

May 5, 2004

AN ORDINANCE AMENDING CHAPTER 70 OF THE CHESAPEAKE CITY CODE, ENTITLED "SUBDIVISIONS," TO AMEND SECTION 70-3 THEREOF AND TO ADD NEW ARTICLE VI THERETO, TO PROVIDE SPECIAL DEVELOPMENT STANDARDS AND SUBDIVISION PROCEDURES FOR RESIDENTIAL CLUSTER DEVELOPMENTS.

BE IT ORDAINED by the Council of the City of Chesapeake, Virginia that Appendix "A" of the Chesapeake City Code, entitled "Zoning," Section 70-3 thereof, be amended and reordained, and that Article VI be added thereto, as follows:

**Chapter 70
SUBDIVISIONS**

Sec. 70-3. Conflicts with zoning and other regulations.

In any case where the provisions of this chapter are in conflict with the provisions of the city zoning ordinance or any other City ordinance or regulation, the more stringent requirement shall prevail. An exception shall lie for lots validated under Section 70-29(d) or (e) of this chapter, which shall not be required to conform with current minimum lot area, width or frontage requirements set out herein or in the zoning ordinance. The subdivision of property within the Chesapeake Bay Preservation Area (CBPA) District shall be subject to the requirements of this chapter, in addition to those of Article X of Chapter 26 of the Chesapeake City Code and the CBPA Specifications Manual. The subdivision of property in a residential cluster development shall be subject to special provisions in Section 6-2200 et seq. of the Zoning Ordinance and Article VI herein.

ARTICLE VI. CLUSTER DEVELOPMENT SUBDIVISIONS

Sec. 70-200. Relation to zoning regulations.

The subdivision of property within a residential cluster development shall be subject to the requirements of this chapter and Section 6-2200 et seq. of the Zoning Ordinance. (“Section 6-2200 of the Zoning Ordinance”). Where a conflict exists between these special residential cluster provisions and other provisions in this Chapter, the criteria in this Article will control. Where a conflict exists between these special residential cluster provisions and Section 6-2200 of the Zoning Ordinance, the more stringent shall control.

Sec. 70-201. Required Plats and Plans.

In addition to those items required in Article II of this Chapter, residential cluster developments require the submission of special plats and plans, as specified in this Article.

Sec. 70-202. Pre-Application Meeting.

A pre-application meeting is required between the applicant, the site designer, and City staff to introduce the applicant to the City’s zoning and subdivision ordinances, regulations and procedures; to discuss the applicant’s objectives; and to schedule site inspections, meetings, and plan submissions as described below. Applicants shall be required to present the Existing Resources and Site Analysis Map, prepared in accordance with Section 70-203 below at this meeting.

Sec. 70-203. Existing Resources and Site Analysis Map

A. Purpose

The Existing Resources and Site Analysis Map is required to familiarize city staff with existing conditions on the applicant's tract and its immediate vicinity and to provide a complete and factual reference in making a site inspection. This Map shall form the basis for the development design as shown on the diagrammatic sketch plan.

B. Review

The Existing Resources and Site Analysis Map shall be submitted prior or the pre-application meeting required in Section 70-202 above. The City shall review the Existing Resources and Site Analysis Map to assess its accuracy, conformance with City ordinances, and the likely impact of the proposed cluster development on the natural and cultural resources on the property.

C. Content

The Existing Resources and Site Analysis Map shall conform with the following criteria:

- (i) The Map shall generally be prepared at a scale of one (1) inch = 100 feet or one (1) inch = 200 feet, whichever would fit best on a single standard size sheet (24 inches by 36 inches).
- (ii) A vertical aerial photograph enlarged to a scale not less detailed than one (1) inch = 400 feet, with the site boundaries clearly marked.

- (iii) Topography, the contour lines of which shall generally be at two-foot intervals, determined by photogrammetry (although ten-foot intervals are permissible beyond the parcel boundaries, interpolated from USGS published maps). Topography shall be delineated by a professional land surveyor or professional engineer from an actual field survey of the site or from stereoscopic aerial photography and shall be coordinated with official USGS benchmarks.
- (iv) The location and delineation of ponds, streams, ditches, drains, and natural drainage swales, as well as 100-year floodplains, tidal wetlands and nontidal wetlands.
- (v) Vegetative cover on the property, including cultivated land, permanent grassland, meadow, pasture, old field, hedgerow, woodlands, wetlands, trees with a caliper in excess of 15 inches, and the actual canopy line of existing trees and woodlands. Vegetative types shall be described by plant community, relative age, and condition.
- (vi) Soil series, types, and phases, as mapped by the U. S. Department of Agriculture, Natural Resources Conservation Service, in the published soil survey for the City, and accompanying data published for each soil type relating to its suitability for construction (and, where no

public sewer is available, for suitability for subsurface septic facilities).

- (vii) Ridge lines and watershed boundaries.
- (viii) A viewshed analysis showing the location and extent of views into the property from public roads and from public parks, public forests, and state game lands.
- (ix) All existing man-made features, including but not limited to, streets, driveways, farm roads, woods roads, buildings, structures, foundations, walls, wells, drainage fields, public utilities, fire hydrants, and storm and sanitary sewers.
- (x) Locations of all historically significant sites or structures on the tract, including but not limited to, historic homes, earthworks and graves.
- (xi) Locations of trails that have been in public use, e.g. pedestrian, equestrian and bicycle trails.
- (xii) All easements and other encumbrances of property that are of record with the Clerk of the Circuit Court.
- (xiii) Total acreage of the tract, plus adjusted tract acreage with detailed supporting calculations.
- (xiv) The boundaries of overlay districts, utility service areas, and utility franchise areas.

