DRAFT

NEW KENT COUNTY

SUBDIVISION ORDINANCE

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V8
1992

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Prepared by
Richmond Regional Planning District Commission

December, 1992

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ARTICLE IV. Subdivisions

For State Code provisions relating to subdivision ordinances see Code of Virginia, Section 15.1-465, et seq.

The original New Kent County Subdivision Ordinance was adopted July 1, 1962, amended January 16, 1968, June 26, 1972, May 23, 1973, September 4, 1973, July 10, 1973, October 8, 1973, and January 2, 1985. The current ordinance was amended and readopted January 7, 1986, revised October 19, 1987 and November 15, 1991.

Division 1. General Administrative Provisions.

Sec. 9-350. Purpose.

The purpose of this article is to establish certain subdivision standards and procedures for New Kent County, Virginia, and such of its environs as come under the jurisdiction of the governing body as provided for by the Code of Virginia 1950, as amended. These standards are designed to:

A. Promote the health, safety and general welfare of the residents of the County.

B. **Facilitate future land development in coordination with the comprehensive plan and zoning ordinance.**

~~C. Protect the quality of the biophysical environment as it relates to all life in the County and the psychological and physical health thereof.~~

C. Protect the land, air, and water of the County so that life-support capabilities of both human and nonhuman species are not impaired.

D. **Protect and improve the water quality of the Chesapeake Bay and its tributaries.**

E. **To provide for adequate drainage and flood control.**

F. Encourage well planned subdivisions by establishing environmentally adequate standards for design and improvement.

G. **Provide for the coordination of existing and planned streets and safe and efficient circulation patterns.**

H. Ensure conformance and coordination of land subdivision plans with ~~and among the public improvement plans~~ **the capital**

improvement plan of the County and with similar plans in adjacent counties.

I. Improve land records by establishing standards for surveys and plans.

J. Safeguard the interests of the public, the homeowner and the subdivider, including the interest of public disclosure and consumer protections.

K. Secure equitable handling of all subdivision plans by providing uniform procedures and standards.

Sec. XXX. Jurisdiction.

A. This ordinance shall apply to the subdivision, as defined herein, of all land located within New Kent County, Virginia.

Sec. XXX. Enactment.

In order that land may be subdivided in accordance with these purposes, these subdivision regulation are hereby adopted and become effective (insert date).

Sec. XXX. Compliance with ordinance mandatory.

No person shall subdivide any tract of land located within New Kent County except in conformity with the provisions of this article.

Sec. XXX. Interpretation, Conflict, Private Contracts, and Separability.

A. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.

B. Whenever the requirements of this article impose more stringent regulations or requirements than those imposed in any other statute, ordinance or regulation, then the provisions of this article shall control. Whenever the provisions of any other statute, ordinance or regulation are more stringent than the provisions of this article, then the provisions of such other statute, ordinance or regulation shall govern.

C. This article bears no relation to any private easement, covenant, condition, agreement or restriction, nor is the responsibility of enforcing any such private easement, covenant, condition, agreement, or restriction implied herein to any public official. When this article calls for more restrictive standards than are required by private contract, then this article shall control.

D. The provisions of this ordinance are separable. If a section, sentence, clause, or phrase of this ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the remaining portions of this ordinance.

~~Sec. 9-351. Definitions.~~

~~For the purpose of this article, certain words and terms used herein shall be interpreted or defined as follow: Words used in the present tense shall include the future; the word "lot" includes the word "parcel"; the word "approve" shall be considered to be followed by the words "or disapproved"; and any reference to this article includes all ordinances amending or supplementing the same. Unless the context specifically requires otherwise, the definitions set forth in Article III of this chapter shall apply in the same manner to this article. The following terms shall have the meanings respectively ascribed to them below notwithstanding the fact that a different meaning may be set forth in Article III:~~

~~AGENT. The Director of Planning for New Kent County.~~

~~CONSUMER. Any person contacted as a potential purchaser, lessee, or renter as well as one who actually purchases, leases, or rents property in the subdivision.~~

~~DEVELOPER. An owner of property being subdivided, whether or not represented by an agent.~~

~~EASEMENT. A grant by a property owner of the use of land for a specific purpose or purposes.~~

~~FAMILY, IMMEDIATE. Any person who is a natural or legally defined offspring, spouse, parent, or grandparent of the owner.~~

~~Highway Engineer. The resident engineer employed by the Virginia Department of Transportation and responsible for New Kent County.~~

~~PARENT TRACT. A lot, parcel, or tract of land legally established, subdivided, or created under county code requirements effective at the time before November 20, 1985, of which a plat or legal description is recorded in the Circuit Court Clerk's Office.~~

~~PLAT. A map or plan of a tract or parcel of land which is to be or has been subdivided. Plat includes the term map, plan, plot, replat, or replot. When used as a verb "plat" is synonymous with "subdivide".~~

~~PROPERTY. Any tract, lot parcel or several of the same collected together for the purpose of subdividing.~~

~~PUBLIC USE OF STREET OR ALLEY. The unrestricted use of a specified area or right of way for ingress or egress to two or more abutting properties.~~

~~STREET, RESIDENTIAL ACCESS. A street intended to carry the least amount of traffic at the lowest speed and provide the safest and most desirable environment for a residential neighborhood.~~

~~STREET, SUBCOLLECTOR. A street carrying more traffic than a residential access street which provides an acceptable environment for a residential neighborhood.~~

~~STREET, COLLECTOR. A street that will carry the largest volume of traffic at higher speeds within a residential subdivision. Such streets may carry traffic from one neighborhood to another or from the neighborhood to other areas of the community.~~

~~STREET, SERVICE DRIVE. A public right-of-way generally parallel and contiguous to a major highway, primarily designed to promote safety by eliminating unlimited ingress and egress to the highway by providing safe and orderly points of access.~~

~~STREET, WIDTH. The total width of the strip of land dedicated or reserved for public travel, including roadway, curbs, gutters, sidewalks, and planting strips.~~

~~SUBDIVIDER. An individual, corporation or registered partnership owning any tract, lot or parcel of land to be subdivided, or a group of two or more persons owning any tract, lot or parcel of land to be subdivided, who have given their power of attorney to one of their group, or to another individual to act on their behalf in planning, negotiating for, in representing, or executing the legal requirements of the subdivision.~~

~~SUBDIVIDE. The division of any tract or parcel of land into two or more parcels, any of which is less than fifteen (15) acres in area for the purpose of transfer of ownership or building development; however, private street standards of Section 9-430 shall apply for all lots of fifteen (15) acres or more. The term includes resubdivision and when appropriate to the context shall relate to the process of subdividing or to the land subdivided.~~

~~NOTE: For exceptions and special conditions, see Division 5 of this article.~~

~~Sec. 9-352. Compliance with article mandatory.~~

~~No person shall subdivide any tract of land located within New Kent County except in conformity with the provisions of this article.~~

~~Sec. 9-353. Private contracts.~~

~~This article bears no relation to any private easement, covenant, condition, agreement or restriction, nor is the responsibility of enforcing any such private easement, covenant, condition, agreement, or restriction implied herein to any public official. When this article calls for more restrictive standards than are required by private contract, then this article shall control.~~

Sec. 9-354. Mutual responsibility of subdivider and County.

It is the mutual responsibility of any subdivider and the County of New Kent, Virginia, to divide land so as to improve the general use pattern of the land being subdivided.

Sec. 9-355. Administration and enforcement authority.

A. The agent appointed by the governing body is hereby delegated the authority to administer and enforce this article. In so acting, the agent shall be considered the agent of the governing body, and approval or disapproval by the agent shall constitute approval or disapproval as though it were given by the governing body.

B. Notwithstanding paragraph A, preliminary approval of subdivisions shall be given only by the Planning Commission.

C. Notwithstanding paragraphs A and B above, all requirements of this article pertaining to the construction of public improvements and facilities and the performance guarantees therefore shall be reviewed and approved only by the governing body.

D. The agent shall perform his duties regarding subdivision and subdividing in accordance with this article and in accordance with the laws of the Commonwealth of Virginia. In the performance of his duties, the agent may call for written opinions or decisions from other departments and agencies concerning the details of any submitted plat. This authority of the agent shall have particular reference to the VDOT Resident Engineer and the Health Department. In addition to the requirements of this article, the agent may from time to time establish any reasonable additional administrative procedures deemed necessary for the proper administration of this article.

~~Sec. 9-356. Conflicting laws.~~

~~Whenever the requirements of this article impose more stringent regulations or requirements than those imposed in any other stature, ordinance or regulation, then the provisions of this article shall control. Whenever the provisions of any other statue, ordinance or regulation are more stringent than~~

~~the provisions of this article, then the provisions of such other statute, ordinance or regulation shall govern.~~

Sec. 9-357. Restrictions prior to preliminary and final approval.

A. No person shall commence construction on a subdivision or development or public improvements therein with out first obtaining preliminary subdivision approval from the commission. No preliminary approval shall be issued unless and until the requirements of this article shall have been satisfied.

B. No person shall sell or auction for sale any real estate interest in any subdivision or development in New Kent County nor shall any building permit be issued for any ~~residential~~ construction within such subdivision until final approval has been given in accordance with the requirements of this article and the plat of such subdivision has been recorded.

Sec. 9-358. Fees.

There shall be a charge for the examination and the approval or disapproval of every plat reviewed by the agent. At the time of filing the preliminary plat, the subdivider shall deposit with the agent a check payable to the Treasurer of New Kent County in the amount of Five Hundred Dollars ($500.00) per plat and Fifteen Dollars ($15.00) for each lot contained thereon. if the subdivision contains more than two (2) lots but less then ten (10) lots, the charge shall be Fifty Dollars ($50.00) per plat and Twenty-Five Dollars ($25.00) for each lot. If the subdivision contains no more than two (2) lots or involves a transfer to a member of the immediate family of the owner or involves an exchange between adjoining landowners which does not create an additional building site, the charge shall be Twenty-five Dollars ($25.00). (6/12/89)

Sec. 9-359. Waiver of and exceptions to requirements.

Where the subdivider can show that some provision of these standards would ~~cause unnecessary hardship~~ **prohibit reasonable use of the land** if strictly adhered to, and where, because of topographical or other conditions peculiar to the site, in the opinion of the agent a departure may be made without destroying the intent of such provisions, the agent may authorize an exception. Any such exception is to be stated in writing in the report of the agent together with the reasoning on which the departure was justified. No such variance or exception may be granted if after notice, the agent's decision is opposed in writing by the VDOT Resident Engineer, the Director of Public Works, or the Health Department within fifteen (15) days or the Planning Commission and the Board of Supervisors at their next regularly scheduled meetings.

Sec. 9-360. Changes in documents prohibited.

No change, erasure or revision shall be made on any preliminary or final plat, nor on accompanying data sheets after approval of the agent has been endorsed in writing on the plat or sheets, unless authorization for such changes shall be received from the agent.

Sec. 9-361. Where article filed.

A copy of this article shall be on file in the office of the County Administrator and in the clerk's Office of the Circuit Court of New Kent County.

Sec. 9-362. Amendments.

This article may be amended in whole or in part by the governing body provided that any such amendment shall either originate with or be submitted to the commission for recommendation; and further provided that no such amendment shall be adopted without a public hearing as required by law. No amendment shall be adopted by the governing body without receiving the recommendation of the Planning Commission unless sixty (60) days shall have passed after reference to the commission.

Sec. 9-363. Violations and penalties.

A. No person shall sell or transfer any land of a subdivision before such plat has been duly approved and recorded as required herein, unless such subdivision was lawfully created prior to the adoption of a subdivision ordinance applicable thereto. Nothing in this article shall be construed to prevent the recordation of the instrument by which the land is transferred or the passage of title between the parties to the instrument.

B. No subdivision plat shall be recorded unless and until it shall have been submitted to and approved by the agent in accordance with the requirements of this article.

C. Upon and after the effective date of this article, the Clerk of the Circuit Court shall not file or record a plat of a subdivision required to be recorded until such plat has been approved as required herein, and the penalties provided by Section 17-59 of the Code of Virginia shall apply to any failure of the Clerk to comply with this requirement.

D. Any person, firm or corporation whether as principal, agent, employee or otherwise violating, causing or permitting the violation of any of the provisions of this article shall be guilty of a misdemeanor and upon conviction thereof shall be

subject to a fine of not less than Five Hundred Dollars ($500.00) nor more than One Thousand Dollars ($1,000.00) and/or a jail term of up to twelve (12) months for each lot or parcel of land subdivided or transferred or sold in violation of this article. The description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from the penalties or remedies set forth herein.

E. All departments, officials, and public employees of this jurisdiction which are vested with the duty or authority to issue permits or approvals under this article shall conform to the provisions of this article. Any such approvals or permits if issued in conflict with the provisions of this article, shall be null and void.

F. No building permit shall be granted for construction on any lot created in violation of the provisions of this article or on any lot in a subdivision which is not covered by current performance agreements and guarantees as required by Section 9-397.

G. The agent shall have the authority to bring any necessary action in the appropriate court of New Kent County to restrain, correct or abate any violation of this article by injunction or otherwise.

Sec. 9-351. Definitions.

