



COMMONWEALTH of VIRGINIA

Commonwealth Transportation Board

W. Sheppard Miller, III
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Agenda item # 1

RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

June 21, 2023

MOTION

Made By: Ms. Hynes, **Seconded By:** Ms. Sellers

Action: Motion Carried, Unanimously

Title: Authorization of Amendments to Secondary Street Acceptance Requirements Pursuant to Chapter 425 of the 2022 Acts of Assembly

WHEREAS, Chapter 425 of the 2022 Acts of Assembly amended §33.2-334 to require that the regulatory provisions for the Secondary Street Acceptance Requirements (SSAR) include flexibility to limit the number of connections to adjacent property or highway networks as deemed appropriate; and

WHEREAS, Chapter 425 further directed the Virginia Department of Transportation (VDOT) to convene a stakeholder advisory group, no later than January 1, 2023, for the purpose of developing amendments to the SSAR and recommending these amendments to the Commonwealth Transportation Board; and

WHEREAS, the SSAR regulations are used to determine the conditions and standards that must be met before streets constructed by developers, localities, and entities other than VDOT will be accepted into the state secondary system for maintenance by VDOT; and

WHEREAS, the purpose of these and other provisions in the regulation is to improve the effectiveness of the overall regional and local transportation network; reduce reliance on arterial roadways for local trips; provide direct and alternative routes for emergency service providers; reduce subdivision street widths, where appropriate; and recover VDOT's costs related to street acceptance; and

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WHEREAS, VDOT convened a diverse stakeholder advisory group, as required by Chapter 425, which consisted of representatives from the development industry, local governments, environmental advocacy groups, and VDOT, and met between September 2022 and February 2023; and

WHEREAS, the stakeholder advisory group proposed amendments to the connectivity provisions of the SSAR (Attachment A) and these amendments were presented to the Commonwealth Transportation Board at the Board's Workshop on May 23, 2023.

NOW, THEREFORE, BE IT RESOLVED that the Commonwealth Transportation Board hereby approves the suggested amendments to the Secondary Street Acceptance Requirements (24 VAC 30-92), attached hereto.

BE IT FURTHER RESOLVED, that the Commonwealth Transportation Board directs the Commissioner of Highways or his designees to take all necessary actions to file a Notice of Intended Regulatory Action (see Attachment B) to begin the process of amending the Secondary Street Acceptance Requirements, submitting to the Board the proposed amendment(s) prior to completing the process to amend the regulations.

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CTB Decision Brief
Authorization of Amendments to Secondary Street Acceptance Requirements Pursuant to Chapter 425 of the 2022 Acts of Assembly

Issue: Chapter 425 of the 2022 Acts of Assembly directed the Commonwealth Transportation Board (CTB) to amend the Secondary Street Acceptance Requirements (SSAR) connectivity elements to include additional flexibility to limit the number of connections to adjacent property or highway networks as deemed appropriate.

This Chapter also required the Virginia Department of Transportation (VDOT) to convene a stakeholder advisory group for the purpose of developing and providing recommended amendments to the CTB with regards to the connectivity provisions of the SSAR.

Chapter 382 of the 2007 Acts of Assembly created § 33.1-70.3 (now § 33.2-334) of the *Code of Virginia*, which required the CTB to develop the SSAR to set out the conditions and standards that must be met before streets constructed by developers, localities, and entities other than VDOT will be accepted into the state secondary system for maintenance by VDOT.

Facts: Section 33.2-334 requires that the SSAR regulations “include (i) requirements to ensure the connectivity of highway and pedestrian networks with the existing and future transportation network, provided that such provisions shall include flexibility to limit the number of connections to adjacent property or highway networks as deemed appropriate; (ii) provisions to minimize stormwater runoff and impervious surface area; and (iii) provisions for performance bonding of new secondary highways and associated cost recovery fees.”

VDOT established the stakeholder advisory group as required by Chapter 425 and this group met five times between September 2022 and February 2023. This group developed four proposed amendments to the connectivity provisions of the SSAR (Attachment A).

Recommendations: It is recommended that the *Secondary Street Acceptance Requirements* be revised in accordance with the stakeholder advisory group’s recommendations through the regulatory process to satisfy the legislative mandate of Chapter 425.

Action Required by CTB: The CTB will be presented with a resolution and the corresponding stakeholder advisory group’s recommendations for a formal vote.

Result, if Approved: Approval will allow VDOT to advance the connectivity changes through the regulatory process by filing a Notice of Intended Regulatory Action and satisfy the legislative mandate of Chapter 425 of the Acts of Assembly of 2022.

Options: Approve, Deny, or Defer.

Public Comments/Reactions: Significant stakeholder participation was enabled through the stakeholder advisory group, which was comprised of representatives from the

development industry, local governments, environmental advocacy groups, and VDOT. Public comment will be held for at least 30 days during each of the three stages of the regulatory rulemaking process.

COMMONWEALTH TRANSPORTATION BOARD

Secondary Street Acceptance Requirements

Effective December 31, 2011

24VAC30-92-10. Definitions.

The following words and terms when used in these regulations shall have the following meanings unless the context clearly indicates otherwise:

"Abandonment" in all its forms means the legislative action reserved for and granted to the local governing body to extinguish the public's right to a roadway under the jurisdiction of the Virginia Department of Transportation pursuant to §§ 33.1-151 and 33.1-155 of the Code of Virginia.

"Accessible route" means a public or private continuous unobstructed, stable, firm and slip-resistant path connecting all accessible elements of a facility (which may include parking access aisles, curb ramps, crosswalks at vehicular ways, walks, ramps and lifts) that can be approached, entered and used by persons with disabilities. An accessible route shall, to the maximum extent feasible, coincide with the route for the general public.

"ADT" means average daily traffic count (see "projected traffic").

"Applicable former requirements" means the 2005 Subdivision Street Requirements for developments submitted prior to July 1, 2009, and the 2009 edition of the Secondary Street Acceptance Requirements for developments submitted between July 1, 2009, and January 31, 2012, inclusive.

"Best management practice" or "BMP" means schedules of activities; prohibitions of practices, including both structural and nonstructural practices; maintenance procedures; and other management practices to prevent or reduce the pollution of surface waters and groundwater systems from the impacts of land-disturbing activities.

"Clear zone" means the total border area of a roadway including, if any, parking lanes or planting strips that is sufficiently wide for an errant vehicle to avoid a serious accident. (See the Road Design Manual, 2011 (VDOT) and its Appendix B (1) (the Subdivision Street Design Guide) for details.)

"Commissioner" means the chief executive officer of the Virginia Department of Transportation or his designee.

"Conceptual sketch" means a drawing of the proposed development showing the location of existing and proposed land uses, any existing and proposed transportation facilities, and any additional information required so that the reviewer can determine the appropriate functional classification of the proposed street or streets and verify if the connectivity standards have been met.

"Cul-de-sac" means a street with only one outlet and having an appropriate turnaround for a safe and convenient reverse traffic movement.

"Dam" means an embankment or structure intended or used to impound, retain, or store water, either as a permanent pond or as a temporary storage facility.

"Department" or "VDOT" means the Virginia Department of Transportation.

"Design speed" means a speed selected for purposes of design and correlation of those features of a street such as curvature, super elevation, and sight distance, upon which the safe operation of vehicles is dependent.

"Developer" means an individual, corporation, local government, or registered partnership engaged in the subdivision, improvement, or renovation of land.

"Discontinuance," in all its forms, means the legislative act of the Commonwealth Transportation Board, pursuant to § 33.1-150 of the Code of Virginia, that determines that a road no longer serves public convenience warranting its maintenance with funds at the disposal of the department.

"District administrator" means the department employee assigned the overall supervision of the departmental operations in one of the Commonwealth's construction districts.

"District administrator's designee" means the department employee or employees designated by the district administrator to oversee the implementation of this regulation.

"Drainage Manual" means the department's Drainage Manual, 2002.

"Dwelling unit" means a structure or part of a structure containing sleeping, kitchen, and bathroom facilities that is suitable for occupancy as a home or residence by one or more persons.

"Easement" means a grant of a right to use property of an owner for specific or limited purpose.

"FAR" means floor area ratio, which is the ratio of the total floor area of a building or buildings on a parcel to the land area of the parcel where the building or buildings are located.

"Functional classification" means the assigned classification of a roadway based on the roadway's intended purpose of providing priority to through traffic movement and access to adjoining property as determined by the department, based on the federal system of classifying groups of roadways according to the character of service they are intended to provide.

"Governing body" means the board of supervisors of the county, but may also mean the local governing body of a town or city, if appropriate, in the application of these requirements.

"Level of service" means a qualitative measure describing operational conditions within a vehicular traffic stream, and their perception by motorists and passengers. For the purposes of these requirements, the applicable provisions of the Highway Capacity Manual, 2010 (TRB) shall serve as the basis for determining "levels of service."

"Locally controlled grade separation structure" means a grade separation structure that does not qualify for maintenance by the department but was established within the right-of-way of a street intended for state maintenance.

"Local official" means the representative of the governing body appointed to serve as its agent in matters relating to subdivisions and land development.

"Multiuse trail" means a facility designed and constructed for the purpose of providing bicycle and pedestrian transportation, located within a dedicated public way and is anticipated to be maintained by an entity other than the department.

"Municipal separate storm sewer system" or "MS4" means all separate storm sewers that are designated under 4VAC50-60-380 as municipal separate storm sewer systems.

"Municipal Separate Storm Sewer System Management Program" or "MS4 Program" means a management program covering the duration of a permit for a municipal separate storm sewer system that includes a comprehensive planning process that involves public participation and intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable, to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act and corresponding regulations and the Virginia Stormwater Management Act and attendant regulations, using management practices, control techniques, and system, design and engineering methods, and such other provisions that are appropriate.

"Network addition" means a group of interconnected street segments and intersections shown in a plan of development that are connected to the state highway system.

"Parking bay" means an off-street area for parking two or more vehicles that provides access to a public street.

"Parking lane" means an area, generally seven or eight feet in width, adjacent to and parallel with the travel lane of a roadway that is used for parking vehicles.

"Pavement Design Guide" means the Pavement Design Guide for Subdivision and Secondary Roads in Virginia, 2009 (VDOT).

"Permit Regulations" means the department's Land Use Permit Regulations (24VAC30-151).

"Phased development (streets)" means the method outlined in 24VAC30-92-80 (phased development of streets) whereby the acceptance of certain streets into the secondary system of state highways may be considered before being completely developed in accordance with all applicable requirements (e.g., two lanes of a four-lane facility are considered for acceptance in advance of lanes three and four being finished).

