

Chapter 35 SUBDIVISIONS

ARTICLE I. IN GENERAL

Sec. 35-1. Purpose.

The purpose of this chapter is:

- (A) To ensure the orderly subdivision and development of land, as set forth in Code of Virginia § 15.2-2240 et seq.
- (B) To protect and provide for the public health, safety, and general welfare of the city.
- (C) To ensure adequate provision of drainage and flood control, including impounding structures, impacts within dam break inundation zones, and other public purposes.
- (D) To provide adequate and efficient coordination of streets within and contiguous to the subdivision with other existing or planned streets, water, sewage facilities and other public needs and facilities.
- (E) To establish reasonable standards of design and procedures for subdivisions and re-subdivisions in order to further the orderly layout and use of land and to ensure proper legal descriptions and monumenting of subdivided land.
- (F) To protect and improve the water quality of the Chesapeake Bay and its tributaries.
- (G) To provide proper ingress and egress through the dedication or reservation of rights-of-way or easements for public improvements within proposed subdivisions.
- (H) To protect and preserve the public health, safety and welfare from the adverse impacts associated with high levels of noise from flight operations at Langley Air Force Base and the potential for aircraft accidents associated with proximity to such military air facility operations.

Sec. 35-2. Application and scope of chapter; definitions.

- (A) The subdivision regulations contained in this chapter shall apply within the corporate limits of the city and shall apply to all subdivisions and re-subdivisions of land.
- (B) This chapter bears no relation to any private easement, covenant, agreement or restriction, and the responsibility of enforcing such private easement, covenant, agreement or restriction is not implied herein to any public official. When this chapter calls for more restrictive standards than are required by private contract, the provisions of this chapter shall control.
- (C) For purposes of this chapter, except as may otherwise be defined herein, the definitions set forth in chapter 2 of the city zoning ordinance shall control the meaning of any terms or phrases used herein.

Sec. 35-3. Administration and enforcement of chapter.

Pursuant to the authority granted to the city council by the Code of Virginia § 15.2-2255, the city council designates as its agent the city manager for purposes of administering and enforcing the provisions of this chapter. For purposes of approving or disapproving subdivision plats and enforcing the provisions of this chapter that are not governed by the zoning ordinance or the public works design and construction standards in articles IV and V; except for approval of final subdivision plats which require the concurring approval of the director of public works or his designee, the city manager authorizes and designates the director of the community development department or their designee to act as the "subdivision agent." The city manager also authorizes and designates the director of public works or their designee to administer and enforce the provisions of this chapter related to approval or disapproval of final subdivision plats together with the subdivision agent as described above, and to

enforce provisions of this chapter related to approval or disapproval of development plans, design and construction standards, improvements, and related requirements as set forth in articles IV and V of this chapter. Wherever the term director of public works is used throughout this chapter, the term shall include their authorized designees.

Sec. 35-4. Compliance with chapter; penalty for violation.

- (A) No person shall subdivide land without making and recording, as provided for in this chapter, a plat of such subdivision and without fully complying with the applicable requirements of this chapter.
- (B) No such plat of any subdivision shall be recorded unless and until it shall have been submitted to and approved by the subdivision agent with the concurrence of the director of public works in writing thereon.
- (C) No person shall sell or transfer any such land by reference to or exhibition of or by other use of a plat of a subdivision, before such plat has been duly recorded as provided herein, unless such subdivision was lawfully created prior to the adoption of a subdivision ordinance applicable thereto; provided, that nothing herein contained shall be construed as preventing the recordation of the instrument by which such land is transferred or the passage of title as between the parties to the instrument.
- (D) Except as otherwise set forth in chapter 12 of the zoning ordinance, no building permit or certificate of occupancy shall be issued for any parcel or plat of land which was created by subdivision that violates the requirements of this chapter, and no excavation of land or construction of any public or private improvements shall be commenced, except in conformity with the requirements of this chapter.
- (E) Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating the foregoing provisions of this section shall be subject to a fine of not more than five hundred dollars (\$500.00) for each lot or parcel of land so subdivided or transferred or sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transactions from such penalties or from the remedies herein provided. In addition, the subdivision agent or the director of public works, as applicable, may pursue injunctive relief and other available remedies to prevent, restrain, abate or correct any violation of this chapter. Nothing contained in this chapter shall excuse compliance with other applicable ordinances or laws. Where local requirements are in conflict with mandatory state or federal requirements, the state or federal requirements shall prevail.
- (F) No clerk of any court shall file or record a plat of a subdivision required by this chapter until such plat had been approved by the subdivision agent and the director of public works. The penalties provided by Code of Virginia § 17.1-233 shall apply to any failure to comply with the provisions of this subsection.

Sec. 35-5. How chapter may be amended.

This chapter may be amended in whole or in part by the city council. Any such amendment shall either originate with or be submitted to the planning commission for recommendation prior to adoption. If no recommendation is received from the planning commission after sixty (60) days from submission, the city council may act without a recommendation. No such amendment shall be adopted without a public hearing having been held by the city council and advertised pursuant to Code of Virginia § 15.2-2204.

Sec. 35-6. Changes, erasures and revisions.

No change, erasure or revision shall be made on any preliminary or final plat, nor on accompanying data sheets, after the subdivision agent has approved in writing the plat or sheets, unless authorization for such changes has been granted in writing by the subdivision agent.

Sec. 35-7. Exceptions.