(xv) Conditions of land within 500 feet of the property, as may be described on the basis of existing published data available from governmental agencies and aerial photographs.

Sec. 70-204. Site Inspection Conference.

A. *Site Inspection.*

After preparing the Existing Resources and Site Analysis Map, the applicant shall arrange for a site inspection of the property by City staff and shall make copies of the Map available at that on-site meeting. Applicants, their site designers, and the landowner are encouraged to accompany City officials. The purpose of the visit is to familiarize local officials with the property's existing conditions and special features; to identify potential site design issues; and to provide an informal opportunity to discuss site design concepts, including the general layout of designated conservation land and potential locations for proposed buildings and street alignments. It shall be understood by all parties that no formal recommendations will be offered, and no official decisions can be made at the site inspection.

B. *Post- Inspection Conference*

Following the site inspection and prior to the submission of the Sketch Plan Overlay Street, the applicant shall meet with City staff to discuss the findings of the site inspection and to develop a mutual understanding on the general approach for subdividing and developing the tract in accordance with the four-step design

process described in Sections 70-211 of this ordinance. At the discretion of the Planning Director or designee, this conference may be combined with the site inspection.

Sec. 70-205. Sketch Plan Overlay Sheet.

A. *Purpose*

A Sketch Plan Overlay Sheet (“Sketch Plan”) shall be required for all residential cluster developments prior to the submission of the preliminary subdivision plan. A Sketch Plan shall be submitted by the applicant as a diagrammatic basis for informal discussion with the Planning Director, or designee, regarding the design of a proposed cluster development. The Sketch Plan also serves as a means of helping applicants establish an overall design approach that preserves special or noteworthy features to the extent possible, while providing for the density permitted under the Zoning Ordinance.

B. *Contents.*

To provide a full understanding of the property and to facilitate the most effective exchange with City staff, the Sketch Plan shall include the information listed below. Many of these items can be taken from the Existing Resources and Site Analysis Map. The Sketch Plan may take the form of a simple overlay sheet placed of the Existing Resources and Site Analysis Map. At a minimum, the Sketch Plan shall contain:

1. Name and address of the legal owner, the equitable owner, and the applicant;
2. Name and address of the professional engineer, surveyor, planner architect, landscape architect, or site designer responsible for preparing the plan;
3. Graphic scale (not greater than 1 inch = 200 feet; however, dimensions on the plan need not be exact at this stage) and north arrow;
4. Approximate tract boundaries, sufficient to locate the property on a map of the City;
5. Vicinity map;
6. Zoning district;
7. Streets and unimproved right-of-way on and adjacent to the property (both existing and proposed);
8. 100 year floodplain limits, CBPA boundaries, and approximate location of tidal and nontidal wetlands;
9. Topographic and physical features including fields, pastures, meadows, wooded areas, hedgerows, trees with a diameter of 15 inches or more, soil types, ponds, ditches, drains, storage tanks, streams within two hundred (200) feet of the tract, easements,

railways, and cultural features such as structures, foundations, walls, trails, and abandoned roads.

10. Schematic layout indicating a general concept for land conservation and development (general areas of usage or “bubble” format is acceptable);
11. Proposed street and lot layout;
12. Proposed location of buildings and major structures, parking areas, and other improvements; and
13. General description of proposed method of water supply, sewage disposal, drainage and stormwater management.

C. *Sketch Plan Submission*

Copies of the Sketch Plan and Review shall be submitted to the Planning Department during business hours for review. The Planning Director or designee shall review the Sketch Plan in accordance with the criteria contained in this Chapter and other applicable ordinances of the City. The scope of the review may include, but shall not be limited to the following:

1. The location of all areas proposed for land disturbance, with respect to notable features of natural, historic or cultural significance as identified on the Existing Resources and Site Analysis Map and on the City’s Map of Potential Conservation Lands;

2. The potential for street connections with existing streets, other proposed streets, and adjoining parcels;
3. The location of proposed access points along existing streets;
4. The proposed building density and percentage of impervious lot coverage;
5. The compatibility of the cluster development with respect to the objectives and policy recommendations of the Comprehensive Plan;
and
6. Consistency with this Article and Section 6-2200 of the Zoning Ordinance.

The Planning Director or designee shall provide written comments to the applicant regarding the sufficiency of Sketch Plan in meeting these objectives and criteria.

Sec. 70-206. Residential Cluster Application.

A. Residential Cluster Preliminary Subdivision Plan.

In addition to the Existing Resources and Site Analysis Map and the Sketch Plan described above, the applicant for a residential cluster shall submit a preliminary subdivision plan (“Preliminary Plan”), meeting the following criteria: The Planning Director or designee may suggest possible modifications to the Sketch Plan that would bring about conformance with applicable City ordinances and regulations, include but not limited to, this Article and Section 6-2200 of the Zoning Ordinance.

1. Components

A Preliminary Plan for a residential cluster development shall consist of the following:

- a. Site Context Map
- b. Preliminary Resource Impact and Conservation Plan
- c. Preliminary Improvements Plan
- d. Preliminary Studies and Reports
- e. Preliminary Conservation Land Ownership and Management Plan

2. Drafting Standards

- a. Unless otherwise stated herein, the components of the preliminary plan shall be drawn to a scale of either one (1) inch = 100 feet or one (1) inch = 200 feet, whichever is best on a standard size sheet (24 inches x 36 inches).
- b. Dimensions shall be set in feet.
- c. Each sheet shall be numbered and the plan shall provide an adequate legend indicating clearly which features are existing and which are proposed.
- d. All plans shall be made on sheets no larger than 34 inches x 44 inches, nor smaller than 17 inches x 22 inches.