"Plan of development" means any site plat, subdivision plan, preliminary subdivision plat, conceptual subdivision sketch, or other engineered or surveyed drawings depicting proposed development of land and street layout, including plans included with rezoning proposals.

"Plans" means the standard drawings, including profile and roadway typical section, that show the location, character, dimensions, and details for the proposed construction of the street.

"Planting strip" means a section of land between the curb face and the pedestrian accommodation or shared use path.

"Plat" means the schematic representation of the land divided or to be divided.

"Projected traffic" means the number of vehicles, normally expressed in average daily traffic (ADT), forecast to travel over the segment of the street involved.

"Public street" means a street dedicated to public use and available to the public's unrestricted use without regard to the jurisdictional authority responsible for its operation and maintenance.

"Requirements" means the design, construction, public benefit, and related administrative considerations herein prescribed for the acceptance of a street for maintenance by the department as part of the secondary system of state highways.

"Right-of-way" means the land, property, or interest therein, usually in a strip, acquired for or devoted to a public street designated to become part of the secondary system of state highways.

"Roadway" means the portion of the road or street within the limits of construction and all structures, ditches, channels, etc., necessary for the correct drainage thereof.

"Secondary system of state highways" means those public roads, streets, bridges, etc., established by a local governing body pursuant to § 33.1-229 of the Code of Virginia and subsequently accepted by the department for supervision and maintenance under the provisions of Articles 6 (§ 33.1-67 et seq.) and 11 (§ 33.1-150 et seq.) of Chapter 1 of Title 33.1 of the Code of Virginia.

"Shared use path" means a facility that is designed and constructed according to the Road Design Manual, 2011 (VDOT), for the purpose of providing bicycle and pedestrian transportation.

"Specifications" means the department's Road and Bridge Specifications, 2007, revised 2011, including related supplemental specifications and special provisions.

"Standards" means the applicable drawings and related criteria contained in the department's Road and Bridge Standards, 2008, revised 2011.

"Storm sewer system" means a conveyance or system of conveyances and its appurtenances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains.

"Street" means any roadway that is created as part of a plan of development, other subdivision of land, or is constructed by or at the direction of the local governing body and is a public way for purposes of vehicular traffic, including the entire area within the right-of-way.

"Stub out" means a transportation facility (i) whose right-of-way terminates at a parcel abutting the development, (ii) that consists of a short segment that is intended to serve current and future development by providing continuity and connectivity of the public street network, (iii) that based on the spacing between the stub out and other streets or stub outs, and the current terrain there is a reasonable expectation that connection with a future street is possible, and (iv) that is constructed to the property line.

"Subdivision" means the division of a lot, tract, or parcel into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or of building development. Any resubdivision of a previously subdivided tract or parcel of land shall also be interpreted as a "subdivision." The division of a lot or parcel permitted by § 15.2-2244 of the Code of Virginia will not be considered a "subdivision" under this definition, provided no new road or street is thereby established. However, any further division of such parcels shall be considered a "subdivision."

"Subdivision Street Design Guide" means Appendix B (1) of the Road Design Manual, 2011 (VDOT).

"Swale" means a broad depression within which stormwater may drain during inclement weather, but that does not have a defined bed or banks.

"Total maximum daily load" or "TMDL" is a water quality term that means the sum of the individual wasteload allocations for point sources, load allocations (LAs) for nonpoint sources, natural background loading and a margin of safety. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure. The TMDL process provides for point versus nonpoint source trade-offs.

"Traveled way" means the portion of the secondary street designated for the movement of vehicles, exclusive of shoulders, parking areas, turn lanes, etc.

"Tree well" means an opening on a sidewalk, generally abutting the curb, where a tree may be planted.

"Underground Utility Trunk Easement" means an easement for the accommodation of a utility which has an existing underground utility trunk or transmission line (cable, pipeline, or similar facility); such lines are not used for distribution of the utility's services to individual customers, but rather for long distance carrying or transmission purposes.

"VPD" means vehicles per day.

"VPH" means vehicles per hour.

"Wasteload allocation" or "wasteload" or "WLA" means the portion of a receiving surface water's loading or assimilative capacity allocated to one of its existing or future point sources of pollution. WLAs are a type of water quality-based effluent limitation.

"Watercourse" means a defined channel with bed and banks within which water flows, either continuously or periodically.

24VAC30-92-20. Applicability, effective date, and transition.

A. Applicability. This regulation is intended to govern secondary street development and the criteria for acceptance of these streets by the department for subsequent maintenance. The Road Design Manual, 2011 (VDOT) and its Appendix B (1), the Subdivision Street Design Guide offer guidance on the design and construction features of secondary street development and set out design parameters deemed appropriate for most land development scenarios. However, the business of land development is fluid and the department, in consultation with the local official, is prepared to consider innovative transportation approaches associated with land development proposals that are consistent with the design and connectivity requirements of this chapter and the Subdivision Street Design Guide, Appendix B (1) of the Road Design Manual, 2011 (VDOT). However, when not specifically addressed in one of those documents, the relevant requirements of the Road Design Manual, 2011 (VDOT), standards, specifications, the Pavement Design Guide for Subdivision and Secondary Roads in Virginia, 2009 (VDOT) and associated instructions shall govern.

These requirements apply to all streets designated to be maintained by the department as part of the secondary system of state highways, except for streets whose construction was funded by state highway construction allocations. The department's review and approval shall apply only to streets proposed for addition to the secondary system of state highways maintained by the department. Any plans submitted for review that contain only streets proposed for maintenance by entities other than the department may be reviewed for general guidance at the discretion of the district administrator but will not be officially approved. However, any such review shall not represent the department's commitment to accept such streets for maintenance irrespective of the quality of the construction of the street or streets.

Any streets proposed to be privately maintained shall have a notation on the plat and impacted deeds that clearly indicates that as a prerequisite for the streets' future acceptance, the streets must be improved to the department's prevailing requirements for acceptance at no cost to the department. All notations made on plats or similar instruments pursuant to this section shall be in accordance with § 33.1-72.2 of the Code of Virginia.

B. Grandfathering.

1. Streets where the street layout has been proffered pursuant to § 15.2-2297, 15.2-2298, or 15.2-2303 of the Code of Virginia prior to February 1, 2012, may, at the discretion of the developer, be considered for acceptance in accordance with the applicable former requirements, provided the requirements of § 15.2-2307 of the Code of Virginia have been met. This grandfathering shall not apply to any streets where the proffered layout may be adjusted, without requiring a significant affirmative governmental zoning action to modify such proffered conditions, to meet the requirements of this chapter, unless a site plan, subdivision plat, or preliminary plat relying on such proffered street layout has been submitted for approval prior to February 1, 2012. In such instances the grandfathering may, at the discretion of the developer, apply to the applicable site plan, subdivision plat, or preliminary subdivision plat. Notwithstanding any other provision of this subsection, the grandfathering provided based upon proffers shall not be lost or adversely impacted due to a

modification of the relevant plan or plat so long as no more than 20% (cumulative) of the original street centerline mileage is eliminated, realigned, or added compared to the proffered layout and the modification is not expected to result in an increase in traffic generation.

2. Streets that are part of a recorded plat or final site plan valid pursuant to § 15.2-2261 of the Code of Virginia and approved in accordance with §§ 15.2-2286 and 15.2-2241 through 15.2-2245 of the Code of Virginia prior to February 1, 2012, shall be considered for acceptance in accordance with the applicable former requirements as long as such plats or plans remain valid under applicable law. However, such streets may be considered for acceptance under requirements of this chapter at the discretion of the developer.

3. Streets that are part of a preliminary subdivision plat valid pursuant to § 15.2-2260 of the Code of Virginia approved in accordance with §§ 15.2-2286 and 15.2-2241 through 15.2-2245 of the Code of Virginia prior to February 1, 2012, shall be considered for acceptance in accordance with the applicable former requirements for a period of up to five years or such longer period as such preliminary subdivision plat is valid under applicable law, provided the requirements of § 15.2-2260 of the Code of Virginia have been met. Such grandfathering shall apply to construction plans, site plans, and final plats submitted and approved in furtherance of such preliminary subdivision plat for as long as such plans or plats remain valid under applicable law. However, such streets may be considered for acceptance under requirements of this chapter at the discretion of the developer.

4. Streets that are part of a street construction plan approved by the department prior to February 1, 2012, shall be considered for acceptance in accordance with the applicable former requirements. However, such streets may be considered for acceptance under requirements of this chapter at the discretion of the developer.

5. If requested by the applicable locality, the applicable former requirements shall apply if the applicant has submitted at a minimum a conceptual sketch that includes all of the elements required under 24VAC30-92-70 A prior to February 1, 2012. Subdivisions 1 through 4 of this subsection shall take precedence over this subdivision in any instances of a conflict.

C. Effective date. All streets proposed for acceptance by the department after January 1, 2012, shall be considered for acceptance in accordance with this chapter, except as provided for in this section and as may be waived by the commissioner pursuant to this chapter.

D. Transition. Prior to February 1, 2012, the department will consider complete plats and plans developed in accordance with the applicable former requirements or these requirements. Any plat or plan initially submitted to the department for consideration after January 31, 2012, however, shall be in accordance with these requirements.

24VAC30-92-30. Local subdivision ordinances.

Exemptions or variances in local ordinances. Any requirements of ordinances adopted by the governing body that are not in conflict with these provisions shall become the department's requirements in that locality and govern. Any street proposed for addition to the secondary system of state highways maintained by the department shall comply with applicable requirements as herein provided or the local ordinance, when such provisions are not in conflict with this chapter.

24VAC30-92-40. Continuity of public street system.

The continuity of a publicly maintained street system is a prerequisite to the addition of any street or network addition into the secondary system of state highways.

A street or network addition may only be accepted into the secondary system of state highways for state maintenance if it is the continuation of the network of public streets whose maintenance has been officially accepted by the department or, if appropriate, a city, town or county, and such street or network addition meets the requirements of this chapter.

24VAC30-92-50. (Repealed.)

24VAC30-92-60. Public benefit requirements.

A. Public benefit. A street or network addition may only be accepted by the department for maintenance as part of the secondary system of state highways if it provides sufficient public benefit to justify perpetual public maintenance as defined by this chapter. A street shall be considered to provide sufficient public benefit if it meets or exceeds the public service, pedestrian accommodation, and connectivity requirements of this chapter.

B. Public service requirements. In the event the governing body requests the addition of a street or network addition before it meets these public service provisions, the district administrator will review each request on an individual case basis and determine if the acceptance of a street prior to normal service requirements is justified, provided the street or network addition meets all other applicable requirements including the connectivity requirements of this chapter. At the request of the local governing body, subject to approval by the district administrator, the public service requirements may be reduced for individual streets serving state or local economic development projects.