- (A) Except as otherwise set forth in this chapter, the development services center manager may grant exceptions to the general provisions of this chapter not governed by chapters 9, 33.3 and 41.1 of the City Code, the "City

of Hampton Landscape Guidelines," the zoning ordinance, or the public works design and construction standards, subject to the following:

- (1) No such exception shall be granted unless the subdivider submits petition for an exception in writing at the time when the plat is filed for consideration.
 - (2) The petition shall be submitted to the subdivision agent for review by the development services center manager of the community development department. The petition shall state fully the grounds for the petition and all of the facts relied upon by the subdivider.
 - (3) The development services center manager shall review the petition for completeness and may require such additional information as they may deem necessary to process the petition.
 - (4) The burden shall be on the subdivider to demonstrate the need for the exception.
- (B) The development services center manager shall not approve a petition for an exception unless they find that:
- (1) Strict adherence to the ordinance requirement will cause undue hardship;
 - (2) The granting of the exception will not be detrimental to public safety, health, or welfare, and will not adversely affect the property of others;
 - (3) The facts upon which the petition request is based are unique to the property for which the relief is sought and are not so general or recurring a nature as to make reasonably practical the formulation of general regulations to be adopted as an amendment to this chapter;
 - (4) No objection to the exception has been received in writing from city's fire chief, or any affected state, federal or local agency including, but not limited to Langley Air Force Base;
 - (5) The hardship is created by the unusual character of the property, including dimensions and topography, or by other extraordinary situation or condition of the property. Personal, financial, or self-inflicted hardship shall not be considered proper justification for an exception; and
 - (6) The relief sought will not in any manner vary the provisions of chapters 9, 33.3 and 44.1 of the City Code, the "City of Hampton Landscape Guidelines," the zoning ordinance, comprehensive plan, or official map, except that those documents may be amended in the manner prescribed by law.
- (C) If granted, such exception shall be specifically stated in writing by the development services center manager and filed with the subdivision plat and improvement plans for construction. A note shall be prominently placed on the final plat detailing any exception so granted. If denied, the development services center manager shall notify the subdivider of such result in writing.
- (D) Upon denial of a petition for exception, the subdivider may appeal the decision in writing within thirty (30) days of the date of the development services manager's written notice to the subdivider of such denial. Within thirty (30) days of receipt of a subdivider's appeal, the development services center manager shall schedule an opportunity for the appellant to be heard before a panel consisting of the director of community development and the director of public works, or their designees. The development services center manager's decision shall only be overturned by a unanimous decision by the directors of community development and public works (or their designees). The decision on appeal shall be final and unappealable except as provided in section 35-8.

Sec. 35-8. Appeals.

In the event a plat for subdivision is disapproved by the subdivision agent, or upon the decision of the directors of community development and public works not to overturn the development services manager's denial of a petition for exception, and the subdivider contends that the disapproval or decision was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, the subdivider may appeal such disapproval or decision to the Hampton Circuit Court within sixty (60) days of written notice of such disapproval or decision. No

subdivider may pursue approval of an alternative plat while his appeal from the disapproval of the original plat is pending.

Sec. 35-9. Subdivision classification.

For purposes of this chapter, the term "*subdivision*" is the division of any parcel of land into two (2) or more lots or parcels for immediate or future transfer of ownership or building development. The term shall be construed to include all changes in lot lines, the creation of new lots involving any division of an existing lot or lots, or, if a new street is involved in such division, any division of a parcel of land. When appropriate to context, "*subdivision*" may refer either to the process of subdividing or to the territory subdivided. The term "*subdivider*" means an individual, corporation, partnership or other entity owning any property to be subdivided. The terms "*developer*" and "*subdivider*" are used interchangeably throughout this chapter regardless of whether the subdivider or the developer is or is not the same person or entity.

Sec. 35-10. Vacation of subdivision plat, lot or boundary line; boundary line adjustments.

- (A) Any recorded plat, or part thereof, may be vacated as follows:
 - (1) Where no lot has been sold, the recorded plat or part thereof, may be vacated in accordance with the procedures set forth in Code of Virginia § 15.2-2271.
 - (2) In cases where any lot has been sold, the recorded plat or part thereof, may be vacated in accordance with the procedures set forth in Code of Virginia § 15.2-2272.
 - (3) No application to vacate a plat shall be processed unless accompanied by a fee as authorized by Code of Virginia § 15.2-2273.
 - (4) Any such vacation pursuant to section 35-10(A)(1) or (2) shall operate to destroy the force and effect of the recording of the plat so vacated, and title to any interests so vacated shall vest in the manner set forth in Code of Virginia § 15.2-2274.
- (B) Boundary lines may be vacated, relocated or altered pursuant to Code of Virginia § 15.2-2275 and subject to the following requirements:
 - (1) The boundary line adjustment plat or vacation plat must be prepared by a certified professional engineer or a certified land surveyor authorized to do business in the Commonwealth, executed by the owner or owners of the land pursuant to Code of Virginia § 15.2-2275, and submitted to the subdivision agent with the required fee;
 - (2) The adjustment or vacation does not result in the creation of irregularly shaped lots;
 - (3) The adjustment or vacation does not result in any new violations to the dimensional requirements of the zoning ordinance;
 - (4) The adjustment or vacation does not involve the relocation or alteration of streets, alleys, easements for public passage, or other public areas;
 - (5) No easements or utility rights-of-way shall be relocated or altered without the express consent of all persons holding any interest therein;
 - (6) The boundary line adjustment or vacation plat shall comply with the provisions of article II of this chapter unless waived by the subdivision agent; and
 - (7) The adjustment, vacation or recombination of portions of previously subdivided and recorded lots does not result in an increase of total number of lots and each resulting lot conforms to the requirements of the zoning ordinance.

Sec. 35-11. Fees.

