

SUPPLEMENTAL PACKET

LAND USE

than 20 acres and having a width of less than 500 feet where the conveyance results in a division of the parcel into two or more parcels, any one of which is less than 20 acres in area or 500 feet in width.

**** Exceptions to the slope requirement for substandard structures are found in Section 12-57(J)⁷⁵

Subject to all corner lots meeting an 80-foot site triangle.

A

The maximum site coverage and/or impervious surface in the I-1C Industrial District may exceed 35 percent per conditional use approval subject to the site not exceeding a maximum of 65 percent and meeting the requirements of Section 12-132(B)(12) and 12-132(C)(1-4). Any site with coverage and/or impervious surface in excess of 25 or 35 percent shall require an effective reduction of the impact of such impervious surface to the equivalent of 25 or 35 percent impervious surface site coverage through the use of Low Impact Design (LID) methods and the completion and acceptance by the City Engineer, Washington Conservation District (WCD) engineer, and Valley Branch Watershed Organization (VBWD) engineer of the Impervious Surface Worksheet, as set forth in the City of Afton Best Management Practice (BMP) and Storm water Guide.⁷⁶

B. Exceptions to minimum area, height, and other requirements:

1. For the purpose of this article, the term "existing lot" means a lot or parcel of land which was of record as a separate lot or parcel in the office of the county recorder, on or before the adoption date of the ordinance from which this article was derived, except as provided for in Subsection (B)(2).
2. Except in the VHS-R and VHS-C zoning districts, any such lot or parcel created in accordance with the City subdivision ordinance, article VI of this chapter, which contains at least 2 1/2 acres of buildable or net developable area as defined by this article and has at least 60 percent of the required frontage on an improved public street for the zoning district in which it is located shall be considered buildable provided the lot or parcel can comply with all other requirements of this article, including Subsection (B)(3) of this section.⁷⁷
3. If in a group of two or more contiguous lots or parcels of land owned or controlled by the same person, any individual lot or parcel does not meet the full width or area requirements of this article, such individual lot or parcel cannot be considered as a separate parcel of land for purposes of sale or development, but must be combined with adjacent lots or parcels under the same ownership so that the combination of lots or parcels will equal one or more parcels of land each meeting the full lot width and area requirements of this Article.
4. Subdivision of lots. Any lot or parcel of land subdivided by any means after the effective date of the ordinance from which this was derived for purposes of erecting a structure, must be approved as required in the subdivision ordinance, Article VI of this chapter.
5. Lake and stream frontage lots. All lots having frontage on a water body or lying within a shoreland management area shall be subject to the regulations of the shoreland management ordinance, Article III of this chapter.
6. Lots in floodplains. All lots in a designated floodplain shall be subject to the regulations of the floodplain ordinance, Article V of this chapter.
7. Through or double frontage lots. Such lots are those as defined in the subdivision ordinance, Article VI of this chapter and include lake and stream frontage lots having a public street as one lot line and a water body as the opposite lot line. The Zoning Administrator shall determine what shall be considered the front, side and rear yards for application of the provisions of this.
8. Reduction of required area. No lot or parcel shall be reduced in area or dimension so as to make such lot or parcel less than the minimum required by this Article; and if the existing lot or parcel is less than the minimum required, it shall not be further reduced.
9. Minimum area requirements for lots. Since no public sanitary sewer is planned to be installed in the City, all single and two family homes shall demonstrate suitable soil conditions for a minimum on-site sewage treatment area of one acre per dwelling unit. A building permit shall not be issued for a lot which does not either meet the minimum acreage of acceptable soils for on-site sewage treatment or does not have enough acceptable soils within the lot or under legal contract to construct at least two complete septic/drainfield treatment systems.
10. All on-site sewage treatment systems shall be maintained in conformity with the regulations of the sanitary sewer disposal ordinance, Article IX of this chapter. Where there is evidence of the system failing to function properly, failing to treat sewage adequately, septic tank effluent percolating from the

⁷⁵ Repealed Ordinance 02-

⁷⁶ Ordinance 05-2009,

⁷⁷ Ord 1997-19, 4/20/99, MS

AFTON CODE

description of the land and any requested variances. The notice should specify that any variances identified during the minor subdivision process will be considered at the hearing. At least ten days before the hearing, the City Administrator shall mail an identical notice to the owner and to each of the property owners of record for property within 500 feet of the outside boundaries of the land in question.