3. Detailed Requirements

The following plans and maps shall bear the name, signature, address, and telephone number of the engineer, land surveyor, or landscape architect responsible for preparing same.

a. *Site Context Map*

A Site Context Map showing the proposed cluster development within the context of the neighborhood shall be included in the Preliminary Plan. For sites under 100 acres, such maps shall be at a scale not less than one (1) inch = 200 feet, and shall show the relationship of the subject property to natural and man-made features existing within 1,000 feet of the site. For sites of 100 acres or more, the scale shall be 1 inch = 400 feet, and shall show the above relationships within 2,000 feet of the site. The features that shall be depicted on the Site Context Map include topography (from USGS maps), stream valleys, tidal and nontidal wetlands (from delineations approved by the U. S. Army Corps of Engineers or from maps published by the U. S. Fish and Wildlife Service or the USDA Natural Resources Conservation Service), woodlands over one-half acre in area (from aerial photographs), ridge lines, public roads

and trails, utility easements and rights-of-way, public land, and land protected under conservation easements.

b. *Preliminary Resource Impact and Conservation Plan*

- (1) A Preliminary Resource Impact and Conservation Plan shall be prepared for all Preliminary Plans for the purpose of categorizing the impacts of the proposed activities and physical alterations on the resources shown on the Existing Resources and Site Analysis Map. All proposed improvements, including but not limited to, grading, fill, streets, buildings, structures, utilities, drainage ditches, and stormwater management facilities, shall be taken into account in preparing the Preliminary Resource Impact and Conservation Plan. The Plan shall clearly demonstrate that the applicant has minimized land disturbance to the greatest extent practicable.
- (2) Using the Existing Resources and Site Analysis Map as a base, the applicant shall depict impact areas according to the following categories: (i) primary impact areas (i.e., areas directly impacted by the proposed cluster development), (ii) secondary impact areas (i.e., areas in proximity to primary areas that may be impacted), and (iii) designated protected areas either to be included in the required conservation land or

to be protected in a similar manner, such as dedication of a neighborhood park site.

c. *Preliminary Improvements Plan*

A Preliminary Improvements Plan shall be prepared for all Preliminary Plans and shall include the following items:

- (1) Historic resources, trails, and significant natural features, including topography, tidal and non-tidal wetlands, 100-year floodplains, CBPA Resource Protection Areas, vegetation, and other site features, as may be indicated on the Existing Resources and Site Analysis Map.
- (2) Existing and approximate proposed lot lines and lot areas.
- (3) The boundaries of designated conservation land, including Primary Conservation Areas (PCAs) and Secondary Conservation Areas (SCAs).
- (4) Approximate location, alignment, width, tentative names, and preliminary engineered profiles of all proposed streets and rights-of-way, including all street extensions or spurs that are reasonably necessary to provide adequate street connections to adjoining land.
- (5) Approximate location of proposed swales, drainage easements, drainage facilities and stormwater management facilities.

- (6) Where public sewer service is available, the conceptual layout of existing or proposed public utility facilities, including but not limited to, the location of sewer mains, gravity sewer lines, sewer pump stations and sewage treatment plants. The Plan shall also indicate the type and degree of treatment intended, discharge limits (as documented by a VPA or VPDES permit) the size and capacity of treatment facilities and the receiving waters of the plant effluent.
- (7) Where public sewer service is not available or required, the proposed location of all subsurface septic facilities and other private sewer disposal facilities. The Plan shall also include percolation tests as required by the Chesapeake Health Department, including all failed and approved test sites, and an approved alternate site for each lot, if required. All sites approved for septic facilities shall be clearly distinguished from unapproved sites.
- (8) Where public water service is available, the conceptual layout of proposed public water distribution facilities, including public water mains, water lines, water meters, storage tanks, water treatment facilities, and fire hydrants. Where public water is not available or required, the Plan shall show the

proposed location of on-site wells and all water sources for fire suppression purposes. If wells are to be utilized, for drinking water a copy of the well location approval letter from the Virginia Department of Health must be provided.

- (9) Limits of disturbance line in relation to the retention of existing trees proposed to be preserved.
- (10) Approximate location and dimensions of proposed playgrounds, public buildings, public areas, and parcels of land proposed to be dedicated or reserved for public use.
- (11) If land to be subdivided lies partly in or abuts another municipality, the applicant shall submit information concerning the location and conceptual design of streets, layout, size of lots and provisions of public improvements on land subject to the applicant's control within the adjoining municipality. The design of public improvements shall provide for a smooth, practical transition where specifications vary between municipalities. Evidence of approval of this information by appropriate officials of the adjoining municipality also shall be submitted.
- (12) Where installation of public improvements is proposed in phases, the applicant shall submit with the Plan a delineation of

the proposed sections and a schedule of deadlines within which applications for final approval of each section are intended to be filed.

