



## Legislation Text

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Ordinance to Amend and Re-Enact the Zoning Ordinance of the City of Hampton, Virginia by Amending Chapter 1 Entitled, "General Provisions" Pertaining to Impervious Area and Minimum Green Area Requirements for All One and Two Family Residences

### **Background Statement:**

Requests that the city regulate vehicles parked on lawns have been made by multiple neighborhood groups and individual citizens over the past several years. In 2012, City staff formally began the outreach effort to create an ordinance that balanced the interests of all citizens. With the beginning of the Resilient Hampton efforts, staff saw an opportunity to combine new green area requirements with the regulation of vehicle parking in residential areas.

If approved, this amendment would set a minimum green area requirement for all lots with a one-family, two-family, or a duplex dwelling as the primary use or proposed primary use. This requirement applies to front and side yards that are between the primary structure and a public or private street, known as street frontage yards. When a street frontage area is less than  $\frac{1}{4}$  acre, the minimum green area shall be 50%. When a street frontage area is  $\frac{1}{4}$  acre or greater but less than  $\frac{1}{2}$  acre, the minimum green area shall be 60%. When a street frontage area is  $\frac{1}{2}$  acre or greater but less than 1 acre, the minimum green area shall be 70%. When a street frontage area is 1 acre or greater, the minimum green area shall be 75%. If a street frontage area is so small that the required green area would prevent a lot from having a driveway, and that lot does not have alley access for vehicles, a 12'x 25' driveway and 3' wide walkway will be permitted.

This amendment also creates a requirement that a zoning permit be issued for all new impervious surface otherwise exempted from obtaining a building permit. Previously, only impervious area within the Chesapeake Bay Preservation Overlay or in a designated green area required a zoning permit.

If approved, this amendment would limit the materials that can be used for driveways, considered improved driveways, on all lots with a one-family, two-family, or a duplex dwelling as the primary use to concrete, asphalt, pavers designed to support the weight of motor vehicles, rock, gravel, oyster shells, or any other similar impervious surface, not to include grass, dirt or compacted soil. This amendment also prohibits the construction of driveways within 3' of a side property line, except in the case of shared driveways where there is a shared parking agreement in place.

If approved, this amendment would prohibit the parking of passenger cars or commercial vehicles in street frontage yards on an unimproved surface, except in the case of the following: lots adjacent to streets identified by signage as prohibiting parking; during street sweeping; during severe weather events; and when the vehicle is actively being washed.

While the rest of the amendment would be effective immediately upon adoption by Council, Section 1 -34, parking passenger cars on unimproved surfaces in residential areas, is not effective until July 1,

2021. This allows citizens time to establish an improved driveway.

This item is being brought forward in conjunction with Zoning Ordinance Amendment No. 20-00252, No. 20-00254, and No. 20-0255.

This item was heard at the August 20, 2020 Planning Commission meeting. As a result of a tie vote, this item is being forwarded to City Council without a Planning Commission recommendation. Those commissioners who voted against the recommendation of approval had the following general concerns: financial hardship to citizens; environmental impacts of additional impervious area; citizen outreach; and substandard roads impacting the ability to park on the street. Those Commissioners who voted for the recommendation of approval made the following general comments: parking on lawns decreases property values; the exceptions addressed a number of hardships; and the variety of material options for driveways alleviated some of the financial hardship.

**Recommendations:**

Staff Recommendation:

Approval

Planning Commission Recommendation:

As a result of a tie vote, this item is being forwarded without a Planning Commission recommendation

**WHEREAS**, the public necessity, convenience, general welfare and good zoning practice so require;

**BE IT ORDAINED** by the Council of the City of Hampton, Virginia that Articles I and II of Chapter I of the Zoning Ordinance of the City of Hampton, Virginia, be amended to read as follows:

**Chapter 1 - GENERAL PROVISIONS**

**ARTICLE I. - ADMINISTRATION AND ENFORCEMENT OF ORDINANCE**

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**Sec. 1-10 - Review process for zoning permit applications.**

Any structure, development, or new impervious surface exempted from obtaining building permits shall be required to obtain a zoning permit. All applications for such zoning permits shall be accompanied by usable plat plans in duplicate, showing the actual shape and location on the lot of the building or buildings and accessory buildings existing, or to be erected or altered; the existing and intended use of each building or part of a building; such other information with regard to the lot as may be necessary to determine and provide for the enforcement of the provisions of this ordinance; and a nonrefundable application fee of fifteen dollars (\$15.00). Notwithstanding the foregoing, qualified arts and cultural businesses located in a designated arts and cultural district shall be eligible for a 100% reduction in the zoning permit application fee for all signs to be installed at the location of the qualified arts and cultural business under the terms and conditions set forth in the Hampton City Code

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## ARTICLE II. - REGULATIONS APPLICABLE TO MANY OR ALL ZONING DISTRICTS

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### Sec. 1-30 - General green area requirements.