Sec. 12-1261. Simple subdivision.³³⁰

- A. A simple subdivision is the resubdivision and transfer of property for the purpose of combining it with an adjoining property which does not result in a new buildable lot. Such transfer must occur between two parcels which meet all the requirements of article II of this chapter without the need for a variance before and after the simple subdivision. The creation or alteration of a private easement shall be considered a simple subdivision.
- B. Application.
 - 1. No less than 14 days before the next City Council meeting, the applicant shall complete an application on the City form.
 - 2. The applicant shall provide a title opinion or registered property abstract as proof of ownership. The City may request the City attorney to determine parties with interest in the properties.
 - 3. The applicant shall provide a survey by a registered land surveyor of the lots or tracts to be subdivided. The survey shall, at the discretion of the Zoning Administrator, show the location of all proposed lot lines, existing lot lines, existing and proposed structures within 50 feet of any lot line, road rights-of-way and any additional information as found necessary.
 - 4. The applicant shall pay a fee, that shall be established from time to time by resolution of the City Council, plus any out-of-pocket costs incurred by the City for review of the application.
- C. Council action. Following review by the City staff, the Zoning Administrator shall cause the application to be placed upon the agenda of the City Council for the next regular meeting. The Zoning Administrator shall transmit to the City Council all the materials related to the application, with a staff recommendation.
- D. No building permit or certificate of occupancy shall be issued for the construction of a structure on lots or tracts in violation of this section.

Sec. 12-1262. Land division.³³¹

- A. In any case where the division of land into two or more lots or parcels for the purpose of transfer of ownership or building improvement is not specifically provided for in the provision of these regulations, a description of such land division shall be filed with the City Administrator. No building permit shall be issued for any construction, enlargement, alteration, or repair, demolition or moving of any building or structure on any lot or parcel resulting from such division, until such division has been approved by the City Council. Prior to the consideration of such division by the City Council, they shall require that a certified survey be submitted.
- B. In cases where adjoining contiguous property owners wish to exchange or otherwise divide land with the intent of enlarging one of the parcels and as a result of such division neither parcel will be more nonconforming in accordance with the zoning ordinance, article II of this chapter, approval must be obtained from the City Council upon recommendation of the Planning Commission after review of the minor lot subdivision application.
- C. Some of the requirements for minor subdivision approval may be waived. However, the newly acquired land must be combined on the deed for recording purposes as the remainder of the owner's property.
- D. The applicant of a subdivision³³² containing not more than three lots requiring the construction of a public road thus defined as a major subdivision, may request preliminary and final plat at the same time. The risk of additional costs that may occur due to required changes of a plat already prepared for final plat are borne by the applicant.

³³⁰ Res. No. 1997-16, § 20, 6-17-97

³³¹ Code 1982, § 305.1006; Res. No. 1997-16, § 20, 6-17-97, Ordinance 14-2004, 10/19/04

³³² Amendment 02-2009, 4/21/2009

LAND USE

Sec. 12-1263. Registered land surveys.³³³

All registered land surveys shall be filed subject to the same procedure as required for the filing of a plat for platting purposes. The standards and requirements set forth in these regulations shall apply to all registered land surveys.

Sec. 12-1264. Metes and bounds.³³⁴

- A. Conveyance by metes and bounds shall only be permitted upon minor subdivision approval, or for parcels at least 20 acres in area and not less than 500 feet in width.
- B. When a conveyance is made by metes and bounds, no building permit shall be issued until a survey is submitted and the parcel is recorded with the county recorder's office. A survey is not required for parcels in excess of 20 acres.

Sec. 12-1265. Unapproved subdivisions.³³⁵

- A. No conveyance of land to which these regulations are applicable shall be filed or recorded, if the land is described in the conveyance by metes and bounds or by reference to an unapproved registered land survey made after April 21, 1961, or to an unapproved plat. The foregoing provision does not apply to a conveyance if the land described:
 - 1. Was a separate parcel of record April 1, 1945, or the date of adoption of subdivision regulations under Laws 1945, chapter 287, whichever is the later, or of the adoption of subdivision regulations pursuant to a home rule charter,
 - 2. Was the subject of a written agreement to convey entered into prior to such time,
 - 3. Was a separate parcel not less than 2 1/2 acres in area and 150 feet in width on January 1, 1966,
 - 4. Was a separate parcel of not less than five acres in area and 300 feet in width on July 1, 1980,
 - 5. Is a single parcel of commercial or industrial land of not less than five acres and having a width of not less than 300 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than five acres in area or 300 feet in width, or
 - 6. Is a single parcel of residential or agricultural land of not less than 20 acres and having a width of not less than 500 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than 20 acres in area or 500 feet in width.
- B. In any case in which compliance with the foregoing restrictions will create an unnecessary hardship and failure to comply does not interfere with the purpose of the subdivision regulations, the platting authority may waive such compliance.
- C. Any owner or agent of the owner of land who conveys a lot or parcel in violation of the provisions of this article shall pay to the City a penalty (no criminal sanction) of not less than \$100.00 for each lot or parcel so conveyed. The City may enjoin such conveyance or may recover such penalty by a civil action in any court of competent jurisdiction.