For the purpose of this article, certain words and terms used herein shall be interpreted or defined as follow: Words used in the present tense shall include the future; the word "lot" includes the word "parcel"; the word "approve" shall be considered to be followed by the words "or disapproved"; and any reference to this article includes all ordinances amending or supplementing the same. Unless the context specifically requires otherwise, the definitions set forth in Article III of this chapter shall apply in the same manner to this article. The following terms shall have the meanings respectively ascribed to them below notwithstanding the fact that a different meaning may be set forth in Article III:

AGENT. The Director of Planning for New Kent County.

CONSUMER. Any person contacted as a potential purchaser, lessee, or renter as well as one who actually purchases, leases, or rents property in the subdivision.

DEVELOPER. An owner of property being subdivided, whether or not represented by an agent.

EASEMENT. A grant by a property owner of the use of land for a specific purpose or purposes.

FAMILY, IMMEDIATE. Any person who is a natural or legally defined offspring, spouse, parent, or grandparent of the owner.

PARENT TRACT. ~~A lot, parcel, or tract of land legally established, subdivided, or created under county code requirements effective at the time before November 20, 1985, of which a plat or legal description is recorded in the Circuit Court Clerk's Office.~~ A separate lot, tract or parcel of land conveyed by deed, devised by will or passing pursuant to the laws of descent and distribution, which was obtained, in toto, by one (1) instrument or passed pursuant to the laws of descent and distribution and which was on record in the Office of the Circuit Court of the County on or before November 20, 1985. For the purposes of this definition, tracts separated by a right-of-way of any kind are deemed one parcel. Those lots, tracts or parcels conveyed by the same deed, devised by the same will or passing pursuant to the laws of descent and distribution to the same individual, in which are defined as individual tracts of land, are deemed separate parent tracts.

PLAT. A map or plan of a tract or parcel of land which is to be or has been subdivided. Plat includes the term map, plan, plot, replat, or replot. When used as a verb "plat" is synonymous with "subdivide".

PROPERTY. Any tract, lot parcel or several of the same collected together for the purpose of subdividing.

PUBLIC USE (STREET OR ALLEY). The unrestricted use of a specified area or right-of-way for ingress or egress to two or more abutting properties.

STREET, RESIDENTIAL ACCESS. A street intended to carry the least amount of traffic at the lowest speed and provide the safest and most desirable environment for a residential neighborhood.

STREET, SUBCOLLECTOR. A street carrying more traffic than a residential access street which provides an acceptable environment for a residential neighborhood.

STREET, COLLECTOR. A street that will carry the largest volume of traffic at higher speeds within a residential subdivision. Such streets may carry traffic from one neighborhood to another or from the neighborhood to other areas of the community.

STREET, SERVICE DRIVE. A public right-of-way generally parallel and contiguous to a major highway, primarily designed to promote

safety by eliminating unlimited ingress and egress to the highway by providing safe and orderly points of access.

STREET, WIDTH. The total width of the strip of land dedicated or reserved for public travel, including roadway, curbs, gutters, sidewalks, and planting strips.

SUBDIVIDER. An individual, corporation or registered partnership owning any tract, lot or parcel of land to be subdivided, or a group of two or more persons owning any tract, lot or parcel of land to be subdivided, who have given their power of attorney to one of their group, or to another individual to act on their behalf in planning, negotiating for, in representing, or executing the legal requirements of the subdivision.

SUBDIVIDE. ~~The division of any tract or parcel of land into two or more parcels, any of which is less than fifteen (15) acres in area for the purpose of transfer of ownership or building development; however, private street standards of Section 9-430 shall apply for all lots of fifteen (15) acres or more. The term includes resubdivision and when appropriate to the context shall relate to the process of subdividing or to the land subdivided.~~ The division of any tract or parcel of land into two or more parcels, any of which is less than fifteen (15) acres in area for the purpose of transfer of ownership or building development; however, private street standards of section 9-430 shall apply for all lots fifteen (15) feet or more. All lots twenty five (25) acres or more shall be accessed by an unimproved fifty (50) foot deeded right-of-way. This term includes resubdivision and when appropriate to the context shall relate to the process of subdividing or to the land subdivided.

VDOT Resident Engineer. The resident engineer employed by the Virginia Department of Transportation and responsible for New Kent County.

NOTE: For exceptions and special conditions, see Division 5 of this article.

Secs. 9-364 to 9-369. Reserved for future legislation.

Division 2. Subdivision Requirements.

Sec. 9-370. Improvements to be installed by developer.

A. All required subdivision improvements shall be installed by the subdivider at his cost. In cases where specifications have been established by a governmental agency for streets, curbs, water, sewage, or other public improvements, **the most recent version of** such specifications shall be followed.

B. Prior to initiating grading or other on-site activities on any portion of the property to be subdivided, all wetlands permits required by federal, state, and local laws and regulations shall be obtained and evidence of such submitted to the subdivision agent. (11/29/91)

Sec. 9-371. Land unsuitable for subdivision.

Land subject to flooding, as identified by state or federal agency flood hazard maps or studies, shall not be platted for any use which may increase the danger to health, life, or property of the citizens of the County or aggravate erosion or flood hazards. Any such land which exists within a subdivision shall be set aside on the plat for such uses as shall not be endangered by periodic or occasional inundation or shall not produce conditions contrary to the public welfare. Any such land may be included within a platted lot but the area of such land may not be used to satisfy minimum lot area requirements.

Sec. 9-372. Easements.

Easements shall be of sufficient width to permit the use for which provided and shall include the right of ingress and egress over the easement area for installation and maintenance. The agent may require that easements for drainage through adjoining properties be provided by the subdivider. Easements for water, sewer, power lines, telephone and other utilities shall not be less than ten (10) feet in width.

Sec. 9-373. Underground utilities required.

All utilities, including electricity, ~~and~~ telephone, **and cable television** shall be underground.

Sec. 9-374. Water and sewer facilities.

A. Central water systems shall be constructed by the subdivider at his cost in all subdivisions unless otherwise specifically provided in this article.

B. The construction and operation of all such central water systems shall be in conformance with ~~Division 1 of Article III of Chapter 8~~ **Chapter 8, Article III, Division 1 of the New Kent County Code.**

C. Where public sewage or water is available within two thousand (2,000) feet of any subdivision or if the County should have previously approved plans to install the same within five (5) years from the date of the platting proposal, then trunk and lateral lines shall be installed by the subdivider at his cost, and if public lines are in existence, the subdivider shall connect to the existing lines provided that point is no more than two thousand (2,000) feet distant. If public lines are planned but not installed, then the facility shall be constructed to the limits of the subdivision in accordance with the approved plan. The distance specified herein shall be measured in a straight line from the nearest boundary of the subdivision to the nearest available or planned line. Actual construction may have to be along a more indirect route.

D. Whenever the governing body has established a general sewer and drainage improvement program applicable to the land proposed for subdivision or a portion thereof, the subdivider shall pay a pro rata share of providing reasonable and necessary sewage and drainage facilities located outside the property limits of the land owned or controlled by him, which facilities are necessitated or required at least in part by the construction or improvement of his subdivision or development. Such share shall be the proportion of the total estimated cost which the increased sewage flow and/or increased volume and velocity of storm water runoff to be actually caused by the subdivision or development bears to the total estimated volume of such sewage and/or runoff from such area in its fully developed state. **Such share shall be calculated as a percentage of the total estimated cost of the sewer and drainage improvement program established by the county.** Each payment received shall be expended only for the 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 subdivider.

E. Nothing in this section shall prevent the installation of privately owned sewage facilities in areas where public sewage is not available, provided however, that all such installations meet all the requirements of the State Water Control Board, the State Health Department, any other state agency, and the County of New Kent regarding such installation.

Sec. 9-375. Individual sewer.

Neither the agent nor the commission shall approve any subdivision where sanitary sewers are not provided, unless the agent shall receive in writing from the New Kent County Health Department a statement to the effect that the lots contained within the subdivision are generally satisfactory for the installation of septic tanks or some other sewage disposal system, and that such tanks or other systems so far as can be determined will not create hazards to the public health or natural environment. Such approval shall be given only with the understanding that where septic tanks or other systems are to be installed, these must be approved on an individual lot basis by the Health Department. Any areas not suitable for the installation of private sewage disposal systems must be included within land that is suitable so that only buildable lots are created and shown on the final plat.

Sec. 9-376. Fire protection.

Unless otherwise exempted, the installation of adequate fire ~~hydrants~~ suppression systems in a subdivision at locations approved by the agent shall be required if central water is available. ~~Notwithstanding any other provision of this chapter to the contrary, in subdivisions containing ten (10) lots or more, regardless of lot size, the developer shall furnish a six (6) inch well and pump equipment with a capacity greater than or equal to the capacity required under the Standard on Water Supplies for Suburban and Rural Fire Fighting, NFPA 1231, for the purpose of fire suppression. In developments with lots of five (5) acres or more, and containing more than ten (10) lots, a minimum of 1,000 gallons storage capacity per lot shall be maintained for the purposes of fire suppression. Such facilities shall be constructed to County standards and shall be located on a publicly dedicated lot and centrally situated within the subdivision. A hydrant or other withdrawal point shall be furnished on the site.~~ The construction and operation of such fire suppression system shall be in conformance with ~~Division 1 of Article III of Chapter 8~~ **Chapter 8, Article III, Division 1** of the New Kent County Code. (2/12/90)

Sec. 9-377. Lot arrangement, design and shape.

Lot arrangement, design and shape shall be such that lots will provide satisfactory and desirable sites for building, be properly related to topography, and conform to all requirements of applicable regulations. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage of area when such area would be unusable for normal purposes. Lot depth shall not exceed four (4) times lot width for lots less than six (6) acres in area.

Sec. 9-378. Lot location.

Each lot shall abut on a street dedicated by the subdivision plat, or on an existing publicly dedicated street, unless otherwise specifically provided for in this chapter.

Sec. 9-379. Side lot lines.

Insofar as is practical, side lot lines shall be at right angles to streets, and radial to curved streets.

Sec. 9-380. Double frontage lots.

For residential zoned subdivisions as classified by the County Zoning Ordinance, double frontage lots, excluding corner lots, shall contain an easement at least ten (10) feet in width along one of the frontages across which there shall be no right of access to the lot from the right-of-way. This easement area shall be used for the cultivation of buffer plantings.

Sec. 9-381. Lot remnants.

All remnants of lots below minimum size left over after subdividing a tract must be added to adjacent lots or otherwise disposed of, rather than allowed to remain as unusable parcels.

Sec. 9-382. Lot numbering.

Lot, section, and block numbering shall be approved by the agent and shall conform to the system adopted for use in the County as a whole.

Sec. 9-383. Separate ownership of lot to be subdivided.

Where the land covered by a subdivision includes two or more parcels in separate ownership, and lot arrangement is such that a property ownership line divides one or more lots, the land in each lot so divided shall be transferred by deed to single ownership, simultaneously with the recording of the final plat.

Sec. 9-384. Block length.

The maximum length of blocks shall be fifteen hundred (1,500) feet and the minimum length of blocks upon which lots have frontage shall be five hundred (500) feet.

Sec. 9-385. Block orientation.

The agent may approve or disapprove block orientations based on consideration of the type of streets upon which the

block abuts and may limit access to certain streets if necessary to promote traffic safety or other purposes of this article. The authority of the agent to limit access to streets shall include, but not be limited to Route 30, 33, 60, 155, 249, 273, 609, 612 and 665.

Sec. 9-386. Street alignment and layout.

A. The arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in adjoining areas. The street arrangement must be such as to cause no unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. Where, in the opinion of the agent, it is desirable to provide for street access to adjoining property, proposed streets shall be extended by dedication to the boundary line of such property. Half streets along the boundary of land proposed for subdivision are not permitted.

B. All street intersections shall be in accordance with VDOT standards and shall be laid out as nearly at right angles as possible and in no case shall an intersection be at less than eighty (80) degrees, unless approved by the VDOT Resident Engineer.

C. The commission or the agent may require reasonable changes in proposed alignments or additional rights-of-way for existing or proposed streets or highways where necessary in order to provide for improved traffic circulation, safety or aesthetics.

Sec. 9-387. Street construction standards.

All subdivision streets, unless otherwise specifically provided in this article, shall be paved and shall be public in nature with rights-of-way dedicated to the public use and with no street having a right-of-way less than fifty (50) feet in width. All street construction plans shall be submitted to the Virginia Department of Transportation for their approval and all construction of public subdivision streets, unless otherwise permitted by this article, shall be in conformance with the most recent VDOT standards and eligible for acceptance into the State Highway System prior to the release of the performance bond. All subdivision streets including private streets under the provisions of Sections 9-427, 428 and 429 of this article shall connect directly to a paved state-maintained roadway.

Sec. 9-388. Street hierarchy.

The design of subdivisions shall be such as to insure that a street hierarchy system is established which separates streets by function. New residential streets shall be classified as

designed for their entire length as one of the following street types.

A. Residential access streets -- These streets are the lowest order street in the hierarchy. They are intended to carry the least amount of traffic at the lowest speed and provide the safest and most desirable environment for a residential neighborhood. Development should be designed so that all or the maximum number of homes possible will front on this classification of street.

B. Residential subcollector street -- These streets are the middle order street in the hierarchy. They will carry more traffic than the residential access street and provide an acceptable environment for a residential neighborhood.

C. Residential collector street -- These streets are the highest order street within the residential subdivision. These streets will carry the largest volume of traffic at higher speeds. Residential collector streets in large residential developments may carry traffic from one neighborhood to another or from the neighborhood to streets connecting to other areas in the community. Building lots should be avoided on residential collector streets.

