

1 **Ordinance To Amend And Re-Enact Chapter 35 of the City Code Of The City Of Hampton,**  
2 **Virginia Pertaining To Transitioning The Subdivision Exception Process To An**  
3 **Administrative Review**  
4

5 **BE IT ORDAINED** by the City Council of the City of Hampton, Virginia that Sections 35-7, 35-8,  
6 and 35-11 of the City Code of the City of Hampton, Virginia be amended to read as follows:  
7

8 **Sec. 35-7. - Exceptions.**

9 (A) Except as otherwise set forth in this chapter, the *development services center manager*  
10 ~~city council~~ may grant exceptions to the general provisions of this chapter not governed  
11 by chapters 9, 13.1, 33.2 and 41.1 of the City Code, the "City of Hampton Landscape  
12 Guidelines", the zoning ordinance, or the public works design and construction  
13 standards, subject to the following:

- 14 (1) No such exception shall be granted unless the subdivider submits petition for an  
15 exception in writing at the time when the plat is filed for consideration.
- 16 (2) The petition shall be submitted to the subdivision agent for review by the  
17 ~~planning division of the~~ *development services center manager of the* department  
18 of community development. The petition shall state fully the grounds for the  
19 petition and all of the facts relied upon by the subdivider.
- 20 (3) The *development services center manager* ~~subdivision agent and the planning~~  
21 ~~division staff~~ shall review the petition for completeness and may require such  
22 additional information as ~~he or they~~ may deem necessary to process the petition  
23 ~~to the planning commission for its consideration.~~
- 24 (4) The burden shall be on the subdivider to demonstrate the need for the exception.
- 25 ~~(5) The planning commission shall consider the petition in the manner of a rezoning~~  
26 ~~petition at a public hearing which shall be advertised in accordance with Code of~~  
27 ~~Virginia § 15.2-2204 and shall submit its recommendation to the city council to~~  
28 ~~approve or deny the petition. The planning commission in considering such~~  
29 ~~petitions may impose such reasonable conditions in addition to the provisions of~~  
30 ~~this chapter as it may deem necessary in the public interest, and it shall make the~~  
31 ~~proper findings as set forth in subsection (B) of this section. Notwithstanding the~~  
32 ~~petition request, the planning commission may require a guarantee or bond to~~  
33 ~~ensure that the conditions imposed are being and will continue to be complied~~  
34 ~~with.~~
- 35 ~~(6) Following the recommendation of the planning commission, the city council shall~~  
36 ~~consider the petition at a public hearing advertised in accordance with Code of~~  
37 ~~Virginia § 15.2-2204 and shall recommend approval or denial of the petition with~~  
38 ~~recommended conditions and in accordance with the provisions of this section.~~

39 (B) The *development services center manager* ~~city council~~ shall not approve a petition for an  
40 exception unless *they* ~~it~~ receives a recommendation from the planning commission and  
41 ~~unless it finds that:~~

- 42 (1) Strict adherence to the ordinance requirement will cause undue hardship;
- 43 (2) The granting of the exception will not be detrimental to public safety, health, or  
44 welfare, and will not adversely affect the property of others;
- 45 (3) The facts upon which the petition request is based are unique to the property for  
46 which the relief is sought and are not applicable generally to other property so as  
47 not to make reasonably practical the formulation of general regulations to be  
48 adopted as an amendment to this chapter;
- 49 (4) No objection to the exception has been received in writing from city's fire chief, or  
50 any affected state, federal or local agency including, but not limited to Langley Air  
51 Force Base;

- 52 (5) The hardship is created by the unusual character of the property, including  
 53 dimensions and topography, or by other extraordinary situation or condition of the  
 54 property. Personal, financial, or self-inflicted hardship shall not be considered  
 55 proper justification for an exception; and
- 56 (6) The relief sought will not in any manner vary the provisions of chapters  
 57 9, 13.1, 33.2 and 44.1 of the City Code, the "City of Hampton Landscape  
 58 Guidelines", the zoning ordinance, comprehensive plan, or official map, except  
 59 that those documents may be amended in the manner prescribed by law.
- 60 (C) If granted, such exception shall be specifically stated in writing *by the development*  
 61 *services center manager* ~~as evidenced by a formal council resolution~~ and filed with the  
 62 preliminary subdivision plat and improvement plans for construction. A note shall be  
 63 prominently placed on the final plat detailing any exception so granted. *If denied, the*  
 64 *development services center manager shall notify the subdivider of such result in writing.*
- 65 (D) *Upon denial of a petition for exception, the subdivider may appeal the decision in writing*  
 66 *within 30 days of the date written notice was sent of such fact by the development services*  
 67 *center manager. Within 30 days of receipt of an appeal, the development services center*  
 68 *manager shall schedule an opportunity for the appellant to be heard before a panel*  
 69 *consisting of the director of community development and the director of public works, or*  
 70 *their designees. The development services center manager's decision shall only be*  
 71 *overturned by a unanimous decision by the directors of community development and*  
 72 *public works. The decision on appeal shall be final and unappealable except as provided*  
 73 *in Section 35-8.*

74  
 75 **Sec. 35-8. - Appeals.**

76 In the event a plat for subdivision is disapproved by the subdivision agent ~~or the city council~~  
 77 and the subdivider contends that the disapproval was not properly based on the ordinance  
 78 applicable thereto, or was arbitrary or capricious, he may appeal such decision to the  
 79 Hampton Circuit Court within sixty (60) days of written disapproval by the subdivision  
 80 agent ~~or the city council~~. No subdivider may pursue approval of an alternative plat while  
 81 his appeal from the disapproval of the original plat is pending.

82 . . . .  
 83  
 84 **Sec. 35-11. - Fees.**

- 85 . . . .  
 86 (F) ~~Subdivision exception fees. Any petition for an exception shall be accompanied by a fee~~  
 87 ~~of seven hundred fifty dollars (\$750.00) payable to the City of Hampton to cover the costs~~  
 88 ~~of processing the petition and publication of notice of public hearing.~~
- 89 (F)(G) Plat vacation fees. Any application for the vacation of a plat or part thereof shall be  
 90 accompanied by a fee of one hundred fifty dollars (\$150.00).
- 91 (G)(H) At the time separate easement or dedication deeds or plats are submitted a review fee  
 92 in the amount of fifty dollars (\$50.00) per instrument to be reviewed, payable to the City  
 93 of Hampton shall be required.
- 94 (H)(I) If a subdivider, at any time during the subdivision review, submits a revised plat or  
 95 development plan or portion thereof, files or makes a change to the plat or development  
 96 plan under review not at the request of the subdivision agent or the director of public  
 97 works as the case may be, such revision shall be accompanied by a fee of one hundred  
 98 fifty dollars (\$150.00) per sheet that is revised or changed payable to the City of  
 99 Hampton.
- 100 (I)(J) Prior to recordation of the final plat, the subdivider will pay to the city a sewage fee of  
 101 five hundred dollars (\$500.00) per unit for each lot in the subdivision section being  
 102 served by the sewer.

103 (~~J~~)(K) Recording fees for final subdivision plats, subdivision agreements and any other legal  
104 instrument required under this chapter for subdivisions, except for homeowners  
105 association documents shall be submitted to the subdivision agent at the time prescribed  
106 in this section or in this chapter and shall be made payable to the Clerk of the Hampton  
107 Circuit Court.  
108