Sec. 12-1266. Variances.³³⁶

- A. The City Council may grant a variance in any particular case where the subdivider can show that by reason of the unfavorable topography or other physical conditions the strict compliance to these regulations could cause practical difficulties. "Practical difficulties" as used in connection with the granting of a variance includes a three-factor test, all three of which must be met in order for a variance to be granted.
 - 1. Reasonableness: The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.

³³³ Code 1982, § 305.1007

³³⁴ Code 1982, § 305.1008

³³⁵ Code 1982, § 305.1009

³³⁶ Code 1982, § 305.1010; Ord 02-2014, 5/20/2014

AFTON CODE

2. Uniqueness: The plight of the landowners is due to circumstances unique to the property not created by the landowner.
 3. Essential Character: The variance, if granted, will not alter the essential character of the locality.
- B. Economic considerations alone shall not constitute a practical difficulty if reasonable use for the property exists under the terms of this article.
- C. Applications for any such variance shall be made in writing by the subdivider at the time when the plat is filed for consideration. Such application shall state fully all facts relied upon by the subdivider, and shall be supplemented with maps, plans or other additional data which may aid the Planning Commission and the City Council in the analysis of the proposed project. Such variances shall be considered at the next regular meeting held by the Planning Commission. The plans for such development shall include any covenants, restrictions, or other legal provisions necessary to guarantee the full achievement of the proposed plat. Any variance or modifications thus granted shall be recorded and entered in the minutes setting forth the reasons for granting the variance.

Sec. 12-1267. Security interest.³³⁷

Creation of a security interest in a portion of a parcel less than the entire parcel does not entitle the property to subdivision even upon foreclosure of the security interest, unless otherwise approved by the City Council and the parcel is in conformance with this article and the zoning ordinance, article II of this chapter.

Sec. 12-1268. Building permits.³³⁸

No building permit shall be issued for any construction, enlargement, alteration, or repair, demolition or moving of any building or structure on any lot or parcel until all the requirements of this article have been fully met.

Sec. 12-1269. Violation and penalties.³³⁹

Any person who violated any of the provisions of this article, or who sells, or offers for sale any lot, block or tract of land herewith regulated before all the requirements of this article have been complied with shall be guilty of a misdemeanor, and upon conviction thereof be subject to fine and/or imprisonment. Each day that a violation is permitted to exist shall constitute a separate offense.

Sec. 12-1270. Park and open space dedication.³⁴⁰

- A. Purpose. The City Council recognizes that it is essential to the health, safety, and the welfare of the residents of this City to provide for the preservation of land for parks, playgrounds, public open space, and trails. The City Council also finds that it is appropriate that each subdivision within the City contribute toward the City's parks, playgrounds, open spaces, and trails in proportion to the burden it will place upon the City's park and open space system. Therefore, this park and open space dedication requirement is established to require new developments at the time of subdivision to contribute toward the City's park and open space system in rough proportion to the relative burden they will place upon that system, and:
1. To develop a limited number of major public green spaces which shall retain the natural and scenic features of the land and serve as a wilderness environment for City residents to enjoy; and
 2. To create multiple use, non-motorized trails along roads or as a link between various points of interest and public facilities where such trails would enhance the recreational opportunities for residents and provide a safe alternative means of travel within the City; and
 3. If future development creates a need for a neighborhood park, land may be acquired for that purpose pursuant to this article.
- B. Requirements. Subdividers, as a prerequisite to approval of a subdivision, shall dedicate to the City for park or playground purposes or for public open space or trail systems a reasonable portion of the land being

³³⁷ Code 1982, § 305.1011

³³⁸ Code 1982, § 305.1100, Cross reference(s)--Building permits, inspections and fees, § 12-1804.

³³⁹ Code 1982, § 305.1102

³⁴⁰ Ord. 47-2004, 8/17/04