



County of Hanover

Board Meeting: January 14, 2015

Subject: Request for Authorization to Advertise: Ordinance Amendment 14-09, Amendment to the Provisions of the Hanover County Subdivision Ordinance Related to Preliminary Subdivision Plats

Summary of Agenda Item: During the 2014 Session, the General Assembly passed House Bill 209. This bill, which amended Section 15.2-2260 of the Code of Virginia, provides that localities can continue to require preliminary subdivision plats for subdivisions with 50 or fewer lots only if the Subdivision Ordinance contains a provision for the submittal of such a plat at the landowner's option.

Proposed Ordinance 14-09 would amend Section 25-23 of the Hanover County Subdivision Ordinance to (1) require the submission of preliminary subdivision plats for subdivisions containing more than 50 lots; and (2) allow property owners the option of submitting a preliminary subdivision plat when the subdivision contains 50 or fewer lots. The ordinance amendment would also amend Section 25-28 of the Subdivision Ordinance, which provides for the submission of final subdivision plats, so that section is consistent with the changes to the preliminary plat requirements.

The Planning Department has applied the new State Code provisions since July 1st; Ordinance 14-09 would conform the provisions of the Subdivision Ordinance to the new provisions of State Code and current practice.

County Administrator's Recommended Board Motion: Motion to advertise for Public Hearing – Ordinance Amendment 14-09, Amendment to the Provisions of the Hanover County Subdivision Ordinance Related to Preliminary Subdivision Plats

ORDINANCE 14-09

AN ORDINANCE TO AMEND THE HANOVER COUNTY CODE, SUBDIVISION ORDINANCE, SECTIONS 25-23 AND 25-28 TO PROVIDE THAT PRELIMINARY SUBDIVISION PLATS ARE REQUIRED FOR SUBDIVISIONS CONTAINING MORE THAN 50 LOTS AND THAT OWNERS OF PROPERTIES BEING SUBDIVIDED INTO 50 OR FEWER LOTS MAY VOLUNTARILY SUBMIT A PRELIMINARY SUBDIVISION PLAT FOR REVIEW AND APPROVAL.

WHEREAS the Hanover County Board of Supervisors conducted a comprehensive review of Hanover County's subdivision regulations and adopted Ordinance 11-09 to provide for the orderly division of property within the County; and

WHEREAS during the General Assembly during its 2014 Session adopted changes to the regulations set forth in the Code of Virginia related to the submission of preliminary subdivision plats; and

WHEREAS the changes adopted by the General Assembly, which are effective as of July 1, 2014, provide that localities may require the submission of preliminary subdivision plats "for plats involving more than 50 lots, provided than any such ordinance provides for the submission of a preliminary subdivision plat for tentative approval at the option of the landowner for plats involving 50 or fewer lots"; and

WHEREAS the Board has determined that the Subdivision Ordinance must be amended to come into compliance with changes in state law and

WHEREAS the Board of Supervisors finds that the public necessity, convenience, general welfare and good subdivision practice require that the Subdivision Ordinance be amended to provide for such regulations;

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of Hanover County:

1. That the Hanover County Code, Subdivision Ordinance, Section 25-23, regarding preliminary subdivision plats, shall be amended to read in its entirety as follows:

Section 25-23. When required.

(a) A preliminary plat shall be required for the following subdivisions:

1. residential subdivisions containing five (5) or more than fifty (50) lots, regardless of zoning district with public roads or public water or sewer;
2. residential subdivisions containing five (5) or more lots with private roads; and
3. subdivisions of property located within business, mixed use or industrial districts.

(b) For subdivisions containing fifty (50) or fewer lots, the subdivider may submit a preliminary subdivision plat for review and approval.

Formatted: Font: Not Bold

Formatted: Indent: Left: 0", First line: 0"

Formatted: Indent: First line: 0"

Formatted: Indent: Left: 0", First line: 0"

Formatted: Indent: Left: 0", First line: 0.5"

2. That the Hanover County Code, Subdivision Ordinance, Section 25-28, regarding final subdivision plats, shall be amended to read in its entirety as follows:

Section 25-28. When required.

