it were given by the governing body. An appeal of right from any decision of the agent shall lie to the commission, thence to city council, thence to the circuit court of the City of Lynchburg.

Sec. 24.1-7. Duties.

The agent shall perform his or her ~~duties regarding subdivision and subdividing~~ in accordance with this ordinance and ~~Chapter 11, Article 7, Sections 15.1-465 through 15.1-485~~ Chapter 22, Article 6, Sections 15.2-2240 through 15.2-2276, and other applicable sections of the Code of Virginia (1950), as amended.

Sec. 24.1-9. Platting and recording required.

Any ~~developer~~ subdivider of any tract of land situated within the City of Lynchburg ~~who subdivides the same as defined herein~~ shall cause a plat of such subdivision, with reference to known or permanent monuments, to be made and recorded in the office of the clerk of the circuit court of the City of Lynchburg. No such plat of subdivision shall be recorded unless and until it shall have been submitted, approved and certified by the agent in accordance with the regulations set forth in this ordinance. No lot shall be sold in the subdivision before the plat shall have been recorded. Before any permits are issued to begin construction, the subdivider shall submit a notarized letter, or a copy of the plat with the clerk of courts' seal and signature, to the ~~superintendent of inspections, the city planner, and the city engineer~~ agent certifying that the plat has been recorded with the clerk of the circuit court.

Sec. 24.1-10. Draw and certify.

Every such plat shall be prepared by a licensed professional surveyor ~~or other persons certified~~ appropriately licensed by the ~~State~~ Commonwealth of Virginia, who shall endorse upon each plat a certificate ~~signed by him~~, setting forth: (1) the source of the title of the land subdivided; and (2) the place of record of the last instrument in the chain of title. When the plat is of land acquired from more than one source of title, the outlines of the several tracts shall be indicated upon the plat, within an insert block, or

by means of a dotted boundary line. ~~When any part of the land proposed for subdivision lies in a drainage district, such fact shall be set forth on the plat of the proposed subdivision.~~

Sec. 24.1-11. Owner's Subdivider's statement.

Every such plat, or the deed of dedication to which the plat is attached, shall contain in addition to the surveyor's certificate a statement to the effect that "the above and foregoing" subdivision of (here insert correct description of the land subdivided) as appears in this plat is with the free consent and in accordance with the desire of the undersigned owners, ~~proprietors and trustees, if any~~ which shall be signed by the owners, ~~proprietors and trustees, if any~~ and shall be duly acknowledged before some officer authorized to take acknowledgements of deeds, and when thus executed and approved, as herein specified, shall be filed and recorded in the office of the clerk of the circuit court of the City of Lynchburg, Virginia, and indexed under the names of the landowners signing such statement and under the name of the subdivision.

Sec. 24.1-12. No land exempt.

No tract of land shall be subdivided ~~that is located within the City of Lynchburg, Virginia,~~ unless it conforms with the provisions of this ordinance.

Sec. 24.1-16.1. Possible flood plain.

To ensure that owners will have sufficient land upon which to build a structure which is flood free, compliance with floodway widths and the one hundred (100) year flood elevations contained within the city's Federal Emergency Management Agency (FEMA) flood insurance study (FIS) is mandatory. The agent may require the subdivider to provide elevation and flood profiles based on a one hundred (100) year flood plain (which means a flood of a magnitude likely to happen, on the average, only once every century) sufficient to demonstrate the land to be completely free of the danger of flood water at an elevation of at least three (3) feet below any probable floor level of any building for human occupancy.

Sec. 24.1-17.1. Building line.

The building ~~line~~ shall comply with subdivision plat restrictions. This line shall not be closer to the street line than the required building setback (~~Section 24.1-17~~) in the zoning ordinance.

Sec. 24.1-18. Lot sizes.

Lot sizes shall be in accordance with minimum requirements of the zoning ordinance, or the following subsections, whichever is more restrictive ~~shall apply~~:

(1) Lot size, public water and sewer: Lots served by both public water and sewerage systems shall be in accordance with the zoning ordinance.

(2) The following statement shall be shown on the plat when sewer and water lines are available, but not in place:

"~~The owner of this subdivision~~ subdivider agrees to construct a public water and sanitary sewerage system within the boundaries of the subdivision to meet the policies, regulations, and standards of the city."

Sec. 24.1-19. Lot size, public water or sewer.

(a) Residential subdivisions of five (5) lots or less may be served by private wells or septic tanks provided, that water and/or sewer are not available as defined by Section 24.1-31(c) and that no new roads are required and that lots served by only one of water or sewerage system shall be twenty thousand (20,000) square feet or more in area and the following statement shall be shown on the plat:

~~"The owner of this subdivision~~ subdivider agrees to construct a water or a sanitary sewerage system to meet the policies, regulations, and standards of the city and/or ~~Lynchburg health~~ Virginia Department of Health. Before the construction of any dwelling can begin the ~~Lynchburg health department official~~ shall ~~be consulted to ensure~~ approve the proper location of the water or the sanitary sewerage system in relation to the location of the dwellings."

(b) Non-residential lots served by only one of public water or sewerage system shall meet the requirements of the ~~Lynchburg health department official~~ official and the city, except where exempted by city ordinance or current city policy.

Sec. 24.1-20. Lot size, neither public water nor sewer available.

(a) Residential subdivisions of five (5) lots or less may be served by both private wells and septic tanks provided no new roads are required and lots served by neither public water nor sewerage systems shall be twenty-five thousand (25,000) square feet or more in area and the following statement shall be shown on the plat:

~~"The owner of this subdivision~~ subdivider does not agree to construct either a public water or a sanitary sewerage system. Before the construction of any dwelling can begin the city and the ~~Lynchburg health department official~~ shall ~~be consulted to ensure~~ approve the proper location of the water and sewer systems in relation to the location of the proposed dwellings."

(b) Nonresidential lots served by neither public water nor sewerage systems shall meet the requirements of the ~~Lynchburg health office department official~~ official and the city, except where exempted by the city ordinance or current city policy.

Sec. 24.1-21. Septic tanks.

The agent shall not approve any subdivision where sanitary sewers are not provided unless the subdivision is of five (5) lots or less and the agent receives in writing from the health official, a statement to the effect that the area contained in the subdivision is satisfactory for the installation of septic tanks, and that they will not, so far as can be determined, create hazards to public health. Final approval as to site suitability will be made prior to approval of the plat, ~~at the time of application for a building permit.~~

(a) Greater lot areas may be required or certain lots may be disapproved where individual septic tanks or individual wells are to be used, if the health official determines that there are factors ~~or~~ such as drainage, soil condition, or other conditions to cause potential health problems. Drainfield location shall be approved by the ~~Lynchburg health department official~~ official.

(b) Public water and sewer required: The agent shall not approve any subdivision of more than five (5) lots unless the subdivision is served by the city ("public") water and sewer system.

Sec. 24.1-21.1. Development of large lots generally.

Notwithstanding any other provisions of this article, subdivisions without public sewer service may be approved by the city council when the following conditions are met:

- (a) Each proposed lot must have at least one (1) acre in area.
- (b) The large lot development must have a minimum size of six (6) lots.
- (c) City sewer service is not reasonably available and economically feasible to extend, as defined in Section 24.1-31(c) of the subdivision ordinance, and sewer service extension is not planned in the city's current capital improvements program.
- ~~(d) If the capital improvements program is revised to include sewer service extension to the area within twelve (12) months of the date of approval of the subdivision plat, or if funds are appropriated for sewer extension within the said twelve (12) months in connection with another development or plan, and a requested large lot development has not yet had an approved plat recorded or construction begun according to approved plans, then any large lot approval that has been given by the city council is hereby rescinded and the proposed development must meet all appropriate land development and sewer service regulations.~~
- ~~(e)~~ (d) The subdivision plat must include all usual standard sewer service easements requested by the city, in order that the development can be readily connected to city sewer service in the future.
- ~~(f)~~ (e) The Commonwealth of Virginia department of health official must approve each of the requested large lots as having sufficient area to accommodate two (2) septic disposal fields prior to subdivision approval by the city.
- ~~(g)~~ (f) All other city land development regulations must be met.
- ~~(h)~~ (g) The city council may disapprove any large lot development if it believes the development will be detrimental to the orderly development of the area or the efficient provision of public services.

Sec. 24.1-23. Easements.

~~Easements of seven and one-half (7 1/2) twenty (20) feet minimum in width on each side of the center line of the easement shall be provided for water, sewer, power and telephone lines and other utilities, as well as cable television service lines, storm drainage in the subdivision. Such easements shall be kept free of permanent structures and whenever possible shall be located adjacent to property lines. Such easements shall be laid out so as to ensure continuity of the utilities from block to block and to adjacent property. Such utility easement shall be kept free of permanent structures and whenever possible shall be located adjacent to property lines. In situations when pipes exceeding 36 inches in diameter and or pipes exceeding 8 feet in depth are necessary, an additional 10 feet of easement width may be required.~~

Easements shall be provided for electric, telephone, cable television and natural gas of sufficient width and location as determined by the appropriate utility company.

Nothing in this section is intended to prohibit the placement of public utilities within dedicated rights-of-way. Placement of private water and sewer lines is prohibited in the public right-of-way. The agent may require that easements for drainage through adjoining property be provided by the subdivider.

Sec. 24.1-24. Fire protection.

The installation of adequate fire hydrants and mains in a subdivision may be required by the city at locations approved by the city of Lynchburg, provided necessary public water is available. Fire protection shall meet the requirements of the applicable sections of the City of Lynchburg Fire Code.

Sec. 24.1-25. Bond.

Every subdivider shall provide to the city a guarantee of performance prior to the acceptance of dedication for public use of any right-of-way located within any subdivision or section thereof in which has constructed therein, or proposed to be constructed therein, any street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, water line or part of a public system, or other improvement, or phase thereof as approved, site-related improvements required by the agent on the final plat, financed or to be financed local ordinances for vehicular ingress and egress, traffic signalization and control, structures necessary to ensure stability of critical slopes, stormwater management facilities, or other improvement dedicated for public use that is to be constructed in whole or in part by private funds, shall be accepted only if and is to be maintained by the owner or city. To guarantee such performance the subdivider:—(1) certifies shall: (i) certify to the city engineer that the construction costs have been paid to the person constructing such facilities, or (2) furnishes ; (ii) furnish to the city engineer a certified check or, a financial institution's letter of credit, a cash escrow in the amount of the estimated costs of construction account, or a personal, corporate or property bond, or other financial arrangement with surety satisfactory to the city, hereinafter referred to as the "performance guarantee", in an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities, and the a contractor's bond, with like surety, in like amount, and so conditioned, or furnishes to the governing body a bank or savings and loan association's (iii) furnish to the agent a financial institution's letter of credit on certain designated funds satisfactory to the governing body agent as to the bank or savings and loan association financial institution, the amount and the form. The bond, in an amount calculated by the city, shall be based upon a two-year projection of cost from the date of starting construction of said improvements to ensure that required improvements are completed in a workmanlike manner in accordance with specifications and construction schedules established by the city. The improvements shall be completed within two (2) years from date of starting construction and the bond shall guarantee such performance. The bond shall not be released until the construction has been inspected and approved by the city.—The amount of such performance guarantee shall equal the total estimated cost of construction based on unit prices for new construction in the city plus a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities, which shall not exceed twenty-five (25) percent of the estimated construction costs. "Such facilities," as used in this section, means those facilities specifically provided for in this section.

~~(1) Within fifteen (15) days, after notification by the owner that the construction is complete, the city shall inspect the construction and notify the owner in writing of those items of construction which are not satisfactory, or that the construction is approved. The city may release fifty (50) percent of the bond upon notification by the owner that fifty (50) percent of the construction is complete. The owner shall certify that all construction costs have been paid to persons constructing the facilities and the city shall inspect the facilities, to ensure that fifty (50) percent of the work is complete, within fifteen (15) days of notification by the owner.~~

~~(2) The developer and the development principals thereof shall provide the city with a guarantee of warranty against defects for a period of one (1) year following acceptance of the subdivision public improvements by the city.~~

If a subdivider records a final plat which may be a section of a subdivision as shown on an approved preliminary subdivision plat and furnishes to the city a performance guarantee as defined above for facilities to be dedicated for public use and to be maintained by the city within said section, the developer shall have the right to record the remaining sections shown on the preliminary subdivision plat for a

period of five (5) years from the recordation date of the first section subject to engineering and construction standards and zoning requirements in effect at the time that each remaining section is recorded.

Notwithstanding other provisions of this section, and provided the subdivider and the city have agreed on the delineation of sections within a proposed development, the subdivider shall not be required to furnish to the city a performance guarantee for the estimated cost of construction of facilities to be dedicated for public use within each section of the development until such time as construction plans are submitted for the section in which such facilities are to be located.

Sec. 24.1-26. Improvements.

Minimum improvements and construction standards required of all subdivisions are set forth in these regulations and in the applicable design standards and specifications of the ~~public works department of the City of Lynchburg~~ Manual of Specifications and Standard Details for construction. Prior to beginning any subdivision construction improvements, the ~~developer~~ subdivider shall have a ~~registered professional civil engineer~~ surveyor or other persons appropriately licensed by the Commonwealth of Virginia prepare for the city's approval, a complete set of engineering plans and specifications. The city shall approve, or notify the subdivider of those plans and specifications which are not satisfactory, in writing within fifteen (15) days of official submittal of such plans and specifications and provided the final plat has been approved by the agent. These processes may run concurrently, however, any changes required to the plat shall be at the expense of the subdivider.

Sec. 24.1-27. City obligation.

Nothing herein shall be construed as creating an obligation upon the city to pay for grading or paving, or for sidewalks, sewers, curb and gutter improvements or construction or any other costs in connection therewith, other than that which has been specified ~~for certain required improvements~~ elsewhere in this chapter.

Sec. 24.1-28. Lots.

Lots platted shall be in conformance with the following:

(a) Shape: 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, and conform to requirements of this ordinance. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage of area which would be unusable ~~for normal purposes.~~

(b) Location:

(1) Each lot shall have frontage on a public street or an existing private street, as defined in Section 24.1-5. Words and terms, reflected on the subdivision plat, or on a street which has become public by right of use, except lots in planned unit developments, cluster commercial developments, and townhouse ~~lots for sale complexes~~ developments.

(2) Lots in planned unit developments, cluster commercial developments, and townhouse ~~lots for sale complexes~~ developments may front on private common drives and/or easements within the development which have access to an improved public street. Responsibility for maintenance of said private streets shall be with the association charged with management and ownership of common open space, property and facilities and shall be so stated on the plat.

(3) Residential driveways: It is the city's intent to limit the number of new access points to existing arterial and collector streets and to maintain good access management of its streets. Required frontage and access should be from local streets. Residential driveways shall not be permitted from arterials and collectors unless size, topography, shape or other prohibitive conditions, as approved by the subdivision agent, would prevent access from a local street. Each lot shall be located and designed such that a usable driveway can be built to access the lot directly from the street on which it has the required street frontage, except for lots in approved planned unit developments, cluster commercial developments, and townhouse lots for sale complexes.

(4) Shared direct access and internal vehicle circulation: All multifamily residential, commercial and industrial developments fronting on existing arterial and collector streets shall be designed to achieve direct and convenient vehicular access between adjacent multifamily residential, commercial and industrial properties including outparcels, subject to the provisions of this ordinance.

i. The shared direct access and/or internal vehicular circulation provisions shall apply to all properties, including outparcels, owned or controlled by the subdivider or that are the subject to a single site plan or plan of development.

ii. In determining whether a site plan meets the requirements of this section, the technical review committee shall consider the characteristics of the proposed development, the information in the traffic study prepared pursuant to this section, the existing uses on adjacent properties, and the foreseeable development of adjacent properties based on the existing uses, existing zoning designations, comprehensive plan designations and factors and development patterns in the area.

iii. The shared direct access provisions of this ordinance shall not be required to provide primary access to a public street for an adjacent commercial property not owned or controlled by the subdivider or subject to a single site plan or plan of development that would not otherwise exist. An subdivider shall not be required to provide primary access through the shared direct access provisions to a public street to benefit an adjacent commercial property not owned or controlled by the subdivider or subject to a single site plan or plan of development that would not otherwise exist.

iv. A subdivider shall not be required to construct any improvements allowing shared direct access with adjacent commercial properties other than on property owned or controlled by the subdivider or subject to a single site plan or plan of development in order to meet this standard. A subdivider shall not be required to dedicate any property or property interest to the city to meet this standard.

v. In the event that an owner of adjacent commercial property will not consent to a design allowing shared direct access at the time of development, the development shall be designed and constructed to allow for the establishment of shared direct access with adjoining commercial properties in the future should the consent of the adjacent owner or owners become available.

(c) Corner lots: Corner lots shall have extra width sufficient for maintenance of required building lines on both streets as required by the zoning or subdivision ordinance, whichever is more restrictive.

(d) Sight distance ~~(across intersections)~~ triangle: Clear sight distance triangles of fifty (50) feet measured along edge of pavement lines from their points of junction shall be provided at all intersections, and no building, structure, grade or planting higher than three (3) feet above the center line of the street shall be permitted within such sight distance triangle.

(e) Side lines: Side lines of lots shall be approximately at right angles, or radial to the street line and be marked plainly before inspection by the city.

(f) Remnants: All remnants of lots below minimum size, as required in the zoning ordinance, left over after subdividing of a tract must be added to adjacent lots.

(g) Separate ownership: Where the land covered by a subdivision includes two (2) or more parcels in separate ownership, and lot arrangement is such that a property ownership line divides one (1) or more lots, a signed statement with free consent by all owners, proprietors and trustees shall accompany the final plat and lot sizes and arrangement shall meet the requirements of this ordinance. Said statement is to be deposited with the ~~clerk of council~~ agent and held with the final plat until the subdivider is ready to record same, and they both shall then be recorded together.

(h) House numbers and street names: House numbering and street naming shall be in accordance with the ~~Lynchburg~~ city street naming/house numbering ordinance.

(i) Standards for cluster housing developments: All units for sale in cluster housing developments must meet minimum standards specified in Section 35.1-56 of the zoning ordinance.

~~(j) County boundary lines: No proposed lot shall be split by a county boundary line where it is practical to create the lot otherwise. In no case will a permit be issued to build a structure which would be split by a county boundary line.~~

Sec. 24.1-28.1. Flag lots.

The creation of flag lots will only be considered in those instances where severe topographic constraints or unusual existing lot lines make this type of lot arrangement the only feasible way to develop the tract. In such cases the proposed subdivision may be approved by the ~~city~~ agent when the following conditions are met:

(a) Each flag lot shall have a minimum of fifty (50) feet of frontage on a street, public or private as defined in Section 24.1-5. Words and terms, except for a lot on a cul-de-sac which shall have a minimum street frontage of thirty (30) feet.

(b) The required minimum lot area shall meet the zoning ordinance requirement of the district in which it is located and shall not include the area of the long narrow "flagpole" portion.

(c) Not more than two (2) adjacent flag lots shall be created.

(d) The development of one flag lot behind another flag lot shall be prohibited.

(e) A flag lot shall not be further subdivided until a public street to serve the proposed lot(s) is dedicated and constructed with a minimum right-of-way of fifty (50) feet, or unless a planned unit development, cluster commercial development, or townhouse ~~lots for sale complex~~ development is approved for the property, and a note to this effect shall be placed on each subdivision plat which contains a flag lot.

(f) A note shall be placed on the final subdivision plat stating that public services such as refuse collection, snow removal, and street maintenance will only be provided to the point where the flag lot meets the public street right-of-way.

(g) Flag lots with flagpole access strips greater than two hundred (200) feet in length shall provide, at the ~~developer's~~ subdivider's expense, a driveway which is capable of supporting emergency vehicles and which is at least ten (10) feet in width for the front half closest to the street and at least twenty (20) feet in width for the rear half to allow for the pass-by of vehicles.

(h) The maximum length for the flagpole access strip shall be seven hundred (700) feet in order to provide adequate fire protection.

(i) The house on a flag lot must have a setback of at least fifty (50) feet from all property lines.

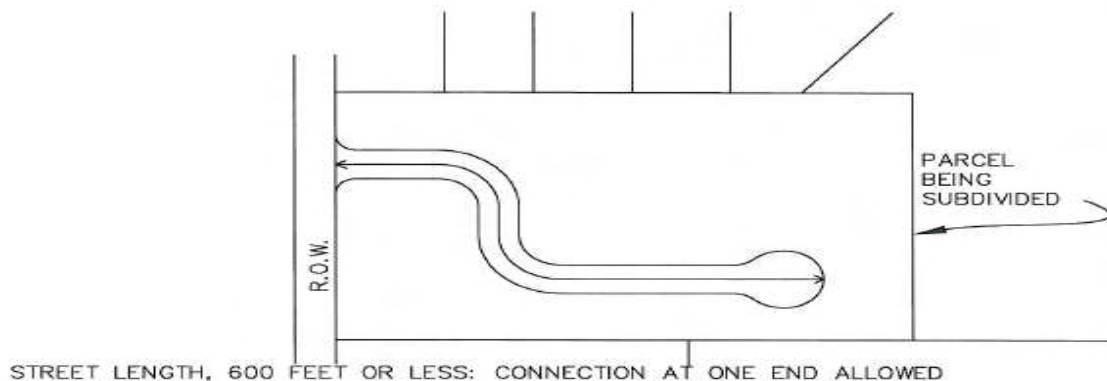
(j) A driveway on a residential flag lot shall be located a minimum of five (5) feet from all lot lines, unless approval has been obtained from a shared driveway with one (1) of the adjacent lots.

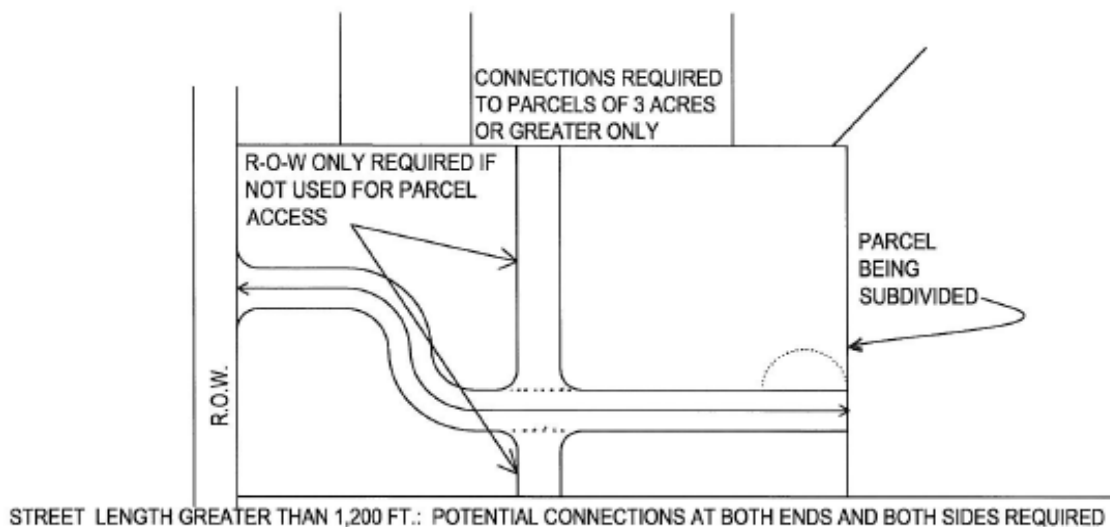
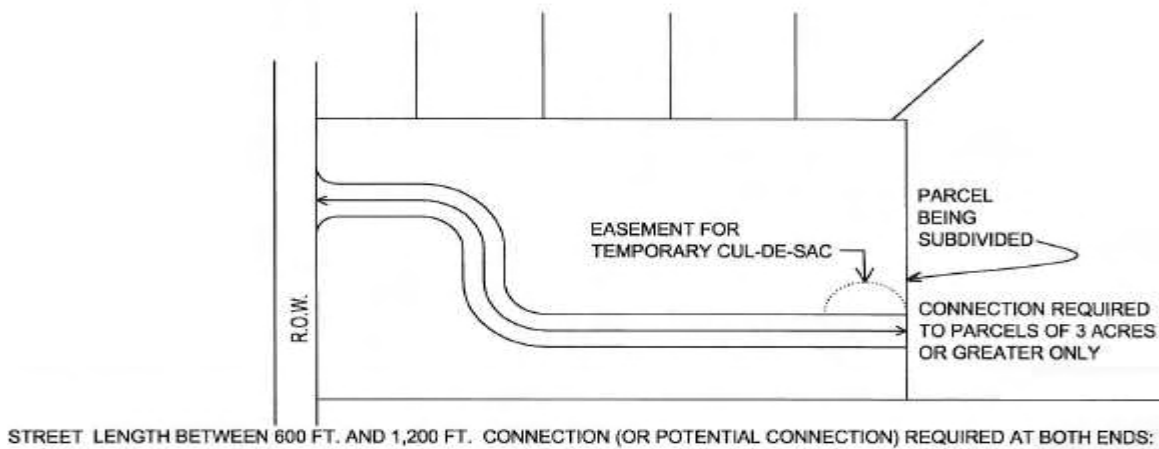
Sec. 24.1-30. Streets.

(a) (1) Residential: In residential subdivisions where the streets are dedicated to public use, all street and drainage improvements, ~~excluding curbs and gutters~~, shall be installed by the subdivider ~~at his cost~~. The subdivider shall clear and grade every street to the full width of the right-of-way with provisions for mowable three (3) to one (1) or flatter slopes on private property, except where topography prohibits. Specifications and requirements shall be in accordance with the standards established ~~by the city~~ in the City of Lynchburg, Manual of Specifications and Standard Details.

(2) Nonresidential: In nonresidential subdivisions where the streets are dedicated to public use, the cost and installation of all streets and drainage improvements shall be in accordance with current city policy, as established by city council.

(b) Alignment and layout: The arrangement of streets in new subdivisions shall make provision for the continuation of existing, proposed and future streets in adjoining areas. The street arrangement must be such as to cause no unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. In residential and commercial subdivisions, street segments of six hundred (600) feet in length or greater shall have right-of-way dedicated to provide street connections at each end. Street segments of one thousand two hundred (1,200) feet in length or greater shall have right of way dedicated to provide street connections at each end and at least one potential connection to the left and one potential connection to the right adjoining properties. Notwithstanding other requirements of this section, connections shall not be required to any adjoining parcel of less than three (3) acres in size. Whenever possible, streets should intersect at right angles. In all hillside areas, streets running with contours shall be required to intersect at angles of not less than sixty (60) degrees, unless approved by the city. Where topographical features are prohibitive, no dedication for street continuation shall be required.