1. Individual streets. For the purpose of these requirements, public service may include, but is not necessarily limited to, streets meeting one or more of the following situations:

a. Serves three or more occupied units with a unit being a single-family residence, owner-occupied apartment, owner-occupied residence in a qualifying manufactured home park, a stand-alone business, or single business entity occupying an individual building, or other similar facility. Also, streets serving manufactured home parks may only be

considered when the land occupied by the manufactured home is in fee simple ownership by the residents of such manufactured home.

b. Constitutes a connecting segment between other streets that qualify from the point of public service.

c. Such street is a stub out.

d. Serves as access to schools, churches, public sanitary landfills, transfer stations, public recreational facilities, or similar facilities open to public use.

e. Serves at least 100 vehicles per day generated by an office building, industrial site, or other similar nonresidential land use in advance of the occupancy of three or more such units of varied proprietorship. Any addition under this provision shall be limited to the segment of a street that serves this minimum projected traffic and has been developed in compliance with these requirements.

f. Constitutes a part of the network of streets envisioned in the transportation plan or element of a locality's comprehensive plan that, at the time of acceptance, serves an active traffic volume of at least 100 vehicles per day.

2. Multifamily, townhouse, and retail shopping complexes. A through street that serves a multifamily building may be considered for maintenance as part of the secondary system of state highways if it is deemed by the department to provide a public service and provided it is well defined and the district administrator's designee determines that it is not a travel way through a parking lot.

Entrance streets and the internal traffic circulation systems of retail shopping complexes qualify only if more than three property owners are served and the district administrator's designee determines that it is not a travel way through a parking lot.

3. Network additions. A network addition shall be considered to provide service if each street within the addition meets at least one of the criteria in subdivision 1 of this subsection.

4. Special exceptions. There may be other sets of circumstances that could constitute public service. Consequently, any request for clarification regarding unclear situations should be made in writing to the district administrator's designee.

C. Connectivity requirements. All streets in a development as shown in a plan of development shall be considered for acceptance into the secondary system of state highways as one or multiple network additions. However, streets with a functional classification of collector and above may be eligible for acceptance as individual streets.

For the purposes of this subsection, connection shall mean a street connection to an adjacent property or a stub out that will allow for future street connection to an adjacent property.

The connectivity requirements of this chapter shall not apply to the following: a frontage road or reverse frontage road as defined in the Access Management Regulations: Principal Arterials (24VAC30-72) or Access Management Regulations: Minor Arterials, Collectors, and Local Streets (24VAC-30-73), streets petitioned for acceptance into the secondary system of state highways through the Rural Addition Program pursuant to §§ 33.1-72.1 and 33.1-72.2 of the Code of Virginia, or streets petitioned for acceptance into the secondary system of state highways through the Commonwealth Transportation Board's Rural Addition Policy provided such streets were constructed prior to January 1, 2012.

1. Stub out connection standard. If a stub out or stub outs maintained by the department adjoin the property of a development with a network addition or individual street proposed for acceptance into the secondary system of state highways, such network addition or individual street must connect to such stub out or stub outs to be eligible for acceptance into the secondary system of state highways. The district administrator may waive this requirement if the existing stub out is of such design as to make such a connection unsafe.

2. Multiple connections in multiple directions standard. The streets within a network addition may be accepted into the secondary system of state highways if the network addition provides at least two external connections, one of which must be to a publicly maintained highway and the other providing a connection to a different highway or a stub out to an adjoining property. Local street stub outs generally should not exceed 500 feet in length. If a stub out is constructed, the applicant shall post a sign in accordance with the department's standards that indicates that such stub out is a site for a future roadway connection. Nothing in this chapter shall be construed as to prohibit a stub out from providing service to lots within a development. The district administrator's designee shall waive or modify the second required connection of this standard if one or more of the following situations renders the provision of such connection impracticable:

a. The adjoining property is completely built out, its state is such that redevelopment within 20 years is unlikely, and there is no stub out (either constructed or platted) to the property served by the network addition;

b. The adjoining property is zoned for a use whose traffic is incompatible with the development being served by the network addition, providing, however, that in no case shall retail, residential, or office uses be considered incompatible with other retail, residential, or office uses; or

c. There is no reasonable connection possible to adjoining property or adjacent highways due to a factor outside the control of the developer of the network addition, including but not limited to such as the presence of conservation easements not put in place by the developer of the network addition, underground utility trunk easement not put in place by the developer of the network addition, water features such as rivers or lakes, jurisdictional wetlands, grades in excess of 15% whose total elevation change is greater than five feet, limited access highways, railroads, or government property to which access is restricted.

d. The network addition was constructed in accordance with an overall plan of development approved by the department and the locality as meeting all the requirements of this chapter, and the additional phase of the development allowing the network addition to meet connectivity is under construction.

3. Additional connections standard. Network additions providing direct access to (i) more than 200 dwelling units or (ii) lots whose trip generation is expected to be over 2,000 VPD may be accepted into the secondary system of state highways if the network addition provides an additional external connection beyond that required under subdivision 2 of this subsection for each additional 200 dwelling units or 2,000 VPD or portion of each over and above the initial 200 dwelling units or 2,000 VPD. For the purposes of this requirement, each external connection of collector facilities that are elements of the county's transportation plan and to which there is no direct lot access provided counts as two external connections. The district administrator's designee shall waive or modify this additional connections standard if one or more of the following situations renders the provision of such connection impracticable:

a. The adjoining property is completely built out, its state is such that redevelopment within 20 years is unlikely, and there is no stub out (either constructed or platted) to the property served by the network addition;

b. The adjoining property is zoned for a use whose traffic is incompatible with the development being served by the network addition, providing, however, that in no case shall retail, residential, or office uses be considered incompatible with retail, residential, or office uses;

c. In developments with a median density of more than eight lots per acre or with a FAR of 0.4 or higher, where the number of connections provided would be contrary to the public interest; or

d. There is no reasonable connection possible to adjoining property or adjacent highways due to a factor outside the control of the developer of the network addition, including but not limited to such as the presence of conservation easements not put in place by the developer of the network addition, underground utility trunk easement not put in place by the developer of the network addition, water features such as rivers or lakes, jurisdictional wetlands, grades in excess of 15% whose total elevation change is greater than five feet, limited access highways, railroads, or government property to which access is restricted.

e. The network addition was constructed in accordance with an overall plan of development approved by the department and the locality as meeting all the requirements of this chapter, and the additional phase of the development allowing the network addition to meet connectivity is under construction.

f. The district administrator's designee may also waive or modify this additional connections standard if, in the written opinion of the applicant and locality's Chief

Executive or designee, the provision of such connection is impracticable or unwarranted due to (i) topographic constraints; (ii) incompatibility with existing adjoining development; (iii) the adjoining property is completely built out as envisioned in the locality's comprehensive plan with no expectation of redevelopment in the next 20 years and there is no stub out (either constructed or platted) to the property served by the network addition; (iv) the connection would impact the developer's ability to comply with any local ordinances related to the preservation of open space or trees during the land development process, after a good faith effort to comply with connectivity requirements and local ordinances; (v) the connection would require work outside the right of way (existing or proposed) or easements on an adjoining property outside of the control of the developer; or (vi) other factors as determined by the applicant and locality's Chief Executive or designee. The district administrator's designee shall respond to requests for such connectivity exceptions within 30 calendar days of receipt of a completed VDOT request form.

4. Individual street standard. Streets that are not part of a network addition shall be accepted into the secondary system of state highways upon petition by the local governing body as long as they meet the requirements of the applicable design standard and one terminus of the street is an intersection with a roadway that is part of the existing publicly maintained highway network and the other terminus is either an intersection with a roadway that is part of the existing publicly maintained highway network or a stub out to an adjoining property. Streets considered for individual acceptance should be (i) streets that provide a connection between two existing publicly maintained streets or (ii) streets with a functional classification as collector or higher.

5. Connectivity exceptions. Where the above standards for waiver or modification have been met, the connectivity requirements for a network addition shall be waived or modified by the district administrator's designee. The developer shall submit any request for connectivity waiver or modification to the district administrator's designee with a copy to the local official. The district administrator's designee shall respond to requests for connectivity exceptions within 30 calendar days of receipt of a request. For projects where a scoping meeting pursuant to the Traffic Impact Analysis regulations (24VAC30-155) will be held, requests for exceptions and supporting data should be presented and discussed.

6. In instances where there is potential for conflict between this chapter and the Access Management Regulations: Principal Arterials (24VAC30-72) or the Access Management Regulations: Minor Arterials, Collectors, and Local Streets (24VAC30-73), the following shall apply:

a. For streets with a functional classification of collector where additional connections necessary to meet the connectivity requirements of this chapter cannot be accommodated within the applicable spacing standards and cannot otherwise be met through connections to lower order roadways or stub outs, such spacing standards shall be modified by the district administrator's designee to allow for such connection. Such connection or connections shall be required to meet intersection sight distance standards specified in the Road Design Manual, 2011 (VDOT).

b. For streets with a functional classification of minor arterial where additional connections necessary to meet the connectivity requirements of this chapter cannot be accommodated within the applicable spacing standards and cannot otherwise be met through connections to lower order roadways or stub outs, the district administrator's designee shall, in consultation with the developer and the local official, either modify the applicable spacing standards to allow for such connection or connections, or modify the connectivity requirements of this chapter to account for the inability to make such connection. Such connection shall be required to meet intersection sight distance as specified in the Road Design Manual, 2011 (VDOT).

c. For streets with a functional classification of principal arterial where additional connections necessary to meet the external connectivity requirements of this chapter cannot be accommodated within the applicable spacing standards and cannot otherwise be met through connections to lower order roadways or stub outs, the connectivity requirements shall be modified by the district administrator's designee to account for the inability to make such connection.

7. Failure to connect. If a local government approves a subdivision plat for a new development that does not connect to a stub out or stub outs in an adjacent development and such development's network addition or individual street would meet the applicable requirements of this chapter if it connected to a stub out or stub outs in the adjacent development, the network addition or individual street may or may not be accepted into the secondary system of state highways for maintenance pursuant to the authority granted to the district administrators in accordance with 24VAC30-92-100.

24VAC30-92-70. Administrative procedure.