- (13) Typical street cross-section drawing(s) for all proposed streets shall be shown, including details relating to thickness, crowning, and construction materials.
- (14) Utilities and Easements
 - (a) Exact locations of existing utility easements and approximate locations of proposed utility easements.
 - (b) Approximate layout of all proposed storm sewers and location of all inlets and culverts and any proposed connections with existing facilities.
 - (c) Exact locations of other existing or proposed easements.
- (15) Approximate location of trees and other existing vegetation to be retained.
- (16) Signature blocks for the Planning Director, or designee, shall be provided on the right-hand side of the Preliminary Improvements Plan.

d. *Preliminary Studies and Report*

A Preliminary Studies and Report shall be required for all Preliminary Plan submissions and shall include the following:

- (1) Erosion and Sediment Control Plan prepared in accordance with Chapter 26 of the City Code.
- (2) Property owners association documents.
 - a. Draft documents for a property owners association shall be provided for all cluster developments that propose land or facilities to be owned in common by all the residents of the cluster development.
 - b. The property owners association documents shall include, but shall not necessarily be limited to, the following:
 - (i) A description of all lands and facilities to be owned by the property owners association. This description shall include a map of the cluster development highlighting the precise location of those lands and facilities.
 - (ii) Statements setting forth the powers, duties, and responsibilities of the property owners association, including the services to be provided.
 - (iii) A declaration of covenants, conditions, and restrictions for all lands and facilities owned by the property owners association. The declaration shall be a

legal document that also provides for association membership for all owners in the cluster development and shall describe the mechanism by which owners participate in the association, including voting, elections, and meetings. Furthermore, the declaration shall give power to the association to own and maintain the common property and to make and enforce rules, including, but not limited to, the provisions set out in Section 13-1800 of the Zoning Ordinance.

(iv) Statements prescribing the process by which decisions are reached and setting forth the authority to act.

(v) Requirements for all members to provide a *pro rata* share of the cost of maintenance, repairs and operations of property and facilities owned by the association.

(vi) A process of collection and enforcement to obtain funds from owners who fail to comply with mandatory assessments.

(vii) A process and timing element for transition of control of the property owners association from the developer to the unit owners.

(viii) Statements describing how the lands and facilities owned by the property owners association will be insured, including the limits of liability.

(ix) Provisions for the dissolution of the property owners association, in the event the association should become inviable, including the devise of land, facilities and maintenance responsibilities.

e. *Preliminary Conservation Land Ownership and Management Plan*

The Preliminary Conservation Land Ownership and Management Plan (“Conservation Land Plan”) shall include the boundaries, acreage, and ownership of all proposed conservation. The Conservation Land Plan shall describe the entities responsible for maintaining various elements of the property and describing management objectives and techniques for all portions of the property. The Conservation Land Plan shall be consistent with the requirements of Section 6-2200 of the Zoning Ordinance.

B. *Preliminary Engineering Certification*

Prior to approval of the Preliminary Plan, the applicant shall submit to the Planning Director, or designee, a preliminary engineering certification verifying that the approximate layout of the proposed streets, home lots, and conservation land complies with the Zoning Ordinance and Chapter 70 of the City Code. This certification requirement shall provide the Planning Director, or designee, the assurance that the Preliminary Plan can be accomplished in conformance with the City's current ordinances and regulations. The certification shall also note any waivers, variances or modifications to City standards needed to implement the Preliminary Plan as drawn, along with the authority and approval agent for such waiver, variance or modification.

C. *Conditional Cluster Developments*

In addition to the items listed above, the following are required for applications requiring a conditional use permit for increase in the allowable density, as specified in Section 6-2200 of the Zoning Ordinance, to assist in determination of the impact of the proposed cluster development on City services and facilities:

- 1) Sewer and water feasibility report
- 2) School feasibility report
- 3) Traffic impact study
- 4) Groundwater protection and replenishment study

All requirements in Article 17 of the Zoning Ordinance shall also apply. The provisions in this Chapter relating to preliminary subdivision plans shall also apply to preliminary site plans for conditional cluster developments.

Sec. 70-206.1 Preliminary Plan Review.

Preliminary Plans meeting the requirements in this Article and Section 6-2200 of the Zoning Ordinance shall be submitted to the Planning Department for administrative review. No such Preliminary Plan shall be approved by the Planning Director or designee unless consistent with the City Code, the Zoning Ordinance, the Chesapeake Public Facilities Manual and all other applicable regulations and policies of the City. No Preliminary Plan shall be approved by the Planning Director or designee if a conditional use permit is required for the cluster development or any use proposed therein, e.g., residential care facilities, pursuant to the Zoning Ordinance. All review criteria in Section 70-25 of this ordinance shall apply in addition to the criteria of this Article and Section 6-2200 of the Zoning Ordinance.

Sec. 70-207. Final Subdivision Plans

A. *Required.*

Upon approval of a Preliminary Plan, the applicant shall submit a final subdivision plan (“Final Plan”) for the cluster development. The Final Plan shall be in substantial conformance with the approved Preliminary Plan for the cluster development.

B. *Drafting Standards*

The drafting standards as required in section 70-206 above shall apply except that the Final Plan shall be prepared at the scale of 1 inch = 100 feet.

C. *Final Existing Resources and Site Analysis Map*

A Final Existing Resources and Site Analysis Map shall be included in the Final Subdivision Plan. The final Existing Resources Plan shall be consistent with the approved Preliminary Plan.

D. *Final Resource Impact and Conservation Plan*

The Final Resource Impact and Conservation Plan shall comply with the requirements for the preliminary Resource Impact and Conservation Plan, as set forth in Section 70-206 above, and shall reflect all proposed improvements shown on the approved Preliminary Plan. In addition, the Final Resource Impact and Conservation Plan shall include an accompanying Resource Assessment Report divided into the following sections:

- (1) Description of existing resources;
- (2) Impacts of the proposed cluster development on existing resources, correlated to the areas depicted in the Final Resource Impact and Conservation Plan; and
- (3) Measures taken to minimize and control such impacts both during and following the period of site disturbance and construction. The

qualifications and experience of the preparer of this report shall be provided.

