

SECTION 3 – ADMINISTRATION (Amended by the Board of Supervisors on January 10, 2019)

3-1 Agent for Subdivision Administration

The agent appointed by the governing body is hereby delegated the authority and power to administer this Ordinance and in so acting the agent shall be considered the agent of the governing body.

3-2 The Subdivision Agent May Administratively Approve (Amended by the Board of Supervisors on December 13, 2012; March 13, 2014; June 12, 2014; April 13, 2017 & September 13, 2018):

A) Administrative Subdivision

The agent may approve subdivisions of up to two (2) lots, including the residue in RA, RC, RR-2, GA, MDP, PRD, R-1, R-2, R-3, R-4, TH, and V Zoning Districts, provided that for any of the resulting divisions:

- 1) No bonding is required.
- 2) The lots are cumulative for each parcel of record as of May 9, 1968.
- 3) All necessary requirements of this Ordinance and other County Ordinances are met.
- 4) The lot drainfield certification plat is approved by the Fauquier County Health Department, or other entity providing public sewer and water services.
- 5) The highway entrance is approved by the Virginia Department of Transportation.
- 6) The streets providing access and frontage to administrative subdivision lots shall comply with Section 7-300 of the Zoning Ordinance. However, if there is no future development potential an easement of not less than 30 feet is permissible.
- 7) When the residue can no longer be divided under this provision or otherwise, a note to that effect shall be contained on the plat.
- 8) The platting requirements of Chapter 10 of this Ordinance are met.

B) Family Subdivision (Amended by the Board of Supervisors on April 13, 2017.)

The agent may approve a family subdivision(s) up to the total density of a parcel, including the residue located in RA and RC Zoning Districts and outside a service district¹, provided that:

¹ An exception will be made for lots located inside service districts with RA or RC zoning that qualify under Zoning Ordinance Section 3-400 Footnote 1. These lots may also be granted a Family Subdivision.

- 1) If the parent parcel is split-zoned with another zoning district, the parent parcel shall have sufficient subdivision potential from its RA and/or RC portions to carry out the family subdivision.
- 2) The property owner, "Grantor," is a person, a trust for a husband and wife, or a trust for an individual. Proof of said trust shall be submitted upon application. The Grantor may not be a corporation, limited liability corporation, partnership, or other legal entity. The Grantee is the natural or legally defined child, grandchild, parent, grandparent, or sibling of the Grantor. For purposes of these provisions, a sibling is defined as a person having one or both parents in common with the Grantor.
- 3) The recipient of the family lot, "Grantee," is a person, at least 18 years of age and able to hold real property under the laws of Virginia. The Grantee shall be the natural or legally defined child, grandchild, parent, grandparent, or sibling of one of the property owners. Trusts, including trusts for a minor, are prohibited from this Grantee definition. The applicant shall present original or certified copies of applicable birth certificates or adoption papers at the time of application. Photocopies cannot be accepted.
- 4) No previous transfer under this provision has been granted to the Grantee in this County.
- 5) The family lot shall not be voluntarily transferred to someone other than an immediate family member for at least ten (10) years.
- 6) Immediate family member is defined as the natural or legally defined child, grandchild, parent or grandparent of the original Grantor.
- 7) If the property is in a trust for an estate, the trustee(s) will sign all necessary submission requirements. The Grantee and any subsequent immediate family member must be related to the person whom the estate belongs, as defined by paragraph 3.
- 8) The Grantor and Grantee have each signed the land development application and affidavit, attesting to the restrictions and requirements specified herein.
- 9) Restrictive covenants prohibit voluntary transfer and are granted to the Board of Supervisors promising not to convey the family lot to anyone other than an immediate family member for ten (10) years.
- 10) A drainfield certification plat, signed by the Fauquier County Health Department is required for each lot, including the residue. Alternatively, a letter from the Fauquier County Water & Sanitation Authority confirming

the lots will be served by public sewer may be accepted.

- 11) An entrance letter from the Virginia Department of Transportation (VDOT) stating the entrance is acceptable and meets their standards. If the lots are to be served by a private road, then the plat shall show and label the distance to its connection to the public road.
- 12) When the residue can no longer be divided, a note to that effect shall be contained on the plat and in the deed.
- 13) The subdivision lots will be reviewed against all other requirements in the Zoning Ordinance, Subdivision Ordinance, and Design Standards Manual. Platting requirements of Chapter 10 of this Ordinance shall be met.
- 14) (Deleted)
- 15) The streets providing access and frontage to family division lots shall comply with the Fauquier County Zoning Ordinance, Part 7-300. However, if there is no future development potential in the residue parcel, or the applicant voluntarily extinguishes all future development potential on the residue parcel, an easement of not less than 20 feet is permissible.
- 16) The family subdivision lot shall be prohibited from further subdivision and such shall be noted on the plat and the deed of transfer.
- 17) The subdivision is not for the purpose of circumvention of the County Code. In the event the Board of Supervisors determines a circumvention to have occurred, the family transfer approval shall be considered void and the County may take appropriate action to require compliance with all otherwise applicable subdivision and zoning requirements or may initiate action to vacate said lot. No zoning permits shall be issued for such lot(s).

