

# Subdivision Regulations

Thurmont, Maryland

Adopted

May 28, 2019

By the

Mayor and Board of Town Commissioners

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## ARTICLE I

### JURISDICTION AND ADMINISTRATION OF REGULATIONS

#### § 1.1 AUTHORITY

The Mayor and Town Commissioners of Thurmont, have adopted this Ordinance which governs the subdivision of land in accordance with the provisions of the Land Use Article of the Annotated Code of Maryland

#### § 1.2 STATEMENT OF POLICY AND PURPOSE

- A. This Ordinance provides for the legal division and subsequent transfer of land within the corporate boundaries of the Town of Thurmont. It is the policy of the Town that this be done to protect and advance the best interests of the Town as a whole to achieve the following purposes:
1. Protect the public interest in sustaining a transparent and orderly process for the division of land into building lots and the subsequent informed transfer of real property and the rights thereto.
  2. Assure that streets, utilities, and other facilities are designed to promote public health and safety, optimal efficiency, longevity, ease of use, connectivity with existing streets and facilities, and an aesthetically beautiful setting.
  3. Assure, through the harmonious arrangement of lots and the buildings thereon, blocks and streets, parks and open spaces, naturalized areas, and other improvements, that healthy, beautiful, and enduring neighborhoods are developed.
  4. Provide safe and convenient vehicular and pedestrian access and circulation within new neighborhoods and between new neighborhoods and those existing and expected.
  5. Provide optimal public and non-public open spaces in new developments through the most advantageous siting, dedication or reservation, and improvement of land for recreational, educational, scenic and other public purposes such as historic, cultural, or environmental resource protection.
  6. Protect the underlying resource values of the land, prevent imprudent development of environmentally unsuitable areas such as steep slopes, wetlands, and floodplains, and protect persons and property against flooding and other environmental hazards.
  7. Ensure the pace of development is commensurate with the capacity of public facilities and services and the Town's ability to sufficiently review and approve subdivisions and to process and inspect the development of their public improvements.
  8. Implement the Thurmont Master Plan, the Town's official Comprehensive Plan which is prepared and adopted per the Land Use Article of the Annotated Code of Maryland.
- B. To accomplish these purposes, these regulations are deemed necessary for the preservation of the public health, safety, and general welfare.

#### §1.3 APPLICABILITY

These rules and regulations shall apply to the incorporated territory of Thurmont, Maryland.

#### §1.4 ADMINISTRATION

- A. The responsibility for administering these regulations shall rest with the Town of Thurmont Planning and Zoning Commission, (hereafter the Planning Commission) except in cases where specific reference is made herein to administrative decision making by the Town Zoning Administrator.
- B. Whenever the provisions of these regulations are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, that provision which is more restrictive or imposes higher standards or requirements shall govern.
- C. The Planning Commission reserves the right to determine the rate of development of a subdivision to help secure the public health, safety, welfare and in making such determination it shall consider such factors as the availability and adequacy of public facilities including streets, water and sewer, and the capacity of the Town to manage the inspection and dedication of public improvements in connection with a subdivision.
- D. Except as is expressly authorized elsewhere herein, the authority to waive or modify these regulations shall be governed by this subsection and shall be made only upon review of a duly submitted subdivision plat.
  - 1. Waiver of Required Improvements: The Planning Commission may grant a waiver of a required improvement upon its adoption of affirmative findings that the improvement is not technically feasible.
  - 2. Modifications of Design Criteria: The Planning Commission may modify design criteria upon its adoption of affirmative findings that any such modification is the minimum necessary to faithfully implement the purposes of this Ordinance, implement the Comprehensive Plan, and protect the public health, safety and welfare.
  - 3. A request for a waiver or modification shall be made to the Zoning Administrator who then shall transmit a report and recommendation to the Planning Commission. The Planning Commission shall give the applicant and all interested persons an opportunity to be heard regarding the requested waiver or modification before deciding.

#### §1.5 SEPARABILITY OF PROVISIONS

If any part of these regulations is found to be unconstitutional or illegal by the Court, the said part will cease to be effective until an amendment is made and adopted. The unconstitutionality of any part, however, shall have no bearing on the effectiveness of the rest of these regulations.

#### § 1.6 AMENDMENTS TO THESE REGULATIONS

These regulations may be amended from time to time according to the following procedures.

- A. The Planning Commission shall hold a public hearing prior to recommending the adoption of any amendments or changes, the date and place of which shall be advertised by the Planning Commission at least 15 days prior to the hearing in at least one newspaper of general circulation.
- B. The Mayor and Commissioners of Thurmont upon receiving the recommendation of the Planning Commission concerning the adoption of amendments or changes shall hold a public hearing, giving 15 days' notice of said hearing in a newspaper of general circulation.

- C. The Mayor and Commissioners of Thurmont, after considering the recommendation of the Planning Commission, other agencies and interested parties, shall approve, disapprove or modify the proposed changes and amendments. Such decision shall be binding upon the Planning Commission and all parties affected by the regulations.

§1.7 APPROVAL AND RECORDATION OF A FINAL PLAT REQUIRED

- A. Any owner of any tract of land located in Thurmont who subdivides shall cause a plat of such subdivision to be made in accordance with these regulations and the Land Use Article of the Annotated Code of Maryland.
- B. No plat shall be recorded until the Planning Commission, or Zoning Administrator per Article 4 of these regulations, approves it. The Planning Commission or Zoning Administrator, as applicable, shall not approve a plat unless it is satisfied that the requirements of these regulations have been complied with in full.
- C. Upon final plat approval, the subdivider shall record a copy at the office of the Clerk of the Court of Frederick County.
- D. No land in a subdivision shall be transferred, sold or offered for sale, nor shall a building permit be issued for a structure thereon until a final plat is recorded and the improvements required in connection with the subdivision are either constructed or guaranteed per these regulations.

§1.8 VIOLATIONS AND PENALTIES

- A. Any violation of this Ordinance shall constitute a municipal infraction, subject to a fine of one hundred (\$100.00) dollars for the first violation. Each day such violation continues shall be considered a separate offense.
- B. The subdivider or owner or architect, engineer, builder, contractor, agent, or other person, who commits, participates in, or maintains such violation may each be found guilty of a separate offence and suffer penalties herein provided.
- C. Nothing herein contained shall prevent the Zoning Administrator or anyone else from taking such other lawful action as is necessary to prevent or remedy any violation.
- D. The Town may enforce this Ordinance by civil action for declaratory judgement and/or injunction, in addition or as an alternative to citing the violator for a municipal infraction. In the case of a civil action for declaratory judgement and/or injunction, the Town may seek to recover its court costs from the violator.

## ARTICLE II

### DEFINITIONS

#### § 2.1 GENERAL DEFINITIONS

For the purpose of these regulations, the following terms, phrases, words and their derivations shall have the following meaning. Words used in the present tense include the future, the singular number includes the plural and the plural is the singular. The word “shall” is mandatory, and the word “may” is permissive. The words “used for” shall include “arranged for”, “designed for”, “intended for”, “maintained for”, “constructed for”, or “occupied for”. The word “Person” shall mean an individual, receiver, trustee, guardian, personal representative, fiduciary, representative of any kind, partnership, firm, association, corporation limited liability company, or other similar entity.

#### § 2.2 SPECIFIC DEFINITIONS

For the purpose of these regulations certain terms are defined as follows:

**ALLEY:** See Streets.

**APPLICATION - FORMAL:** An application is formal when the Zoning Administrator is assured all plans and documents are in proper form, content and number required by these regulations and all fees have been paid.

**BLOCK:** An area of land containing one or more lots and bounded by streets, providing access to such lot or lots.

**BUILDING ENVELOPE:** The area formed by the front, side and rear building lines in which the principal building must be located.

**BUILDING LINE:** A line beyond which the foundation wall and/or any enclosed roofed porch, vestibule, or other enclosed approved portion of a building shall not project as determined by the yard requirements of the Thurmont Zoning Ordinance.

**COMPREHENSIVE PLAN:** The policies, statements, goals, and long-range plan for desirable use of land and structures in Thurmont, as officially adopted and amended from time to time by the Mayor and Town Commissioners in the form of texts and maps, which constitute a guide for the area’s future development. The term shall be also used for “Master Plan”, as adopted in accordance with the Land Use Article of the Annotated Code of Maryland.

**CORNER LOT:** See “LOT TYPES”.

**COUNTY MASTER HIGHWAY PLAN:** The official plan of roads, highways, streets, and other ways adopted by the Frederick County Planning and Zoning Commission and approved by the Board of County Commissioners of Frederick County in accordance with Article 66B of the Annotated Code of Maryland.

**CUL DE SAC:** See “STREETS”.

**DEDICATION:** The deliberate setting aside or appropriation of land by its owner for any general or public uses, reserving to himself no other rights than such are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.

**DEVELOPER:** An individual, partnership or corporation (or agent therefore) that undertakes the responsibility for any or all of the activities covered by these regulations, particularly the designing of a subdivision or development plan or plat showing the layout of the land and the public improvements involved therein. Inasmuch as the subdivision plat is merely a necessary means to the end of assuring a satisfactory development, the term “developer” is intended to include the term “subdivider”, even though the personnel involved in successive stages of the project may vary.

**DEVELOPER’S POLICY:** The official policy of the Mayor and Commissioners of Thurmont in regard to the sharing of the cost of the necessary improvements, as it may be amended from time to time.