E. *Final Conservation Land Ownership and Management Plan*

The Final Conservation Land Ownership and Management Plan shall delineate the precise boundaries, the exact acreage, and the determined ownership of all designated conservation land in the cluster development. A narrative report shall also be prepared indicating how and by whom such conservation land will be owned and managed and further, demonstrating compliance with Section 6-2200 of the Zoning Ordinance.

F. *Final Construction Plan/Address Plans*

Final Construction Plans and Address Plans shall be submitted in accordance with Section 70-26 of the City Code.

G. *Additional Approvals, Certificates, and Documents*

The Final Plan shall include all offers of dedication of real property or improvements, and all property owners association documents, declarations, deed restrictions, easements, and restrictive covenants governing the ownership and maintenance and protection of conservation land. All such documents shall be in a form satisfactory to the City Attorney.

Sec. 70-208. Review of Final Subdivision Plans

The Final Plan shall be subject to the joint approval of the Directors of Planning and Public Works, or designees, in accordance with the standards in this

Article, Section 70-27 of the City Code and Section 6-2200 of the Zoning Ordinance.

Sec. 70-209. Resource Conservation and Conservation Land Delineation Standards.

The following standards for conservation land delineation shall apply to all residential cluster developments in the City.

A. *General Standards to Minimize Adverse Impacts*

All cluster developments shall avoid or minimize adverse impacts on the City's natural, cultural, and historic resources.

B. *Groundwater Resources*

In order to ensure that the City's limited groundwater resources are protected, the proposed cluster development shall be designed to cause the least practicable disturbance to natural infiltration and percolation of precipitation to the groundwater table. This shall be accomplished through limitation of land disturbance activities and the careful planning and placement of streets, buildings, and other impervious surfaces.

C. *Chesapeake Bay Preservation Areas, Wetlands, Floodplains and Other Sensitive Areas*

The City's Chesapeake Bay Preservation Area District Map and Map of Preservation Areas describe and depict water features, wetlands, Resource Protection Areas and other sensitive natural features as resources that warrant land use management to promote groundwater recharge functions, water quality

protection and the health of aquatic communities and wildlife habitats. Such areas are generally poorly suited for subsurface sewage disposal systems. Accordingly, Chesapeake Bay Preservation Areas, tidal wetlands, floodplains, and other lowlands warrant designation as conservation land. In certain instances, seasonal high water table soils may be excluded from the designated conservation land where the applicant can demonstrate that they are suitable for low density residential uses with on-site sewage systems.

D. *Woodlands*

1. Benefits.

Woodlands occur extensively throughout the City, often in association with stream corridors, wetlands, and poor and erodible agricultural soils. Woodland conditions within the City vary with respect to species composition, age, inventory, and health. They range from relatively recent post-agricultural young stands to mature mixed-age forests. Most woodlands in the City represent one or more of the following resource values:

- a. As soil stabilizers, particularly on moderate to steep slopes, thereby controlling erosion into nearby streams, ponds, impoundments, and roads.
- b. As a means of enhancing groundwater recharge.

- c. As a means of ameliorating harsh microclimatic conditions promoting energy conservation and providing stormwater retention in all seasons.
- d. As a source of wood products.
- e. As habitats for woodland birds, mammals and other wildlife.
- f. As recreation resources for walkers, equestrians, bikers, and other related outdoor activities.
- g. As visual buffers between areas of development and adjacent roads and properties.

2. Assessment.

Because of their resource values, all woodlands on any tract proposed for cluster development shall be evaluated by the applicant to determine the extent to which such woodlands should be designated partly or entirely as conservation land.

Evaluation criteria shall include:

- a. Configuration and size.
- b. Present conditions (e.g., inventory, health, and species composition).
- c. Site potential (e.g., capability to support woodlands based on topographic, soil, and hydrologic characteristics).
- d. Ecological functions in protecting steep slopes and erodible soils, maintaining stream quality, and providing wildlife habitats.

- e. Relationship to woodlands on adjoining and nearby properties and the potential for maintaining continuous woodland areas or corridors.

3. Report.

The evaluation of the tract's woodlands shall be undertaken by a forester, landscape architect, horticulturist, or other qualified professional. This evaluation shall be submitted as a report and made a part of the Final Plan. At a minimum, the report shall include one or more maps indicating boundaries and conditions of woodland areas accompanied by a report addressing the criteria listed above.

4. Preservation.

In designing a cluster development, the applicant shall be guided by the following standards:

- a. Healthy woodlands exceeding one (1) acre shall be preserved and designated as conservation land to the maximum extent possible.
Proposed site improvements shall be located, designed, and constructed to minimize the loss or degradation of woodland areas.
- b. Cluster developments shall be designed to preserve woodlands along streets, trails, property linear-type features on a site, such as streams, swales, fences, and hedgerows. Such features and the native vegetation associated with them shall be preserved as buffers between adjacent properties and areas being subdivided for residential cluster development

- c. Preservation shall include ground cover, shrubbery, understory and canopy vegetation.
- d. Disturbance or removal of woodlands designated as conservation land shall be permitted only when expressly approved by the City Arborist. Disturbance shall be on a limited and selective basis to minimize the adverse impacts of such actions. This approval shall include, but not necessarily be limited to, trees and other vegetation performing important soil stabilizing functions on wet soils, stream banks and sloping land.
- e. No clearing or land disturbance (except as necessary for sewage disposal systems) shall be permitted on a site before the approval of Final Plan approval. In addition, determination of sight distance clearances along streets shall be made graphically and not by clearing on site prior to final subdivision plan approval.

