

# ORDINANCE No. 45,630

AN ORDINANCE TO AMEND AND REORDAIN SECTIONS 42.5-4 THROUGH 42.5-6 AND SECTION 42.5-15 OF THE CODE OF THE CITY OF NORFOLK, VIRGINIA, 1979, SO AS TO MAKE THE PRELIMINARY SUBDIVISION PROCESS OPTIONAL, IN ACCORDANCE WITH A RECENT CHANGE IN STATE LAW.

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WHEREAS, since 1979 the City of Norfolk has required an person seeking to subdivide property to first submit a preliminary subdivision plat prior to submission and recordation of a final subdivision plat;

WHEREAS, by an Act approved on March 31, 2014 (2014 Va. Acts Ch. 393), the Virginia General Assembly changed state law so as to only allow localities to require a preliminary subdivision when more than 50 lots are being created; and

WHEREAS, in order to remain consistent with the enabling statutes related to preliminary subdivision plats, certain amendments to the Norfolk City Code are necessary; now therefore

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That Section 42.5-4 of the Norfolk City Code, 1979, shall be amended and reordained so as to make a clerical correction and shall read as follows:

## **Sec. 42.5-4. Recording plats.**

After the effective date of this chapter [July 10, 1979], the owner of any tract or any person authorized by the owner of any tract who desires to subdivide it shall submit the required number of copies of the final plat, a subdivision plat fee,

payment of all obligatory construction costs (e.g. street lights, street signs, etc.), and appropriate performance surety (e.g. performance bond, irrevocable letter of credit, cash bond, etc.) to the department of public works, which is hereby charged with responsibility for coordinating the processing of such plats. In addition to the plat or plats, the owner or subdivider shall submit to the department of public works certifications that all real estate taxes and nuisance abatement costs due and owing on such property to be subdivided by such plats have been paid in full. Such certifications shall be signed by the city treasurer and the director of neighborhood and leisure services, or any authorized designee of either. The department of planning and the department of utilities shall review plats and other information to ensure their compliance with regulations concerning subdivisions. If and after a final plat and appropriate performance surety have been approved and payment of obligatory construction costs accepted by the director of public works and other affected agencies, the division of surveys shall cause it to be recorded with the clerk of the circuit court.

No person shall subdivide land without making and recording a plat thereof and complying fully with the provisions of this chapter and all other state and local laws applying to subdivisions.

No person shall sell or transfer any land of a subdivision before such plat has been duly approved and recorded as provided herein, unless such subdivision was lawfully created prior to the adoption of a subdivision ordinance applicable thereto; provided, that nothing herein contained shall be construed as preventing the recordation of the instrument by which such land is transferred or the passage of title as between the parties to the instrument.

No clerk of any court shall file or record a plat of a subdivision required by this article to be recorded until such plat has been approved as required herein.

Section 2:- That Section 42.5-5 of the Norfolk City Code, 1979, shall be amended and reordained so as to make the preliminary subdivision process optional, in accordance with a

recent change in state law, and shall read as follows:

**Sec. 42.5-5. Procedure for preliminary plat approval.**

At the option of the landowner, a subdivider may elect to prepare a preliminary plat with other material required as set forth in sections 42.5-10 and 42.5-11 and submit ten (10) copies thereof to the department of public works for processing and referral to other affected agencies. For minor subdivisions, the director of public works shall have discretion to reduce the number of copies to be submitted to fewer than ten (10).

Within sixty (60) days of their submission, the preliminary plat and other related materials shall be reviewed by the department of public works and other appropriate agencies of the city for conformity to this chapter and other applicable regulations, and discussions with the subdivider as to changes deemed advisable and the kind and extent of improvements to be made. However, in cases where approval of a feature or features of the plat by a state agency is necessary, such action on the plat shall be taken within ninety (90) days of submission. The time limits set forth herein shall be tolled during the time any application requires a traffic review analysis under chapter 28 of appendix A ("Zoning Ordinance of the City of Norfolk, 1992") until such time as all reviews are returned by the Virginia Department of Transportation or until ninety (90) days have elapsed, whichever is sooner. The director of public works or his designee shall act upon the preliminary plat and related materials as submitted or as modified by the subdivider and, if approved, shall certify its approval and state the conditions of such approval, if any, or if disapproved, shall indicate its disapproval and the reasons therefor.

The action of the director of public works or his designee shall be noted on all copies of the preliminary plat to be retained in the record, referenced and attached to any changes or conditions determined. One such copy shall be returned to the subdivider, and others retained as required for records or further action of the department or other affected agencies of the city.