Sec. 9-389. Cul-de-sacs.

Cul-de-sacs shall not exceed fifteen hundred (1,500) feet in length or serve more than twenty (20) residential building lots. Each cul-de-sac shall be terminated by a turnaround right-of-way of not less than one hundred (100) feet in diameter.

Sec. 9-390. Service drives.

Whenever a proposed subdivision contains or is adjacent to a major thoroughfare or arterial highway, the commission may require that a service drive or service street approximately parallel to the right-of-way be provided. The area between the service drive and the major thoroughfare or artery shall be sufficiently wide to provide an area for buffer planting or screening. The commission may also require that on-site driveways be designed so that vehicles may enter the ~~right-of-way~~ **service drive** without backing into the right-of-way.

Sec. 9-391. Street jogs.

Street jogs with center line offsets of less than one hundred and fifty (150) feet shall be prohibited.

Sec. 9-392. Reserved for future legislation.

Sec. 9-393. Street names.

Streets shall not duplicate or nearly duplicate the name or sound of existing streets in the County. The continuation of an existing street shall have the same name. All street names and house numbers shall be **approved and reserved by the Richmond Regional Street Name Coordinator and** approved by the commission. The commission reserves the right to name proposed streets. Street names shall be indicated on the preliminary and final plat. The authority set forth in this paragraph may be delegated to the agent.

Sec. 9-394. Street signs.

Street identification signs of a design approved by the agent shall be installed at all intersections.

Sec. 9-395. Monuments.

Upon completion of subdivision streets, sewers, water lines, and other improvements, the subdivider shall make certain that all monuments required by the agent are clearly visible for inspection and use. Such monuments shall be inspected and approved by the Director of Public Works before any improvements are accepted. The following monuments shall be required by the agent:

A. Concrete monument location -- Concrete monuments four (4) inches in diameter or square, three (3) feet long, with a flat top, shall be set at all street corners, at all points where the street line intersects the exterior boundaries of the subdivision, and at right angle points, and point of curve of each street. The top of the monument shall have an indented cross to identify properly the location and shall be set flush with the finished grade.

B. Iron rod monument location -- All lot corners shall be marked with iron rods not less than three-quarters (3/4) inch in diameter and twenty-four (24) inches long. All rods shall be set no less than one inch or more than three (3) inches above the finished grade at their respective locations.

Sec. 9-396. Reservation of land for public purposes.

The agent or the commission may require subdividers of residential subdivisions to set aside land for parks, playgrounds, schools, libraries, municipal buildings and similar public and semipublic uses, subject to the following regulations:

A. Subdividers shall not be required to dedicate land for parks or playgrounds exceeding ten percent (10%) of the area of the subdivision, exclusive of street and drainage reservations, without reimbursement by the governing body. These areas, if required, shall be suitable and adequate and shall be deeded to the County at the time of recordation of the final plat. Where land is required in excess of this amount, the reimbursement by the governing body shall be based on the proportionate share of ~~the~~ (1) **the** cost of raw land, (2) **the** cost of improvements, including interest on investments, **and** (3) development costs~~,~~**.** ~~and (4) not be more than ten percent (10%) profit on the total of such costs.~~ **Such reimbursement shall not total more than ten percent (10%) profit on the total of such costs.**

B. Subdividers shall not be required to reserve land for public purposes other than streets, utilities, drainage, parks and playgrounds, except on a reimbursement basis. The amount of the reimbursement will be determined using the same factors listed in paragraph A above. Reimbursement shall be made by the County within twelve (12) months following the recordation of the final subdivision plat. If the County does not purchase the land within twelve (12) months, it may be sold as lots for the same purposes for which the subdivision was platted. To facilitate such possible eventual sale of reserved land as separate lots, the subdivider shall show on his final plat, by dotted lines and dotted numbers, the area and dimensions of lots to be created within the boundaries of any such reserved land, and may sell such lots, after the time period herein specified by lot number without filing an amended plat. The agent shall make certain that lands so reserved are divided in the same manner as the remainder of the subdivision so that the subdivider will not be required to reserve an unusable portion of his subdivision. This paragraph applies only to land for public purposes other than streets, utilities, drainage, parks and playgrounds.

C. Subdividers that set aside adequate and suitable land for parks and playgrounds, the jurisdiction and maintenance of which would be controlled by a subdivision recreation association, shall not be required to dedicate additional land for parks and playgrounds as prescribed in subsection A.

D. The subdivider shall have the right to present evidence before the agent or commission that any contemplated dedication of land is not necessary. The commission or agent shall take such evidence into consideration in making a final determination.

Nothing herein shall be construed to mean that land may be set aside for commercial purposes in a residential district without the land so required for commercial use being zoned

appropriately in accordance with Article III of the County Zoning Ordinance.

Sec. 9-397. Performance guarantees.

The purpose of this section is to insure the appropriate and timely completion of improvements made in connection with a subdivision, to provide resources to complete such improvements when the subdivider fails to provide them, to insure that once accepted, the improvements are not defective, and to provide for the maintenance of roads until they are finally accepted into the State Highway System.

A. Before any subdivision plat will be finally approved, the subdivider shall construct all required public improvements in accordance with the approved plans and all applicable state and local requirements.

B. In lieu of construction, a performance agreement or performance agreements shall be executed between the County and all parties to the subdivision. The agreement or agreements shall be on forms supplied by the agent and shall provide that all improvements required and all improvements shown on the final plat of subdivision shall be completed within twenty-four (24) months from the date of approval. **This provision includes the construction of roads and their acceptance into the State Highway System.** All performance agreements shall require approval as to form by the County Attorney.

Any performance agreements shall contain release provisions governing the complete and partial release of any escrow or letter of credit or other performance guarantee. The release provisions shall provide for the complete or partial release of the performance guarantee within thirty (30) days after receipt of written notice by the subdivider of completion of part or all of any facility required to be constructed, unless the governing body notifies the subdivider in writing of any specified defects or deficiencies in construction and suggests corrective measures prior to the expiration of the said thirty (30) day period; however, the governing body shall not be required to release any performance guarantee in an amount to exceed ninety percent of the actual cost of construction for which the guarantee was taken until such facilities have been completed and accepted by the governing body or state agency.

The performance agreement shall be accompanied by surety in an amount sufficient to provide for the improvements identified in the performance agreement. Surety shall consist of either (1) a certified check or cash escrow in the amount of the estimated costs of construction or (2) a bank or savings and loan association's letter of credit on certain designated funds in the amount of the estimated cost of construction, said letter of credit to be approved by the County Attorney.

C. Upon completion of the required improvements, they shall be inspected and approved for acceptance. Prior to the release of any surety posted in connection with a performance agreement, the subdivider shall post a defect bond or other approved guarantee in the amount of ten percent (10%) of the cost of the improvements. Said bond to guarantee the correction by the subdivider of any defects in materials or workmanship in the installation of the required improvements for one (1) year subsequent to the approval of the installation and acceptance by the County.

D. In the event the governing body has accepted the dedication of any street for public use and such street due to factors other than its quality of construction, is not acceptable into the State Highway System, the subdivider shall furnish to the governing body a maintenance and indemnifying agreement with surety in the form of a bank or savings and loan association's letter of credit or a certified check or cash escrow in an amount sufficient for and conditioned upon the maintenance of such street until such time as it is accepted into the State Highway System.

E. Whenever the improvements required by an approved final subdivision plat and identified in a performance agreement executed under this section have not been completed within the time limits established for such completion, the agent shall move to obtain the funds or property provided as security under such agreement and shall cause such improvements to be completed. If any funds remain after all improvements are completed and accepted with all necessary fees paid, and no defects are found therein which must be repaired, such funds shall be returned to the subdivider. If the funds available from the surety are not sufficient to complete the improvements, the agent shall proceed to secure such funds from the subdivider. In unusual cases where the agent finds that substantial progress has been made towards the completion of the improvements prior to the expiration of the limit and where the agent finds that factors (other then general economic conditions) beyond the control of the subdivider have contributed substantially to delay, and where the agent finds that the improvements could be completed within an additional twelve (12) month period, the agent may execute a new performance agreement requiring completion of all improvements within a twelve (12) month period. Such agreement shall comply with all provisions of this section and shall be accompanied by the required surety. The amount of the surety shall be adjusted to take into account the actual cost of the work remaining to be done and shall take into account any inflation in such costs. Once the time limit for completion of improvements has been extended through the execution of a new performance agreement, they shall not thereafter again be extended.

Secs. 9-398 through 9-400. Reserved for future legislation.

Division 3. Preliminary Subdivision Approval.

Sec. 9-401. Sketch plan.

The subdivider may~~, if he so~~ choose~~,~~ to submit to the agent two (2) copies of a sketch plan of the proposed subdivision prior to preparation of the engineered preliminary and final plans. The purpose of such sketch is to permit the agent to advise the subdivider whether his plans are in general accordance with the requirements of this article. The agent upon submission of any sketch shall study the same and advise the subdivider where it appears that changes would be necessary. The agent may mark the sketch plan indicating necessary changes and one (1) copy of such marked sketch shall be returned to the subdivider.

Sec. 9-402. When application for preliminary approval to be filed.

Petitions for preliminary approval shall be filed a minimum of thirty (30) days prior to the commission's meeting at which the developer requests consideration. The petition shall be filed with the Department of Planning for addition to the commission's agenda.

Sec. 9-403. Requirements of preliminary plan.

The applicant shall submit ten (10) copies of the preliminary plan of development with the application for preliminary approval. The preliminary plan of development shall include the following information:

1. Name of the subdivision.

2. Name of owners and agents, if any, source of title **with deed book references,** subdivider, surveyor, or engineer.

3. Assessor's parcel number or numbers.

4. Boundary survey of subdivision showing bearings and distances.

5. The north point scale, date of drawing, number of sheets, and any revision dates. The scale of the plan of development shall be one hundred (100) feet to the inch. The plan shall be submitted on sheets eighteen (18) inches by twenty-four (24) inches.

6. Total acreage of subdivision, acreage of area to be subdivided.

7. Total number of proposed dwelling units; number, area and frontage of all building sites.

8. Total number of square feet of proposed nonresidential floor space where applicable.

~~9. Total number of proposed off-street parking spaces, excluding those associated with single-family residential subdivisions.~~

10. Estimated total number of gallons per day of water system requirements where a distribution system is proposed.

11. Lots with lot and block numbers, and dimensions, or locations of cluster development or planned unit development.

12. Location of the subdivision as a part of some larger subdivision or tract of land and by reference to permanent survey monuments with a tie-in to a section corner.

~~13. Topography at vertical intervals of ten (10) feet unless otherwise specified by the commission or agent. Elevation data shall be referenced to USGS data.~~

14. Zoning classification of the site.

15. Location maps drawn at a scale of 1"=1,000 feet showing adjoining roads and roads within 1,000 feet, their names and numbers, subdivisions and other ~~landmarks~~ **physical features, including buildings,** in the proposed subdivision area.

16. All existing, platted and proposed streets, their names, numbers and widths; existing utilities or other easements, public areas with parking spaces; culverts, drains and water courses, their names and other pertinent data.

~~17. A profile or contour map showing the proposed grades for the streets and drainage facilities, including elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the center lines of the streets; together with proposed grade lines connecting therewith.~~

18. The ~~complete~~ drainage layout ~~including all pipe sizes, types,~~ showing drainage easements and means of transporting the drainage to a well-defined open stream which is considered natural drainage.

~~19. A cross section showing the proposed street construction, depth and type of base, type of surface, etc.~~

20. Proposed connections with existing sanitary sewer and existing water supply or alternate means of sewage disposal and water supply.

21. All parcels of land to be dedicated for public use and the conditions of such dedication.

22. A copy of all proposed deed covenants, conditions and restrictions.

23. Subdivision application completed in detail.

24. The required application fee for the subdivision.

Sec. 9-404. Consumer disclosure statement required.

The applicant shall submit a consumer disclosure statement with every application for preliminary approval. Such statement shall include the following:

A. The name and address of each person having an interest in the subdivision or development and the extent of such interest.

B. A statement of the condition of the title to the land comprising the subdivision or development, including all encumbrances and deed restrictions and covenants which are or will be applicable thereto.

C. A statement of the present condition of access to the subdivision or development, the availability of sewage disposal facilities, water, electricity, gas, telephone, fire and police protection and the nature of any improvements to be installed by the developer and his estimated schedule of completion.

D. In the case of a subdivision, development or portion thereof against which there exists a blanket encumbrance, a statement of the consequences for an individual purchaser of a failure, by the person or persons bound, to fulfill obligations under the instrument or instruments creating such encumbrance and the steps, if any, taken to protect the purchaser in such eventuality.

E. Such other information, documents, and certifications as the commission may require as being reasonably necessary or appropriate for the protection of consumers.

This information shall remain on file with the agent and be available to the general public.

Sec. 9-405. Environmental impact statement.

The commission may require the applicant to submit an environmental impact statement to supplement the application for preliminary approval when in the opinion of the commission such statement is necessary to carry out the intent and purpose of this article, **and in conjunction with Articles I, II, and VII of this chapter.** The necessity may arise from the particular location of the subdivision or other circumstances which cause the commission concern as to the proposed subdivision's effect on the environment. In the event that the property of the applicant adjoins, abuts, surrounds, contains or is in a Resource Protection Area, an environmental impact statement will be mandatory. The environmental impact statement shall cover the area of the proposed development or subdivision and that area within one (1) mile of the nearest boundary of the proposal. The following types of information may be required by the commission by written request to the developer, which request shall specify by reference to this section the information required.