E. *Upland Rural Agricultural Areas*

Upland rural agricultural areas include fields, pastures, meadows, and former agricultural areas in early stages of woodlands succession, typically bordered by streams and upland woodlands. Such areas constitute the City's historic working landscape and may be dotted with historic houses, barns, fences, stonewalls and other structures. Upland rural agricultural areas give the City much of its rural character. They also contain the greatest concentration of prime agricultural soils.

Because of openness and high visibility, development in these upland rural agricultural areas is likely to be most readily seen and disruptive to the historic and natural landscape. These areas sometimes provide habitat for wildlife, in conjunction with nearby woodland and streams. Accordingly, where feasible, these areas should be incorporated into the designated conservation land.

F. *Significant Natural Areas and Features*

Natural areas containing rare or endangered plants and animals, as well as other features of natural significance, exist throughout the City. Some natural areas have been carefully documented through the Department of Conservation and Recreation, Natural Heritage Division, whereas in other cases, only general locations are known. Applicants shall take all reasonable measures to protect significant natural areas and features identified by the City's Map of Potential Conservation Areas or shown on the Existing Resources and Site Analysis Map by incorporating them into the designated conservation land or, at a minimum, avoiding their disturbance in areas proposed for development.

G. *Historic Buildings, Structures and Sites*

Care should be taken to preserve remaining buildings, structures and sites with historic significance. Records of the City's remaining historic and archeological sites are maintained by the Virginia Department of Historic Resources and by the Department of Planning. Plans for cluster development approval shall be designed to protect existing historic resources of all classes. The protection of

existing historic resources shall include conservation of the landscape immediately associated with, and significant to, the resource as necessary to preserve its historic context. Where, in the opinion of Planning Director or designee, a cluster development may have an adverse impact on a historic resource, the applicant shall take steps to mitigate the negative impact to the satisfaction of the City by modifying the cluster design, relocating proposed lot lines, providing landscape buffers, or designating the area as part of the required conservation land.

H. *Scenic Byway Corridors and Scenic Viewsheds*

The City's Comprehensive Plan identifies scenic byways in various parts of the City. All applications for cluster development shall attempt to preserve the scenic visual corridors along such roads by incorporating them into designated conservation land or otherwise providing for building setbacks and architectural designs to minimize intrusion. In instances in which such design fails to satisfactorily protect corridors, an applicant will be required to provide natural landscape buffers to minimize adverse visual impacts. The vegetative species designated for such buffers shall be based on the use of native species to the greatest extent feasible, as approved by the City Arborist.

I. *Trails*

1. Existing Trails.

When a cluster development proposal is traversed by or abuts a trail customarily used by pedestrians, cyclists and/or equestrians, or one that is shown on

the City's trail plan, the Planning Director or designee may require the applicant to make provisions for continued use of the trail. The applicant may later alter the course of the trail within the tract for which the cluster development is proposed under the following conditions:

- a. The points at which the trail enters and exits the tract remain unchanged;
 - b. The proposed alteration exhibits quality trail design according to generally accepted principles of landscape architecture; and
 - c. The proposed alteration does not coincide with an existing or proposed street intended for use by motorized vehicles.
2. Conservation.

Trails intended for public or private use shall be protected by a permanent conservation easement. The width of the protected area in which the trail is located shall be a minimum of ten (10) feet or the existing width of the trail, whichever is greater. The language of the conservation easement shall be approved by the City Attorney. Any land area permanently designated for trails for public use may be credited toward the required conservation land under Section 6-2200 of the Zoning Ordinance.

3. Improvements.

Trail improvements shall adhere to principles of quality trail design, including, but not limited to:

- a. Trails shall have a vertical clearance of no less than ten (10) feet.
- b. The width of the trail surface may vary depending upon the type of use to be accommodated, but in no case shall the improved surface be less than five (5) feet wide.
- c. No trail shall be designed or preserved with the intent to accommodate motorized vehicles, nor shall any such trail be used by motorized vehicles.

Sec. 70-210. Street Layout.

A. *Street layout in Residential Cluster Developments.*

1. Street arrangement and relation to topography.

The location of streets should respect the natural features and topography of the site.

2. Cul-de-sacs.

Although cul-de-sacs in cluster developments are strongly discouraged, the use of cul-de-sacs is sometimes warranted in order to protect special natural features. Cul-de-sacs shall not be longer than 500 feet or 10 times the minimum lot width for the zoning district, whichever is greater. The distance of a cul-de-sac shall be measured from the centerline intersection to the center point of the cul-de-sac. The turnaround circle of each cul-de-sac shall be of adequate size to accommodate a required landscaped island at its center. These islands

shall be planted with large canopy shade trees of type and species recommended in the landscape provisions in Article 19 and Section 6-2200 of the Zoning Ordinance. The requirement for a center island may be waived by the Director of Planning or designee where necessary for school bus turn-around.

3. Loop Lanes and Turning-Ts.

Alternatives to the use of cul-de-sacs include the use of loop lanes and “Turning Ts” (hammerhead turn-arounds). Loop lanes shall be designed as two one-way lanes, separated by a central bio-retention area or planting strip at least 60 feet wide. Such streets shall be limited in length to a maximum of 700 feet. Turning-Ts shall be limited to streets no longer than one-fourth mile in length.

4. Pavement width.

All minimum pavement widths shall meet the requirements of the Chesapeake Public Facilities Manual or the Statewide Fire Prevention Code, whichever is more stringent.

5. On-Street Parking.

- a. Where on-street parking is permitted, the applicant shall be responsible for installing “No Parking” signs in accordance with the direction of the Department of Public Works, prior to

the issuance of a certificate of occupancy for the first dwelling unit in the cluster development.