(c) Improvements Required: The subdivider shall improve right-of-way 100 feet beyond the beginning of the furthest parcel or the end of the furthest driveway location, whichever is farther. This improvement shall include a turnaround facility as detailed by the Manual of Specifications and Standard Details. The subdivider shall improve the full length of any right-of-way within the subdivision that connects to an existing or proposed street.

(d) Improvements Not Required: Except where specifically required by paragraph (c) above, whenever right-of-way is dedicated solely to provide required connections to adjoining property, the subdivider shall only be required to dedicate an unimproved right-of-way. ~~to give convenient access, acceptable to the city, to owners of adjoining property except where the subdivider's lots front on such right-of-way, the right-of-way shall be improved and extended to the property line of the adjoining property owners and where topographical features are prohibitive, no dedication for access shall be required.~~

(e) Service drives: Whenever a proposed subdivision contains or is adjacent to a limited access highway or expressway, where adequate access is not provided, provision shall be made for a service drive or marginal street approximately parallel to such right-of-way at a distance suitable for an appropriate use of the land between such highway or expressway and the proposed subdivision. Such distance shall be determined with due consideration of the minimum distance required for ingress and egress to the limited access highway or expressway. The right-of-way of any major highway or street projected across any railroad, limited access highway or expressway shall be of adequate width to provide for the cuts or fills required for any future separation of grades.

~~(d)~~ (f) Approach angle: Streets shall approach the major or collector streets at an angle of not less than eighty (80) degrees, unless the ~~city~~ city engineer shall approve a lesser angle of approach for reasons of contour, terrain or matching of existing patterns.

~~(e)~~ (g) Minimum widths: The minimum width of proposed streets, measured from lot line to lot line, shall be in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details. ~~Street widths are typically but not always~~ However, in no case shall a street be less than fifty (50) feet in width. The street width shall be based on the post development average daily traffic and shall be of sufficient width to accommodate the typical street cross section designated therein. If an existing street is to be utilized for access and such street is not of sufficient width per the criteria of the City of Lynchburg Manual of Specifications and Standard Details and the subdivider owns property on both sides of the street, then provisions shall be made on the plat to widen the street to accommodate the standard street width. ~~Alleys, if permitted, shall be not less than twenty (20) feet, nor more than twenty-eight (28) feet in width. If an existing street is to be utilized and such street is not fifty (50) feet in width and the subdivider owns property on both sides of the street, then provisions shall be made on the plat to widen such street to fifty (50) feet or the standard width of that street, whichever is greater. Should the subdivider subdivision about on only one (1) side of an existing street, the subdivider shall dedicate enough land so that then provisions shall be made on the plat to widen one-half (1/2) of the width of such street, to accommodate the standard street width as measured from the centerline to the subdivision property line, shall be twenty-five (25) feet or one-half (1/2) the standard width of such street, whichever is greater~~ of the existing street.

Alleys for vehicular access, if permitted, shall be not less than fourteen (14) feet in width for one way traffic nor more than twenty eight (28) feet in width for two way traffic.

~~(f)~~ (h) Grading and paving widths: Grading and paving of all streets dedicated to public use shall be in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details.

~~(g)~~ (i) Grades: The grades of streets shall be in accordance with specifications established by the city, and such grades as submitted on subdivision plats shall be approved by the city prior to final action by the agent. ~~Wherever feasible, Maximum allowable street grades should not exceed ten (10) percent and the maximum allowable grade shall be fifteen (15) percent, unless otherwise approved by the city engineer.~~

~~(h)~~ (j) Cul-de-sacs: ~~Minor~~ Terminal streets (cul-de-sacs), designed to have one end permanently closed, shall be not longer than twelve hundred (1,200) feet to the beginning of the turnaround unless approved by the city. ~~Each cul-de-sac must shall be terminated by a permanent or temporary turnaround per the Manual of Specifications and Standard Details. of one hundred (100) feet in right-of-way diameter. This requirement does not apply to nonresidential subdivisions as these streets will be approved by the city.~~

~~(i)~~ (k) Curbs, ~~and gutters~~ and sidewalks: Curbs, and gutters are required ~~and in accordance with~~ regulations established by the City of Lynchburg, Manual of Specifications and Standard Details. Except where pedestrian traffic is explicitly prohibited, sidewalks are required (i) on at least one side of all streets, (ii) on both sides of streets with a post-development traffic count of greater than 6,000 vehicles per day. The cost of said curbs, and gutters and sidewalks shall be borne 50 percent by the city and 50 percent by the developer subdivider. Reimbursements shall be in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details, per the year of origination of the subdivision.

~~(j)~~ (l) Sidewalks: Sidewalks shall be provided by the subdivider where need is demonstrated by the agent with consideration to each subject location with respect to: (1) pedestrian safety, speed limit, street width and street alignment; (2) vicinity of schools, parks, playgrounds, and/or commercial development; (3) street traffic with 6,000 minimum vehicles per day; and

~~(4) pedestrian traffic with minimum of 75 people per day. Where need for sidewalks is determined by the agent, cost shall be borne 50 percent by the city and 50 percent by the subdivided.~~

~~(k)~~ (l) Alleys: Deadend alleys, if unavoidable, shall be provided with adequate turnaround facilities as determined by the city.

~~(h)~~ (m) Identification signs: Street name signs shall be installed by the city at cost to the subdivider.

~~(m)~~ (n) Street lighting: Where the subdivider desires street lighting, and no installation cost shall be borne by the city. ~~Where underground utilities are installed, the subdivider shall install conduit and markers for mounting bases to permit future installation of street lighting.~~

Sec. 24.1-31. Public water supply and sanitary sewer system required.

Subdivisions of more than five (5) lots shall be served by the city ("public") water and sewer systems.

(a) Sewer and/or water available: Where a public water supply and/or a public sanitary sewer system are (reasonably accessible as defined in Section 24.1-31(c)) the said water supply and/or sanitary sewer system shall be designed and extended to adequately serve all lots within the subdivision, according to the design standards issued by the city public works department. All plans are to be approved by the city.

The cost of installing the sanitary sewer and water system including all appurtenances, except connections and meters, within the subdivision boundaries shall be paid one hundred (100) per cent by the subdivider for the size mains needed to serve the subdivision. The minimum size main shall be as determined by the city. If larger mains are required by the city to serve other areas, then the difference in cost, based on the city's annual bid prices, shall be paid by the city. The city will extend and pay one hundred (100) percent of the cost to provide water and/or sewer lines to the subdivision boundary according to Section 24.1-31(c).

Service connections for both water and/or sanitary sewer shall be constructed to each lot within the subdivision. ~~The cost of these connections will be paid one hundred (100) percent by the city based on the city's annual bid prices.~~ Reimbursements shall be in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details, per the year of origination of the subdivision. The subdivision plat will contain a notation to the effect that appropriate sewer/water connection and availability fees will be charged by the city at the time of connection to the system.

(b) Sewer and/or water not available: Where a public water supply and/or a public sanitary sewer system are not reasonably accessible as defined in Section 24.1-31(c). the extension of these systems by the subdivider will not be required; however, where the subdivider desires the extension of such systems which exceeds the ratio stated in Section 24.1-31(c) and agrees to pay the additional cost of the extension to the subdivision boundary, then the city shall extend the lines in accordance with Section 24.1-31(a).

(c) Water/sewer lines availability defined: Reasonably available water and/or sewer lines are defined as those lines which are economically feasible to extend from water and sewer lines mandated by the 1976 annexation decree and/or other lines previously constructed.

To be economically feasible in a residential subdivision, there must be at least one (1) lot for each one hundred (100) feet of utility line construction. The following are examples of feasibility ratios:

Feet of water/sewer line construction	Required number of lots
5,000	50
3,000	30
1,000	10
500	5

For extensions to multi-family subdivisions the feasibility ratio would require two (2) dwelling units per one hundred (100) feet of extension. Thus:

Feet of water/sewer line construction	Required number of dwelling units
5,000	100
3,000	60
1,000	20
500	10

(d) Lots in cluster developments including townhouses ~~for sale~~ and condominiums: Public water and sewer systems shall serve each individual lot in all cluster developments including townhouses ~~for sale~~ and condominiums. The public system shall be brought to an appropriate location(s) on the property line of the development adjacent to a public right-of-way or through a public easement. ~~From that appropriate location(s), the cluster development shall provide private system connecting each unit to the public system. Said private system and payment for service shall become the responsibility of the association charged with management and ownership of common open space, property, and facilities and shall be so stated on the plat.~~

(e) In cases where an obstacle (such as a stream, railroad, or highway crossing, etc.) increases the construction cost beyond twenty percent of the normal distance to dollar ratios, based on the city's annual contract pricing, the subdivider may be required to pay a larger share of the sewer and water facility construction costs as determined by the city's physical development committee.

Sec. 24.1-32. Storm drainage.

A storm drainage system shall be required to adequately provide for drainage of the subdivision. The subdivider shall pay the cost of this system. The subdivider may be required to pay ~~his~~ the pro rata share of sewerage and drainage facilities outside ~~his~~ the subdivision property limits which are necessitated by the construction or improvement of ~~his~~ the subdivision or development.

Sec. 24.1-33. Monuments.

(a) Visible for inspection: Upon completion of subdivision streets, sewers and other improvements, the subdivider shall make certain that all monuments required by the city are clearly visible for inspection and use. Such monuments shall be inspected and approved by the city before any improvements are accepted by the governing body. All monuments shall be set by a surveyor licensed by the Commonwealth of Virginia.

(b) Location—concrete, ~~stone~~: Two (2) permanent reinforced monuments as prescribed by the city shall be placed on the longest street tangent intervisible. Such permanent monuments shall be ~~stone or reinforced concrete at least twenty-four (24) inches long and six (6) inches square and shall be set to approved finished grades as practicable~~ as specified in the City of Lynchburg, Manual of Specifications and Standard Details.

(c) Location—iron: All other lot corners shall be marked with pipe or solid iron not less than one-half (1/2) inch in diameter and fifteen (15) inches long and driven so as to be flush with the finished grade.

When rock is encountered, surveyor shall determine a suitable method for providing a permanent marker.

Sec. 24.1-34. Reservation of land for public purposes.

The city may require subdividers of residential subdivisions to set aside land for parks, playgrounds, schools, libraries, municipal buildings and similar public uses, subject to the following regulations:

(a) Subdividers shall not be required to reserve land for public purposes other than streets and drainage, except on a reimbursement basis. The subdivider shall be reimbursed by the jurisdiction or agency requiring the land. The city shall be required to obtain an option upon the property involved for a negotiated period following the recording of the plat for such purchase. If the land is not purchased within the said negotiated period by the city and the subdivider, it may be sold as lots for the same purpose for which the subdivision was platted. To facilitate such possible eventual sale of reserved land as separate lots, the subdivider shall show on ~~his~~ the final plat, by dotted lines and dotted numbers, the sizes and dimensions of lots to be created within the boundaries of any such reserved land, and may sell such lots, after the expiration date of the reservation, by lot number, without filing an amended plat.

(b) The city shall make certain that lands so reserved are divisible in the same manner as the remainder of the subdivision so that the subdivider will not be required to reserve an unusable portion of ~~his~~ the subdivision.

(c) Nothing herein shall be construed to mean that land may be set aside for commercial purposes in a residential district, without the land so required for commercial use being zoned appropriately in accordance with the zoning ordinance.

Sec. 24.1-36. Preliminary sketch (not required).

The subdivider may, ~~if he so chooses,~~ submit to ~~the planning division~~ a preliminary sketch of the proposed subdivision to the planning division prior to ~~his~~ preparing an engineering preliminary and/or final plat. Submission of the preliminary plat shall not constitute the official filing of a proposed subdivision. The purpose of such preliminary sketch is to permit the planning division to advise the subdivider whether his plans, in general, are in accordance with the requirements of this ordinance. The planning division, upon submission of any preliminary sketch, shall study it, and advise the subdivider within fifteen (15) days ~~wherein whether~~ it appears that changes would be necessary. The planning division may mark the preliminary sketch indicating necessary changes and any such marked sketch should be returned to the planning division with the preliminary plat. The preliminary sketch shall be as follows:

The preliminary sketch may be drawn on white paper, or on a print of a topographic map of the property. It shall be drawn to scale. It shall show the name, location and dimensions of all streets entering the property, adjacent to the property or terminating at the boundary of the property to be subdivided. It shall show the location of all proposed streets, lots, parks, playgrounds and other proposed uses of the land to be subdivided and shall include the approximate dimensions.

Sec. 24.1-37. Preliminary plat.

The subdivider shall present to the planning division the appropriate number, as the city planner determines are needed, of ~~eighteen (18)~~ copies of a preliminary layout at a scale of not less than one hundred (100) feet to the inch and on sheets having a maximum size of seventeen (17) inches by twenty-two (22) inches as a preliminary plat and the preliminary plat shall be accompanied by plan and profile sheets at a scale of fifty (50) feet to the inch horizontal and ten (10) feet to the inch vertical.

The preliminary plat shall include the following information:

- (a) Name of subdivision, owner, subdivider, surveyor or engineer, date of drawing, number of sheets, true and/or magnetic north point and scale.
- (b) Location of proposed subdivision by an insert map with a north arrow and scale at a scale of not less than two (2) inches equal one (1) mile showing adjoining roads, their name and number, counties, subdivisions and other landmarks.
- (c) The boundary survey or existing survey of record provided such survey shows a closure with an accuracy of not less than one (1) in five thousand (5,000), total acreage, acreage of subdivided area, number and approximate area and frontage of all building lots, existing buildings within the boundaries of the tract, names of owners and their property lines within the boundaries of the tract, delineation of flood plain districts, and names of owners and their property lines adjoining such boundaries.
- (d) All existing platted streets, including alleyways, and all proposed streets, their names and widths; existing and proposed utility or other easements, public areas and parking spaces, culverts, drains and water courses, their names and other pertinent data.
- (e) All parcels of land to be dedicated for public use and the conditions of such dedication.
- (f) Topography at maximum intervals of five (5) feet.
- (g) Elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the center line of streets together with proposed grade lines connecting therewith, or as necessary for the city to reasonably interpret the intention of the subdivider. Major grade changes shall be indexed to profile sheets.
- (h) Proposed connections with existing sanitary sewers and existing water supply or alternate means of sewage disposal and water supply.
- (i) Provisions for collecting and discharging surface drainage and preliminary descriptions of any structures that may be required.

Sec. 24.1-38. Procedure.

The agent or his appointed representative shall discuss the preliminary plat with the subdivider in order to determine whether or not ~~his~~ the preliminary plat generally conforms to the requirements of the subdivision ordinance.

The subdivider shall then be advised in writing within fifteen (15) days, which may be by formal letter or by meaningful markings or descriptions on ~~his~~ the copy of the preliminary plat, concerning any additional data that may be required, the character and extent of public improvements that will have to be made, and an estimate of the cost of construction or improvements and the amount of the surety bond which will be required as a prerequisite to approval of the final subdivision plat. In determining the cost of required improvements and the amount of the surety bond, the agent may require the subdivider to furnish a bona fide estimate of the cost of improvements to assist the agent in determining the amount of surety bond.

Sec. 24.1-39. Preliminary plat ~~may be submitted~~ approval as final plat.

The preliminary plat may be submitted as the final plat where approved by the agent and provided no change, erasure or revision shall be made on any preliminary or final plat nor on accompanying data sheets after approval of the agent has been endorsed in writing on the plat or sheets, unless authorization for such changes has been granted in writing by the agent.

Sec. 24.1-42. Final plat.

~~If no preliminary plat is submitted in accordance with Section 24.1-39,~~ The submission of a final plat shall constitute the official filing of a proposed subdivision. ~~Twenty (20)~~ The appropriate number, as the city planner determines are needed, of copies of the final plat shall be submitted to the city for final approval and subsequent recording. Blue or black line prints (surveyor's copies) shall be clearly and legibly drawn at a scale of not more than one hundred (100) feet to the inch on sheets having a maximum size of seventeen (17) inches by twenty-two (22) inches.

For any subdivision of five (5) lots or more the digital data associated with the creation of the subdivision plat shall be provided to the agent in a format approved by the city. The digital data shall be "georeferenced" to the State Plane Coordinate System, North American Datum 1983, Virginia South Zone #4502. The data shall be certified by a licensed ~~engineer or surveyor or other persons~~ appropriately licensed by the Commonwealth of Virginia for accuracy and correctness. Where the subdivider can show that the subdivision plat was not created using computer aided design (CAD) software, or adherence to these requirements would produce unnecessary hardships the agent may grant an exception in whole or in part to the requirements for digital data submission.

The final plat shall include the following information and all information which is required on the preliminary plat shall be provided on the final plat:

- (a) Name of subdivision, city, state, owner, true and/or magnetic north point and scale of drawing and number of sheets. If shown on more than one (1) sheet, matched lines shall clearly indicate where the several sheets join. A space shall be reserved for the signature of the city engineer and the city planner clerk of council ~~if no new streets are dedicated. If the plat includes a new street or street extension, a space shall be reserved for the signature of the city engineer. If the plat includes the acceptance of other right-of-way, a space shall be reserved for the signature of the city engineer and the city manager.~~
- (b) Location of proposed subdivision by an insert map with north arrow and scale at a scale of not less than two (2) inches equal one (1) mile indicating adjoining roads, their names and numbers, counties, subdivisions and other landmarks.
- (c) A boundary survey with an error of closure within the limits of one (1) in five thousand (5,000) related to the magnetic meridian and showing the location of all monuments and their type of material within the boundary of the subdivision. The survey may be related to the U. S. Coast and Geodetic Survey state grid north if the coordinate of two (2) adjacent corners of the subdivision are shown.
- (d) ~~Certificates signed by the surveyor setting forth~~ The source of title of the owners of the land subdivided and the place of record of the last instrument in the chain of title.
- (e) A statement to the effect that the subdivision as it appears on this plat is with the free consent and in accordance with the desires of the owners, proprietors and trustees, if any, which shall be signed by the owners, proprietors and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgements to deeds.

(f) When the subdivision consists of land acquired from more than one (1) source of title the outlines of the various tracts shall be indicated by dotted lines and identification of the respective tracts shall be placed on the plat.

(g) The accurate location and dimensions by bearings and distances with all curve data on all lots and street lines, boundaries of all proposed or existing easements and utilities, existing parks, school sites or other public areas, the number and area of all building lots, all existing public and private streets, their names, numbers and widths, water courses and their names, if any, delineation of flood plain districts zones, names of owners and their property lines within the boundary of the subdivision and the names of owners and their property lines adjoining said boundaries.

(h) All dimensions shall be shown in feet and decimals of a foot to the closest two (2) decimal points, all bearings shall be shown in degrees and minutes to the nearest minute.

(i) The data of all curves along the street frontages shall be shown in detail at the curve or in a curve data table containing the following; delta angle, radius, arc, tangent, chord and chord bearings.

(j) Any restrictions imposed by the subdivider shall be shown on the plat, or on attached sheet(s) in which case it shall be stated on the plat that deed restrictions are on the said attached sheet(s) or as filed in Plat Cabinet number (identify number) of the office of the clerk of the circuit court.

(k) Where public water and or sewer systems are to be provided it shall be indicated on the plat and shall reflect whether such facilities will be owned by the City of Lynchburg or privately owned, indicating the name or title of the owner.

(l) A statement as to whether utilities will be placed overhead or underground.

(m) All other applicable minimum standards for surveys as defined within Chapter 20 of the Virginia Administrative Code.

A house number shall be assigned to each lot created by the subdivision as provided in section 35-114 and chapter 35, article VII of the city code.

Sec. 24.1-44. Approval.

The agent shall not approve the final plat until ~~he has received~~ receipt of a written statement from the health department official that the subject property is suitable for the proposed development; nor shall he ~~approve the plat~~ be approved when city public water and/or sewer is to be provided until the agent receives in writing that the system has been approved and accepted by the City of Lynchburg or the subdivider has the required surety in place. Where a subdivision has been approved administratively by the city planner, no additional subdivision of the new lots or of the residue tract shall be approved within a period of two (2) years from the date of approval, unless the land is industrially-zoned or the two-year time limit is waived by the agent.

(a) Approval of the final plat shall be written on the face of the plat by the city engineer and city planner ~~clerk of council~~ and if no new streets are dedicated. Approval of the final plat that includes acceptance of right-of-way shall be written on the face of the plat by the city engineer and city manager and approval of a final plat that includes the dedication of right-of-way, shall be written on the face of the plat by the city engineer; all copies shall be retained by the ~~clerk of council~~ agent until the subdivider is ready to record same. (See also Section 24.1-28(g).) The agent shall notify the subdivider in writing when the plat is approved and the subdivider shall record the plat within six (6) months after final approval. The agent may, on written request of the subdivider, grant an extension of this time, otherwise he shall mark the plat void and return same to the subdivider.

(b) The city council, commission or ~~other agent~~ shall render a decision on the proposed plat right-of-way within sixty (60) days after it has been submitted for approval by either approving or disapproving such plat in writing, and giving with the latter specific reasons therefore.

Specific reasons for disapproval may be contained in a separate document or may be written on the plat itself, and shall relate in general terms such modifications or corrections as will permit approval of the plat.

If the city council, commission or other agent fails to approve or disapprove the plat within sixty (60) days after it has been officially submitted for approval, the subdivider, after ten (10) days' written notice to the commission or agent, may petition the circuit court of the city ~~or county in which the land involved, or the major part thereof, is located,~~ to decide whether the plat should or should not be approved. The court shall hear the matter and make and enter such order with respect thereto as it deems proper, which may include directing approval of the plat.

If the city council, commission or ~~other agent~~ disapproves a plat and the subdivider contends that such disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he may appeal to the circuit court having jurisdiction. ~~of such land and the court shall hear and determine the case as soon as may be.~~

The time requirements contained in this section shall not apply to the submission of any preliminary subdivision plat.

Sec. 24.1-45. Exceptions.

Where the subdivider can show that a provision of these standards would cause unnecessary hardship if strictly adhered to, or where, because of topographical or other conditions peculiar to the site, in the opinion of the agent a departure may be made without destroying the intent of such provisions, the agent may authorize an exception. When the agent or subdivider desires, the matter shall be referred first to the commission ~~or~~ and thence to city council for review. Any exceptions authorized under the provisions of this section shall be stated in writing on the plat, by the agent, commission or city council with the reasoning set forth on which the departure was justified.

The agent may allow the vacating of lot lines by recordation of a deed providing that no easements or utility rights-of-way located along any lot lines to be vacated shall be extinguished or altered without the express consent of all persons holding any interest therein. The deed shall be approved in writing, on its face, by the agent. The deed shall reference the recorded plat by which the lot line was originally created.

Sec. 24.1-46. Penalties.

~~Any person violating the foregoing provisions of this ordinance shall not be granted a building permit or extended public utilities and shall be subject to a fine of not more than one hundred dollars (\$100.00) for each lot or parcel of land so subdivided or transferred or sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided.~~

(a) Any person violating the provisions of this chapter shall not be granted a building permit or extended public utilities and any violation of this chapter shall be a misdemeanor punishable by a fine of not less than ten dollars (\$10.00) nor more than one thousand dollars (\$1,000.00) for each lot or parcel of land subdivided, transferred or sold and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided. If the violation is uncorrected

at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with the zoning ordinance, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than ten dollars (\$10.00) nor more than one thousand dollars (\$1,000.00), and any such failure during any succeeding ten (10)-day period shall constitute a separate misdemeanor offense for each ten (10)-day period punishable by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand five hundred dollars (\$1,500.00).

(b) Any violation or attempted violation of this chapter, or of any regulation adopted hereunder may be restrained, corrected, or abated as the case may be by injunction or other appropriate proceeding. At any time after the filing of an injunction or other appropriate proceeding to restrain, correct, or abate a zoning ordinance violation and where the owner of the real property is a party to such proceeding, the zoning administrator may record a memorandum of lis pendens pursuant to Section 8.01-268 of the Code of Virginia. Any memorandum of lis pendens admitted to record in an action to enforce a zoning ordinance shall expire after one hundred eighty (180) days. If the city has initiated an enforcement proceeding against the owner of the real property and such owner subsequently transfers the ownership of the real property to an entity in which the owner holds an ownership interest greater than fifty (50) percent, the pending enforcement proceeding shall continue to be enforced against the owner.

Sec. 24.1-49. Amendments.

This ordinance may be amended in whole or in part. The commission on its own initiative may, or at the request of the city council shall, prepare and recommend amendments to this ordinance. The procedure for such amendment shall be the same as for the preparation and recommendation and approval and adoption of the original ordinance; provided, that no such amendment shall be adopted by the governing body without a reference of the proposed amendment to the commission for recommendation, nor until sixty (60) days after such reference, if no recommendation is made by the commission. Provided, further, that the provisions of ~~Section 15.1-431~~ Section 15.2-2204 of the Code of Virginia (1950), as amended, regarding advertisement and public hearings have been complied with.

2. That in order to promote the public necessity, convenience, general welfare, and good zoning practice by adding thereto Sections 24.1-16.2. Flood control and drainage and 24.1-25.1. Partial and final release of certain performance guarantees, as follows:

Sec. 24.1-16.2. Flood control and drainage.

The subdivider shall provide that information necessary to determine what improvements are required to develop the subject property, including topography, drainage plans and flood control devices. The plans for such improvements shall include a statement from a licensed professional engineer or other persons appropriately licensed by the Commonwealth of Virginia, that such improvements when installed will be adequate for development. In subdivisions where the streets are dedicated to public use, the city engineer shall either approve or disapprove the plans.

Sec. 24.1-25.1. Partial and final release of certain performance guarantees.

(a) The city shall provide for the periodic partial and final complete release of any performance guarantee required by the city under this article within thirty (30) days after receipt of written notice by the subdivider of completion of part or all of any required public facilities unless the city engineer notifies the subdivider in writing of nonreceipt of approval, or of any specified defects or deficiencies in construction and suggested corrective measures prior to the expiration of the thirty (30) day period. Any inspection of

such public facilities shall be based solely upon conformance with the Manual of Specification and Standard Details and the approved design plan for the facilities for which the performance guarantee is applicable, and shall not include the approval of any person other than an employee of the city or a person who has contracted with the city.