A. Existing characteristics and conditions of the environment, including but not limited to:

1. Earth (mineral resources, construction material, soils, permeability, land form, geology, unique physical features).

2. Water (surface, underground, quality, temperatures, recharge snow, ice, frost depth).

3. Atmosphere (quality as to gases and particulates, climate, both macro and micro temperatures).

4. Processes (floods, erosion, sedimentation, precipitation, solution, sorption, compaction and settling, stability as to slides and slumps, earthquake stress-strain, air movements).

5. Flora, (trees, shrubs, grass, crops, microflora, aquatic plants, endangered species, barriers, corridors).

6. Fauna (birds, land animals including big game, small mammals, and reptiles, fish and shellfish, benthic organisms, insects, microfauna, endangered species, barriers and corridors).

7. Land use (wilderness and open spaces, wildlife habitat, wetlands, forestry, grazing, agriculture, residential, commercial, industrial, mining and quarrying).

8. Recreation (hunting, fishing, boating, swimming, camping and hiking, picnicking, resorts).

9. ~~Aesthetics and human interest (scenic~~ views and vistas, wilderness qualities, open space qualities, landscape design, unique physical features, parks and reserves, monuments, rare and unique species or ecosystems, historical or archaeological sites and objects~~,~~. ~~presence of misfits).~~

10. Cultural status (cultural patterns and life style, health and safety, employment, population density, and education).

11. Man made facilities and activities (structures), transportation network including movement and access, utility networks, waste disposal, barriers and corridors).

12. Ecological relationships (salinization of water resources, eutrophication, disease-insect vectors, food chains, salinization of surficial material, brush encroachment).

13. Resource Protection areas as designated in §9-462 of this Code.

B. Proposed actions which may cause environmental impact, including, but not limited to:

1. Modification of regime (introduction of exotic flora or fauna, biological controls, modification of habitat, alteration of ground cover, alteration of ground water hydrology, alteration of drainage, river control and flow modification, canalization irrigation, weather modification, burning, surface or paving, noise and vibration).

2. Land transformation and construction (urbanization, residential and vacation homes, industrial sites and buildings, airports, highways and bridges, roads and trails, railroads, cables, and lifts, transmission

lines, pipelines and corridors, barriers including fencing, channel dredging and straightening channel revetments, canals, dams and impoundments, piers and marinas, offshore structures, recreational structures, blasting and drilling, cut and fill, tunnels and underground structures).

3. Resource extraction (blasting and drilling, surface excavation, subsurface excavations and restoring, well drilling and fluid removal, dredging, clear cutting and other lumbering, commercial fishing and hunting).

4. Processing (farming, ranching and grazing, feedlots, dairying, energy generation, mineral processing, metallurgical industry, chemical industry, textile industry,. automobile and aircraft oil refining, food, lumbering, pulp and paper product storage.

5. Land alteration (erosion control and terracing, mine sealing and waste control, strip-mining rehabilitation, landscaping, marsh fill and drainage).

6. Resource renewal (reforestation, wildlife stocking and management, ground water recharge, fertilization application, waste recycling).

7. Changes in traffic (railway, automobile, trucking, shipping, aircraft, river and canal traffic, pleasure boating, trails, cables and lifts, communication, pipelines).

8. Waste emplacement and treatment (indirect ocean dumping, landfill, emplacement of tailings, spoil and overburden, underground storage, junk disposal, oil well flooding, deep well emplacement, cooling water discharge, municipal waste discharge including spray irrigation, liquid effluent discharge, stabilization and exudation ponds, septic tanks, both commercial and domestic, stack and exhaust emission, spent lubricants).

9. Chemical treatment (fertilization, chemical deicing of highways, chemical stabilization of soil, weed control, insect control, pesticides).

10. Accidents (explosions, spills and leaks, operation failure).

C. The Director of Planning may, at his discretion, allow the developer to perform the Environmental Impact Statement in

conjunction with the Water Quality Impact Statement required under § 9-470 of this Code. (11/29/91)

Sec. 9-406. Request for additional information and site investigation.

The commission or agent may conduct such investigations, examinations, tests, and site evaluations as are necessary to verify information contained in the application.

Sec. 9-407. Burden of proof on the applicant.

The burden of proof shall be on the applicant to show the reasonableness of his plan, the lack of adverse impact, and compliance with the review standards set forth in Section 9-408 below.

Sec. 9-408. Review standards.

Before granting preliminary approval, the commission shall determine that the proposed subdivision is in accordance with the provisions of Section 9-350, and in doing so shall find that the subdivision:

A. Will not result in undue water pollution. In making this determination, they shall consider: the amount of rainfall received by the area, the relation of the land to flood plains, the nature of soils and subsoils and their ability to adequately support waste disposal, the slope of the land and its effect on effluents, the presence of streams as related to effluent disposal, the applicable Health and Water Resources Department regulations.

B. Does have sufficient water available per lot, both physically and legally, for the foreseeable needs of the subdivision or development.

C. Will not cause an unreasonable depreciation of an existing water supply.

D. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.

E. Will not cause undue air pollution. In making this determination they shall consider: the topography, prevailing winds or absence thereof, local and regional air sheds, increase in sources, or quantity of emissions, as well as quality of such.

F. Will not cause unreasonable highway congestion or unsafe conditions with the respect to use of the highways existing or proposed.

G. Will not cause unreasonable burden on the ability of the school system to provide quality educational services.

H. Will not place an unreasonable burden on the ability of the local governing body to provide water, sewer, fire, police, hospital, solid waste disposal and other services.

I. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare or irreplaceable natural areas.

J. Will not have an undue adverse effect on wildlife or their habitat, or on the preservation of agricultural land.

K. Is in conformance with the duly adopted Comprehensive Plan of New Kent County.

Sec. 9-409. Procedure following submittal of preliminary plat.

The commission and the agent shall discuss the preliminary plat with the subdivider in order to determine whether or not the preliminary plat conforms to the requirements of this article and other applicable provisions of the New Kent County Code. If the preliminary plan is approved, the subdivider shall be advised in writing within forty-five (45) days after the Planning Commission's meeting which may be by formal letter or legible markings on his copy of the preliminary plat concerning any additional data that may be required, any changes to be required to be made on the plan, the character and extent of public improvements that will have to be made, and the form of the performance guarantees which will be required as prerequisite to approval of the final subdivision plat.

Sec. 9-410. Preliminary approval; by whom made.

If the commission finds that a proposed subdivision is in compliance with the requirements of this article, the commission shall by resolution setting forth these facts grant preliminary approval.

Sec. 9-411. Effect of preliminary approval.

A. Approval by the commission of the preliminary plat does not constitute a guarantee of approval of the final plat.

B. Preliminary approval may be revoked by action of the commission in the event of violation of any conditions attached to the approval, or of the terms of any application, or of any

rules made by the commission, or for fraudulent representations or material omissions made to the commission.

C. All preliminary approvals are subject to the approval of the governing body of any proposed public improvements ~~and~~, the form of all performance guarantees~~.~~, **and approval of construction plans.**

Sec. XXX. Construction plans.

Following preliminary approval of the plat by the agent, the subdivider shall, if he has not previously done so, submit five (5) prints or copies of construction plans for improvements to be installed in accordance with the provisions of this chapter and prepared by an engineer authorized to do business in the state as follows:

1. **Total number of proposed off-street parking spaces, excluding those associated with single-family residential subdivisions.**

2. **Topography at vertical intervals of ten (10) feet unless otherwise specified by the commission or agent. Elevation data shall be referenced to USGS data.**

3. **A profile or contour map showing the proposed grades for the streets and drainage facilities, including elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the center lines of the streets, together with proposed grade lines connecting therewith.**

4. **The location of the primary and reserve sewage drainage fields and construction footprint for each lot.**

5. **The complete drainage layout including all pipe sizes, types, drainage easements and means of transporting the drainage to a well-defined open stream which is considered natural drainage.**

6. **A cross section showing the proposed street construction, depth and type of base, type of surface, etc.**

7. **Plan of proposed street lighting system, if any, showing locations, type, wattage, height, etc.**

8. **Plan of proposed street planting, if any, showing location, kind, etc.**

Sec. 9-412. Time limitation for final approval after notification concerning preliminary approval.

The subdivider shall have no more than three (3) months after the date of official approval of the preliminary plat to file with the agent the construction plans in accordance with this article. Such construction plans shall cover the entire area to which preliminary approval has been granted.

The subdivider shall have no more than six (6) months after the date of official approval of the ~~preliminary plat~~ construction plans to file with the agent a final subdivision plat in accordance with this article. Such final subdivision plat may cover the entire area to which preliminary **and construction** approval has been granted or any portion thereof. If the subdivider elects to file a final plat on a portion of the area to which preliminary **and construction** approval has been given, then he shall have a total of eighteen (18) months from the date of preliminary approval to submit final subdivision plats to the agent for all areas covered by the preliminary. ~~Failure to meet these time lines shall revoke any preliminary approval given. If application is made for an extension prior to expiration, the commission may grant an extension if it deems that an extension is in keeping with the intent of this article, and if all requirements of this article as it exists at the time of the granting of the extension are complied with.~~

If the subdivider elects to file construction plans with the preliminary plat, then he shall have a total of six (6) months from the date of preliminary approval to submit final subdivision plats to the agent. If the subdivider elects to file a final plat on a portion of the area to which approval has been given, then he shall have a total of eighteen (18) months from the date of preliminary approval to submit final subdivision plats to the agent for all areas covered by the preliminary.

Failure to meet these time lines shall revoke any preliminary approval given. If application is made for an extension 30 days prior to expiration, the commission may grant an extension if it deems that an extension is in keeping with the intent of this article, and if all requirements of this article as it exists at the time of the granting of the extension are complied with.

Secs. 9-413 through 9-416. Reserved for future legislation.

Division 4. Final Approval.

Sec. 9-417. Submissions required for final approval.

The applicant shall submit all information required by this section and other supplementary materials determined by the County to be necessary for review and approval when application for final approval is made.

A. The applicant shall submit seven (7) sets of final plans for roads, drainage facilities, water and/or sewage systems, and any other required improvements. Each plan shall contain at a minimum the applicable requirements of Section 9-403 plus the following:

1. Estimated construction cost and proposed method of financing of the streets and related facilities, water distribution system, sewage collection system, storm drainage facilities and other utilities as may be required of the applicant by the County.

2. Location and principal dimensions for all existing or recorded section lines, streets, alleys, easements, rights-of-way, and other important features within and adjacent to the tract to be subdivided complete with bearings or angles, radii, arcs or chords, and central angles of all curves.

3. Location and scaled dimensions for all proposed streets, alleys, easements, lot lines, and areas to be reserved for parks, schools, or other public uses.

4. Location by survey of streams, washes, canals, irrigation laterals, private ditches, culverts, lakes or other water features, including direction of flow, water level elevations and typical depths and locations and extent of areas subject to inundation, whether such inundation be frequent, periodic or occasional.

5. Location of soil tests, a tabulated list of such tests, and a detailed soil analysis where ~~septic~~ **sewage** systems are proposed.

6. Certification by a professionally registered person that a potable and adequate water supply can be made to all lots in a subdivision.

7. Complete construction plans and profiles for all streets, water systems, sanitary and storm sewers, and waste distribution centers; which plans shall:

(a) Show stationing on plan and profile (one hundred [100] foot intervals).

(b) Define and locate horizontal and vertical curves both on plan and profile (length, PC, PI, PT, radius, tangent, delta).

(c) Show percent of grade from PI to PI on profile.

(d) Draw typical cross-section.

(e) Show dimensions of roads, curbs and gutters, sidewalks, water and sewer utility lines and structures within rights-of-way on plan.

(f) Location and size of culverts, including CMP, RCP, Box, etc., on both plan and profile.

(g) Show direction of storm drainage flow.

(h) Show street names on profile plans.

(i) Show minimum twenty (20) foot radius at shoulder or curb line at all intersections on plans.

(j) Show design benchmark data on plans.

(k) Submit final construction plans for all structures (e.g., box culverts bridges, etc.).

(l) Soil and erosion control plan in accordance with state and local regulations.

8. Topography at two (2) foot contours.

9. A letter of intent stating the scope and time element of each stage of construction, the beginning and approximate completion dates of all construction, and indicating the party or parties responsible for the construction.

10. An engineer's estimate for all required subdivision improvements, including erosion and sediment control. The County may require an alternate engineer's estimate which shall be paid for by the developer.

B. A final subdivision plat or plats must be submitted. The subdivision plats submitted for final approval by the agent shall be reproducible and prepared with a scale of 100 feet to the inch on mylar drafting film or the equivalent with all

lettering processed so as to be clearly legible when the sheets are reproduced and reduced to half (1/2) size. Sheets shall be eighteen (18) inches by twenty-four (24) inches. The plat shall be prepared by a certified professional engineer or surveyor. In addition to the requirements of the preliminary plan, the final plat shall include the following:

1. A blank oblong space three (3) inches by five (5) inches shall be reserved for the use of the approving authority.

2. An executed certificate of owner's consent and dedication in conformance with the forms set forth in Section 9-419(A). The statement shall be signed by such persons and duly acknowledged before some officer authorized to take acknowledgements of deeds.

3. An executed certificate by a certified professional engineer or land surveyor in the form required by Section 9-419(b).