**DEVELOPMENT:** Any activity, other than normal agricultural activity which materially effects the existing condition or use of any land or structure.

**DOUBLE FRONTAGE LOT:** See "LOT TYPES".

**EASEMENT:** A strip of land on which a limited right-of-way is provided for one or more designated purposes, without including title to the land.

**EASEMENT RESERVATION:** A strip of land extending along a property line or across a lot, for which an easement has been or is to be granted for a specific purpose or purposes. All easement reservations are to be maintained in perpetuity for intended purposes unless otherwise noted on the record plat.

**FLOODPLAIN:** Those lands defined by soil type as they are designated by the U. S. Soil Conservation Service; such being principally a natural water retention area of generally wet land.

**LOT:** A piece or parcel of land occupied or intended to be occupied by a principal building or use or group of buildings and accessory buildings and uses, including all open spaces and yards required by the Thurmont Zoning Ordinance and having frontage on a road as defined herein.

**LOT AREA, NET:** The total horizontal area included within the rear, side and front lot lines or proposed street line including off street automobile parking areas and other accessory uses.

**LOT, DEPTH OF:** The average distance between the front lot line and the rear lot line.

**LOT, FRONT OF:** The side or sides of a lot which abut a street.

**LOT, FRONTAGE:** Minimum at Building Line: the least permissible width of a lot measured horizontally along the front lot line as established by the Thurmont Zoning Ordinance.

**LOT LINES:** The lines bounding a lot as herein defined.

**FRONT:** The lot line separating the lot from a road. In cases where a lot abuts upon more than one road, either line may be considered the front.

**REAR:** The lot line opposite and most distant from the front lot line.

**SIDE:** Any lot line other than a front or rear lot line.

**LOT WIDTH:** The width of the lot measured at right angles to its centerline.

**LOT TYPES:** The following terminology is used in this Ordinance with reference to various types of lots.

**CORNER LOT:** A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost points of the lot meet at an interior angle of less than 135 degrees.

**INTERIOR LOT:** Defined as a lot (other than a corner) with only one frontage on a street other than an alley.

**OUTLOT:** A parcel of land within a subdivision which has been included on a plat, but not designated as a buildable lot. Consideration may only be due to the necessity of providing for access to adjoining properties or a continuation of appropriate street patterns.

**PANHANDLE LOT:** A polygonal shaped lot with the appearance of a "frying pan" or "flag and staff" in which the handle is most often used as the point of access to a street or road.

**DOUBLE FRONTAGE LOT:** Defined as a lot other than a corner lot with frontage on more than one street or alley.

**PERFORMANCE BOND:** A surety bond or cash deposit made out to the Town in an amount equal to 125 percent of the full cost of the public improvements which are required by this Ordinance and said surety bond or cash deposit being legally sufficient to secure to the Town that said improvements will be constructed in accordance with this Ordinance.

**PLANNING COMMISSION:** The Planning and Zoning Commission of Thurmont.

**PUBLIC IMPROVEMENTS:** Changes and/or additions to land necessary to prepare it for future transfer or building development and located in areas or easements to be deeded to or dedicated to public use. They may include streets, curbing, grading, drainage- ways, sewerage facilities, fire hydrants, water facilities, sidewalks, and other works and appurtenances to be deeded to or dedicated to public use as may be required by the Mayor and Commissioners of Thurmont under the Developers Policy.

**RESERVATION:** The assignment of land by a subdivider for a specific use to be held for that use and no other to a future time.

**RESIDENTIAL CLUSTER SUBDIVISION:** A residential development created through the Thurmont Subdivision Regulations in which lots may be smaller than the minimum sizes required by the Zoning Ordinance, provided the area otherwise devoted to lots is preserved as open space and the overall density of the tract is no greater than would otherwise be allowed in the district where the development is located.

**ROAD:** A public or private right-of-way fifty (50) feet or more in width which provides a public means of access to abutting property, or any public or private right-of-way not less than thirty (30) feet in width which existed prior to the enactment of this Ordinance. The term shall include street, avenue, drive, circle, highway or similar term.

**STREET:** A public or dedicated way, or a public proposed right-of-way, widening, or extension of an existing street or public way shown on any plan approved by the Planning Commission. Streets and Roads shall be defined and classified as follows:

**Highways:** Primary and Secondary State Highways.

**MAJOR STREETS:** The main Town streets designated as such on the Comprehensive Plan.

**COLLECTOR STREET:** A street which in addition to providing access to properties thereon, is intended to collect traffic from or distribute it to a series of local streets within a neighborhood.

**LOCAL STREET:** A street intended to serve and provide access exclusively to properties abutting thereon and not to be used as a channel for through traffic.

**SERVICE ROAD:** A road not serving as a Collector Road, but merely providing access to properties fronting on a highway, contiguous and parallel to the major highway. Adjacent here shall mean that no structure shall be built between the service road and the major highway.

**ALLEY:** A way which affords generally a secondary means of access to abutting properties and not intended for general traffic circulation.

**CUL DE SAC:** A short street with one end open for vehicle traffic, the other end permanently terminated by a turnaround for vehicles.

**STORM-WATER MANAGEMENT FACILITIES:** Those facilities and structures constructed for the purpose of collection, conveyance, retention or disposition of surface and / or ground water including, but not limited to, storm drains, culverts, drainage ways, catch or retention basins, roads, curbs, gutters, swales, or ditches.

**SUBDIVISION:** (1) The process and configuration of land by which one or more lots, tracts or parcels of land are divided, consolidated, or established as one or more lots or parcels, or other divisions of land. (2) The land so subdivided.

**SUBDIVIDE:** The act of creating a subdivision as herein defined.

**SUBDIVIDER:** The person applying for subdivision plat approval inclusive of agents.

**UNIMPEDED STREET LENGTH:** The length of a street segment between speed impediments that slow traffic such as stop signs and traffic signals at intersections or very sharp turns.

**WALKWAY:** A designated public or private right-of-way which cuts through a block and used exclusively by pedestrians.

**WET SOILS:** Soils set forth in the "Soils Interpretation and Water Features Report" as extracted from the Frederick County, Maryland Soils Survey Supplement Text and Tables published by the Frederick Soil Conservation District (issued May 1985 or as amended).

**ZONING ADMINISTRATOR:** The duly appointed officer of the Town responsible for administering the Thurmont Zoning Ordinance and/or his or her designee.

## ARTICLE III

### PLAT REVIEW AND APPROVAL PROCEDURES

#### § 3.1 SUBDIVISION REVIEW AND APPROVAL

Subdivision plats are required to assist in reviewing applications for land subdivision and assuring compliance with requirements.

- A. For Minor Subdivisions, which create three or fewer lots without the creation of any street, the subdivider may proceed directly to a combined preliminary / final plat submittal, which is provided for in §3.5.
- B. Major Subdivisions shall be reviewed and approved according to the procedures set forth in §3.2 below.

#### § 3.2 MAJOR SUBDIVISION PROCESSING PROCEDURES

There shall be three stages in the review and approval of a major subdivision plat: concept, preliminary, and final plat.

- A. Concept or Sketch Plan Stage: The purpose of the concept stage is to provide the Planning Commission with the opportunity to informally review a subdivision proposal prior to substantial commitment of time and expense on the part of the subdivider in preparing a preliminary plat.
  - 1. No application for subdivision approval shall be accepted until the subdivider attends a meeting with the Zoning Administrator. The purpose of the meeting shall be to provide the Town with an opportunity to address issues or concerns, identify impact studies that may be required, and provide direction to the applicant on the scope of such studies.
  - 2. Within 45 days of receiving a subdivision concept, the Zoning Administrator shall review the concept for completeness and inform the applicant and Planning Commission of his/her findings.
  - 3. The Zoning Administrator shall refer the concept to the appropriate individuals or agencies for informal review and/or comment prior to submitting it to the Planning Commission.
  - 4. The Planning Commission shall hold at least one meeting on the concept to receive an informational briefing on the concept and any anticipated issues and impacts. No action to approve or deny a concept shall be taken.
  - 5. The Zoning Administrator shall send written notice to the applicant and to all owners of property adjoining and immediately across the street from the subject property by certified mail postmarked at least seven days before the day of the Planning Commission's meeting to discuss the concept.
  - 6. The Planning Commission may provide expanded public notification of its deliberations at its discretion.
- B. Preliminary Plat Stage: The purpose of preliminary subdivision review is to provide the Planning Commission the time and information it requires to approve, approve with conditions, or deny a subdivision plat.
  - 1. A preliminary subdivision plat shall be submitted to the Zoning Administrator who shall review it compliance with these regulations and transmit it to the Planning Commission with comments. Applications found to be incomplete shall be returned to the applicant.

