

1 Ordinance to amend and re-enact chapter 35 of the City Code of the City of Hampton,
2 Virginia entitled "Subdivisions" and to establish or increase fees for review and
3 administration of subdivision ordinance as authorized by Va. Code § 15.2-2241.A.9.
4

5 BE IT ORDAINED by the Council of the City of Hampton, Virginia that chapter 35 of the
6 City Code of the City of Hampton, Virginia, be amended and re-enacted as follows:
7

8 **SUBDIVISIONS**
9

10 **ARTICLE I. - IN GENERAL**
11

12 **Sec. 35-1. - Definitions.***Purpose.*
13

14 *The purpose of this chapter is:*

15
16 *(A) To ensure the orderly subdivision and development of land, as set forth in VA Code §*
17 *15.2-2240 et seq.*
18

19 *(B) To protect and provide for the public health, safety, and general welfare of the city.*
20

21 *(C) To ensure adequate provision of drainage and flood control, including impounding*
22 *structures, impacts within dam break inundation zones, and other public purposes.*
23

24 *(D) To provide adequate and efficient coordination of streets within and contiguous to*
25 *the subdivision with other existing or planned streets, water, sewage facilities and other*
26 *public needs and facilities.*
27

28 *(E) To establish reasonable standards of design and procedures for subdivisions and re-*
29 *subdivisions in order to further the orderly layout and use of land and to ensure proper*
30 *legal descriptions and monumenting of subdivided land.*
31

32 *(F) To protect and improve the water quality of the Chesapeake Bay and its tributaries.*
33

34 *(G) To provide proper ingress and egress through the dedication or reservation of rights-*
35 *of-way or easements for public improvements within proposed subdivisions.*
36

37 *(H) To protect and preserve the public health, safety and welfare from the adverse*
38 *impacts associated with high levels of noise from flight operations at Langley Air Force*
39 *Base and the potential for aircraft accidents associated with proximity to such military air*
40 *facility operations.*

41 ~~For the purposes of this chapter, the following words and phrases shall have the~~
42 ~~meanings herein ascribed to them:-~~

43 ~~Alleys are primarily designed to serve as access to the side or rear of those~~
44 ~~properties whose principal frontage is on some other street.~~

45 ~~Arterial streets are those to be used primarily for fast or high volume traffic; for~~
46 ~~efficient, safe and direct connection to, or separation of, neighborhoods; for circulation to~~
47 ~~destinations outside the residential area.~~

48 ~~Buffer area is an area of natural or established vegetation managed to protect~~
49 ~~other components of a resource protection area and state waters from significant~~
50 ~~degradation due to land disturbances.~~

51 ~~Chesapeake Bay Preservation District (SPI-CBPD) means any land designated by~~

the Hampton City Council pursuant to Part III of the Chesapeake Bay Preservation Area Designation and Management Regulations, VAC 10-20-70 et seq., and Section 10.1-2107 of the Chesapeake Bay Preservation Act, and pursuant to Chapter 17.3, Article X of the Hampton City Zoning Ordinance. A Chesapeake Bay Preservation District shall consist of a resource protection area and a resource management area.

City clerk shall mean the clerk of the city council.

Clerk of the court shall mean the Clerk of the Circuit Court of Hampton.

Coastal Barrier Resources System means an area comprised of undeveloped barrier islands and associated wetlands as designated under the Coastal Barrier Resources Act, 16 U.S.C.A. § 3501.

Collector streets are those which carry traffic from minor collector streets and residential streets to the major system of arterial streets.

Comprehensive plan or portions thereof are those coordinated plans in preparation or which have been prepared by the planning commission for the physical development of the city, or any plans, being portions of the comprehensive plan, prepared for the physical development of the city that designate, among other things, plans and programs to encourage the most appropriate use of land, lessen congestion throughout the city and safeguard and promote the interests of public health, welfare and safety.

Conditional approval is the action taken on the preliminary plat by the city manager.

Culs-de-sac are minor streets with only one (1) outlet and having appropriate terminals for the safe and convenient reversal of traffic movement.

Development means the construction, or substantial alteration of residential, commercial, industrial, institutional, recreational, transportation, or utility facilities or structures.

Director of public works shall mean the director of the department of public works of the city.

Final approval is the final official action, in writing thereon, taken by the city manager on the final plat or portion thereof that has previously received his conditional approval.

Final plat is the plan of the subdivision, or any portion thereof, prepared for filing for record by the clerk of the court and conforming to the preliminary plat as conditionally approved. After the clerk of the court has filed for record the final plat, it shall thereafter be known as an authorized subdivision.

Improvement means any physical alteration of real property. Included in the term are clearing vegetation, grading, utility installation, filling, excavation, or construction of any structure.

Intensely developed area means that portion of the Chesapeake Bay Preservation District, delineated within the resource protection area on the Chesapeake Bay Preservation District Map, where development is concentrated and little of the natural environment remains.

Minor collector streets are those which carry traffic from residential streets to collector streets and may include the principal entrance streets for major circulation within a residential development.

Nontidal wetlands are those wetlands other than tidal wetlands that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U.S. Environmental Protection Agency and the Army Corps of Engineers, pursuant to enforcement of Section 404 of the Federal Clean Water Act in 33 CFR 328.3b.

Preliminary plat is a preliminary plan of the subdivision containing the elements

and requirements set forth in this chapter.

Property split is the division of property into two (2) lots, either of which is less than five (5) acres.

Public streets include every way, lane, road, street and boulevard and every way or place in the city open as a matter of right to public foot or vehicular travel.

Redevelopment is the process of developing land that is or has been previously developed.

Residential streets are those which are used primarily for access to the abutting residential properties and are designed to discourage their use by through traffic.

Resource management area is that component of the Chesapeake Bay Preservation District that is not classified as the resource protection area. The RMA is comprised of land that is contiguous to the variable width resource protection area buffer for a distance of one hundred (100) feet in the landward direction.

Resource protection area is that component of the Chesapeake Bay Preservation District comprised of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters. Resource Protection Areas include: (i) Tidal wetlands; (ii) Non-tidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow; (iii) Tidal shores; and, (iv) a variable width buffer area not less than one hundred (100) feet in width. The variable width buffer area shall be located adjacent to and landward of the components listed in (i) through (iii) above, and along both sides of any water body with perennial flow. The variable width buffer area shall also include lands designated as part of the Coastal Barrier Resources System not otherwise listed as a Resource Protection Area Feature where present. The buffer area shall be designated as the landward component of the RPA notwithstanding the presence of permitted uses, encroachments, and permitted vegetation clearing in compliance with Chapter 17.3, Article X of the Hampton City Zoning Ordinance.

Review committee is a group of persons, as defined in the zoning ordinance, which convenes to hear requests for relief from the Chesapeake Bay Preservation District regulations and to arbitrate Chesapeake Bay Preservation District boundary disputes.

Service drives are minor streets, parallel and adjacent to arterial streets, which provide access to abutting properties and protection from through traffic.

Subdivider is any person proposing to make or to have made a subdivision.

Subdivision means the division of a parcel of land into three (3) or more lots or parcels of less than five (5) acres each for the purpose, whether immediate or future, or both, of transfer of ownership or building development, or if a new street is involved in such division, any division of a parcel of land. The term includes resubdivision and, where appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

Tidal shore or *shore* means land contiguous to a tidal body of water between the mean low water level and the mean high water level.

Tidal wetlands are vegetated lands which lie between and contiguous to mean low water and an elevation above mean low water equal to the factor of one and one-half (1½) times the mean tide range, or nonvegetated land which lie contiguous to mean low water and are between mean low water and mean high water.

Water dependent facility is a development of land that cannot exist outside of the resource protection area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include, but are not limited to, (i) ports; (ii) the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers; (iii) marinas and other boat docking structures; (iv) beaches

and other public water-oriented recreation areas; and (v) fisheries or similar marine resources facilities.

Sec. 35-2. - Territorial 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.* ~~and within a distance of three (3) miles from the corporate limits into any adjacent county.~~

(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 section 2.1 of the city zoning ordinance shall control the meaning of any terms or phrases used herein.

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

~~City council designates as its agent the director of the department of community development city manager, or his designee designated agent (the "subdivision agent"), 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 director of the department of public works or his designee shall administer and enforce the provisions of this chapter related to approval or disapproval of final subdivision plats together with the subdivision agent, approval or disapproval of development plans and design and construction standards and 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 his 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 city manager in writing thereon. or by the city manager and the designated approving agency of any adjoining county having a subdivision ordinance, in which any part of the land lies.~~

(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 21 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)~~ ~~one hundred dollars (\$100.00)~~ 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 § 17-59 of the Code of Virginia 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 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 VA Code §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 city council may grant exceptions to the general provisions of this chapter not governed by 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 planning division of the department of community development. The petition shall state fully the grounds for the petition and all of the facts relied upon by the subdivider.

(3) The subdivision agent and the planning division staff shall review the petition for completeness and may require such additional information as he or they may deem necessary to process the petition to the planning commission for its consideration.

(4) The burden shall be on the subdivider to demonstrate the need for the exception.

(5) The planning commission shall consider the petition in the manner of a rezoning petition at a public hearing which shall be advertised in accordance with VA Code §15.2-2204 and shall submit its recommendation to the city council to approve or deny the petition. The planning commission in considering such petitions may impose such reasonable conditions in addition to the provisions of this chapter as it may deem necessary in the public interest, and it shall make the proper findings as set forth in subsection (B) of this section 35-7. Notwithstanding the petition request, the planning commission may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

(6) Following the recommendation of the planning commission, the city council shall consider the petition at a public hearing advertised in accordance with VA Code § 15.2-2204 and shall recommend approval or denial of the petition with recommended conditions and in accordance with the provisions of this section.

(B) The city council shall not approve a petition for an exception unless it receives a recommendation from the planning commission and unless it finds 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 applicable generally to other property so as not 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 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 as evidenced by a formal council resolution and filed with the preliminary subdivision plat and improvement plans for construction. A note shall be prominently placed on the final plat detailing any exception so granted.

Sec. 35-8. - Appeals.

In the event a plat for subdivision is disapproved by the subdivision agent or the city council and the subdivider contends that the disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he may appeal such decision to the Hampton circuit court within 60 days of written disapproval by the subdivision agent or the city council. 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, and when appropriate to context, the process of subdividing or 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 and 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 VA Code § 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 VA Code § 15.2-2272.

(3) No application to vacate a plat shall be processed unless accompanied by a fee as authorized by VA Code § 15.2-2273.

(4) Any such vacation pursuant to section 35-11 (A) (1) or (2) shall operate to destroy the force and effect of the recording of the plat so vacated and divest all public rights in, and to reinvest to the owners, proprietors and trustee, if any, the title to the streets, alleys, easements for public passage and other public areas laid out or described in such plat.

(B) Boundary lines may be vacated, relocated or altered pursuant to VA Code § 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 state 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 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) Two lot subdivisions that do not require the installation of public improvements, boundary line adjustments or vacations: \$150.00.

(2) All subdivisions (residential, non-residential, including townhouses, condominiums and mixed use) that do not require the installation of public improvements \$300.00 plus \$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: \$500.00 plus \$50.00 for each lot shown on the preliminary plat.

(4) An additional fee of \$250.00 shall be collected for any review after the second re-submission not to include resubmittals that are the result of substantial redesign due to additional state or federal agency comments.

(B) Final plat review fees. At the time final subdivision plats are submitted for review, the following fees shall be submitted to the subdivision agent and payable to the City of Hampton:

(1) Two lot subdivisions that do not require public improvements: No additional fee.