(b) If no such action is taken by the city within the time specified above, the request shall be deemed approved, and a partial release shall be granted to the subdivider. No final release shall be granted until after expiration of such thirty (30)-day period and there is an additional request in writing sent by certified mail return receipt to the city manager. The city engineer shall act within ten (10) 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.

(c) After receipt of the written notices required above, if the city takes no action within the times specified above and the subdivider files suit in the local circuit court to obtain partial or final release of a performance guarantee, the circuit court, upon finding the city was without good cause in failing to act, shall award such subdivider his reasonable costs and attorney's fees.

(d) The city shall not refuse to make a periodic partial or final release of a performance guarantee for any reason not directly related to the specified defects or deficiencies in construction of the public facilities covered by said performance guarantee.

(e) Upon the completion of at least thirty (30) percent of the public facilities covered by any performance guarantee, and upon written request by the subdivider, the city shall make periodic partial releases of such performance guarantee in a cumulative amount equal to no less than ninety (90) percent of the original amount of the completed work for which the performance guarantee was taken. The city shall not be required to execute more than three (3) periodic partial releases in any twelve (12)-month period. Upon final completion and acceptance of the public facilities, the city shall release any remaining performance guarantee to the subdivider. 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 public facility upon acceptance.

3. That in order to promote the public necessity, convenience, general welfare, and good zoning practice by repealing Sections 24.1-4. Mutual responsibility, 24.1-8. To consult, 24.1-22. Flood control and drainage, and 24.1-50. Effective date, as follows:

~~Sec. 24.1-4. Mutual responsibility.~~

~~There is a mutual responsibility between the subdivider and the city of Lynchburg to divide the land so as to improve the general use pattern of the land being subdivided.~~

~~Sec. 24.1-8. To consult.~~

~~In the performance of his duties the agent may call for opinions or decisions, either verbal or written, from other departments in considering details of any submitted plat. This authority of the agent shall have particular reference to the technical review committee, and the health official.~~

~~Sec. 24.1-22. Flood control and drainage.~~

~~The subdivider may be required to provide that information necessary to determine what improvements are required to properly develop the subject property, including contour intervals, drainage plans and flood control devices. The plans for such improvements shall include a statement from an engineer, or any other person certified by the State of Virginia, that such improvements when properly installed will be adequate for proper development. In subdivisions where the streets are dedicated to public use the city council shall either approve or disapprove the plans.~~

~~Sec. 24.1-50. Effective date.~~

~~This ordinance was duly considered, following a required public hearing, and was adopted by the City of Lynchburg, Virginia, on November 14, 1978.~~

4. That this ordinance shall become effective on its passage.

Adopted

Certified:

Clerk of Council

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ARTICLE I. EFFECT OF ORDINANCE

Sec. 24.1-1. Subdivision regulations.

The following regulations are hereby adopted for the subdivision of land within the corporate limits of the City of Lynchburg and from and after the effective date of this ordinance, every ~~owner or proprietor~~ subdivider of any tract of land to which these regulations apply who subdivides such tract as provided in these regulations shall cause a plat of such subdivision developed and prepared in accordance with these regulations, with reference to known or permanent monuments, to be made and recorded in the office of the clerk of the circuit court, within deeds conveying such land are required by law to be recorded. A copy of said plat shall also be filed in the office of the city assessor. For any subdivision plat recorded prior to the adoption of this ordinance for which construction contracts for required improvements have not been signed, the subdivider shall be required to submit final plat documentation for approval by the agent before such contracts are signed and sale or development of lots may be undertaken.

ARTICLE II. PURPOSE AND TITLE

Sec. 24.1-2. Title.

This ordinance is known and shall be cited as the "Subdivision Ordinance of the City of Lynchburg."

Sec. 24.1-3. Purpose.

The purpose of this ordinance is to establish certain subdivision standards and procedures for the City of Lynchburg, Virginia, and such of its environs as come under the jurisdiction of the governing body as provided for by the Code of Virginia, as amended.

These are part of a long-range plan to guide and facilitate the orderly beneficial growth and restoration of the community, and to promote the public health, safety, convenience, comfort, prosperity and general welfare. More specifically, the purposes of these standards and procedures are to provide a guide for the change that occurs when land and acreage become urban in character as a result of development for residential and non-residential purposes; to encourage the redevelopment of the central city; to provide assurance that the purchasers of lots are buying a commodity that is suitable for development and use; and to make possible the provision of public services in a safe, adequate and efficient manner.

Sec. 24.1-4. ~~Mutual responsibility.~~ Reserved

~~There is a mutual responsibility between the subdivider and the city of Lynchburg to divide the land so as to improve the general use pattern of the land being subdivided.~~

ARTICLE III. DEFINITIONS

Sec. 24.1-5. Words and terms.

For the purpose of this ordinance, certain words and terms used herein shall be interpreted or defined as follows: Words used in the present tense include the future, words in the singular number include the plural, and the plural the singular, unless the natural construction of the word indicates otherwise; the word "lot" includes the word "parcel"; the word "shall" is mandatory; the word "approve" shall be considered to be followed by the words "or disapprove"; any reference to this ordinance includes all ordinances amending or supplementing the same; all distances and areas refer to measurement in a horizontal plane.

(1) Agent: ~~The representative of the City of Lynchburg who has been designated to serve as the agent of the city in administering this ordinance.~~ See Sec. 24.1-6. Agent, or his designee.

(2) Alley: A permanent service way providing a secondary means of access to abutting properties.

(3) Arterial Road: A moderate or high-capacity road which carries large volumes of traffic between areas in urban centers. Arterial roads are designated on the Virginia Department of Transportation's Virginia Highway Functional Classification map for the City of Lynchburg.

~~(3)~~ (4) Block: An area of land containing two (2) or more lots and bounded by streets providing access to such lots.

(4) (5) Building line: A line set with respect to the frontage of a ~~plot~~ lot of land which is fixed by statute, ordinance, deed or contract and beyond which the ~~owner~~ subdivider of the land may not build.

~~(5)~~ (6) Building setback: The minimum distance that a building must be set back from the street line on which the lot abuts.

(7) Collector Road: A moderate-capacity road which leads traffic from local roads or sections of neighborhoods to activity areas within the city. Collector roads are designated on the Virginia Department of Transportation's Virginia Highway Functional Classification map for the City of Lynchburg.

~~(6)~~ (8) Commission: The planning commission of the City of Lynchburg, Virginia.

~~(7)~~ (9) Cul-de-sac: A street with only one (1) outlet and having an appropriate turnaround for a safe and convenient reverse traffic movement.

~~(8)~~ (10) Dedicate(tion): An appropriation of land to some public use, made by the ~~owner~~ subdivider, and accepted for such use by or on behalf of the public.

~~(9) Developer: An owner of property being subdivided, whether or not represented by an agent.~~

~~(10)~~ (11) Driveway: The means of access to the building on a lot, connecting the building to the street on which the lot has frontage.

~~(11)~~ (12) Easement: A grant by a property owner subdivider of the use of land for a specific purpose or purposes.

~~(12)~~ (13) Flag lot: A lot which has less than the usual required street frontage and which meets the requirements of Section 24.1-28.1. Flag lots. Lots fronting on a cul-de-sac are not considered flag lots and are regulated by Section 35.1-22. Buildings, uses and lots.

~~(13)~~ (14) Governing body: The city council of the City of Lynchburg, Virginia.

~~(14)~~ (15) Health official: The ~~Health~~, director of the ~~City of Lynchburg~~, or a ~~sanitarian~~. Central Virginia Health District of the Virginia Department of Health.

~~(15)~~ (16) Jurisdiction: The area or territory subject to the legislative control of the governing body.

~~(16)~~ (17) Lot: A tract or parcel of land intended for transfer of ownership, use or improvement.

~~(17)~~ (18) Lot, double frontage: A lot, the opposite ends of which abut on streets.

~~(18)~~ (19) Lot of record: A lot, the plat of which has been recorded in the office of the clerk of the circuit court.

~~(19)~~ (20) Lynchburg ~~general plan~~ comprehensive plan: The comprehensive plan of the City of Lynchburg as adopted and amended by the city council.

~~(20)~~ (21) Monuments: Visible marks or indications left on natural or other objects indicating the lines and boundaries of a survey.

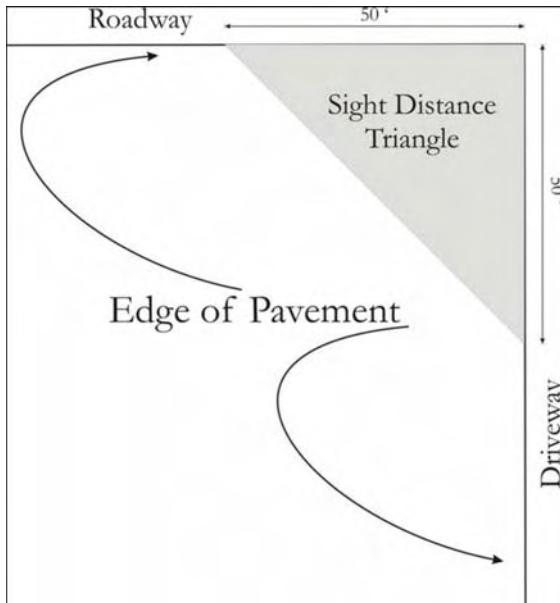
~~(21)~~ (22) Plat: Includes the terms: map, plan, plot, replat or replot; a map or plan of a tract or parcel of land which is to be, or which has been, subdivided. When used as a verb "plat" is synonymous with "subdivide."

~~(22)~~ (23) Property: Any tract, lot, parcel or several of the same collected together for the purpose of subdividing.

~~(23)~~ (24) Public water or sewer: A water or sewer system designed to accommodate more than two (2) family residences, whether owned by the City of Lynchburg or by a private individual ~~or concern~~. This definition shall not apply to nonresidential subdivisions.

~~(24)~~ (25) Sight distance ~~(across intersections): A straight line with unobstructed view measured in either direction across the corner between points, each fifty (50) feet back from the theoretical intersection of the edges of the pavement prolonged; both points~~

~~three (3) feet above the grade of the pavement edge.~~ Sight distance triangle: A straight line with unobstructed view measured fifty (50) feet along the edge of pavement lines from their points of junction with points being three (3) feet above the pavement edge.



~~(25) (26)~~ Sight distance (along road): A straight line with unobstructed view measured between a point three (3) feet above the finished grade of a road, at the center line of each traffic lane, and a point at a given minimum distance away from the first point, located six (6) inches above finished grade at a center line of the same traffic lane.

~~(26) (27)~~ Street, private: An improved access road which has been approved by the City of Lynchburg as part of a planned unit development, cluster commercial development, or townhouse ~~lots for sale complex development~~, where an owners' association owns and maintains the access road. Also an improved access road which by a plat, deed or agreement recorded on or before September 12, 1989, has established joint usage rights and maintenance responsibilities among the owners of properties fronting on said improved access road.

~~(27) (28)~~ Street, public: An improved dedicated right-of-way, or an improved road which has become public by right of use, for access use by the public, usually having a minimum pavement width of thirty (30) feet and a minimum right-of-way width of fifty (50) feet unless the regulations of the City of Lynchburg require otherwise.

~~(28) (29)~~ Street, width: The total width of the strip of land dedicated or reserved for public travel, including roadway, curbs, gutters, sidewalks and planting strips.

~~(29) (30)~~ Subdivision: Division of any tract, parcel or lot of land into two (2) or more parts ~~at one time or any extended period of time~~. For the purposes of this ordinance, the alternation or reconfiguration of existing lot lines is also considered to be a subdivision. ~~However, the following exceptions apply:~~

a. The term "subdivision" shall not include the division of land into ten (10) acres or more for agricultural purposes, provided no new streets are required.

b. The agent may, however, permit the separation of one (1) parcel from a tract of land without complying with all requirements of this ordinance if it is (1) not in conflict with the general meaning and purpose of the ordinance, and (2) no new streets are required to serve the parcel.

c. ~~The word "subdivide" and any derivative derivative thereof shall have reference to the term "subdivision" as defined in Section 24.1-5(26).~~

~~(30)~~ (31) Subdivider: Any ~~one (1) or more individual, corporation or registered partnership, owning any~~ owner of a tract, lot or parcel of land to be subdivided, ~~or a group of two (2) or more persons owning any tract, lot or parcel of land to be subdivided, who have given their power of attorney to one of their group or to another individual to act on their behalf in planning, negotiating for, in representing~~ or their legal representative executing the legal requirements of the subdivision.

~~(31)~~ (32) Technical review committee (TRC): A committee for review and recommendation to the city manager, planning commission, and city council, consisting of the city planner, city engineer, city traffic engineer, superintendent of inspections building official, director of utilities, urban forester and fire marshal or their designees and other city staff as appropriate.

ARTICLE IV. ADMINISTRATION

Sec. 24.1-6. Agent, or his designee.

This ordinance ~~will~~ shall be administered by the city planner, or his designee, in collaboration with the technical review committee who shall jointly determine compliance with the regulations contained herein. The city planner shall administer ~~with these~~ regulations contained herein. The city planner agent shall administer all subdivisions, ~~provided no new streets are required to serve the parcel, in which case final approval may only be given by the city council~~ not approve any subdivision requiring a new street or street extension until the right-of-way has been accepted by city council after review by the planning commission. Where a subdivision has been approved administratively by the city planner, no additional subdivision of these lots or of the residue tract will be approved within a period of two (2) years from the date of approval, unless the land is industrially-zoned or the two-year time limit is waived by the planning commission. In so acting, the city planner shall be considered the agent of the governing body, and approval or disapproval by the agent shall constitute approval or disapproval as though it were given by the governing body. An appeal of right from any decision of the agent shall lie to the commission, thence to city council, thence to the circuit court of the City of Lynchburg.

Sec. 24.1-7. Duties.

The agent shall perform his or her duties regarding ~~subdivision and subdividing~~ in accordance with this ordinance and ~~Chapter 11, Article 7, Sections 15.1-465 through 15.1-485~~ Chapter 22, Article 6, Sections 15.2-2240 through 15.2-2276, and other applicable sections of the Code of Virginia (1950), as amended.

Sec. 24.1-8. ~~To consult.~~ Reserved

~~In the performance of his duties the agent may call for opinions or decisions, either verbal or written, from other departments in considering details of any submitted plat. This authority of the agent shall have particular reference to the technical review committee, and the health official.~~

ARTICLE V. PROCEDURE FOR PREPARING AND RECORDING PLATS

Sec. 24.1-9. Platting and recording required.

Any ~~developer~~ subdivider of any tract of land situated within the City of Lynchburg ~~who subdivides the same as defined herein~~ shall cause a plat of such subdivision, with reference to known or permanent monuments, to be made and recorded in the office of the clerk of the circuit court of the City of Lynchburg. No such plat of subdivision shall be recorded unless and until it shall have been submitted, approved and certified by the agent in accordance with the regulations set forth in this ordinance. No lot shall be sold in the subdivision before the plat shall have been recorded. Before any permits are issued to begin construction, the subdivider shall submit a notarized letter, or a copy of the plat with the clerk of courts' seal and signature, to the ~~superintendent of inspections, the city planner, and the city engineer~~ agent certifying that the plat has been recorded with the clerk of the circuit court.

Sec. 24.1-10. Draw and certify.

Every such plat shall be prepared by a licensed professional surveyor ~~or other persons certified appropriately licensed~~ by the State Commonwealth of Virginia, who shall endorse upon each plat a certificate ~~signed by him~~, setting forth: (1) the source of the title of the land subdivided; and (2) the place of record of the last instrument in the chain of title. When the plat is of land acquired from more than one source of title, the outlines of the several tracts shall be indicated upon the plat, within an insert block, or by means of a dotted boundary line. ~~When any part of the land proposed for subdivision lies in a drainage district, such fact shall be set forth on the plat of the proposed subdivision.~~

Sec. 24.1-11. ~~Owner's~~ Subdivider's statement.

Every such plat, or the deed of dedication to which the plat is attached, shall contain in addition to the surveyor's certificate a statement to the effect that "the above and foregoing" subdivision of (here insert correct description of the land subdivided) as

appears in this plat is with the free consent and in accordance with the desire of the undersigned owners, ~~proprietors and trustees, if any~~ which shall be signed by the owners, ~~proprietors and trustees, if any~~ and shall be duly acknowledged before some officer authorized to take acknowledgements of deeds, and when thus executed and approved, as herein specified, shall be filed and recorded in the office of the clerk of the circuit court of the City of Lynchburg, Virginia, and indexed under the names of the landowners signing such statement and under the name of the subdivision.

Sec. 24.1-12. No land exempt.

No tract of land shall be subdivided ~~that is located within the City of Lynchburg, Virginia,~~ unless it conforms with the provisions of this ordinance.

Sec. 24.1-13. Private contracts.

This ordinance bears no relation to any private easement, covenant, agreement or restriction, nor is the responsibility of enforcing such private easement, covenant, agreement or restriction implied herein by any public official. When this ordinance calls for more restrictive standards than are required by private contract, the provisions of this ordinance shall control.

Sec. 24.1-14. Necessary changes.

No change, erasure or revision shall be made on any preliminary or final plat, nor any accompanying data sheets after approval of the agent has been endorsed in writing on the plat or sheets, unless authorization for such changes has been granted in writing by the agent.

Sec. 24.1-15. Fees.

There shall be a charge for the examination and approval or disapproval of every plat reviewed by the agent. At the time of filing the plat, the subdivider shall deposit with the agent a check payable to the City of Lynchburg in the amount set forth in the fee schedule adopted by city council.

ARTICLE VI. GENERAL REGULATIONS

Sec. 24.1-16. Flooding.

Land subject to flooding and land deemed to be topographically unsuitable shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life, or property, or aggravate erosion or flood hazard. Such land within the subdivision shall be set aside on the plat for such uses as shall not be endangered by periodic or occasional flooding or shall not produce conditions contrary to public welfare.

Sec. 24.1-16.1. Possible flood plain.

To ensure that owners will have sufficient land upon which to build a structure which is flood free, compliance with floodway widths and the one hundred (100) year flood elevations contained within the city's Federal Emergency Management Agency (FEMA) flood insurance study (FIS) is mandatory. The agent may require the subdivider to provide elevation and flood profiles based on a one hundred (100) year flood plain (which means a flood of a magnitude likely to happen, on the average, only once every century) sufficient to demonstrate the land to be completely free of the danger of flood water at an elevation of at least three (3) feet below any probable floor level of any building for human occupancy.

Sect. 24.1-16.2. Flood Control and Drainage

The subdivider shall provide that information necessary to determine what improvements are required to develop the subject property, including topography, drainage plans and flood control devices. The plans for such improvements shall include a statement from a licensed professional engineer or other persons appropriately licensed by the Commonwealth of Virginia, that such improvements when installed will be adequate for development. In subdivisions where the streets are dedicated to public use, the city engineer shall either approve or disapprove the plans.

Sec. 24.1-17. Building site and setback.

The site and setback of buildings within a subdivision shall comply with the zoning ordinance.

Sec. 24.1-17.1. Building line.

The building ~~line~~ shall comply with subdivision plat restrictions. This line shall not be closer to the street line than the required building setback in the zoning ordinance.

Sec. 24.1-18. Lot sizes.

Lot sizes shall be in accordance with minimum requirements of the zoning ordinance, or the following subsections, whichever is more restrictive ~~shall apply~~:

(1) Lot size, public water and sewer: Lots served by both public water and sewerage systems shall be in accordance with the zoning ordinance.

(2) The following statement shall be shown on the plat when sewer and water lines are available, but not in place:

~~"The owner of this subdivision~~ subdivider agrees to construct a public water and sanitary sewerage system within the boundaries of the subdivision to meet the policies, regulations, and standards of the city."

Sec. 24.1-19. Lot size, public water or sewer.

(a) Residential subdivisions of five (5) lots or less may be served by private wells or septic tanks provided, that water and/or sewer are not available as defined by Section 24.1-31(c) and that no new roads are required and that lots served by only one of water or sewerage system shall be twenty thousand (20,000) square feet or more in area and the following statement shall be shown on the plat:

~~"The owner of this subdivision subdivider~~ agrees to construct a water or a sanitary sewerage system to meet the policies, regulations, and standards of the city and/or ~~Lynchburg health Virginia Department of Health~~. Before the construction of any dwelling can begin the ~~Lynchburg health department official~~ shall ~~be consulted to ensure~~ approve the proper location of the water or the sanitary sewerage system in relation to the location of the dwellings."

(b) Non-residential lots served by only one of public water or sewerage system shall meet the requirements of the ~~Lynchburg health department official~~ and the city, except where exempted by city ordinance or current city policy.

Sec. 24.1-20. Lot size, neither public water nor sewer available.

(a) Residential subdivisions of five (5) lots or less may be served by both private wells and septic tanks provided no new roads are required and lots served by neither public water nor sewerage systems shall be twenty-five thousand (25,000) square feet or more in area and the following statement shall be shown on the plat:

~~"The owner of this subdivision subdivider~~ does not agree to construct either a public water or a sanitary sewerage system. Before the construction of any dwelling can begin the city and the ~~Lynchburg health department official~~ shall ~~be consulted to ensure~~ approve the proper location of the water and sewer systems in relation to the location of the proposed dwellings."

(b) Nonresidential lots served by neither public water nor sewerage systems shall meet the requirements of the ~~Lynchburg health office department official~~ and the city, except where exempted by the city ordinance or current city policy.

Sec. 24.1-21. Septic tanks.

The agent shall not approve any subdivision where sanitary sewers are not provided unless the subdivision is of five (5) lots or less and the agent receives in writing from the health official, a statement to the effect that the area contained in the subdivision is satisfactory for the installation of septic tanks, and that they will not, so far as can be determined, create hazards to public health. Final approval as to site suitability will be made prior to approval of the plat. ~~at the time of application for a building permit.~~

(a) Greater lot areas may be required or certain lots may be disapproved where individual septic tanks or individual wells are to be used, if the health official determines that there are factors ~~or~~ such as drainage, soil condition, or other conditions to cause

potential health problems. Drainfield location shall be approved by the ~~Lynchburg~~ health department official.

(b) Public water and sewer required: The agent shall not approve any subdivision of more than five (5) lots unless the subdivision is served by the city ("public") water and sewer system.

Sec. 24.1-21.1. Development of large lots generally.

Notwithstanding any other provisions of this article, subdivisions without public sewer service may be approved by the city council when the following conditions are met:

(a) Each proposed lot must have at least one (1) acre in area.

(b) The large lot development must have a minimum size of six (6) lots.

(c) City sewer service is not reasonably available and economically feasible to extend, as defined in Section 24.1-31(c) of the subdivision ordinance, and sewer service extension is not planned in the city's current capital improvements program.

~~(d) If the capital improvements program is revised to include sewer service extension to the area within twelve (12) months of the date of approval of the subdivision plat, or if funds are appropriated for sewer extension within the said twelve (12) months in connection with another development or plan, and a requested large lot development has not yet had an approved plat recorded or construction begun according to approved plans, then any large lot approval that has been given by the city council is hereby rescinded and the proposed development must meet all appropriate land development and sewer service regulations.~~

~~(e)~~ (d) The subdivision plat must include all ~~usual~~ standard sewer service easements requested by the city, in order that the development can be readily connected to city sewer service in the future.

~~(f)~~ (e) The ~~Commonwealth of Virginia~~ department of health official must approve each of the requested large lots as having sufficient area to accommodate two (2) septic disposal fields prior to subdivision approval by the city.

~~(g)~~ (f) All other city land development regulations must be met.

~~(h)~~ (g) The city council may disapprove any large lot development if it believes the development will be detrimental to the orderly development of the area or the efficient provision of public services.

Sec. 24.1-22. ~~Flood control and drainage.~~ Reserved

~~The subdivider may be required to provide that information necessary to determine what improvements are required to properly develop the subject property, including contour intervals, drainage plans and flood control devices. The plans for such improvements shall include a statement from an engineer, or any other person certified by the State of~~

~~Virginia, that such improvements when properly installed will be adequate for proper development. In subdivisions where the streets are dedicated to public use the city council shall either approve or disapprove the plans.~~

Sec. 24.1-23. Easements.

~~Easements of seven and one-half (7 1/2) feet minimum in width on each side of the center line of the easement shall be provided for water, sewer, power and telephone lines and other utilities, as well as cable television service lines, storm drainage in the subdivision. Such easements shall be kept free of permanent structures and whenever possible shall be located adjacent to property lines. Such easements shall be laid out so as to ensure continuity of the utilities from block to block and to adjacent property. Such utility easement shall be kept free of permanent structures and whenever possible shall be located adjacent to property lines. In situations when pipes exceeding 36 inches in diameter and or pipes exceeding 8 feet in depth are necessary, an additional 10 feet of easement width may be required.~~

Easements shall be provided for electric, telephone, cable television and natural gas of sufficient width and location as determined by the appropriate utility company.

Nothing in this section is intended to prohibit the placement of public utilities within dedicated rights-of-way. Placement of private water and sewer lines is prohibited in the public right-of-way. The agent may require that easements for drainage through adjoining property be provided by the subdivider.

Sec. 24.1-24. Fire protection.

The installation of adequate fire hydrants and mains in a subdivision may be required by the city at locations approved by the city of Lynchburg, provided necessary public water is available. Fire protection shall meet the requirements of the applicable sections of the City of Lynchburg Fire Code.

Sec. 24.1-25. Bond.