4. A blank certificate of approval in the form set forth in Section 9-419(C).

5. When the subdivision consists of land acquired from more than one source of title, the outlines of the various tracts shall be indicated by dashed lines and the identification of the respective tracts shall be placed on the plat.

6. The accurate locations and dimensions by bearings and distances, with all curve data on lots and street lines and center lines of streets, boundaries of all proposed or existing easements, parks, school sites, all existing public and private streets, their names, numbers and widths, existing utilities and those to be provided such as sanitary sewers, storm drains, water mains, manholes, and underground conduits including their size and type, water courses and their names, names of owners and their property lines both within the boundary of the subdivision and adjoining said boundaries.

7. The data of all curves along the street frontage shall be shown in detail at the curve or in a curve data table containing the following: Delta, radius, mark, tangent, chord, and chord bearings.

8. Distances and bearings must balance and close with an accuracy not less than 1 in 10,000.

Sec. 9-418. Final approval; when and by whom granted and effect.

A. Final approval shall be granted or denied within sixty (60) days after all required information has been officially submitted for approval by the subdivider. The plat shall not be deemed to be officially submitted until all information required by this article or other applicable laws has been submitted.

B. Final approval shall be made by the agent after submission and review of all required information, if all the terms of this article and other applicable laws have been complied with. The final plat shall not be approved until the subdivider has complied with the general requirements and minimum standards of design in accordance with this article, and has made satisfactory arrangements for performance guarantees in lieu of construction as required by Section 9-397. Approval of the final plat shall be written on the face of the plat by the agent and if disapproved, the specific reasons for disapproval shall be furnished to the subdivider in writing. The final plat shall also be signed by the VDOT Resident Engineer and the Health Department.

C. The subdivider shall record such plat within sixty (60) days after final approval; otherwise, the agent shall mark the plat void and return it to the subdivider.

D. **A recorded final plat shall be valid for five years from the date of approval as per state law.**

E. **Prior to expiration of a recorded plat, the subdivider or developer may, upon application to the commission, request for one or more extensions of such approval for additional periods as the commission 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. Such extension may be granted if the commission deems that the extension is in keeping with the intent of this article.**

Sec. 9-419. Forms for required certificates.

Certificates of owner's consent and dedication, surveyor's certificates, and certificates of approval shall be in substantially the following form:

A. Owner's Consent and Dedication

Know all men by these presents, that the platting and dedication of land as shown on this plat, containing ____ acres, more or less, and designated as _____ Subdivision, situated in the _____ Magisterial District in the County of New Kent, Virginia, is with the free consent and in accordance with the desires of the undersigned owners, proprietors, and trustees, if any, and that all lots within the subdivision are subject to certain restrictions, reservations, stipulations and covenants as contained in a writing executed by the undersigned, dated _____, 19_____, and recorded in the Clerk's Office of the Circuit Court of New Kent County, in Deed Book _____ at Page _____.

Given under our hands this _____ day of _____, 19_____.

_____(SEAL)

_____(SEAL)

_____(SEAL)

City/County of _____

Commonwealth/State of _____:

Acknowledged before me this _____ day of _____, 19_____, by _____.

_____
Notary Public

My commission expires _____.

B. Surveyor's Certificate

I hereby certify that said _____ acres of land hereby subdivided were conveyed to _____ from _____ by deed dated _____, 19_____, and recorded in the Clerk's Office of the Circuit Court of New Kent County, Virginia, in Deed Book _____ at Page _____.

I further certify that to the best of my knowledge and belief, all of the requirements of the Board of Supervisors and ordinances of the County of New Kent, Virginia, regarding the platting of subdivisions within the County, have been complied with.

Given under my hand this _____ day of _____, 19_____.

_____
Certified Professional Engineer or Land Surveyor

C. Certificate of Approval (PLAT NOT APPROVED UNTIL ALL SIGNATURES OBTAINED)

This subdivision known as _____ Subdivision is approved by the undersigned in accordance with the existing subdivision regulations of New Kent County and may be committed to record.

_____ (Signed) _____
Date VDOT Resident Engineer

_____ (Signed) _____
Date Health Department

_____ (Signed) _____

Date Agent

Secs. 9-420 through 9-424. Reserved for future legislation.

Division 5. Special Provisions and Exemptions Regarding Certain Subdivisions.

Sec. 9-425. Exemptions.

A. The following subdivisions are partially exempted from this article and are therefore not subject to the normal design standards and review procedures contained herein. They are subject to any applicable zoning requirements and to the requirements of paragraph B of this section only:

1. Sale or exchange of parcels not within an existing subdivision between adjoining property owners where such sale or exchange does not create additional building sites or lots or new roads or means of access. Lots within existing subdivisions shall be altered in accordance with Section 9-426 of this article.

2. The sale or gift to a member of the immediate family of the property owner of a single lot. Only one such division per immediate family member shall be allowed and such division shall not in the opinion of the agent be for the purpose of circumventing the provisions of this article. The property owner must have a minimum of five (5) acres remaining after the division and all parcels involved must meet the standards of Article III of this Chapter. The minimum area for any lot created under this paragraph shall not be less than one (1) acre, unless central water is available; then the minimum area shall be in conformance with the requirements of the zoning district in which the lot is located.

3. The division or partitioning of land in an estate by court order or among the heirs of the original owner provided all parcels meet the standards of the zoning ordinance. The minimum area for any lot created under this paragraph shall not be less than one (1) acre, unless central water is available; then the minimum area shall be in conformance with the requirements of the zoning district in which the lot is located.

B. A plat of any subdivision set forth in paragraph A must be submitted to and approved by the agent. In the event the division creates more than two (2) parcels or tracts that do not front on existing public streets and requires the establishment of a new access or right-of-way, then the agent shall require the designation of a right-of-way fifty (50) feet in width, either by conveyance in fee simple or by easement, and shall

require proof from the subdivider that right-of-way layout only is in accordance with the applicable standards of the Virginia Department of Transportation and this article. The plat shall include the following owner's certificate and certificate of approval:

1. Owner's certificate:

This subdivision and plat are with the free consent and in accordance with the wishes of the undersigned owner(s). The undersigned owner(s) certify that this subdivision is a bona fide division under the provisions of Section 9-425 of the New Kent County Code and is not submitted for the purpose of circumventing the subdivision ordinances of New Kent County.

Given under our hands this _____ day of _____, 19_____.

_____(SEAL)

_____(SEAL)

_____(SEAL)

City/County of _____

Commonwealth/State of _____:

Acknowledged before me this _____ day of _____, 19_____, by _____.

_____
Notary Public

My commission expires _____.

2. Certificate of approval:

THIS IS AN APPROVED PRIVATE SUBDIVISION PLAT PURSUANT TO SECTION 9-425 OF THE NEW KENT COUNTY CODE. THE RIGHTS-OF-WAY SHOWN HEREON ARE NOT DEDICATED FOR PUBLIC USE.

_____
Subdivision Agent

_____
Date

C. Condemnations, acquisitions, or sales by the federal, state or local governments or agencies thereof, are exempt from the provisions of this article. This section shall have no application to any industrial park developed by the Industrial development Authority.

Sec. 9-426. Resubdivisions.

A. Any resubdivision of lots within an existing approved subdivision or within a subdivision not developed under the terms of this or any previous subdivision ordinance, shall meet all of the requirements of this chapter.

B. Notwithstanding paragraph A, the boundary line of any such lot or parcel may be relocated, vacated, or otherwise altered if such action (1) does not involve the relocation or alteration of streets, alleys, easements for public passage, or other public areas, and (2) does not violate other standards of this chapter, and (3) no easement or utility rights-of-way are relocated or altered without the written consent of all persons holding any interest therein, and (4) a plat, including a fully executed owner's consent and dedication required by Section 9-419 and approved on its face by the agent only, is filed for record in the Clerk's Office of the Circuit Court of New Kent County along with a certificate to be indexed in the owner's name referencing the original plat.

This paragraph B shall not be construed to allow the altering of the general nature of a neighborhood or the creation of additional lots beyond those already in existence. It is the intent of this paragraph that boundary line alterations within an existing subdivision be permitted without proceeding through a formal subdivision process.

~~Sec. 9-427. Special provisions for developments containing minimum lot areas of two (2) acres or more.~~

~~Parent tract land developments for R-1 and R-2 zoned properties, as classified by the County Zoning Ordinance, which contain lots no smaller than two (2) acres in total area are exempt from all requirements of this article and are subject to the following provisions:~~

~~A. Developments containing from one (1) to five (5) lots with a minimum lot area of two (2) acres may be located on private roads served by individual water and waste water systems subject to the following:~~

~~(1) No more than five (5) lots total from each parent tract, as defined by this article, is allowed.~~

~~(2) A plan for development, including drainage and private road construction plans shall be submitted to the agent for review and approval prior to plat recordation in the Circuit Court Clerk's Office. The agent may refer the development plans to appropriate County and State officials/agencies for review and evaluation, including mandatory notice of development plan submittal to the Planning Commission and Board of Supervisors. Future public facility improvements including roadways, soil conditions and other environmental restraints, and any other appropriate information shall be noted on the approved plat as required by the agent.~~

~~(3) All lots must have a minimum width of 150 feet beginning at a point no less than fifty (50) feet from the front lot line; in addition, lot depth shall not exceed four times the lot width.~~

~~(4) All private roads shall meet applicable minimum Type 1 or Type 2 standards as required by Sec. 9-430 of this article.~~

~~(5) Individual water (well) and waste water (septic) systems as approved by the County Health Department are allowed. Central water and sewer facilities as well as fire suppression systems are not required.~~

~~B. Developments containing from six (6) to no more than ten (10) lots with a minimum lot area of two (2) acres shall meet all provisions of Subsection A above except that paved, public roads of section 9-387 of this article shall be required.~~

~~C. Developments containing more than ten (10) lots shall meet all provisions of Subsection B above except that fire suppression systems of Section 9-376 of this article shall also be required.~~

~~Sec. 9-427.1. Special provisions for developments containing minimum lot areas of two (2) acres or more in A-1 districts.~~

~~Parent tract land developments for A-1 zoned properties as classified by the County Zoning Ordinance, which are no smaller than four (4) acres in total area along state road frontage are exempt from all requirements of this article and are subject to the following provisions:~~

~~A. Developments containing from one (1) to four (4) lots with a minimum of two (2) acres shall only be located on paved state maintained roads provided that two (2) acres or more remain in the parent tract.~~

~~B. After the initial four (4) lots are developed, additional lots with a minimum of five (5) acres shall be allowed under the provisions of Section 9-428.~~

~~C. All lots must front paved state maintained roads and have a minimum width of 150 feet beginning at a point no less than 50 feet from the front lot line; in addition, lot depth shall not exceed four times the lot width. (10-19-87)~~

~~Sec. 9-428. Special provisions for developments containing minimum lot areas of five (5) acres or more.~~

~~Land developments containing lots no smaller than five (5) acres in total area are exempt from all requirements of this article and are subject to the following provisions:~~

~~A. Parent tract land developments for Agricultural zoned properties, as classified by the County Zoning Ordinance, containing from one (1) to five (5) lots with a minimum lot area of five (5) acres may be located on private roads served by individual water and waste water systems subject to the following:~~

~~(1) No more than five (5) lots total from each parent tract, as defined by this article, is allowed.~~

~~(2) A plan for development, including drainage and private road construction plans shall be submitted to the agent for review and approval prior to plat recordation in the Circuit Court Clerk's Office. The agent may refer the development plans to appropriate County and State officials/agencies for review and evaluation, including mandatory notice of development plan submittal to the Planning Commission and Board of Supervisors. Future public facility improvements including roadways, soil conditions and other environmental restraints, and any other appropriate~~

~~information shall be noted on the approved plat as required by the agent.~~

~~(3) All lots must have a minimum width of 250 feet beginning at a point no less than fifty (50) feet from the front lot line; in addition, lot depth shall not exceed four times the lot width.~~

~~(4) All private roads shall meet applicable minimum Type 1 or Type 2 standards as required by Sec. 9-430 of this article.~~

~~(5) Individual water (well) and waste water (septic) systems as approved by the County Health Department are allowed. Central water and sewer facilities as well as fire suppression systems are not required.~~

~~B. Agricultural zoning parent tract land developments containing from six (6) to no more than ten (10) lots with a minimum lot area of five (5) acres shall meet all provisions of Subsection A above except that paved public roads of Section 9-387 of this article shall be required.~~

~~C. Agricultural zoning parent tract land developments containing more than ten (10) lots shall meet all provisions of Subsection B above except that fire suppression systems of Section 9-376 of this article shall also be required.~~

~~D. Non-parent tract developments for any zoning classification regardless of the number of lots which have a minimum lot area of five (5) acres or more shall meet all provisions of Subsection C above except that Planning Commission review and approval of Section 9-355(B) of this article shall be required.~~

Sec. 9-427. Parent Tract Minor Subdivisions.

The intent of this ordinance is to permit parent tract land developments for A-1 zoned properties as classified by the County Zoning Ordinance. Minor subdivisions shall be served by internal roads constructed to county and state road construction standards. All parent tract land developments for A-1 zoned properties are exempt from all requirements of this article and are subject to the following provisions:

A. No more than four (4) new lots may be created under the provisions of this article, and all such lots shall have a minimum area of two (2) acres each.

