

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 An Act to amend and reenact § 15.2-2241 of the Code of Virginia, relating to provisions of a
3 subdivision ordinance.

4 [S 318]
5 Approved

6 **Be it enacted by the General Assembly of Virginia:**

7 **1. That § 15.2-2241 of the Code of Virginia is amended and reenacted as follows:**

8 § 15.2-2241. Mandatory provisions of a subdivision ordinance.

9 A subdivision ordinance shall include reasonable regulations and provisions that apply to or provide:

10 1. For plat details which shall meet the standard for plats as adopted under § 42.1-82 of the Virginia
11 Public Records Act (§ 42.1-76 et seq.);

12 2. For the coordination of streets within and contiguous to the subdivision with other existing or
13 planned streets within the general area as to location, widths, grades and drainage, including, for
14 ordinances and amendments thereto adopted on or after January 1, 1990, for the coordination of such
15 streets with existing or planned streets in existing or future adjacent or contiguous to adjacent
16 subdivisions;

17 3. For adequate provisions for drainage and flood control, for adequate provisions related to the
18 failure of impounding structures and impacts within dam break inundation zones, and other public
19 purposes, and for light and air, and for identifying soil characteristics;

20 4. For the extent to which and the manner in which streets shall be graded, graveled or otherwise
21 improved and water and storm and sanitary sewer and other public utilities or other community facilities
22 are to be installed;

23 5. (Effective until July 1, 2014) For the acceptance of dedication for public use of any right-of-way
24 located within any subdivision or section thereof, which has constructed or proposed to be constructed
25 within the subdivision or section thereof, any street, curb, gutter, sidewalk, bicycle trail, drainage or
26 sewerage system, waterline as part of a public system or other improvement dedicated for public use,
27 and maintained by the locality, the Commonwealth, or other public agency, and for the provision of
28 other site-related improvements required by local ordinances for vehicular ingress and egress, including
29 traffic signalization and control, for public access streets, for structures necessary to ensure stability of
30 critical slopes, and for storm water management facilities, financed or to be financed in whole or in part
31 by private funds only if the owner or developer (i) certifies to the governing body that the construction
32 costs have been paid to the person constructing such facilities *or, at the option of the local governing*
33 *body, presents evidence satisfactory to the governing body that the time for recordation of any*
34 *mechanics lien has expired or evidence that any debt for said construction that may be due and owing*
35 *is contested and further provides indemnity with adequate surety in an amount deemed sufficient by the*
36 *governing body or its designated administrative agency; (ii) furnishes to the governing body a certified*
37 *check or cash escrow in the amount of the estimated costs of construction or a personal, corporate or*
38 *property bond, with surety satisfactory to the governing body or its designated administrative agency, in*
39 *an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the*
40 *construction of such facilities and the contractor's bond, with like surety, in like amount and so*
41 *conditioned; or (iii) furnishes to the governing body a bank or savings institution's letter of credit on*
42 *certain designated funds satisfactory to the governing body or its designated administrative agency as to*
43 *the bank or savings institution, the amount and the form. The amount of such certified check, cash*
44 *escrow, bond, or letter of credit shall not exceed the total of the estimated cost of construction based on*
45 *unit prices for new public or private sector construction in the locality and a reasonable allowance for*
46 *estimated administrative costs, inflation, and potential damage to existing roads or utilities, which shall*
47 *not exceed 10 percent of the estimated construction costs. "Such facilities," as used in this section,*
48 *means those facilities specifically provided for in this section.*

49 If a developer records a final plat which may be a section of a subdivision as shown on an approved
50 preliminary subdivision plat and furnishes to the governing body a certified check, cash escrow, bond, or
51 letter of credit in the amount of the estimated cost of construction of the facilities to be dedicated within
52 said section for public use and maintained by the locality, the Commonwealth, or other public agency,
53 the developer shall have the right to record the remaining sections shown on the preliminary subdivision
54 plat for a period of five years from the recordation date of any section, or for such longer period as the
55 local commission or other agent may, at the approval, determine to be reasonable, taking into
56 consideration the size and phasing of the proposed development, subject to the terms and conditions of