A. Conceptual sketch. A conceptual sketch of the development that shows sufficient information for the department to review and concur with the proposed functional classification for each street in the development shall be provided to the district administrator's designee by the local official prior to preparing detailed construction plans for review. Any preliminary or conceptual plat, plan or sketch that conforms to the locality's zoning requirements or subdivision ordinance is acceptable if the information required by this subsection is shown. The submittal should include:

1. The general location and configuration, including the terminus, of each street, and the traffic volume anticipated when the land served is fully developed in accordance with the land uses anticipated.
2. The location, area, and density or floor area ratio (FAR) of each type of proposed land use within the development.
3. The location of any proposed transportation facility including any public transportation facilities as well as bicycle and pedestrian accommodations within the development's boundaries included in the comprehensive plan of the governing body.
4. The proposed functional classification for each street in the development.
5. The connectivity of the network addition as proposed, if applicable.
6. The location of stub outs on adjoining property and the existing land use of such adjacent property, if applicable, and the location of any proposed stub outs within the network addition, if applicable.
7. Any waiver or modification of the connectivity requirements or pending requests therefore pursuant to 24VAC30-92-60 C.
8. General preliminary information on the type of any storm sewer system, such as BMP, outfalls, or conveyance channels, that is proposed to be located within the right-of-way as described in 24VAC30-92-120 L 2 and if the project is located in a MS4 regulated area or a TMDL watershed.
9. Other available information pertinent to the intended development, including but not limited to any proposed phased development of streets pursuant to 24VAC30-92-80.

B. Conceptual sketch review. The district administrator's designee will review the layout and functional classification of streets shown in the concept sketch and within 45 calendar days notify the local official in writing, as well as the developer, if applicable, of his concurrence or recommendations and whether or not the streets in the proposed network addition meet the connectivity and other requirements of this chapter. This concurrence will be valid as long as the basic concept for the development, including the general street layout and design, as submitted

for review, remains unchanged. The district administrator's designee shall also review any unresolved request for modifications to the connectivity requirements and include his decision in the written notification to the local official and the developer. As part of his review, the district administrator's designee shall review the provision of collector and other higher order streets and if necessary make recommendations for the provision of such streets to address the traffic generated by the development.

C. Plan of development submission. Plats or plans, or both, together with other pertinent data as herein prescribed, shall be submitted to the local official in accordance with the practices of the local government and to the district administrator's designee for all proposed developments whose streets are intended to be added to the secondary system of state highways maintained by the department. The district administrator's designee may, subject to the availability of staff and upon the request of the local official, cooperate in the review of proposed developments to be developed to these standards but not initially intended for addition to the secondary system of state highways maintained by the department. The department may recover the costs for this service in accordance with 24VAC30-92-140.

D. Plan review. Upon receipt of the plats or plans, or both, the district administrator's designee will arrange for the appropriate review to determine compliance with the requirements of this chapter and other applicable VDOT requirements. The general procedure for this review is described in the Guidance Document for the Commonwealth Transportation Board's Secondary Street Acceptance Requirements, 2011 (VDOT).

E. Plan approval. The district administrator's designee will advise the appropriate local official and the developer, if applicable, as to the results of the review.

1. If the street development proposed by the plats or plans, or both, is determined to be in compliance with these requirements, the district administrator's designee will provide written confirmation of this finding. This action signifies the district administrator's designee's approval of the street layout and design shown on the plats or plans, as submitted. Any subsequent revision, additions, or deletions thereto shall require specific written approval of the district administrator's designee for each such change.

2. If a revision of the submitted plats or plans is determined necessary, the district administrator's designee will list the required changes in a written response to the local official and the developer, if applicable. Upon completion of the specified revisions, the plats or plans will be resubmitted for review and approval by the district administrator's designee.

The department's approval of a street construction plan shall constitute its commitment to accept the street or network addition depicted thereon when all applicable provisions of these requirements are satisfied and the streets have been constructed according to the approved construction plan and supporting specifications. However, during the department's or other approved inspection of construction as specified by this chapter, if a situation is discovered that was not addressed on the approved plan that could, in the opinion of the district administrator's designee, adversely affect public safety or the integrity of either the roadway or the adjacent

property, acceptance of the street or network addition shall be deferred until the situation is corrected.

The department's approval of a street construction plan shall expire after a period of five years if construction has not commenced, in which case the subdivision street construction plan shall be resubmitted for subsequent review and approval. This shall not affect the adequacy of the approved concept plan as depicted on a recorded final plat, as provided for under § 15.2-2241 of the Code of Virginia.

Network additions will only be accepted when the entire network addition has been constructed, except in such instances where the constructed portion meets the applicable public benefit requirements of this chapter.

F. Street acceptance. Upon the satisfactory completion of construction of the street or streets in a network addition, the department will advise the local governing body regarding the street or network addition's readiness for acceptance and the local governing body, in consultation with the district administrator's designee, will initiate its acceptance into the secondary system of state highways maintained by the department provided:

1. The developer dedicates the prescribed right-of-way to public use.
2. The street or streets in the network addition have been constructed in accordance with the applicable specifications, standards and the plats or plans approved by the department.
 - a. Traffic control markings, signs, and devices have been installed in accordance with VDOT standards, specifications, and practices.
 - b. Speed limits have been set in accordance with Article 8 (§ 46.2-870 et seq.) of Chapter 8 of Title 46.2 of the Code of Virginia. For any streets with speed limits different from those set out in § 46.2-870 or §§ 46.2-873 through 46.2-875 of the Code of Virginia, traffic engineering investigations supporting such speed limits have been submitted to VDOT.
3. The developer furnishes all required information and data to the district administrator's designee and the local government official pertaining to the development's stormwater management system that are pertinent to the locality's, department's, or other entity's Municipal Separate Storm Sewer System (MS4) permit, if applicable.
4. The street or streets in a network addition provides sufficient public benefit as prescribed in 24VAC30-92-60 and meets the requirements of this chapter.
5. The street or streets in the network addition has been properly maintained since its completion.
6. The developer furnishes the surety and fees in accordance with 24VAC30-92-140.

7. The governing body or other responsible parties have executed all agreements prescribed by these requirements, unless specifically waived on an individual case basis by the department employee, or his successor or his designee, responsible for overseeing these requirements and the final acceptance of streets as part of the secondary system of state highways maintained by the department.

8. The governing body, by proper resolution, requests the department to accept the street or streets in the network addition for maintenance as part of the secondary system of state highways under its jurisdiction. The resolution shall include the governing body's guarantee of an unrestricted and unencumbered right-of-way as dedicated, plus any necessary easements for fills, drainage, or sight distance.

Upon the department's determination that the requested street or network addition is in compliance with the applicable provisions of these requirements, the governing body will be officially advised of the street or network addition's acceptance into the secondary system of state highways and the effective date of such action. This notification serves as the district administrator's designee's authority to begin maintenance thereon.

24VAC30-92-80. Phased development of streets.

A. Policy. Certain streets that require four or more travel lanes to accommodate the projected traffic may be accepted by the department for maintenance after completion of the first two lanes to an acceptable, initial phase of construction, upon the request of the governing body. It is recognized that there is a distinction between those streets that benefit the regional transportation network and those that primarily serve the development of land and local traffic, and, therefore, the criteria for phased construction for each situation differs as described in subsection B of this section.

However, in all cases, the right-of-way required for the road at its complete stage of construction shall be dedicated and accepted as part of the initial street acceptance. In addition, the initial phase of construction shall be designed and constructed to facilitate construction of the remaining phase in a manner that will avoid the need to reconstruct the initial two lanes.

Consideration for the acceptance of any street under the provisions of this section shall be limited to the phased development of only the street's roadway. All other applicable requirements, e.g., public benefit, drainage easements, and administrative procedures, shall apply.

B. Criteria.

1. For streets included in the transportation plan of the locality's comprehensive plan that serve diverse areas of the region or locally, no special agreement or acknowledgement is needed as a prerequisite to acceptance, provided:

a. The street is part of a transportation corridor that was formally adopted as a part of the locality's comprehensive transportation plan prior to the local governing body's approval of the plat or plan for the development of the adjacent land.

b. The transportation corridor is a major thoroughfare planned primarily to move through traffic.

c. When fully developed the street must satisfy the department's functional classification criteria as a major collector or higher.

d. The street has a projected traffic volume of 8,000 vehicles per day or less for a period of 10 years following the date of the acceptance for maintenance by the department.

2. For all other streets, the local governing body's resolution requesting acceptance of the initial two-lane section must include provisions that acknowledge:

a. The local governing body agrees that all costs incurred in the street's complete construction, including right-of-way, engineering, utility adjustment, etc., shall be provided from funds other than those derived from state revenue sources administered by the department, except as may be expressly authorized by the department.

b. The local governing body agrees that it is its responsibility to ensure that the roadway is completed as needed to accommodate the traffic. However, the locality also acknowledges that a determination that the street needs to be completed to its ultimate section will be made by the district administrator's designee once it is determined that the first two lanes will not sustain an acceptable level of service for the functional classification of the roadway in accordance with the Highway Capacity Manual, 2010 (TRB).

C. Procedures.

1. Plats or plans, or both, for the street's complete development, in accordance with all applicable provisions of these requirements, shall be submitted for approval.

2. The plats or plans shall also delineate the street's initial development as proposed pursuant to this section. In no case shall this design provide less than one-half of the roadway typical section required by the applicable requirements for the street's complete development.

3. Unless waived by the district administrator's designee, a capacity analysis shall be submitted to document that an acceptable level of service will be maintained for the intended duration of the initial phase of development. In determining an acceptable level of service, the beneficial effect of the proposed street on the overall transportation network will be considered.

4. A determination will be made by the department in consultation with the locality as to whether the street can be approved for phased development and as to which criterion in subsection B of this section applies.

5. Upon the district administrator's designee's determination that the proposal is in compliance with the applicable provisions of this section, the plans may be approved accordingly.

6. Upon completion of the street's initial phase in accordance with approved plans, its compliance with all other applicable provisions of this section, and the inclusion of the appropriate language in the resolution, the street may be accepted for maintenance by the department as part of the secondary system of state highways.

24VAC30-92-90. Connections to or work within streets maintained by the department.

A. Connections to streets maintained by the department. A land use permit issued by the department is required for new connections of any kind to existing streets maintained by the department. Due to the wide variation in prevailing conditions, each location shall be evaluated individually to determine exact requirements. Therefore, it is incumbent upon the developer or his designee to apply for a land use permit at the appropriate time to ensure the desired completion of the development. Such application shall be made to the district administrator's designee and shall be consistent with the approved plats or plans for the subdivision or the document reviewed for the connection of a street that is to remain privately maintained. In no instance where the proposed connection to the existing streets maintained by the department involves a stub out shall a land use permit be unreasonably withheld.