2. The Zoning Administrator shall send written notice to the applicant and to all owners of property adjoining and immediately across the street from the subject property by certified mail postmarked at least seven days before the day of the Planning Commission's meeting to discuss the preliminary plat.
3. The Planning Commission shall examine the proposed subdivision and the impact of its development for vehicular, bicycle, and pedestrian traffic circulation and safety; existing and planned utilities, stormwater management, community facilities, parks, open spaces, recreational amenities, and surrounding land uses and planned development; the preservation of streams, trees and other natural or historic features; the protection and promotion of environmental elements and processes; and in general, for the objective of ensuring a durable, harmonious, and appropriate development of the land and consistency with the Comprehensive Plan.
4. No plat shall be approved that is in conflict with the Thurmont Zoning Ordinance or any part of the Comprehensive Plan.
5. The Planning Commission shall take no action with respect to approval until the following has occurred:
  - a) The Zoning Administrator has reviewed the plat and determined that it is complete and submitted a report of findings to the Planning Commission.
  - b) The Applicant has submitted impact studies that may be required and has obtained Town approval of such studies.
  - c) Comments from appropriate agencies and individuals have been requested and sufficient time has been provided for such agencies and individuals to provide comments for review.
  - d) The applicant has paid all appropriate preliminary subdivision review and application fees to the Town.
6. The Planning Commission shall act to approve, approve with conditions noted, postpone, or disapprove. Reasons for all actions shall be stated in the written decision of the Planning Commission. The following actions shall have the meanings so stated:
  - a) Approval means the applicant is authorized to proceed with the preparation of a final plat. Preliminary approval grants an applicant two years within which to submit a final plat.
  - b) Conditional approval means the applicant may proceed with a final plat, but only after the preliminary plat has been corrected to reflect all conditions placed on the plat by the Planning Commission.

- c) Postponement means the Planning Commission's decision is delayed for a definite time period to be set in writing by the Planning Commission for reasons related to the need for more information or to provide time to prepare reservation or other plats or secure or protect easements, land, and/or rights-of-way for improvements.
  - d) Disapproval means disapproval of the plat.
- C. Final Plat Stage: The final subdivision plat shall consist of a drawing intended for recordation, incorporating those changes or additions required by the Planning Commission in its approval of the preliminary plat.
- 1. Final subdivision plats shall be submitted to the Zoning Administrator who shall review the plats for compliance with these regulations and the conditions, if any, of the Planning Commission's approval. If specified conditions or stipulations on the preliminary plat are not met in the revised plans, the Zoning Administrator shall return the plat to the applicant.
  - 2. When all review and approvals have been completed and documentation of such approvals provided to the Zoning Administrator, the plat shall be submitted to the Planning Commission for final plat approval and to certify that conditions, if any, of preliminary plat approval have been met and that the applicant has submitted all local, county, state and/or federal approvals as may be required. No permit shall be issued until this approval has been given and the plat has been recorded.
  - 3. The Planning Commission may not certify final plat approval until an Improvements Plan per §8 has been submitted and approved by the Town, a public works agreement has been executed, and all performance and additional guarantees have been accepted by the Town.
  - 4. The fact of final plat approval shall be certified on each print by the signature of the Planning Commission Chairman in a space to be provided thereon.
  - 5. Reasons for disapproval of any final plat shall be stated in the records of the Planning Commission.

### §3.3 SUBMITTAL REQUIREMENTS FOR SUBDIVISION REVIEW

The submittal requirements for concept, preliminary and final plats are set forth below. To achieve the purposes of these regulations, the Planning Commission may require the submittal of items in addition to those shown herein if it affirmatively finds that inclusion of that requirement is essential to its ability to properly review a plat. It may waive or modify a particular submittal requirement if it affirmatively finds the requirement is not helpful to a proper decision on the project.

- A. Concept Requirements. The concept subdivision package shall meet the requirements as to content and organization as may be established by the Planning Commission and at minimum shall include the following:
  - 1. A sketch plan.
  - 2. A vicinity map indicating the location of the property with respect to surrounding properties and streets. In the event that a recorded subdivision adjoins the land to be developed, that subdivision should be shown.
  - 3. Title information: proposed name, scale, date, name and address of the owner and person responsible for the preparation of the plan.
  - 4. Boundary of proposed subdivision.
  - 5. If the slope exceeds eight percent on the tract, then the sketch plat should show topography; five-foot contour intervals is acceptable for the concept plan and the contour lines shall be shown one hundred feet beyond the subdivision boundary lines except along existing roads.
  - 6. Location, widths and names of all streets or alleys on or adjoining the subdivision including those approved or recorded but not improved and all existing easements.
  - 7. Location of existing utilities on or within two hundred (200) feet of the subdivision boundary.
  - 8. The layout of all proposed and existing lots with approximate or typical dimensions and minimum area. Lots should be numbered for review reference.

9. The layout of all proposed streets, including widths of rights-of-way.
10. The approximate location and area of all open spaces proposed to be reserved for the location and purposes of any proposed easements.
11. Zoning district classification for the subject tract.
12. In cases of condominium or multi-family projects (apartment, townhouse, etc.) the following additional items shall be shown: approximate location of each building, number of units in each building, number of parking spaces in each off-street parking area and interior road or street access, whether public or private.

B. Preliminary Plat Requirements

1. Order of Plan Sheets: Preliminary subdivision plats shall adhere to the order of plan sheets established by the Planning Commission with any additional required details and plan drawings inserted into the order that may be prescribed by the Town.
2. It shall provide all the pertinent information as to existing site conditions, property ownership, and the like, that may be necessary for the Planning Commission to properly consider the proposed subdivision. This information shall be accurate and reliable.
3. It shall show the general plan of ultimate development for the property, covering the entire tract of land or so much of it as may be considered to be necessary for an adequate consideration of the part to be subdivided. This information should be drawn to scale.
4. A preliminary plat shall show the location of all existing and proposed recorded easements and rights-of-way which affect the property and a citation of any recorded easements, restrictions, reservations or covenants which affect the property.
5. The plat shall be a multiple sheet document with drawings on sheets no larger than 24 inches by 36 inches and at a scale no less detailed than 1 inch equal to 100 feet. Submittals shall meet specific technical requirements as may be set forth in Town design and construction standards.
6. It shall include a small-scale key map showing the location of the property, and its relation to other known major subdivisions, roads, streams, etc. The key map shall be drawn at a scale of 1" = 1,200 feet.

7. It shall include the following title information: Proposed subdivision name, which shall not duplicate nor closely approximate the name of any other subdivision in the Town; Names and addresses of Owner, Subdivider or Developer, and the Designer, Surveyor or Engineer; Description of subdivision location by streets, tract, political subdivision, etc.; Scale, north point and date and a signature block for the Chairman of the Thurmont Planning and Zoning Commission.
8. Information as to Existing Physical Conditions
  - a) Boundaries of the land being subdivided in heavy outline, and the acreage therein. The names of all adjacent property owners must be shown.
  - b) Topographic contours at five (5) foot intervals except where average slope is less than 3% in which case two (2) foot contours shall be required. Contours shall extend one hundred (100) feet beyond the subdivision boundary except across a public road or where the Town may require further extension.
  - c) Water courses, floodplain areas, wooded areas, buildings, transmission lines, pipelines, other utilities, bridges, and any other significant physical items, with the sizes and grades of any water or sewer lines.
  - d) Locations, widths, and names of all improved or unimproved streets, alleys, trails or other public ways within and adjoining the subdivision or intersecting any street that bounds it; railroad, utility, or other rights-of-way or easements; parks and other public spaces; subdivisions, lots, and property lines; corporate lines; and the locations and outlines of permanent buildings.
  - e) Soil type(s) information shall be provided with appropriate boundaries shown and the Planning Commission may require a soils evaluation by a certified soils scientist, especially where wet soils are shown to be present within the boundaries of the subdivision or extending 100 feet therefrom.
9. Information as to Proposed Development
  - a. Street Pattern. Layout and widths of proposed streets, alleys, trails, sidewalks, crosswalks and easements.
  - b. Lots. Layout, numbering and dimensions of proposed lots or parcels.
  - c. Open Spaces. Parcels of land intended to be conveyed or temporarily reserved for public parkland or for the joint use of property owners, with an explanation of the purposes of the open spaces, provisions or conditions of such conveyance or reservation and the proposed arrangements for ownership and maintenance.
  - d. Street Grades. Tentative grades on each street.
  - e. Utilities. Locations for utilities and drainage facilities, with easements at least ten feet in width along all property lines and five feet on both sides of interior lot lines.
  - f. Building Setbacks.
  - g. Proposed use & zoning of property.
  - h. Description of Improvements. General description of street and other public improvements proposed to be installed.
  - i. In cases of condominium or multi-family projects (including townhouse projects.) the following additional items shall be shown: approximate location of each building, total number of units in each building, number of parking spaces in each off-street parking area and interior road or street access, whether public or private.

- j.
- C. Final Plat Requirements
  1. The final plat shall comply with all existing laws, regulations, and ordinances governing the approval of subdivision plats and provide accurate dimensions and construction specifications to provide the data necessary for the issuance of building permits.
  2. In addition to meeting the submittal requirements of a preliminary subdivision plat, the final plat shall meet all specific technical plan submittal requirements as may be required by the Town Zoning Administrator.
  3. Submittals shall demonstrate compliance with any conditions of preliminary plat approval and shall include all necessary approvals from any local, county, state, and/or federal agencies.

#### § 3.4 RECORDING THE FINAL PLAT

- A. Upon approval, the subdivider shall file three mylar prints with the Clerk of Court of Frederick County and shall distribute the other prints as follows: One mylar and one linen print to the Planning Commission, two paper prints to the Supervisor of Assessments and one paper print each to the review agencies.
- B. Approved final plats shall be recorded within 30 days of approval and the subdivider must provide to the Town, within 30 days of recording proof of recording (receipt from the Clerk).
- C. Approval or recordation of the final plat shall not be deemed to constitute or effect an acceptance by the Town of any street or proposed public way, park, open space, or other improvement shown on the plat.