A final plat, along with supporting documentation, shall be required for any subdivision of property, whether or not the subdivision has :

- ~~1. All subdivisions that have received preliminary plat approval, and~~
- ~~2. All residential subdivisions containing four (4) or fewer lots.~~

3. This ordinance shall be effective on the date of adoption.

Formatted: Indent: First line: 0.5"

VIRGINIA ACTS OF ASSEMBLY -- 2014 SESSION

CHAPTER 393

An Act to amend and reenact § 15.2-2260 of the Code of Virginia, relating to subdivision plats.

[H 209]

Approved March 31, 2014

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2260 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2260. Localities may provide for submission of preliminary subdivision plats; how long valid.

A. Nothing in this article shall be deemed to prohibit the local governing body from providing in its ordinance for the *mandatory* submission of preliminary subdivision plats for tentative approval *for plats involving more than 50 lots, provided that any such ordinance provides for the submission of a preliminary subdivision plat for tentative approval at the option of the landowner for plats involving 50 or fewer lots.* The local planning commission, or an agent designated by the commission or by the governing body to review preliminary subdivision plats shall complete action on the preliminary subdivision plats within 60 days of submission. However, if approval of a feature or features of the preliminary subdivision plat by a state agency or public authority authorized by state law is necessary, the commission or agent shall forward the preliminary subdivision plat to the appropriate state agency or agencies for review within 10 business days of receipt of such preliminary subdivision plat.

B. Any state agency or public authority authorized by state law making a review of a preliminary subdivision plat forwarded to it under this section, including, without limitation, the Virginia Department of Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.), shall complete its review within 45 days of receipt of the preliminary subdivision plat upon first submission and within 45 days for any proposed plat that has previously been disapproved, provided, however, that the time period set forth in § 15.2-2222.1 shall apply to plats triggering the applicability of said section. The Virginia Department of Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.) shall allow use of public rights-of-way for public street purposes for placement of utilities by permit when practical and shall not unreasonably deny plat approval. If a state agency or public authority authorized by state law does not approve the plat, it shall comply with the requirements, and be subject to the restrictions, set forth in subsection A of § 15.2-2259 with the exception of the time period therein specified. Upon receipt of the approvals from all state agencies, the local agent shall act upon a preliminary subdivision plat within 35 days.

C. If a commission has the responsibility of review of preliminary subdivision plats and conducts a public hearing, it shall act on the plat within 45 days after receiving approval from all state agencies. If the local agent or commission does not approve the preliminary subdivision plat, the local agent or commission shall set forth in writing the reasons for such denial and shall state what corrections or modifications will permit approval by such agent or commission. With regard to plats involving commercial property, as that term is defined in subdivision A 2 of § 15.2-2259, the review process for such plats shall be the same as provided in subdivisions A 2 and A 3 of § 15.2-2259. However, no commission or agent shall be required to approve a preliminary subdivision plat in less than 60 days from the date of its original submission to the commission or agent, and all actions on preliminary subdivision plats shall be completed by the agent or commission and, if necessary, state agencies, within a total of 90 days of submission to the local agent or commission.

D. If the commission or other agent fails to approve or disapprove the preliminary subdivision plat within 90 days after it has been officially submitted for approval, the subdivider after 10 days' written notice to the commission, or agent, may petition the circuit court for the locality in which the land involved, or the major part thereof, is located to enter an order with respect thereto as it deems proper, which may include directing approval of the plat.

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

F. Once a preliminary subdivision plat is approved, it shall be valid for a period of five years, provided the subdivider (i) submits a final subdivision plat for all or a portion of the property within one year of such approval or such longer period as may be prescribed by local ordinance, and (ii) thereafter diligently pursues approval of the final subdivision plat. "Diligent pursuit of approval" means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications thereto. However, no sooner than three years following such

preliminary subdivision plat approval, and upon 90 days' written notice by certified mail to the subdivider, the commission or other agent may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the final subdivision plat.

G. Once an approved final subdivision plat for all or a portion of the property is recorded pursuant to § 15.2-2261, the underlying preliminary plat shall remain valid for a period of five years from the date of the latest recorded plat of subdivision for the property. The five year period of validity shall extend from the date of the last recorded plat.