- (1) A minimum of ten (10) percent of the land area of the lot shall be designated as green area for trees, shrubs, and turf for all properties except for those zoned R-LL, RT-1, MD-1, MD-2, MD-18 3, MD-4, P0-1, P0-2, DT-1, DT-2, DT-3, HRC-1, HRC-2, HRC-3, BB-1, BB-2, 19 BB-3, BB-4, BB-5, FM-1, FM-2, FM-3, FM-4, PH-1, PH-2, O-CBP and O-CC, and all one-family, two-family and duplex dwellings.
- (2) The following criteria shall be met in all districts except for lots with a one-family, two-family, or duplex dwelling as the primary use:
  - (a) No accessory uses or structures except utilities and stormwater management facilities shall be located in a green area.
  - (b) In any parking area, including drive aisles and drive-throughs regardless of size, a minimum ten (10) foot green area shall be provided immediately adjacent to any existing or future public right-of-way.
  - (c) In any parking area containing thirty (30) or more spaces, seven (7) percent of the interior of the parking area shall be reserved and maintained as green area. Each green area within the parking area shall be no less than eight (8) feet wide and contain at least one hundred fifty (150) contiguous square feet of green area. This required green area may constitute no more than thirty-three (33) percent of the green area required within the parking area as well as counting toward the total green area requirement.
  - (d) In all districts, development sites less than two (2) acres shall comply with the following:
    - (i) On sites which front upon only one (1) public street, a minimum of seventy-five (75) percent of the required green shall be located within the front yard.
    - (ii) On sites which front upon two (2) or more public streets or proposed rights-of-way, a minimum of seventy-five (75) percent of the required green area shall be distributed within the yard areas adjacent to the existing or proposed public rights-of-way; no such area shall contain less than thirty (30) percent of the requirement, and no less than twenty (20) percent of the required green area shall be located in each yard fronting upon existing or proposed public rights-of-

way.

(e) In all districts, development sites of two (2) or more acres shall comply with the following:

(i) On sites which front upon only one (1) public street, a minimum of fifty (50) percent of the required green area shall be located within the front yard.

(ii) On sites which front upon two (2) or more public streets or proposed rights-of-way, a minimum of fifty (50) percent of the required green area and landscaping shall be distributed within the yard areas adjacent to existing or proposed public rights-of-way; no such area shall contain less than twenty (20) percent of the requirement, and no less than ten (10) percent of the required green area shall be located in each yard fronting upon existing or proposed public rights-of-way.

(f) Green areas located within any building shall not be credited toward meeting the total green area requirement.

(g) Green areas interior to the perimeter of any structure that may serve as a court-yard may be credited toward meeting the total green area requirement.

(h) Areas designated as green areas upon the approved site plan, or subdivision plat that are utilized for storage or the display of products shall be considered in violation of the city zoning ordinance.

(i) Landscaping within green areas shall comply with the "City of Hampton Landscape Guidelines" or as otherwise proffered or conditioned pursuant to applicable provisions of the city zoning ordinance.

(3) The following green area standards apply to all lots with a one-family, two-family, or a duplex dwelling as the primary use or proposed primary use. The green area percentage required herein shall be provided within the street frontage yard.

(a) A percentage of a street frontage yard must be established as green area as further set forth below.

(i) Rear street frontage yards on through lots are exempt from these requirements.

(ii) The intersecting portion of the front and side street frontage yards on corner lots shall be calculated as the front street frontage yard.

(iii) On corner lots, the front and side street frontage yards shall be calculated independently.

- (b) When a street frontage yard is less than  $\frac{1}{4}$  acre, the minimum green area shall be 50%.
- (c) When a street frontage yard is  $\frac{1}{4}$  acre or greater but less than  $\frac{1}{2}$  acre, the minimum green area shall be 60%.
- (d) When a street frontage yard is  $\frac{1}{2}$  acre or greater but less than 1 acre, the minimum green area shall be 70%.
- (e) When a street frontage yard is 1 acre or greater, the minimum green area shall be 75%.
- (f) Notwithstanding the foregoing all lots which do not abut an alley that allows vehicular access shall be permitted a driveway not to exceed 12' in width and 25' in length, and an improved path of travel three feet (3') in width from the driveway to the front door.
- (g) The following standards apply to driveways, where permitted, within the street frontage yard.
  - (i) All expansions to and newly established driveways shall be made of an improved surface.
  - (ii) All expansions to and newly established driveways and/or parking areas shall be a minimum of three (3) feet from the side property line.
    - (aa) If a shared parking agreement, including terms to the satisfaction of the zoning administrator and city attorney, similar to those required by Section 11-7, is executed between adjoining property owners, the zoning administrator may waive this requirement.
    - (bb) No driveways and/or parking pads shall project or encroach into a City right-of-way or easement without the written permission of the City of Hampton or an approved encroachment agreement pursuant to Chapter 34 of the City Code, as amended.

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### **Sec. 1-34 - Parking passenger cars and commercial vehicles on unimproved surfaces in residential areas**

- (1) It shall be unlawful for any person to park a passenger car or commercial vehicle in a street frontage yard on a lot containing a one, two family, or duplex residence as a primary use

unless the passenger car or commercial vehicle is parked on a permitted driveway. The driveway must be under the entirety of the vehicle, except in case of ribbon driveways, which must extend continuously from the adjacent public or private right-of-way to the parking location.

(2) Notwithstanding the foregoing, passenger cars and commercial vehicles may be parked on street frontage yards in the case of the following:

(a) A special event when a special event permit has been issued by the City;

(b) Street sweeping or other City maintenance or construction operations, during the time the street is closed to on-street parking;

(c) Flooding, other severe weather events, or emergencies;

(d) When the passenger car or commercial vehicle is actively being washed; or

(e) When either side of the adjacent street is identified, by signage, as prohibiting parking.

(3) This section shall have an effective date of July 1, 2021.

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