#### §3.5 MINOR SUBDIVISIONS

In the event that a subdivision creates three or fewer lots and involves no new streets, the following procedures may be followed:

- A. The developer may proceed directly to the preparation of a combined preliminary/final plat, but such plat must be submitted at least 45 days prior to the Planning Commission meeting.
- B. The plat shall be reviewed, approved or disapproved and recorded in accordance with the requirements pertaining to final plats.
- C. In addition to final plat data, a minor subdivision's combined preliminary/final plat shall show:
  1. Topography at two- or five-foot contour intervals, which provision may be waived by the Planning Commission.
  2. All existing permanent features, natural or manmade, that may influence the design of the subdivision.
  3. Location of existing, recorded and proposed utility lines and easements on or within 200 feet of the tract.

## ARTICLE IV

### ADMINISTRATIVE PLAT REVIEW

#### § 4.1 APPLICABILITY AND APPROVING AUTHORITY

- A. Administrative plat review is for projects with relatively minor impact, which require less information and can be reviewed and approved in a shorter time such as lot line adjustments, the conversion of existing deeded parcels into a legal building lot, and addition plats.
- B. In administrative plat review, the Zoning Administrator is the approving authority.

#### § 4.2 PROCEDURE AND SUBMITTAL REQUIREMENTS

- A. The developer may proceed directly to the preparation of a combined preliminary/final plat.
- B. In Administrative plat review, the following requirements need only apply:
  - 1. A survey plat showing or consisting in the following must be filed with the Zoning Administrator.
  - 2. Boundary survey
  - 3. Existing parcel or lot lines to be extinguished or altered and/or proposed lot lines to be established.
  - 4. For addition plats, the lot or parcel to which the addition is being made. If more than one acre remains in the original tract following an addition to a lot, a deed plotting may be used.
  - 5. For addition plats, a note on the plat signed by the owner stating the following:  
“Application is hereby made for your approval of the indicated transfer of land solely for adding to adjoining holdings and not for development. Any future subdivision of this land or building development will be submitted in the regular manner for approval in accordance with the existing Subdivision Regulations.”
  - 6. The dimensions and area of any resulting lot(s).
  - 7. Signature and stamp of a registered surveyor certifying it as an accurate survey.
  - 8. A signature block for the Zoning Administrator’s certification of approval.
- C. The applicant shall record the final approved plat in the land records of Frederick County within 30 days of plat approval and provide a receipt of recordation to the Town Zoning Administrator.

#### § 4.3 APPEALS

Any person aggrieved by an administrative plat review decision may appeal such decision to the Board of Appeals within 30 days of the date of the written decision as provided for in §2.3.2 of the Thurmont Zoning Ordinance.

## ARTICLE V

### MISCELLANEOUS REQUIREMENTS

#### § 5.1 CONSISTENCY WITH ZONING LOT REQUIREMENTS

No plat shall be approved if it causes a lot to be less than the minimum lot size required for its zoning district or causes the lot to be in violation of any other applicable zoning or health requirements, except a may be allowed in a residential cluster subdivision provided for in §6.

#### §5.2 IMPACT STUDIES MAY BE REQUIRED

- A. To assist the Planning Commission to determine the nature and extent of off-site impacts, it is authorized to require applicants for preliminary plat approval, or for extensions of approved plats, to prepare studies of the impacts of the proposed development on such factors including infrastructure, such as water and sewer, drainage, electric and other utilities, parks, streets, bicycle ways, and highways in the Town and in the vicinity of the development; the Town's fiscal and budget conditions, and area environmental conditions.
- B. The Planning Commission shall find that such studies meet reasonable professional and technical standards before accepting them for review. The Town may establish written standards and specifications for the scope and detail necessary for any required studies.
- C. If impact studies are required, no preliminary plat shall be approved prior to such studies being completed to the satisfaction of the Planning Commission.

#### §5.3 DEVELOPMENT OF LOTS, WET SOILS

- A. If a subdivider proposes that a lot be used for a residential structure with a basement within an area classified as "wet soils", the subdivider must perform one of the following:
  - 1. Construct a gravity drainage system in accordance with the International Residential Code;
  - 2. Utilize another similar solution acceptable to the Frederick County Department of Permits and Inspections;
  - 3. Submit for approval to the Frederick County Permits and Inspections Department, a geotechnical report by a registered professional engineer in the State of Maryland to include a soil profile of the house location and a certification of the specific basement/footer elevations; and
  - 4. Place a note on that plat requiring that all construction shall be in conformance with the approved solution.
- B. The above shall be performed prior to preliminary plat approval.

#### §5.4 SUBDIVISION OF LAND SUBJECT TO FLOODING

- A. A subdivision plat of land subject to periodic flooding or containing floodplain soils will not be approved unless the use of the land is deed restricted to resource conservation or other open space uses.
- B. A plat of a proposed subdivision located in an area having poor drainage or otherwise adverse physical conditions may be approved, provided the subdivider agrees to make such improvements as in the judgment of the Planning Commission render the subdivision safe and

acceptable for residential use. The subdivider shall provide a performance bond or other guarantee sufficient to cover the cost of any such improvements as estimated by the officials having jurisdiction.

#### § 5.5 PLATTING REQUIREMENTS PERTAINING TO THE ORIGINAL TRACT

- A. The remaining original tract shall be shown as follows:
  - 1. If less than two acres of land remain in the original tract after the lots are excluded, then all the tract (lots and remainder) must be platted.
  - 2. If more than two acres of land remain in the original tract after the lots are excluded, then the owner is not required to plat the remaining acreage but is required to provide a sketch of the tax map showing his entire acreage and the location of lots being platted and any previously platted lots.
- B. Notwithstanding the above, the subdivider is required to submit a plan showing the entire acreage and the location of lots being platted and any previous platted lots. The owner is required to keep this plan current with the process of subdivision approval and platting.

#### § 5.5 PHASING A FINAL PLAT

A final plat may include all the property covered by the approved preliminary plat or may be limited to any logical portion thereof that is intended to be developed as a first phase. Additional final plats may be submitted later covering additional phases of the property provided the preliminary plat is still valid or its approval has been extended.

#### § 5.6 EXPIRATION AND EXTENSION

- A. A preliminary plat approval grants the applicant two years during which the applicant shall submit a final plat.
  - 1. Before expiration of the approval, the Planning Commission may grant up to two extensions for just cause, with extension periods no greater than one year at a time. The applicant shall request an extension at least 60 days prior to the plat's expiration.

2. In connection with any request for an extension, the Planning Commission shall consider each of the following:
  - a) Whether a lawful change in the neighborhood of the property has made the subdivision, as originally approved, incompatible with neighboring properties or presented impacts to neighboring properties or infrastructure not foreseen before such change occurred.
  - b) Whether a change in the street and highway plan or the plan for any public facilities and/or services, trails or pathways, or the projected impact of development on streets, highways, water and sewer and other facilities has made the subdivision, as originally proposed, a detriment to orderly development.
  - c) Any change in zoning and/or subdivision regulations except as provided for in §5.6E.
  - d) Any changes in the Comprehensive Plan.
- B. The Planning Commission may require that an impact study as provided in §5.2 be completed and/or updated in connection with a request for an extension.
- C. Changes May be Required. In conjunction with an approved extension, the Planning Commission may require that changes in the plat be made upon finding that time has necessitated changes for the benefit of the public health, safety, and welfare.
- D. Upon expiration of any extension period approved herein, the plat shall be deemed null and void.
- E. Any approved preliminary plat shall be exempted from changes in the Subdivision Regulations for a period of two years from the date of the original approval of the Preliminary Plat. Such exemption shall not be extended, even if the preliminary plat is extended as provided above.

## ARTICLE VI

### RESIDENTIAL CLUSTER SUBDIVISIONS

#### § 6.1 PURPOSE

- A. The purpose of this section is to promote flexibility in residential subdivision design by allowing dwelling units to be grouped or clustered together on smaller lots than would otherwise be allowed in order that:
  - 1. Subdivision design, and land development generally, may conform more closely to the land's natural features, topography, and surroundings.
  - 2. Larger areas of useable open space may be assembled, which can minimize environmental harm and provide environmental and/or recreational benefits to the Town and the residents of the development.
  - 3. Pubic facilities and utilities may be provided more efficiently and thereby reduce the public and private costs of constructing and maintaining infrastructure and utilities.
- B. Lots created through residential clustering, which adhere to the provisions of this section, may vary in area, width, and dimension from the standards otherwise established in the Thurmont Zoning Ordinance.

#### § 6.2 APPLICABILITY

- A. Clustering is a permitted development technique in the A-1, R-1, R-2, and R-3 districts, subject to the plat review and approval procedures in these regulations.
- B. To be eligible for a residential cluster subdivision, the gross acreage of the tract must be at least five acres which may consist of a single parcel or multiple contiguous parcels under ownership or control of the subdivider.

#### § 6.3 PROVISIONS

The following provisions shall govern the layout and development of a cluster subdivision and shall supersede any conflicting provisions elsewhere stated in the Zoning Ordinance.