- (A) *Preliminary plat review fees.* At the time any preliminary subdivision plat is submitted for review, the following fees shall be submitted to the subdivision agent and payable to the City of Hampton:
- (1) Subdivisions of one parcel into no more than two parcels that do not require the installation of public improvements, boundary line adjustments or vacations: One hundred fifty dollars (\$150.00).
 - (2) All other subdivisions (residential, non-residential, including townhouses, condominiums and mixed use) that do not require the installation of public improvements: Three hundred dollars (\$300.00) plus fifty dollars (\$50.00) for each lot shown on the preliminary plat.
 - (3) All subdivisions (residential, non-residential, including townhouses, condominiums, and mixed use) that require public improvements: Five hundred dollars (\$500.00) plus fifty dollars (\$50.00) for each lot shown on the preliminary plat.
 - (4) An additional fee of two hundred fifty dollars (\$250.00) shall be collected for any review after the first re-submission, except for resubmittals that are the result of substantial redesign due to additional state or federal agency comments.
- (B) *Final plat review fees* for any submission that has already been approved as a preliminary subdivision plat. At the time the final subdivision plat is submitted for review, the following fees shall be submitted to the subdivision agent and payable to the City of Hampton:
- (1) Subdivisions of one parcel into no more than two parcels that do not require public improvements: No additional fee.
 - (2) Boundary line adjustments or vacations: No additional fee. For the purpose of this subsection, "boundary line adjustment" means a subdivision which changes the relative size, but not the number, of parcels comprising the property depicted in the boundary line adjustment.
 - (3) All other subdivisions (residential, non-residential, including townhouses, condominiums and mixed use) that do not require the installation of public improvements: No additional fee.
 - (4) All subdivisions (residential, non-residential, including townhouses and mixed use) that require public improvements: Two hundred dollars (\$200.00) plus twenty-five dollars (\$25.00) for each lot shown on the final plat.
 - (5) An additional fee of two hundred fifty dollars (\$250.00) shall be collected for any review after the first re-submission, except for resubmittals that are the result of substantial redesign due to additional state or federal agency comments.
- (C) *Subdivision plat review fees* for any subdivision plat for which no preliminary subdivision plat was required and no optional preliminary subdivision plat was submitted. At the time the subdivision plat is submitted for review, the following fees shall be submitted to the subdivision agent and payable to the City of Hampton:
- (1) Subdivisions of one parcel into no more than two parcels that do not require public improvements, boundary line adjustments or vacations: One hundred fifty dollars (\$150.00).
 - (2) All subdivisions (residential, non-residential, including townhouses, condominiums and mixed use) that do not require the installation of public improvements: Three hundred dollars (\$300.00) plus fifty dollars (\$50.00) for each lot shown on the preliminary plat.
 - (3) All subdivisions (residential, non-residential, including townhouses and mixed use) that require public improvements: Seven hundred dollars (\$700.00) plus seventy-five dollars (\$75.00) for each lot shown on the preliminary plat.
 - (4) An additional fee of two hundred fifty dollars (\$250.00) shall be collected for any review after the first re-submission, except for re-submittals that are the result of substantial redesign due to additional state or federal agency comments.

- (D) *Development plan fees.* At the time development plans for improvements are submitted, the following fees shall be submitted to the subdivision agent and payable to the City of Hampton.
- (1) Residential, including townhouses: Six hundred dollars (\$600.00) plus eight dollars (\$8.00) per lot shown on the construction plans.
 - (2) Non-residential subdivision, including mixed use: Eight hundred dollars (\$800.00) plus fifty dollars (\$50.00) per lot shown on construction plans.
- (E) *Permit and inspection fees.* At the time of installation of improvements, including vehicle entrances, permit and inspection fees shall be as generally provided for permits and inspections specified in section 35-105 of this chapter and in other ordinances of the city. For permits and inspections not elsewhere specified, fees shall be based on costs, as determined by the agency involved. For re-inspection made necessary (i) by failure to pass earlier inspection, (ii) because work is not ready by the requested inspection time, (iii) due to cancelation of an inspection after the inspector arrives; or (iv) by failure to provide safe and sufficient access to allow for proper inspection, the re-inspection fee shall be one hundred dollars (\$100.00) per re-inspection visit. All fees required by this chapter shall be payable to the City of Hampton within thirty (30) days from billing. Failure to pay within the period stipulated may result in a stop-work order issued by the department of public works or such other action as deemed warranted in the circumstances of the case.
- (F) *Plat vacation fees.* Any application for the vacation of a plat or part thereof shall be accompanied by a fee of one hundred fifty dollars (\$150.00).
- (G) Each separate deed or plat of easement or dedication shall be accompanied by a review fee in the amount of fifty dollars (\$50.00) per instrument to be reviewed, payable to the City of Hampton.
- (H) If a subdivider, at any time during the subdivision review, submits a revised plat or development plan or portion thereof, files or makes a change to the plat or development plan under review not at the request of the subdivision agent or the director of public works as the case may be, such revision shall be accompanied by a fee of one hundred fifty dollars (\$150.00) per sheet that is revised or changed payable to the City of Hampton.
- (I) Prior to recordation of the final plat, the subdivider will pay to the city a sewage fee of five hundred dollars (\$500.00) per each lot in the subdivision section being served by the sewer.
- (J) Recording fees for final subdivision plats, subdivision agreements and any other legal instrument required under this chapter for subdivisions (except for homeowners' association documents required by Section 35-12 below) shall be submitted to the subdivision agent at the time prescribed in this chapter and shall be made payable to the Clerk of the Hampton Circuit Court.

Sec. 35-12. Establishment of homeowners' or property owners' associations.

For any subdivision, including any mixed use subdivision, approved under this chapter (i) in which an area is intended to be owned and used commonly by multiple property owners for recreation, conservation, or other public or semipublic purposes, or (ii) where other common improvements have been made for which operation or maintenance is the responsibility of multiple property owners, no lot shall be approved, recorded, sold, or used within the development, and no building permits shall be issued for any lot within the subdivision, until appropriate documents in a form approved by the city attorney have been executed and duly recorded in the office of the Clerk of the Hampton Circuit Court. Such documents shall set forth the following:

- (A) The nature of the permanent organization under which common ownership, use, or maintenance is to be established, including its purpose; and provisions establishing requirements for mandatory membership;
- (B) How it shall be governed and administered;
- (C) The provisions made for permanent care and maintenance of the common property or improvements, whether public or private, including bonds where required by the subdivision agent;

- (D) The method of assessing the individual property for its share of the cost of adequately administering and maintaining and replacing such common property; and
- (E) The extent of common interest held by the owner of each individual parcel in the tract held in common with others.

Sec. 35-13. Master plan for phased subdivisions.