(2) Boundary line adjustments or vacations: No additional fee.

(3) All subdivisions (residential, non-residential, including townhouses, condominiums and mixed use) that do not require the installation of public improvements \$150.00 plus \$25.00 for each lot shown on the final plat.

(4) All subdivisions (residential, non-residential, including townhouses and mixed use) that require public improvements: \$200.00 plus \$25.00 for each lot shown on the final plat.

(5) An additional fee of \$250.00 shall be collected for any review after the second re-submission not to include resubmittals that are the result of substantial redesign due to additional state or federal agency comments.

(C) 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: \$600.00 plus \$8.00 per lot shown on the construction plans.

(2) Non-residential subdivision, including mixed use: \$800.00 plus \$50.00 per lot shown on construction plans.

(D) 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) failure to provide safe and sufficient access to allow for proper inspection, the re-inspection fee shall be \$100.00 per re-inspection visit. All fees required by this chapter shall be payable to the City of Hampton within 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.

(E) Subdivision exception fees. Any petition for an exception shall be accompanied by a fee of \$750.00 payable to the City of Hampton to cover the costs of processing the petition and publication of notice of public hearing.

(F) Plat vacation fees. Any application for the vacation of a plat or part thereof shall be accompanied by a fee of \$150.00.

(G) At the time separate easement or dedication deeds or plats are submitted a review fee in the amount of \$50.00 per instrument to be reviewed, payable to the City of Hampton shall be required.

(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 \$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 \$500.00 per unit for 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 shall be submitted to the subdivision agent at the time prescribed in this section or 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.

Within any subdivision, including any mixed use subdivision, approved under this chapter in which an area is intended to be used in common for recreation and/or conservation, or other public or semipublic purposes, or where other improvements have been made in which operation and/or maintenance is the responsibility of the homeowners or 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 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 chapter 33.1 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.

Secs. 35-15 - 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 he, 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.

Sec. 35-21. - Required.

Whenever a subdivision is proposed to be made, and before any construction work, including grading, is started, the subdivider shall cause a preliminary plat to be prepared.

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** registered-professional engineer or **certified** registered-land surveyor authorized to do business in the state.*

Delineation of the nontidal wetlands portion of the resource protection areas shall be

prepared by a qualified wetlands scientist.

Sec. 35-23. - Contents.

~~(A)(a)~~ The preliminary plat of a subdivision shall *comply with the standards of VA Code 42.1-82 and 17VAC15-60-10 through 17VAC15-60-70, the minimum standards and procedures for land boundary surveying practices as set forth in the Virginia Department of Professional and Occupational Regulation APELSCIDLA Board regulation 18 VAC10-20-370, the regulations of the "Landscape Guidelines", and the latest edition of the public works design and construction standards, and shall* include a vicinity map, at a scale of one (1) inch to eight hundred (800) feet, ~~drawn accurately, which shall show all adjacent subdivision,~~ *the area for the proposed subdivision and all streets and water bodies that exist within the area of the vicinity map, 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.* streets and tract lined of acreage parcels, with the names of the owners of record. It shall show how the proposed streets may connect with existing and proposed streets in neighboring subdivisions or unplatted property to provide the most advantageous development of the entire neighborhood, and the relationship of the proposed subdivision to existing community facilities which serve or influence it, and shall include the subdivision name and location, traffic arteries, schools, parks and playgrounds, scale, north arrow and date.

~~(B)(b)~~ The preliminary plat showing the topography of the subdivision shall show in simple form the proposed layout of streets, lots, *areas to be encumbered by stormwater management facilities,* 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, 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)(2)~~ 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 and the owner or *contract purchaser* proprietor of the subdivision and 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 provide a certification to be signed by the certified professional engineer or certified land surveyor upon submission of a final plat setting forth 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. When the plat is of land*

610 *acquired from more than one (1) source of title, the outlines of the several tracts*
611 *shall be indicated upon such plat.*
612

613 ~~(4)~~(3) The location and names of adjoining subdivisions and name of the owners
614 of adjoining parcels of land, establishing the boundary lines of the tract to be
615 subdivided.
616

617 ~~(5)~~(4) The *right-of way center line* location, *right-of-way* width and name of all
618 existing or platted streets within or adjacent to the subdivision; the *center line*
619 location, *right-of-way* width and names of all proposed streets within the
620 proposed subdivision and the location of watercourses, *all utilities* ~~power lines~~
621 ~~and telephone~~ and railroad lines within or adjacent to the proposed subdivision.
622

623 ~~(6)~~(5) The boundaries of all property to be dedicated for public use and of all
624 property to be reserved by covenant in deeds for the common use of the
625 occupants *or owners* of lots in the subdivision, or otherwise reserved *either as*
626 *passive or active recreation space or natural open space or conservation area*,
627 with a statement of the purposed for which the covenant or reservation is made
628 or such use is restricted or limited.
629

630 ~~(7)~~(6) The layout, lot lines, lot numbers and block letters and approximate
631 dimensions of proposed lots. *All lots shall be numbered with consecutive Arabic*
632 *numerals in each block and all blocks shall be lettered in consecutive*
633 *alphabetical order.*
634

635 ~~(7) Scale, north arrow (true meridian where practicable) and date.~~

636 *(8) Boundary lines of any nontidal wetlands as confirmed in writing by the Virginia*
637 *Department of Environmental Quality or the U. S. Army Corps of Engineers (e-*
638 *mail or facsimile from the agency followed by original letter from the agency is*
639 *acceptable).*
640

641 ~~(9)~~(8) Any grave, object or structure marking a place of burial within the proposed
642 subdivision shall be clearly designated.
643

644 *(10) Where any part of the land proposed for subdivision lies in a mapped dam*
645 *break inundation zone such fact shall be delineated on the plat.*
646

647 *(11) The location of front yard setback lines, unless controlled by the zoning*
648 *ordinance and any notations referring to any variances granted by the board of*
649 *zoning appeals, if applicable.*
650

651 *(12) Where floodplains lie within a subdivision, the preliminary plat shall delineate*
652 *the boundaries of all floodways, flood fringes, approximated floodplains, and*
653 *coastal high hazard areas. Flood elevations for any land located within a special*
654 *flood hazard area in accordance with the provisions of section 17.3-31 et seq. of*
655 *article V of the zoning ordinance and the city flood insurance rate map (FIRM).*
656

657 ~~*(13) If streets are to be private and not constructed pursuant to the provisions of*~~
658 ~~*the latest edition of the public works design and construction standards to meet*~~
659 ~~*the standards necessary for inclusion in the secondary system of state highways,*~~

~~or are not to be dedicated to the city, 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, and where applicable, do not meet state design standards. 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 primary and reserve sewage disposal site for each lot that has been approved by the local health department and of less than 1000 gallons per day.~~

~~(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 his designee.~~

~~(17) The location, size, alignment or arrangement of all easements provided, with a statement of 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, a notation on the plat, which advises all potential purchaser that the city will not be responsible for providing and/ or bearing the costs of installation of sidewalks, curbs and gutters if and when owners of lots in the subdivision desire a piped drainage system, shall be required.~~

~~(C)(e) The preliminary plat of a subdivision, or section of a subdivision, or a preliminary plat of a proposed minor boundary line adjustment within the Chesapeake Bay Preservation District, shall include a minor water quality impact assessment as an addendum to the plat and shall show or otherwise indicate the following on the plat:~~

~~(1) Show~~ ~~T~~the boundaries of the following ~~resource protection area (RPA)~~ features:

~~(a)(i)~~ Tidal wetlands, verified by field survey;

~~(b)(ii)~~ Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;

~~(c)(iii)~~ Tidal shores; and,

~~(d) (iv)~~ A variable width buffer area not less than one hundred (100) feet in width. The variable width ~~one hundred (100) foot wide~~ buffer area shall be

located adjacent to and landward of the components listed in (a)(i) through (c)(iii) above, and along both sides of any water body with perennial flow. The variable width buffer area shall also include lands designated as part of the Coastal Barrier Resources System not otherwise listed as a Resource Protection Area Feature where present. Collectively, these areas shall be known as resource protection areas.

(2) ~~Show~~ A primary and reserve sewage disposal site *as set forth in section 35-23(B)(14) and pump-out requirements in accordance with section 30-69 of the Hampton city code.* for each lot when use of an on-site sewage system not requiring a Virginia Pollution Discharge Elimination System (VPDES) permit is proposed.

(3) ~~Show a~~ *Delineation of* sufficient building area outside of the areas listed in this subsection, ~~required setbacks,~~ *for lots within the "Special Public Interest-Chesapeake Bay Preservation district ("SPI-CBPD") based on all zoning regulations* and all other applicable city requirements to permit development of the lot.

(4) ~~Show~~ *A notation on the plat to state that land use and development activities including land disturbing activities or clearing of vegetation within the RPA, resource management area (RMA) and any intensely developed area (IDA) are regulated pursuant to the city's Chesapeake Bay Preservation district ("CBPD") ordinance (chapter 17.3, article X of the zoning ordinance), and that city confirmation of a site specific CBPD delineation is required prior to the issuance of land use or development permits.* ~~notation stating that no improvement or development, except those permitted pursuant to Chapter 17.3, Article X of the Hampton City Zoning Ordinance shall be permitted within the Resource Protection Areas, Resource Management Areas, and Intensely Developed Areas.~~

(5) ~~Show~~ *T* the boundary of any *RPA and RMA* resource management area on the site.

(6) ~~Show~~ *T* the boundary of any *IDA* intensely developed area on the site.

(7) ~~Indicate soil characteristics of the land proposed to be subdivided.~~

(7)(8) Reference *to* any RPA buffer *or IDA* encroachment or exception to the *CBPD* RPA 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 townhouse and condominium subdivisions shall list any proffers or special use permit conditions that affect the property. If 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 and where 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) is not involved; or (ii) a boundary line adjustment or vacation, such requirements may be waived in the case 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.