57 this subsection and subject to engineering and construction standards and zoning requirements in effect
58 at the time that each remaining section is recorded. In the event a governing body of a county, wherein
59 the highway system is maintained by the Department of Transportation, has accepted the dedication of a
60 road for public use and such road due to factors other than its quality of construction is not acceptable
61 into the secondary system of state highways, then such governing body may, if so provided by its
62 subdivision ordinance, require the subdivider or developer to furnish the county with a maintenance and
63 indemnifying bond, with surety satisfactory to the governing body or its designated administrative
64 agency, in an amount sufficient for and conditioned upon the maintenance of such road until such time
65 as it is accepted into the secondary system of state highways. In lieu of such bond, the governing body
66 or its designated administrative agency may accept a bank or savings institution's letter of credit on
67 certain designated funds satisfactory to the governing body or its designated administrative agency as to
68 the bank or savings institution, the amount and the form, or accept payment of a negotiated sum of
69 money sufficient for and conditioned upon the maintenance of such road until such time as it is
70 accepted into the secondary system of state highways and assume the subdivider's or developer's liability
71 for maintenance of such road. "Maintenance of such road" as used in this section, means maintenance of
72 the streets, curb, gutter, drainage facilities, utilities or other street improvements, including the correction
73 of defects or damages and the removal of snow, water or debris, so as to keep such road reasonably
74 open for public usage;

75 5. (Effective July 1, 2014) For the acceptance of dedication for public use of any right-of-way
76 located within any subdivision or section thereof, which has constructed or proposed to be constructed
77 within the subdivision or section thereof, any street, curb, gutter, sidewalk, bicycle trail, drainage or
78 sewerage system, waterline as part of a public system or other improvement dedicated for public use,
79 and maintained by the locality, the Commonwealth, or other public agency, and for the provision of
80 other site-related improvements required by local ordinances for vehicular ingress and egress, including
81 traffic signalization and control, for public access streets, for structures necessary to ensure stability of
82 critical slopes, and for storm water management facilities, financed or to be financed in whole or in part
83 by private funds only if the owner or developer (i) certifies to the governing body that the construction
84 costs have been paid to the person constructing such facilities *or, at the option of the local governing*
85 *body, presents evidence satisfactory to the governing body that the time for recordation of any*
86 *mechanics lien has expired or evidence that any debt for said construction that may be due and owing*
87 *is contested and further provides indemnity with adequate surety in an amount deemed sufficient by the*
88 *governing body or its designated administrative agency;* (ii) furnishes to the governing body a certified
89 check or cash escrow in the amount of the estimated costs of construction or a personal, corporate or
90 property bond, with surety satisfactory to the governing body or its designated administrative agency, in
91 an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the
92 construction of such facilities and the contractor's bond, with like surety, in like amount and so
93 conditioned; or (iii) furnishes to the governing body a bank or savings institution's letter of credit on
94 certain designated funds satisfactory to the governing body or its designated administrative agency as to
95 the bank or savings institution, the amount and the form. The amount of such certified check, cash
96 escrow, bond, or letter of credit shall not exceed the total of the estimated cost of construction based on
97 unit prices for new public or private sector construction in the locality and a reasonable allowance for
98 estimated administrative costs, inflation, and potential damage to existing roads or utilities, which shall
99 not exceed 25 percent of the estimated construction costs. "Such facilities," as used in this section,
100 means those facilities specifically provided for in this section.