For multiphased subdivisions, the subdivider shall submit to the subdivision agent a master plan for all phases of the proposed subdivision as part of the preliminary plat submittal under article II of this chapter. The purpose of such master plan is to permit the subdivision agent to advise the subdivider whether his plans are generally in accordance with the requirements of this chapter. The subdivision agent, upon submission of any master plan, may study it and advise the subdivider where it appears that changes are appropriate. The subdivision agent may mark the master plan indicating appropriate changes. The subdivider shall return the master plan to the subdivision agent with each preliminary plat. The master plan shall, at a minimum, show the name, location and dimensions of all streets entering the property, adjacent to the property or terminating at the boundary of the property to be subdivided. It shall also show the location of all proposed streets, their category (e.g., arterial, collector, etc.) and any future extensions, lots, development phases, parks, playgrounds and other proposed uses of the land to be subdivided and their approximate dimensions and a conceptual layout of the water, sanitary sewer systems, and a stormwater management plan in accordance with the provisions of article II of chapter 33.3 of the City Code. The master plan is not binding on the subdivider or the subdivision agent. Review of a master plan does not constitute preliminary plat approval or final subdivision approval. For multiphased subdivisions reviewed under this section, review of a master plan does not, in any way, guarantee approval of future subdivision phases.

Sec. 35-14. Separability.

Should any section or provision of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, other than the part so declared to be unconstitutional or invalid.

Sec. 35-15. No private subdivision determinations.

No officer or employee of the city may represent to a member of the general public that an existing parcel was or was not created in compliance with any subdivision ordinance or other applicable law in effect at that time, except in response to a duly submitted application for any land use or development approval which may be denied because the subject parcel was illegally subdivided.

Secs. 35-16—35-19. Reserved.

ARTICLE II. PRELIMINARY PLAT—PROCEDURES

Sec. 35-20. Preapplication conference and submission of conceptual plan.

Before submitting any subdivision plat or development plans related to such proposed subdivision, the subdivider is advised to confer with the subdivision agent, the director of public works and such other city, state or federal agencies as the subdivider, the subdivision agent or the director of public works deems advisable concerning the general proposal. Such action does not require formal application or fees or formal filing of the plat or development plan and is not to be construed as application for approval of a plat or development plans in computing time limitations in relation thereto. Any comments made at a pre-application conference, whether oral or written, are guidance only and shall not be construed as or be deemed to be official subdivision plat review comments.

Sec. 35-21. Mandatory and optional preliminary plats.

- (A) Subdividers shall submit a preliminary plat for all subdivisions of more than fifty (50) lots, which shall comply with all provisions of this chapter.
- (B) For subdivisions of fifty (50) lots or fewer, a preliminary subdivision plat may be submitted at the option of the subdivider. If the subdivider elects to submit a preliminary subdivision plat, the preliminary plat shall comply with all applicable provisions of this chapter.

Sec. 35-22. Who may prepare.

The preliminary plat of a subdivision shall be on a black or blue line print and shall be prepared by a certified professional engineer or certified land surveyor authorized to do business in the state.

Sec. 35-23. Contents.

- (A) The preliminary plat of a subdivision shall comply with the standards for land boundary surveying practices as set forth in 18 Virginia Administrative Code § 10-20-370, the regulations of the "City of Hampton Landscape Guidelines", and the latest edition of the public works design and construction standards, and shall include a vicinity map, at a scale appropriate to the level of detail but not less than one (1) inch to one thousand (1,000) feet, which vicinity map shall show the area for the proposed subdivision and all streets and water bodies that exist within the area of the vicinity map, along with the scale and north arrow. Each lot in a subdivision shall be of sufficient size to permit development thereon, when all zoning setback areas, all areas listed in section 35-23(C), and any other areas required by law are deducted.
- (B) The preliminary plat of the subdivision shall show the proposed layout of streets, lots, areas to be encumbered by stormwater management facilities as required by chapter 33.3 of the City Code, and other features in relation to existing topography. The preliminary plat shall have a horizontal scale of not less than one hundred (100) feet to the inch and clearly show the following:
 - (1) The subdivision name and location. The title of the subdivision shall be placed in the upper right-hand corner, leaving a space six-tenths (0.6) of an inch wide and at least six (6) inches long between the border line and the name of the subdivision, the date, the scale, and the designation of a section of the subdivision if applicable.
 - (2) (a) Topographic information of a suitable scale shown as spot elevations or contour intervals. (This requirement applies only to the preliminary plat).
 - (b) Vertical control shall be based on North American Vertical Datum of 1988 (NAVD 88).
 - (3) The name and address of the record owner of the land proposed to be subdivided and the name of the subdivider; the source of title with deed book reference, the owner or contract purchaser of the subdivision, the name of the certified professional engineer or certified land surveyor who prepared the plat, and the number of sheets. The certified professional engineer or certified land surveyor shall certify that the source of title of the owner of the land subdivided and the place of record of the last instrument in the chain of title identified on the plat are correct. When the plat is of land acquired from more than one (1) source of title, the boundaries of the several tracts shall be indicated upon such plat.
 - (4) The location and names of adjoining subdivisions and name of the owners of adjoining parcels of land, establishing the boundary lines of the tract to be subdivided.
 - (5) The right-of-way center line location, right-of-way width and name of all existing or platted streets within or adjacent to the subdivision; the center line location, right-of-way width and names of all proposed streets within the proposed subdivision, and the location of all watercourses, utilities, and railroad lines within or adjacent to the proposed subdivision.
 - (6) The boundaries of all property to be dedicated for public use, along with the boundaries of all property to be reserved by covenant in deeds for the common use of the occupants or owners of lots in the

subdivision, or otherwise to be reserved either as passive or active recreation space or natural open space or conservation area, together with a statement of the purpose for which the covenant or reservation is made or such use is restricted or limited.