~~Twelve (12) twenty-four (24) inch by thirty-six (36) inch~~ ~~Six (6) copies and a digital version acceptable to the subdivision agent~~ of the preliminary plat required by this article and the required fee pursuant to section 35-11 shall be submitted to the subdivision agent in the land development services division of the department of community development ~~the city clerk, with written application for conditional approval, so as to permit the city manager forty-five (45) days from the date of submission for review and investigation.~~ The subdivision agent has the discretion to 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* ~~planning director~~ shall require evidence that the appropriate federal and state agencies, to include at a minimum the Army Corps of Engineers, *Langlely Air Force Base (if applicable)* and the Virginia Water Control Board, have been notified of the submission of a preliminary subdivision ~~plat~~ plan. 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; ~~planning commission action.~~

~~(a) The subdivision agent shall distribute the copies 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 the this chapter.~~

~~The six (6) copies of the plat submitted under section 35-24 shall be referred as follows: Two (2) to the director of public works; one to the zoning administrator; one to the director of public health; and two (2) to the planning commission, for submission at the next regular planning commission meeting for determination as to whether or not the proposed subdivision is or is not in conflict with the comprehensive plan or any city ordinances. If not in conflict, the commission shall, by resolution, so state and forward such resolution, with one copy of the preliminary plat, to the city manager.~~

~~(b) In the event of a possible conflict of the preliminary plat of a subdivision with the comprehensive plan or any city ordinance, the subdivider may appear at the next regular meeting of the planning commission, at which time such conflicts shall be fully explained. If such procedure is not favored by the subdivider or if no agreement results after the appearance, a resolution stating the areas of conflict with the comprehensive plan or city ordinance shall be forwarded to the city council in accordance with the general law, two (2) copies being furnished the city manager, one of which shall be by him forthwith furnished to the subdivider.~~

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

~~(A)(a) Following the review of a preliminary plat submitted under this article and consultation, if necessary, with the subdivider on the changes deemed advisable and the kind and extent of improvements to be made by him, A complete preliminary subdivision plat application shall be reviewed as follows:~~

(1) Within 60 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

910 applicable regulations, and to allow any discussions with the subdivider as to
911 changes deemed advisable and the kind and extent of improvements to be
912 made.
913

914 (2) However, in cases where approval of a feature or features of the plat by a
915 state agency or public authority authorized by state law is necessary, the
916 subdivision agent shall forward the preliminary subdivision plat to the appropriate
917 state agency or authority for review within 10 business days of receipt of such
918 preliminary subdivision plat. Such state agency or public authority shall conduct
919 its review within 45 days of receipt of the preliminary plat upon first submission
920 and within 45 days for any proposed plat that has been previously disapproved.
921 The subdivision agent shall act upon a preliminary subdivision plat within 35 days
922 of receipt of approvals from all state agencies.
923

924 (3) The subdivision agent shall not be required to approve a preliminary
925 subdivision plat in less than 60 days from the date of its original submission to
926 the subdivision agent and all actions on preliminary subdivision plats shall be
927 completed by the subdivision agent and, if necessary, state agencies, within a
928 total of 90 days of submission to the subdivision agent.
929

930 (4) The subdivision agent shall act upon the preliminary plat and related
931 materials as submitted, as modified by the state agency or authority or as
932 modified by the subdivider, and if approved shall certify its approval in writing and
933 shall include the required findings as set forth in section 35-26.1, or if
934 disapproved, shall indicate its disapproval and the reasons therefor by
935 referencing in writing, specific adopted ordinances, regulations and policies.
936 Modifications or corrections that would permit approval shall also be identified.
937

938 (5) In the review of a resubmitted plat that has been previously disapproved the
939 subdivision agent shall consider only the deficiencies he had identified in the
940 review of the initial submission of the plat that have not been corrected in such
941 resubmission and any deficiencies that arise as a result of the corrections made
942 to address deficiencies identified in the initial submission. In the review of a
943 resubmission of a plat, the subdivision agent shall identify all deficiencies with the
944 preliminary plat that caused the disapproval by reference to specific duly adopted
945 ordinances, regulations or policies and shall identify modifications or corrections
946 that will permit approval of the plat. Upon the second resubmission of such
947 disapproved plat, the subdivision agent's review shall be limited solely to the
948 previously identified deficiencies that caused his disapproval. The subdivision
949 agent shall act on any plat that he has previously disapproved within 45 days
950 after the plat has been modified, corrected and resubmitted for approval.
951 Notwithstanding the approval of any preliminary plat, any deficiency in any plat,
952 that if left uncorrected, would violate local, state or federal law or regulations,
953 mandatory VDOT engineering and safety requirements, and other mandatory
954 engineering and safety requirements, shall not be considered, treated or deemed
955 as having been approved by the subdivision agent. Should any resubmission
956 include a material revision of infrastructure or physical improvements from the
957 earlier submission or if a material revision in the resubmission creates a new
958 required review by a state agency or public authority authorized by state law,
959 then the subdivision agent's review shall not be limited to only the previously
960 identified deficiencies identified in the prior submittals and may consider

961 *deficiencies initially appearing in the resubmission because of such material*
962 *revision.*

963 ~~Following the review of a preliminary plat submitted under this article and~~
964 ~~consultation, if necessary, with the subdivider on the changes deemed advisable~~
965 ~~and the kind and extent of improvements to be made by him, the city manager~~
966 ~~shall, within forty-five (45) days from the date of submission, act thereon as~~
967 ~~submitted or modified and, if approved, shall express his approval as conditional~~
968 ~~approval, if any, or if disapproved shall express his disapproval and his reasons~~
969 ~~therefor by referencing, in writing, specific adopted ordinances, regulations and~~
970 ~~policies. Modifications or corrections that would permit approval shall also be~~
971 ~~identified. Conditional approval of the preliminary plat shall be effective for six (6)~~
972 ~~months from the date thereof.~~

973
974 ~~If the city manager fails to approve, conditionally approve or disapprove~~
975 ~~the preliminary plat within forty-five (45) days from the date of submission, the~~
976 ~~subdivider may, after ten (10) days written notice to the city manager, petition the~~
977 ~~circuit court to enter such order as it deems proper, which may include directing~~
978 ~~approval of the plat.~~

979
980 ~~(B)(b) The action of the subdivision agent city manager shall be noted on all copies of~~
981 ~~the preliminary plats retained in the record, referenced and in the case of disapproval,~~
982 ~~attached to any changes or conditions determined. One such copy shall be returned to~~
983 ~~the subdivider, and others retained as required for records or further action of the~~
984 ~~subdivision agent or other affected agencies of the city and the state. two (2) copies of~~
985 ~~the preliminary plat referenced and attached to any conditions determined. One copy~~
986 ~~shall be returned to the subdivider and the other retained in the city manager's files.~~

987
988 ~~(C) If the subdivision agent fails to approve or disapprove the preliminary plat within the~~
989 ~~prescribed period of time set forth herein, the subdivider may, after 10 days' written~~
990 ~~notice to the subdivision agent, petition the Hampton circuit court to enter such order as~~
991 ~~it deems proper, which may include directing approval of the plat. No alternative~~
992 ~~subdivision plat may be pursued for approval by the subdivision agent while a~~
993 ~~subdivider's proceeding in the Hampton circuit court is pending.~~

994
995 **Sec. 35-26.1. - Required findings.**

996
997 *In approving a preliminary plat, the subdivision agent shall make each of the following*
998 *findings in writing which findings shall be made part of the file on record:*

999
1000 *(A) The proposed development, including its lot sizes, density, access and circulation,*
1001 *and any required buffer areas are consistent with the zoning ordinance and compatible*
1002 *with the existing and/or permissible future use of adjacent property.*

1003
1004 *(B) Required public facilities are adequate (or adequate subject to construction and*
1005 *installation of upgrades by the subdivider at the subdivider's cost) to serve the project*
1006 *under consideration and will provide access to adjoining land in a manner that will allow*
1007 *development of those adjoining lands in accord with this chapter. Street system*
1008 *adequacy shall be based on the street system's ability to safely accommodate trips from*
1009 *existing and planned land uses on the existing and proposed street system without*
1010 *creating safety hazards, generating auto stacking that blocks driveways or intersections,*
1011 *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 conditional approval.

(A) ~~Conditional~~ 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 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.

(C) If a subdivider records a final plat, which may be a section of a subdivision as shown on an approved preliminary plat, and 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 preliminary 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.

Sec. 35-28. - Appeal.

~~If a subdivider contends that disapproval of a preliminary plat is not properly based on applicable ordinances, regulations and policies, or is arbitrary and capricious, he may appeal such decision to the current circuit court within sixty (60) days of written disapproval by the city manager.~~

Secs. 35-39 - 35-34. - Reserved.

Sec. 35-35. - Relocation or alteration of subdivision plat, lot or parcel lines.

~~After approval, pursuant to Hampton City Code section 35-1 et seq., the boundary lines of any lot or parcel of land may be relocated or otherwise altered as a part of an otherwise valid and properly recorded plat of subdivision or resubdivision approved as provided in Hampton City Code section 35-1 et seq., and executed by the~~

owner or owners of such land as provided in the Code of Virginia, § 15-1-477, provided such action does not involve the relocation or alteration of streets, alleys, easements for public passage, or other public areas; and provided further, that no easements or utility rights-of-way shall be relocated or altered without the express consent of all persons holding any interest therein.

Sec. 35-36. - Review and approval of property splits

For splits of property into two (2) lots, either of which is less than five (5) acres a plat prepared by a registered land surveyor shall be submitted to the zoning administrator for review and approval, prior to recordation, to ensure that the proposed parcel(s), including the parent parcel, are developable, and to ensure that available infrastructure and adequate access is provided to each lot. Said plat will provide topographic and utility information sufficient to determine how each lot will drain and how water and sewer service will be provided. All provisions of the zoning ordinance are applicable to each parcel; however, sections 35-21 through 35-28, excluding subsection (c) of section 35-23 of this article do not apply. Parcels or lots which have been split within the preceding ten (10) years may be sequentially split if the parcels are brought into conformance with the subdivision requirements. Any exception to the above provisions shall require the express consent of the city manager, but only after the property owner shall provide evidence that the proposed lots will have adequate drainage, utilities, access and other infrastructure as required for subdivision lots. The fee for review shall be fifty dollars (\$50.00) for property that is currently, or proposed to be used, for single family residential purposes and one hundred dollars (\$100.00) for all other property.

Secs. 35-2837 - 35-40. - Reserved.

ARTICLE III. - FINAL PLAT

Sec. 35-41. - When required; sSubmission to subdivision agent-city clerk.

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.

The final plat and other exhibits required for approval shall be prepared as specified in this article 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.

A final plat of a subdivision shall be submitted to the city clerk within six (6) months after conditional approval of the preliminary plat, otherwise such conditional approval shall become null and void, unless an extension of time is applied for in writing and granted.

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

(A)(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.~~ administrative authority an amount of twenty-five dollars (\$25.00) for each lot shown on the final plat, which payment is to cover the cost of plat review, and a check payable to the clerk of court for costs of recordation.

~~(b) A deed or other~~ *Legal* instruments, in writing of sufficient legal form for recordation in the *Hampton circuit court* clerk's office of a court of record, dedicating to the city all streets, roads, public ways, easements for drainage and public utilities and all other easements shown on the final plat to some other person or body *as may be required by this chapter or 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. - Conformance with preliminary plat.

The final plat of a subdivision shall conform to the preliminary plat, as approved under the provisions 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)*, in ink on linen to a scale of one hundred (100) feet to the inch or larger, with letters and figures not less than *one tenth* ~~eight one hundredths~~ *(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 (1 1/2) 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.(1)

~~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 and shall show the following:~~

(B) The name of the subdivision, with designation of section if only a portion of the conditionally approved preliminary plat is being developed, the date, the scale, the name of the certified professional registered 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.