Every subdivider shall provide to the city a guarantee of performance prior to the acceptance of dedication for public use of any right-of-way located within any subdivision or section thereof in which has constructed therein, or proposed to be constructed therein, any street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, water line or part of a public system, or other improvement, or phase thereof as approved, site-related improvements required by the agent on the final plat, financed or to be financed local ordinances for vehicular ingress and egress, traffic signalization and control, structures necessary to ensure stability of critical slopes, stormwater management facilities, or other improvement dedicated for public use that is to be constructed in whole or in part by private funds, shall be accepted only if and is to be maintained by the owner or city. To guarantee such performance the subdivider: (1) certifies shall: (i) certify to the city engineer that the construction costs have been paid to the person constructing such facilities, or (2) furnishes ; (ii) furnish to the city engineer a certified check or, a financial institution's letter of credit, a cash escrow in the amount of the estimated costs of construction account, or a personal, corporate or property bond, or

~~other financial arrangement with surety~~ satisfactory to the city, hereinafter referred to as the "performance guarantee", in an amount sufficient for an conditioned upon the construction of such facilities, or a contract for the construction of such facilities, and a contractor's bond, with like surety, in like amount, and so conditioned, or ~~furnishes to the governing body a bank or savings and loan association's~~(iii) furnish to the agent a financial institution's letter of credit on certain designated funds satisfactory to the governing body~~agent~~ as to the bank or savings and loan association~~financial institution~~, the amount and the form. ~~The bond, in an amount calculated by the city, shall be based upon a two-year projection of cost from the date of starting construction of said improvements to ensure that required improvements are completed in a workmanlike manner in accordance with specifications and construction schedules established by the city. The improvements shall be completed within two (2) years from date of starting construction and the bond shall guarantee such performance. The bond shall not be released until the construction has been inspected and approved by the city. The amount of such performance guarantee shall equal the total estimated cost of construction based on unit prices for new construction in the city plus a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities, which shall not exceed twenty-five (25) percent of the estimated construction costs. "Such facilities," as used in this section, means those facilities specifically provided for in this section.~~

~~(1) Within fifteen (15) days, after notification by the owner that the construction is complete, the city shall inspect the construction and notify the owner in writing of those items of construction which are not satisfactory, or that the construction is approved. The city may release fifty (50) percent of the bond upon notification by the owner that fifty (50) percent of the construction is complete. The owner shall certify that all construction costs have been paid to persons constructing the facilities and the city shall inspect the facilities, to ensure that fifty (50) percent of the work is complete, within fifteen (15) days of notification by the owner.~~

~~(2) The developer and the development principals thereof shall provide the city with a guarantee of warranty against defects for a period of one (1) year following acceptance of the subdivision public improvements by the city.~~

If a subdivider records a final plat which may be a section of a subdivision as shown on an approved preliminary subdivision plat and furnishes to the city a performance guarantee as defined above for facilities to be dedicated for public use and to be maintained by the city within said section, the developer shall have the right to record the remaining sections shown on the preliminary subdivision plat for a period of five (5) years from the recordation date of the first section subject to engineering and construction standards and zoning requirements in effect at the time that each remaining section is recorded.

Notwithstanding other provisions of this section, and provided the subdivider and the city have agreed on the delineation of sections within a proposed development, the subdivider shall not be required to furnish to the city a performance guarantee for the estimated cost of construction of facilities to be dedicated for public use within each section of the development until such time as construction plans are submitted for the section in which such facilities are to be located.

Sec. 24.1-25.1. Partial and final release of certain performance guarantees

(a) The city shall provide for the periodic partial and final complete release of any performance guarantee required by the city under this article within thirty (30) days after receipt of written notice by the subdivider of completion of part or all of any required public facilities unless the city engineer notifies the subdivider in writing of nonreceipt of approval, or of any specified defects or deficiencies in construction and suggested corrective measures prior to the expiration of the thirty (30) day period. Any inspection of such public facilities shall be based solely upon conformance with the Manual of Specification and Standard Details and the approved design plan for the facilities for which the performance guarantee is applicable, and shall not include the approval of any person other than an employee of the city or a person who has contracted with the city.

(b) If no such action is taken by the city within the time specified above, the request shall be deemed approved, and a partial release shall be granted to the subdivider. (~~Ord. O-80-007, § 1, 1-8-80~~) No final release shall be granted until after expiration of such thirty (30)-day period and there is an additional request in writing sent by certified mail return receipt to the city manager. The city engineer shall act within ten (10) 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.

(c) After receipt of the written notices required above, if the city takes no action within the times specified above and the subdivider files suit in the local circuit court to obtain partial or final release of a performance guarantee, the circuit court, upon finding the city was without good cause in failing to act, shall award such subdivider his reasonable costs and attorney's fees.

(d) The city shall not refuse to make a periodic partial or final release of a performance guarantee for any reason not directly related to the specified defects or deficiencies in construction of the public facilities covered by said performance guarantee.

(e) Upon the completion of at least thirty (30) percent of the public facilities covered by any performance guarantee, and upon written request by the subdivider, the city shall make periodic partial releases of such performance guarantee in a cumulative amount equal to no less than ninety (90) percent of the original amount of the completed work for which the performance guarantee was taken. The city shall not be required to execute more than three (3) periodic partial releases in any twelve (12)-month period. Upon final completion and acceptance of the public facilities, the city shall release any remaining performance guarantee to the subdivider. 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 public facility upon acceptance.

Sec. 24.1-26. Improvements.

Minimum improvements and construction standards required of all subdivisions are set forth in these regulations and in the applicable design standards and specifications of the ~~public works department of the City of Lynchburg~~ Manual of Specifications and Standard Details for construction. Prior to beginning any subdivision construction

improvements, the ~~developer~~ subdivider shall have a ~~registered~~ professional civil engineer surveyor or other persons appropriately licensed by the Commonwealth of Virginia prepare for the city's approval, a complete set of engineering plans and specifications. The city shall approve, or notify the subdivider of those plans and specifications which are not satisfactory, in writing within fifteen (15) days of official submittal of such plans and specifications and provided the final plat has been approved by the agent. These processes may run concurrently, however, any changes required to the plat shall be at the expense of the subdivider.

Sec. 24.1-27. City obligation.

Nothing herein shall be construed as creating an obligation upon the city to pay for grading or paving, or for sidewalks, sewers, curb and gutter improvements or construction or any other costs in connection therewith, other than that which has been specified ~~for certain required improvements~~ elsewhere in this chapter.

Sec. 24.1-28. Lots.

Lots platted shall be in conformance with the following:

(a) Shape: 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, and conform to requirements of this ordinance. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage of area which would be unusable ~~for normal purposes.~~

(b) Location:

(1) Each lot shall have frontage on a public street or an existing private street, as defined in Section 24.1-5. Words and terms, reflected on the subdivision plat, or on a street which has become public by right of use, except lots in planned unit developments, cluster commercial developments, and townhouse ~~lots for sale~~ complexes developments.

(2) Lots in planned unit developments, cluster commercial developments, and townhouse ~~lots for sale complexes~~ developments may front on private common drives and/or easements within the development which have access to an improved public street. Responsibility for maintenance of said private streets shall be with the association charged with management and ownership of common open space, property and facilities and shall be so stated on the plat.

(3) Residential Driveways: It is the city's intent to limit the number of new access points to existing arterial and collector streets and to maintain good access management of its streets. Required frontage and access should be from local streets. Residential driveways shall not be permitted from arterials and collectors unless size, topography, shape or other prohibitive conditions, as approved by the subdivision agent, would prevent access from a local street. Each lot shall be located and designed such that a usable driveway can be built to access the lot directly from the street on which it has the

~~required street frontage, except for lots in approved planned unit developments, cluster commercial developments, and townhouse lots for sale complexes.~~

(4) Shared Direct Access and Internal Vehicle Circulation: All multifamily residential, commercial and industrial developments fronting on existing arterial and collector streets shall be designed to achieve direct and convenient vehicular access between adjacent multifamily residential, commercial and industrial properties including outparcels, subject to the provisions of this ordinance.

i. The shared direct access and/or internal vehicular circulation provisions shall apply to all properties, including outparcels, owned or controlled by the subdivider or that are the subject to a single site plan or plan of development.

ii. In determining whether a site plan meets the requirements of this section, the technical review committee shall consider the characteristics of the proposed development, the information in the traffic study prepared pursuant to this section, the existing uses on adjacent properties, and the foreseeable development of adjacent properties based on the existing uses, existing zoning designations, comprehensive plan designations and factors and development patterns in the area.

iii. The shared direct access provisions of this ordinance shall not be required to provide primary access to a public street for an adjacent commercial property not owned or controlled by the subdivider or subject to a single site plan or plan of development that would not otherwise exist. An subdivider shall not be required to provide primary access through the shared direct access provisions to a public street to benefit an adjacent commercial property not owned or controlled by the subdivider or subject to a single site plan or plan of development that would not otherwise exist.

iv. A subdivider shall not be required to construct any improvements allowing shared direct access with adjacent commercial properties other than on property owned or controlled by the subdivider or subject to a single site plan or plan of development in order to meet this standard. A subdivider shall not be required to dedicate any property or property interest to the city to meet this standard.

v. In the event that an owner of adjacent commercial property will not consent to a design allowing shared direct access at the time of development, the development shall be designed and constructed to allow for the establishment of shared direct access with adjoining commercial properties in the future should the consent of the adjacent owner or owners become available.

(c) Corner lots: Corner lots shall have extra width sufficient for maintenance of required building lines on both streets as required by the zoning or subdivision ordinance, whichever is more restrictive.

(d) Sight distance (~~across intersections~~) triangle: Clear sight distance triangles of fifty (50) feet measured along edge of pavement lines from their points of junction shall be provided at all intersections, and no building, structure, grade or planting higher than three (3) feet above the center line of the street shall be permitted within such sight distance triangle.

(e) Side lines: Side lines of lots shall be approximately at right angles, or radial to the street line and be marked plainly before inspection by the city.

(f) Remnants: All remnants of lots below minimum size, as required in the zoning ordinance, left over after subdividing of a tract must be added to adjacent lots.

(g) Separate ownership: Where the land covered by a subdivision includes two (2) or more parcels in separate ownership, and lot arrangement is such that a property ownership line divides one (1) or more lots, a signed statement with free consent by all owners, proprietors and trustees shall accompany the final plat and lot sizes and arrangement shall meet the requirements of this ordinance. Said statement is to be deposited with the ~~clerk of council~~ agent and held with the final plat until the subdivider is ready to record same, and they both shall then be recorded together.

(h) House numbers and street names: House numbering and street naming shall be in accordance with the ~~Lynchburg~~ city street naming/house numbering ordinance.

(i) Standards for cluster housing developments: All units for sale in cluster housing developments must meet minimum standards specified in Section 35.1-56 of the zoning ordinance.

~~(j) County boundary lines: No proposed lot shall be split by a county boundary line where it is practical to create the lot otherwise. In no case will a permit be issued to build a structure which would be split by a county boundary line.~~

Sec. 24.1-28.1. Flag lots.

The creation of flag lots will only be considered in those instances where severe topographic constraints or unusual existing lot lines make this type of lot arrangement the only feasible way to develop the tract. In such cases the proposed subdivision may be approved by the ~~city~~ agent when the following conditions are met:

(a) Each flag lot shall have a minimum of fifty (50) feet of frontage on a street, public or private as defined in Section 24.1-5. Words and terms, except for a lot on a cul-de-sac which shall have a minimum street frontage of thirty (30) feet.

(b) The required minimum lot area shall meet the zoning ordinance requirement of the district in which it is located and shall not include the area of the long narrow "flagpole" portion.

(c) Not more than two (2) adjacent flag lots shall be created.

(d) The development of one flag lot behind another flag lot shall be prohibited.

(e) A flag lot shall not be further subdivided until a public street to serve the proposed lot(s) is dedicated and constructed with a minimum right-of-way of fifty (50) feet, or unless a planned unit development, cluster commercial development, or townhouse ~~lots for sale complex~~ development is approved for the property, and a note to this effect shall be placed on each subdivision plat which contains a flag lot.

(f) A note shall be placed on the final subdivision plat stating that public services such as refuse collection, snow removal, and street maintenance will only be provided to the point where the flag lot meets the public street right-of-way.

(g) Flag lots with flagpole access strips greater than two hundred (200) feet in length shall provide, at the ~~developer's~~ subdivider's expense, a driveway which is capable of supporting emergency vehicles and which is at least ten (10) feet in width for the front half closest to the street and at least twenty (20) feet in width for the rear half to allow for the pass-by of vehicles.

(h) The maximum length for the flagpole access strip shall be seven hundred (700) feet in order to provide adequate fire protection.

(i) The house on a flag lot must have a setback of at least fifty (50) feet from all property lines.

(j) A driveway on a residential flag lot shall be located a minimum of five (5) feet from all lot lines, unless approval has been obtained from a shared driveway with one (1) of the adjacent lots.

Sec. 24.1-29. Blocks.

(a) Residential: Residential blocks shall be in conformance with the following:

(1) Length: The maximum length of blocks generally shall be twelve hundred (1,200) feet and the minimum length of blocks upon which lots have frontage shall be five hundred (500) feet unless topographic conditions prohibit the same.

(2) Width: Blocks shall be wide enough to allow two (2) tiers of lots of minimum depth, unless prevented by topographical conditions or size of the property. Where the parcel fronts on a major thoroughfare, the city may approve a single tier of lots of minimum depth.

(3) Orientation: Where a subdivision adjoins a major thoroughfare, the city may require that the lesser dimension of the block shall front or back upon such major thoroughfare to avoid unnecessary ingress or egress.

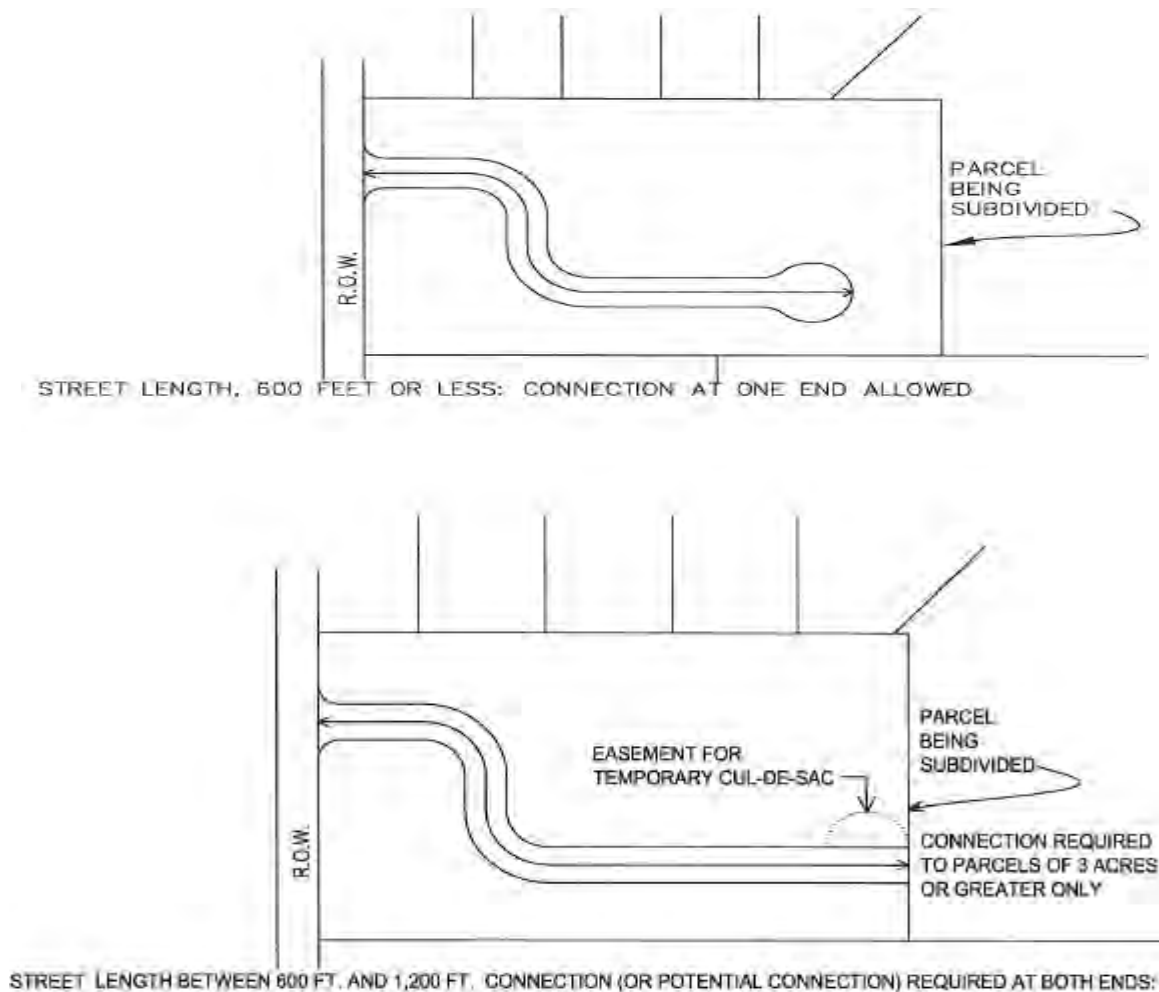
(b) Nonresidential: Blocks intended for nonresidential use shall be designed specifically for such purposes with adequate space set aside for off-street parking and delivery facilities in accordance with the zoning ordinance.

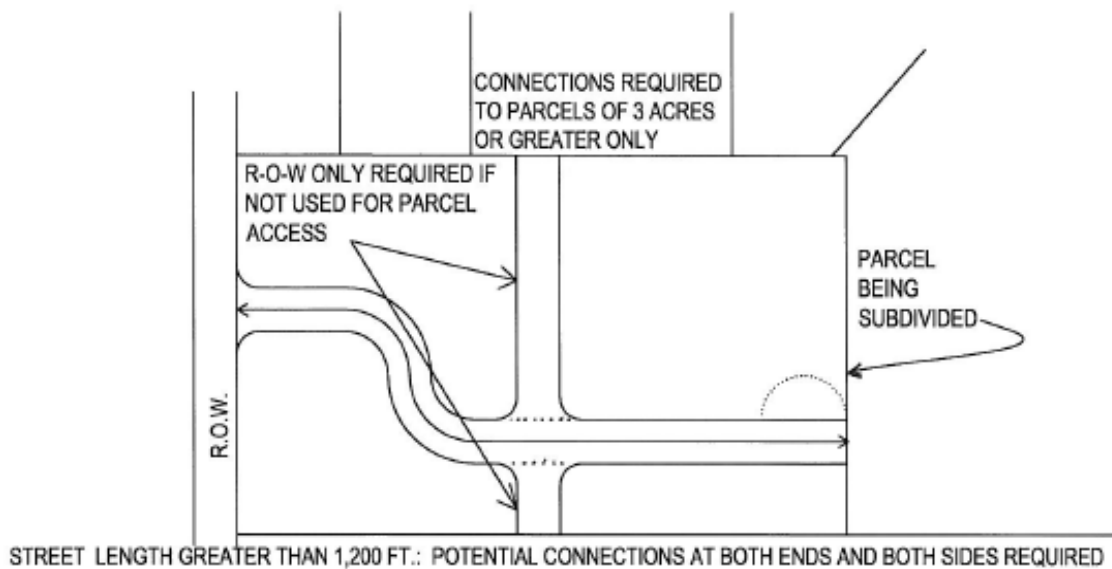
Sec. 24.1-30. Streets.

(a) (1) Residential: In residential subdivisions where the streets are dedicated to public use, all street and drainage improvements, ~~excluding curbs and gutters~~, shall be installed by the subdivider ~~at his cost~~. The subdivider shall clear and grade every street to the full width of the right-of-way with provisions for mowable three (3) to one (1) or flatter slopes on private property, except where topography prohibits. Specifications and requirements shall be in accordance with the standards established ~~by the city~~ in the City of Lynchburg, Manual of Specifications and Standard Details.

(2) Nonresidential: In nonresidential subdivisions where the streets are dedicated to public use, the cost and installation of all streets and drainage improvements shall be in accordance with current city policy, as established by city council.

(b) Alignment and layout: The arrangement of streets in new subdivisions shall make provision for the continuation of existing, proposed and future streets in adjoining areas. The street arrangement must be such as to cause no unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. In residential and commercial subdivisions, street segments of six hundred (600) feet in length or greater shall have right-of-way dedicated to provide street connections at each end. Street segments of one thousand two hundred (1,200) feet in length or greater shall have right of way dedicated to provide street connections at each end and at least one potential connection to the left and one potential connection to the right adjoining properties. Notwithstanding other requirements of this section, connections shall not be required to any adjoining parcel of less than three (3) acres in size. Whenever possible, streets should intersect at right angles. In all hillside areas, streets running with contours shall be required to intersect at angles of not less than sixty (60) degrees, unless approved by the city. Where topographical features are prohibitive, no dedication for street continuation shall be required.





(c) Improvements Required: The subdivider shall improve right-of-way 100 feet beyond the beginning of the furthest parcel or the end of the furthest driveway location, whichever is farther. This improvement shall include a turnaround facility as detailed by the Manual of Specifications and Standard Details. The subdivider shall improve the full length of any right-of-way within the subdivision that connects to an existing or proposed street.

(d) Improvements Not Required: Except where specifically required by paragraph (c) above, whenever right-of-way is dedicated solely to provide required connections to adjoining property, the subdivider shall only be required to dedicate an unimproved right-of-way to give convenient access, acceptable to the city, to owners of adjoining property except where the subdivider's lots front on such right-of-way, the right-of-way shall be improved and extended to the property line of the adjoining property owners and where topographical features are prohibitive, no dedication for access shall be required.

(e) Service drives: Whenever a proposed subdivision contains or is adjacent to a limited access highway or expressway, where adequate access is not provided, provision shall be made for a service drive or marginal street approximately parallel to such right-of-way at a distance suitable for an appropriate use of the land between such highway or expressway and the proposed subdivision. Such distance shall be determined with due consideration of the minimum distance required for ingress and egress to the limited access highway or expressway. The right-of-way of any major highway or street projected across any railroad, limited access highway or expressway shall be of adequate width to provide for the cuts or fills required for any future separation of grades.

(f) Approach angle: Streets shall approach the major or collector streets at an angle of not less than eighty (80) degrees, unless the city engineer shall approve a lesser angle of approach for reasons of contour, terrain or matching of existing patterns.

~~(e)~~ (g) Minimum widths: The minimum width of proposed streets, measured from lot line to lot line, shall be in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details. Street widths are typically but not always ~~However, in no case shall a street be less than~~ fifty (50) feet in width. The street width shall be based on the post development average daily traffic and shall be of sufficient width to accommodate the typical street cross section designated therein. If an existing street is to be utilized for access and such street is not of sufficient width per the criteria of the City of Lynchburg Manual of Specifications and Standard Details and the subdivider owns property on both sides of the street, then provisions shall be made on the plat to widen the street to accommodate the standard street width. ~~Alleys, if permitted, shall be not less than twenty (20) feet, nor more than twenty-eight (28) feet in width. If an existing street is to be utilized and such street is not fifty (50) feet in width and the subdivider owns property on both sides of the street, then provisions shall be made on the plat to widen such street to fifty (50) feet or the standard width of that street, whichever is greater. Should the subdivider subdivision about on only one (1) side of an existing street, the subdivider shall dedicate enough land so that then provisions shall be made on the plat to widen one-half (1/2) of the width of such street; to accommodate the standard street width as measured from the centerline to the subdivision property line, shall be twenty-five (25) feet or one-half (1/2) the standard width of such street, whichever is greater of the existing street.~~

Alleys for vehicular access, if permitted, shall be not less than fourteen (14) feet in width for one way traffic nor more than twenty eight (28) feet in width for two way traffic.

~~(f)~~ (h) Grading and paving widths: Grading and paving of all streets dedicated to public use shall be in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details.

~~(g)~~ (i) Grades: The grades of streets shall be in accordance with specifications established by the city, and such grades as submitted on subdivision plats shall be approved by the city prior to final action by the agent. Wherever feasible, Maximum allowable street grades should not exceed ten (10) percent ~~and the maximum allowable grade shall be fifteen (15) percent, unless otherwise approved by the city engineer.~~

~~(h)~~ (j) Cul-de-sacs: ~~Minor~~ Terminal streets (cul-de-sacs), designed to have one end permanently closed, ~~shall be not longer than twelve hundred (1,200) feet to the beginning of the turnaround unless approved by the city. Each cul-de-sac must shall be terminated by a permanent or temporary turnaround per the Manual of Specifications and Standard Details. of one hundred (100) feet in right-of-way diameter. This requirement does not apply to nonresidential subdivisions as these streets will be approved by the city.~~

~~(i)~~ (k) Curbs, and gutters and sidewalks: Curbs, and gutters are required ~~and in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details. Except where pedestrian traffic is explicitly prohibited, sidewalks are required (i) on at least one side of all streets, (ii) on both sides of streets with a post-development traffic count of greater than 6,000 vehicles per day. The cost of said curbs, and gutters and sidewalks shall be borne 50 percent by the city and 50 percent by the developer subdivider. Reimbursements shall be in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details, per the year of origination of the subdivision.~~

~~(j) Sidewalks: Sidewalks shall be provided by the subdivider where need is demonstrated by the agent with consideration to each subject location with respect to: (1) pedestrian safety, speed limit, street width and street alignment; (2) vicinity of schools, parks, playgrounds, and/or commercial development; (3) street traffic with 6,000 minimum vehicles per day; and~~

~~(4) pedestrian traffic with minimum of 75 people per day. Where need for sidewalks is determined by the agent, cost shall be borne 50 percent by the city and 50 percent by the subdivided.~~

~~(k)~~ (l) Alleys: Deadend alleys, if unavoidable, shall be provided with adequate turnaround facilities as determined by the city.

~~(l)~~ (m) Identification signs: Street name signs shall be installed by the city at cost to the subdivider.

~~(m)~~ (n) Street lighting: Where the subdivider desires street lighting, and no installation cost shall be borne by the city. Where underground utilities are installed, the subdivider shall install conduit and markers for mounting bases to permit future installation of street lighting.

Sec. 24.1-31. Public water supply and sanitary sewer system required.

Subdivisions of more than five (5) lots shall be served by the city ("public") water and sewer systems.

(a) Sewer and/or water available: Where a public water supply and/or a public sanitary sewer system are (reasonably accessible as defined in Section 24.1-31(c)) the said water supply and/or sanitary sewer system shall be designed and extended to adequately serve all lots within the subdivision, according to the design standards issued by the city public works department. All plans are to be approved by the city.

The cost of installing the sanitary sewer and water system including all appurtenances, except connections and meters, within the subdivision boundaries shall be paid one hundred (100) per cent by the subdivider for the size mains needed to serve the subdivision. The minimum size main shall be as determined by the city. If larger mains are required by the city to serve other areas, then the difference in cost, based on the city's annual bid prices, shall be paid by the city. The city will extend and pay one hundred (100) percent of the cost to provide water and/or sewer lines to the subdivision boundary according to Section 24.1-31(c).

Service connections for both water and/or sanitary sewer shall be constructed to each lot within the subdivision. ~~The cost of these connections will be paid one hundred (100) percent by the city based on the city's annual bid prices.~~ Reimbursements shall be in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details, per the year of origination of the subdivision. The subdivision plat will contain a notation to the effect that appropriate sewer/water connection and availability fees will be charged by the city at the time of connection to the system.