- b. Where permitted, on-street parking spaces shall be delineated on the Final Plan and marked on the street by the applicant.

6. Alleys.

Alleys shall be permitted with appropriate dimensions, including minimum widths set forth in the Zoning Ordinance, as determined by the Department of Public Works, and in accordance with applicable landscaping standards.

7. Reverse Curves.

Reverse curves shall be allowed on low-speed minor streets with a minimum radius of 250 feet.

8. Roadway Grading.

Clearing and grading across the entire right-of-way is not required on residential subdivision streets, but only across paving areas.

9. Curbs and Stormwater.

Bioretention areas to manage stormwater may be utilized in lieu of curbs and gutter for lots greater than 10,000 square feet in area, subject to specifications of the Department of Public Works. Such measures are intended to promote the recharge of local groundwater resources. Lots 10,000 square feet in area or less shall have curb and

gutter if required by Section 70-167 of this ordinance unless waived pursuant to Section 70-86 of the ordinance.

10. Shared Driveways.

Shared driveways in rural areas zoned A-1 Agricultural District shall be limited to serve a maximum of three (3) dwellings. Shared driveways shall be designed and constructed in accordance with the minimum standards specified in the Chesapeake Public Facilities Manual.

Sec. 70-211. Design Process for Residential Development and Conservation Land.

A. *Four-Step Design Process.*

All cluster developments shall follow a four-step design process as described below. Applicants will be required to document the design process as part of the Preliminary Plan submission.

1. Step 1: Designation of Conservation Land.

- a. The minimum percentage and acreage of required conservation land shall be calculated by the applicant and submitted as part of the Preliminary Plan in accordance with the provisions of this Article and Section 6-2200 of the Zoning Ordinance. Required conservation land shall be shown on the Preliminary Plan as SCAs. Designated conservation land shall also include all PCAs.

- b. The proposed conservation land shall be designated using the Existing Resources and Site Analysis Map as a base document for ensuring compliance with Section 6-2200 of the Zoning Ordinance. The City’s Map of Potential Conservation Lands in the Comprehensive Plan shall also be referenced and considered. PCAs shall include all floodplains, water features, tidal wetlands, and Chesapeake Bay Preservation Area (CBPA) Resource Protection Areas, as well as other areas listed in Section 5-600 of the Zoning Ordinance as being deducted from the total parcel acreage calculating net developable area.
- c. In delineating SCAs, as defined in the Zoning Ordinance, the applicant shall prioritize natural and cultural resources, including historical structures and sites and nontidal wetlands, in terms of their highest to least suitability for inclusion in the proposed conservation land, in consultation with the Planning Director or designee, and in accordance with Section 70-211 below (“Prioritized List of Resources to be Conserved” and “Other Design Considerations”).
- d. SCAs shall be delineated to meet at least the minimum area percentage requirements for required conservation land in a

manner clearly indicating their boundaries as well as the types of resources included within them. Such delineation shall be based on prioritized resources, practical consideration of the property's configuration, the property's relation to resources on adjoining properties, the applicant's objectives, and staff recommendations.

2. Step 2: Location of Home Sites

Potential home sites shall be tentatively located using the proposed delineation of conservation land as a base map, as well as other relevant data on the Existing Resources and Site Analysis Map, such as topography and soils. Home sites shall not be located closer than 100 feet from PCAs or 50 feet from SCAs, taking into consideration the potential negative impacts of residential development on such areas, as well as the potential positive benefits of such locations to provide attractive views and visual settings for residences.

3. Step 3: Alignment of Streets and Trails

Once home sites are identified, the applicant shall delineate a street system to provide vehicular access to each home in a manner conforming to natural topography and providing for a safe pattern of circulation and ingress and egress. Streets shall avoid or at least minimize adverse impacts to the designated conservation land. To

the greatest extent practicable, new streets or driveways shall not cross conservation lands or traverse slopes over 15 percent. Street connections shall generally be encouraged to minimize the number of new cul-de-sacs to be maintained by the City and to facilitate easy access to and from homes in different parts of the tract and on adjoining parcels. A tentative network of recreational trails shall also be shown, connecting streets with various natural and cultural features in the designated conservation land. Potential trail connections to adjacent parcels shall also be shown in areas where a City trail network is envisioned.

4. Step 4: Design of Lot Lines

Lot lines for the residential lots should be drawn as the last step in the design procedure. Lot lines should follow the configuration of home sites and streets in a logical manner.

Sec. 70-212. Conservation Land Design Standards.

A. *Prioritized List of Resources to be Conserved.*

The design of conservation land in any cluster development shall reflect the standards set forth in this Article and Section 6-2200 of the Zoning Ordinance. Designated conservation land shall incorporate the following resources if they occur on the parcel (listed in order of significance):

1. Tidal wetlands, open waters and CBPA Resource Protection Areas (designated as PCAs).
2. Stream channels, floodplains, nontidal wetlands, wet soils, swales, springs, and other lowland areas, including adjacent buffer areas that may be required to ensure their protection.
3. Significant natural areas of species listed as endangered, threatened, or of special concern, such as those identified by the Virginia Department of Conservation and Recreation, Division of Natural Heritage.
4. Moderate to steep slopes, particularly those adjoining watercourses and ponds, where disturbance and resulting soil erosion and sedimentation could be detrimental to water quality.
5. Healthy woodlands, particularly those performing important ecological functions, such as soil stabilization and protection of streams, wetlands, and wildlife habitats.
6. Areas where precipitation is most likely to recharge local ground water resources because of topographic and soil conditions affording high rates of infiltration and percolation.
7. Hedgerows, groups of trees, and large individual trees of botanic, historical or aesthetic significance.