101 If a developer records a final plat which may be a section of a subdivision as shown on an approved
102 preliminary subdivision plat and furnishes to the governing body a certified check, cash escrow, bond, or
103 letter of credit in the amount of the estimated cost of construction of the facilities to be dedicated within
104 said section for public use and maintained by the locality, the Commonwealth, or other public agency,
105 the developer shall have the right to record the remaining sections shown on the preliminary subdivision
106 plat for a period of five years from the recordation date of any section, or for such longer period as the
107 local commission or other agent may, at the approval, determine to be reasonable, taking into
108 consideration the size and phasing of the proposed development, subject to the terms and conditions of
109 this subsection and subject to engineering and construction standards and zoning requirements in effect
110 at the time that each remaining section is recorded. In the event a governing body of a county, wherein
111 the highway system is maintained by the Department of Transportation, has accepted the dedication of a
112 road for public use and such road due to factors other than its quality of construction is not acceptable
113 into the secondary system of state highways, then such governing body may, if so provided by its
114 subdivision ordinance, require the subdivider or developer to furnish the county with a maintenance and
115 indemnifying bond, with surety satisfactory to the governing body or its designated administrative
116 agency, in an amount sufficient for and conditioned upon the maintenance of such road until such time
117 as it is accepted into the secondary system of state highways. In lieu of such bond, the governing body

118 or its designated administrative agency may accept a bank or savings institution's letter of credit on
 119 certain designated funds satisfactory to the governing body or its designated administrative agency as to
 120 the bank or savings institution, the amount and the form, or accept payment of a negotiated sum of
 121 money sufficient for and conditioned upon the maintenance of such road until such time as it is
 122 accepted into the secondary system of state highways and assume the subdivider's or developer's liability
 123 for maintenance of such road. "Maintenance of such road" as used in this section, means maintenance of
 124 the streets, curb, gutter, drainage facilities, utilities or other street improvements, including the correction
 125 of defects or damages and the removal of snow, water or debris, so as to keep such road reasonably
 126 open for public usage;

127 6. For conveyance of common or shared easements to franchised cable television operators furnishing
 128 cable television and public service corporations furnishing cable television, gas, telephone and electric
 129 service to the proposed subdivision. Once a developer conveys an easement that will permit electric,
 130 cable or telephone service to be furnished to a subdivision, the developer shall, within 30 days after
 131 written request by a cable television operator or telephone service provider, grant an easement to that
 132 cable television operator or telephone service provider for the purpose of providing cable television and
 133 communications services to that subdivision, which easement shall be geographically coextensive with
 134 the electric service easement, or if only a telephone or cable service easement has been granted, then
 135 geographically coextensive with that telephone or cable service easement; however, the developer and
 136 franchised cable television operator or telephone service provider may mutually agree on an alternate
 137 location for an easement. If the final subdivision plat is recorded and does not include conveyance of a
 138 common or shared easement as provided herein, the local planning commission or agent designated by
 139 the governing body to review and act on submitted subdivision plats shall not be responsible to enforce
 140 the requirements of this subdivision;

141 7. For monuments of specific types to be installed establishing street and property lines;

142 8. That unless a plat is filed for recordation within six months after final approval thereof or such
 143 longer period as may be approved by the governing body, such approval shall be withdrawn and the plat
 144 marked void and returned to the approving official; however, in any case where construction of facilities
 145 to be dedicated for public use has commenced pursuant to an approved plan or permit with surety
 146 approved by the governing body or its designated administrative agency, or where the developer has
 147 furnished surety to the governing body or its designated administrative agency by certified check, cash
 148 escrow, bond, or letter of credit in the amount of the estimated cost of construction of such facilities, the
 149 time for plat recordation shall be extended to one year after final approval or to the time limit specified
 150 in the surety agreement approved by the governing body or its designated administrative agency,
 151 whichever is greater;

152 9. For the administration and enforcement of such ordinance, not inconsistent with provisions
 153 contained in this chapter, and specifically for the imposition of reasonable fees and charges for the
 154 review of plats and plans, and for the inspection of facilities required by any such ordinance to be
 155 installed; such fees and charges shall in no instance exceed an amount commensurate with the services
 156 rendered taking into consideration the time, skill and administrator's expense involved. All such charges
 157 heretofore made are hereby validated;

158 10. For reasonable provisions permitting a single division of a lot or parcel for the purpose of sale or
 159 gift to a member of the immediate family of the property owner in accordance with the provisions of
 160 § 15.2-2244; and

161 11. For the periodic partial and final complete release of any bond, escrow, letter of credit, or other
 162 performance guarantee required by the governing body under this section in accordance with the
 163 provisions of § 15.2-2245.