

1 **Ordinance To Amend And Re-Enact Chapter 35.1 of the City Code Of The City Of Hampton,**
2 **Virginia Pertaining To Transitioning The Site Plan Exception Process To An Administrative**
3 **Review**

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5 **BE IT ORDAINED** by the City Council of the City of Hampton, Virginia that Sections 35.1-7, 35.1-
6 8, and 35.1-11 of the City Code of the City of Hampton, Virginia be amended to read as follows:
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8 **Sec. 35.1-7. - 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 standards,
13 subject to the following:

14 (1) No such exception shall be granted unless the owner or developer submits a
15 petition for an exception in writing at the time when the plan is filed for
16 consideration.

17 (2) The petition shall be submitted to the city agent for review by the ~~planning division~~
18 *of the development services center manager of the* department of community
19 development. The petition shall state fully the grounds for the petition and all of the
20 facts relied upon by the owner or developer.

21 (3) The *development services center manager* ~~city agent and the planning division~~
22 ~~staff~~ shall review the petition for completeness and may require such additional
23 information as ~~he or they~~ may deem necessary to process the petition ~~to the~~
24 ~~planning commission for its consideration.~~

25 (4) The burden shall be on the owner or developer to demonstrate the need for the
26 exception.

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

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

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

43 (1) Strict adherence to the ordinance requirement will cause undue hardship;

44 (2) The granting of the exception will not be detrimental to public safety, health, or
45 welfare, and will not adversely affect the property of others;

46 (3) The facts upon which the petition request is based are unique to the property for
47 which the relief is sought and are not applicable generally to other property so as
48 not to make reasonably practical the formulation of general regulations to be
49 adopted as an amendment to this chapter;

50 (4) No objection to the exception has been received in writing from city's fire chief, or
51 any affected state, federal or local agency including, but not limited to Langley Air

52 Force Base; provided however, that any such objection and the reasons therefore
53 must reference specific adopted ordinances, laws, regulations and policies.
54 Modifications or corrections that would permit approval shall also be identified in
55 the letter of objection;

- 56 (5) The hardship is created by the unusual character of the property, including
57 dimensions and topography, or by other extraordinary situation or condition of the
58 property. Personal, financial, or self-inflicted hardship shall not be considered
59 proper justification for an exception; and
60 (6) The relief sought will not in any manner vary the provisions of chapters
61 9, 13.1, 33.2 and 44.1 of the City Code, the "City of Hampton Landscape
62 Guidelines", the zoning ordinance, comprehensive plan, or official map, except that
63 those documents may be amended in the manner prescribed by law.

64 (C) If granted, such exception shall be specifically stated in writing *by the development*
65 *services center manager* ~~as evidenced by a formal council resolution~~ and filed with the
66 preliminary site plan and improvement plans for construction. A note shall be prominently
67 placed on the final plat detailing any exception so granted. *If denied, the development*
68 *services center manager shall notify the applicant of such result in writing.*

69 (D) *Upon denial of a petition for exception, the owner or developer may appeal the decision*
70 *in writing within 30 days of the date written notice was sent of such fact by the development*
71 *services center manager. Within 30 days of receipt of an appeal, the development services*
72 *center manager shall schedule an opportunity for the appellant to be heard before a panel*
73 *consisting of the director of community development and the director of public works, or*
74 *their designees. The development services center manager's decision shall only be*
75 *overturned by a unanimous decision by the directors of community development and*
76 *public works. The decision on appeal shall be final and unappealable except as provided*
77 *in Section 35.1-8.*

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79 **Sec. 35.1-8. - Appeals.**

80 In the event a site plan is disapproved by the city agent ~~or the city council~~ and the owner
81 or developer contends that the disapproval was not properly based on the ordinance
82 applicable thereto, or was arbitrary or capricious, he may appeal such decision to the
83 Hampton Circuit Court within sixty (60) days after written disapproval by the city agent ~~or~~
84 ~~the city council~~. No owner or developer may pursue approval of an alternative site plan
85 while his appeal from the disapproval of the original site plan is pending.

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88 **Sec. 35.1-11. - Fees.**

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90 (C) ~~Site plan exception fees. Any petition for an exception shall be accompanied by a fee of~~
91 ~~seven hundred fifty dollars (\$750.00) payable to the City of Hampton to cover the costs of~~
92 ~~processing the petition and publication of notice of public hearing.~~

93 (C)(D) *[Separate private easements; private dedication deeds/plats.]* When separate private
94 easements or private dedication deeds or plats are submitted a review fee shall be
95 required in the amount of fifty dollars (\$50.00) per instrument, payable to the City of
96 Hampton.

97 (D)(E) *[Revised site plan.]* If an owner or developer, at any time during the site plan review,
98 submits a revised site plan or portion thereof, files or makes a change to the site plan or
99 public improvement plan under review not at the request of the city agent or the director
100 of public works as the case may be, such revision shall be accompanied by a fee of one
101 hundred dollars (\$100.00) per sheet that is revised or changed payable to the City of
102 Hampton.

103 (E)(F) *[Recording fees.]* Recording fees for any legal instrument required under this chapter for
104 site plans shall be submitted to the city agent at the time prescribed in this section or in
105 this chapter and shall be made payable to the Clerk of the Hampton Circuit Court.
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