- A. When a single tract contains more than one parcel of the same zone classification, the maximum number of lots permitted shall be based upon the tract's buildable area as provided for in §6.3D and the dwellings units may be distributed over the tract as though it were one parcel.
- B. The maximum number of lots permitted shall be the quotient resulting from dividing the tract's buildable area by the minimum lot size for the zoning district where located as set forth in §5.1C, Table 3 of the Zoning Ordinance, plus any lots preserved as open space.
- C. When a single tract is divided into two or more of the zoning districts eligible for clustering so that portions of the tract lie within different districts, the number of permitted lots derived from the buildable area in each must remain within each district with regard to zoning boundaries. The dimensional requirements that govern development per §6.3E shall depend on the zoning district wherein the lots are placed.

- D. The computation of buildable area shall exclude non-tidal wetlands regulated by the Maryland Department of the Environment, area contained within the 100-year floodplains indicated on the Town's officially adopted FEMA Flood Insurance Rate Maps (FIRM), and area protected by forest or other land conservation easements.
- E. Within a cluster subdivision, the minimum lot area, lot width and yard standards required by §5.1C, Table 3 of the Zoning Ordinance for single-family detached residences only may be reduced as follows:
  - 1. In the A-1 district:
    - a) The minimum lot area shall be 8,400 square feet.
    - b) The minimum lot width and yard requirements shall be as set forth for the R-2 District in §5.1C, Table 3 of the Zoning Ordinance.
  - 2. In the R-1 district:
    - a) The minimum lot area shall be 8,400 square feet.
    - b) The minimum lot width and yard requirements shall be as set forth for the R-2 District in §5.1C, Table 3 of the Zoning Ordinance.
  - 3. In the R-2 and R-3 districts:
    - a) The minimum lot area shall be 5,600 square feet.
    - b) The following dimensional requirements shall apply: Minimum lot width shall be 50 feet, the minimum front yard shall be 15 feet, the minimum side yard shall be 8 feet and the minimum rear yard shall be 30 feet.
- F. For any cluster subdivision, the area that each lot is reduced by from the minimum size required for that zoning district, shall be summed and that total area shall become the base minimum area to be devoted to common open space.
- G. Nothing in this section relieves the subdivider from meeting the parkland requirements and standards set forth elsewhere in these regulations or prevents the Planning Commission from exercising its authority under these regulations to determine the amount and location of land to be set aside for other recreational or environmental purposes, which may be greater than but not less than the base minimum provided for in §6.3F.
- H. The Improvements Plan required by §8 of these regulations shall include an open space plan, sufficient to show the location, type, grade, elevation, proposed use and improvements, plantings and other significant enhancements and characteristics.
- I. All protective covenants and deeds of conveyance for all open spaces not otherwise dedicated to the Town, shall be part of and recorded with the approved final plat and any such covenants, restrictions, or conveyances shall be binding upon the owner and its successors.
- J. The Improvements Plan shall include a declaration of covenants, deeds of conveyance and/or other Town approved instrument(s) stipulating ownership, use, and maintenance responsibilities.
- K. No plat shall be recorded which is not accompanied by an approved Improvements Plan that addresses the configuration, use, ownership and maintenance of open spaces.
- L. The use of residential clustering shall not relieve the subdivider of complying with the standards in these regulations governing reserving, dedicating, and providing open spaces and other improvements

## ARTICLE VII

### PRINCIPLES AND STANDARDS OF SUBDIVISION DESIGN

#### § 7.1 GENERAL DESIGN PRINCIPLES

- A. In laying out a subdivision, the subdivider shall comply with the purposes of these regulations as set forth in §1.02A1-7 and the principles and requirements of this section:
- B. Subdivisions shall be designed according to the following principles:
  - 1. To make the best use of the natural terrain and preserve natural features including substantial trees, woods, views and vistas, steep slopes, wetlands, and watercourses.
  - 2. To preserve historic and archaeological features.
  - 3. To avoid extensive excavation, filling, and grading, excessive vegetation removal, or substantial alteration of natural drainage patterns.
  - 4. To avoid and protect against natural and man-made hazards.
  - 5. To ensure the optimal extension to and connection with existing and planned public facilities, the delivery of public services, and infrastructure generally.
  - 6. To conform with the Comprehensive Plan and the Zoning Ordinance.

#### § 7.2 CRITERIA FOR SUBDIVISION APPROVAL

- A. A subdivision shall be approved if it meets all of the requirements of these regulations and when the Commission finds:
  - 1. Consistency with the Comprehensive Plan and the Zoning Ordinance.
  - 2. That the existing pattern of settlement of the area in terms of its predominant building proportion and form, density and arrangement will not be adversely affected.
  - 3. That the subdivision is developed in such a way as to minimize or eliminate adverse impacts on natural features, historic or archaeological resources, and public open spaces.
  - 4. That the arrangement of streets and the access to existing and planned public streets will not adversely affect traffic patterns, emergency vehicle access or public safety.
  - 5. That public facilities and services including water and sewer, schools, police and fire and library and parks are adequate to serve the demands of the subdivision in light of other approved development.
- B. These findings shall be established in the written decision of the Planning Commission at time of preliminary plat approval.

#### § 7.4 LOT DESIGN

- A. Lots shall be of such size, shape and orientation as will be appropriate for the location, character of the land and type of development contemplated. Excessive depths in relation to widths shall be avoided. A proportion of about 2 to 1 in depth and width shall be considered appropriate and gross deviations from this ratio shall not be allowed.
- B. Lots shall comply with the minimum area and bulk standards contained in the Zoning Ordinance, except where alternate sizes are allowed by the cluster provisions in §6 of these regulations.

- C. Because corner lots have two front yards, they shall have widths sufficient to meet the yard requirements set forth in the Zoning Ordinance.
- D. No pan-handle lots shall be created.
- E. All lot measurements shall be net measurements, not including any part of any street, alley or crosswalk. Easements, however, shall be regarded as within the lot.
- F. Side lot lines shall, insofar as practicable, be either at right angles or radial to street lines.
- G. All building lines (front, side and rear) shall be shown on the plat and clearly indicated by dimensions.
- H. No fragment or remainder of land shall be withheld by the subdivider which is not capable of meeting the minimum lot size specified in the Zoning Ordinance. Such fragments and remainders shall be incorporated into legal sized building lots or into areas of designated open space.
- I. No lot, regardless of its size, which would be rendered practically useless for development due to one or a combination of the following factors shall be proposed as a building lot: utility easements, lack of accessibility, lack of legal road frontage, unsuitable soils, steep slopes or other environmental condition. Such land shall be incorporated into adjoining lots or into areas of designated open space.
- J. Every lot shall abut on a public street for the minimum required lot width at the street as specified in the Zoning Ordinance. Double frontage lots (extending through the block), should be avoided.
- K. Easements shall be provided for utilities along all lot lines. Such easements shall be designed to provide continuity from block to block and shall be a minimum of 10 feet in width. Within a subdivision an easement should extend 5 feet on either side of an interior property line.

#### § 7.5 BLOCK DESIGN

- A. To the fullest extent possible, subdivision block design shall promote the development of a street grid with the aim of maximizing access and circulation. Where appropriate, the overall grid pattern shall be modified to create visually prominent and/or highly accessible focal points for parks, open spaces, or prominent buildings; to secure scenic vistas or preserve resources; and to accommodate the physical conditions and constraints of the land.
- B. Residential blocks shall have sufficient width to provide for two tiers of lots of appropriate depth plus 25-feet of width for an alley right-of-way between the tiers. Block width shall generally not exceed 250 feet in all districts except the R-1 and the I-1 zoning districts.
- C. Block length shall generally not exceed 700 feet in subdivisions of single-family detached house lots or 420 feet in townhouse subdivisions. Blocks in commercial and industrial subdivision shall generally not exceed 500 feet in length.
- D. In any block longer than 500 feet long, a public walkway and/or bikeway with access secured easement may be required to enhance pedestrian and bicycle circulation within and throughout the subdivision and/or to meet area specific circulation objectives.

#### § 7.6 STREET LAYOUT CONSISTENT WITH COMPREHENSIVE PLAN

- A. When a proposed subdivision includes or abuts streets designated in the Comprehensive Plan, the Planning Commission shall require, by dedication to public use, adequate right-of-way for the coordination of roads within the subdivision with other existing, planned or platted roads.
  - 1. Such dedication to public use shall be to the full extent of the right-of-way as required in the Comprehensive Plan except where the right-of-way to be dedicated is greater than a collector street, then a reservation of land to meet the right-of-way standards may be required.
  - 2. Before a reservation of land may be required for future dedication or acquisition for public streets, a survey plat for the location of the proposed streets must be approved and recorded in accordance with the provisions of the Land Use Article of the Annotated Code of Maryland.
  - 3. When a right-of-way reservation is required, the Planning Commission may withhold plat approval for up to twelve (12) months in order to comply with the Land Use Article. However, if the developer incorporates the recommendation of the Comprehensive Plan as part of the subdivision plat, then the procedure specified in the Land Use Article for reservation shall not be required.
  - 4. Where a proposed street involves State jurisdiction and is designated on the Comprehensive Plan or the State Highway Plan and no definite alignment has been established, the Planning Commission may withhold approval of a subdivision plat for not more than 180 days from the preliminary plat application date to permit the State Highway Administration, if it so desires, to establish an accurate road alignment.
- B. The street layout of the subdivision shall be in conformity with the Comprehensive Plan and designed for the most advantageous development of adjoining areas and the entire neighborhood.