B. Relocations, adjustments, and improvement of streets maintained by the department. All work performed within the existing right-of-way of streets maintained by the department, including pavement widening, the addition of turn lanes, realignments and relocations of existing streets, shall be coordinated with and approved by the department as follows:

1. All such work shall be accomplished pursuant to a land use permit issued by the department after the required right-of-way has been dedicated to public use or as otherwise required by the department.

2. All work, including the relocation, adjustment, and improvement of existing streets under VDOT jurisdiction shall be subject to the department's direction rather than these requirements. Such work should include overlaying and restriping the old and new portions of the roadway as may be required by the district administrator's designee.

3. The relocation of streets maintained by the department shall only be accomplished with the consent of the local governing body.

4. Traffic, both vehicular and pedestrian, should be maintained on streets under the department's jurisdiction until the new portion has been accepted by the department for maintenance unless the department authorizes a closure of the road to traffic.

5. No street or roadway maintained by the department and actively used by the public shall be abandoned or vacated unless a new street serving the same citizens has been constructed and accepted for maintenance by the department.

24VAC30-92-100. Discretionary authority.

The district administrator's designees are authorized considerable discretionary authority regarding the design of secondary streets functionally classified as "local." The department's district administrators are authorized considerable discretion regarding the design of secondary streets functionally classified as "collector" or above and the acceptance of streets into the secondary system of state highways.

24VAC30-92-110. Appeal.

The district administrator is authorized to consider and render a ruling on unresolved differences of opinion between the developer and the district administrator's designee that pertain to the interpretation and application of these requirements.

To obtain this review, the developer shall provide the district administrator, the district administrator's designee, and the local official a written request for such action, describing any unresolved issue. After reviewing all pertinent information, the district administrator will advise the developer in writing regarding the decision of the appeal, and provide a copy of the decision to the local official and the district administrator's designee. All correspondence requesting an appeal should include copies of all prior correspondence with the local official and department representatives regarding the issue or issues. The district administrator shall advise the developer of the decision on the appeal within 30 calendar days.

The developer may request a meeting with the district administrator concerning the appeal, and the district administrator shall respond within 10 business days and provide to the developer a date, time, and location for such meeting. After reviewing all pertinent information, the district administrator shall advise the developer in writing regarding the decision on the appeal, and provide a copy of the decision to the district administrator's designee and the local official.

The developer may further appeal the district administrator's decision to the commissioner. All correspondence requesting an appeal should include copies of all prior correspondence with the local official and department representatives regarding the issue or issues. The commissioner shall advise the developer of the decision on the appeal within 30 calendar days.

24VAC30-92-120. Design and agreement requirements.

A. General requirements. Most criteria addressing the design of new streets can be found in the Road Design Manual, 2011 (VDOT) and its Appendix B (1), the Subdivision Street Design Guide. However, the following provisions are provided for guidance, particularly in regard to features that require agreements or formal acknowledgements of the governing body before VDOT's acceptance of the street or streets within a development.

When an agreement is required between the local governing body and the department as a prerequisite to the acceptance of a street, nothing in these requirements shall preclude the local governing body from entering into separate agreements with other entities to fulfill its responsibilities. However, if the provisions are intended to ensure the safety of the public using the street, the department reserves the right to approve the involvement of the other party or parties.

All streets functionally classified as local shall have a design speed equal to the posted speed limit, except for streets functionally classified as local with a projected traffic volume of 400 vehicles per day or less, which may have a design speed less than the posted speed limit.

The department, locality, and developer shall take measures to minimize the impacts of through traffic on streets functionally classified as local and accepted into the secondary system of state highways under these regulations. Such measures shall include initial street designs that manage motor vehicle speed to match local context.

B. Geometric requirements. Geometric requirements for new streets are established in the Road Design Manual, 2011 (VDOT) and its Appendix B (1), the Subdivision Street Design Guide. Sufficient off-street parking must be provided by the local governing body in accordance with this chapter if streets in a proposed network addition are constructed in accordance with design requirements for streets with off-street parking.

C. Turn lanes. Left or right turn lanes shall be provided at intersections when the department determines that projected turning movements warrant their installation. These facilities shall be designed in accordance with the Road Design Manual, 2011 (VDOT) and its Appendix B (1), the Subdivision Street Design Guide and, if necessary, additional right-of-way shall be provided to accommodate these facilities.

D. Pavement structure.

1. Pavement design. The pavement structure for new streets shall be in accordance with the Pavement Design Guide for Subdivision and Secondary Roads in Virginia, 2009 (VDOT), including any prescribed underdrains. Prior to construction of the pavement sub-base and finish courses, the district administrator's designee shall approve the proposed pavement design.

2. Special pavement surfaces. The district administrator's designee may approve special pavement surfaces, such as the use of stamped pavement. However, if the pavement design is a type not addressed by the Pavement Design Guide for Subdivision and Secondary Roads in Virginia, 2009 (VDOT), an agreement shall be provided by the governing body that addresses the future maintenance of such pavement.

3. Pavement additions to existing streets. When an existing VDOT-maintained roadway is to be widened to accommodate additional lanes or the addition of turn lanes, the necessary pavement design shall be obtained from the district administrator's designee and the entire surface of the roadway (old and new portions) may be required to be overlaid and restriped if

required by the district administrator's designee. The district administrator's designee shall not require the entire surface of the roadway to be overlaid and restriped when the only pavement addition to the existing roadway was for bicycle lanes unless extenuating circumstances require that the entire surface of the roadway be overlaid and restriped.

E. Parking.

1. Perpendicular and angle parking along streets is normally prohibited. However, perpendicular and angle parking along streets may be considered if the features along the street cause the street to readily appear to be a street rather than a travel way through a parking lot.

Street design that anticipates limited or no on-street parking shall be approved when sufficient off-street parking is provided in accordance with this chapter. Street design that anticipates the restriction of on-street parking on one side of the street shall be approved when sufficient off-street parking is provided for buildings on the side of the street where it is anticipated parking will be restricted.

2. For streets designed without on-street parking, a minimum of two off-street parking spaces per dwelling unit shall be provided in proximity of the unit that they are intended to serve. Such spaces, which may be provided in a parking bay, driveway, or garage facilities, shall be provided outside of the street's right-of-way. The district administrator's designee may approve lesser parking requirements for individual developments or classes of developments when evidence is presented to support such an approval such as proximity to transit service or the nature of the development. Entrances to parking bays and garage facilities shall be designed in accordance with the appropriate provisions of the Access Management Regulations: Principal Arterials (24VAC30-72) and Access Management Regulations: Minor Arterials, Collectors, and Local Streets (24VAC30-73).

3. In instances where the local governing body has determined, through adoption of a parking ordinance or other similar ordinance, that lesser parking requirements are sufficient for certain classes of development, such lesser requirements shall govern.

4. The department shall not prohibit roadway design that allows for the provision of on-street parking on any roadway with a functional classification of collector or local where the posted speed limit is 35 miles per hour or less.

F. Cul-de-sacs and turnarounds. An adequate turnaround facility shall be provided at the end of each cul-de-sac to permit the safe and convenient maneuvering by service vehicles. Various configurations of turnarounds are illustrated in the Subdivision Street Design Guide (Appendix B (1) of the Road Design Manual, 2011 (VDOT)); however, alternative configurations may be approved by the district administrator's designee. Additional right-of-way shall be provided as required by the design of the turnaround. Normally, any nontraveled way areas within the turnaround, such as an island, shall be included in the dedicated right-of-way of the facility unless the department and the locality are able to reach an agreement for the maintenance of such nontraveled way areas. Nothing in this chapter shall prohibit the provision of stormwater

management facilities in the nontraveled way areas of a cul-de-sac, provided the requirements of subsection L of this section are met.

For circular turnarounds, a well-defined, identifiable street segment, equal to the normal lot width along the intersected street that serves the cul-de-sac, or 50 feet, whichever is greater, shall extend from the intersected street to the turning area.

G. Curb and gutter. For the purpose of these requirements, the use of curb and gutter is an acceptable roadway design, rather than a requirement. However, when used, curb and gutter shall be designed in accordance with the Road Design Manual and the Subdivision Street Design Guide (Appendix B (1) of the Road Design Manual, 2011 (VDOT)) and only one curb and gutter design may be used along the length of a street.

1. Driveway entrance requirements. Without regard to the curb design used, the curb shall incorporate a driveway entrance apron, as illustrated in the Subdivision Street Design Guide (Appendix B (1) of the Road Design Manual, 2011 (VDOT)), to provide a smooth transition from the gutter invert or roadway surface onto the driveway.

2. Curb ramps. All streets that incorporate accessible routes for pedestrian use shall, without regard to the curb design used, include curb ramps at intersections for use by persons with disabilities and shall incorporate other applicable provisions of the Americans with Disabilities Act (42 USC § 12101 et seq.).

H. Private entrances. All private entrances shall be designed and constructed in accordance with the Subdivision Street Design Guide (Appendix B (1) of the Road Design Manual, 2011 (VDOT)).

I. Pedestrian, bicycle, and shared use path facilities. The Commonwealth Transportation Board's "Policy for Integrating Bicycle and Pedestrian Accommodations," 2004 emphasizes accommodating pedestrian and bicycle traffic. Any street proposed for VDOT acceptance shall accommodate pedestrian and bicycle traffic in accordance with the Commonwealth Transportation Board's policy and this chapter. Pedestrian and bicycle facilities should be generally uniform between intersections and included in the initial construction of the street, prior to VDOT acceptance.

1. Pedestrian accommodation requirements. Pedestrian accommodations shall be provided based upon density of development, the plans for or existence of public schools in the vicinity, the presence of existing pedestrian accommodations, and the operational nature of the fronting street. In all developments with pedestrian accommodations, such accommodations shall connect with existing pedestrian accommodations and allow for connection to future pedestrian accommodations to adjacent parcels. If multiple requirements apply to a street, the greater accommodation requirement shall govern. The district administrator's designee may waive or modify these requirements for the provision of pedestrian accommodations in situations when the accommodation exception provisions of the Commonwealth Transportation Board's policy are met.

a. Pedestrian accommodations shall be provided along both sides of the street or provisions made that provide equivalent pedestrian mobility for streets with an ADT over 400 that are located in a development with a median lot size of one-quarter acre or smaller or when the ADT for the street is over 8,000.

b. Pedestrian accommodations shall be provided along at least one side of the street or provisions made that provide equivalent pedestrian mobility for streets with an ADT over 400 that are located in a development with a median lot size between one-quarter acre and one-half acre or when the ADT for the street is between 2,000 and 8,000.

c. Pedestrian accommodations shall be provided along at least one side of the street or provisions made that provide equivalent pedestrian mobility within one-half street centerline mile of a public school.

d. When connecting to a stub street that has pedestrian accommodations, the new street shall also include pedestrian accommodations.

e. Pedestrian accommodations shall be provided along both sides of, or provisions made that provide equivalent pedestrian mobility along, streets functionally classified as collectors or arterials with three or more travel lanes. In no instance shall any sidewalk abut the curb or the edge of a collector or higher order street, unless the sidewalk is at least eight feet wide. In such instances tree wells shall be provided. In instances where it is necessary to retrofit streets with pedestrian accommodations to allow the streets to be accepted into the secondary system of state highways, the pedestrian accommodations less than eight feet wide may abut the curb or the edge of the street.

