

ORDINANCE NO. 7526-19

AN ORDINANCE TO AMEND AND REORDAIN APPENDIX B, SUBDIVISION REGULATIONS, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE IV., GENERAL REGULATIONS, SECTION 4-01, COMPLIANCE WITH REGULATIONS.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News, Virginia:

That Appendix B, Subdivision Regulations, of the Code of the City of Newport News, Virginia, Article IV., General Regulations, Section 4-01, Compliance with regulations, be, and the same hereby is, amended and reordained as follows:

APPENDIX B

SUBDIVISION REGULATIONS

ARTICLE IV. GENERAL REGULATIONS

Sec. 4-01. Compliance with regulations.

From and after the effective date of this ordinance or amendment thereof, the following provisions shall be effective within the City of Newport News and shall not negate the requirements of the city zoning ordinance [Chapter 45]:

- (a) For every subdivision lot of five (5) acres or more, the following sections and articles of this ordinance shall apply:
 - 1. Section 4-01.8. Court partition.
 - 2. Section 4-01.10. Conflict with other ordinances.
 - 3. Section 5-01. General requirements.
 - 4. Section 5-02. Preliminary development plan.
 - 5. Section 5-05. Filing of final plat.
 - 6. Section 5-06. Recordation of final plat.
 - 7. Section 5-07. Appeals.
 - 8. Section 5-08. Filing and recording fees.

9. Article VI. Requirements of Preliminary Development Plans.
 10. Article VII. Requirements of Final Plat.
 11. Section 8-01.1. Lots [Shape].
 12. Section 8-01.2. Size.
 13. Section 8-01.9. Usable land area.
 14. Section 8-05. Easements.
 15. Section 8-06. Easements along streams.
 16. Section 8-07. Land inadequately drained.
 17. Article XIII. Violations and penalties.
 18. Article XIV. Separability clause.
 19. Article XV. Amendments.
 20. Article XVI. Repeal.
- (b) For every subdivision lot of five (5) acres or more that has existing public street frontage or would front on a proposed public street, the following sections and articles of this ordinance shall apply:
1. All articles and sections as listed in subsection (a) therein.
 2. Article IV. General regulations.
 3. Section 8-01.1. Location.
 4. Section 8-01.10. Access to major thoroughfares.
 5. Section 8-03.7. Private streets.
 6. Section 8-04. Building setback lines.
- (c) For every subdivision lot of less than five (5) acres, all sections of the Subdivision Ordinance (hereinafter referred to as "this ordinance") shall apply.

- (d) For every subdivision lot, irrespective of size, created for the purposes of public streets and/or public improvements, the requirements of this ordinance for such public streets and/or public improvements shall apply. A final plat or legal plat, as determined by the department of planning, shall be required whenever a street to be dedicated to the city is created.
- (e) For every Neotraditional Overlay District, the following shall apply.
 - 1. All articles and sections as listed in (a) and (b) herein above, but excluding subsections (a)5. and (a)10.
 - 2. All pertinent articles and sections of Chapter 33.02, Site Regulations, of the City Code, as set forth therein.
 - 3. The director shall resolve any conflicts which may exist among city ordinances and regulations associated with development proposals within Neotraditional Overlay Districts.

4-01.1. Plat required. No person shall subdivide land without making and recording a plat of such subdivisions in accordance with the provisions of this ordinance.

4-01.2. Approval before recording. No such plat of any subdivision shall be recorded unless and until it shall have been submitted to and approved by the duly authorized agent of the city council as provided herein. No clerk of any court shall file or record a plat of a subdivision required by this ordinance to be recorded until such plat has been approved as required herein.

4-01.3. Sale of lots in unrecorded subdivision prohibited. 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 this ordinance, provided nothing herein 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.

4-01.4. No building permit issued. No building permit shall be issued for any structure or building to be located on any land which has been subdivided or is proposed to be subdivided until a plat of such subdivision has been recorded in accordance with the provisions of this ordinance.