~~(2) The name of the record owner of the land being subdivided and the name of the subdivider.~~

~~(3) The boundaries of the subdivision showing the length of its course and distances to one one-hundredth (0.01) of a foot and bearings to one-half (") minutes, having been determined by an accurate survey thereof in the field, which shall close with an error of closure not exceeding one (1) foot in five thousand (5,000) feet. It shall also contain the names and locations of adjoining subdivisions and the names of the owners of adjoining parcels of land that may be subdivided.~~

~~(4) Coordinates of selected or monumented points of the boundary shall be referenced to the Virginia State Plane Coordinate System South Zone; provided, that such subdivision is located within an area containing a minimum of ten (10) certified monuments of such system per square mile. Any error of closure permissible in paragraph (3) above shall be adjusted before computation of coordinates. The means shown to establish these coordinates shall be shown.~~

~~(5) The north arrow shall be referenced to the Virginia State Plane Coordinate System South Zone, if reference points area available. Otherwise, it shall be either magnetic or true north and the means of determination shall be stated.~~

~~(6) 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 city manager.~~

~~(7) The description and location of all permanent reference monuments.~~

~~(8) The locations, alignment or arrangement of street lines in the subdivision, the names of all streets, the bearing angles of intersections and width thereof, including their width along the line of any obliquely intersecting street.~~

~~(9) The lengths of arcs and radii and tangent bearings.~~

~~(10) The location, alignment or arrangement of all easements provided, with a statement of any restrictions or limitations placed on such use.~~

~~(11) The location, alignment or arrangement of all lot lines with their dimensions expressed in feet and hundredths of a foot.~~

~~(12) The tangent distances of all corners when rounded at intersections, except in cases where streets intersect at right angles.~~

~~(13) All lots shall be numbered with consecutive Arabic numerals in each block and all blocks shall be lettered in consecutive alphabetical order.~~

~~(14) The boundaries of all property to be dedicated for public use, and all property to be reserved by covenant in deeds for the common use of all owners of lots in the subdivision or otherwise reserved, with a statement of the purpose for which such covenant or reservation is made or such is restricted or limited.~~

~~(15) The location of front yard setback lines, unless controlled by the zoning ordinance.~~

~~(16) The professional engineer or lay surveyor shall endorse upon each final plat a certificate signed by him setting forth 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. When the~~

plat is of land acquired from more than one (1) source of title, the outlines of the several tracts shall be indicated upon such plat.

(17) Every plat, or deed of dedication to which the plat is attached, shall contain, in addition to the professional engineer's or land surveyor's certificate, 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. All cloth prints and transparent copies shall contain such signatures.

(18) The boundaries and components of any resource protection areas.

(19) The boundary of any resource management area.

(20) The boundary of any intensely developed area.

(21) A primary and reserve sewage disposal site for each lot when use of an on-site sewage system not requiring a Virginia Pollution Discharge Elimination System (VPDES) permit is proposed.

(22) The soils characteristics of the land being subdivided.

(23) Notation on the plat to state that the variable width RPA buffer area is to remain undisturbed and vegetated and that development or disturbance of the RPA is regulated by the Hampton City Zoning Ordinance and therefore is subject to plan review and permitting requirements.

(24) References to any RPA buffer encroachment or exception to the RPA regulations authorized by the City of Hampton.

(25) For lots within the SPI-CBPD, delineation of buildable areas based on all zoning regulations.

Sec. 35-45.1. - Lot size. *Reserved.*

Each lot in a subdivision shall be of sufficient size to permit development thereon, when all zoning setback areas, all areas listed in subsections (18) and (20) of section 35-45, and any other areas required by law are deducted.

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* city manager 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.* thirty (30) days after the date of its submission to the city clerk.

(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 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 45 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) (17) of section 35-2345 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.* city manager.

~~(b) No clerk of any court shall file or record a plat of a subdivision required by this article to be recorded until such plat has been approved as required herein. The penalties provided by § 17-59 of the Code of Virginia shall apply to any failure to comply with the provisions of this subsection.~~

~~(B)(c)~~ 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 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.* ~~shall deliver to the city clerk six (6) copies thereof for distribution as directed by the city manager.~~

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.

Secs. 35-50 - 35-645. - Reserved.

ARTICLE IV. - DESIGN STANDARDS AND IMPROVEMENTS GENERALLY

Sec. 35-65 - Public works design and construction standards.

The director of public works shall prepare minimum specifications, design and construction standards to be made available to all subdividers or their surveyors or engineers for utilities, streets, street signs, curbs, gutters, alleys, sidewalks, and storm drainage. The design and construction of all streets (whether such street is proposed to be public or intended to be private), street signs, curbs, gutters, alleys, sidewalks and drainage shall comply with the latest edition of the "public works design and construction standards". Except as otherwise set forth in this article, the director of public works may modify the design and construction standards in order to preserve noteworthy features or otherwise enhance the amenity of neighborhoods only upon findings that the public purposes of the design and construction standards would be met to at least an

equivalent degree by such modification and in the case of streets, such modifications have the concurrence of the fire chief. Where such modification is granted the director of public works shall attach such conditions in the form of notations in the development plans and/or the final subdivision plat as deemed necessary to protect the general public interest or the character of the neighborhood.

Sec. 35-66. - Drainage generally.

(a) All land within the area to be subdivided shall be drained to avoid flooding by normal rainfall, to eliminate any standing water and places likely to hold water and to correct any other features likely to be harmful to the safety, welfare and general health of the future residents, subject to provisions of the stormwater management ordinance. All drainage shall be extended to a point off-site that will afford free and unobstructed flow to tidal waters by natural drainage facilities. *All drainage systems shall be constructed and designed in conformance with the applicable provisions of the latest edition of the public works design and construction standards.* Easements for all drainage shall be dedicated to the city.

(b) All surface drainage shall be piped with adequate size concrete pipe wherever the approved flow-line grade is sufficiently below the surface of the finished ground to permit the installation of the proper size pipe and to permit earth covering of one foot over the pipe.

(c) In the R-22, and R-33 zoning districts, roadside ditches may be substituted for piped drainage systems, upon the approval of the director of public works. Such ditches shall have side slopes not steeper than three (3) feet horizontally for each one foot or rise, and shall have concrete bottoms.

(d) Any other open ditches allowed in the subdivision shall be constructed to have side slopes not steeper than two (2) feet horizontally for each one foot of rise.

Sec. 35-67. - Stormwater drainage system.

The subdivider shall provide the Every subdivisions shall be provided by the developer with a stormwater drainage system, as approved by the director of public works, adequate to serve the area of the subdivision and the contributing drainage area thereto, in accordance with design standards and specifications of the stormwater management ordinance.

Sec. 35-68. - Subdivision of land subject to *flooding* inundation.

No lot, tract or parcel of land, or any part thereof, subject to *flooding*inundation shall be divided or subdivided for the use of buildings or structures erected or to be erected thereon for dwelling or residential purposes *on the portion of the land subject to flooding*, unless corrected to the satisfaction of the director of public works *and in accordance with article V of the zoning ordinance section 17.3-31 through and including section 17.3-36.*

Sec. 35-69. - Size of blocks.

The width of blocks in a subdivision shall generally provide for two (2) tiers of lots. Blocks shall not exceed one thousand (1,000) feet in length, except that, wherever the

topography, *size of property, waterways*, and general characteristics of the area to be platted requires blocks of more than one thousand (1,000) feet in length, such reason shall be listed and supported by the subdivision design *and approved by the director of public works*.

Sec. 35-70. - Monuments.

Monuments shall be installed in all subdivisions at all block corners, angle points and radial points along streets or boundary lines. The exact location shall be approved by the director of public works. The monuments shall be ~~concrete blocks at least thirty (30) inches long by five (5) inches square with a metal plug in the center of the top~~ *either an iron rod a minimum of five-eighths (5/8) inches in diameter and a minimum of eighteen (18) inches in length or an iron pipe a minimum of three-quarters (3/4) inches in diameter and a minimum of eighteen (18) inches in length*. The replacement of any monuments removed or destroyed during the development of the subdivision shall be the responsibility of the subdivider.

Sec. 35-71. - Lots generally.

(A)(a) Except as provided in subsection (C)(c), all lots in a subdivision shall front on a dedicated *public* street and lots for residential purposes shall have an *minimum* area *and frontage as required by the zoning ordinance, and the lot shall be configured such that the minimum frontage, or an amount greater is provided* ~~of not less than six thousand (6,000) square feet and shall contain a minimum width of sixty (60) feet at the front building line~~ *or the proposed right-of-way line*; provided, that where an individual sewage disposal system is to be used for disposal of household and human wastes, the lot area shall contain a minimum width of seventy-five (75) feet at the *minimum front* building setback line in all instances. *The minimum lot frontage requirement shall be identical to the minimum lot width standards; except, that on curving streets and turnarounds areas of cul-de-sacs, the required lot frontage may be reduced by no greater than 30 percent, as approved by the subdivision agent, provided the minimum lot width requirement is complied with at the minimum front building setback line.*

(B)(b) Where lots in a subdivision recorded prior to the adoption of this paragraph have a frontage on a platted street, less than forty (40) feet or a mean width less than forty (40) feet, then such subdivision may be allowed to be resubdivided as prescribed by law having lots that meet at least eighty (80) percent of the minimum frontage and area requirements of the district in which the lots are located. This shall not exclude lots having a mean width of more than forty (40) feet from being resubdivided, if the widths of such resubdivided lots are at least eighty (80) percent of the required frontage. Resubdivided lots shall front on an improved street acceptable to the city.

(C)(c) Lots in any residential open space variable density subdivision (R-OS), ~~or in any subdivision established for the location of a manufactured/mobile homes park, and fee-simple townhouse developments pursuant to the zoning ordinance of the city, as amended, or in any commercial, business, or industrial subdivision may be permitted on private streets provided such streets are constructed and maintained in accordance with section 35-74(e)~~ *the latest edition of the public works design and construction standards*. All ~~zoning ordinance and city code~~ requirements applicable to public rights-of way shall also apply to these lots which have frontage on private streets.

(D) Remnants of lots not meeting minimum lot requirements shall not generally be created by the subdividing of a tract. All such remnants shall be added to adjacent lots or, as approved by the subdivision agent, identified as common open space or natural open space with a notation that such remnant is unbuildable.

(E) Where residential lots abut, arterial, or collector streets the street frontage shall be shown with a no-ingress-egress easement with vehicular access guaranteed the site only through a residential street unless waived by the director of public works.

(F) No lot shall be recorded for residential or other use unless the land is suitable for the use permitted by the zoning ordinance and intended for the land. Among other considerations, suitability shall include freedom from extraordinary flooding or storm hazard and adverse soil and ground water conditions.

(G) If highly erodible soils are existing, as determined by the subdivision agent on any lot within or adjacent to floodplains, then the plat creating such lot shall contain a statement as follows: "Due to the high erodibility of the soils existing within or adjacent to floodplains, removal of existing vegetation or alteration of existing contours may accelerate erosion and may require additional permits from the City of Hampton or other governmental agencies". For purposes of this article, highly erodible soils are those soils on slopes seaward of the point at which the slope of the ground changes from less than six (6) percent to greater than six (6) percent and the toe of the slope is located within one hundred (100) feet of tidal wetlands, nontidal wetlands or tidal shores.

(H) Irregular or non-rectangular lot patterns are generally prohibited. However if the subdivider can justify the establishment of an irregular or non-rectangular lot pattern (i) due to exceptional physical or topographical circumstances and conditions affecting the overall parcel; and (ii) demonstrate that the proposed irregular or nonrectangular lot pattern will not adversely affect the long-term viability and marketability of the lot and other lots in the area, when considering use, re-use, or redevelopment of buildings and sites, the subdivision agent may approve such an irregular lot or lot pattern. Side lot lines shall be substantially at right angles to the street on which the lot faces, radial to curves of the street, or radial to the cul-de-sac turn-around.

(I) The shape and orientation of lots and the provided buildable area shall be appropriate for the type of development proposed thereon and compatible with those in the immediate vicinity of the subdivision.

(J) Corner lots for residential use shall be platted ten (10) feet wider than interior lots, if necessary, to permit appropriate building setbacks on both streets.

(K) The clustering of single-family dwellings and preservation of open space shall comply with the requirements of the zoning ordinance for the zoning district in which the lots are located.

Sec. 35-72. - Staking of lots.Utilities.