B. A minimum of two (2) acres shall remain in the original parent tract.

C. No new lots may front existing Type I or State maintained paved roads.

D. Approval of the plan for development may be made by the agent; however, the agent reserves the right to refer such plans to appropriate County and State officials/agencies, including the planning commission, for review and evaluation.

E. All lots shall have a minimum width of one hundred fifty (150) feet at a point seventy-five (75) feet from the front lot line; in addition, lot depth shall not exceed four (4) times lot width.

F. Access to all lots created in a minor subdivision created under the provisions of this article shall be provided by roads constructed to standards set forth in Section 9-430 of this ordinance. The roads so constructed shall intersect a paved road in the state system in a manner prescribed by section 9-430 of this ordinance.

G. Individual water and waste water systems are permitted.

H. The procedure for approval of the plan for development and information to be included shall be as follows:

1. Proof that the land to be divided qualifies as a parent tract as defined by Division 1 of this article.

2. drainage and road construction plans;

3. a subdivision plat showing all lot lines and dimensions, including the boundaries of the original parent tract;

4. existing public and private roads and utility and other easements entering or adjacent to the property being subdivided or terminating at the property boundary;

5. any proposed private access, utility or other easements;

6. flood plain elevations and boundary lines of Resource Protection or Resource Management areas, if applicable;

7. proposed well and sewage disposal system locations;

8. surveyor's certificate;

9. completed owners consent form;

10. certificate of approval for signature by the agent, if approved;

11. Health Department approval of a well site and a site for a septic tank with one hundred (100) percent drain field reserve or other equivalent on-site sewage disposal system for each site;

12. Virginia Department of Transportation Resident Highway Engineer's approval of road construction standards, and entrance onto paved state maintained roads from internal roads located within the minor subdivision.

I. Any required performance guarantees shall follow the procedures outlined in Sec. 9-397 of this article.

Sec. 9-429. Special provisions for commercial or industrial subdivisions.

A. Commercial or industrial subdivisions shall comply with all requirements of this article. All streets within such subdivisions shall be paved and constructed to Virginia Department of Transportation standards for public streets. The subdivider may, with the permission of the commission, retain such streets as private streets. If such streets remain private, that fact shall be noted in the certificate of approval on the final plat signed by the agent.

B. Before any subdivision plat containing private streets to be constructed in accordance with the provisions of this section will be finally approved, subdivider shall construct all required streets in accordance with the approved plans. In lieu of construction, the developer shall provide to the County a performance agreement on forms supplied by the agent and approved by the County Attorney, and shall provide that all street improvements shown on the final plat of the subdivision will be completed within twenty-four (24) months of the date of approval.

The performance agreement shall be accompanied by surety in an amount sufficient to provide the construction of the streets identified in the performance agreement. Surety shall consist of either (1) a certified check or cash escrow in the amount of the estimated cost of construction or (2) a bank or

savings and loan association's letter of credit on certain designated funds in the amount of the estimated cost of construction, said letter of credit to be approved by the County Attorney.

In the event of default on any such performance agreement, all proceedings shall be in conformance with paragraph E of Section 9-397 of this chapter. Nothing herein shall be deemed to require the County to complete construction in the event the surety is insufficient to complete the work.

These provisions regarding performance guarantees apply only to the construction of private streets. Any other public improvements required shall be secured in accordance with the provisions of Section 9-397.

Sec. 9-430. Private Streets.

Developments which contain private streets as allowed must meet ~~each of~~ the requirements set forth ~~under either Type I or Type II~~ below:

~~A. Type I: Type I private streets must meet or exceed each of the following requirements:~~

A. All streets in the proposed development shall be designed and constructed in accordance with the current Virginia Department of Transportation Subdivision Street Requirements, as well as other applicable regulations of the Department or in accordance with the design standards as set forth in Table I, which is attached as an appendix to this Ordinance and incorporated herein by reference, whichever standard is higher, except that the street need not be hard surfaced.

B. The private street must connect directly to a State maintained hard surfaced street or highway at one location and not connect to any other street.

C. Such connection shall be designed and constructed to VDOT standards. (new language)

D. The applicable design and construction standards of Table I which is attached as an appendix to this ordinance and incorporated herein by reference, shall apply.

E. The private street must be no more than 750 feet long.

F. **No more than five lots shall abut the street.**

G. No lot of such development to be served by such street shall be less than two acres in land area and 150 feet wide.

~~(c) The subdivider or developer shall erect, within 25 feet of the point where the primary access street to the subdivision joins a State maintained road, a permanent sign, clearly visible from the State maintained road, containing the following statement in block letters no less than three inches high:~~

~~THE UNPAVED STREETS IN THIS DEVELOPMENT WILL NOT BE PAVED OR MAINTAINED AT PUBLIC EXPENSE.~~

~~Such sign shall be maintained by the subdivider and the organization established pursuant to Subsection (h) below, in clearly visible condition, so long as the subdivider owns any lot in the development.~~

~~(d) Each private street shall be clearly marked as such on the final plat of any development, and the subdivider shall have boldly printed upon the final plat, which must also be included in the real estate sales/land contract and as a covenant in each deed for a lot in the subdivision the following statements:~~

~~THE PRIVATE STREETS IN THIS SUBDIVISION WILL NOT BE PAVED OR MAINTAINED WITH FUNDS OF NEW KENT COUNTY OR FUNDS ADMINISTERED BY THE VIRGINIA DEPARTMENT OF TRANSPORTATION. IN ADDITION, NEW KENT COUNTY SCHOOL TRANSPORTATION POLICIES WILL NOT ALLOW SCHOOL BUSES TO TRAVEL AND PICK UP CHILDREN ON PRIVATE STREETS. IN THE EVENT THAT OWNERS OF LOTS IN THE SUBDIVISION SUBSEQUENTLY DESIRE THE ADDITION OF SUCH PRIVATE STREETS TO THE SECONDARY SYSTEM OF STATE HIGHWAYS FOR MAINTENANCE, THE COST TO UPGRADE IT TO THE PRESCRIBED STANDARDS MUST BE PROVIDED FROM FUNDS OTHER THAN THOSE ADMINISTERED BY THE VIRGINIA DEPARTMENT OF TRANSPORTATION OR NEW KENT COUNTY. PRIVATE STREETS IN THIS SUBDIVISION ARE NOT DEDICATED AND ARE OWNED BY (trust, corporation, association).~~

H. Except where required by the Commission or agent to serve a specified public purpose, such private street shall not be designed to serve through traffic nor to intersect the State highway system in more than one location.

I. Any such private street shall be adequate to carry the traffic volume which may be reasonably expected to be generated by such subdivision.

J. The fee simple ownership of such private street (exclusive of any previously conveyed mineral rights) is to be owned by a private membership corporation, association, or trust established pursuant to Subparagraph (h) below.

K. The subdivider shall create and establish by properly executed documents a trust, membership corporation, or association of development lot owners for the purpose of maintaining and improving the streets in the development. The trust agreement, articles of incorporation, or bylaws of such trust, corporation or association shall be in substantial compliance with the form of trust agreement, articles of incorporation, or bylaws, which the agent may from time to time prescribe.

L. The initial funding of the road maintenance fund of the trust, corporation, or association to be established as aforesaid, shall be provided by the subdivider depositing to the credit of such trust, corporation, or association five (5) percent of the gross sales price for each lot sold in said development or a minimum of ~~$500.00~~ **$1000.00** per lot, whichever is greater. Such percentage of the gross sales price shall be paid upon closing of each and every lot in said subdivision. Gross sales price as used herein shall mean the selling price to a bona fide third party purchaser, and in the event of a sale which is not an arm's length, the gross selling price shall be deemed to be the greater of (a) the actual market value of such lot as determined by the trustees, corporation, or association to be established as aforesaid, or (b) the value of such lot for real estate tax purposes, whichever is less.

~~B. Type II: Type II private streets must meet or exceed each of the following requirements:~~

~~(a) The private street must connect directly to a State maintained hard surfaced street or highway at one location and not connect to any other street.~~

~~(b) The applicable design and construction standards of Table I which is attached as an appendix to this ordinance and incorporated herein by reference, shall apply.~~

~~(c) The private street must be no more than 550 feet long for 5 acres minimum lot sizes and 450 feet for 2 acres minimum lot sizes.~~

~~(d) No more than five lots abut the street.~~

M. The subdivider or developer shall erect, within 25 feet of the point where the primary access street to the subdivision joins a State maintained road, a permanent sign, clearly visible from the State maintained road, containing the following statement in block letters no less than three inches high:

THE UNPAVED STREETS IN THIS DEVELOPMENT
WILL NOT BE PAVED OR MAINTAINED
AT PUBLIC EXPENSE.

N. Each private street shall be clearly marked as such on the final plat of any development, and the subdivider shall have boldly printed upon the final plat, which must also be included in the real estate sales/land contract and as a covenant in each deed for a lot in the subdivision the following statements:

THE PRIVATE STREETS IN THIS SUBDIVISION WILL NOT BE PAVED OR MAINTAINED WITH FUNDS OF NEW KENT COUNTY OR FUNDS ADMINISTERED BY THE VIRGINIA DEPARTMENT OF TRANSPORTATION. IN ADDITION, NEW KENT COUNTY SCHOOL TRANSPORTATION POLICIES WILL NOT ALLOW SCHOOL BUSES TO TRAVEL AND PICK UP CHILDREN ON PRIVATE STREETS. IN THE EVENT THAT OWNERS OF LOTS IN THE SUBDIVISION SUBSEQUENTLY DESIRE THE ADDITION OF SUCH PRIVATE STREETS TO THE SECONDARY SYSTEM OF STATE HIGHWAYS FOR MAINTENANCE, THE COST TO UPGRADE IT TO THE PRESCRIBED STANDARDS MUST BE PROVIDED FROM FUNDS OTHER THAN THOSE ADMINISTERED BY THE VIRGINIA DEPARTMENT OF TRANSPORTATION OR NEW KENT COUNTY. PRIVATE STREETS IN THIS SUBDIVISION ARE NOT DEDICATED AND ARE OWNED BY (trust, corporation, association).

Secs. 431 through 436. Reserved for future legislation.

Table I

DESIGN STANDARDS FOR PRIVATE GRAVEL ROADS

Maximum Number of Lots Served	Max. Grade[1]	Min. Design Speed	Stopping Sight Dist.	Minimum Gravel Surface Width	Minimum Shoulder Width	Subbase	Depth of VDOT Aggregate Base[2]	Surface	Min. R.O.W. Width
5	12 %	35 MPH	240 ft	20 feet	5 feet	6" select VDOT Type I, II,or III	6" VDOT #25 or #26	Gravel	50 feet

1. Maximum grade may exceed 12 percent up to a maximum of 18 percent for a maximum length of 300 feet, provided 6" of #25 or #26 aggregate base is placed with prime and double seal surface trwatment in accordance with VDOT specifications.

2. Depth of aggregate base is compacted depth. Loose aggregate of approximately 8 " will compact to 6" depth. Loose aggregate of approximately 5.5" will compact to 4" depth.

ARTICLE V. STREET NAMING AND ADDRESS NUMBERING.

Sec. 9-437. Uniform system adopted for certain parts of County; compliance with chapter.

There is hereby established a uniform system for naming streets and numbering buildings fronting on all streets, avenues, and public ways in the County. All streets shall be named and all buildings shall be numbered in accordance with the provisions of this chapter. (Enacted 12/12/88)

Sec. 9-438. Preparation and filing of official plat book.

In order to facilitate the numbering of houses and businesses and the naming of streets, an official plat book shall be prepared showing the number of each building and the name of each street. The official plat book shall be kept on file in the office of the director of planning.

Sec. 9-439. Clarification of present street naming pattern.

For the purpose of clarifying and systematizing the present street naming pattern of the County, the following provisions are adopted:

1. Streets in the County which have the same or similar names as other existing streets in New Kent, Henrico, Charles City, Hanover and James City Counties should be changed to be unique, in order to eliminate name duplication.

2. Numbered streets which do not indicate the block number shall be assigned new names.

3. Streets which change directions shall be assigned new names.

4. Streets which have more than one name shall be assigned new names.

5. Any existing street name may be changed when found to be necessary by the Board of Supervisors.

6. Every subdivision plat submitted to the Planning Commission for their approval shall show the proposed names of the streets, along with written confirmation from the regional street name clearinghouse (Richmond Regional Planning District Commission). All names shall be approved by the planning department before such new names are official.

Sec. 9-440. Street names as locational references.

For the purpose of facilitating the location of streets by virtue of their name and clarifying the use of certain thoroughfare designations, the following provisions are adopted:

1. Street type designations should be consistent with the roadway's functional classification, expected traffic use, width of right-of-way and continuity. In order to achieve some consistency of name usage, the following definitional guidelines are adopted:

   a. Interstate - to be used only with roadways included in the Federal Interstate system as limited access expressways;

   b. Highway or Pike - to be used only with state or federal, multi-lane roadway facilities with some local access;

   c. Parkway - a special scenic route or park drive, usually with a center median;

   d. Drive, Road or Trail - winding or straight thoroughfares which continue through and intersect with other rights-of-way;

   e. Streets and Avenues - thoroughfares which continue through to provide access to other rights-of way; streets consistently running north-south, while avenue running east-west;

   f. Loops - a short roadway which begins and ends on the same, generally - parallel, street;

   g. Circle - a local roadway that begins and circles back to terminate on the same road, forming a closed "loop";

   h. Lane, Path or Way - a local road which provides access to one or more internal street, each dead-ending in a cul-de-sac; and

   i. Place, Court, Terrace - a permanent dead-end road or cul-de-sac, which may share a common name with the access roadway.