Approval of a preliminary plat shall not constitute approval of the final plat, but shall be deemed an expression of general agreement with the layout submitted on the preliminary plat and other matters determined in connection therewith which shall serve as a guide in preparation of the final plat to be submitted for final approval and for recording upon fulfillment of the requirements of this chapter and the conditions of the preliminary plat, if any. Such approval of the preliminary plat shall be valid for a period of five (5) years, provided that the subdivider submits a final plat within one year of approval and thereafter diligently pursues approval of the final plat, unless an extension is granted in writing by the director of the department of public works or is conferred by an applicable provision of state law.

Section 3:- That Section 42.5-6 of the Norfolk City Code, 1979, shall be amended and reordained so as to make the preliminary subdivision process optional, in accordance with a recent change in state law, and shall read as follows:

**Sec. 42.5-6. Procedures for approval of final plat.**

The final plat and other exhibits required for approval shall be prepared as specified in section 42.5-12 and submitted to the department of public works for review. For any submission that has not yet been approved as a preliminary subdivision plat, the subdivider shall also provide the other material required as set forth in sections 42.5-10 and 42.5-11 for preliminary plats and shall submit ten (10) copies thereof to the department of public works for processing and referral to other affected agencies. For minor subdivisions, the director of public works shall have discretion to reduce the number of copies to be submitted to fewer than ten (10). Where provision has been made for staged development in connection with approval of the preliminary plat, including time limitations, the subdivider may submit a final plat for only that portion of the approved preliminary plat which he proposes to record and develop at the time, if such portion conforms to all requirements of these regulations.

The subdivider shall submit to the department of public works for approval the final plat on reproducible linen or film, payment of the review fee

required by section 42.5-15, payment of the circuit court recording fee, and a performance security as required in section 42.5-12.1. Upon submittal of the final plat and other materials required for final approval, the department of public works shall initiate and coordinate the review by other agencies of the city to determine compliance with all applicable regulations and with any preliminary subdivision plat, if such had previously been approved and is still valid.

In cases where approval of a feature or features of the plat by a state agency is necessary, action shall be taken on the plat within ninety (90) days of submission and in all other cases action shall be taken within sixty (60) days of submittal, or such longer period as may be agreed upon in writing by the subdivider and the department of public works. Within such time, the final plat and related materials shall be approved or disapproved by the director of public works and other appropriate agencies or designees. The time limits set forth herein shall be tolled during the time any application requires a traffic review analysis under Chapter 28 of Appendix A ("Zoning Ordinance of the City of Norfolk, 1992") until such time as all reviews are returned by the Virginia Department of Transportation or until 90 days have elapsed, whichever is sooner. Approval shall be in the form provided in section 42.5-12. Disapproval shall include written reasons therefor.

Upon approval of the final plat and acceptance of appropriate performance security estimate, and subsequent submittal of acceptable performance surety, the division of surveys shall cause the plat to be recorded, unless directed otherwise by the applicant. Approval of the final plat shall be withdrawn and the plat marked void unless it is recorded in the circuit court within six (6) months from the date of final approval. However, in any case where construction of facilities to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the director of public works, or where the developer has furnished surety to the department of public works by certified check, cash escrow, bond, or letter of credit in the approved amount of the estimated cost of construction of such

facilities, the time for plat recordation shall be extended to one year after final approval or to the time limit specified in the surety agreement approved by the city, whichever is greater.

Section 4:- That Section 42.5-15 of the Norfolk City Code, 1979, shall be amended and reordained so as to adjust the fee schedule and accommodate applicants who elect to use the optional preliminary subdivision process and shall read as follows:

**Sec. 42.5-15. Fees.**

At the time preliminary plats are presented, a fee of three hundred dollars (\$300.00) plus eleven dollars (\$11.00) per lot shall be paid and for a preliminary property line vacation plat a fee of one hundred dollars (\$100.00) shall be paid. For any submission that has already been approved as a preliminary subdivision plat, a fee of three hundred dollars (\$300.00) plus eleven dollars (\$11.00) per lot shall be paid at the time that the final plat is submitted and for a final property line vacation plat a fee of one hundred dollars (\$100.00) shall be paid. For any submission that has not yet been approved as a preliminary subdivision plat or preliminary property line vacation plat, a fee of six hundred dollars (\$600.00) plus 22 dollars (\$22.00) per lot shall be paid at the time that the final plat is submitted and for a final property line vacation plat a fee of two hundred dollars (\$200.00) shall be paid. Such fees shall be payable to the treasurer of the city.

Section 5:- That this ordinance shall be in effect from the date of its adoption.

**ADOPTED: JULY 22, 2014**