- (7) The layout, lot lines, lot numbers and block letters and approximate dimensions of proposed lots. All lots shall be numbered with consecutive Arabic numerals in each block and all blocks shall be lettered in consecutive alphabetical order.
 - (8) Boundary lines of any nontidal wetlands as confirmed in writing by the Virginia Department of Environmental Quality or the U.S. Army Corps of Engineers (e-mail or facsimile from the agency followed by original letter from the agency is acceptable).
 - (9) Any grave, object or structure marking a place of burial within the proposed subdivision shall be clearly designated by an archaeologist or similar professional qualified to conduct such designation in accordance with prevailing industry standards.
 - (10) Where any part of the land proposed for subdivision lies in a mapped dam break inundation zone, such fact shall be delineated on the plat.
 - (11) The location of front yard setback lines (unless controlled by the zoning ordinance), and any notations referring to any variances granted by the board of zoning appeals, if applicable.
 - (12) Where floodplains lie within a subdivision, the preliminary plat shall delineate the boundaries of all floodways, flood fringes, approximated floodplains, and coastal high hazard areas. Flood elevations for any land located within a special flood hazard area in accordance with the provisions of chapter 9, article IV of the zoning ordinance and the city flood insurance rate map (FIRM).
 - (13) If streets are to be private, the subdivision plat and all deeds conveying lots in the subdivision shall contain a statement advising that the streets in the subdivision are private and shall not be maintained by VDOT or the city. Grantors of any subdivision lot to which such statement applies shall include the statement on each deed of conveyance thereof. In the event the streets are subsequently proposed to be dedicated to the city as public streets, the property owners served shall, at no cost to either the city or VDOT, cause the streets to meet the prevailing minimum standards governing VDOT's acceptance of the streets as part of the secondary system of state highways.
 - (14) A method of sewage disposal.
 - (15) The soils characteristics of the land being subdivided.
 - (16) An oblong space one (1) inch by four (4) inches shall be provided in the upper right-hand corner below the title block for the signature of the subdivision agent. The final plat will require an additional signature line for the director of public works or their designee.
 - (17) The location, size, alignment or arrangement of each easement to be conveyed or dedicated, with a statement of its intended purpose, any restrictions or limitation placed on such use, and a designation if the easement is public or private.
 - (18) If the director of public works approves roadside ditches/open drainage system in lieu of piped drainage systems or the elimination of sidewalks, the subdivider shall place a notation on the plat, which advises all potential purchasers that the city will not be responsible for providing or bearing the costs of installation of sidewalks, curbs, or gutters if owners of lots in the subdivision desire a piped drainage system.
- (C) The preliminary plat of a subdivision within Chesapeake Bay Preservation Overlay District (O-CBP) shall comply with all applicable provisions of chapter 9, article II of the zoning ordinance and shall include a resource delineation (as such term is defined in section 2-2 of the zoning ordinance) and stormwater management plan-shown on the subdivision plat or attached as an addendum to the plat. The subdivision plat shall also contain a notation thereon to state that land use and development activities or clearing of vegetation within any subdistrict of the O-CBP are regulated pursuant to chapter 9, article II of the zoning

ordinance, and that city confirmation of such resource delineation is required prior to the issuance of land use or development permits. Additionally, the subdivision plat shall contain reference to any Resource Protection Area ("RPA") buffer or Intensely Developed Area ("IDA") encroachment or exception to the O-CBP regulations for development and redevelopment authorized by the City of Hampton.

- (D) The preliminary plat of a subdivision containing any land located in an aircraft accident potential zone as designated on the geometric specifications and height limitations map and/or in noise zone greater than 75 dB Ldn, 70—75 dB Ldn, or 65—70 dB Ldn as designated on the city zoning map, shall delineate the boundaries of such zones and such plat shall state as follows: "THIS SITE LIES WITHIN AIRCRAFT ACCIDENT POTENTIAL ZONE AND/OR NOISE ZONE(S) AND MAY BE SUBJECT TO AIRCRAFT ACCIDENTS AND/OR ABOVE AVERAGE NOISE LEVELS DUE TO ITS PROXIMITY TO AIRPORT OPERATIONS. NOISE ATTENUATION MEASURES FOR NEW CONSTRUCTION MAY BE REQUIRED IN ACCORDANCE WITH THE AIRPORT NOISE ATTENUATION AND SAFETY ORDINANCE AND HEIGHT RESTRICTIONS HAVE BEEN IMPOSED IN ACCORDANCE WITH THE HAMPTON CITY ZONING ORDINANCE."
- (E) The preliminary plat of a subdivision, including (without limitation) townhouse and condominium subdivisions, shall list any proffers or special use permit conditions that affect the property. If special exceptions have been granted by the city council or variances have been granted by the board of zoning appeals, the plat shall include a note detailing any exception or variance so granted.
- (F) Every plat, or deed of dedication to which the plat is attached, shall contain, in addition to the certified professional engineer's or certified land surveyor's certification, a statement as follows: "The platting or dedication of the following described land (here insert a correct description of the land subdivided) is with the free consent and in accordance with the desire of the undersigned owners, proprietors and trustees, if any." The statement shall be signed by such persons and duly acknowledged before some office authorized to take acknowledgment of deeds before approval of the final plat. All final prints and transparent copies shall contain such signatures.

(1) **Sample notary for owner(s):**

STATE OF VIRGINIA
CITY OF HAMPTON, TO WIT:

I _____, A NOTARY FOR THE CITY AND STATE AFORESAID, DO HEREBY CERTIFY THAT _____, (Owner/President/Managing Member [choose one] of _____, WHOSE NAME IS SIGNED TO THE FOREGOING WRITING HAS ACKNOWLEDGED THE SAME BEFORE ME IN MY CITY AND STATE AFORESAID. HE/SHE IS ☐ PERSONALLY KNOWN TO ME OR ☐ HAS PRODUCED _____ AS IDENTIFICATION.

GIVEN UNDER MY HAND THIS ____ DAY OF _____, 20__.

NOTARY PUBLIC

REGISTRATION NUMBER: _____

MY COMMISSION EXPIRES: _____

Signature of Trustee(s) under Deed of Trust [if property is encumbered by a mortgage] or any form of trust & acknowledgment of Notary with signature and seal with Registration Number.

(2) **Sample notary for trustees: (trustees for the lender or other trusts):**

STATE OF VIRGINIA
CITY OF HAMPTON, TO WIT:

I _____, A NOTARY FOR THE CITY AND STATE AFORESAID, DO HEREBY CERTIFY THAT _____, AND _____ TRUSTEE(S), WHOSE NAME(S) IS/ARE SIGNED TO THE FOREGOING WRITING HAS/HAVE ACKNOWLEDGED THE SAME BEFORE ME IN MY CITY AND STATE AFORESAID.

HE/SHE/THEY ☐ IS/ARE PERSONALLY KNOWN TO ME OR ☐ HAS/HAVE PRODUCED _____ AS IDENTIFICATION.