2. Maintenance of pedestrian and bicycle accommodations. Pedestrian and bicycle facilities are eligible for VDOT acceptance and maintenance based on the criteria of this section. A copy of an agreement or other document showing the proposed maintenance responsibilities of pedestrian and bicycle facilities shall be provided to VDOT for any pedestrian accommodation outside of the VDOT right-of-way that is used to meet the accommodation requirements of this subsection.

a. Compliant facilities. Pedestrian and bicycle facilities, including shared use paths as defined under § 46.2-100 of the Code of Virginia, shall be accepted as part of the street or network addition, unless otherwise requested by the governing body, provided they are located fully within the dedicated right-of-way of the street and they are constructed in accordance with applicable criteria and standards of the department.

(1) Sidewalk criteria. Sidewalks shall be constructed in accordance with the Subdivision Street Design Guide (Appendix B (1) of the Road Design Manual, 2011 (VDOT)).

(2) Bicycle facility criteria. Bicycle facilities contiguous with the street shall be in accordance with the department's design and construction criteria set forth in the Road Design Manual, 2011.

(3) Shared use path criteria. Shared use paths shall be constructed in accordance with the Road Design Manual, 2011 and closely follow the vertical alignment of the roadway without meandering on and off the right-of-way.

b. Noncompliant sidewalk, bicycle, and shared use paths. Noncompliant sidewalk, bicycle, and shared use paths that fail to meet requirements of the department's standards for construction, alignment, or placement within the dedicated right-of-way of the street shall be deemed to be noncompliant and not qualify for maintenance unless a design waiver or exemption is granted by the department. Noncompliant sidewalks and shared use paths may be constructed of stabilizer convenient to the applicant. Noncompliant facilities may co-exist within the dedicated right-of-way of the street under a land use permit issued by the district administrator's designee to the local governing body responsible for having established the facility through its subdivision process or other development process.

Such permits will clearly specify the responsibility for maintenance of the facility and related activities to the extent the facility occupies the street's right-of-way. The permit applicant should be an entity that can be reasonably expected to have perpetual maintenance capability.

J. Bridge, drainage, and other grade separation structures. Bridges, drainage, and other grade separation structures shall be designed and constructed in accordance with all applicable department criteria and standards. The district administrator's designee may require special review of the plans and construction inspection.

The department will accept grade separation structures as part of new streets, provided the structure is a drainage structure or is intended to separate the movement of registered motor vehicles. In addition, the department will accept grade separation structures intended to separate pedestrians or bicyclists or any combination thereof from traffic using the roadway, provided:

1. The structure is available for unrestricted public use;
2. The structure is accessible to pedestrian accommodations situated along the street; and
3. The projected traffic volume of the street is (i) not less than 4,000 ADT or (ii) if the structure otherwise serves as part of the principal pedestrian access to a school or a mass transit facility including stops and stations and a peak hour traffic volume of 450 VPH or greater.

In all other instances, the grade separation structure shall be deemed to be a locally controlled grade separation structure within the right-of-way of the street, in which case the street will only be accepted as part of the secondary system of state highways maintained by the department after the local governing body and the department have executed an agreement acceptable to the department that (i) acknowledges the department has no responsibility or liability due to the presence of the structure and (ii) assures the burden and costs of inspection, maintenance, and

future improvements to the structure are provided from sources other than those administered by the department.

In all cases, whether the structure is accepted as an integral part of the roadway for maintenance by the department or it remains a locally controlled structure, the lighting, safety, and security of those using such facilities shall remain a responsibility of local government.

K. Dams. The department will only consider accepting streets for maintenance that traverse dams when all of the following provisions are satisfied. For the purpose of this section, a roadway will be considered to traverse a dam if any part of the fill for the roadway and the fill for the dam overlap or if the area between the two embankments is filled in so that the downstream face of the dam is obscured or if a closed drainage facility from a dam extends under a roadway fill.

1. Agreements with the governing body. Except as exempt under subdivision 6 of this subsection, the governing body acknowledges by formal agreement the department's liability is limited to the maintenance of the roadway and that the department has no responsibility or liability due to the presence of the dam, the maintenance of which shall remain the responsibility of an owner, other than the department, as established by § 33.1-176 of the Code of Virginia.

2. Design review. An engineer licensed to practice in the Commonwealth of Virginia shall certify that the hydraulic and structural design of any dam, as described below, is in accordance with current national and state engineering practice and that all pertinent provisions of the Subdivision Street Design Guide (Appendix B (1) of the Road Design Manual, 2011 (VDOT)) have been considered. Prior to approval of the roadway construction plans, the hydraulic and structural design of a proposed dam shall be reviewed by the department and meet the department's satisfaction if:

- a. A roadway is considered to traverse a dam; or

- b. A roadway is located below but sufficiently close to the dam that a catastrophic breach could endanger the roadway or the safety of those using the roadway.

3. Right-of-way requirements. The right-of-way of roads considered to occupy dams shall be recorded either as an easement for public road purposes or as a dedication specifically to the governing body. Right-of-way dedicated in the name of the Commonwealth or any of its agencies is not acceptable if it includes a dam, and roads through such right-of-way will not be accepted as a part of the secondary system of state highways maintained by the department.

4. Supplemental, alternative access. To be considered for VDOT maintenance, roadways that traverse a dam must be supplemented by an appropriate alternative roadway facility for public ingress or egress having suitable provisions that ensure perpetual maintenance.

5. Permits. All applicable federal and state permits associated with dams shall be secured and filed with the locality prior to VDOT's acceptance of any street that traverses a dam.

6. Dams exempt from agreements. The acceptance of roadways that traverse dams shall be exempt from the requirements for an agreement with the governing body, as required by subdivision 1 of this subsection, if all of the following is satisfied:

- a. The dam is used to create a stormwater detention or retention facility;
- b. The maximum depth of the water retained by the impoundment at its 100-year storm flood elevation is not greater than four feet; and
- c. The surface area of the impoundment at full flood is not greater than two acres and is beyond the right-of-way dedicated to public use.

L. Roadway drainage.

1. Policy and procedures. All drainage facilities shall be designed in accordance with the department's Drainage Manual, 2002 and supplemental directives or the Subdivision Street Design Guide (Appendix B (1) of the Road Design Manual, 2011 (VDOT)) as may be appropriate. All drainage computations supporting a proposed drainage design shall be submitted to the department for review as part of the documents necessary for the approval of a construction plan.

2. Stormwater management. Whereas the department considers matters regarding stormwater management associated with the construction of streets to be under the authority of the local governing body, decisions regarding stormwater management in the construction of streets are deferred to the locality. However, stormwater management, including the construction of detention or retention facilities, or both, is recognized as an available design alternative or BMP for water quantity, quality, or both. Where the developer is required by regulations promulgated by an agency or governmental subdivision other than the department or the developer chooses to use stormwater management facilities in the design of a subdivision or other development, the governing body shall, by formal agreement, and as a prerequisite for the transfer of jurisdiction over the street to the department, acknowledge that the department is not responsible for the operation, maintenance, retrofitting, or liability of the stormwater management facility or facilities associated with the subdivision or the development. Any retrofits required to comply with a TMDL WLA will be the responsibility of the locality. However, in the event the governing body has executed a comprehensive, localitywide agreement with the department addressing these matters, a specific agreement addressing stormwater management controls in the subdivision or development will not be required as a condition for street acceptance.

Stormwater management controls for VDOT projects are to be designed in accordance with the approved VDOT Erosion and Sediment Control and Stormwater Management Program Standards and Specifications, 2010, as annually approved by the Department of Conservation and Recreation, the Virginia Erosion and Sediment Control Regulations (4VAC50-30), and the Virginia Stormwater Management Program (VSMP) Permit Regulations (4VAC50-60), and, if applicable, VDOT's MS4 Program Plan, 2008. While these controls may be necessary whenever a street maintained by the department is widened or relocated, the department does

not require them in the development of new streets because such activity is regulated by the local governments. However, developers and counties may find these controls useful in managing land development activity.

Generally devices and treatments intended to mitigate the impact of stormwater shall be placed off of the right-of-way and shall be designed to prevent the backup of water against the roadbed. However, such devices and treatments may be placed within the right-of-way if the department and the local governing body have executed an agreement that (i) acknowledges the department has no responsibility or liability due to the presence of the devices or treatments, or both; (ii) assures the burden and costs of inspection, maintenance, VSMP permit requirements, TMDL WLA requirements, retrofitting or other future improvements to the devices and treatments, or other costs related to the placement of such devices or treatments within the right-of-way are provided from sources other than those administered by the department; (iii) a professional engineer licensed by the Commonwealth or the manufacturer as required by the department, certifies the construction of the facility to plans reviewed by the department; and (iv) design requirements of the facility are included in the department's Drainage Manual, 2002, the Department of Conservation and Recreation's Stormwater Management Handbook, First Edition, 1999, or supplemental directives.

Where development activity results in increased runoff to the extent that adjustment of an outfall facility is required, such adjustment shall be at the developer's expense and shall be contained within an appropriate easement.

The department is required to implement the Municipal Separate Storm Sewer System (MS4) permit for facilities located on its right-of-way. To comply with these requirements, the local governing body shall provide to the district administrator's designee all aspects of a proposed development's storm sewer system and associated stormwater management plan that are pertinent to the locality's or the department's MS4 permit. Additionally, the local governing body shall provide to the district administrator's designee an inventory of all outfalls to waters of the United States, physical interconnections with other stormwater systems, stormwater management devices, or both related to the project that are located within VDOT right-of-way as a condition of street acceptance in accordance with the VDOT MS4 Stormwater Outfall Inventory Manual, 2011. VDOT shall not accept a street for maintenance as part of the secondary system of state highways that are not in compliance with conditions of the pertinent MS4 permit and VDOT's MS4 Program Plan, 2008, as such conditions existed at the time of the relevant street construction plan's approval. VDOT shall not accept a street for maintenance if there is an illicit discharge to the system, as defined by 4VAC50-60-10 until the illicit discharge is eliminated.