All utilities, including, but not limited to wires, cables, pipes, fiber optics, conduits and accessory equipment for electric, telephone, internet, cable television, gas, steam, petroleum, water, sewer or similar services shall be installed and located in accordance

with the latest edition of the public works design and construction standards. Each lot in a subdivision shall be staked in accordance with standards established by and under the supervision of the director of public works.

Sec. 35-73. - Design, layout and dimensions of commercial lots.

The design, layout and dimensions of lots, tracts and properties in subdivisions reserved or planned for business and commercial purposes shall be adequate to provide for off-street parking and service facilities required by the type of use and development contemplated and shall be in compliance with applicable provisions of this Code and other ordinances of the city.

Sec. 35-74. - Streets generally.

(A)(a) Streets, *whether public or intended to be private*, in subdivisions shall be *designed and* constructed in accordance with *the latest edition of the public works specifications*, design and construction standards established by the director of public works in accord with section 35-101. *There shall be no private streets permitted in any subdivision except as otherwise set forth in the city zoning ordinance or this chapter, or as otherwise approved by the director of public works with the concurrence of the fire chief.*

~~(b) The street layout in a subdivision shall conform to the most advantageous development of adjoining areas and provide the following:~~

~~(1) Continuity of appropriate streets with existing or planned streets in existing or future adjacent, or contiguous to adjacent, subdivisions.~~

~~(2) Generally intersect at right angles, or as near thereto as feasible.~~

~~(3) Street off-sets shall be avoided.~~

~~(4) On limited access streets, rights-of-ways for service drives extending the full-length of the subdivision along such streets and providing for limited access thereto shall be provided.~~

~~(5) The number of streets intersecting with existing or proposed public streets as shown on the plan shall be held to a minimum.~~

~~(6) When a subdivision abuts one (1) side of an existing paved street, the subdivider shall not be required to dedicate more than one-half (1/2) of any right-of-way necessary to make such street comply with the minimum width fixed for the same, measured from the existing center line.~~

~~(7) Cul-de-sac streets shall have an appropriate turning circle having a minimum right-of-way diameter of one hundred (100) feet. They shall not be longer than five hundred (500) feet, unless approved by the director of public works.~~

~~(8) Subject to the approval of the director of public works, the minimum right-of-way pavement widths, radii or curvature and tangents between reverse curves shall be:~~

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	Right-of-way (feet)	Pavement width (feet)	Radius of Curvature (feet)
Arterial street	80	44 with a 16-foot median-strip	300
Collector street	60	40	200
Minor collector street	50	32	100
Residential street	40	27	—
Residential street (R-22, R-33)	50	30	—
Cul-de-sac	100	82	—

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(9) Street curbs at intersections shall be rounded by a radius of no less than twenty-five (25) feet or as directed by the director of public works.

(c) In such cases as may permit streets to be constructed not in accordance with section 35-101, the subdivision plat and all approved deeds of subdivision, or similar instruments, shall contain a statement advising that such streets do not meet the prescribed standard and will not be maintained by the city. Grantors of any subdivision lot to which such statement applies shall include the statement on each deed of conveyance thereof.

Sec. 35-75. - Use of certain base materials for streets prohibited *Reserved.*

Sand, clay and gravel mixture shall not be used as base material for streets in any subdivision.

Sec. 35-76. - Street lights.

Street lights shall be installed at the subdivider's expense. Street light fixture type, location and spacing shall comply with the latest edition of the "City of Hampton Outdoor Lighting Policy and Procedures Manual". Street lights, to provide a suitable illumination level, shall be provided within every subdivision and generally shall be located at street intersections, but not closer than three hundred (300) feet together, unless specifically approved by the director of public works. In the event of very long blocks, intermediate lights shall be required to afford a spacing of approximately five hundred (500) feet between lights, except that in commercial or business districts, street lights shall be spaced to provide uniform pavement brightness. All street lights shall be installed by the supplying utility company, the developer to pay the company all installation costs and one year's service charge. Deviation from the spacing policy set out in this section may be permitted in the R-22 and R-33 zoning districts upon the approval of the director of public works.

Sec. 35-77. - Street signs.

In all subdivisions, *street signs shall be paid for by the subdivider in advance and shall be constructed and installed in accordance with the provisions of the latest edition of the*

public works design and construction standards. metal street signs of standard design approved by the director of public works for use on all city streets shall be erected on metal poles by the department of public works, at points to be designated by the director thereof, and paid for in advance of erecting by the subdivider; however, other street signs may be permitted, upon the approval of the director of public works, in the R-22 and R-33 zoning districts. If such signs are approved, the developer or his designee shall be responsible for the continuing maintenance of the signage. Should such maintenance not occur, any signs in need of repair shall be replaced with metal street signs of standard design.

Sec. 35-78. - Curbs, gutters and sidewalks.

Curbs and gutters *and sidewalks* shall be provided for all streets within a subdivision *except as otherwise provided in the public works design and construction standards*. and sidewalks shall be provided on both sides of all arterial, collector and minor collector streets, and on such other streets as the administrative authority may require, which requirement shall be based on the health, safety and welfare of the inhabitants and sound planning. The developer may provide sidewalks on other streets; however, subdivisions in the R-22, and R-33 zoning districts *the subdivider* may, upon the approval of the director of public works, delete the sidewalk requirement and replace the curb and gutter with an open drainage system, as described in section 35-66. Curbs, gutters and sidewalks shall be constructed in accordance with *the latest edition of the public works* specification and design *and construction* standards established by the director of public works, in accordance with section 35-101.

Sec. 35-79. - Sewage disposal system.

(A)(a) Every subdivision shall be provided with a sanitary sewer system or an approved system for sewage disposal as provided for in governing provisions of this *c* Code or other ordinances or resolutions. *All publicly serviced systems provided by the subdivider shall be offered for dedication to the city at no cost to the city, upon completion. The sanitary sewer system shall include, but shall not be limited to, the necessary force mains, sewer mains, laterals, lines, pipes, pumping stations and other facilities needed to service the various lots of the proposed subdivision.*

(B)(b) Developers *and/or subdividers* shall install gravity sanitary sewers incidental to and in subdivisions in accordance with *applicable city and state regulations, standards, specifications and* plans approved by the director of public works. All *applicable city and state regulations, standards, specifications and* warranties shall be in compliance with section 35-108102. *Before construction is commenced, all plans and specifications must be reviewed by and have the approval of the director of the department of public works. The developer and/or subdivider shall notify the city prior to starting of construction so that inspection may be provided. Any work covered prior to inspection may be required to be uncovered at the developer's and/or subdivider's expense. All construction shall be in accordance with approved plans. No changes shall be made in approved plans without further approval by the director of the department of public works. Upon final approval of the system, the city will notify the developer and/or subdivider in writing when the city will receive sewage originating in the area and will specify the date upon which the developer and/or subdivider may discharge sewage into the city system.* Developers in the R-22 and R-33 zoning districts may substitute, upon approval by the director of public works, low pressure forcemain sewers if a gravity sewer is unavailable or cannot be extended at a reasonable cost, and if the sewer cannot be extended to

other developable property. Prior to the time that any sewerage is introduced into the system, all work shall be tested and city approval received.

(c) Prior to recordation of the final plat, the developer will pay to the city a fee in the amount of three dollars and fifty cents (\$3.50) per street front foot for each lot in the subdivision section being served by the sewer. On corner lots, the fee will be computed using the shortest frontage.

(d) The extension of a gravity sanitary sewer to the property of the developer from the existing sewer system shall be considered incidental to and a part of the subdivision sewer system, if no additional unsewered properties are served by such extension and the length of the sewer extension is no more than two hundred (200) feet.

(e) A reserve sewage disposal site with a capacity at least equal to that of the primary sewage disposal site shall be provided, in accordance with the health code. This requirement shall not apply to any lot or parcel recorded prior to October 1, 1989 if such lot or parcel is not sufficient in capacity to accommodate a reserve sewage disposal site, as determined by the health department.

(f) Building or construction of any impervious surface shall be prohibited on the area of all sewage disposal sites or on an on-site sewage treatment system which operates under a permit issued by the state water control board, until the structure is served by public sewer.

Sec. 35-80. - Water supply.

Every subdivision shall be provided by the subdivider with a complete potable water supply system conforming with the city's policy thereon and approved by the director of public works.

Sec. 35-81. - Fire hydrants.

Fire hydrants shall be located *and installed by the subdivider* in all subdivisions as directed by the fire chief.

Sec. 35-82. - Trees *Landscaping*.

(A) All landscaping required to be installed, including but not limited to the location of street trees in all public right-of ways, the provision of vegetative buffers for double frontage lots and properties zones SPI-CBPD, and the selection and spacing thereof shall comply with the regulations in the "Landscape Guidelines" document maintained by the department of community development. Planting requirements for all landscaping may be modified by the subdivision agent to address concerns including, but not limited to: providing for a vegetative buffer adjacent to an incongruent use, revegetating an RPA or IDA buffer or in conformance with good planning practices.

(a) Existing trees shall be saved where reasonable. Where existing trees have been removed or no trees exist, a minimum of four (4) trees of acceptable size and type shall be planted in a balanced manner around the lot. Any combination of existing and new trees totaling a minimum of four (4) shall be acceptable per lot. Should the open area of the lot exceed eight thousand (8,000) square feet, one tree, either existing or new, shall be provided for each two thousand (2,000) square feet of open area.

~~(b) Newly planted trees shall have a minimum of two-inch trunk diameter measured six-
(6) inches above ground level.~~

~~The following trees shall not be planted:-~~

- ~~(1)
Boxelder (acer negundo).~~
- ~~(2)
Silver maple (acer saccharinum).~~
- ~~(3)
Quaking aspen (populus tremuloides).~~
- ~~(4)
Tree of heaven (ailanthus glandulosa).~~
- ~~(5)
American elm (ulmus americana).~~
- ~~(6)
Mimosa (albizzia julibrissin).~~
- ~~(7)
Lombardy poplar (populus italica).~~
- ~~(8)
Weeping willow (salix babylonica).~~
- ~~(9)
Black locust (robinia pseudoacacia).~~
- ~~(10)
Chinese elm (ulmus pumila).~~

~~(c) Lots in residential open space variable density subdivisions shall be exempt from the
provisions of this section.~~

~~(d) During construction, trees to be saved shall be adequately protected from damage.~~

~~(e) On properties zoned SPI-CBPD, areas shown on the approved improvement plan as
undisturbed, or as a buffer proffered as part of the conditional rezoning or required for a
use permit, or as part of a resource protection area, shall be protected from disturbance
by the following methods:~~

~~(1) Prior to disturbing the site, protection areas shall be delineated by a form of
fencing or markings which clearly identify the area boundaries and intent.
Fencing, markers or similar barriers shall be placed around any undisturbed
area, and shall display brightly colored flags or signs in a manner that is plainly
visible to equipment operators and ground workers. Fencing or markers shall be
located such that a distance of not less than six (6) inches for every one foot in
diameter of tree trunk shall be maintained from any tree within the undisturbed
area.~~

~~(2) Equipment, materials, or people shall not be allowed within the protection
areas.~~

~~(3) Boards, signs, wires, etc. shall not be nailed to trees to be retained, nor shall
equipment be banged against such trees.~~

~~(4) Removal of trees not to be retained shall be done in a manner which avoids~~

injury to remaining trees.

(5) When lowering the grade adjacent to a protection area, damaged roots along the edge of the area shall be cut cleanly and immediately covered with moist organic soil and three (3) inches of mulch.

(6) Utility services shall be placed in common trenches when possible and routed around protection areas when possible. Tree roots within the protection area shall not be severed; however, boring through or under roots is permitted.