2. Street names adopted for subdivisions should be related to a development theme or common neighborhood identity for the subdivision. This linkage can be established in one of the following ways:

a. Using a common theme to name streets in the subdivisions and/or

b. Using alphabetical selection (e.g. street names would share common first letter with subdivision name).

3. Street naming of state route-numbered roads should be done with consideration given to any historical names for the road.

Sec. 9-441. Furnishing street name signs.

Upon adoption of this chapter, the County shall provide and erect a street sign for all existing public road intersections, as funds are available. First priority for street sign construction shall be state primary road intersections, followed by primary/secondary road intersections and secondary/secondary road intersections. Every subdivider shall provide and erect a street sign, of a design approved by the County, for every street intersection planned in any subdivision. County residents shall be allowed to voluntarily erect street name signs of a design approved by the County. Existing private roads in the County may be named and signed with the concurrence of affected private property owners. The County shall replace, as funds become available, street signs needed because of street name changes adopted by the Board of Supervisors.

Sec. 9-442. Authority of Board of Supervisors to change street names.

The Board of Supervisors may change, rename or name any existing or newly established street at any time after the adoption of this chapter.

Sec. 9-443. Implementation procedure.

In order to implement the house numbering and street naming program for the County, the new numbers and street names shall become official as each portion of the County is incorporated in the uniform system. The procedure shall be as follows:

1. Plats showing the proposed house numbers and street names shall be prepared by the planning department.

2. The plats shall be reviewed and approved by the Board of Supervisors.

3. A notice shall be delivered, by the County, to each residence or business building stating the new address of the building and when it become effective.

Sec. 9-444. Notification of post offices, etc., of change of address.

It shall be the responsibility of the owner or occupant to notify the local post office, correspondents, publishers, utilities and all

other interested parties of the change of address. The planning office shall provide a master change of address listing to other county departments (e.g. commissioner of revenue, county registrar, county school board) to facilitate the correction of public administrative records.

Sec. 9-445. Duties of director of planning.

It shall be the duty of the director of planning or his authorized agent to assign house numbers and to develop, in coordination with the direction of the county public safety department and the District Engineer's Office of the Virginia Department of Transportation, design guidelines for the location, size and style of street signs to be erected in the County.

Sec. 9-446. Duties of the public safety director.

It shall be the duty of the director of the county public safety department or his authorized agent to erect street signs in the county and/or to inspect signs erected by subdividers or other residents of the County to ensure conformance with the street sign design and location guidelines adopted by the County.

Sec. 9-447. Duty of owner of new or altered building.

After a uniform house numbering system has been established, it shall be the duty of the owner of every new or altered building to obtain the proper house number and attach the number to the premises. When required, no building permit shall be issued by the department of public safety until the proper house number has been issued by the planning department.

Sec. 9-448. Time of placing numbers on buildings; payment of costs.

Number shall be placed on existing buildings within thirty (30) days after being assigned. The cost of the numbers shall be paid for by the property owner.

Sec. 9-449. Size, type of material and location of numbers.

House numbers shall not be less than three (3) inches in height and shall be made of a durable and clearly visible material. The numbers shall be conspicuously placed on, above or at the side of the main entrance door so that the number is plainly visible from the street. Whenever a building is more than fifty (50) feet from the street or when the entrance is not visible from the street the number shall be placed at the walk, driveway or other suitable location that is easily discernible from the street.

Sec. 9-450. A grid system, as shown on the County property numbering base maps, is hereby established.

The grid lines, as shown on the property numbering maps, indicate the point at which block numbers will change in increments of one hundred.

Sec. 9-451. Same - Maximum block length; increments for numbering.

The maximum length of a block shall generally range between one and three thousand feet, depending on the curvilinearity of the road. Similarly, a variable frontage interval shall be used for property number assignment with an average minimum distance of roughly twenty-two (22) feet along the center line of the street.

Sec. 9-452. Same - Assignment of even and odd numbers.

Even numbers shall be assigned to the north and west sides of all streets and odd numbers shall be assigned to the east and south sides of all streets.

Sec. 9-453. Separate numbers to be assigned each entrance.

When a building has more than one entrance serving separate occupants, a separate number shall be assigned to each entrance.

Sec. 9-454. Same - Assignment of letter suffixes on multiple-family dwellings with one main entrance.

A Multiple-family dwelling having only one main entrance shall be assigned only one number and separate apartments shall have a letter suffix.

Sec. 9-455 through 4-459. Reserved for future legislation.

ARTICLE VI. Chesapeake Bay Preservation Areas

Sec. 9-460. Purpose and Intent.

A. This article is enacted to implement the requirements of Section 10.1-2100 et seq. of the Code of Virginia (The Chesapeake Bay Preservation Act). The intent of New Kent County Board of Supervisors and the purpose of this article is to: (1) protect existing high quality state waters; (2) restore all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them; (3) safeguard the clean waters of the Commonwealth from pollution; (4) prevent increases in pollution; (5) reduce existing pollution; and (6) promote water resource conservation in order to provide for the health, safety, and welfare of the present and future citizens of New Kent County.

B. This article establishes criteria used by New Kent County in granting, denying, or modifying requests to subdivide land in Chesapeake Bay Preservation Areas. In preservation areas, these criteria shall be applied in addition to zoning and subdivision ordinances.

C. This article is enacted under the authority of Section 10.1-2100 et seq. (The Chesapeake Bay Preservation Act) and Section 15.1-489, of the Code of Virginia. Section 15.1-489 states that zoning ordinances may "also include reasonable provisions, not inconsistent with applicable state water quality standards, to protect surface water and groundwater as defined in Section 62.1-44.85 (8)." (11/29/91)

Sec. 9-461. Definitions.

The following words and terms used in this Article have the following meanings, unless the context clearly indicates otherwise. Words and terms not defined in this Article but defined in the Zoning Ordinance shall be given the meanings set forth therein.

"Agricultural lands" means those lands used for the planting and harvesting of crops or plant growth of any kind in the open; pasture; horticulture; dairying; floriculture; or raising of poultry and/or livestock.

"Best Management Practices" or "BMPs" means a practice, or a combination of practices, that is determined by a state or designated area-wide planning agency to be the most effective, practical means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

"Buffer area" means an area of natural or established vegetation managed to protect other components of a Chesapeake Bay Preservation Area and state waters from significant degradation due to land disturbances.

"Chesapeake Bay Preservation Area" or "CBPA" means any land designated by the New Kent County Board of Supervisors pursuant to Part III of the Chesapeake Bay Preservation Area Designation and Management Regulations, VR 173-02-01, and Section 10.1-2107 of the Code of Virginia. A Chesapeake Bay Preservation Area shall consist of a Resource Protection area and a Resource Management Area.

"Development" means the construction, or substantial alteration, of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures.

"Flood Plain" means (a) a relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation, (b) an area subject to the unusual and rapid accumulations of runoff of surface water from any source.

"Nonpoint source pollution" means pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, such as runoff from agriculture and urban land development and use.

"Nontidal wetlands" means those wetlands other than tidal wetlands.

"Noxious weeds" means weeds that are difficult to control effectively, such as Johnson Grass, Kudzu, and multiflora rose.

"Plan of Development" means the process for site plan or subdivision plat review to ensure compliance with Section 10.1-2109 of the Code of Virginia and this Code, prior to any clearing or grading of a site or the issuance of a building permit.

"Redevelopment" means the process of developing land that is or has been previously developed.

"Resource Management Area", or "RMA" means that component of the Chesapeake Bay Preservation area that is not classified as a Resource Protection Area. RMA's include land types that, if improperly used or developed, have the potential for causing significant water quality degradation or for diminishing the functional value of the Resource Protection Area.

"Resource Protection Area" or "RPA" means that component of the Chesapeake Bay Preservation area comprised of lands at or near the shoreline that have intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters.

"Tidal shore" or "shore" means land contiguous to a tidal body of water between the mean low water level and the mean high water level.

"Tidal wetlands" means vegetated and nonvegetated wetlands as defined in Section 62.1-13.2 of the Code of Virginia.

"Tributary stream" means any perennial stream that is so depicted on the most recent U.S. Geological Survey 7-1/2 minute topographic quadrangle map (scale 1:24,000).

"Water-dependent facility" means a development of land that cannot exist outside of the Chesapeake Bay Preservation Area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include, but are not limited to (i) ports; (ii) the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers; (iii) marinas and other boat docking structures; (iv) beaches and other public water-oriented recreation areas; and (v) fisheries or other marine resources facilities.

"Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. (11/29/91)

Sec. 9-462. Designation of Resource Management Areas.

A. That portion of the county that is not in a Resource Protection Area will be deemed to be in a Resource Management Area.

B. Development on any lot or parcel within the Resource Management Area may be exempt from the provisions of Article 1 of this Chapter provided that:

1. There is no Resource Protection Area located on any of the lot or parcel as established under the provisions of this Article.

2. There is no Resource Management Area component as defined by the Chesapeake Bay Local Assistance Department's Chesapeake Bay Preservation Area Designation and Management Regulations on any portion of the lot or parcel.

3. A schematic site plan required under § 9-278 is submitted accurately demonstrating the absence of Resource Management Area components.

4. **The schematic site plan which accurately demonstrates the absence of Resource Management Area features is prepared by a qualified soil scientist, professional Engineer, or landscape architect, or by an individual who is determined by the New Kent Planning Department to be qualified to make such delineations.**

~~4. The schematic site plan which accurately demonstrates the absence of Resource Management Area features is prepared by a qualified soil scientist, or by an individual who is determined by the New Kent Planning Department to be qualified to make such delineations. (11/29/91)~~

C. In the event that the lot or parcel in paragraph B, above, is within 150 feet of a Resource Protection Area, the portion of property within the 150 foot area shall not be exempted from the provisions of Article 1 of this chapter.

Sec. 9-463. Designation of Resource Protection Areas.

As of the adoption date this Article shall apply to all lands in RPAs, which shall include lands that meet the designation criteria in this part. RPAs are subject to the use restrictions and regulations in this Article.

A. Resource Protection Areas shall consist of sensitive lands adjacent to or near the shoreline that have either an intrinsic water quality value due to the ecological and biological processes they perform or that are sensitive to uses or activities such that the use results in significant degradation to the quality of State Waters. In their natural condition, these lands provide for the removal, reduction, or assimilation of nonpoint source pollution entering the Bay and its tributaries. RPAs shall include:

(1) Tidal wetlands;

(2) Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or tributary streams;.

(3) Tidal shores;

(4) A 100-foot vegetated buffer area located adjacent to and landward of the components listed in subsections 1 through 3 above, and along both sides of any tributary stream;.

(5) Flood plains.

B. A RPA map is provided but should be considered a planning tool. Boundaries shall be delineated by the applicant during the plan of development process. (11/29/91)

Sec. 9-464. Use Regulations.

Permitted uses, conditionally permitted uses, accessory uses, and special requirements shall be as established by the underlying zoning district, unless specifically modified by the requirements set forth herein. (11/29/91)

Sec. 9-465. Lot Size.

Lot size shall be subject to the requirements of the underlying zoning district(s), provided that any lot shall have sufficient area outside the RPA to accommodate an intended development, in accordance

with the performance standards in Section 9-469, when such development is not otherwise allowed in the RPAs. (11/29/91)

Sec. 9-466. Required Conditions.

A. 1. A new or expanded water-dependent facility may be allowed provided that:

a. It does not conflict with the comprehensive plan.
b. It complies with the performance criteria set forth in this division;
c. Any non-water dependent component is located outside of Resource Protection Areas;
d. Access will be provided with the minimum disturbance necessary. Where possible, a single point of access will be provided.

2. Redevelopment shall conform to applicable stormwater management and erosion and sediment control criteria of this Chapter.

~~A. Development in RPAs may be allowed only if it: (i) is water-dependent; or (ii) constitutes redevelopment.~~

B. A water quality impact assessment shall be required for any proposed development or redevelopment within RPAs, in accordance with the provisions of Section 9-470 of this Article. (11/29/91)

Sec. 9-467. Conflict with other Regulations.

In any case where the requirements of this Article conflict with any other provision of the New Kent County Code or existing state or federal regulations, whichever imposes the more stringent restrictions shall apply. (11/29/91)

Sec. 9-468. Interpretation of Resource Protection Areas Boundaries.

A. Delineation by the Director of Planning.

The Director of Planning, when requested by an applicant wishing to construct a single family residence, may waive the requirement for an environmental site assessment and perform the delineation. The Director of Planning may use remote sensing, hydrology, soils, plant species, and other data, and consult other appropriate resources as needed to perform the delineation.

B. Where Conflict Arises over Delineation.

Where the applicant has provided a site-specific delineation of the RPA, the Director of Planning will verify the accuracy of the boundary delineation. In determining the site-specific RPA boundary, the Director of Planning may render adjustments to the applicant's boundary

delineation, in accordance with Section 9-471 (Plan of Development) of this Article. In the event the adjusted boundary delineation is contested by the applicant, the applicant may seek relief by means of the appeals process as set forth in Division 22 of the Zoning Ordinance. (11/29/91)

Sec. 9-469. Performance Standards.

A. Purpose and Intent.

The purpose and intent of these requirements are also to implement the following objectives: prevent a net increase in nonpoint source pollution from new development; achieve a 10% reduction in nonpoint source pollution from redevelopment; and achieve a 40% reduction in nonpoint source pollution from agricultural uses.