(b) Sewer and/or water not available: Where a public water supply and/or a public sanitary sewer system are not reasonably accessible as defined in Section 24.1-31(c), the extension of these systems by the subdivider will not be required; however, where the subdivider desires the extension of such systems which exceeds the ratio stated in Section 24.1-31(c) and agrees to pay the additional cost of the extension to the subdivision boundary, then the city shall extend the lines in accordance with Section 24.1-31(a).

(c) Water/sewer lines availability defined: Reasonably available water and/or sewer lines are defined as those lines which are economically feasible to extend from water and sewer lines mandated by the 1976 annexation decree and/or other lines previously constructed.

To be economically feasible in a residential subdivision, there must be at least one (1) lot for each one hundred (100) feet of utility line construction. The following are examples of feasibility ratios:

Feet of water/sewer line construction	Required number of lots
5,000	50
3,000	30
1,000	10
500	5

For extensions to multi-family subdivisions the feasibility ratio would require two (2) dwelling units per one hundred (100) feet of extension. Thus:

Feet of water/sewer line construction	Required number of dwelling units
5,000	100
3,000	60
1,000	20
500	10

(d) Lots in cluster developments including townhouses ~~for sale~~ and condominiums: Public water and sewer systems shall serve each individual lot in all cluster developments including townhouses ~~for sale~~ and condominiums. The public system shall be brought to an appropriate location(s) on the property line of the development adjacent to a public right-of-way or through a public easement. ~~From that appropriate location(s), the cluster development shall provide private system connecting each unit to the public system. Said private system and payment for service shall become the responsibility of the association charged with management and ownership of common open space, property, and facilities and shall be so stated on the plat.~~

(e) In cases where an obstacle (such as a stream, railroad, or highway crossing, etc.) increases the construction cost beyond twenty percent of the normal distance to dollar ratios, based on the city's annual contract pricing, the subdivider may be required to pay a larger share of the sewer and water facility construction costs as determined by the city's physical development committee.

Sec. 24.1-32. Storm drainage.

A storm drainage system shall be required to adequately provide for drainage of the subdivision. The subdivider shall pay the cost of this system. The subdivider may be required to pay ~~his~~ the pro rata share of sewerage and drainage facilities outside ~~his~~ the subdivision property limits which are necessitated by the construction or improvement of ~~his~~ the subdivision or development.

Sec. 24.1-33. Monuments.

(a) Visible for inspection: Upon completion of subdivision streets, sewers and other improvements, the subdivider shall make certain that all monuments required by the city are clearly visible for inspection and use. Such monuments shall be inspected and approved by the city before any improvements are accepted by the governing body. All monuments shall be set by a surveyor licensed by the Commonwealth of Virginia.

(b) Location—~~concrete, stone~~: Two (2) permanent reinforced monuments as prescribed by the city shall be placed on the longest street tangent intervisible. Such permanent monuments shall be ~~stone or reinforced concrete at least twenty-four (24) inches long and six (6) inches square and shall be set to approved finished grades as practicable~~ as specified in the City of Lynchburg, Manual of Specifications and Standard Details.

(c) Location—iron: All other lot corners shall be marked with pipe or solid iron not less than one-half (1/2) inch in diameter and fifteen (15) inches long and driven so as to be flush with the finished grade. When rock is encountered, surveyor shall determine a suitable method for providing a permanent marker.

Sec. 24.1-34. Reservation of land for public purposes.

The city may require subdividers of residential subdivisions to set aside land for parks, playgrounds, schools, libraries, municipal buildings and similar public uses, subject to the following regulations:

(a) Subdividers shall not be required to reserve land for public purposes other than streets and drainage, except on a reimbursement basis. The subdivider shall be reimbursed by the jurisdiction or agency requiring the land. The city shall be required to obtain an option upon the property involved for a negotiated period following the recording of the plat for such purchase. If the land is not purchased within the said negotiated period by the city and the subdivider, it may be sold as lots for the same purpose for which the subdivision was platted. To facilitate such possible eventual sale of reserved land as separate lots, the subdivider shall show on ~~his~~ the final plat, by dotted lines and dotted numbers, the sizes and dimensions of lots to be created within the boundaries of any such reserved land, and may sell such lots, after the expiration date of the reservation, by lot number, without filing an amended plat.

(b) The city shall make certain that lands so reserved are divisible in the same manner as the remainder of the subdivision so that the subdivider will not be required to reserve an unusable portion of ~~his~~ the subdivision.

(c) Nothing herein shall be construed to mean that land may be set aside for commercial purposes in a residential district, without the land so required for commercial use being zoned appropriately in accordance with the zoning ordinance.

Sec. 24.1-34.1. Vacation of boundary lines.

The agent may approve the vacation, relocation, or alteration of boundary lines of any lot or parcel of land shown on a valid and properly recorded plat of a subdivision or re-subdivision approved as provided for in this subdivision ordinance and executed by the owner or owners of such land, as provided in Section 24.1-42. Such approval may be given provided that the vacation, relocation, or alteration of a lot line does not involve the relocation or alteration of streets, alleys, easements for public passage, or other public areas; and, provided further, that no easements or utility rights-of-way shall be relocated or altered without the express consent of all persons holding an interest therein.

ARTICLE VII. APPROVAL OF PLATS

Sec. 24.1-35. Approval required before construction and sale.

Whenever any subdivision of land is proposed, and before any permit for the erection of a structure shall be granted, the subdivider shall comply with the following requirements regarding approval of plats.

Sec. 24.1-36. Preliminary sketch (not required).

The subdivider may, ~~if he so chooses, submit to the planning division~~ submit to the planning division a preliminary sketch of the proposed subdivision to the planning division prior to his preparing an engineering preliminary and/or final plat. Submission of the preliminary plat shall not constitute the official filing of a proposed subdivision. The purpose of such preliminary sketch is to permit the planning division to advise the subdivider whether his plans, in general, are in accordance with the requirements of this ordinance. The planning division, upon submission of any preliminary sketch, shall study it, and advise the subdivider within fifteen (15) days ~~wherein~~ whether it appears that changes would be necessary. The planning division may mark the preliminary sketch indicating necessary changes and any such marked sketch should be returned to the planning division with the preliminary plat. The preliminary sketch shall be as follows:

The preliminary sketch may be drawn on white paper, or on a print of a topographic map of the property. It shall be drawn to scale. It shall show the name, location and dimensions of all streets entering the property, adjacent to the property or terminating at the boundary of the property to be subdivided. It shall show the location of all proposed streets, lots, parks, playgrounds and other proposed uses of the land to be subdivided and shall include the approximate dimensions.

Sec. 24.1-37. Preliminary plat.

The subdivider shall present to the planning division the appropriate number, as the city planner determines are needed, of eighteen (18) copies of a preliminary layout at a scale of not less than one hundred (100) feet to the inch and on sheets having a maximum size of seventeen (17) inches by twenty-two (22) inches as a preliminary plat and the preliminary plat shall be accompanied by plan and profile sheets at a scale of fifty (50) feet to the inch horizontal and ten (10) feet to the inch vertical.

The preliminary plat shall include the following information:

- (a) Name of subdivision, owner, subdivider, surveyor or engineer, date of drawing, number of sheets, true and/or magnetic north point and scale.
- (b) Location of proposed subdivision by an insert map with a north arrow and scale at a scale of not less than two (2) inches equal one (1) mile showing adjoining roads, their name and number, counties, subdivisions and other landmarks.
- (c) The boundary survey or existing survey of record provided such survey shows a closure with an accuracy of not less than one (1) in five thousand (5,000), total acreage, acreage of subdivided area, number and approximate area and frontage of all building lots, existing buildings within the boundaries of the tract, names of owners and their property lines within the boundaries of the tract, delineation of flood plain districts, and names of owners and their property lines adjoining such boundaries.
- (d) All existing platted streets, including alleyways, and all proposed streets, their names and widths; existing and proposed utility or other easements, public areas and parking spaces, culverts, drains and water courses, their names and other pertinent data.
- (e) All parcels of land to be dedicated for public use and the conditions of such dedication.
- (f) Topography at maximum intervals of five (5) feet.
- (g) Elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the center line of streets together with proposed grade lines connecting therewith, or as necessary for the city to reasonably interpret the intention of the subdivider. Major grade changes shall be indexed to profile sheets.
- (h) Proposed connections with existing sanitary sewers and existing water supply or alternate means of sewage disposal and water supply.
- (i) Provisions for collecting and discharging surface drainage and preliminary descriptions of any structures that may be required.

Sec. 24.1-38. Procedure.

The agent or his appointed representative shall discuss the preliminary plat with the subdivider in order to determine whether or not ~~his~~ the preliminary plat generally conforms to the requirements of the subdivision ordinance.

The subdivider shall then be advised in writing within fifteen (15) days, which may be by formal letter or by meaningful markings or descriptions on ~~his~~ the copy of the preliminary plat, concerning any additional data that may be required, the character and extent of public improvements that will have to be made, and an estimate of the cost of construction or improvements and the amount of the surety bond which will be required as a prerequisite to approval of the final subdivision plat. In determining the cost of required improvements and the amount of the surety bond, the agent may require the subdivider to furnish a bona fide estimate of the cost of improvements to assist the agent in determining the amount of surety bond.

Sec. 24.1-39. Preliminary plat ~~may be submitted~~ approval as final plat.

The preliminary plat may be submitted as the final plat where approved by the agent and provided no change, erasure or revision shall be made on any preliminary or final plat nor on accompanying data sheets after approval of the agent has been endorsed in writing on the plat or sheets, unless authorization for such changes has been granted in writing by the agent.

Sec. 24.1-40. No guarantee.

Approval by the agent of the preliminary plat does not constitute a guarantee of approval of the final plat.

Sec. 24.1-41. Twelve months' limit.

The subdivider shall have not more than twelve (12) months after receiving official notification concerning the preliminary plat to file with the city a final subdivision plat in accordance with this ordinance. Failure to do so shall make preliminary approval null and void. The agent may, on written request and with good cause shown by the subdivider, grant an extension of this time limit.

Sec. 24.1-42. Final plat.

~~If no preliminary plat is submitted in accordance with Section 24.1-39, The submission of a final plat shall constitute the official filing of a proposed subdivision. Twenty (20) The~~ appropriate number, as the city planner determines are needed, of copies of the final plat shall be submitted to the city for final approval and subsequent recording. Blue or black line prints (surveyor's copies) shall be clearly and legibly drawn at a scale of not more than one hundred (100) feet to the inch on sheets having a maximum size of seventeen (17) inches by twenty-two (22) inches.

For any subdivision of five (5) lots or more the digital data associated with the creation of the subdivision plat shall be provided to the agent in a format approved by the city. The digital data shall be "georeferenced" to the State Plane Coordinate System, North American Datum 1983, Virginia South Zone #4502. The data shall be certified by a licensed ~~engineer or surveyor~~ or other persons appropriately licensed by the Commonwealth of Virginia for accuracy and correctness. Where the subdivider can

show that the subdivision plat was not created using computer aided design (CAD) software, or adherence to these requirements would produce unnecessary hardships the agent may grant an exception in whole or in part to the requirements for digital data submission.

The final plat shall include the following information and all information which is required on the preliminary plat shall be provided on the final plat:

(a) Name of subdivision, city, state, owner, true and/or magnetic north point and scale of drawing and number of sheets. If shown on more than one (1) sheet, matched lines shall clearly indicate where the several sheets join. A space shall be reserved for the signature of the city engineer and the city planner clerk of council if no new streets are dedicated. If the plat includes a new street or street extension, a space shall be reserved for the signature of the city engineer. If the plat includes the acceptance of other right-of-way, a space shall be reserved for the signature of the city engineer and the city manager.

(b) Location of proposed subdivision by an insert map with north arrow and scale at a scale of not less than two (2) inches equal one (1) mile indicating adjoining roads, their names and numbers, counties, subdivisions and other landmarks.

(c) A boundary survey with an error of closure within the limits of one (1) in five thousand (5,000) related to the magnetic meridian and showing the location of all monuments and their type of material within the boundary of the subdivision. The survey may be related to the U. S. Coast and Geodetic Survey state grid north if the coordinate of two (2) adjacent corners of the subdivision are shown.

(d) ~~Certificates signed by the surveyor setting forth~~ The source of title of the owners of the land subdivided and the place of record of the last instrument in the chain of title.

(e) A statement to the effect that the subdivision as it appears on this plat is with the free consent and in accordance with the desires of the owners, proprietors and trustees, if any, which shall be signed by the owners, proprietors and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgements to deeds.

(f) When the subdivision consists of land acquired from more than one (1) source of title the outlines of the various tracts shall be indicated by dotted lines and identification of the respective tracts shall be placed on the plat.

(g) The accurate location and dimensions by bearings and distances with all curve data on all lots and street lines, boundaries of all proposed or existing easements and utilities, existing parks, school sites or other public areas, the number and area of all building lots, all existing public and private streets, their names, numbers and widths, water courses and their names, if any, delineation of flood plain ~~districts~~ zones, names of owners and their property lines within the boundary of the subdivision and the names of owners and their property lines adjoining said boundaries.

(h) All dimensions shall be shown in feet and decimals of a foot to the closest two (2) decimal points, all bearings shall be shown in degrees and minutes to the nearest minute.

(i) The data of all curves along the street frontages shall be shown in detail at the curve or in a curve data table containing the following; delta angle, radius, arc, tangent, chord and chord bearings.

(j) Any restrictions imposed by the subdivider shall be shown on the plat, or on attached sheet(s) in which case it shall be stated on the plat that deed restrictions are on the said attached sheet(s) or as filed in Plat Cabinet number (identify number) of the office of the clerk of the circuit court.

(k) Where public water and or sewer systems are to be provided it shall be indicated on the plat and shall reflect whether such facilities will be owned by the City of Lynchburg or privately owned, indicating the name or title of the owner.

(l) A statement as to whether utilities will be placed overhead or underground.

(m) All other applicable minimum standards for surveys as defined within Chapter 20 of the Virginia Administrative Code.

A house number shall be assigned to each lot created by the subdivision as provided in section 35-114 and chapter 35, article VII of the city code.
Sec. 24.1-43. Conditions.

The plat shall not be approved until the subdivider has complied with the general requirements and minimum standards of design in accordance with this ordinance and has made satisfactory arrangements of surety bond to cover the cost of necessary improvements to the satisfaction of the city.

Sec. 24.1-44. Approval.

The agent shall not approve the final plat until ~~received~~ receipt of a written statement from the health ~~department~~ official that the subject property is suitable for the proposed development; nor shall he ~~approve~~ the plat be approved when city public water and/or sewer is to be provided until the agent receives in writing that the system has been approved and accepted by the City of Lynchburg or the subdivider has the required surety in place. Where a subdivision has been approved administratively by the city planner, no additional subdivision of the new lots or of the residue tract shall be approved within a period of two (2) years from the date of approval, unless the land is industrially-zoned or the two-year time limit is waived by the agent.

(a) Approval of the final plat shall be written on the face of the plat by the city engineer and city planner ~~clerk of council~~ if no new streets are dedicated. Approval of the final plat that includes acceptance of right-of-way shall be written on the face of the plat by the city engineer and city manager and approval of a final plat that includes the dedication of right-of-way, shall be written on the face of the plat by the city engineer; all copies shall be retained by the ~~clerk of council~~ agent until the subdivider is ready to record same. (See also Section 24.1-28(g).) The agent shall notify the subdivider in writing when the plat is approved and the subdivider shall record the plat within six (6) months after final approval. The agent may, on written request of the subdivider, grant an extension of this time, otherwise he shall mark the plat void and return same to the subdivider.

(b) The city council, commission or ~~other~~ agent shall render a decision on the proposed plat right-of-way within sixty (60) days after it has been submitted for approval by either approving or disapproving such plat in writing, and giving with the latter specific reasons therefore.

Specific reasons for disapproval may be contained in a separate document or may be written on the plat itself, and shall relate in general terms such modifications or corrections as will permit approval of the plat.

If the city council, commission or other agent fails to approve or disapprove the plat within sixty (60) days after it has been officially submitted for approval, the subdivider, after ten (10) days' written notice to the commission or agent, may petition the circuit court of the city ~~or county in which the land involved, or the major part thereof, is located,~~ to decide whether the plat should or should not be approved. The court shall hear the matter and make and enter such order with respect thereto as it deems proper, which may include directing approval of the plat.

If the city council, commission or ~~other~~ agent disapproves a plat and the subdivider contends that such disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he may appeal to the circuit court having jurisdiction ~~of such land and the court shall hear and determine the case as soon as may be.~~

The time requirements contained in this section shall not apply to the submission of any preliminary subdivision plat.

ARTICLE VIII. EFFECTUAL CLAUSES

Sec. 24.1-45. Exceptions.

Where the subdivider can show that a provision of these standards would cause unnecessary hardship if strictly adhered to, or where, because of topographical or other conditions peculiar to the site, in the opinion of the agent a departure may be made without destroying the intent of such provisions, the agent may authorize an exception. When the agent or subdivider desires, the matter shall be referred first to the commission ~~or~~ and thence to city council for review. Any exceptions authorized under the provisions of this section shall be stated in writing on the plat, by the agent, commission or city council with the reasoning set forth on which the departure was justified.

The agent may allow the vacating of lot lines by recordation of a deed providing that no easements or utility rights-of-way located along any lot lines to be vacated shall be extinguished or altered without the express consent of all persons holding any interest therein. The deed shall be approved in writing, on its face, by the agent. The deed shall reference the recorded plat by which the lot line was originally created.

Sec. 24.1-46. Penalties.

~~Any person violating the foregoing provisions of this ordinance shall not be granted a building permit or extended public utilities and shall be subject to a fine of not more than one hundred dollars (\$100.00) for each lot or parcel of land so subdivided or transferred or sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided.~~

(a) Any person violating the provisions of this chapter shall not be granted a building permit or extended public utilities and any violation of this chapter shall be a misdemeanor punishable by a fine of not less than \$10 nor more than \$1,000 for each lot or parcel of land subdivided, transferred or sold and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided. If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with the zoning ordinance, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than \$10 nor more than \$1,000, and any such failure during any succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period punishable by a fine of not less than \$100 nor more than \$1,500.

(b) Any violation or attempted violation of this chapter, or of any regulation adopted hereunder may be restrained, corrected, or abated as the case may be by injunction or other appropriate proceeding. At any time after the filing of an injunction or other appropriate proceeding to restrain, correct, or abate a zoning ordinance violation and where the owner of the real property is a party to such proceeding, the zoning administrator may record a memorandum of lis pendens pursuant to Section 8.01-268 of the Code of Virginia. Any memorandum of lis pendens admitted to record in an action to enforce a zoning ordinance shall expire after 180 days. If the city has initiated an enforcement proceeding against the owner of the real property and such owner subsequently transfers the ownership of the real property to an entity in which the owner holds an ownership interest greater than 50 percent, the pending enforcement proceeding shall continue to be enforced against the owner.

Sec. 24.1-47. Validity.

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

Sec. 24.1-48 Repealed.

Sec. 24.1-49. Amendments.

This ordinance may be amended in whole or in part. The commission on its own initiative may, or at the request of the city council shall, prepare and recommend amendments to this ordinance. The procedure for such amendment shall be the same as for the preparation and recommendation and approval and adoption of the original ordinance; provided, that no such amendment shall be adopted by the governing body without a reference of the proposed amendment to the commission for recommendation, nor until sixty (60) days after such reference, if no recommendation is made by the commission. Provided, further, that the provisions of ~~Section 15.1-431~~ Section 15.2-2204 of the Code of Virginia (1950), as amended, regarding advertisement and public hearings have been complied with.

Sec. 24.1-50. Effective date.

This ordinance was duly considered, following a required public hearing, and was adopted by the City of Lynchburg, Virginia, on ~~November 14, 1978~~ September 22, 2009.



MEMORANDUM

The Department of Community Development

Planning Division

455-3900

To: Planning Commission
From: Tom Martin, AICP, City Planner
Subject: DRAFT Subdivision Ordinance: Section 24.1-30(k) Curbs Gutters and Sidewalks
Date: August 6, 2009

At its July 22, 2009 meeting, Planning Commission reviewed the proposed revisions to the DRAFT Subdivision Ordinance. Following the meeting, Commissioner Barnes requested staff review Section 24.1-30(k), noting that the section does not provide flexibility to allow alternatives to curb and gutters that would facilitate low impact development designs.

In reviewing this section, staff noted that while the City's *Manual of Specifications and Standard Details* provides the City Engineer with the option of allowing alternatives, the proposed ordinance does not. Therefore staff recommends that this section of the subdivision ordinance be amended to reference the manual as follows:

(i) (k) Curbs, ~~and~~ gutters and sidewalks: Curbs, and gutters are required in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details ~~and~~. Except where pedestrian traffic is explicitly prohibited, sidewalks are required (i) on at least one side of all streets, (ii) on both sides of streets with a post-development traffic count of greater than 6,000 vehicles per day. The cost of said curbs, ~~and~~ gutters and sidewalks shall be borne 50 percent by the city and 50 percent by the developer/subdivider. Reimbursements shall be in accordance with regulations established by the City of Lynchburg, Manual of Specifications and Standard Details, per the year of origination of the subdivision.

I look forward to seeing each of you on Wednesday.



MEMORANDUM

The Department of Community Development

Planning Division

455-3900

To: Planning Commission
From: Tom Martin, AICP, City Planner
Subject: Section 24.1 – Subdivision Ordinance
Date: June 19, 2009

On June 25 2008, a Subdivision Ordinance Committee was appointed by Planning Commission to review proposed changes to Section 24.1 of City Code regarding the subdivision of land. Committee members have worked diligently over the last ten months to finalize revisions to the document. Following their review, staff forwarded the draft to the City Manager and City Attorney for comment. Attached is the final draft of the proposed Subdivision Ordinance amendments that is recommended for consideration by the Planning Commission.

On Wednesday, June 24, 2009 staff will provide a brief overview of the proposed amendments. The purpose of the revisions is to correct outdated terminology, reflect current City policies within the context of the ordinance and recommend changes regarding access management, connectivity and infrastructure. The proposed amendments specifically include:

- Allowances for the subdivision plat approval and the engineering plan approval processes to run concurrently;
- Provisions for access management on existing arterial and collector streets, including limits to residential driveways and shared direct access for commercial properties;
- Clarification of the provision to widen streets based on “Average Daily Traffic”;
- Reduction of alley widths and maximum allowable street grade (without engineering approval);
- Provisions for street connectivity and enhancements to the street grid system, including right-of-way dedication for streets greater than 600 feet and right-of-way connections to adjoining properties for streets greater than 1200 feet.;
- Requirement for sidewalks in subdivisions along one side of street, with a provision to require sidewalk on both sides of street if the traffic count for that street exceeds 6000 cars/day;

- Clarification regarding the procedures for public infrastructure sureties that insure consistency with the requirements of the Code of Virginia;
- Requirement that utility services for townhouses go to each individual lot and not simply to the common ground;
- Clarification that subdividers may be required to partially fund off-site utility extensions to their property in the event where obstacles increase construction costs by more than 20%.

I look forward to seeing each of you on Wednesday.

Attachments:

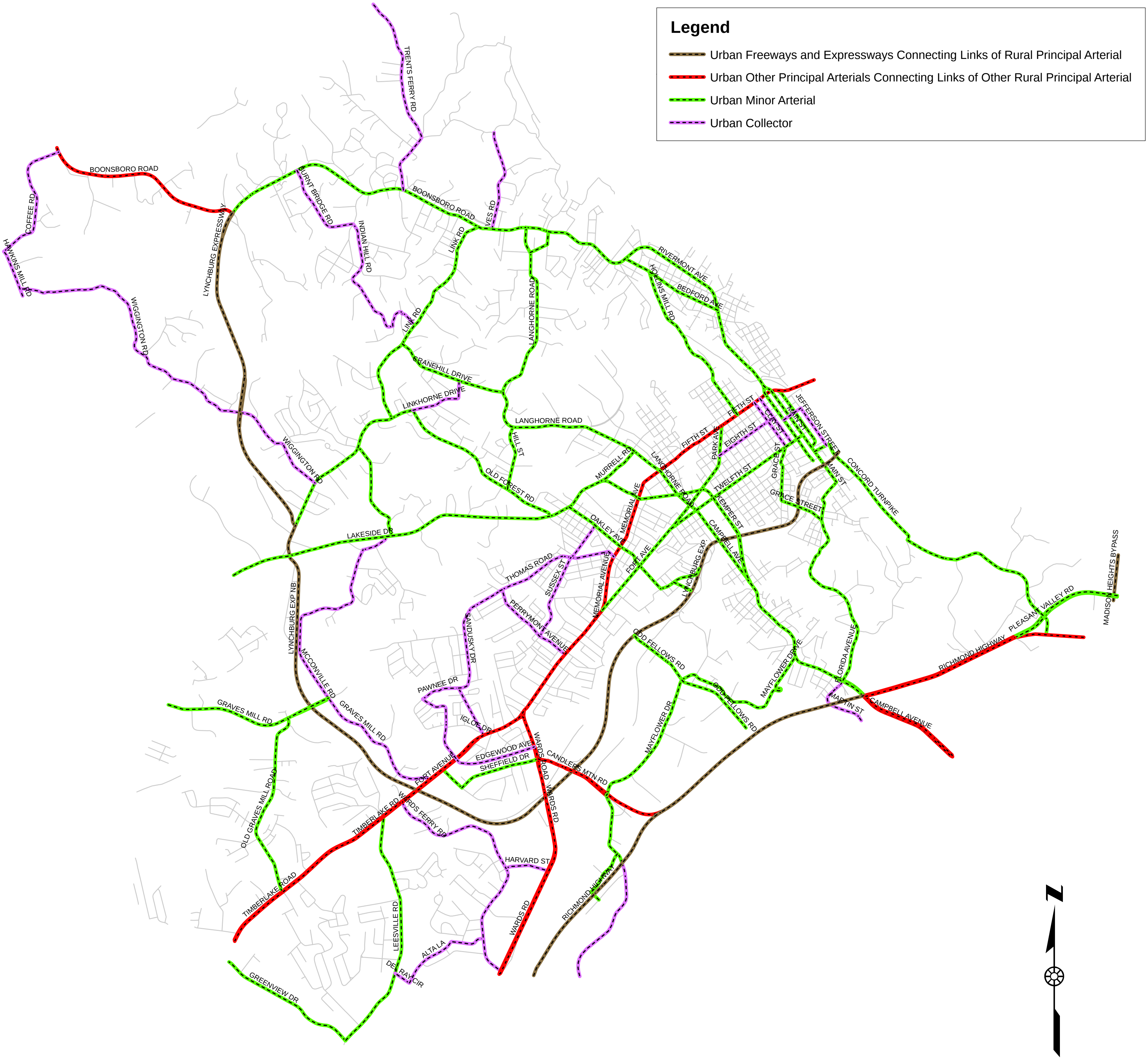
DRAFT Section 24.1 – Subdivision Ordinance

List of Changes by Impact Category

City of Lynchburg's State Classified Roads

Legend

- Urban Freeways and Expressways Connecting Links of Rural Principal Arterial
- Urban Other Principal Arterials Connecting Links of Other Rural Principal Arterial
- Urban Minor Arterial
- Urban Collector



July 22, 2009

[illegible]



MEMORANDUM

AGENDA ITEM #3

TO: City Council

FROM: L. Kimball Payne, III, City Manager

DATE: October 20, 2009

SUBJ: Business Growth Incentives Discussion, Cont.