3. Drainage easements.

- a. An acceptable easement shall be provided from all drainage outfalls to a natural watercourse, as opposed to a swale.
- b. The department normally accepts and maintains only that portion of a drainage system that falls within the limits of the dedicated right-of-way for a street. The department's

responsibility to enter drainage easements outside of the dedicated right-of-way shall be limited to undertaking corrective measures to alleviate problems that may adversely affect the safe operation or integrity of the roadway.

c. In the event drainage to a natural watercourse is not accomplished or is interrupted, an acceptable agreement from the governing body may be considered as an alternative to providing an easement to a natural watercourse, provided the agreement acknowledges that the department is neither responsible nor liable for drainage from the roadway.

M. Other design considerations.

1. Guardrail. Guardrail shall be used when required by the district administrator's designee, consistent with the Road Design Manual, 2011. For placement considerations, see the Subdivision Street Design Guide (Appendix B (1) of the Road Design Manual, 2011 (VDOT)).

2. Landscaping and erosion control. All disturbed areas within the dedicated right-of-way and easements of any street shall be restored with vegetation compatible with the surrounding area. Where there is visual evidence of erosion or siltation, acceptance of the street as part of the secondary system of state highways maintained by the department will be postponed until appropriate protective measures, in accordance with VDOT's construction practices, are taken. Except as otherwise approved by the district administrator's designee, planting of trees or shrubs on the right-of-way shall be in accordance with the Road Design Manual, 2011 (VDOT) and its Appendix B (1) (the Subdivision Street Design Guide).

3. Lighting. Roadway, security, or pedestrian lighting, when required by the governing body or desired by the developer, shall be installed in accordance with the Road Design Manual, 2011 (VDOT) and its Appendix B (1) (the Subdivision Street Design Guide). However, VDOT shall not be responsible for the maintenance or replacement of lighting fixtures or the provision of power for lighting.

4. Railroad crossings.

a. Short-arm gates with flashing signals, flashing signals alone, or other protective devices as deemed appropriate by the department shall be provided at any at-grade crossing of an active railroad by a street.

b. Crossings of railroad right-of-way are subject to the requirements of the railroad. Streets to be accepted by the department for maintenance as part of the secondary system of state highways that cross railroad right-of-way will only be considered if the protective measures outlined under this section have been fully installed and an agreement between the railroad, the developer, and the local governing body has been executed. Prior to execution, such agreements shall be presented to the department for consideration in consultation with the Department of Rail and Public Transportation.

5. Utilities. Local governments, the development community, and the utility community are encouraged to coordinate and consolidate their interests as part of the initial development plan.

a. Underground utilities. The department allows the placement of underground utilities within the dedicated right-of-way of streets, but normally restricts placement to areas outside of the travel lanes. However, if the governing body has established adequate requirements approved by the department for the design, location, and construction of underground utilities within the right-of-way of streets, including provisions that ensure that adequate testing and inspection is performed to minimize future settlement, those requirements shall become the department's requirements and govern provided those requirements exceed the department's requirements.

Manholes shall not be placed in sidewalk, multiuse trail, or shared use path facilities, within five feet of curb ramps or within driveway entrances.

When location of the utilities outside of the pavement area is not practical such as in high density developments incorporating the principles of new urbanism as described in § 15.2-2223.1 of the Code of Virginia, such installations:

- (1) Are acceptable within the shoulders along the street or within the parking area.
- (2) May be acceptable beneath the travel lanes of the street or alley when provisions are made to ensure adequate inspection and compaction tests and:
 - (a) Longitudinal installations and manholes are located outside of the normal travel lanes; or
 - (b) Longitudinal installations and manholes are placed in the center of a travel lane out of the wheel path.

b. Open-cutting of hard-surfaced roadways. The department usually prohibits the open-cutting of hard-surfaced roads except in extenuating circumstances. Therefore, all underground utilities within the right-of-way, as determined necessary by good engineering practice to serve the complete development of adjacent properties, shall be installed during the street's initial construction and prior to the application of its final pavement surface course. This shall include extensions of all necessary cross-street connections or service lines to an appropriate location beyond the pavement and preferably the right-of-way line.

In the event it is necessary to open the street pavement to work on utilities after the surface has been placed, additional compaction tests and paving as necessary to restore the integrity and appearance of the roadway may be required at the discretion of the district administrator's designee.

c. Cross-street conduits. To facilitate the placement of future underground utilities, cross-street conduits are encouraged, with placement of such conduits occurring on each street at intersections.

d. Aboveground utilities. All aboveground utilities shall be installed behind the sidewalk or as close as possible to the limits of the street's right-of-way but shall not encroach on the sidewalk, the shared use path, or any clear zone.

To assure the unencumbered dedication of the right-of-way for street additions, easements or other interests within the platted right-of-way shall be quitclaimed of any prior rights therein. In exchange, a permit may be issued by the department for a utility to occupy the area involved. This permit will be processed by the district administrator's designee upon acceptance of the street into the secondary system of state highways maintained by the department. No fee is required for permits so issued. However, the approval of the permit shall be contingent upon the utility's compliance with applicable provisions of the Land Use Permit Regulations (24VAC30-151).

24VAC30-92-130. Right-of-way width, spite strips, and encroachments.

A. Right-of-way width. A clear and unencumbered right-of-way shall be dedicated to public use for any street proposed for addition to the secondary system of state highways maintained by the department. However, in certain rare extenuating circumstances involving a party beyond the influence of the developer, an easement for transportation purposes may be approved by the district administrator's designee in lieu of dedicated right-of-way. In all other cases, any easement that might interfere with the public's unencumbered use of the street shall be quitclaimed in exchange for a land use permit as outlined in 24VAC30-92-120 M 5.

The width of right-of-way shall be as indicated in the Subdivision Street Design Guide (Appendix B (1) of the Road Design Manual, 2011 (VDOT)) and the Road Design Manual, 2011 (VDOT) and shall be sufficient to include all essential elements of the roadway intended to be maintained by the department, including pedestrian, multiuse trail, bicycle, or shared use path facilities and clear zone. However, supplemental easements may be used to accommodate sight distance requirements and slopes for cuts and fills. The right-of-way requirements are defined in the Subdivision Street Design Guide (Appendix B (1) of the Road Design Manual, 2011 (VDOT)) and the Road Design Manual, 2011 (VDOT).

When an existing state maintained road is widened, the additional right-of-way should be dedicated as follows:

1. If the existing right-of-way consists of a prescriptive easement, to the degree that the developer controls the land, the right-of-way shall be dedicated to public use from the centerline of the alignment.
2. If the existing right-of-way is dedicated to public use, the additional right-of-way shall be dedicated to public use.

3. If the existing right-of-way is titled in the name of the department or the Commonwealth, the additional right-of-way shall be deeded to the department or to the Commonwealth, consistent with the title of the existing right-of-way.

B. "Spite strips." Plans that include a reserved or "spite" strip that prohibits otherwise lawful vehicular access to a street from the adjacent properties, whether within or outside the subdivision or development, will not be approved.

C. Encroachments within the right-of-way. Recording of a plat causes the fee title interest of areas dedicated to public use to transfer to the local governing body. Therefore, objects installed within the right-of-way for purposes other than transportation may be considered an unlawful encroachment in the right-of-way and prevent the right-of-way from being considered clear and unencumbered.

Posts, walls, signs, or similar ornamental devices that do not interfere with roadway capacity, encroach into a clear zone, or interfere with prescribed sight distance requirements, or are not in conflict with Chapter 7 (§ 33.1-351 et seq.) of Title 33.1 of the Code of Virginia may be permitted within the right-of-way. However, specific authorization by the district administrator's designee or as authorized under the Land Use Permit Regulations (24VAC30-151) is a requisite for these devices or any other encroachment located within the right-of-way. For the purposes of this subsection, mailboxes installed on breakaway posts may occupy the right-of-way without permit. Otherwise, encroachments that do not fall within the clear zone may be allowed within the right-of-way pursuant to a land use permit issued by the district administrator's designee.

24VAC30-92-140. Surety and fees.

A. Policy. Except as otherwise provided herein, the developer shall provide surety to guarantee the satisfactory performance of the street, an inspection fee to cover the department's cost of inspecting the new street, and an administrative cost recovery fee to recover the department's costs associated with the review of subdivision or other development plans and the administrative processing of the acceptance of new streets as determined in this section. All surety and fees collected under this section shall be based on the date of the local governing body's request and the aggregate mileage of new streets in that request, rounded up to the next tenth of a mile. In the event of extenuating circumstances beyond the developer's control, the commissioner or his designee may waive all or a portion of any of the surety and fees.

B. Surety. The department reserves the right to inspect, or have inspected, the street proposed for acceptance into the secondary system of state highways at any stage of construction and prior to street acceptance. The developer, contractor, and third-party inspector, if applicable, shall cooperate with the assigned VDOT personnel to provide the access and information necessary to verify that construction of the street is in accordance with the street's approved design and appropriate standards and specifications. A determination by the district administrator's designee that the required cooperation has not been extended shall be grounds for VDOT to refuse to accept the street for maintenance as part of the secondary system of state highways. A determination of noncooperation may be appealed as specified by this chapter (see 24VAC30-92-110).

1. Type of surety and expiration. The developer shall provide surety to guarantee the satisfactory performance of the street. In the event the developer fails to provide surety or any of the fees described in this section within the 30-day period following the local governing body's request for the department to accept the maintenance of a street, the department's or other entity's previous final inspection of the street shall be considered void and a new inspection shall be required. An acceptable surety may be in the form of a performance bond, cash deposit, certified check, irrevocable letter of credit, third-party escrow account, or other form mutually satisfactory to the department and the developer. Under no circumstances shall the department or any agency of the Commonwealth be named the escrow agent nor shall funds deposited with the department as surety be subject to the payment of interest.

a. Amount of surety. The surety shall be \$3,000 for each tenth of a lane mile, or portion thereof, to be accepted by the department for maintenance as part of the secondary system of state highways. The Commonwealth Transportation Board may adjust the surety on an annual basis based on increases or decreases in the producer price index for highway and street construction materials up to an amount not to exceed \$5,000 for each tenth of a lane mile or portion thereof.

b. Length of surety. The surety shall guarantee performance of the street for one year from the date of its acceptance into the secondary system of state highways.