(7) Erosion and sediment control measures shall be installed and maintained in accordance with the requirements of the erosion and sediment control ordinance around all undisturbed areas. Specifically, undisturbed areas shall not be used as sediment traps or for storage of stormwater from any construction area.

(8) Removal of protection area boundary markers shall be permitted only after a certificate of occupancy has been issued. Such removal may occur on a lot-by-lot basis as construction of site improvements and structures is completed and approved on lots within the subdivision.

(9) Exceptions to these requirements will be with written approval of the department of planning.

(B)(f) This section shall apply to any subdivision plat filed subsequent to the 15th day of August, 1975 *August, 2011*.

Sec. 35-83. - Lands for public acquisition.

Every subdivider *and/or developer* shall make available for public acquisition such lands and access thereto in the area to be subdivided as are designated by the comprehensive plan for parks, playgrounds, public buildings and other purposes.

Sec. 35-84. - Easements for utilities and drainage.

Easements for utilities and drainage in subdivisions may be required and, when required alongside lot lines, such easements shall be at least ten (10) feet wide. *Where the easement is located along a lot line, one-half of the width of the easement, if for open drainage, shall be added to the minimum lot width requirements. The director of public works may require a statement on the preliminary plat indicating that no permanent structures (including fences) may be placed in an open drainage easement.*

Sec. 35-85. - Easements along watercourses.

Wherever a subdivision is traversed by a way or place whose origin is the result of the forces of nature, having a bed, sides or banks through which water flows continuously or intermittently in a particular direction, and whenever a subdivision is traversed by any other way, place or device installed to aid natural drainage and which does not substantially change the course or direction of the flow of water, there shall be provided an easement conforming substantially with the boundaries of such watercourse and of such width as may be necessary for drainage utilities at this location.

Sec. 35-86. - Development in the resource protection area; buffer area.

There shall be no improvements or development allowed in the resource protection area except as permitted pursuant to ~~c~~Chapter 17.3, ~~a~~Article X of the Hampton City ~~z~~Zoning ~~o~~Ordinance.

Sec. 35-87. - Reserved.

Secs. 35-87~~8~~ - 35-100. - Reserved.

ARTICLE V. - IMPROVEMENT ~~DEVELOPMENT PLANS~~ - REQUIREMENTS, PROCEDURES
FOR PERMITTING AND PERFORMANCE ASSURANCES
DIVISION 1. - GENERALLY

Sec. 35-101. - Development Plans Required.

(A) When a preliminary plat of a subdivision has been approved by the subdivision agent, the subdivider shall, if he has not already done so, prepare development plans to install infrastructure in accordance with the provisions of this chapter. The subdivider shall furnish to the director of public works a complete copy of the specifications for the construction of physical improvements to be installed, unless recognized standard specifications are used, in which case the subdivider shall certify to the director of public works, by reference, the specifications to be used. Otherwise, the design and construction of all streets, street signs, curbs, gutter, alleys, sidewalks and drainage shall comply with the latest edition of the public works design and construction standards.

(B) For any proposed subdivision located wholly or partially within a Chesapeake Bay Preservation district, the subdivider shall provide copies of wetlands permits or approval letters from the Hampton Wetlands Board, the Virginia Marine Resources Commission, the Virginia Department of Environmental Quality, and the U.S. Army Corps of Engineers for any improvements or alterations in wetlands. The director of public works shall not approve the development plans for the subdivision until these items have been provided. Final subdivision plat approval does not absolve the subdivider from any other federal, state or local permit requirements.

Sec. 35-102. - Who may prepare.

The development plans required by this article shall be prepared by a duly licensed professional engineer or a duly licensed land surveyor authorized to do business in the state of Virginia. Delineation of the nontidal wetlands portion of the resource protection areas shall be prepared by a qualified wetlands scientist.

Sec. 35-103. - Contents.

The development plans required by this article shall be legible as determined by the director of public works and shall contain:

(A) Profiles along the centerline of each street, with tentative established grades indicated, at a vertical scale no smaller than one (1) inch equals three (3) feet and a horizontal scale no smaller than one (1) inch equals 30 feet, except as otherwise

approved by the director of public works. All elevations shall be referenced to North American Vertical Datum of 1988 (NAVD 1988).

(B) The water distribution system plan, showing existing water mains, pipe sizes, location of valves and fire hydrants.

(C) The plans and profiles of proposed sanitary sewer system, including existing sewers within the proposed subdivision, with grades and sizes indicated, or the method of sewage disposal in lieu of a sanitary sewer system. All possible utility conflicts shall be rendered in the profile view.

(D) The plan and profile for the stormwater system or other methods of disposal, conveyance and or treatment of stormwater shall be submitted in the same manner as outlined in (C) above.

(E) The plan of the proposed street lighting system, which will be the responsibility of the director of public works or his designee to review and modify as necessary.

(F) The landscape plan including the plan of the proposed tree planting, if any, showing location, kind, etc.

(G) All resource protection areas consisting of the following:

(1) Tidal wetlands, verified by field survey;

(2) Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;

(3) Tidal shores; and

(4) A buffer area not less than one hundred (100) feet in width. The buffer area shall be located adjacent to and landward of the components listed in a. through c. above and along both sides of any water body with perennial flow.

(H) Provisions for a primary and reserve sewage disposal site for each lot that has been approved by the local health department and of less than 1,000 gallons per day.

(I) For development on property zoned SPI-CBPD, a landscape plan to include the limits of clearing and methods to be used to protect areas shown as undisturbed, and delineation of the following within areas shown as undisturbed, or as buffer areas proffered as part of a conditional rezoning or required as part of a use permit, or as part of resource protection areas:

(1) Existing trees six (6) inches or more in diameter, measured at four and one-half (4 1/2) feet above ground level, to be retained on site;

(2) Any required buffer areas and all plant materials to be installed within such buffers;

(3) Trees to be removed from buffer areas;

- (4) Trees to be removed from shoreline areas for stabilization projects;
- (5) Grade changes and work adjacent to retained trees that may adversely impact trees. Specifications shall be provided as to grading, drainage and aeration of retained trees;
- (6) Tree protection measures for all phases of construction; and
- (7) Botanical name of all replacement plants, with the assurance that all are healthy specimens conforming to the standards of the most recent edition of the American Standard for Nursery Stock, published by the American Association of Nurserymen and to be installed according to standard practices.
- (J) The boundary of any RPA, RMA and any IDA.
- (K) Notation on the plat to state that the RPA buffer area is to remain undisturbed and vegetated and that development or disturbance of the RPA is regulated by the Hampton city zoning ordinance and therefore is subject to plan review and permitting requirements.
- (L) References to any RPA buffer or IDA encroachment or exception to the Chesapeake Bay Preservation district regulations for development and redevelopment authorized by the City of Hampton.
- The subdivider and/or developer may show the physical improvements on its development plans by separate maps or drawings.

Sec. 35-104. - Submission of copies.

Eight (8) prints or copies of the development plans required by this article shall be submitted to the director of public works, who shall review the plans for compliance with all provisions of this and other ordinances, including the requirements of the resource protection area.

Sec. 35-105. - Permits for installation of public infrastructure.

After the development plans are approved by the director of public works and performance of the development plans is assured as may be required in section 35-108, the subdivider shall apply for necessary permits to proceed with the installation of improvements.

(A) Infrastructure permit required. An infrastructure permit will be issued by the director of public works for all proposed public improvements to be constructed outside of existing public rights-of-way, but within proposed public rights-of-way or easements. At the time of approval of the development plans, the subdivider and/or developer shall obtain such permit and shall pay all applicable fees for the cost of permitting and inspection of the public improvements. It shall be a violation of the city code to construct public infrastructure improvements without possession of a valid infrastructure permit. Work within existing public rights-of-way shall be permitted in accordance with section 34-41 of the city code.

(B) *Permitting and inspection fees. Permitting and inspection fees shall be paid prior to the issuance of the infrastructure permit for the installation of public improvements, according to the following schedule:*

(1) *\$1.00 per linear foot of mainline sanitary sewer line, plus*

(2) *\$1.00 per linear foot of curb and gutter, plus*

(3) *\$1.00 per linear foot of storm sewer line.*

(C) *Term of permit.*

(1) *A permit issued under this article shall be valid for a period of one (1) year; provided, however, it may be extended for an additional one (1) year period, by written approval of the director of public works, upon receipt of evidence of reasonable progress toward the completion of the approved project and compliance with all conditions of approval.*

(2) *If the construction of public improvements ceases for more than 180 days, or if the permittee fails to commence construction of the public improvements within 180 days of permit issuance, then the infrastructure permit shall become null and void.*

(D) *Revocation of permit. In the event that public improvements are not being installed in accordance with city standards, the director of public works shall give written notice of construction deficiencies (notice to comply) to the permittee by registered or certified mail to the address specified by the permittee in his permit application, or by delivery at the site of the public improvement activities to the agent or employee supervising such activities. If, after seven (7) days of the date of notice, the permittee has not corrected the deficiencies, the director of public works may revoke the infrastructure permit, and the permittee or person responsible for constructing the public improvements shall be deemed to be in violation of this section and, upon conviction, shall be subject to the penalties provided by paragraph (G) below.*

(E) *Stop work orders. Upon notification of a violation of this section 35-105 which threatens life, limb or property, the director of public works may, in conjunction with or subsequent to a notice to comply, as specified in paragraph (D) above, issue an order requiring that all or part of the public infrastructure construction on the site be stopped until the specified corrective measures have been taken. The order shall be served in the same manner as the notice to comply, and shall remain in effect for seven (7) days from the date of service, pending the completion of the corrective action. Upon completion of the corrective action, the order shall immediately be lifted.*

(F) *Reinstatement of the permit. In the event that an infrastructure permit has been revoked, the subdivider and/or developer may seek reinstatement of the permit by correcting all identified deficiencies, and by paying a reinstatement fee of two hundred fifty dollars (\$250.00).*

(G) *Penalties for violation. A violation of the conditions of this section shall be deemed a Class 1 misdemeanor and each day shall constitute a separate violation.*

Sec. 35-105.1 - Permits for installation of vehicle entrances.

After the development plans and the final subdivision plat are approved by the director of public works; the final subdivision plat is recorded and performance of the development plans is assured as may be required in section 35-108, the subdivider (or builder if different from the subdivider) shall apply for any necessary permits to proceed with the installation of any vehicle entrances for the lots shown on the final recorded subdivision plat.

(A) Vehicle entrance permit required. A vehicle entrance permit will be issued subject to the approval of the director of public works for all proposed vehicle entrances to be constructed outside of the existing public right-of-way but adjacent to proposed public rights-of-way or easements that are not initially installed and ensured under a maintenance bond by the subdivider, not included in any bonding under the infrastructure permit or not shown on the development plans or the final subdivision plat. The director of public works may also require such permit for a vehicle entrance adjacent to a private street. After the approval of the development plans and recording of the final subdivision plat, the subdivider and/or developer (or builder) may be required by the director of public works to obtain such permit and shall pay all applicable fees for the cost of permitting and inspection of the vehicle entrance. It shall be a violation of the city code to construct a vehicle entrance without possession of a valid vehicle entrance permit. Work within existing public rights-of-way shall be permitted in accordance with section 34-41 of the city code.