After the discussion regarding business growth incentives during Council's last meeting, I was asked to determine some alternative sources to locate \$700,000 for a one-time incentive program in the current fiscal year.

Since transferring funds from pay-as-you-go capital projects was suggested as one alternative, I have attached a list of the approved pay-as-you-go projects funded in the FY 2010 Capital Fund. Some of the projects may already have had funds committed.

Other alternative sources of \$700,000 could include:

- Utilizing the General Fund Reserve for Contingencies—the available funds will total \$1.7 million after adding in the \$500,000 set aside to offset State funding cuts.
- Utilizing funds that would become available if we are successful with the Qualified School Construction Bond issuance for Sandusky Middle School and are able to transfer debt to the Juvenile & Domestic Relations Court building, thereby freeing up approximately \$1 million in cash for one-time expenditures.
- Withdraw funds from the Undesignated Fund Balance—the remaining balance would still be slightly in excess of the 10% fiscal policy guideline but utilizing the funds would reduce capacity for pay-as-you-go funding in FY 2011.

Whether or not to establish a business growth incentive program for FY 2010 is clearly a policy decision for City Council. Without intending to influence the deliberations on the policy decision, I do need to point out some logistical issues that would have to be addressed in the design and implementation of an incentive program.

- Lowering the rates on or otherwise changing the Business License Tax would require an amendment to the City Code. This could be done by the adoption of an ordinance without public comment. Restoring the rates to their current level after one year would require a public hearing prior to the adoption of another ordinance amending the City Code. At this point, the rates would have to be adjusted for the taxes to be paid May 1, 2010.
- If the Business License Tax provisions of the City Code were not amended, the most likely mechanisms for an incentive would be a rebate on taxes paid or a simple grant based on some expected performance.
- A rebate or grant to a private business cannot be provided by City Council and would have to go through the Economic Development Authority. This would also require a transfer of funds to the LEDA.
- Potential recipients of the rebate or grant would have to be defined.
- The amount of the rebate or grant would have to be determined.
- A determination would have to be made regarding the performance, if any, required of a rebate or grant recipient. An administrative process would have to be developed to monitor performance.

Please let me know if there are any questions that we should explore prior to the work session on Tuesday.

C: Mitch Nuckles, Commissioner of the Revenue
 Bonnie Svrcek, Deputy City Manager
 Donna Witt, Director of Finance
 Marjette Glass, Director of Economic Development

Attachment

Attachment

**FY 2010 PAY-AS-YOU-GO
CAPITAL PROJECTS**

Buildings

Major Building Repairs	\$887,688
Roof Replacements	502,359

Total Buildings **\$1,390,047**

Transportation

Public Transit Improvements (GLTC)	\$348,900
Greenview Drive Phase II	100,000

Total Transportation **\$448,900**

Economic Development

Culinary Arts Building (Central Virginia Community College)	\$50,453
Downtown Riverfront Redevelopment	1,500,000

Total Economic Development **\$1,550,453**

Parks and Recreation

Athletic Field Maintenance	\$260,760
General Park Maintenance	97,333
Community Park Investment Fund	74,000

Total Parks and Recreation **\$432,093**

Reserves

Snow, Streets and Bridges Reserve	\$250,000
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Total Reserves **\$250,000**

TOTAL GENERAL FUND PAY-AS-YOU-GO **\$4,071,493**

Solid Waste Fund Pay-As-You-Go **\$125,000**

// A regular meeting of the Council of the City of Lynchburg was held on the 13th day of October, 2009, at 5:00 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. The following Members were present:

Present: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7

Absent: 0

// City Manager Kimball Payne provided a brief history regarding a proposed amendment to Chapter 12, Natural Resources, of the City's Comprehensive Plan 2002-2020. Mr. Payne explained that following the August public hearing, staff was instructed to bring this matter back to City Council at the October work session. Mr. Payne went on to say that Council Member Perrow has suggested some language changes, a copy of which has been provided to Council Members, and that those changes are acceptable to staff. Council Member Perrow briefly reviewed the proposed changes. In response to Council questioning, City Manager Payne stated that the adoption date of the changes could be noted at the beginning of Chapter 12 so that it would be clear that the language in the ordinance references existing conditions. Some Council Members commented that the Comprehensive Plan is to be used as a guideline and that Council is not making any changes to existing ordinances. On motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote adopted Ordinance #0-09-124, as amended, amending Chapter 12, Natural Resources, of the City's Comprehensive Plan 2002-2020:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7

Noes: 0

// City Manager Kimball Payne stated that on September 8 Governor Kaine released his plan to address the anticipated \$1.35 billion State budget shortfall in FY 2010 and, as anticipated, local governments were not spared from the axe. Mr. Payne reviewed a compilation of the State funding cuts to Lynchburg that have been identified to date:

- Funding for Local Law Enforcement (\$235,000)
- Aid to the Library (\$9,000)
- Support for Constitutional Officers (\$245,000)
- Funding for the Blue Ridge Regional Jail (\$605,993-the City is responsible for about one half of that)
- Fire Programs Fund Aid to Localities (\$180,000)
- Funding for public education (\$300,000)-this is a combination of a loss of \$800,000 in sales tax revenue and the addition of \$500,000 in basic aid to fund the Standards of Quality
- Reduction in Virginia Juvenile Community Crime Control Act funds (\$15,000)
- Reduction in Detention Block Grant (\$47,000)
- In addition, there will be a reduction in state funding for the Registrar's Office and the Electoral Board, for litter grants, for Community Service Boards, and for Emergency Medical Services funding through the "\$4 for Life" program

October 13, 2009

Mr. Payne explained that those reductions with identified numbers total \$1.33 million and that all together, the cuts in State funding for Lynchburg could total more than \$1.5 million. Mr. Payne informed that this will not be the full impact on the City as there are some mitigating factors, such as:

- The Blue Ridge Regional Jail Authority has decided that, as much as possible, the reduction in state funding will be absorbed in adjustments to jail operations and through the use of fund balance. It is not planned to ask the member jurisdictions to make up the loss.
- The School System has received additional federal funds that compensate for the loss of state funding.
- Efforts will be made to mitigate other reductions within the General Fund as much as possible.
- The General Assembly could amend the Governor's actions during the 2010 session.

Mr. Payne noted that at the end of the budget process, when City Council restored the 3% pay cut that had been included in the adopted budget, an additional \$500,000 was set aside in anticipation of expected cuts in State funding. Mr. Payne explained that the \$500,000 was insurance against further losses in local revenues that could produce a deficit in our own FY 2010 Budget and that while revenues have so far come in at or just above projections it is still too early in the fiscal year to make any prediction about year end. Mr. Payne went on to say that at this time there is no recommendation on how to use the \$500,000, with two possible exceptions, and that we should wait to see how things progress before deciding whether or not to use the funds. Mr. Payne stated that the first exception is the Clerk of the Circuit Court with the latest cut in State funding for that office totaling \$59,097. Mr. Payne stated that the second exception is the Commonwealth's Attorney with the latest cut in State funding for that office totaling \$74,263 in addition to the lost of a federal domestic violence grant that funds two attorneys. Mr. Payne went on to say that there are at least two options for Council to consider, Le., step in with local funds to maintain staffing in the Circuit Court Clerk's (\$47,209) and the Commonwealth's Attorney's offices (\$66,775), or decline to supplant with local funds state funding cuts for state-mandated offices or programs. Mr. Payne noted that some localities across the Commonwealth by resolution or policy statement have actually taken a stand not to supplant local funds for state funding cuts for state-mandated offices/programs. Mr. Payne also suggested that Council might want to transfer the \$500,000 to the General Fund Reserve for Contingencies so that any expenditure of those funds would need to come before the Finance Committee for review. Clerk of Court Larry Palmer advised that the reduction would have a significant negative impact on the operations of his office and that two employees would have to be laid-off immediately (October 1), and a third employee would be laid-off in January, 2010. Mr. Palmer explained that the layoff option would reduce staffing to the late 1970's or early 1980's level and that it would be impossible for him to meet the constitutional as well as statutory duties with a staffing level at this range. Mr. Palmer went on to say that the recording and indexing of land records would be affected, as well as court orders, probating wills, processing of civil cases, and other vital services. In response to Council questioning, Mr. Palmer stated that he is not asking for recurring funding, just enough funding to get him through June 30.

Commonwealth Attorney Michael Doucette stated that funds remain to keep them on staff until January 1 and additional grant funding is being sought. Mr. Doucette explained that if the funds are not found, the office will not be able to prosecute domestic violence cases in Juvenile & Domestic Relations Court and will only be able to prosecute felonies in that court. Mr. Doucette stated that even if funding is found to support domestic violence prosecutions, he will have to layoff two attorneys on January 1 if the cut in State funding is not restored and if that happens, the office will be unable to prosecute misdemeanors in General District Court. Mr. Doucette informed that the Commonwealth's Attorney is only required by statute to prosecute misdemeanors in Circuit Court and felonies. Mr. Doucette did note that some offices in other localities have stopped prosecuting misdemeanors due to funding cuts. Mr. Doucette also stated that he is not asking for recurring funding, just enough funding to get him through June 30. In response to Council questioning, Mr. Doucette stated that if the funding is restored, that his office would continue to prosecute domestic violence cases. City Manager Payne stated that the amount that would be needed for the Clerk's Office would only be \$18,000 instead of \$47,209 due to funds currently bUdgeted for that office. Council Members expressed displeasure over having to step in for the state, but said the services of these two offices were too valuable to sacrifice. Council Members also indicated support for transferring the \$500,000 to the Reserve for Contingencies so that any expenditure of those funds would need Finance Committee review. City Manager Payne suggested that staff bring back to Council at its next meeting a proposal to restore the current state budget cuts to the Clerk of Court and Commonwealth Attorney's offices and to transfer the \$500,000 to the General Fund Reserve for Contingencies. On motion of Council Member Perrow, seconded by Council Member Helgeson, Council by the following recorded vote directed the City Manager to bring back to Council at its next meeting a proposal to restore the funding for the current state bUdget cuts to the Clerk of Court and Commonwealth Attorney's offices and to transfer the \$500,000 to the General Fund Reserve for Contingencies:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster

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Noes:

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/lCity Manager Kimball Payne stated that staff was asked to schedule a discussion regarding business growth incentives during the work session. Mr. Payne did note that implementation of new or enhanced incentives would probably involve the participation of the Lynchburg Economic Development Authority since it has been the prime entity through which incentives have been provided in the past. Council Member Garrett, who requested that this item be placed on the agenda, stated that the City has to pursue creative ideas to help the community through this recession by looking at ways to promote job creation and encourage businesses to locate headquarters facilities in the City. Council Member Perrow presented a proposal to give Lynchburg businesses a one-time tax break in hopes of stimulating the local economy by deferring "pay as you go" capital improvements funds to pay for an across-the-board cut in business license taxes. Council Member Perrow stated that a 10% reduction would cost approximately \$700,000. Council Member Perrow described his proposal as a "one-time, one-year local stimulus" that will give the business community a boost in these difficult times. Council Member Perrow went on to say that we have

to look at this as an investment and that although we cannot help our businesses increase their sales we can help them decrease their expenses. Council Member Gillette commented that while he agreed the City should support local business, he thought it was short-sighted to cut City services to do it and questioned the effectiveness of stimulus programs in general. Council Member Gillette stated that he would need to see a cost-benefit analysis of such a proposal, and specifically asked whether the City would see a quantifiable return on its investment and which capital improvements would have to be cut from the budget to pay for it. Council Member Perrow explained that he brought the idea forward to get Council's reaction and was not yet prepared to offer a detailed plan. Council Member Perrow stated that both he and Council Member Garrett have recently met with a number of business leaders who expressed a need for some relief. Council Members agreed that further discussion was needed regarding this item and asked that it be placed on the next work session agenda. Council Member Garrett requested the City Manager to determine some alternative sources in the current fiscal year for a one-time incentive program.

// City Council recessed the meeting at 7:03 p.m.

// City Council reconvened the meeting at 7:30 p.m.

// Mayor Foster asked that everyone stand for the presentation of Colors by the Heritage High School Marine Corps Junior Reserve Officers' Training Corps (ROTC) cadets.

// Council Member Perrow gave the Invocation, followed by the Pledge of Allegiance led by the Heritage High School Marine Corps Junior ROTC cadets.

// Mayor Foster and Vice Mayor Dodson presented Certificates to the Heritage High School Marine Corps Junior ROTC program and its leaders, Major G. F. "Jeff" Ranowsky, II, Senior Marine Instructor, and Master Sergeant Rick Duperior, Marine Instructor, for garnering two national awards, Le., the Naval Honor School Award and the 2008-2009, Region 1, Marine Corps Reserve Association (MCRA) Award. Mayor Foster announced that this is the first time in the 32-year history of Heritage High School that the School's program has achieved this level of recognition.

// Mayor Foster reminded everyone regarding the upcoming Study Circles Reconnect Event, scheduled for October 17, and the three-part civic engagement workshops focusing on the City's budget, scheduled for October 15, 22, and 29.

// Copies of the minutes of the September 22, 2009 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote approved the minutes as presented:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster

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Noes:

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// In the matter of Finance - Bonds, Resolution #R-09-104 amending the FY 2010 School Capital Projects Fund and appropriating \$197,213, \$162,238 and \$363,500, respectively, for estimated bond issuance costs, for estimated costs associated with federal Davis Bacon regulations required for the Qualified School Construction Bond Program, and for furnishings, the security system, and landscaping costs for Sandusky Middle School, laid over from the September 22, 2009 meeting, was again presented and read,

and on motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote adopted the Resolution:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7

Noes: 0

// In the matter of Police - General, City Council Report #7 was considered. On motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-107, as presented, amending the FY 2010 City/Federal/State Aid Fund budget and appropriating \$57,361, fully reimbursable, to purchase computer hardware and software to upgrade the Criminal Justice Information Sharing Program:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7

Noes: 0

// In the matter of Fire - General, City Council Report #8 was considered. On motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-108, as presented, amending the FY 2010 City/Federal/State Aid Fund budget and appropriating \$1,000, fully reimbursable, for the Fire Department's Hazardous Materials Response Team to attend the Virginia Hazardous Materials Conference in October 2009:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7

Noes: 0

// In the matter of Fire - General, City Council Report #9 was considered. On motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-109, as presented, amending the FY 2010 City/Federal/State Aid Fund budget and appropriating \$10,560, fully reimbursable, to purchase surgical masks for all EMS providers in the event of a state declared pandemic event:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7

Noes: 0

// In the matter of Fire - General, City Council Report #10 was considered. On motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-110, as presented, amending the FY 2010 City/Federal/State Aid Fund budget and appropriating \$100,000, fully reimbursable, to purchase equipment for the Fire Department's Technical Rescue Team:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7

Noes: 0

// In the matter of Community Planning - General, City Council Report #11 was considered. On motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-111, as presented, amending

the FY 2010- 2014 Capital Improvement Program (CIP) and appropriating \$193,458, fully reimbursable, for the Greenview Drive Phase II project:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster

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Noes:

0

//In the matter of Housing Authority, a public hearing was held regarding City Council Report #12 regarding a request from the Lynchburg Redevelopment and Housing Authority (LRHA) for authorization to pursue acquisition of blighted property at 1527 Somerset Drive under Section 36-19.5 of the Code of Virginia. LRHA Manager of Community Development Connie Snavelly provided a brief summary regarding the request. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted Resolution #R-09-112, as presented, apprOVing a request from the Lynchburg Redevelopment and Housing Authority for authorization to pursue acquisition of blighted property at 1527 Somerset Drive under Section 36-19.5 of the Code of Virginia:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster

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Noes:

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// In the matter of Community Planning Zoning, a public hearing was held regarding City Council Report #13 outlining the petition of LU Plaza Holdings, LLC, for a Conditional Use Permit (CUP) in a B-3, Community Business District, to allow a higher education/college use with up to 700 students at 2323 Memorial Avenue. City Planner Tom Martin prOVided a brief summary regarding the petition, stating that the Planning Commission recommended approval of the CUP. Mr. Scott Beasley, Hurt & Proffitt, Inc., representing the petitioner, outlined the request and asked for approval. Mr. Beasley stated that the proposed use would not be for the expansion of Liberty University. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Perrow stated that he has an engineering contract with Liberty University and therefore would need to abstain from participating in and voting on this request. On motion of Council Member Helgeson, seconded by Council Member Garrett, Council by the following recorded vote adopted Resolution #R-09-113, as presented, granting the Conditional Use Permit:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Foster

6

Noes:

0

Abstention: Perrow

1

//In the matter of Community Development - CDBG, a public hearing was held to receive public input regarding the reallocation of 2004/2005 HOME funds in the amount of \$13,177 and 2008/2009 HOME funds in the amount of \$54,886 for the development of Victoria Ridge be reallocated for Rush Homes and that 2008/2009 CDBG funds in the amount of \$20,000 from Yoder Center be reallocated to Diamond Hill Center. Deputy City Manager and Acting Director of Community Development Bonnie Svrcek provided a brief summary regarding the request. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Gillette, Chair, Community Development Advisory Committee (CDAC), stated that CDAC has approved the reallocation. On motion of Council Member

Gillette, seconded by Council Member Helgeson, Council by the following recorded vote adopted Resolution #R-09-114, as presented, approving the reallocation of 2004/2005 HOME funds in the amount of \$13,177 and 2008/2009 HOME funds in the amount of \$54,886 for the development of Victoria Ridge be reallocated for Rush Homes and that 2008/2009 CDBG funds in the amount of \$20,000 from Yoder Center be reallocated to Diamond Hill Center:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster

7

Noes:

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// In the matter of Parks & Recreation - General, a public hearing was held regarding City Council Report #15 to authorize the donation of 0.279 acres of city-owned property from parcel #28-07-049, valued at \$7,500, to Lynchburg Grows, Inc., a 501 3c non-profit organization, for development of the urban farm. Director of Parks and Recreation Kay Frazier provided a brief summary regarding the request. Lynchburg Grows President Dereck Cunningham spoke in support of the request. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Johnson, Physical Development Committee (PDC) Chair, stated that this item came before the PDC and made a motion to approve the request. The motion required no second, and Council by the following recorded vote adopted Resolution #R-09-115, as presented, authorizing the donation of 0.279 acres of city-owned property from parcel #28-07-049, valued at \$7,500, to Lynchburg Grows, Inc., a 501 3c non-profit organization, for development of the urban farm:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster

7

Noes:

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// In the matter of Community Planning - General, a public hearing was held regarding City Council Report #16 regarding the approval of a lease agreement between the City of Lynchburg and 902 Main Street Lynchburg, LLC, a Virginia Limited Liability Company, for the undeveloped strip of land located between the Midtown Parking Deck and the rear of the buildings located at 902, 904 and 906 Main Street. Real Estate Manager Steve Lawson provided a brief summary regarding the request. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Johnson, Physical Development Committee (PDq Chair, stated that this item came before the PDC and made a motion to approve the request. The motion required no second, and Council by the following recorded vote adopted Resolution #R-09-116, as presented, approving a lease agreement between the City of Lynchburg and 902 Main Street Lynchburg, LLC, a Virginia Limited Liability Company, for the undeveloped strip of land located between the Midtown Parking Deck and the rear of the buildings located at 902, 904 and 906 Main Street:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster

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Noes:

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// In the matter of Community Development - General, a public hearing was held regarding City Council Report #17 regarding the approval of a lease agreement between the City of Lynchburg and Claude Gunn for the property located at 1800 Garnet Street. Real Estate Manager Steve Lawson provided a brief

summary regarding the request. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Johnson, Physical Development Committee (PDC) Chair, stated that this item came before the PDC and made a motion to approve the request. The motion required no second, and Council by the following recorded vote adopted Resolution #R-09-117, as presented, approving a lease agreement between the City and Claude Gunn for the property located at 1800 Garnet Street:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster

7

Noes:

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// In the matter of Public Works - Street Vacation, a public hearing was held regarding City Council Report #18 regarding the adoption of an Ordinance to vacate a portion of Harrison Street between 1 Street and Dunbar Drive. City Planner Tom Martin provided a brief summary regarding the request. Mr. Martin stated that following the Physical Development Committee review, the City was requested to maintain ownership of the existing cobble stone and curb stones in the existing right-of-way by removing them from the site proposed to be vacated. Mr. Martin explained that the adjoining property owners were interested in keeping the cobble stone and curb in place to preserve the character of the neighborhood and that the proposed ordinance grants the City continued ownership of the cobble stone and curb with the right to remove at any time. There was no one else present who wished to speak to this item, and the public hearing was closed. In response to Council questioning, Mr. Steve Morris, President of Morris Construction and one of the adjoining property owners, outlined the reasons for requesting the vacation of this portion of Harrison Street. Council Member Johnson, Physical Development Committee (PDC) Chair, stated that this item came before the PDC and made a motion to approve the street vacation. The motion required no second, and Council by the following recorded vote adopted Ordinance #0-09-118, as presented, vacating a portion of Harrison Street between 12th Street and Dunbar Drive:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster

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Noes:

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// In the matter of Public Works - Street Vacation, a public hearing was held regarding City Council Report #19 regarding the adoption of an Ordinance to vacate Kimbrough Drive between Williams Road and 4110 Williams Road. City Planner Tom Martin provided a brief summary regarding the request. Mr. John R. Nelson, representing the owners of the adjoining property owners, outlined the request and asked for approval. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Johnson, Physical Development Committee (PDC) Chair, stated that this item came before the PDC and made a motion to approve the street vacation. The motion required no second, and Council by the following recorded vote adopted Ordinance #0-09-119, as presented, vacating Kimbrough Drive between Williams Road and 4110 Williams Road:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster

7

Noes:

0

// In the matter of Public Works - Street Vacation, a public hearing was held regarding City Council Report #20 regarding the adopting of an Ordinance to vacate an unnamed alley between Kemper Street and

Norfolk Southern Railway. City Planner Tom Martin provided a brief summary regarding the request. Mr. Russ Nixon, representing the petitioner, outlined the request and asked for approval. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Johnson, Physical Development Committee (PDC) Chair, stated that this item came before the PDC and made a motion to approve the street vacation. The motion required no second, and Council by the following recorded vote adopted Ordinance #0-09-120, as presented, vacating an unnamed alley between Kemper Street and Norfolk Southern Railway:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster

7

Noes:

0

//In the matter of City Code, a public hearing was held regarding amending Section 16.1, Erosion and Sediment Control (ESC) Ordinance, of the City Code to conform to the Code of Virginia regarding erosion and sediment control. Environmental Reviewer Erwin Hawkins provided a brief summary regarding the request. Ms. Hawkins explained that updating the ESC Ordinance would make the ordinance consistent with the Code of Virginia by updating definitions, clarifying inspection frequency, defining plan requirements for state agencies and utility companies and revising language regarding enforcement. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Perrow, seconded by Council Member Johnson, Council by the following recorded vote adopted Ordinance #0-09-121, as presented, amending Section 16.1, Erosion and Sediment Control Ordinance, of the City Code to conform to the Code of Virginia regarding erosion and sediment control:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster

7

Noes:

0

//In the matter of Finance - Bonds, a request to amend Resolution #R-09-103 adopted by City Council on September 22, 2009, to provide for supplemental interest coupons bearing interest at a rate of not to exceed 2% per year for the General Obligation School Bonds, Series 2009, to be issued to the Virginia Public School Authority (VSPA) in connection with its Pooled Bond Sale under the American Recovery and Reinvestment Act of 2009 - Qualified School Construction Bond Program - for Sandusky Middle School was considered. Director of Financial Services Donna Witt stated that on September 22 City Council adopted Resolution No. R-09-103 authorizing the issuance of not to exceed \$18,000,000 principal amount of City of Lynchburg General Obligation School Bonds and the sale of such Bonds to the Virginia Public School Authority in connection with its Pooled Bond Sale under the American Recovery and Reinvestment Act of 2009 - Qualified School Construction Bond Program to finance a portion of the cost of acquisition and construction of the Sandusky Middle School. Ms. Witt explained that at the time Resolution No. R-09-103 was adopted it was contemplated that the bonds would bear interest at the rate of 0% per year. Ms. Witt went on to say that subsequent to the adoption of Resolution No. R-09-103, the City has been advised that supplemental interest coupons may be required in connection with the pricing of the bonds. Ms. Witt explained that if it becomes necessary to include supplemental interest coupons in the bond

issue, the City might reduce its borrowing to cover only the costs for Sandusky Middle School that were not financed in the recent General Obligation bond sale and that the result would be interest costs that were still less than a Literary Loan. Ms. Witt did note that it would, however, eliminate the transfer of previously issued debt to the Juvenile and Domestic Relations Court building. City Manager Kimball Payne stated that even though the City is still anticipating selling the bonds at a rate lower than 2%, he would like for Council to consider giving him the maximum flexibility during the sale of the bonds by amending the Resolution to allow interest at a rate of not to exceed 3% instead of 2%. Mr. Payne further explained that after further consideration, he felt that it would still be a good idea to proceed with the plan to transfer the previously issued debt for the Juvenile and Domestic Relations Court building and thereby free up approximately \$1 million that could be used by City Council for other projects, Le., the Wards Road Pedestrian Project. Mr. Payne stated that he plans to come to City Council on October 27 and request that the Wards Road Pedestrian Project be added to the Capital Improvement Program. Council discussed and reached consensus to authorize the City Manager to proceed with the plan to free up the \$1 million, with the understanding that City Council would need to determine at a later date how those funds would be used. On motion of Council Member Perrow, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution #R-09-122 to amend Resolution #R-09-103 adopted by City Council on September 22, 2009, to provide for supplemental interest coupons bearing interest at a rate of not to exceed 3% per year for the General Obligation School Bonds, Series 2009, to be issued to the Virginia Public School Authority (VSPA) in connection with its Pooled Bond Sale under the American Recovery and Reinvestment Act of 2009 - Qualified School Construction Bond Program - for Sandusky Middle School:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster

7

Noes:

0

/IIn the matter of City Code, City Council Report #23 regarding amending Article VIII of Chapter 25 of the City Code relating to parking regulation and enforcement within the City was considered. City Manager Kimball Payne stated that following the September 22 meeting, further changes were made to clarify certain sections of the proposed ordinance, Le., capitalization, to clarify ownership, and to designate the Central Business District. Council Member Perrow stated that some downtown business owners are very concerned regarding the recommendation to convert on-street parking to pay parking via electronic parking meters. Council Member Gillette, Vice Chair of the Parking Authority, stated that studies have shown that free parking short circuits free enterprise. Council Member Gillette also explained that the Parking Authority will still need to seek Council's approval in order for the Authority to manage on-street parking. City Manager Payne did note that the ordinance would allow for the structure to be in place for metered parking in the downtown area. Council Member Helgeson stated that he could not support the recommendation to convert on-street parking in the downtown area to paid parking in that he believes that it will do more harm than good to the existing businesses. Vice Mayor Dodson stated that there is a lot of abuse of the current system by employees working in the downtown area. On motion of Council Member

Gillette, seconded by Vice Mayor Dodson, Council by the following recorded vote adopted Ordinance #0-09-123, as presented, amending the City Code relating to parking regulation and enforcement within the City:

Ayes: Dodson, Garrett, Gillette, Johnson, Perrow, Foster 6

Noes: Helgeson 1

// On motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote elected to hold a closed meeting to consider appointments to Council-appointed Boards and Commissions, i.e., VASAP Board, Community Development Advisory Committee, Transit Company Board and Lynchburg Parking Authority pursuant to Section 2.2-3711 (A)(1), Code of Virginia (1950), as amended:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7

Noes: 0

// The meeting was re-opened to the public.