2. Alternatives to surety.

a. In jurisdictions where the staff of the governing body administers a comprehensive street construction inspection program that has been approved by the department, the surety shall be waived upon certification by the governing body that the proposed addition has been constructed in accordance with approved plans and specifications.

b. If requested by the developer and subject to availability of departmental personnel or consultants, VDOT may perform the construction inspection equivalent to that required for third-party inspection of any street or streets proposed to be added to the secondary system of state highways. In such cases, the developer shall bear all costs incurred by the department, the surety shall be waived, and no street inspection fee pursuant to subsection D of this section shall be charged.

c. A third-party inspection process shall be acceptable to the department if:

(1) The developer or construction contractor arranges for a firm not otherwise related to the developer or contractor to provide inspection services for the construction of the streets in the development;

(2) Inspection and testing methodology and frequency are accomplished in accordance with VDOT Materials Division's Manual of Instructions, 2011 and the Virginia Department of Transportation Road and Bridge Specifications, 2007, revised 2011; and

(3) A report is submitted to the department summarizing the inspections steps taken, certifying the results of the inspection and testing as accurate, and confirming that the street or streets were built to the approved specifications and pavement design, signed and stamped by a professional engineer licensed to practice as such in the Commonwealth.

C. Administrative cost recovery fee.

1. Application of the administrative cost recovery fee. To recover a portion of the department's direct costs associated with the review of plans or plans of development, and the administrative processing of the acceptance of new streets, an administrative cost recovery fee shall be required from the developer at the time the streets are accepted by the department. The amount of this cost recovery fee shall be computed at a base rate of \$500 per addition, without regard to street length, plus \$250 per tenth of a centerline mile, or portion thereof.

2. Alternatives to the administrative cost recovery fee. As an alternative to the administrative cost recovery fee, the department may use one of the following approaches to recover its direct costs:

a. For any development, at the developer's request, the department may establish an account for the purpose of tracking these costs and billing the developer not more often than every 30 days;

b. For large, complex, multiuse developments, the department, at its option, may establish an account for the purpose of tracking these costs and billing the developer not more often than every 30 days. However, the cost recovery fee assessed under this provision shall not be greater than two times the prevailing administrative cost recovery fee structure; or

c. If requested to provide plan review for streets that are not intended for maintenance by the department, the department may establish an account for the purpose of tracking these costs and billing the developer not more often than every 30 days.

D. Street inspection fee. To recover a portion of the department's direct costs associated with the inspection of subdivision streets, an inspection fee shall be required from the developer at the time the streets are accepted by the department.

The inspection fee shall be computed at a base rate of \$250 per addition, without regard to street length, plus \$125 per tenth of a centerline mile, or portion thereof.

The street inspection fee shall be reduced by 75% if either a third-party inspection process pursuant to subdivision B 2 c of this section or a local street inspection certification process pursuant to subdivision B 2 a of this section was used.

If requested to provide inspection services for subdivision streets that are not intended for maintenance by the department, the department may establish an account for the purpose of tracking these costs and billing the developer not more often than every 30 days.

24VAC30-92-150. (Repealed.)

DOCUMENTS INCORPORATED BY REFERENCE (24VAC30-92)

Information pertaining to the availability and cost of any of these publications should be directed to the address indicated for the specific document. Requests for documents of the Virginia Department of Transportation (VDOT) may be obtained from the department at 1401 E. Broad St., Richmond, Virginia 23219; however, department documents may be available over the Internet at www.viriniadot.org.

VDOT Drainage Manual, 2002.

VDOT Guidance Document for the Commonwealth Transportation Board's Secondary Street Acceptance Requirements, 2011.

[Highway Capacity Manual, 2010, Transportation Research Board, 500 Fifth Street, NW, Washington, DC 20001.](#)

[VDOT Materials Division Manual of Instructions, 2011.](#)

[VDOT Pavement Design Guide for Subdivision and Secondary Roads in Virginia, 2009.](#)

[VDOT Policy for Integrating Bicycle and Pedestrian Accommodations, 2004.](#)

VDOT Road and Bridge Specifications, 2007, revised 2011.

[VDOT Road and Bridge Standards, 2008, revised 2011.](#)

[VDOT Road Design Manual, 2011.](#)

[VDOT Erosion and Sediment Control and Stormwater Management Program Standards and Specifications, 2010.](#)

[VDOT MS4 Program Plan, 2008, Location and Design Division.](#)

[VDOT MS4 Stormwater Outfall Inventory Manual, 2011, Maintenance Division.](#)

Virginia Stormwater Management Handbook, First Edition, 1999, Virginia Department of Conservation and Recreation, Division of Soil and Water Conservation, Stormwater Management, 203 Governor Street, Suite 206, Richmond, VA 23219-2094.



townhall.virginia.gov

Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Commonwealth Transportation Board
Virginia Administrative Code (VAC) Chapter citation(s)	24 VAC 30-92
VAC Chapter title(s)	Secondary Street Acceptance Requirements
Action title	Revision of the Secondary Street Acceptance Requirements (24 VAC 30-92) pursuant to Chapter 425 of the 2022 Acts of Assembly.
Date this document prepared	May 24, 2023

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).

Chapter 425 of the 2022 Acts of Assembly (HB275) directed the Virginia Department of Transportation (VDOT) to convene a stakeholder advisory group for the purpose of developing and providing recommended amendments to the Secondary Street Acceptance Requirements (SSAR) of the Commonwealth Transportation Board (CTB). This mandate required that the regulatory provisions of the SSARs shall contain flexibility related to its connectivity elements. VDOT established the stakeholder advisory group, which was composed of representatives from the development industry, local governments, environmental advocacy organizations, and VDOT. The advisory group provided recommendations to the CTB and the CTB directed VDOT to implement those changes.

Acronyms and Definitions

Define all acronyms or technical definitions used in this form.

CTB - Commonwealth Transportation Board
SSAR - Secondary Street Acceptance Requirements
VDOT – Virginia Department of Transportation

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation, (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

Chapter 425 of the 2022 Acts of Assembly (HB275)

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.

Chapter 382 of the 2007 Acts of Assembly (SB1181) added § 33.1-70.3 (now § 33.2-334) to the Code of Virginia. The legislation required the Commonwealth Transportation Board to develop Secondary Street Acceptance Requirements, promulgated by regulation, to determine the conditions and standards that must be met before streets constructed by developers, localities and entities other than VDOT will be accepted into the state secondary system for maintenance by VDOT.

Section 33.2-326 of the Code of Virginia vests in VDOT the control, supervision, management and jurisdiction over the secondary system of highways. Further, VDOT is authorized by §33.2-334 to set standards for the acceptance of streets into the secondary system of highways. Although § 33.2-705 grants authority to localities to establish highways, including subdivision streets on land being developed, if the locality or private developer wish to have VDOT assume maintenance of those streets, the design and construction of those streets must meet VDOT’s standards. The design-related provisions of the SSAR are part of the department’s Road Design Manual (Appendix B of that Manual).

Chapter 425 of the 2022 Acts of Assembly (HB275) directed the VDOT to convene a stakeholder advisory group for the purpose of developing and providing recommended amendments to add flexibility to the connectivity provisions of the SSAR.

Purpose

Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.

The SSAR promotes public health, safety, and welfare as well as accepting only qualified roads into the state's highway systems. The regulation is needed to reduce long-term traffic congestion, support and promote more economic activity and better transportation systems.

The regulation includes provisions for the connectivity of highway and pedestrian networks with existing and future transportation networks if the streets are intended to be taken into the state secondary highway system. As mandated by Chapter 425, the connectivity provisions are required to include flexibility to limit the number of such connections to adjacent property or highway networks, as deemed appropriate.

Substance

Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

1. Change to 24VAC30-92-60 (C.2.c and C.3.d) related to exceptions to Multiple Connections and Additional Connections requirements:
 - There is no reasonable connection possible to adjoining property or adjacent highways due to a factor outside the control of the developer of the network addition, such as including but not limited to the presence of conservation easements not put in place by the developer of the network addition, underground utility trunk easement not put in place by the developer of the network addition, water features such as rivers or lakes, jurisdictional wetlands, grades in excess of 15% whose total elevation change is greater than five feet, limited access highways, railroads, or government property to which access is restricted.
2. Add definition to 24VAC30-92-10:
 - “Underground Utility Trunk Easement” means an easement for the accommodation of a utility which has an existing underground utility trunk or transmission line (cable, pipeline, or similar facility); such lines are not used for distribution of the utility’s services to individual customers, but rather for long distance carrying or transmission purposes.
3. Change to 24VAC30-92-60 (C.2 and C.3) by adding new exception to Multiple Connections and Additional Connections requirements:
 - Add new subpart C.2.d and C.3.e: The network addition was constructed in accordance with an overall plan of development approved by the department and the locality as meeting all the requirements of this chapter, and the additional phase of the

development allowing the network addition to meet connectivity is under construction.

4. Addition to 24VAC30-92-60 (C.3) which adds new exceptions to Additional Connection requirements:

- Add new subpart C.3.f: The district administrator’s designee may also waive or modify this additional connections standard if, in the written opinion of the applicant and locality’s Chief Executive or designee, the provision of such connection is impracticable or unwarranted due to (i) topographic constraints; (ii) incompatibility with existing adjoining development; (iii) the adjoining property is completely built out as envisioned in the locality’s comprehensive plan with no expectation of redevelopment in the next 20 years and there is no stub out (either constructed or platted) to the property served by the network addition; (iv) the connection would impact the developer’s ability to comply with any local ordinances related to the preservation of open space or trees during the land development process, after a good faith effort to comply with connectivity requirements and local ordinances; (v) the connection would require work outside the right of way (existing or proposed) or easements on an adjoining property outside of the control of the developer; or (vi) other factors as determined by the applicant and locality’s Chief Executive or designee. The district administrator’s designee shall respond to requests for such connectivity exceptions within 30 calendar days of receipt of a completed VDOT request form.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

The proposed regulatory changes were developed through consensus of the stakeholder advisory group, which was comprised of representatives from the development industry, local governments, environmental advocacy groups, and VDOT as required by Chapter 425. The group met five times between September 2022 and February 2023 to develop the recommended amendments. The proposed regulatory changes are not overly complex, costly, or burdensome for small businesses.

Periodic Review and Small Business Impact Review Announcement

If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and the ORM procedures), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify it as

necessary for your agency. Otherwise, delete the paragraph below and insert “This NOIRA is not being used to announce a periodic review or a small business impact review.”

This NOIRA is not being used to announce a periodic review or a small business impact review.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia, describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.

VDOT is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Jo Anne Maxwell, Agency Regulatory Coordinator, 1401 E. Broad St. Richmond, VA 23219, telephone (804) 786-1830, fax (804) 225-4700, JoAnne.Maxwell@VDOT.Virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will not be held following the publication of the proposed stage of this regulatory action.