8. Class I, II, and III agricultural soils as defined by the USDA Natural Resource Conservation Service.
 9. Historic structures and sites.
 10. Visually prominent topographic features such as wooded shorelines, canebrake, and scenic viewsheds as seen from public roads (particularly scenic byways).
 11. Existing and planned trails connecting the tract to other properties in the City.
- B. *Other Design Considerations.*

The configuration of designated conservation land shall comply with the following standards:

1. Conservation land shall be free of all buildings and structures except historic buildings and structures, stone walls, fences, and other structures related to approved passive or active recreational uses. The Planning Director or designee may grant approval of structures and improvements required for drainage, stormwater management, sewage disposal, and water supply within the conservation land, provided that such facilities will not be detrimental to the conservation land. Areas required for such uses shall not be credited toward minimum conservation land requirements for the cluster development, unless such land is approved for passive recreational use.

2. Conservation land shall not consist of less than three (3) acres or have a length-to-width ratio of less than 4:1. At no point shall the land be less than 75 feet in width. Notwithstanding this, the Planning Director or designee may allow exceptions to the minimum width and length-to-width ratios for lands specifically designed and designated as neighborhood greens, playing fields, or trail links.
3. Conservation land shall be directly accessible to the largest number of lots possible within the cluster development. Non-adjoining lots shall be provided with safe and convenient pedestrian access to conservation land.
4. Conservation land designated for active recreational uses shall not interfere with dwelling units, parking, driveways, and roads.
5. Conservation land shall be interconnected wherever possible to provide a continuous network of natural areas within and adjoining the cluster development.
6. Conservation land shall be located so as to provide buffers to adjoining parks, preserves and other protected lands.
7. Conservation land shall include pedestrian, bicycle and recreational trails for use by the residents of the cluster development.

Consideration shall be given to providing public access to such trails if they are linked to other publicly accessible land within the City.

Provisions shall be made for access to the conservation land as necessary for utility installation and maintenance and for emergency access purposes.

8. Conservation land should not be divided by public or private streets, except where necessary for proper traffic circulation. Streets shall not be counted toward meeting required conservation land.
9. Conservation land shall be suitably landscaped by retaining existing natural cover and wooded areas and/or installing vegetation according to an approved landscaping plan to protect conservation resources.
10. Conservation land shall be preserved with permanent conservation easements approved by the City Attorney and duly recorded in the Office of the Clerk of the Circuit Court or by dedication to the City or an approved property owners association, conservation organization, conservation land trust or one or more individuals.
11. Conservation land shall be consistent with the City's Zoning Ordinance and Comprehensive Plan.

C. *Ownership and Maintenance.*

The applicant shall demonstrate compliance with conservation land ownership and maintenance standards in this Article and Section 6-2200 of the Zoning Ordinance.

Sec. 70-213. Other Cluster Design Requirements.

A. *Sidewalks*

Sidewalks are required on both sides of the street in all cluster developments. Notwithstanding this requirement, a recreational trail network which provides pedestrian connectivity to such areas as conservation land, schools, playgrounds, shopping areas, adjacent neighborhoods and high-volume streets, may be installed in lieu of the required sidewalks, subject to approval by the Planning Director or designee. Sidewalks and recreational trails may utilize alternative paving materials, depending on their intended use, provided that the Planning Director or designee approves same.

B. *Street Trees*

Canopy trees as defined in Section 19-600 of the Zoning Ordinance are one of the most important amenities of a cluster development. Where possible, canopy trees shall be planted in “tree lawns” at least four (4) feet wide located between the sidewalk and the curb or edge of right-of-way pavement. Utilities shall be located either within the tree lawn area or in a special utility easement located beyond the sidewalk. The Final Plan may address barriers, such as bio-barriers, that will direct root systems away from public utilities. Plant materials that are easily maintained or removed shall be used in utility easements. Prior written consent from the Public Utilities Department will be required for landscaping located in a water or sewer easement. Street trees shall require a performance guarantee to assure replacement

for eighteen (18) months after planting. The City may invoke this performance guarantee, if the City Arborist determines that a tree is diseased, dying or dead.

C. *On-lot Sewer Disposal and Wells*

In those cases where public utility systems are not available or required private sewer disposal systems may be located on the best available soils, including where necessary, village greens, playing fields, or designated conservation land. Location of these individual sewer disposal systems shall be subject to the approval of the Chesapeake Health Department or Department of Environmental Quality, as appropriate.

D. *Location of Public Utilities*

To the extent practicable:

1. Water meters shall be placed in the center of lots.
2. Sanitary sewer lines shall be placed to the left or right of the water line, no less than ten (10) feet from said line.
3. Other utilities: Gas, power, telephone, and cable/telecommunication lines shall be installed within ten (10) feet of the left side or right property line.

E. *Stormwater Management Facilities*

Stormwater management and drainage facilities may be integrated into the designated conservation land as permitted by Section 6-2200 of the Zoning Ordinance, but shall not be counted toward meeting required conservation land.

This ordinance shall become effective on July1, 2004.

ADOPTED by the Council of the City of Chesapeake, Virginia this _____ day of _____, 2004.

APPROVED:

Mayor

ATTEST:

Clerk of the Council

STATE OF VIRGINIA,
CITY OF CHESAPEAKE, to-wit:

The foregoing instrument bearing date of _____, 2004, was acknowledged before me this _____ day of _____, 2004, by William E. Ward and Dolores A. Moore, Mayor and City Clerk, respectively, of the City of Chesapeake, Virginia.

Notary Public

My commission expires: _____