(B) Permit fee and bond. Prior to the issuance of a vehicle entrance permit, the subdivider (or builder if different from the subdivider) shall pay a permit fee in the amount of \$50.00 per vehicle entrance to cover permitting and inspections and shall submit a bond in the amount of \$2,000.00 or 100 per cent of the costs of each vehicle entrance to be constructed, whichever is greater, to ensure completion and cover costs of damage to the proposed public rights-of-way or easements.

(C) Term of vehicle entrance permit.

(1) A permit issued under this section shall be valid for a period of one (1) year; provided, however, it may be extended for an additional one (1) year period, by written approval of the director of public works, upon receipt of evidence of reasonable progress toward the completion of the approved vehicle entrance and compliance with all conditions of approval.

(2) If the construction of the vehicle entrance ceases for more than 180 days, or if the permittee fails to commence construction of the vehicle entrance within 180 days of permit issuance, then the vehicle entrance permit shall become null and void.

(D) Revocation of permit. In the event that the vehicle entrance is not being installed in accordance with city standards, the director of public works shall give written notice of construction deficiencies (notice to comply) to the permittee by registered or certified mail to the address specified by the permittee in his permit application, or by delivery at the site of the vehicle entrance construction activities to the agent or employee supervising such activities. If, after seven (7) days of the date of notice, the permittee has not corrected the deficiencies, the director of public works may revoke the vehicle

entrance permit, and the permittee or person responsible for constructing the vehicle entrance shall be deemed to be in violation of this section and, upon conviction, shall be subject to the penalties provided by paragraph (G) below. Additionally, the director of public works may call on the bond to complete the vehicle entrance and repair any damage to the proposed rights-of-way or easements.

(E) Stop work orders. Upon notification of a violation of this section 35-105.1 which threatens life, limb or property, the director of public works may, in conjunction with or subsequent to a notice to comply, as specified in paragraph (D) above, issue an order requiring that all or part of the vehicle entrance construction on the site be stopped until the specified corrective measures have been taken. The order shall be served in the same manner as the notice to comply, and shall remain in effect for seven (7) days from the date of service, pending the completion of the corrective action. Upon completion of the corrective action, the order shall immediately be lifted.

(F) Reinstatement of the permit. In the event that a vehicle entrance permit has been revoked, the subdivider (or builder if different from the subdivider) may seek reinstatement of the permit by correcting all identified deficiencies, and by paying a reinstatement fee of two hundred fifty dollars (\$250.00) and resubmission of the bond in the amount of \$2,000.00 or 100 per cent of the costs of each vehicle entrance to be constructed, whichever is greater, to ensure completion and cover costs of damage to the proposed public rights-of-way or easements.

(G) Penalties for violation. A violation of the conditions of this section shall be deemed a Class 1 misdemeanor and each day shall constitute a separate violation.

Sec. 35-106. - Inspections during installation.

Periodic inspections during the installation of the physical improvements in a subdivision shall be made by the city to insure conformity with the approved development plans and specifications. The subdivider shall notify the proper city administrative officers when each phase of the installation is completed and ready for inspection.

Sec. 35-107. - Acceptance of public improvements by city.

The installation of public improvements in subdivisions shall in no case serve to bind the city to accept such improvements for maintenance, repair or operation, but such acceptance shall be subject to the existing regulations concerning the acceptance of each type of improvement. After the installation by the subdivider of the public improvements in the subdivision as required by this chapter, the subdivider shall notify the director of public works in writing to schedule an inspection thereof and shall also submit to the director of public works a certificate of completion of the public improvements as required in section 35-108(D). Upon submission of the required certificate of completion as set forth in section 35-108(D) and inspection of the public improvements by the city, the city shall release the remainder of the performance bond, if any, or at the option of the subdivider and/or developer, the city may retain a portion of the performance bond and convert such remainder to satisfy the maintenance bond requirements of section 35-108 (C) to allow for the detection and correction of defects. If all defects have been corrected, the director of public works shall determine whether or not the public improvements have been installed in accordance with the development plans, all applicable ordinances and the terms of the subdivision agreement (if any)

between the developer and the city, and have survived the defect-detection period. Upon such determination, the city, through its director of public works, shall accept such public improvements for permanent public maintenance, operation and repair, release all remaining maintenance bonds in accordance with section 35-108(E), and shall upon written request furnish certification of acceptance to the subdivider and/or developer, his attorney or agents.

Sec. 35-101. -- Specifications, design standards, etc.

(a) The director of public works shall prepare minimum specifications, designs and construction standards, to be made available to all subdividers or their surveyors or engineers, for streets, curbs, gutters, alleys, sidewalks, and storm drainage.

(b) Before any work of providing the physical improvements in a subdivision is started, the subdivider shall furnish to the director of public works a complete copy of the specifications for the construction of such physical improvements, unless recognized standard specifications are used, in which case the subdivider shall certify to the director of public works, by reference, the specifications to be used.

(c) For any proposed subdivision located wholly or partially within a Chesapeake Bay Preservation District, the subdivider shall provide copies of wetlands permits or approval letters from the Hampton Wetlands Board, the Virginia Marine Resources Commission, and the U.S. Army Corps of Engineers for any improvements or alterations in tidal wetlands. The director of public works shall not approve the subdivision improvement plan until these items have been provided. Final subdivision approval does not absolve the developer from any other federal, state or local permit requirements.

Sec. 35-1082. - Assurance of construction and maintenance of public improvements indemnification of city; performance bond in lieu of installation; maintenance bonds; release of bonds.

(A)(a) Prior to submitting a final subdivision plat for approval of the final subdivision plat and upon approval by the director of public works, in writing thereon, of the development plans improvement plans for construction, the subdivider shall may complete, at its sole cost and expense, all physical improvements required by this chapter to be dedicated for public use, including, but not limited to any right of way located within the subdivision or section thereof, any trees, landscape plantings, street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system , waterline as part of a public system or other improvements or easements dedicated for public use, and to be maintained by the city, and for the provision of other on-site related improvements required by city ordinances for vehicular ingress and egress, including traffic signalization and control, for structures necessary to ensure stability of critical slopes, and for stormwater management facilities as shown on the development plans. Upon installation of the public improvements and inspection thereof by the city, the subdivider shall execute and file with the director of public works a maintenance bond guaranteeing the maintenance thereof and a certificate of insurance coverage as set forth in subsection (C) of this section. The final subdivision plat shall neither be approved nor recorded and no building permits shall be issued under this subsection until the public improvements have been installed and inspected, and the maintenance bond and insurance certification are submitted to the director of public works. , within five (5) working days and by a written agreement, elect to assure improvement construction and maintenance in either of the following methods:

(1) By installing all improvements as shown on the improvement plans and guaranteeing the maintenance thereof for twelve (12) months

(B) (1) If the actual installation of the public improvements is not completed in whole or in part prior to the application made for final plat approval, the subdivider shall execute and submit to the director of public works a subdivision agreement to be recorded with the final subdivision plat, together with one of the following forms of surety in an amount equal to the estimated costs of all remaining improvements to be installed or completed as follows: (i) certified check or cash escrow with the right of the city to draw upon such account in the event the subdivider fails to install and complete the required improvements; or (ii) a performance bond to be written by a bonding company licensed to conduct the business of surety in the state of Virginia with the right of the city to call on the bond in the event the subdivider fails to install and complete the required improvements; or (iii) an irrevocable letter of credit issued from a bank or savings institution licensed to do business in the state of Virginia and acceptable to the city evidencing the establishment of credit to the subdivider on which letter the city shall be authorized to draw drafts in the event the subdivider fails to install and complete the required improvements.

(2) The subdivision agreement and the required surety shall be approved by the city attorney. The subdivision agreement shall set a time, subject to the approval of the director of public works by which it is estimated the subdivider will install and complete the public improvements and shall require the subdivider to indemnify, protect and save harmless the city from and against all losses and physical damage to property and bodily injury or death to persons which may arise out of or be caused by the construction, maintenance or use of the public improvements until the same be accepted by the city. Unless an extension of time is approved by the director of public works in writing, and a new estimated date of completion is established and guaranteed with appropriate surety, the director of public works shall take necessary steps to proceed with the accomplishment and completion of the improvements by calling on the surety. Additionally, in the subdivision agreement, the subdivider shall agree to guarantee the maintenance of the public improvements once installed with surety as set forth in subsection (C) of this section.

(3) The costs of uncompleted public improvements under subsections B (1) herein shall be set by the director of public works for purposes of determining the amount of said check or cash escrow, bond or letter of credit. However, in no case shall the amount of surety required in subsection B (1) be less than twenty (20) percent of the total construction costs of the public improvements.

~~(2) By furnishing the city with an agreement, which shall be accompanied by one of the following:~~

~~a. A performance bond covering one hundred (100) percent of the cost of improvements, such bond to be written by a bonding company licensed to do business in the state;~~

~~b. An escrow agreement, placing in escrow in a reputable banking institution funds to cover one hundred (100) percent of the cost of improvements; or~~

~~c. An irrevocable letter of credit covering one hundred (100) percent of the cost of improvements, such letter of credit to be issued by a banking or lending~~

institution licensed to do business in the state.

(b) The agreement, and bond, escrow agreement or letter of credit, as the case may be, shall be approved by the city attorney and shall provide for the cost of all improvements and guarantee the maintenance of all such improvements for twelve (12) months after approval and acceptance by the city. In lieu of such guarantee or maintenance for streets and improvements, the subdivider may pay a sum, in cash, equal to fifty cents (\$0.50) per square yard of street pavement for the purpose of maintenance and to defray the cost of resealing by the city, subsequent to acceptance of the street by the city as a part of the city system. In the event the subdivider elects to furnish a performance bond, the subdivider shall set a time, subject to the approval of the city manager, in writing, by which it is estimated the improvements will be installed and completed. Unless an extension of time is approved by the city manager, in writing, and a new estimated date of completion established, the city manager shall take necessary steps to proceed with the accomplishment and completion of the improvements by calling on the surety of the bond, the holder of the funds in escrow or the banking or lending institution issuing the irrevocable letter of credit.

(C) (c) In all instances except where all public improvements have been installed and approved by the city prior to the approval of the final subdivision plat, the subdivider shall agree to indemnify, protect and save harmless the city from and against all losses and physical damages to property and bodily injury or death to persons which may arise out of or be caused by the construction, maintenance, presence or use of the streets and public easements located within the proposed subdivision unit the same be accepted by the city. Evidence of public liability insurance, including a governmental endorsement thereto, issued by a company licensed to do business in this state, shall accompany the subdivision agreement and be approved in form and amount by the city attorney.

With regard to any improvement to be accepted for dedication by the city, and after installation thereof, the subdivider and/or developer shall remain responsible for all maintenance and repairs to the public improvements, and shall provide a form of surety satisfactory to the city attorney in an amount equal to ten (10) percent the proposed public improvements plus the full value of street surfacing for streets not surfaced to cover costs of such maintenance and remedy of defects appearing in such improvements within two (2) years from the date of installation of the public improvements and inspection thereof by the city ("maintenance bond"). Additionally, a certificate of insurance shall be given to the director of public works by the subdivider as evidence of liability insurance which shall defend, keep and hold the city free and harmless from liability on account of injury or death to persons growing out of the activity by the subdivider in the amount of one million dollars (\$1,000,000.00) for each occurrence and two million dollars (\$2,000,000.00) aggregate, together with seventy-five thousand dollars (\$75,000.00) property damage coverage. Such insurance policy shall name the city as an additional insured by separate endorsement to the policy or as otherwise approved by the city attorney's office. The city attorney or assistant shall examine and approve or disapprove the form of the aforementioned instruments.