4-01.5. Private contracts. This ordinance bears no relation to any private easement, covenant, agreement or restriction, nor is the responsibility of enforcing such private easement, covenant, agreement or restriction implied herein to any public official. When this ordinance calls for more restrictive standards than are required by private contract, the provisions of this ordinance shall control.

4-01.6. *Relation to zoning.* When the intended use of all or part of the platted area, as indicated by the preliminary development plan and as shown on that plan, indicates the land to be subdivided would be used in a manner not permitted as a matter of right in the zoning district which exists at the time the final plat is filed with the city, the subdivider shall file at his own expense and as a condition to the approval of the preliminary development plan an application for a change in zoning of the affected area to a classification consistent with the use to be made of the proposed subdivision.

4-01.7. *Payments by subdividers and developers for certain off-site sewerage and drainage facilities.* Subdividers or developers of land may be required to pay a pro rata share of the cost of providing reasonable and necessary sewerage and drainage facilities, located outside the property limits of the land owned or controlled by them but necessitated or required, at least in part, by the construction or improvement of their subdivision or development. Such payments shall not be required until such time as city council or a department designated by city council shall have established a general sewerage and/or drainage improvement program for an area having related and common sewer or drainage conditions and within which is located the land owned or controlled by the subdivider or developer.

- (1) Payments shall be required only after establishment of regulations approved by city council which set forth reasonable standards to determine the proportionate share of total estimated cost of ultimate sewerage and drainage facilities required adequately to serve a related and common area, when and if totally developed in accord with the adopted comprehensive plan, that shall be borne by each subdivider or developer within the area. Such share shall be limited to the amount necessary to protect water quality based upon the pollutant loading caused by the subdivision or development or to the proportion of such total estimated cost which the increased sewerage flow, water flow and/or increased volume and velocity of stormwater runoff to be actually caused by his subdivision or development bears to total estimated volume and velocity of such sewerage, water and/or runoff from such area in its totally developed state. In calculating the pollutant loading caused by the subdivision or development or the volume and velocity of stormwater runoff, the city shall take into account the effect of all on-site stormwater facilities or best management practices constructed or required to be constructed by the subdivider or developer and give appropriate credit therefore.
- (2) The regulations required above shall include a provision that payments received by the city shall be expended only for construction of those facilities for which the payment was required, and until so expended shall be held in an interest-bearing account for the benefit of the developer or subdivider. The regulations may allow, however, for the posting of personal, corporate, or property bond, cash escrow or other method of performance guarantee conditioned on payment at commencement of construction.

4-01.8. *Court partition.* If the partition of any tract is ordered by a court of competent jurisdiction when a bona fide dispute exists between the parties in interest, none of the requirements of this ordinance shall apply. Partition shall not be sought merely as a means to circumvent the provisions of this ordinance.

4-01.9. Reserved.

4-01.10. *Conflict with other ordinances.* Whenever regulations contained in this ordinance impose higher restrictions than regulations contained in other municipal ordinances, the regulations of this ordinance shall prevail.

4-01.11. *Conflict with Chesapeake Bay Preservation Ordinance.* Any provision of Chapter 13.5, Chesapeake Bay Preservation, which is found to be in conflict with any provision of this ordinance shall be controlling and shall supersede said provision of this ordinance to the extent of such conflict.

4-01.12. *Subdivisions approved by subdivision review board.* Any subdivision for which relief from strict compliance with the provisions of this ordinance was granted by the subdivision review board on or before December 31, 2018, shall be deemed in compliance in all respects with this ordinance.

4-01.13. *No ingress and egress over landscaped areas of subdivision entrances.* No curb cut, nor other improvement, shall be allowed for ingress and egress over landscaped areas of the entrances to subdivisions, which either now exist or are to be dedicated and created in the future, where these landscaped areas are specifically designed or used for aesthetic enhancements to the public rights-of-way and for future expansion of the paved portion of the streets they abut.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS ON JANUARY 22, 2019

Mabel Washington Jenkins, MMC
City Clerk

McKinley L. Price, DDS
Mayor

A true copy, teste:

City Clerk