GIVEN UNDER MY HAND THIS _____ DAY OF _____, 20____.

NOTARY PUBLIC

REGISTRATION NUMBER: _____

MY COMMISSION EXPIRES: _____

Sec. 35-23.1. Same—Special provisions.

- (A) If during the pre-application conference as described in section 35-20, it is determined that portions of the requirements set forth in section 35-23 above are unnecessary or inapplicable in the particular case because it is (i) a subdivision that will result in the creation of not more than two (2) lots abutting an existing public road either accepted by the city or within the Virginia Department of Transportation system of primary or secondary highways, so long as the subdivision does not involve the dedication of streets, public easements, or the construction or installation of any public or private infrastructure, facilities or utilities (except connection to existing utilities from the proposed principal structure); or (ii) a boundary line adjustment or vacation. Such requirements may be waived in these cases without the necessity of a formal exception process as set forth in section 35-7; provided however, that any such waiver shall be in writing with the reasons therefore, signed by the subdivision agent and director of public works, and shall become part of the record on the application.
- (B) At the time of submission of preliminary plats and related data, or at any time thereafter, appropriate officers of the city may request additional information required in the circumstances of the particular case. Time elapsing between the request and provision of the information shall be added to the general time limitation of processing.
- (C) Nothing herein contained shall be construed to prohibit submittal of preliminary plats and data in the form required for final plats and data for use in both preliminary and final review.

Sec. 35-24. Submission of copies and application for approval.

A completed digital (Portable Document Format or “.pdf”) version of the preliminary plat required by this article, the plat review application, and the required fee pursuant to section 35-11 shall be submitted to the subdivision agent in the development services center of the community development department for review. Hard copies will only be required at the final approval stage. Once the final plat is approved, the subdivider shall submit to the department three (3) paper copies and a digital version of the plat, except that the subdivider shall provide three (3) mylar copies of any plats sized eighteen (18) inch by twenty-four (24) inches or larger. The subdivision agent may increase or decrease the number of copies and the size of the copies required based on the size of the subdivision or need for inter-agency coordination.

Sec. 35-24.1. Coordination with other agencies and private utilities.

- (A) The subdivision agent shall require evidence that the appropriate federal and state agencies, to include at a minimum the Army Corps of Engineers, Langley Air Force Base (if applicable) and the Virginia Water Control Board, have been notified of the submission of a preliminary subdivision plat. Such notification shall include a property description and a request that the city be informed of any jurisdictional determinations relative to such property.
- (B) The preliminary plat may be processed concurrently with a rezoning or plan amendment request.
- (C) The subdivision agent shall require evidence that Hampton Roads Sanitation District (if applicable) and appropriate private utilities to include at minimum Virginia Natural Gas, Dominion Virginia Power, Verizon, Newport News Waterworks, Cox Communications, and any other private utility as required by the city have

been notified of the submission of a subdivision plat. Such notification shall include a request that the city be informed of any conditions or requirements to be included in the preliminary plat.

Sec. 35-25. Distribution of copies.

The subdivision agent shall distribute the digital version of the preliminary plat application to any city, state or federal agencies or entities as necessary for complete review and conformity with the provisions of this chapter.

Sec. 35-26. Review of preliminary plat—Approval or disapproval generally.

(A) A complete preliminary subdivision plat application shall be reviewed as follows:

- (1) Within forty (40) days of their official submission, the preliminary plat and other related materials shall be reviewed by the subdivision agent and other appropriate agencies of the city for conformity to this chapter and other applicable regulations, and to allow any discussions with the subdivider as to changes deemed advisable and the kind and extent of improvements to be made.
- (2) However, in cases where approval of a feature or features of the plat by a state agency or public authority authorized by state law is necessary, the subdivision agent shall forward the preliminary subdivision plat to the appropriate state agency or authority for review within five (5) business days of receipt of such preliminary subdivision plat. Such state agency or public authority shall conduct its review in accordance with the requirements of Code of Virginia § 15.2-2222.1. The subdivision agent shall act upon a preliminary subdivision plat within twenty (20) days of receipt of approvals from all state agencies.
- (3) All actions on preliminary subdivision plats shall be completed by the subdivision agent and, if necessary, state agencies, within a total of ninety (90) days of submission to the subdivision agent.
- (4) The subdivision agent shall act upon the preliminary plat and related materials as submitted, as modified by the state agency or authority or as modified by the subdivider, and if approved shall certify its approval in writing and shall include the required findings as set forth in section 35-26.1, or if disapproved, shall indicate its disapproval and the reasons therefor by referencing in writing, specific adopted ordinances, regulations and policies. Modifications or corrections that would permit approval shall also be identified.
- (5) In the review of a resubmitted plat that has been previously disapproved the subdivision agent shall consider only the deficiencies identified in the review of the initial submission of the plat that have not been corrected in such resubmission and any deficiencies that arise as a result of the corrections made to address deficiencies identified in the initial submission. In the review of a resubmission of a plat, the subdivision agent shall identify all deficiencies with the preliminary plat that caused the disapproval by referencing specific duly adopted ordinances, regulations or policies and shall identify all modifications or corrections that will permit approval of the plat. Upon the second resubmission of such disapproved plat, the subdivision agent's review shall be limited solely to the previously identified deficiencies that caused their disapproval.
- (6) Upon receipt of a third or subsequent resubmission of a subdivision plat, the subdivision agent shall provide all deficiencies identified in such resubmission to the applicant and to the director of community development. Within 14 days of receipt, the director or equivalent official shall either:
 - (i) Approve the plat or plan of development as submitted;
 - (ii) Permit the applicant to address any deficiencies deemed minor by the director or equivalent official, and resubmit the plat or plan of development for administrative approval. The director or equivalent official shall complete the administrative approval within seven (7) days after receipt of the resubmission; or
 - (iii) Disapprove the resubmission, and identify all deficiencies that caused the disapproval by referencing specific duly adopted ordinances, regulations, or policies and identify all modifications or corrections that will permit approval of the plat or plan of development.