#### § 7.7 STREET DESIGN PRINCIPLES

The following shall be considered in laying out of proposed streets in subdivisions.

- A. The street layout shall conform substantially to existing topography, following the natural contours of the land to the extent possible, minimizing grades, providing for good drainage, good building sites, and ready access to lots without excessive cuts or fills or destruction of natural or man-made features that contribute to the character of the land.
- B. Streets shall be designed to provide safe and convenient access to all proposed lots, to promote a high degree of connectivity and safety for residents living within the subdivision, to promote walking and bicycling by providing multiple routes such as is provided by grid or modified grid street patterns,
- C. Street shall be located and constructed to accommodate both present and anticipated future traffic.
- D. The arrangement of streets shall provide for the coordination of the principal streets in an adjoining subdivision and for the extension of principal streets into adjoining lands which are not yet developed; temporary turnaround then be required.
- E. Cul-de-sac and dead-end streets shall be avoided to the extent possible and only in exceptional cases may they be approved where necessitated to by severe topography or the presence of a railroad. No more than 12 lots shall front such a street and its length shall be no greater than 600 feet. A turnaround shall be provided at the end of such a street.
- F. Subdivisions adjoining dedicated, reserved or platted and recorded half width streets or alleys, shall dedicate or reserve additional right-of-way width sufficient to bring the overall street to the width required by Town standards. No new half width alleys or streets shall be approved.
- G. Streets shall be spaced to allow for blocks meeting the dimensional requirements specified herein. The number of individual lot access locations and intersections along collectors and other major roads shall be held to a minimum, normally spaced not less than 1,200 feet apart and no new residential lots shall be platted with direct frontage thereon.
- H. Land abutting highways or major roads shall be platted with the view of making the lots, if for residential use, desirable for such use by cushioning the impact of heavy traffic upon them and by minimizing interference with traffic on such highways and roads as well as accident hazards. One or more of the following ways may be used to accomplish this:
  - 1. By platting the lots extra deep and backing the lots upon the highway so that they front on and have access from a parallel minor street one-half block away. Vehicular access to the lots from the highway should then be prohibited by deed restrictions.
  - 2. By service roads in front, separated from the main thoroughfare connecting therewith at infrequent intervals.
  - 3. The choice between the foregoing or other methods for accomplishing the desired purpose in a specific case must necessarily be made in consideration of topography and other physical conditions, the character of existing and contemplated development, and other pertinent factors.
- I. Where land adjoins a railroad, the subdivision street plan should do the following:
  - 1. Make allowance for future grade separation on streets which are to cross the railroad, by providing extra right-of-way for such streets and by keeping intersecting streets a sufficient distance away to allow for the necessary approaches to over - or - under passes, or
  - 2. Provide a street arrangement by which residential lots will back upon the railroad and have exceptionally great depths, such as by the use of parallel streets, loops or dead-

ends or, in the case of business, industrial, or other development, the street plan should provide for a buffer strip along the railroad.

- J. Private streets will not be approved nor, will public improvements be approved in any private street.
- K. Street names shall be subject to Planning Commission approval.
  - 1. Street names shall not duplicate or closely approximate existing street names in the Town except for the extension of existing streets.
  - 2. Street name signs shall be installed at all intersections and shall be erected in such places as to assure clear visibility, conforming in all respects to Town's standards.
  - 3. Street names shall be appropriate to the character of the Town and shall, wherever possible, reflect the geographic or historical aspect of the area in which the street is located.
- L. Alignment of Intersections
  - 1. Street intersections shall be as nearly at right angles as is possible and in no case shall be less than 60 degrees (requirements for intersection with State Roads shall not be less than 70 degrees or greater than 110 degrees).
  - 2. Each property corner shall be rounded off by an arc, the minimum radius of which shall be 20 feet or chord may be substituted for such arc.
  - 3. At alley intersections (within the block), a chord shall be used cutting off the corner at least ten (10) feet back from the point of intersection in each direction. Where the smallest angle of intersection is less than 60 feet, the foregoing radii and chords shall be increased.
  - 4. Curbs at Intersections-Curbs at street intersections shall be rounded off concentrically with the property line.
  - 5. At street intersections with State Highways the street curb or edges of paving shall be rounded off by an arc, the minimum radius of which shall be 30 feet.
  - 6. Paving flares and concrete curb channelization of the street intersection with the State Highway Administration right-of-way shall conform to and be in accordance with the design and construction standards of the Maryland State Highway Administration.
- M. Alignment of Streets
  - 1. Where appropriate to design, proposed streets shall be continuous and in alignment with existing, planned or platted streets with which they are to connect.
  - 2. Street jogs with center line offsets of less than 125 feet shall be avoided.
  - 3. When connecting street lines deflect by more than 10 degrees, the minimum radii of curves on the center lines shall be in accordance with the Street Design Standards Table.
  - 4. Between reverse curves on collector and local streets there shall be a tangent at least 100 feet long.
- N. Alleys
  - 1. Alleys shall be platted in all subdivisions in commercial and industrial zoning districts unless other provisions are made for the adequate rear access to parking and loading spaces, or for inter-parcel street connectivity.
  - 2. Alleys shall be platted in all subdivisions in residential districts except where prevented by topographic, environmental, or other extraordinary factors. In the absence of alleys, easements may be required for utility lines and/or drainage.
  - 3. The minimum right-of-way of an alley shall be 25 feet. The minimum pavement width shall be 20 feet.
- O. Typical Street Design Standards – Residential Streets

1. The Street Design Standards Table is for residential subdivision streets in which the typical engineering design vehicle is the passenger automobile and where posted speeds will not exceed 25 miles per hour (mph) on local street sections or 30 mph on residential collector sections. Curb radii and horizontal alignments shall be designed to minimize pedestrian crossing distance and slow vehicles through turns.

2. The minimum design standards for residential subdivision streets shall be as follows.

Design Variable	Residential Lane	Secondary Residential Street	Primary Residential	Minor Collector <sup>1</sup>
Anticipated Vehicles per day	<200	<400	<1,500	<2,000
Max. Un-impeded Street Length <sup>2</sup>	1,200 ft	1,200 ft	900 ft	900 ft
Right-of-Way Width	38 – 40 ft	45 – 50 ft	55 – 60 ft	60 - 72 ft
Pavement Width	20 ft	22 ft	25 ft	TBD
Vertical Curb face <sup>3</sup>	6 inches	6 inches	6 - 8 inches	6 - 8 inches
Sidewalks Required	Yes	Yes	Yes	Yes
Min Width	5 feet	5 feet	5 feet	5 - 7 feet
Min Dist. from Back of Curb <sup>4</sup>	5 feet	5 feet	5 feet	5 feet
Bike Path Required	No	No	Yes	Yes
Min Width	-	-	7 feet	7 feet
Min Dist. from Back of Curb	-	-	2 to 5 feet	5 feet
Grade: Max \ Min <sup>5</sup>	10% \ ½ of 1%	10% \ ½ of 1%	7% \ ½ of 1%	7% \ ½ of 1%
Min. Center Line Radius	50 feet	50 feet	50 feet	TBD
Minimum Curb Radius	12 feet	12 feet	12 feet	TBD
Design Speed	n/a	25 mph	25 mph	30 mph
On-Street Parking <sup>6</sup>	Allowed	Allowed	Allowed	Allowed
Street lighting	Required	Required	Required	Required
Street Trees	Required	Required	Required	Required

Notes:

<sup>1</sup>No single-family lot shall front onto a collector street.

<sup>2</sup>The maximum unimpeded length shall be 700 feet for the entrance road segment or for any street which intersects a major collector or arterial road.

<sup>3</sup>As an alternative to a vertical curb, the Town may approve a sloping curb detail for use.

<sup>4</sup>Sidewalk distance from back of curb will depend on separation distance between the bike path and curb. In the event that a bike path is infeasible, the minimum distance between the back of curb and the sidewalk shall be 5 feet.

<sup>5</sup>Unless otherwise approved by the Town Engineer, all changes in street grades of more than 1% shall be connected by vertical curves of a minimum length of 50 feet or equal to 15 times the algebraic difference in the change of grade, whichever is larger, and grades at the point of intersection of two streets shall be 3% or less for a distance of 50 feet in all directions from the point of intersection.

<sup>6</sup>No parking shall be allowed within a minimum of 30 feet from a street intersection.

P. Traffic Calming. Should topographical conditions or unique site conditions make it impractical to adhere to the maximum unimpeded street lengths noted in the table, the Subdivider shall provide appropriate traffic calming to protect against excessive traffic speeds, which may include traffic circles, median islands, and single-lane slow points, among others to be approved by the Planning Commission.

Q. Typical Street Design Standards in Commercial and Industrial Subdivisions

1. Standards for the streets serving commercial or industrial subdivisions are set forth in the Town Specifications and Design Standards.
2. Business and industrial blocks shall be specially designed to serve their particular purposes, subject to Planning Commission approval.

R. Street trees shall be provided, within the street right-of-way, according to a detailed landscaping plan to be submitted as part of the improvements plan.

1. The plans shall show the species of trees to be planted and the spacing, location, rate of growth and maximum height and canopy width at maturity.
2. The minimum caliper at time of planting shall be 2.5 inches, measured at four inches above the root ball.
3. Street trees shall be placed so their crowns will abut one another at maturity.
4. Planting, maintenance, and survivability specifications shall meet Town standards.