(D) Performance bonds or other sureties established in accordance with the provisions of section 35-108(B) shall be released when the director of public works or other affected official certifies that the requirements set forth therein have been met. On application by the subdivider and/or developer, portions of such bonds or other sureties may be released in proportion to the cost of the requirements certified by a duly licensed

professional engineer or land surveyor as having been met; however, in no case shall the amount of surety be reduced to less than twenty (20) percent of the total construction costs of the improvements. Periodic partial releases shall not occur before the completion of at least thirty (30) percent of the public improvements covered by any surety or after completion of more than eighty (80) percent of said public improvements.

(1) The director of public works shall not be required to execute more than three (3) periodic partial releases in any twelve month period. Within 30 days after receipt of written notice by the subdivider or developer of completion of part or all of the improvements or facilities required to be constructed, the director of public works shall notify the subdivider or developer of any nonreceipt of approval by an applicable state agency, or of any specified defects or deficiencies in construction and suggestive corrective measure.

(2) "Written Notice" shall consist of a letter from the subdivider or developer to the director of public works requesting reduction or release of the surety along with a certificate of completion of such improvements or facilities from either a duly licensed professional engineer or land surveyor.

(3) If no action is taken by the director of public works within the thirty (30) day period, the request shall be deemed approved and a partial release granted to the subdivider or developer. No final release shall be granted until after expiration of such thirty (30) day period and there is an additional request in writing sent by certified mail to the city manager. The director of public works shall act within ten (10) working days of receipt of this request. If no action is taken, the request shall be deemed approved and final release granted to the subdivider and/or developer.

(E) Maintenance bonds or other sureties established in accordance with the provisions of section 35-108(C) shall be released at the end of two (2) years from the date the public improvements have been installed and inspected; provided, however, that all improvements and requirements of this chapter shall have been installed or met. Such release shall be in full if no defects have been found to exist, or if defects found to exist have been corrected by the subdivider and/or developer within the two (2) year period. If defects found to exist have been corrected by action of the city, the costs of such action shall be deducted from the maintenance bond. If defects found to exist within the two (2) year period have not been corrected after proper notice by the end of such period, the director of public works shall estimate the cost of correction and such cost shall be deducted from the maintenance bond, and any balance remaining as a result of lesser actual than estimated cost shall be paid to the subdivider or developer.

(F) No maintenance bond shall be released until as-built construction drawings for all improvements, including, but not limited to street trees, landscape plantings, sanitary sewer and storm drains (including tops of curbs and flow lines for rights-of-way) are submitted on an eleven (11) inch by seventeen (17) inch approved durable tracing medium and an approved digital version by the subdivider and/or developer for review and approval by the director of public works. Additionally, all detention, retention and impoundment best management practices (BMP) shall require a certification of as-built conditions in accordance with the public works design and construction standards prior to the release of the maintenance bond.

Secs. 35-109 - 35-120. - Reserved.

Sec. 35-103. - Permits for installation of public infrastructure.

—After improvement construction is assured as required in section 35-102, the subdivider shall make application for necessary permits to proceed with the installation of improvements.

(1) ~~Infrastructure permit required.~~ An infrastructure permit will be issued by the director of public works or his designees for all proposed public improvements to be constructed outside of existing public rights-of-way, but within proposed public rights-of-way or easements. At the time of approval of the plan, the developer shall obtain such permit and shall pay all applicable fees for the cost of permitting and inspection of the public improvements. It shall be a violation of city code to construct public infrastructure improvements without possession of a valid infrastructure permit. Work within existing public rights-of-way shall be permitted in accordance with section 34-41 of the city code.

(2) ~~Permitting and inspection fees.~~ Permitting and inspection fees shall be paid prior to the issuance of the infrastructure permit for the installation of public improvements, according to the following schedule:

- a. ~~Twenty-five cents (\$0.25) per linear foot of mainline sanitary sewer line, plus~~
- b. ~~Twenty-five cents (\$0.25) per linear foot of curb and gutter, plus~~
- c. ~~Twenty-five cents (\$0.25) per linear foot of storm sewer line.~~

(3)

~~Term of permit.~~

a. ~~A permit issued under this article shall be valid for a period of one year; provided, however, it may be extended for an additional one year period, by written approval of the director of public works, upon receipt of evidence of reasonable progress toward the completion of the approved project and compliance with all conditions of approval.~~

b. ~~If public improvement activities cease for more than one hundred eighty (180) days, or if the permittee fails to initiate public improvements within one hundred eighty (180) days of issuance, then the infrastructure permit shall become void.~~

(4) ~~Revocation of permit.~~ In the event that public improvements are not being installed in accordance with city standards, the director of public works or his designee shall give written notice of construction deficiencies (notice to comply) to the permittee by registered or certified mail to the address specified by the permittee in his permit application, or by delivery at the site of the public improvement activities to the agent or employee supervising such activities. If, after seven (7) days of the date of notice, the permittee has not corrected the deficiencies, the director of public works may revoke the infrastructure permit, and the permittee or person responsible for constructing the public improvements shall be deemed to be in violation of this section and, upon conviction, shall be subject to the penalties provided by paragraph (7) below.

(5) ~~Stop work orders.~~ Upon notification of a violation of this section which threatens life, limb or property, the director of public works or his designee may, in conjunction with or subsequent to a notice to comply, as specified in paragraph (4) above, issue an order requiring that all or part of the public infrastructure construction on the site be stopped until the specified corrective measures have been taken. The order shall be served in the same manner as the notice to comply, and shall remain in effect for seven (7) days from the date of service, pending the completion of the corrective action. Upon completion of the corrective action, the order shall immediately be

lifted.

(6)~~Reinstatement of the permit.~~ In the event that an infrastructure permit has been revoked, the developer may seek reinstatement of the permit by correcting all identified deficiencies, and by paying a reinstatement fee of two hundred dollars (\$200.00).

(7)~~Penalties for violation.~~ A violation of the conditions of this section shall be deemed a Class 1 misdemeanor and each day shall constitute a separate violation.

Sec. 35-104. — Certificate to be issued to subdivider.

—After improvement construction has been assured in accord with section 35-102, the city manager shall have issued to the subdivider a certificate showing that the required installations have been properly made or that a bond has been given for that portion of the proposed subdivision covered by the certificate.

Sec. 35-105. — Inspections during installation.

—Periodic inspections during the installation of the physical improvements in a subdivision shall be made by the city to insure conformity with the approved plans and specifications. The subdivider shall notify the proper city administrative officers when each phrase of the installation is completed and ready for inspection.

Sec. 35-106. — Acceptance by city.

—The installation of improvements in subdivisions shall in no case serve to bind the city to accept such improvements for maintenance, repair or operation, but such acceptance shall be subject to the existing regulations concerning the acceptance of each type of improvement.

DIVISION 2. — PLANS FOR CONSTRUCTION

Sec. 35-116. — Required.

—When a preliminary plat of a subdivision has been conditionally approved by the city manager, the subdivider shall, if he has not already done so, prepare improvement plans for construction to be installed in accordance with the provisions of this chapter.

Sec. 35-117. — To be prepared by registered engineer.

—The improvement plans for construction required by this division shall be prepared by a registered engineer authorized to do business in the state. Delineation of the nontidal wetlands portion of the resource protection areas shall be prepared by a qualified wetlands scientist.

Sec. 35-118. — Contents.

—The improvement plans for construction required by this division shall contain:

(1)Profiles along the center of each street, with tentative established grades indicated, at a vertical scale of one (1) inch equals five (5) feet and a horizontal scale of one (1) inch equals fifty (50) feet. All elevations shall be referenced to U.S. Coast and Geodetic Survey datum.

(2)The water distribution system plan, showing existing water mains, pipe sizes, location of valves and fire hydrants.

(3)The plans and profiles of proposed sanitary sewers, including existing sewers within the proposed subdivision, with grades and sizes indicated, or the method of sewage disposal in lieu of sanitary sewers.

(4)Plans for storm sewers or other methods of disposal of stormwater shall be submitted in the same manner as outlined in (3) above.

(5)The plan of the proposed street lighting system.

(6)The plan of the proposed tree planting, if any, showing location, kind, etc.

(7)All resource protection areas consisting of the following:

a. Tidal wetlands, verified by field survey;

~~b. Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;~~
~~c. Tidal shores; and~~
~~d. A variable width buffer area not less than one hundred (100) feet in width. The variable width buffer area shall be located adjacent to and landward of the components listed in a. through c. above and along both sides of any water body with perennial flow. The variable width buffer area shall also include lands designated as part of the coastal barrier resources system not otherwise listed as a resource protection area feature where present.~~
~~(8) Provisions for a primary and reserve sewage disposal site for each lot when use of an on-site sewage system not requiring a Virginia Pollution Discharge Elimination System (VPDES) permit is proposed.~~
~~(9) On properties zoned SPI-CBPD, the limits of clearing and methods to be used to protect areas shown as undisturbed, or as buffer areas proffered as part of a conditional rezoning or required as part of a use permit, or as part of resource protection areas.~~
~~(10) For development on property zoned SPI-CBPD, a landscape plan to include delineation of the following within areas shown as undisturbed, or as buffer areas proffered as part of a conditional rezoning or required as part of a use permit, or as part of resource protection areas:~~
~~a. Existing trees six (6) inches or more in diameter, measured at four and one-half (4½) feet above ground level, to be retained on site;~~
~~b. Any required buffer areas and all plant materials to be installed within such buffers;~~
~~c. Trees to be removed from buffer areas;~~
~~d. Trees to be removed from shoreline areas for stabilization projects;~~
~~e. Grade changes and work adjacent to retained trees that may adversely impact trees. Specifications shall be provided as to grading, drainage and aeration of retained trees;~~
~~f. Tree protection measures for all phases of construction; and~~
~~g. Botanical name of all replacement plants, with the assurance that all are:~~
~~1. Healthy specimens conforming to the standards of the most recent edition of the American Standard for Nursery Stock, published by the American Association of Nurserymen;~~
~~2. Installed according to standard practices; and~~
~~3. Installed, when used as replacement trees for trees removed from buffer areas, at a ratio of three (3) new trees to one removed.~~
~~Replacement specimens shall be at least one and one-half (1½) inches in diameter, measured at six (6) inches above ground, and at least eight (8) feet in height, at installation.~~
~~(11) The boundary of any resource management area.~~
~~(12) The boundary of any intensely developed area.~~
~~(13) Notation on the plat to state that the variable width RPA buffer area is to remain undisturbed and vegetated and that development or disturbance of the RPA is regulated by the Hampton City Zoning Ordinance and therefore is subject to plan review and permitting requirements.~~
~~(14) References to any RPA buffer encroachment or exception to the RPA regulations authorized by the City of Hampton.~~
~~The subdivider and/ may show several improvement plans on separate maps or drawings.~~

2476 **Sec. 35-119. -- Submission of copies.**
2477 — Four (4) prints or copies of the improvement plans for construction required by this
2478 division shall be submitted to the director of public works, who shall review the plans for
2479 compliance with all provisions of this and other ordinances, including the requirements of
2480 the resource protection area.
2481 **Sec. 35-120. -- Review fee for improvement plans.**
2482 — Upon submission of the improvement plans there shall be submitted to the
2483 administrative authority an amount of three hundred dollars (\$300.00), plus twenty-five
2484 dollars (\$25.00) for each lot shown on the improvement plan, up to a maximum fee of
2485 twelve hundred dollars (\$1,200.00), which payment is to cover the costs of review of the
2486 improvement plan.