The subdivision agent shall act on any plat that he has previously disapproved within thirty (30) days after the plat has been modified, corrected and resubmitted for approval. Notwithstanding the approval of any preliminary plat, any deficiency in any plat, that if left uncorrected, would violate local, state or federal law or regulations, mandatory VDOT engineering and safety requirements, and other mandatory engineering and safety requirements, shall not be considered, treated or deemed as having been approved by the subdivision agent. Should any resubmission include a material revision of infrastructure or physical improvements from the earlier submission or if a material revision in the resubmission creates a new required review by a state agency or public authority authorized by state law, then the subdivision agent's review shall not be limited to only the previously identified deficiencies identified in the prior submittals and may consider deficiencies initially appearing in the resubmission because of such material revision.

- (B) The action of the subdivision agent shall be documented through digital correspondence and retained within the official records of the City. Such documentation shall include all determinations, references, conditions, required revisions, or reasons for disapproval, as applicable. Electronic notification of the subdivision agent's action shall be provided to the subdivider, and all related digital records shall be maintained as required for official recordkeeping and for any further review or action by the subdivision agent or other affected city or state agencies.
- (C) If the subdivision agent fails to approve or disapprove the preliminary plat within the prescribed period of time set forth herein, the subdivider may, after ten (10) days' written notice to the subdivision agent, petition the Hampton Circuit Court to enter such order as it deems proper, which may include directing approval of the plat. No alternative subdivision plat may be pursued for approval by the subdivision agent while a subdivider's proceeding in the Hampton Circuit Court is pending.
- (D) Notwithstanding any provision of this chapter to the contrary, the subdivision agent, with the concurrence of all applicable local reviewing agencies, may administratively approve any resubmitted subdivision plat that the subdivision agent deems to be in compliance with local ordinances and state law.

Sec. 35-26.1. Required findings.

In approving a preliminary plat, the subdivision agent shall make each of the following findings in writing which findings shall be made part of the file on record:

- (A) The proposed development, including its lot sizes, density, access and circulation, and any required buffer areas are consistent with the zoning ordinance and compatible with the existing and/or permissible future use of adjacent property.
- (B) Required public facilities are adequate (or adequate subject to construction and installation of upgrades by the subdivider at the subdivider's cost) to serve the project under consideration and will provide access to adjoining land in a manner that will allow development of those adjoining lands in accord with this chapter. Street system adequacy shall be based on the street system's ability to safely accommodate trips from existing and planned land uses on the existing and proposed street system without creating safety hazards, generating auto stacking that blocks driveways or intersections, or disrupting traffic flow on any adjacent street.
- (C) The drainage, erosion, and construction in the area can be handled through normal engineering and construction practices.
- (D) The lot, block, and street layout are consistent with the subdivision design standards contained in this chapter.

Sec. 35-27. Effect of preliminary plat approval.

- (A) Approval of a preliminary plat of a subdivision shall not constitute approval of the final plat. It shall be deemed as an expression of approval of the layout submitted on the preliminary plat as a guide to the preparation of the final plat.
- (B) Once a preliminary subdivision plat is approved, it shall be valid for a period of five (5) years, provided the subdivider (i) submits a final subdivision plat for all or a portion of the property within one (1) year of such approval or such longer period as may be prescribed and (ii) thereafter diligently pursues approval of the final subdivision plat. Diligent pursuit of approval means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications thereto. However, no sooner than three (3) years following such preliminary subdivision plat approval, and upon ninety (90) days' written notice by certified mail to the subdivider, the subdivision agent may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the final subdivision plat.

Secs. 35-28—35-40. Reserved.

ARTICLE III. FINAL PLAT

Sec. 35-41. When required; submission to subdivision agent.

- (A) Except as otherwise set forth in this chapter, preparation of a final plat is required whenever there is any proposal for subdividing land in the City of Hampton.
- (B) The final plat and other exhibits required for approval shall be prepared as specified in this chapter and submitted to the subdivision agent. Where provision has been made for phased development in connection with approval of the preliminary plat, including time limitations, the subdivider may submit a final plat for only that portion of the approved preliminary plat which he proposes to record and develop at the time, if such portion conforms to all requirements of this chapter.
- (C) For subdivisions of fifty (50) lots or fewer where a subdivider has elected not to submit a preliminary subdivision plat, the terms "final plat of a subdivision," "final plat," and "final subdivision plat" used interchangeably in this chapter shall be read to refer to the single subdivision plat required for review and approval.

Sec. 35-42. To be accompanied by review fee, required legal instruments and cost of recordation, etc.

- (A) There shall be submitted to the subdivision agent the appropriate review fee as set forth in section 35-11 along with a check payable to the Clerk of the Hampton Circuit Court for costs of recordation of the final plat.
- (B) Legal instruments, in writing of sufficient legal form for recordation in the Hampton Circuit Court Clerk's Office, as may be required by this chapter or by the subdivision agent, shall accompany the final plat. A check payable to the Clerk of the Hampton Circuit Court, for costs of recordation of any such instruments, shall accompany the final plat when submitted for approval.

Sec. 35-43. Contents of final plat and conformance with preliminary plat.

- (A) For any subdivision plat which has first been approved as a preliminary subdivision plat, the final plat of a subdivision shall conform to the preliminary plat, as approved under the provisions of this chapter.

- (B) For subdivisions of fifty (50) lots or fewer where the subdivider has elected not to submit a preliminary subdivision plat, the final subdivision plat shall comply with sections 35-22—35-25 and 35-26.1 of this chapter.

Sec. 35-44. Preparation generally.

The final plat of a subdivision to be recorded shall be drawn on black or blue line print and transparent medium (mylar), to a scale of one hundred (100) feet to the inch or larger, with letters and figures not less than one-tenth (0.10) of an inch in height on a sheet or sheets eighteen (18) inches by twenty-four (24) inches, and shall include a one-quarter (0.25) inch border on the top, bottom and right side, with a one and one-half (1½) inch border on the left side of the eighteen-inch side.

Sec. 35-45. Contents.

