

**ORDINANCE NO. 7649-20**

AN ORDINANCE TO AMEND AND REORDAIN APPENDIX B, SUBDIVISION REGULATIONS, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE V., PROCEDURE FOR MAKING AND RECORDING PLATS, SECTION 5-09, TIME OF VALIDITY FOR APPROVED FINAL SUBDIVISION PLATS, AND SECTION 5-10, TIME OF VALIDITY OF APPROVED DEVELOPMENT PLANS, TO REFLECT A STATUTE ENACTED IN THE 2020 SESSION OF THE VIRGINIA GENERAL ASSEMBLY.

WHEREAS, the Virginia General Assembly during its 2020 General Session enacted Chapter 138 of the Virginia Acts of Assembly, 2020 Session, House Bill 929.

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

1. That Appendix B, Subdivision Regulations, of the Code of the City of Newport News, Virginia, Article V., Procedure for Making and Recording Plats, Section 5-09, Time of Validity for Approved Final Subdivision Plats, and Section 5-10, Time of Validity of Approved Development Plans, be, and the same hereby is, amended and reordained as follows:

**APPENDIX B**

**SUBDIVISION REGULATIONS**

**ARTICLE V. PROCEDURE FOR MAKING AND RECORDING PLATS**

**Sec. 5-09. Time of validity for approved final subdivision plats.**

*5-09.1. Period of validity.* An approved final subdivision plat which has been duly recorded in the office of the clerk of the circuit court of Newport News shall be valid for a period of not less than five (5) years from the date of approval thereof, or for such longer period as the city manager may, at the time of approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development. An approved final subdivision plat that has been recorded, from which any part of the property subdivided has been conveyed to third parties (other than to the developer or local jurisdiction), or a recorded plat dedicating real property to the local jurisdiction or public body that has been accepted by such grantee, shall remain valid for an indefinite period of time unless and until any portion of the property is subject to a vacation action as set forth in § 15.2-2270 through § 15.2278.

*5-09.2. Granting of extensions.* The following procedure shall apply to the granting of extensions:

- (1) Upon application of the subdivider or developer filed prior to expiration of an approved recorded plat, the director or his agent may grant one or more extensions of such approval for additional periods as the director or his agent may, at the time the extension is granted, determine to be reasonable, taking into consideration the size and phasing of the proposed development, the laws, ordinances and regulations in effect at the time of the request for an extension.
- (2) If the director or his agent denies an extension requested as provided herein and the developer contends that such denial was not properly based on the ordinance applicable thereto, the foregoing considerations for granting an extension, or was arbitrary or capricious, he may appeal to the circuit court of Newport News, provided that such appeal is filed with the Circuit Court within sixty (60) days of the written denial.

*5-09.3. Effect of changes in law, policy or plan.* For so long as the approved and recorded final subdivision plat remains valid in accordance with the provisions of this section, no change or amendment to any city ordinance, map, resolution, rule, regulation, policy or plan adopted subsequent to the date of approval of the recorded plat or development plan shall adversely affect the right of the developer or his successor in interest to commence and complete a final site plan unless the change or amendment is required to comply with state law or there has been a mistake, fraud or a change in circumstances substantially affecting the public health, safety or welfare.

*5-09.4. Minor modifications* Application for minor modifications to recorded plats made during the periods of validity of such plats established in accordance with this section shall not constitute a waiver of the provisions hereof nor shall the approval of such minor modifications extend the period of validity of such plats.

*5-09.5. Applicability of section.* The provisions of this section shall be applicable to all final subdivision plats recorded on or after January 1, 1992. Nothing contained in 5-09.1, 5-09.2, 5-09.3, 5-09.4 and 5-09.5 of this section shall be construed to affect: (i) any litigation concerning the validity of a final subdivision plats recorded prior to January 1, 1992, or any such litigation nonsuited and thereafter refiled; (ii) the authority of the city to impose valid conditions upon approval of any special use permit, conditional use permit or special exception; (iii) the application to individual lots on recorded plats or parcels of land subject to approved development plans, to the greatest extent possible, of the provisions of the city's Chesapeake Bay Preservation Ordinance; or (iv) the application to individual lots on recorded plats or parcels of land subject to approved development plans of the provisions of the city's ordinance to comply with requirements of the federal Clean Water Act, Section 402(p.) of the Stormwater Program and regulations promulgated thereunder by the Environmental Protection Agency.

**Sec. 5-10. Time of validity of approved development plans.**

*5-10.1. Period of validity.* An approved development plan shall be valid for a period of five years, provided the subdivider (i) submits a final subdivision plat for all or a portion of the property within one year of such approval, and (ii) thereafter diligently pursues approval of the final subdivision plat. An approved final subdivision plat that has been recorded, from which any part of the property subdivided has been conveyed to third parties (other than to the developer or local jurisdiction), or a recorded plat dedicating real property to the local jurisdiction or public body that has been accepted by such grantee, shall remain valid for an indefinite period of time unless and until any portion of the property is subject to a vacation action as set forth in § 15.2-2270 through § 15.2-2278.

- (1) 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.
- (2) However, no sooner than three years following such development plan approval, and upon ninety days' written notice by certified mail to the subdivider, the city manager may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the final subdivision plat.

*5-10.2. Effect of changes in law, policy or plan.* For so long as the approved development plan remains valid in accordance with the provisions of this section, no change or amendment to any city ordinance, map, resolution, rule, regulation, policy or plan adopted subsequent to approval of the development plan shall adversely affect the right of the developer or his successor in interest to commence and complete a final subdivision plat unless the change or amendment is required to comply with state law or there has been a mistake, fraud or change in circumstances substantially affecting the public health, safety or welfare.

*5-10.3. Minor modifications.* Application for minor modifications to approved development plans made during periods of validity of such plans established in accordance with this section shall not constitute a waiver of the provisions hereof nor shall the approval of such minor modifications extend the period of validity of such plans.

*5-10.4. Applicability of section.* The provisions of this section shall be applicable to all approved development plans valid on or after August 12, 2003. Nothing contained in this section shall be construed to affect: (i) any litigation concerning the validity of a development plan pending prior to August 12, 2003, or any such litigation nonsuited and thereafter refiled; (ii) the authority of the city to impose valid conditions upon approval of any special use permit, conditional use permit or special exception; (iii) the application to individual lots on recorded plats or parcels of land subject to approved development plans to the greatest extent possible, of the city's Chesapeake Bay Preservation Ordinance; or (iv) the application to individual lots on recorded plats or parcels of land subject to approved development plans of the provisions of the city's ordinance to comply with

requirements of the federal Clean Water Act, Section 402(p.) of the Stormwater Program and regulations promulgated thereunder by the Environmental Protection Agency.

2. That this ordinance shall become effective on and after September 8, 2020.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS ON SEPTEMBER 8, 2020

Mabel Washington Jenkins, MMC  
City Clerk

McKinley L. Price, DDS  
Mayor

A true copy, teste:

City Clerk