B. General Performance Standards for Development and Redevelopment.

(1) Indigenous vegetation shall be preserved to the maximum extent possible consistent with the use and development permitted and in accordance with the Virginia Erosion and Sediment Control Regulations. VSRS-625-02-00, or any amendments thereto.

(2) Land upon which agricultural activities are being conducted shall have a soil and water quality conservation plan. Such plan shall be based upon the Field Office Technical Guide of the U.S. Department of Agriculture Soil Conservation Service and accomplish water quality protection consistent with this Article. Such a plan shall be approved by the local Soil and Water Conservation District by January 1, 1995.

C. Buffer Area Requirements.

To minimize the adverse effects of human activities on the other components of Resource Protection Areas, state waters, and aquatic life, a 100-foot buffer area of vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff shall be retained if present and established where it does not exist.

The buffer area shall be located adjacent to and landward of other RPA components and along both sides of any tributary stream. The full buffer area shall be designated as the landward component of the RPA, in accordance with Sections 9-463 (Designation of Chesapeake Bay Preservation Areas) and 9-471 (Plan of Development) of this Article.

The 100-foot buffer area shall be deemed to achieve a 75 percent reduction of sediments and a 40 percent reduction of nutrients. A combination of a buffer area not less than 50 feet in width and appropriate best management practices located landward of the buffer area which collectively achieve water quality protection, pollutant removal, and water resource conservation at least the equivalent of the full 100-

foot buffer area may be employed in lieu of the 100-foot buffer if approved by the Director of Planning after consideration of the Water Quality Impact Assessment, in accordance with Section 9-470 of this Article.

A. The buffer area shall be maintained to meet the following additional performance standards:

(1) In order to maintain the functional value of the buffer area, indigenous vegetation may be removed only to provide for reasonable sight lines, access paths, general woodlot management, and best management practices, as follows:

a. Trees may be pruned or removed as necessary to provide for sight lines and vistas, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.

b. Any path shall be constructed and surfaced so as to ~~effectively control erosion.~~

c. Dead, diseased, or dying trees or shrubbery may be removed at the discretion of the landowner, and silvicultural thinning may be conducted based upon the best available technical information.

d. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.

(2) When the application of the buffer areas would result in the loss of a buildable area on a lot or parcel recorded prior to October 1, 1989, the Director of Planning may modify the width of the buffer area in accordance with Section 9-471 (Plan of Development) and the following criteria:

a. Modifications to the buffer areas shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities;

b. Where possible, an area equal to the area encroaching the buffer area shall be established elsewhere on the lot or parcel in a way to maximize water quality protection; and

c. In no case shall the reduced portion of the buffer area be less than 50 feet in width.

(3) On agricultural lands the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area and noxious weeds from invading the buffer area. The agricultural buffer area may be reduced as follows:

a. To a minimum width of 50 feet when the adjacent land is implementing a federal, state, or locally-funded program, provided that the combination of the reduced buffer area and the best management practices achieve water quality protection, pollutant removal, and water resource conservation at least the equivalent of the 100 foot buffer area;

b. To a minimum width of 25 feet when a soil and water quality conservation plan, as approved by the local Soil and Water Conservation District, has been implemented on the adjacent land. Such plan shall be based upon the Field Office Technical Guide of the U.S. Department of Agriculture Soil Conservation Service and accomplish water quality protection consistent with this Article.

c. The buffer area is not required for agricultural drainage ditches if the adjacent agricultural land has in place best management practices in accordance with a conservation plan approved by the local Soil and Water Conservation District.

B. Notification of Buffer Encroachment.

(1) Notice will be given to the property owner concerning the amount of footage of the buffer area, if any, was encroached by the existing or proposed development. (11/29/91)

Sec. 9-470. Water Quality Impact Assessment.

A. Water Quality Impact Assessment Required.

A water quality impact assessment is required for (i) any proposed development within or adjacent to an RMA, including any buffer area modification or reduction as provided for in the performance standards of this Article; (ii) any development outside of a RPA as deemed necessary by the Director of Planning due to the unique characteristics of the site or intensity of the proposed development. The water quality impact assessment shall include a site drawing to scale which shows the following:

(1) Location of the components of the RPA, including the 100 foot buffer area;

(2) Location and nature of the proposed encroachment into the buffer area, including: type of paving material; areas of clearing or grading; location of any structures, drives, or other impervious cover; and sewage disposal systems or reserve drainfield sites;

(3) Type and location of proposed best management practices to mitigate the proposed encroachment.

B. If a proposed development exceeds 5,000 square feet of land disturbance within RPAs and requires any modification or reduction of the landward 50 feet of the 100 foot buffer area; disturbs any portion of the seaward 50 feet of the 100 foot buffer area or any other component of a RPA and is deemed necessary by the Director of Planning, the developer will be subject to additional requirements as determined by the Director of Planning.

C. Submission and Review Requirements.

(1) Five (5) copies of all site drawings and other applicable information as required above shall be submitted to the Director of Planning for review.

(2) All information required in this section shall be certified as complete and accurate by a professional engineer.

(3) As part of any water quality impact assessment submittal, the Director of Planning may request review by the Chesapeake Bay Local Assistance Department (CBLAD). Upon receipt of a water quality impact assessment, the Director of Planning will determine if review is warranted and may request CBLAD to review the assessment and respond with written comments. Any comments by CBLAD will be incorporated into the final review by the Director of Planning, provided that such comments are provided by CBLAD.

D. Evaluation Procedure.

(1) Upon the completed review of a water quality impact assessment, the Director of Planning will determine if any proposed modification or reduction to the buffer area is consistent with the provisions of this Article and make a finding based upon the following criteria:

a. Within any RPA, the proposed development or redevelopment is either water-dependent or constitute redevelopment;

b. The disturbance of any wetlands will be minimized;

c. Impervious surface is minimized;

d. The proposed encroachment is necessary and the ability to place improvements elsewhere on the site to avoid disturbance of the buffer areas is limited or not possible;

e. The development will not result in significant disruption of the hydrology of the site;

f. The development will not result in significant degradation to aquatic vegetation or life;

g. The development will not result in unnecessary destruction of plant materials on site;

h. Proposed erosion and sediment control concepts are adequate to achieve the reductions in runoff and prevent off-site sedimentation;

i. Proposed stormwater management concepts are adequate to control the stormwater runoff to achieve the required performance standard for pollutant control;

j. Proposed revegetation of disturbed areas will provide optimum erosion and sediment control benefits;

k. The design and location of any proposed drainfield will be in accordance with the requirements of Section 9-281;

l. Proposed best management practices, where required, achieve the requisite reductions in pollutant loadings;

m. The development, as proposed, is consistent with the purpose and intent of the ordinance;

n. The cumulative impact of the proposed development, when considered in relation to other development in the vicinity, both existing and proposed, will not result in a significant degradation of water quality.

(2) The Director of Planning shall require additional mitigation where potential impacts have not been adequately addressed. Evaluation of mitigation measures will be made by the Director of Planning based on the criteria listed above.

(3) The Director of Planning shall find the proposal to be inconsistent with the purpose and intent of this Article when the impacts created by the proposal cannot be mitigated. Evaluation of the impacts will be made by the Director of Planning based on the criteria listed in subsection (1). (11/29/91)

Sec. 9-471. Plan of Development Process.

In addition to the information required for a site plan under Section 9-278 of this Code, the owner or developer of a project which constitutes development or redevelopment subject to the provisions of this article shall include the following information on the site plan.

A. Landscaping.

1. Within the buffer area, trees to be removed for sight lines, vistas, access paths, and best management practices, as provided for in this Article shall be shown. Vegetation required by this ordinance to replace any existing trees within the buffer area shall also be shown.

2. Trees to be removed for shoreline stabilization projects and any replacement vegetation required by this Article shall be shown.

3. **No more land shall be disturbed than is necessary to provide for the desired use or development.**

4. **Indigenous vegetation shall be preserved to the maximum extent possible consistent with the use or development allowed.**

B. Installation and Bonding Requirements.

1. Except as provided in sub-paragraph 2, where buffer areas or other specifications of an approved plan are required, no certificate of occupancy shall be issued until the installation of required plant materials or facilities is completed, in accordance with the approved site plan.

2. When the occupancy of a structure is desired prior to the completion of the specifications of an approved plan, a certificate of occupancy may be issued only if the applicant provides to New Kent County a form of surety satisfactory to the County Attorney in amount equal to the remaining plant materials, related materials, and installation costs of the required specifications and/or maintenance costs for any required stormwater management facilities.

3. All specifications shall be installed and approved within 18 months of project commencement. Should the applicant fail, after proper notice, to initiate, complete or maintain appropriate actions required by the approved plan, the surety may be forfeited to New Kent County. New Kent County may collect from the applicant the amount by which the reasonable cost of required actions exceeds the amount of the surety held.

4. After all required actions of the approved site plan have been completed, the applicant must submit a written request for a final inspection. If the requirements of the approved plan have been completed to the satisfaction of the Director of Planning, such unexpended or unobligated portion of the surety held shall be refunded to the applicant or terminated within 60 days following the receipt of the applicant's request for final inspection. The Director of Planning may require a certificate of substantial completion from a Professional Engineer or Class III B Surveyor before making a final inspection. (11/29/91)

Sec. 9-472. Nonconforming Use and Development Waivers.

The lawful use of a building or structure which existed on or before the date of the allocation of this ordinance, or which exists at the time of any amendment to this Article, and which is not in conformity with the provisions of the Article may be continued in accordance with Division 17 of the New Kent County Zoning Ordinance.

No change or expansion of use shall be allowed with the exception that:

(1) The Director of Planning may grant a nonconforming use and development waiver for structures on legal nonconforming lots or parcels to provide for remodeling and alterations or additions to such nonconforming structures provided that:

a. There will be no increase in nonpoint source pollution load;

b. Any development or land disturbance exceeding an area of 2500 square feet complies with all erosion and sediment control requirements of Article I.

(2) An application for a nonconforming use and development waiver shall be made to and upon forms furnished by the Director of Planning and shall follow those procedures set forth in the New Kent County Zoning Ordinance.

(3) A nonconforming use and development waiver shall become null and void twelve months from the date issued if no substantial work has commenced. (11/29/91)

Sec. 9-473. Exemptions.

A. Exemptions for Utilities, Railroads, and Public Roads.

Construction, installation, and maintenance of water, sewer, and local gas lines shall be exempt from the requirements of the Article provided that:

a. To the degree possible, the location of such utilities and facilities shall be outside RPAs;

b. No more land shall be disturbed than is necessary to provide for the desired utility installation;

c. All construction, installation, and maintenance of such utilities and facilities shall be in compliance with all applicable state and federal requirements and permits and designed and conducted in a manner that protects water quality; and

d. Any land disturbance exceeding an area of 2,500 square feet complies with all New Kent County erosion and sediment control requirements.

B. Exemptions for Silvicultural Activities.

Silvicultural activities are exempt from the requirements of this Article provided that silvicultural operations adhere to water quality protection procedures prescribed by the Department of Forestry in its "Best Management Practices Handbook for Forestry Operations."

C. Exemptions in Resource Protection Areas.

The following land disturbances in Resource Protection Areas may be exempted from the Article requirements: (i) water wells; (ii) passive recreation facilities such as boardwalks, trails, and pathways; and (iii) historic preservation and archaeological activities, provided that it is demonstrated to the satisfaction of the Director of Planning that:

(1) Any required permits, except those to which this exemption specifically applies, shall have been issued;

(2) Sufficient and reasonable proof is submitted that the intended use will not deteriorate water quality;

(3) The intended use does not conflict with nearby planned or approved uses; and

(4) Any land disturbance exceeding an area of 2500 square feet shall comply with all New Kent County erosion and sediment control requirements. (11/29/91)

Sec. 9-474. Exceptions.

A. A request for an exception to the requirements of this Article shall be made in writing to the Director of Planning. It shall identify the impacts of the proposed exception on water quality and on lands within the RPA through the performance of a water quality impact assessment which complies with the provisions of Section 9-470.

B. The Director of Planning shall review the request for an exception and the water quality impact assessment and may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of this Article if the Director of Planning finds:

(1) Granting the exception will not confer upon the applicant any special privileges that are denied by this Article to other property owners in the RPAs;

(2) The exception request is not based upon conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or nonconforming that are related to adjacent parcels;

(3) The exception request is the minimum necessary to afford relief;

(4) The exception request will be in harmony with the purpose and intent of this Article, and not injurious to the neighborhood or otherwise detrimental to the public welfare; and

(5) Reasonable and appropriate conditions are imposed which will prevent the exception request from causing a degradation of water quality.

C. If the Director of Planning cannot make the required findings or refuses to grant the exception, the Director of Planning shall return the request for an exception together with the water quality impact assessment and the written findings and rationale for the decision to the applicant, with a copy to the Board of Zoning Appeals. The applicant may then apply to the Board of Zoning Appeals for a variance as provided in Division 22 of the Zoning Ordinance.

D. The Board of Zoning Appeals shall consider the water quality impact assessment and the findings and rationale of the Director of Planning in determining harmony with the intended spirit and purpose of this Article. (11/29/91)

Sec. 9-475. Separability.

(1) Should any section or provision of this Article be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Article as a whole, other than the part so declared to be unconstitutional or invalid. (11/29/91)

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