#### §7.8 OPEN SPACE GENERALLY

- A. Open spaces shall be evaluated in term of their ability to provide areas for recreation, public access and / or preservation of sensitive environmental areas not limited to: wildlife habitat, non-tidal wetland, stream buffers, scenic views, steeply sloping terrain, aquifer recharge areas, natural geologic, historic, or archaeological resources worthy of preservation and such areas and open spaces that significantly contribute to the character of Thurmont and identified in the Comprehensive Plan.
- B. Each designated open space, if not fronting on a public road, shall be provided an access way of at least 20-feet in width from a public road. In this regard, the Planning Commission may require an improved road or trail surface to be provided by the subdivider and either a public access easement or fee simple dedication.
- C. When the subdivision tract abuts an existing open space or an area identified in the Comprehensive Plan for future open space or parkland, or an area zoned for open space or resource conservation, or an area protected for forest conservation, the Planning Commission may require that the new subdivision's open space directly abut such area in order to form a single unfragmented open space, because it is an objective of open space planning under these regulations is to aggregate parcels of natural areas into larger intact areas where feasible.
- D. Prior to the adoption of a separate Town Forest Conservation Ordinance as provided under the Natural Resource Article of the Annotated Code of Maryland, the following freest conservation measures shall apply in connection with any subdivision subject to these regulations.
  1. Every forest-stand delineation, forest conservation plan, and final forest conservation plan which shall be required by the Frederick County Forest Resource Ordinance, shall be first reviewed by the Planning Commission prior to its submittal by the subdivider to the County.
  2. The Planning Commission may provide comment to the subdivider on the location and extent within a subdivision, of forest retention, afforestation, and/or reforestation and shall provide advice to Frederick County on the use of any off-site mitigation found by the Planning Commission to be necessary.
    - a) The first priority for using fees-in-lieu shall be that part of the subdivision's watershed within or adjacent to the municipal limits.
    - b) If this priority cannot be achieved, the Town's priorities are ordered as follows: within the municipal limits, within 2 miles of the municipal limits, within Frederick County generally, within the State of Maryland.

#### §7.9 PARKLAND REQUIREMENTS

- A. Where a proposed park, playground, school or other public use shown in the Comprehensive Plan is located in whole or in part in the subdivision, the Planning Commission shall require dedication or reservation of the land unless it finds that such improvement is no longer needed or advisable upon determining that there has been a substantive change since the Comprehensive Plan was adopted that has rendered the improvement no longer needed at that location.
- B. The subdivider shall dedicate in-fee land suitable for parkland to the Town of Thurmont or to another entity as provided for in these regulations.

1. A minimum of 1,600 square feet of area per residential dwelling unit shall be devoted to parkland.
  2. The following shall not be counted toward meeting the parkland area required:
    - a) Areas devoted to streets, overhead utilities, trails, stormwater management facilities, private yards, or land devoted to other uses which may otherwise be contained within the subdivision.
    - b) Non-tidal wetlands regulated by the Maryland Department of the Environment.
    - c) Open space configured as narrow strips or intended mainly to buffer or screen new and existing land uses.
- C. Areas in forest or proposed for afforestation or reforestation in a forest conservation plan may be used to meet up to one-half of the parkland required provided the subdivider provides improved and secured access to such lands, trails, and other amenities to make them accessible and useable for public recreation.
- D. To the extent possible, parkland shall be located such that at least 75 percent of the lots or dwelling units in the subdivision are located within one-quarter mile (1,320 feet) walking distance from a park and so that no lot or dwelling unit is located more than one-half mile (2,640 feet) walking distance from a park.
- E. No more than 50 percent of the required parkland shall be within a 100-year floodplain indicated on the Town's officially adopted FEMA Flood Insurance Rate Maps (FIRM) or have an average slope exceeding 8 percent.
- F. In applying the above standards, the Planning Commission may deem the addition of parkland to be unnecessary and waive the parkland requirement for the subdivision if it finds that the standards as applied to the subdivision are already satisfied off-site taking into consideration both existing and planned development.

G. Dedication in-Fee to the Town of Thurmont

1. The minimum size of a parcel which will be accepted in conveyance to the Mayor and Commissioners shall be 20,000 square feet of contiguous land area which is of such shape and condition to be of recreational and scenic value and be maintainable.
2. The dedication shall include any park, playground, and related improvements which the Planning Commission may require as being necessary to serves it recreational function.
3. Before any dedication shall be accepted, a site plan shall be prepared for all active areas of the parkland as part of the improvements plan required in §8. The site plan shall contain specifications for any improvements to be built thereon.
4. Before any park dedication shall be accepted by the Town, the site shall be cleared of debris, weeds, and other undesirable material and graded, if necessary, per plan approval, and the surface stabilized by grass seeding or other acceptable methods at the expense of the subdivider. The land shall also have been improved with park and playground improvements required by the Planning Commission and as shown on the site plan.
5. At the time of preliminary plat review, the applicant shall submit its offer to dedicate parkland and at final plat approval shall have provided all improvement guarantees for grading and seeding and for the park improvements to be provided onsite.
6. Following approval of a final plat, not more than 50 percent of all building permits for dwelling units in the subdivision may be issued prior to the acceptance of dedication. No building permit may be issued for any of the remaining dwelling units until all park improvements have been dedicated and constructed.
7. If parkland is not dedicated onsite, at the time of final plat review, the applicant shall, pay the fee in lieu of parkland dedication as provided for in §7.8H.

H. Fee-in-Lieu of Dedication.

1. If the Planning Commission deems the proposed park dedication to be unsuitable for recreational purposes in whole or in part, it shall require the dedication of another area of the tract which is suitable or require the subdivider to pay a fee-in-lieu of dedication. If the Planning Commission deems appropriate, a combination of a fee-in-lieu and a dedication of land may be made.
  2. The fee-in-lieu shall be equal to the fair market value for the land in question based upon a recent appraisal of the tract being subdivided. It shall be the responsibility of the subdivider to provide the appraisal report to the Planning Commission, which appraisal shall be prepared by a qualified land appraiser.
  3. Fees-in-lieu of dedication, paid to the Town pursuant to this subsection, shall be placed in a fund separate from, and not for reversion to, the general fund and must be expended within five years to:
    - a) Plan, identify, acquire, design and improve parkland within one-half mile of the subdivision provided walking access exists or is provided via a pathway or the sidewalk network between the park and the subdivision.
    - b) Plan for and expand the capacity of an existing park within one-half mile of the subdivision provided that walking access exists or is provided via a pathway or sidewalk network between the park and the subdivision.
    - c) Plan, design, acquire and improve a recreational trail to connect the subdivision to one or more existing parks within one-half mile of the subdivision.
    - d) To pay the principal, interest, or other costs of bonds, notes, or other obligations issued or undertaken by or on behalf of the Town to finance the acquisition of parkland in the Town generally, provided the Town has adopted a comprehensive park master plan that encompasses the proposed subdivision.
- I. Offsite Parkland Dedication. The Planning Commission may approve an offsite dedication of parkland as provided for below.

1. Approval for an offsite dedication of parkland shall only be granted if the location of the parcel of land proposed for dedication is located no more than one half mile from the proposed development.
2. Offsite parkland dedication shall not be approved unless walking access to the park from the subdivision exists or is provided via a pathway or the sidewalk.
3. The subdivider may request approval for a combination of onsite parkland, offsite parkland and the payment of fees-in-lieu of parkland dedication in order to meet the parkland dedication requirements.

J. Park Area Size, Private Open Space.

1. The Planning Commission may but is not required to, approve a combination of a fee for public parkland and dedication of land to private, rather than public, ownership if the proposed dedication does not by itself or in conjunction with other abutting park areas result in an acceptable parcel of at least 20,000 square feet in size.
  2. The private owner shall be either a property owners' association, a land trust or other bona fide land conservation entity. The combination of fees-in-lieu and private open space shall meet the standards otherwise prescribed by these regulations.
- K. The by-laws and protective covenants of any property owner's association, for which ownership in open space is to be conveyed, shall be approved by the Mayor and Commissioners to ensure that sufficient capacity will exist to maintain the open space to be provided.

## ARTICLE VIII

### IMPROVEMENTS AND IMPROVEMENT PLANS

#### § 8.1 IMPROVEMENTS PLAN REQUIRED

- A. Upon approval of a preliminary plat and prior to approval of a final plat, plans for required improvements must be approved by the Planning Commission and the completion of all required improvements shall be guaranteed as provided for in § 8.4 and in an executed Public Works Agreement.
- B. Such plans shall be sufficient to show the proposed location, size, type, grade, elevation and other significant characteristics of each improvement. All such improvements shall be designed in compliance with and to the standards, plans and specifications adopted by the Town.
- C. Nothing shall be construed as prohibiting a subdivider from installing improvements of a higher type or to a higher standard than the minimum required or as prohibiting the Town, in exceptional circumstances, to require the same in order to achieve the purposes of these regulations.
- D. The Planning Commission will refer such plans to the Town Engineer and to the appropriate review agencies for checking and approval, subject to such changes or conditions as in their judgment may be required. The plans shall then be returned to the Planning Commission for approval, which approval may coincide with final plat approval. Plans for the installation of improvements need not be prepared at any one time to cover more than the portion of the subdivision which is to be included in a final plat.
- E. Except as may be specifically allowed by the Planning Commission, improvements, shown on a preliminary plat, may only be installed or constructed following final plat approval and recordation of that section of the final plat wherein the improvements are located.