// Council Member Gillette made the following motion:

WHEREAS, the Council of the City of Lynchburg has convened a closed meeting on this date, pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by City Council that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Lynchburg certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by Council.

The Motion was seconded by Council Member Johnson, and Council by the following recorded vote adopted the motion:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7

Noes: 0

// In the matter of Appointments, and on nomination of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote appointed Nicholas R. Gilger to serve on the VASAP Board for a term to expire August 31, 2012:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7

Noes: 0

On nomination of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote re-appointed Lee Beaumont, Greg Daniels and Lisa S. Dibble to serve on the Transit Company Board for terms to expire October 31, 2012:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster 7

Noes: 0

088

October 13, 2009

On nomination of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote re-appointed Ripley Owen to serve on the Lynchburg Parking Authority for a term to expire October 30, 2014:

Ayes: Dodson, Garrett, Gillette, Helgeson, Johnson, Perrow, Foster

7

Noes:

0

// The meeting was adjourned at 9:12 P.M.

Clerk of Council

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **October 27, 2009**

AGENDA ITEM NO.: 11

CONSENT: REGULAR: **X**

WORK SESSION:

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Virginia Water/Wastewater Agency Response Network (VA WARN)**

RECOMMENDATION: Adopt a resolution authorizing the City Manager to execute the VA WARN Mutual Aid Agreement.

SUMMARY: Over the past couple of years a VA WARN ad hoc committee comprised of Clarence Warnstaff of Michael Baker and Associates, Robert Steidel with the City of Richmond, George Hoke with Fairfax Water, Scott Shirley with the Western Virginia Water Authority, and Tim Mitchell with the City of Lynchburg, have been working to form the Virginia Water/Wastewater Agency Response Network (VA WARN). The purpose of VA WARN is to provide a method whereby water and wastewater utilities that have sustained damages from natural or manmade events could obtain emergency assistance in the form of personnel, equipment, materials and other associated services as necessary from other water and wastewater utilities and obtain assistance before a local, state or federal emergency declaration is issued. The objective is to provide rapid, short-term deployment of emergency services to restore the critical operations of the impacted utility as soon as possible.

The National Infrastructure Protection Plan, specifically the Sector Specific Plan for the Water Sector developed by the United States Environmental Protection Agency identifies the development of a WARN as an important means of ensuring a resilient water and wastewater infrastructure. To date, over 40 States have implemented a WARN network.

Executing the Mutual Aid Agreement in no way obligates the City to respond to other requests or emergencies. It does, however, provide a mechanism to tap resources from across the State in the event of a water or wastewater emergency. Liability, workers comp, compensation issues, etc. are addressed up front, thereby, avoiding confusion and problems later.

Attached you will find a more thorough description of the VA WARN Network, the Mutual Aid Agreement, the Event Agreement, and Authorizing Resolution.

PRIOR ACTION(S): None.

FISCAL IMPACT: None.

CONTACT(S): Timothy Mitchell, Director of Utilities, 455-4252

ATTACHMENT(S):

- VA WARN Description
- VA WARN Mutual Aid Agreement
- VA WARN Event Agreement
- Authorizing Resolution

REVIEWED BY: lkp

**RESOLUTION AUTHORIZING EXECUTION OF THE
VIRGINIA WATER AND WASTEWATER AGENCY RESPONSE NETWORK
MUTUAL AID AGREEMENT**

WHEREAS, the National Infrastructure Protection Plan and in particular the Sector Specific Plan for the Water Sector developed by the United States Environmental Protection Agency identifies the development of a Water and Wastewater Agency Response Network in each State as an important means of helping to ensure resilient water and wastewater infrastructure in the public interest; and

WHEREAS, in furtherance of such national Water Sector plan, Virginia's longstanding, nationally-recognized professional associations known as the Virginia Section of the American Water Works Association ("VA AWWA") and the Virginia Water Environment Association ("VWEA") have jointly formed the Virginia Water and Wastewater Agency Response Network ("VA WARN") Committee to develop the EPA-recommended network and associated procedures for implementation in Virginia; and

WHEREAS, the VA WARN Committee has developed the attached form of a VA WARN Mutual Aid Agreement for use by public and private Water Sector utilities for purposes of requesting assistance and responding to such requests as well as a related form of an Event Agreement for providing assistance of a defined scope on defined terms and conditions; and

WHEREAS, this VA WARN Mutual Aid Agreement is intended to supplement and integrate with the Statewide Mutual Aid Program administered by the Virginia Department of Emergency Management, with the Emergency Management Assistance Compact, and with other mutual aid agreements of local, intrastate and interstate scope; and

WHEREAS, the City of Lynchburg owns or operates water and wastewater facilities, is responsible for public water supply or wastewater management in the Commonwealth of Virginia, and is therefore eligible to participate in VA WARN and the VA WARN Mutual Aid Agreement.

NOW, THEREFORE, be it resolved, that the Lynchburg City Council hereby authorizes the City Manager to execute the VA WARN Mutual Aid Agreement.

Adopted:

Certified:

Clerk of Council

131LRes

VA WARN

WATER AND WASTEWATER RESPONSE NETWORK

The purpose of VA WARN is to provide a method whereby water and wastewater utilities that have sustained damages from natural or manmade events could obtain emergency assistance in the form of personnel, equipment, materials and other associated services as necessary from other water and wastewater utilities and obtain assistance before a local, state or federal emergency declaration is issued. The objective is to provide rapid, short-term deployment of emergency services to restore the critical operations of the impacted utility as soon as possible.

The loss of either public water service or public sanitary sewer service has adverse impacts on the environment and public health; restoration of service as quick as possible will reduce adverse environmental and public health impacts; the VA WARN program is designed to accomplish restoration as soon as possible through mutual aid.

Utility performance is increased by being able to tap into resources that would not otherwise be available without the WARN network; being a member of WARN enhances management performance by being proactive and planning for either man made or natural emergencies.

The VA WARN Committee has developed the Mutual Aid Agreement (MAA) documents. The MAA documents were developed taking into account the following existing forms of agreements and information:

- Virginia Department of Emergency Management (VDEM)Statewide Mutual Aid (SMA) Authorizing Resolution
- National Capital Region (NCR) Water/Wastewater MAA
- WARN model MAA developed by AWWA.

Where possible, the attached documents were drafted to be consistent with the VDEM and NCR models (in that priority). The benefits of doing so include increasing acceptance and approval by Virginia localities and authorities already party to one or both of those agreements, avoiding inconsistent programs, and facilitating transition from a VA WARN-level response to a response by VDEM or others after a formal emergency or disaster declaration.

SUMMARY OF MAA DOCUMENTS

- **VA WARN Mutual Aid Agreement (MAA)** – Each Member Utility would execute the MAA at the outset and would thereby become a member of the VA WARN network upon acceptance and acknowledgment by the VA WARN Committee. Key issues covered by the MAA include: Definitions, Procedure for Requesting Assistance, Use of Event Agreements, Authorized Representatives, Withdrawal from VA WARN, and Amendments to VA WARN MAA.
- **Assistance Request Form (MAA Exhibit A)** – In accordance with Section 2.1 of the MAA, a Member Utility may request assistance by submitting a written request using the Assistance Request Form (an **Excel spreadsheet**) or verbally requesting service (in which case the a verbal request shall be followed as soon as practical by the written request using the Assistance Request Form.)
- **Event Agreement (MAA Exhibit B)** – The Event Agreement form is included as Exhibit B to the MAA and is used by the Requesting Utility and Assisting Utility to establish an agreement to provide and receive assistance. Key issues covered by the Event Agreement include: Scope of Assistance, Procedures for Provision of Assistance, Reimbursement, and Insurance Coverage. The Event Agreement would be signed when a Requesting Utility and Assisting Utility reach agreement on the specific Scope of Assistance to be provided. The Scope of Assistance established by the Requesting and Assisting Utilities will set forth on **Attachment A** (an **Excel spreadsheet**) to the Event Agreement.

The Mutual Aid Agreement (MAA) documents are structured to facilitate rapid emergency response between and among VA WARN Member Utilities. Having a signed MAA already in place and on file prior to an emergency can greatly facilitate planning and prioritizing by other Utilities responding to your requests for help in time of need.

Please note that with governing body authorization in the manner provided in the Authorizing Resolution form, the MAA is designed enable the Utility to execute an appropriate Event Agreement at the time of the emergency without further governing body action.

VIRGINIA WATER AND WASTEWATER AGENCY RESPONSE NETWORK MUTUAL AID AGREEMENT

THIS MUTUAL AID AGREEMENT (this “Agreement”) is made and entered into by and among the undersigned Member Utilities of the Virginia Water and Wastewater Agency Response Network, each of which is responsible for public water supply or wastewater management in the Commonwealth of Virginia.

BACKGROUND

A. The National Infrastructure Protection Plan and in particular the Sector Specific Plan for the Water Sector developed by the United States Environmental Protection Agency (“EPA”) identifies the development of a Water/Wastewater Agency Response Network in each State as an important means of helping to ensure resilient water and wastewater infrastructure in the public interest.

B. In furtherance of such national Water Sector plan, Virginia’s longstanding, nationally-recognized professional associations known as the Virginia Section of the American Water Works Association (“VA AWWA”) and the Virginia Water Environment Association (“VWEA”) have jointly formed the Virginia Water and Wastewater Agency Response Network (“VA WARN”) Committee to develop the EPA-recommended network and associated procedures for implementation in Virginia.

C. The VA WARN Committee has developed this form of Agreement for use by public and private Water Sector utilities for purposes of requesting assistance and responding to such requests.

D. This Agreement is intended to supplement and integrate with the Statewide Mutual Aid Program administered by the Virginia Department of Emergency Management, with the Emergency Management Assistance Compact, and with other mutual aid agreements of local, intrastate and interstate scope.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein, the parties hereto agree as follows:

SECTION 1 – DEFINITIONS

“ASSISTING UTILITY” means a Member Utility that elects to provide assistance in the form of personnel, equipment, materials or supplies to a Requesting Utility pursuant to an individual Event Agreement following a request for assistance under this Agreement.

“AUTHORIZED REPRESENTATIVE” means an officer, principal or employee of a Member Utility authorized in writing by that entity to request, offer or provide assistance pursuant to this Agreement.

“EVENT AGREEMENT” means a separate agreement entered into by and between a Requesting Utility and Assisting Utility for the purpose of providing and accepting assistance for a Utility Event. See Exhibit B.

“PERIOD OF ASSISTANCE” means the period of time commencing when the Assisting Utility dispatches personnel, equipment, materials or supplies pursuant to an individual Event Agreement and ending when personnel, equipment and remaining materials or supplies return to the Assisting Utility (*i.e.*, portal to portal).

“REQUESTING UTILITY” means a Member Utility that requests assistance pursuant to this Agreement or that receives assistance pursuant to an individual Event Agreement.

“MEMBER UTILITY” means any locality, water authority, wastewater authority, sanitary district, sanitation district or public service corporation that (i) owns or operates any water storage, treatment, transmission or distribution facilities for drinking or other domestic uses, or any wastewater collection or treatment facilities and (ii) has been accepted and acknowledged in writing as a member of VA WARN by the Chair of VA WARN Committee following delivery and receipt of this executed Agreement.

“UTILITY EVENT” means any event or occurrence, or threat thereof, whether natural or manmade, the desired response to which is or is likely to be beyond the affected Member Utility’s capability or then-available resources including but not limited to personnel, equipment, materials and supplies. A Utility Event may be a one-time event not reaching the nature or criteria requiring the declaration of a disaster, emergency or local emergency but still requiring inter-utility assistance. A Utility Event may be a recurrent event or occurrence where inter-utility assistance is beneficial for expediting the response to a particular need or filling temporary gaps in service of the Requesting Utility.

SECTION 2 – PROCEDURES FOR REQUESTING ASSISTANCE

2.1 ASSISTANCE REQUEST – When a Member Utility is affected by a Utility Event, it may request assistance by (a) submitting a written request for assistance to another Member Utility in the form provided at Exhibit A hereto, as amended and updated in the discretion of the VA WARN Committee from time to time, or (b) verbally communicating a request for assistance to another Member Utility followed as soon as practicable by a written confirmation of such request. Assistance shall not be requested under this Agreement by a Member Utility unless resources otherwise reasonably available to the Member Utility are deemed to be inadequate. A Requesting Utility may cancel a request for assistance at any time and shall provide such notice thereof as soon as practicable to the Member Utilities of whom it has made a request for assistance. The Requesting Utility may communicate the cancellation verbally but shall provide written confirmation as soon as practicable thereafter.

2.2 RESPONSE – After a Member Utility receives a request for assistance, its Authorized Representative evaluates whether resources are available to assist and informs the Requesting Utility as soon as possible if it is able and willing to provide assistance. Execution of this Agreement does not establish a duty to respond to a request for assistance. Each Member Utility shall retain absolute discretion as to determinations regarding its ability to respond and its decision whether to do so. If the Member Utility is able and willing to provide assistance, the Member Utility’s Authorized Representative responds with the type of available resources and the approximate arrival time that such assistance could be provided to the Requesting Utility.

2.3 EVENT AGREEMENT – To enter into an agreement to provide assistance, the Requesting Utility and the Assisting Utility shall communicate directly and enter into an Event Agreement, the form of which is provided in Exhibit B hereto.

2.4 AUTHORIZED REPRESENTATIVES – Upon execution of this Agreement, each Member Utility shall designate and notify the VA WARN Committee of one or more Authorized Representatives authorized to act on its behalf in requesting or agreeing to provide assistance under this Agreement. Each Member Utility shall notify the VA WARN Committee whenever a current Authorized Representative(s) is no longer authorized to act on its behalf and whenever it designates a new or additional Authorized Representative. All notices pursuant to this Paragraph shall be made in writing on a form provided by the VA WARN Committee, which shall include 24-hour access contact information and shall be signed on behalf of the Member Utility. If a Member Utility designates more than one person as an Authorized Representative, each Authorized Representative shall be considered fully authorized to act for the Member Utility in requesting or agreeing to provide assistance under this Agreement, and each Authorized Representative shall have the responsibility for expedient notification of the other Authorized Representative(s) within the Member Utility of requests for assistance that he has made or assistance he has agreed to provide on behalf of the Member Utility.

SECTION 3 – ROLE OF VA WARN COMMITTEE

The parties acknowledge and agree that the role of the VA WARN Committee, its individual members and any advisors is limited to the development and administrative support of VA WARN, on a voluntary basis and not as a party to this Agreement or as representative of any party hereto. While the VA WARN Committee may volunteer to assist the parties in coordinating requests for assistance or in other ways, this Agreement does not contemplate that the VA WARN Committee will be a required intermediary in arranging the details of assistance or reimbursement therefor and instead this Agreement contemplates that such arrangements will be arranged directly by and between Member Utilities. The VA WARN Committee, its members and any advisors assume no responsibility for this Agreement, for the delivery of assistance hereunder, or for any obligation incurred by any party hereto.

SECTION 4 – TERM AND WITHDRAWAL

4.1 TERM – This Agreement shall be in effect upon execution by two Member Utilities and subsequent acceptance and acknowledgment in writing as a member of VA WARN by the Chair of VA WARN Committee. This Agreement shall continue in full force and effect so long as there are at least two Member Utilities.

4.2 WITHDRAWAL – Any Member Utility may withdraw from this Agreement upon 30 days written notice. Withdrawal from this Agreement shall in no way affect a Requesting Utility's obligation to reimburse an Assisting Utility for costs incurred pursuant to an Event Agreement, which obligation shall survive such withdrawal.

SECTION 5 – MODIFICATIONS AND ADMINISTRATIVE PROCEDURES

5.1 MODIFICATION OF THIS AGREEMENT – This Agreement may be modified upon agreement of the parties according to the following procedure. From time to time, the VA WARN Committee may recommend approval of a proposed modification, either on its own initiative or following its endorsement of a suggestion made by a Member Utility. Modification to this Agreement shall be made on the basis of receipt by the VA WARN Committee of the written approval of the proposed modification by at least two thirds of the parties hereto. The effective date of the modification shall be 90 days after the day on which notice is given to all Member Utilities of the receipt of such approval. All parties that have failed or declined to approve the proposed modification on or before the effective date shall be deemed to have withdrawn from this Agreement as of the effective date.

5.2 MODIFICATION OF FORM OF EVENT AGREEMENT – The form of Event Agreement attached as Exhibit B hereto shall be modified only by the same procedure provided in Paragraph 5.1 for modification of this Agreement.

5.3 ADMINISTRATIVE PROCEDURES – The VA WARN Committee may adopt such administrative procedures as it deems appropriate to facilitate implementation of VA WARN and this Agreement, either on its own initiative or following its endorsement of a suggestion made by a Member Utility. The adoption of such procedures shall not be deemed a modification of this Agreement or the Event Agreement and therefore shall not require approval under Paragraph 5.1 or Paragraph 5.2.

SECTION 6 – MISCELLANEOUS PROVISIONS

6.1 OTHER AGREEMENTS – The parties acknowledge and agree that any Member Utility may have entered into other mutual aid agreements, either with other Member Utilities or with third parties, which shall not be deemed to be amended, superseded or repealed by execution of this Agreement. This Agreement shall govern with respect to all actions expressly taken or made pursuant hereto. Nothing in this Agreement is intended to interfere with any party's ability to request or provide

assistance under the Virginia Statewide Mutual Aid Program or the Emergency Management Assistance Compact.

6.2 INTERPRETATION – This Agreement shall be construed in accordance with and governed for all purposes by the laws of the Commonwealth of Virginia.

6.3 SEVERABILITY – Should any provision of this Agreement be held to be invalid, illegal or unenforceable by a court of competent jurisdiction, that fact shall not affect or invalidate any other provision, which shall remain in full force and effect.

6.4 ASSIGNMENT – This Agreement shall not be assigned or transferred by any party.

6.5 NO THIRD PARTY BENEFICIARIES – This Agreement is solely for the benefit of the Member Utilities who are parties hereto and shall not confer any rights or benefits on any other person or entity.

6.6 COUNTERPARTS – This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The parties further agree that a facsimile or scanned signature may substitute for and have the same legal effect as an original signature, and that any copy of this executed Agreement made by photocopy, facsimile, or scanner shall be considered an original.

6.7 AUTHORIZATION OF SIGNATURE – In the case of a locality, authority or district, the party represents and warrants that its execution of this Agreement is made by an individual authorized to do so by its governing body. In the case of a public service corporation, the party represents and warrants that its execution of this Agreement by the undersigned is duly authorized and validly performed.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed in their names and on their behalf.

[SIGNATURE PAGES FOLLOW]

**VIRGINIA WATER AND WASTEWATER AGENCY RESPONSE NETWORK
MUTUAL AID AGREEMENT SIGNATURE PAGE**

MEMBER UTILITY

Utility Name: _____

Signature: _____

Signatory's Name (print): _____

Signatory's Title: _____

Date: _____

-- FOR USE BY VA WARN COMMITTEE ONLY --

**MEMBERSHIP ACCEPTANCE AND ACKNOWLEDGMENT
BY VA WARN COMMITTEE CHAIR**

Signature: _____

Signatory's Name (print): _____

Date: _____

**VA WARN MUTUAL AID AGREEMENT EXHIBIT A
ASSISTANCE REQUEST FORM**

VA WARN MUTUAL AID AGREEMENT EXHIBIT A

ASSISTANCE REQUEST FORM

Event Name:				Requesting Utility:			
Date:							
Time:							
Requesting Utility Contact Name:							
	Phone:			E-mail:			
Description of Assistance Requested:							
Specific Resources Needed:							
Mobilization:							
	Date Needed:			Time needed:	Pick hrs:	hrs	
Demobilization:							
	Release Date:			Time needed:	Pick hrs:	hrs	
Deployment Considerations:							
	Work Location/Facilities:			Pick One:			
	Working Conditions			Pick One:			
	Living Conditions			Pick One:			
	Health & Safety Concerns:			Pick One:			
	Saftey Concerns/Remarks:						
	Additional Conditions Comments:						
Requesting Utility Resource Coordination Contact				Name/Title:			
	Phone:			E-mail:			
Staging Area:			Location:				
	Address 1:						
	Address 2:						
	City:			State:		Zip:	
Authorized Representative Name:						Date:	

**VA WARN MUTUAL AID AGREEMENT EXHIBIT B
EVENT AGREEMENT FORM**

VIRGINIA WATER AND WASTEWATER AGENCY RESPONSE NETWORK EVENT AGREEMENT

THIS EVENT AGREEMENT (this “Agreement”) is made and entered into by and between the undersigned Requesting Utility and Assisting Utility and shall be in effect as of the date of execution of the last signatory hereto.

BACKGROUND

A. The parties are Member Utilities of the statewide mutual aid network for water and wastewater utilities known as the Virginia Water and Wastewater Agency Response Network (“VA WARN”) and are signatories to the VA WARN Mutual Aid Agreement.

B. The undersigned Requesting Utility has requested assistance pursuant to the VA WARN Mutual Aid Agreement, and the undersigned Assisting Utility desires to assist the Requesting Utility as more fully set forth herein.

C. The VA WARN Committee has developed this form of agreement for use by VA WARN Member Utilities in agreeing to provide and accept assistance as needed to respond to a Utility Event.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein, the parties hereto agree as follows:

SECTION 1 – DEFINITIONS

Terms not specifically defined herein shall have the definitions provided in the VA WARN Mutual Aid Agreement to which the Requesting Utility and Assisting Utility are both parties.

SECTION 2 – SCOPE OF ASSISTANCE

To support the Requesting Utility’s response to a Utility Event, the Assisting Utility agrees to provide, and the Requesting Utility hereby accepts, assistance as set forth on Attachment A hereto. Such assistance is provided subject to the terms and conditions of this Agreement, including without limitation the Assisting Utility’s right to recall its personnel and resources in whole or in part and the Requesting Utility’s right to reduce or cancel the previously agreed upon Scope of Assistance pursuant to Paragraph 3.1 below.

SECTION 3 – PROCEDURES FOR PROVISION OF MUTUAL AID

3.1 SUPERVISION, CONTROL, AND RECALL – Personnel and other resources of the Assisting Utility shall remain under the supervision and control of the

Assisting Utility. The Assisting Utility shall coordinate with the Requesting Utility regarding response activities for assignment to the Assisting Utility's personnel. The Assisting Utility shall have the right and duty to refuse directions that it considers to be unsafe, contrary to law, or not in accordance with the Scope of Assistance at Attachment A hereto. The Assisting Utility's personnel and other resources shall remain subject to recall, in whole or in part, by the Assisting Utility at any time. The Assisting Utility shall provide at least twenty-four hours advance notice of intent to withdraw personnel or resources to the Requesting Utility, unless such notice is not practicable, in which case such notice as is practicable shall be provided. The Requesting Utility may at any time reduce the Scope of Assistance at Attachment A, including by reducing the Period of Assistance or the personnel or other resources requested; provided, however, that the Requesting Utility shall remain responsible for reimbursing the Assisting Utility pursuant to Section 4 for expenses incurred.

3.2. FOOD, HOUSING, AND SELF-SUFFICIENCY – Unless otherwise agreed, the Requesting Utility shall have the responsibility of providing food and housing for the personnel of the Assisting Utility from the time of their arrival at the designated location to the time of their departure.

3.3 COMMUNICATIONS – Unless otherwise agreed, the Requesting Utility shall have the responsibility for coordinating communications between the personnel of the Assisting Utility and the Requesting Utility and shall provide radio equipment as available and radio frequency information to facilitate such communications. The Assisting Utility shall be responsible for communications among its personnel regardless of the availability of radio equipment from the Requesting Utility.

3.4 RIGHTS AND PRIVILEGES – Unless otherwise provided by law, the Assisting Utility's officers, principals or employees retain the same privileges, immunities, rights, duties and benefits associated with their position with or employment by the Assisting Utility.

3.5 SUMMARY REPORT – Within ten days of the return of all personnel deployed under this Agreement, the Requesting Utility shall prepare a summary report of the event and provide a copy to the Assisting Utility. The report shall be in a format established by the VA WARN Committee or, if none, in the format used by the Virginia Department of Emergency Management, and shall include a chronology of events and description of personnel, equipment, materials and supplies provided.