A final subdivision plat submitted under this article shall contain the following:

- (A) All of the requirements set forth in article II section 35-23 unless waived by the subdivision agent and director of public works in accordance with section 35-23.1.
- (B) The name of the subdivision, with designation of section if only a portion of the approved preliminary plat is being developed, the date, the scale, the name of the certified professional engineer or certified land surveyor who prepared the plat and the number of sheets.
- (C) The signature of the certified professional engineer or certified land surveyor on the certification required under section 35-23(B)(3) of this chapter.
- (D) The signatures of the owner(s) and trustees, if any, properly acknowledged as set forth in section 35-23(F) of this chapter.

Sec. 35-45.1. Reserved.

Sec. 35-45.2. Reserved.

Sec. 35-46. Approval or disapproval.

- (A) The final plat of a subdivision shall be approved or disapproved by the subdivision agent with the concurrence of the director of public works within the time limitations set forth in section 35-26 of this chapter or shorter time period as may determined by the subdivision agent and the director of public works. The review period begins as of the date of submission of the final plat and related data.
- (B) In the review of a resubmitted final plat that has been previously disapproved the subdivision agent and the director of public works shall consider only the deficiencies they had identified in their review of the initial submission of the plat that have not been corrected in such resubmission and any deficiencies that arise as a result of the corrections made to address deficiencies identified in the initial submission. In the review of a resubmission of a final plat, the subdivision agent and the director of public works shall identify all deficiencies with the plat that caused the disapproval by reference to specific duly adopted ordinances, regulations or policies and shall identify all modifications or corrections that will permit approval of the final plat. Upon the second resubmission of such disapproved plat, the subdivision agent and director of public works' review shall be limited solely to the previously identified deficiencies that caused their disapproval. The subdivision agent and director of public works shall act on any plat that they have previously disapproved within thirty (30) days after the plat has been modified, corrected and resubmitted for approval. The failure of the subdivision agent and the director of public works to approve or disapprove a resubmitted plat within the time periods required by this section shall cause the plat to be deemed approved. Notwithstanding the approval or deemed approval of the plat, any deficiency in the plat, that if left uncorrected, would violate local, state or federal law or regulations, mandatory VDOT engineering and safety

requirements, and other mandatory engineering and safety requirements, shall not be considered, treated or deemed as having been approved by the subdivision agent. Should any resubmission include a material revision of infrastructure or physical improvements from the earlier submission or if a material revision in the resubmission creates a new required review by a state agency or public authority authorized by state law, then the subdivision agent and director of public works' review shall not be limited to only the previously identified deficiencies identified in the prior submittals and may consider deficiencies initially appearing in the resubmission because of such material revision.

- (C) No final plat shall be approved by the subdivision agent and the director of public works unless the subdivider complies in all respects with the provisions of this chapter.
- (D) The overall uses and densities, external buffers, and number of access points shall comply with any approved preliminary plat and/or engineering plan, including any conditions attached thereto.
- (E) In addition to the findings set forth in this chapter, the subdivision agent and the director of public works shall not approve a final plat unless and until satisfactory evidence is filed that the final plat is in a form acceptable for recording with the clerk of the circuit court, that all final plats have been signed by the subdivider and the final plats and development plans have been approved by the director of public works. The subdivider will also be required to submit evidence of payment of all design and construction costs for improvements or appropriate performance surety as set forth in section 35-108.

Sec. 35-47. Recordation and indexing.

- (A) When a final subdivision plat under this article has been executed, acknowledged and approved in accordance with the provisions of this chapter, the subdivision agent shall deliver same to the director of public works who shall have the same filed and recorded in the office of the Clerk of the Hampton Circuit Court where deeds are admitted to record for the lands contained in the plat, and indexed in the general index of deeds under the names of the owners of lands signing the statement provided for in paragraph (F) of section 35-23 and under the name of the subdivision. No final plat shall be recorded unless and until it shall have been approved by the subdivision agent with the concurrence of the director of public works or the city council, as applicable.
- (B) The recordation of such plat shall operate to transfer, in fee simple, to the city, such portion of the premises platted as is on such plat set apart for streets, alleys, public easements or other public use and to create a public right of passage over the same; but nothing contained in this article shall affect the right of a subdivider of land heretofore validly reserved.
- (C) Approved final plats shall be recorded in the Clerk's Office of the Hampton Circuit Court within one hundred eighty (180) days after approval thereof; otherwise, such approval shall become null and void unless appropriate and timely extensions are granted by the subdivision agent with the concurrence of the director of public works.

Sec. 35-48. Distribution of copies after recordation.

After the recordation of a final subdivision plat has been accomplished, the director of public works shall deliver to the subdivider a copy thereof and distribute the remaining copies among the city and state agencies as deemed necessary.

Sec. 35-49. Article creates no city obligation as to improvements prior to acceptance thereof by city.

Nothing in this article shall be construed as creating an obligation upon the city to pay for grading or paving, or for sidewalks, sewers, curb and gutter or other improvement or construction, or for the maintenance and care thereof until duly accepted by the city.

Sec. 35-50. Effect of final plat approval.

- (A) An approved final subdivision plat which has been recorded shall be valid for a period of not less than five (5) years from the date of approval thereof or for such longer period as the subdivision agent may, at the time of approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development.
- (B) Phasing. A subdivider may record a section of a final subdivision plat approved by the city pursuant to this chapter if the subdivider furnishes to the subdivision agent the required agreements and assurances in accordance with section 35-108 of this chapter for the estimated cost of the facilities to be dedicated within said section for public use and maintained by the city. The subdivider shall have the right to record the remaining sections shown on the subdivision plat for a period of five (5) years from the date of the last recorded plat of subdivision for the property. The five-year period of validity shall extend from the date of the last recorded plat. Such right shall be subject to the terms and conditions of the Code of Virginia and subject to engineering and construction standards and the zoning ordinance requirements in effect at the time that each remaining section is recorded.
- (C) Extension of validity. Upon written application of the subdivider filed prior to expiration of a recorded final subdivision plat, the subdivision agent, with the concurrence of the director of public works, may grant one (1) or more extensions of such approval for additional periods as the subdivision agent and director of public works may, at the time the extension is granted, determine to be reasonable, taking into consideration the size and phasing of the proposed development, the laws, ordinances and regulations in effect at the time of the request for an extension.