#### § 8.2 IMPROVEMENTS REQUIRED GENERALLY

- A. At minimum, the following improvements shall be required to be installed by the subdivider, as appropriate, in all subdivisions, in accordance with these regulations and the Town's technical standards and specifications for public improvements or by such other governmental agencies which may have jurisdiction over each facility.
  - Water and sewer distribution facilities.
  - All utilities including Town electricity.
  - Pavement, driveway aprons, curbs, gutters and stormwater drainage on proposed streets and existing streets which bound or intersect with the proposed subdivision.
  - Streetlights, street signs, and pavement marking and striping as may be appropriate.
  - Street survey monumentation and property corner markers.
  - Street trees and landscaping as may be required.
  - Sidewalks and bikeways.
  - Fire hydrants.
  - Parks and open spaces.

- B. Plans for the improvements shall be prepared and stamped by a registered professional civil engineer.
- C. Such plans shall be sufficient to show the proposed location, sizes, type, grades and design features of each facility, including the following:
  - 1. Profiles. Profiles of each street centerline, with grades (including projections beyond the subdivision boundaries) and showing water and sewer lines, manholes, culverts, streams, etc. Acceptable scale is: 1 inch to 100 feet horizontal, 1 Inch to 10 feet vertical.
  - 2. Cross Sections. Typical cross-sections for all streets, at a scale not smaller than 1 inch to 5 feet, showing width of roadway, type of paving, locations and widths of curbs, sidewalks, cycle tracks, street lights, street trees, utilities, etc. Where considerable cuts or fills are required, special cross-sections shall be provided. A grading plan showing existing and proposed contours may be furnished in lieu of special cross-sections.
  - 3. Sanitary and Storm Drains. Location plans and profiles for proposed sanitary and storm sewers or drains, with grades and pipe sizes indicated where appropriate.
  - 4. Water System. Location plan of proposed water distribution system showing pipe sizes and locations for valves and fire hydrants where appropriate.

§ 8.3 DESCRIPTION OF CERTAIN REQUIRED IMPROVEMENTS

- A. Streets. All new streets shall be graded, and drained, base material applied, curb and gutter constructed where required, surface treatment applied, utilities installed, and street name signs erected, all in accordance with the minimum standards of design and construction adopted by the Town. Existing roads and streets along a proposed subdivision, that do not meet these specifications as to width or construction, shall be provided with the required right-of-way and shall be widened and brought up to standards on the side which adjoins the subdivision if any lot in the subdivision fronts thereon.
- B. Curbs, Gutters and Sidewalks These shall be provided in all residential subdivisions. Also required in front of all non-residential lots. The face of the curb shall be located on the line of the outside edge of the required pavement. The construction of these facilities shall be in conformity with the specifications and standards that have been adopted or may hereafter be adopted by the Town.
- C. Water Facilities Every subdivision of lots within the corporate limits shall be served by the municipal water system, in which case the subdivision's distribution system including appropriately spaced fire hydrants shall meet Town standards for the system and shall become a part thereof.
- D. Sewer Facilities Every subdivision of lots within the corporate limits shall be provided with a complete sanitary sewer system connecting to the municipal system and shall be constructed to meet the standards and requirements of such system and shall become a part thereof.
- E. Stormwater Management. Consistent with the Maryland laws on stormwater management, every subdivision shall be provided with stormwater management facilities adequate to collect, treat, infiltrate, and convey as needed, all water originating on or flowing across the property, without inundating or damaging roads or streets, lots, or other properties. Inundation and damage are defined here as the presence of standing water or the flow of water in locations where these did not occur prior to the subdivision, water flow at a rate greater than experienced prior to the subdivision, erosion where erosion had not occurred prior to the subdivision, and / or the deposit of silt or other debris where this had not occurred prior to the subdivision. The construction of these facilities shall be in conformity with the standards and specifications adopted by the Town or County.

- F. Any deficiencies in the stormwater management facilities and any resulting damage to an affected property as identified by the property owner and verified by the Town, prior to the Town's acceptance of said stormwater management facilities and for a period of two (2) years following acceptance of said facilities, require correction by the subdivider at its expense and in a timely manner (generally within one month). If such deficiencies and damage are not corrected in a timely manner, the Town may, at its discretion, cause these deficiencies and damage to be corrected drawing on funds it may require in the form of Town Sediment and Erosion Control and Storm Water Management sureties which may be in addition to those required by the County. If the cost of correcting the deficiencies and damage exceeds the funds in the surety, the contractor shall be responsible for providing the additional funds necessary to complete the work.
- G. If other facilities are contemplated, easements and lands devoted to such improvements shall be clearly indicated. Plans for such improvements shall be checked and recommendations given by an appropriate agency.
- H. Monuments and Pipes. Permanent monuments shall be placed as required for markers in Real Property Book, Title 3, Subtitle 1, Section 3-108, 197th Edition of the Annotated Code of Maryland. After the grading is completed, the subdivider must see that monuments are at proper locations. Iron pipes shall be set along the property lines of all streets and roads at points of intersection, curvature or tangency and at such points along the subdivision boundaries not already marked by monuments,

#### § 8.4 GUARANTEE OF IMPROVEMENTS

- A. The guarantee of improvements and all conditions, protections, penalties, and provisions in connection with completing all public improvements shall be set forth in a Public Works Agreement.

- B. All subdividers shall provide irrevocable performance and materialmen's payment sureties before permission to start construction by the Town. The performance surety and payment surety shall each be in the amount of one hundred twenty-five percent (125%) of the estimated cost of the improvements, conditioned upon the contractor complying with the terms and conditions of these regulations and the Town's Specifications, and indemnifying the Town against or from all cost, expenses, damages, injury or loss to which the Town may be subjected by reason of any wrong doing, misconduct, want of care or skill, negligence or default upon the part of the developer or the contractor. These matters shall be presented in an executed Public Works Agreement.
- C. Both sureties shall be executed with the same company or bank and shall be approved by the Mayor and Board of Town Commissioners and the Town Attorney before acceptance.
- D. Whenever the surety so furnished shall be deemed by the Town to be insufficient or unsatisfactory, the subdivider, within ten days after notice to that effect, shall furnish and deliver new sureties to the Town in the same penalty and on the same conditions, with surety satisfactory to the Town, and this duly shall continue on the part of the subdivider, whenever and so often as the Town shall require new bonds with a satisfactory surety. If the permittee shall fail to furnish such bonds within ten days after said notice, all further work will not be approved by the Town.
- E. In lieu of filing bonds, the subdivider may enter into an agreement with the Town, such agreement to be approved by resolution of the Mayor and Board of Town Commissioners, providing that the permittee shall deposit with the Chief Financial Officer such sum of money as is estimated by the Town to be 150 percent of the total cost of the project.
- F. The agreement shall itemize the several phases of the work or construction. Upon completion of each phase or step, the permittee shall notify the Town that he is ready for inspection.
- G. The Chief Financial Officer is hereby authorized to refund any installment due under the terms of the agreement upon receipt of a certificate signed by the Town Engineer, certifying that the work has been performed by the permittee according to Town Standards and Specifications, and that the permittee is entitled to the installment due for completion of such work.
- H. Upon final completion of all work for which the permit is issued, a final certificate shall be issued and, upon acceptance of the improvement by the Town, the final payment shall be made to the subdivider. The final draw of payment under the terms of the agreement shall in no event be less than 20 percent of the original 150 percent deposit for this project. An amount of at least 10 percent of the original 150 percent shall remain with the Town for one full year following acceptance of the improvement as a maintenance guarantee and shall be release in full only following an inspection certifying that no further work is necessary to correct, repair, or maintain the improvement.
- I. For minor projects where the estimated total cost is less than \$7,500.00, in lieu of filing bonds or letters of credit, the permittee shall deposit with the Chief Financial Officer such sum of money as is estimated to be the total cost of the project. All other terms and conditions in the preceding paragraphs will apply to minor projects under \$7,500.00.
- J. If a cash bond is offered, it shall be deposited with the Chief Financial Officer who shall give his/her official receipt therefore, stipulating that said cash has been deposited in compliance with this section. Letters-of-Credit may also be used as surety in lieu of bonds provided the conditions of the surety are acceptable to the Town.
- K. All cash, corporate bonds, and letters-of-credit covering construction, with the exception of the one-year maintenance surety, shall be released upon, the Town's acceptance of the completed improvement and the following.
  - 1. The filing of a release covering the work completed signed by the contractors on the project indicating that they have been paid for the work performed.

2. The delivery of as-built drawings and approval of the same by the Town Engineer.
  3. The acceptance by the Town of any easement agreements that may have been required and proof of County acceptance where required by the County.
- L. All bonds must be recorded by the permittee and a copy of the recordation fee receipt must be provided to the Town.

§ 8.5 INSPECTIONS DURING AND AFTER CONSTRUCTION

- A. All construction work on improvements required herein shall be subject to inspection during and upon completion by an authorized engineering representative of the Town and to the approval and acceptance by such representative on behalf of the Town, if found to be in accordance with the approved plan.
- B. An inspection/review fee shall be required in the amount of six percent of the estimated cost of the improvements. This fee shall be paid before the Town's permission to start construction is granted.

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