SECTION 4 – REIMBURSABLE EXPENSES

The terms and conditions governing reimbursement for any assistance provided pursuant to this Agreement shall be in accordance with the following provisions and applicable VA WARN administrative procedures, unless otherwise agreed upon by the Requesting Utility and Assisting Utility and set forth in Attachment A hereto.

4.1 PERSONNEL – During the Period of Assistance, the Assisting Utility shall continue to pay its employees according to its normal policies. The Requesting Utility shall reimburse the Assisting Utility for all direct and indirect payroll costs (including overtime) and expenses (including travel expenses, benefits, costs of insuring for workers' compensation claims, and other expenses) incurred during the Period of Assistance, unless otherwise agreed and set forth by the parties in this Agreement.

4.2 EQUIPMENT – The Assisting Utility shall be reimbursed by the Requesting Utility for the use or damage (unless such damage is caused by gross negligence, or willful and wanton misconduct of the Assisting Utility's personnel) of its equipment during the Period of Assistance according to either a pre-established local or state hourly rate or according to the actual replacement, operation, and maintenance expenses incurred. For those instances in which some costs may be reimbursed by the Federal Emergency Management Agency, the eligible direct costs shall be determined in accordance with 44 CFR 206.228, or other regulations in effect at the time of the Utility Event. Each Utility shall maintain its own equipment in safe and operational condition. At the request of the Assisting Utility, fuels, miscellaneous supplies, and minor repairs may be provided by the Requesting Utility, if practical. If the equipment charges are based on a pre-established local or state hourly rate, then these charges to the Requesting Utility shall be reduced by the total value of the fuels, supplies, and repairs furnished by the Requesting Utility and by the amount of any insurance proceeds received by the Assisting Utility for damage to or loss of such equipment.

4.3 MATERIALS AND SUPPLIES – The Assisting Utility shall be reimbursed for all materials and supplies furnished by it and used or damaged during the Period of Assistance, except for the costs of equipment, fuel, maintenance materials, labor and supplies, which shall be included in the equipment rate established above, unless such damage is caused by gross negligence, or willful and wanton misconduct of the Assisting Utility's personnel. The measure of reimbursement shall be determined in accordance with 44 CFR 206.228 or other regulations in effect at the time of the Utility Event. In the alternative, the Utilities may mutually agree in writing that the Requesting Utility will replace, with like kind and quality as determined by the Assisting Utility, the materials and supplies used or damaged.

4.4 RECORD KEEPING – The Assisting Utility shall maintain records and submit invoices for reimbursement by the Requesting Utility in accordance with the Assisting Utility's existing policies and practices. The Requesting Utility may provide information, directions, and assistance for record keeping to the Assisting Utility personnel to facilitate future potential reimbursement to the Requesting Utility from the federal or State government.

4.5 PAYMENT – Unless otherwise mutually agreed in writing, the Assisting Utility shall invoice the Requesting Utility for all reimbursable expenses with an itemized statement as soon as practicable after the expenses are incurred, but not later than sixty (60) days after the Period of Assistance, unless the deadline for identifying damage or expenses is extended in accordance with applicable federal or State regulations. The

Requesting Utility shall pay the bill, or advise of any disputed items, not later than sixty (60) days following receipt of the invoice, unless the parties mutually agree in writing to a different time.

4.6 WAIVER OF REIMBURSEMENT – An Assisting Utility may elect to assume or donate, in whole or in part, the costs associated with any loss, damage, expense or use of the personnel or other resources provided by the Assisting Utility.

4.7 EFFECT OF WITHDRAWAL FROM VA WARN MUTUAL AID AGREEMENT – Withdrawal by either Utility from the VA WARN Mutual Aid Agreement shall in no way affect the obligations of the Utilities under this Event Agreement, including but not limited to the Requesting Utility’s obligation to reimburse the Assisting Utility for costs incurred pursuant to this Event Agreement.

SECTION 5 – INSURANCE

5.1 WORKERS’ COMPENSATION COVERAGE – Each Utility shall be responsible for its own actions and those of its employees and is responsible for complying with the Virginia Workers’ Compensation Act.

5.2 AUTOMOBILE LIABILITY COVERAGE – Each Utility shall be responsible for its own actions and is responsible for complying with the Virginia motor vehicle financial responsibility laws. Each Utility agrees to maintain automobile liability coverage in the amount of at least \$1,000,000 combined single limit and coverage for owned, non-owned, and hired vehicles, or maintain a comparable self-insurance program.

5.3 GENERAL LIABILITY, PUBLIC OFFICIALS LIABILITY, AND LAW ENFORCEMENT LIABILITY – To the extent permitted by law and without waiving sovereign immunity of governmental entities, each Utility shall be responsible for any and all claims, demands, suits, actions, damages, and causes for action related to or arising out of or in any way connected with its own actions and the actions of its personnel pursuant to this Agreement. Each Utility agrees to obtain general liability and, in the case of governmental entities, public official’s liability and law enforcement liability insurance, if applicable, with minimum single limits of no less than one million dollars, or to maintain a comparable self-insurance program.

SECTION 6 – MISCELLANEOUS PROVISIONS

6.1 OTHER AGREEMENTS – The parties acknowledge and agree that either party may have entered into other mutual aid agreements, either with other Member Utilities or with third parties, which shall not be deemed to be amended, superseded or repealed by execution of this Agreement. This Agreement shall govern with respect to the Scope of Assistance set forth at Attachment A hereto. Nothing in this Agreement is intended to interfere with either party’s ability to request or provide assistance under the Virginia Statewide Mutual Aid Program or the Emergency Management Assistance Compact. In the event of a declaration of an emergency or

disaster, the parties may agree in writing to terminate this Event Agreement to enable an efficient response to be coordinated instead through the Statewide Mutual Aid Program and Emergency Management Assistance Compact, as appropriate.

6.2 INTERPRETATION – This Agreement shall be construed in accordance with and governed for all purposes by the laws of the Commonwealth of Virginia and shall be interpreted as if it were mutually drafted by the parties.

6.3 SEVERABILITY – Should any provision of this Agreement be held to be invalid, illegal or unenforceable by a court of competent jurisdiction, that fact shall not affect or invalidate any other provision, which shall remain in full force and effect. It is the intent of the parties to this Agreement, and the parties agree, that in lieu of any provision of this Agreement that is illegal, invalid or unenforceable, the parties in good faith shall supply as part of this Agreement a legal, valid and enforceable provision as similar to such illegal, invalid or unenforceable term or provision as may be possible.

6.4 ASSIGNMENT – This Agreement shall not be assigned or transferred by any party without the written consent of the other party hereto.

6.5 NO THIRD PARTY BENEFICIARIES – This Agreement is solely for the benefit of the parties hereto and their permitted successors and assignees and shall not confer any rights or benefits on any other person or entity.

6.6 COUNTERPARTS – This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The parties further agree that a facsimile or scanned signature may substitute for and have the same legal effect as an original signature, and that any copy of this executed Agreement made by photocopy, facsimile, or scanner shall be considered an original.

6.7 AUTHORIZATION OF SIGNATURE – In the case of a locality, authority or district, the party represents and warrants that its execution of this Agreement is made by an individual authorized to do so by its governing body. In the case of a public service corporation, the party represents and warrants that its execution of this Agreement by the undersigned is duly authorized and validly performed.

NOW, THEREFORE, in consideration of the covenants and obligations set forth in this Agreement, the parties have caused the execution of this Agreement.

[SIGNATURE PAGE FOLLOWS]

**VIRGINIA WATER AND WASTEWATER AGENCY RESPONSE NETWORK
EVENT AGREEMENT SIGNATURE PAGE**

REQUESTING UTILITY

Utility Name: _____

Authorized Representative's Signature: _____

Authorized Representative's Name (print): _____

Authorized Representative's Title: _____

Date: _____

ASSISTING UTILITY

Utility Name: _____

Authorized Representative's Signature: _____

Authorized Representative's Name (print): _____

Authorized Representative's Title: _____

Date: _____

VA WARN EVENT AGREEMENT ATTACHMENT A

SCOPE OF ASSISTANCE

This form is used by the Assisting Utility to respond to request for assistance by a Requesting Utility. Upon acceptance by the Requesting Utility, this form, either as originally submitted by the Assisting Utility or as revised by the parties prior to the Requesting Utility's acceptance, as appropriate, is attached to the Event Agreement to define the Scope of Assistance. The Assisting Utility reserves the right to recall its personnel and resources, and the Requesting Utility reserves the right to reduce the Scope of Assistance, as provided in Paragraph 3.1 of the Event Agreement.

Assisting Utility:					
Assisting Utility Authorized Representative:				Date:	
Requesting Utility:			Date:		
Event Name:			Time:		
Requesting Utility Contact Name:					
	Phone:		E-mail:		
Description of Assistance Offered:					
Specific Resources Available:					
Assisting Utility Resource Coordination Contact:					
	Phone:		E-mail:		
Mobilization:					
	Date Available:		Time needed:	Pick hrs:	hrs
Demobilization:					
	Date Released:		Time needed:	Pick hrs:	hrs

COST ESTIMATE (details below):			
Total Cost Estimate:		Total Cost Estimate (Total from Excel sheet):	\$0.00
Total Travel Costs:			\$0.00
# of fuel consuming equipment:		# of non-fuel consuming equipment:	
Travel Costs:			
Personal Vehicle:		Vehicle Rental/Fuel/Mileage:	
Governmental Vehicle Costs:		Air Travel:	
Meals/tips:		Lodging:	
Notes/Comments:			
Total Equipment Costs:			\$0.00
Equipment Costs (insert lines as needed):			
	Description:	Cost:	
1			
2			
3			
4			
5			
Total Commodity (Materials & Supplies) Costs:			\$0.00
Commodity Costs (insert lines as needed):			
	Description:	Cost:	
1			
2			
3			
4			
5			
Total Other Costs:			\$0.00
Other Costs (insert lines as needed):			
	Description:	Cost:	
1			
2			
3			
4			
5			

[illegible]

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **October 27, 2009**

AGENDA ITEM NO.: 12

CONSENT: REGULAR: **X**

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Identity Theft Prevention Policy**

RECOMMENDATION: Adopt a resolution to approve the Identity Theft Prevention Policy.

SUMMARY: The purpose of this policy is to establish an Identity Theft Prevention Policy designed to detect, prevent and mitigate identity theft in connection with the opening of a covered account, such as a utility account, or an existing covered account and to provide for continued administration of the Program in compliance with Part 681 of Title 16 of the Code of Federal Regulations implementing Sections 114 and 315 of the Fair and Accurate Credit Transactions Act (FACTA) of 2003.

The federal rules that require local governments to adopt identity theft programs will take effect November 1, 2009. The deadline for adopting the so-called Red Flag Rules has been extended several times over the past year.

PRIOR ACTION(S):

None

FISCAL IMPACT:

None

CONTACT(S):

Donna Witt, Director of Financial Services 455-3968

ATTACHMENT(S):

Identity Theft Prevention Policy

Resolution

REVIEWED BY: lkp

RESOLUTION:

BE IT RESOLVED That City Council hereby approves the Identity Theft Prevention Policy developed by the City and dated November 1, 2009.

Adopted:

Certified:

Clerk of Council

133L

City of Lynchburg
Department of Financial Services
Billings and Collections Division
Identity Theft Prevention Policy

November 1, 2009

Purpose

The purpose of this policy is to establish an Identity Theft Prevention Policy designed to detect, prevent and mitigate identity theft in connection with the opening of a covered account or an existing covered account and to provide for continued administration of the Program in compliance with Part 681 of Title 16 of the Code of Federal Regulations implementing Sections 114 and 315 of the Fair and Accurate Credit Transactions Act (FACTA) of 2003.

Definitions

Covered account means an account that the City offers or maintains, primarily for personal, family or a household purpose that involves or is designed to permit multiple payments or transactions. City covered accounts include utility accounts.

Credit means the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase services and defer payment.

Creditor means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit. The City in reference to this policy is the Creditor.

Identifying information is any name or number that may be used, alone or in conjunction with any other information, to identify a specific person, including: name, address, telephone number, Social Security number, date of birth, government issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number, unique electronic identification number, computer's Internet Protocol (IP) address, or routing code.

Identity theft means fraud committed or attempted using the identifying information of another person without authority.

Red flag means a pattern, practice or specific activity that indicates the possible existence of identity theft.

The Policy

City of Lynchburg Department of Financial Services established this Identity Theft Prevention Policy to detect, prevent and mitigate identity theft. The Policy shall include reasonable policies and procedures to:

1. Identify relevant red flags for covered accounts it offers or maintains and incorporate those red flags into the program;
2. Detect red flags that have been incorporated into the Policy;
3. Respond appropriately to any red flags that are detected to prevent and mitigate identity theft; and
4. Ensure the Policy is updated periodically to reflect changes in risks to customers and to the safety and soundness of the creditor from identity theft.

The Policy shall, as appropriate, incorporate existing policies and procedures that control reasonably foreseeable risks.

Identification of Relevant Red Flags

In order to identify relevant Red Flags, the City considers the types of accounts that it offers and maintains, the methods it provides to open its accounts, the methods it provides to access its accounts and its previous experience with Identify Theft. The locality identifies the following red flags, in each of the listed categories:

A. Suspicious Documents

- Identification document or card that appears to be forged, altered or inauthentic;
- Identification document or card on which a person's photograph or physical description is not consistent with the person presenting the document;
- Other document with information that is not consistent with existing customer information (such as if a person's signature on a check appears forged); and
- Application for service that appears to have been altered or forged.

B. Suspicious Personal Identifying Information

- Identifying information presented that is inconsistent with other information the customer provides (example: inconsistent birth dates);
- Identifying information presented that is inconsistent with other sources of information;
- Identifying information presented that is the same as information shown on other applications that were found to be fraudulent;

- Identifying information presented that is consistent with fraudulent activity (such as an invalid phone number or fictitious billing address);
- Social Security number presented that is the same as one given by another customer;
- An address or phone number presented that is the same as that of another person;
- A person fails to provide complete personal identifying information on an application when reminded to do so; and
- A person's identifying information is not consistent with the information that is on file for the customer.

C. Suspicious Account Activity or Unusual Use of Account

- Change of address for an account followed by a request to change the account holder's name;
- Account used in a way that is not consistent with prior use;
- Mail sent to the account holder is repeatedly returned as undeliverable;
- Notice to the locality that a customer is not receiving mail sent by the locality;
- Breach in the locality's computer system security; or
- Unauthorized access to or use of customer account information.

D. Alerts from Others

- Notice to the City from a customer, identity theft victim, law enforcement agency or another person that an individual has opened or is maintaining a fraudulent account or may be engaged in Identity Theft.

Detection of Red Flags

A. New Accounts

In order to detect any of the Red Flags identified above associated with the opening of a new account, the City's personnel will take the following steps to obtain and verify the identity of the person opening the account:

- Require certain identifying information including, but not limited to; name, date of birth, residential or business address, principal place of business for an entity, driver's license or other identification; including, but not limited to; SSN, place of employment, or copy of lease

B. Existing Accounts

In order to detect any of the Red Flags identified above for an existing account, the City's personnel will take the following steps to monitor transactions with an account:

- Verify the identification of customers if they request information, whether in person, via telephone, via facsimile or via e-mail;
- Criteria to receive account information; at least two (2) pieces of the following information must be provided
 - 1) Account number
 - 2) First and last name on account
 - 3) Social security number or identifying number
 - 4) Address where bills are mailed
- Verify the validity of requests to change mailing addresses; and
- Verify changes in banking information given for billing and payment purposes.

Response to Suspected Identity Theft

In the event that the City's personnel detect any identified Red Flags, such personnel shall take one or more of the following steps, depending on the degree of risk posed by the Red Flag:

- Continue to monitor the account for evidence of Identify Theft;
- Contact the customer;
- Change any passwords or other security devices that permit access to accounts;
- Not open a new account;
- Close an existing account;
- Reopen an account with a new number;
- Notify the Director of Finance for determination of the appropriate step(s) to take;
- Notify law enforcement; or
- Determine that no response is warranted under the particular circumstances.

In order to further prevent the likelihood of identity theft occurring with respect to utility accounts, the City will take the following steps with respect to its internal operating procedures to protect customer identifying information:

- Ensure that its website is secure or provide clear notice that the website is not secure;
- Ensure complete and secure destruction of paper documents and computer files containing customer information;
- Ensure that the office computers are password protected and that computer screens lock after a set period of time;
- Keep offices clear of papers containing customer information;
- Request only the last 4 digits of social security numbers (if any);
- Ensure computer virus protection is up to date; and
- Require and keep only the kinds of customer information that are necessary for utility purposes.

Updating the Policy

The Policy shall be updated periodically to reflect changes in risks to customers or to the safety and soundness of the City from identity theft based on factors such as:

- The experiences of the City with identity theft;
- Changes in methods of identity theft;
- Changes in methods to detect, prevent and mitigate identity theft;
- Changes in the types of accounts that the City offers or maintains;

Administration of the Policy

- Director of Finance or a designated employee at the level of senior management shall be responsible for the development, implementation, oversight, and continued administration of the Policy.
- The City shall train staff, as necessary, to effectively implement the Policy;

Oversight of the Policy

Oversight of the program shall include:

1. The Director of Finance or her designee shall approve changes to the policy as necessary to address risks of identity theft.
2. Staff responsible for development, implementation, and administration of the Policy shall report to the Director of Finance at least annually on compliance by the organization with the Policy. Staff shall report annually to the Director of Finance material matters related to the Policy including:
 - The effectiveness of the policies and procedures in addressing the risk of identity theft in connection with the opening of covered accounts and with respect to existing covered accounts;
 - Significant incidents involving identity theft and staff's response; and
 - Recommendations for material changes to the Policy.

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **October 27, 2009**

AGENDA ITEM NO.: 13

CONSENT: REGULAR: **X**

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Local Aid to the Commonwealth and Clerk of Court Funding**

RECOMMENDATION: Adopt a resolution to amend the FY 2010 General Fund Reserve for Contingencies and appropriate \$500,000 with resources from the Designated Local Aid to the Commonwealth Reserve. Also, with this resolution, amend the FY 2010 General Fund budget and appropriate \$18,045 with resources from the General Fund Reserve for Contingencies to partially restore funding cut by the State to the Office of the Clerk of Court.

SUMMARY: At the June 23, 2009, City Council meeting, \$500,000 of projected revenues was designated to prepare for further reductions in State funding. At the October 13, 2009, City Council meeting the City Manager recommended the appropriation of these designated funds to the Reserve for Contingencies in order to make them available for future use as determined by Council. At the same meeting Council agreed to assist the Clerk of Court so that he would not have to lay off employees as a result of State funding cuts. It was determined that \$18,045 would be adequate for the remainder of FY 2010 and it is recommended that that amount be appropriated from the \$500,000 previously set aside.

PRIOR ACTION(S): As noted. This matter will be reviewed by the Finance Committee on October 27, 2009

FISCAL IMPACT: Use of Reserve for Contingencies of \$18,045

CONTACT(S): Donna S. Witt, Director of Financial Services 455-3968

ATTACHMENT(S): Resolution

REVIEWED BY: lkp

RESOLUTION:

BE IT RESOLVED That the FY 2010 General Fund Reserve for Contingencies is amended and \$500,000 is appropriated to it with resources from the Designated Local Aid to the Commonwealth Reserve, and

ALSO, BE IT RESOLVED that the FY 2010 General Fund budget is amended and \$18,045 is appropriated to the Office of the Clerk of Court with resources from the General Fund Reserve for Contingencies to restore funding cut by the State.

Introduced:

Adopted:

Certified:

Clerk of Council

134L

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **October 27, 2009**

AGENDA ITEM NO.: 14

CONSENT:

REGULAR: **X**

WORK SESSION:

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Amend FY2010-FY2014 Capital Improvement Program (CIP) to include Wards Road Pedestrian & Bicycle Improvements**

RECOMMENDATION: Amend the FY2010-FY2014 CIP to include the Wards Road Pedestrian & Bicycle Improvements.

SUMMARY: The City Council unanimously approved the Wards Road Pedestrian & Bicycle Plan as part of the City's Comprehensive Plan on September 8, 2009. The catalyst for the Plan was proposed vehicular and pedestrian tunnels to be constructed by Liberty University in 2010. The proposed tunnels will provide for direct pedestrian and bicycle connections from the University to the businesses located on Wards Road. The improvements recommended for inclusion in the FY2010 – FY2014 CIP would occur in three phases and provide for safe pedestrian crossings and trail systems within the area.

Phase I of the project proposes the construction of a two stage pedestrian crossing at Sam's Club and median enhancements in Wards Road. Phase II proposes the construction of the first phase of the greenway trail system from Harvard Street to Atlanta Avenue and two additional pedestrian crossings (Wards Road and Harvard Street / Wards Road and Atlanta Avenue). Phase III proposes the construction of a multi-user trail along the Westside of Wards Road from Atlanta Avenue and the second phase of the greenway trail from Atlanta Avenue to Wards Ferry Road. City staff has submitted one safety grant application and plans to submit another in December 2009 to the Virginia Department of Transportation (VDOT). If the City is successful in receiving grants, grant resources could be used for portions of the project.

Funding in the amount of \$177,421 will be reallocated from the Community Development Renovations project to this project so that engineering design can begin. Staff is developing a scope of work and plans to issue Request for Proposals by mid-November.

PRIOR ACTION(S):

September 8, 2009: City Council unanimously approved the Wards Road Pedestrian & Bicycle Plan as part of the City's *Comprehensive Plan 2002-2020*.

<u>FISCAL IMPACT:</u>	Phase I -	\$1,000,000
	Phase II -	\$755,500
	Phase III -	\$778,500
	Total -	\$2,534,000

CONTACT(S): Tom Martin, City Planner - 455-3900; Bonnie Svrcek, Deputy City Manager/Acting Director of Community Development - 455-3900

ATTACHMENT(S):

Resolution

CIP Project Detail Sheets

REVIEWED BY: lkp

RESOLUTION:

BE IT RESOLVED that the FY2010 – FY2014 Capital Improvement Program (CIP) is amended to include the Wards Road Pedestrian and Bicycle Improvement project.

Adopted:

Certified:

Clerk of Council

132L

SERVICE AREA
Transportation

DEPARTMENT
Community Development

LOCATION
Wards Road

PROJECT TITLE/PROJECT NUMBER
Wards Road Pedestrian & Bicycle Improvements

PROJECT TYPE
New

DEPARTMENT PRIORITY

☐	Project has legal or regulatory mandate
☐	City has contractual agreement to continue project
☐	Project has State and Federal funding
☐	Project supports essential services
☐	Project represents additional essential services
☒	Project required to support important but not essential services
☒	Project contributes to generation of new revenue

THIS PROJECT ALSO HAS (A) COMPONENT (S) IN:

☒	None
☐	Schools Capital Fund
☐	Airport Capital Projects Fund
☐	Airport Projects Grant Fund
☐	Sewer Capital Projects Fund
☐	Sewer VRLD Capital Projects Fund
☐	Water Capital Project Fund
☐	Other: Please Specify



PROJECT DESCRIPTION

The catalyst for this project is a pedestrian & bicycle tunnel connecting LU to Wards Road. The improvements will provide for safety while improving student access to businesses which could result in increased sales and meals tax revenues. The improvements will occur in three phases; Phase I, pedestrian crossing and median enhancements - \$1,000,000. Phase II, greenway trail and pedestrian crossings - \$755,500. Phase III, multi-use trail - \$778,500.

RELATIONSHIP TO COMPREHENSIVE PLAN

The Wards Road Pedestrian & Bicycle Concept plan was adopted as part of the City's *Comprehensive Plan 2002-2020* by City Council on September 8, 2009.

PROJECT MANAGER(S)
Tom Martin, Lee Newland

PROJECT START DATE 11/2009
PROJECT COMPLETION DATE 06/2012

COMPLETION SCHEDULE

Activity	Complete - Quarter	Phase I	Phase II	Phase III
City Engineering Service Charges				
Land Acquisition/Right-of-Way				
Architectural Services (Contractual)				
Surveying (Contractual)		Q4 2010	Q4 2011	Q4 2012
Consultant Engineering		Q3 2010	Q1 2011	Q1 2012
Contact Administration (Contractual)				
Inspections (Contractual)				
Construction		Q4 2010	Q4 2011	Q4 2012
Contingency		Q4 2010	Q4 2011	Q4 2012
Miscellaneous				

OPERATING BUDGET IMPACT (OVERALL OPERATING EXPENSES & PROJECTED STAFFING REQUIREMENTS):

Streetlight operating cost, (\$6000) and landscaping maintenance, (\$3000).

FIVE YEAR PROPOSED PROJECT APPROPRIATIONS BY SUB-PROJECT

Sub-Projects	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	Program Period Estimate
Surveying (Contractual)	10,000	10,000	5,000	0	0	\$25,000
Consultant Engineering	92,513	70,208	72,351	0	0	\$235,072
Contact Administration (Contractual)	78,812	57,399	64,457	0	0	\$200,668
Construction	740,100	561,662	578,809	0	0	\$1,880,571
Contingency	78,575	56,231	57,883	0	0	\$192,689
TOTAL	\$1,000,000	\$755,500	\$778,500	\$0	\$0	\$2,534,000

TOTAL PROJECT COST

TOTAL PRIOR APPROPRIATIONS	FY 2010-2014	BEYOND FY 2014	TOTAL PROJECT
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	\$2,534,000		\$2,534,000
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FIVE YEAR PROPOSED PROJECT **EXPENDITURE CASH FLOW PROJECTIONS** BY SOURCE OF FUNDING

Funding Source	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	Program Period
Local: General Fund Engineering	0	0	0	0	0	\$0
Local: G.O. Bond	0	0	0	0	0	\$0
Local: Pay-As-You-Go	1,000,000	755,435	778,498	0	0	\$2,533,933
State: Please Specify Agency	0	0	0	0	0	\$0
Federal: Please Specify Agency	0	0	0	0	0	\$0
Other: Please Specify Agency	0	0	0	0	0	\$0
TOTAL	\$1,000,000	\$755,435	\$778,498	\$0	\$0	\$2,533,933

SOURCES OF PROJECT FUNDING FY 2010 - 2014 (%):

LOCAL = 100% STATE = 0% FEDERAL = 0% OTHER = 0%

City staff are applying for transportation enhancement and safety grants which could be applied to portions of the project and offset the need for General Fund financing. A local match for grant funding will most likely be required.