C) Boundary Line Adjustment (*Amended by the Board of Supervisors on June 12, 2014.*)

The agent may approve the sale or exchange of parcels between adjoining lot owners provided:

- 1) Such sale or exchange does not create an additional building lot;
- 2) The sale or exchange of parcels does not leave a parcel that does not conform to the lot size and frontage requirements of the zoning district in which the property is located, and
- 3) The Final Plat requirements of Chapter 10 of this Ordinance are met.

D) Large Lot Division (Amended by the Board of Supervisors on June 12, 2014 & September 13, 2018, and January 10, 2019.)

The agent may approve the division of a lot, tract, or parcel of land into two (2) or more parcels all of which are fifty (50) acres or greater for the purpose of transfer of ownership or building development provided:

- 1) The lots/layout conform to requirements of this Ordinance and other County Ordinances;
- 2) The streets providing access and frontage to large lot division lots shall comply with the Fauquier County Zoning Ordinance, Part 7-300. However, an easement of not less than 30 feet is permissible.
- 3) (Deleted)
- 4) The homeowners association is established with covenants which provide for the maintenance and upkeep of the private street;
- 5) The highway entrance is approved by the Virginia Department of Transportation;
- 6) All Final Plat requirements of Chapter 10 of this Ordinance are met; and
- 7) No parcel created pursuant to this section shall be divided in accordance with the sliding scale and its proportionate share methodology as set forth in Section 2-308 of the Zoning Ordinance, except as outlined in Section 2-310;
- 8) All parcels created through the large lot division process shall meet the minimum size and other requirements of Section 2-310 of the Zoning Ordinance; and
- 9) The following notations shall be placed on the plat and the deed creating large lot parcels, as applicable:
 - a. For any lot which may not be further divided in accordance with the provisions of Section 2-310 of the Zoning Ordinance, a note shall state that the lot(s) may not be further divided.
 - b. A note shall state and specify the minimum lot area of either 50 acres or 100 acres that must be maintained by each large lot parcel in accordance with Section 2-310 of the Zoning Ordinance.

E) Utility Lots (Amended by the Board of Supervisors on June 12, 2014.)

The agent may approve the division or allocation of land as easements for the extension and maintenance of public sewer, storm drainage, or other public facilities/utilities or public improvements provided approval as required by Section 15.2-2232 of the Code of Virginia and/or other necessary State, Federal or local approvals have been granted and all requirements of this Ordinance and other County Ordinances have been met.

F) Governmental Lots (Amended by the Board of Supervisors on June 12, 2014 and January 10, 2019.)

The agent may approve the division or allocation of an individual parcel of land by Fauquier County, the Fauquier County School Board, or the Fauquier County Water and Sanitation Authority as owner or contract purchaser where the division is for the acquisition or sale of property by one of the aforementioned political subdivisions for a governmental purpose, provided that all requirements of this Ordinance and other County Ordinances have been met.

G) Planned Development Lot (Amended by the Board of Supervisors on June 12, 2014.)

The agent may approve the division or allocation of property located within a planned industrial or commercial development or other Planned District Zone for the purpose of office, commercial or industrial development, provided that the proposed division is in compliance with the Comprehensive Plan, the Concept Development Plan and any applicable rezoning proffer, and further provided that all Final Plat requirements of Chapter 10 have been met, all required bonds are posted, and all requirements of this Ordinance and other County Ordinances have been met.

H) Commercial/Industrial Lot (Amended by the Board of Supervisors on June 12, 2014.)

The agent may approve division of property in all other Industrial and Commercial zones provided that a Plan of Development has been approved in accordance with the provisions below, the division is in compliance with the Plan of Development, the Comprehensive Plan and any applicable rezoning proffers, and further provided that all Final Plat requirements of Chapter 10 have been met, all required bonds are posted, and all requirements of this Ordinance and other County Ordinances have been met.

The Plan of Development is designed to produce agreement and consensus on the conceptual design, size, access, layout, extent, and location and degree of improvements necessary or proposed in conjunction with a proposed development. The subdivider shall meet with the agent, the necessary referral agencies as identified by the agent, and the Planning Commissioner from the magisterial district of the proposed division to review the subdivider's proposed Plan of Development. After this meeting, the agreed upon Plan of Development shall be submitted for the Planning Commission's review a minimum of 21 days prior to the Commission's meeting. The Plan of Development shall be placed on the Commission's consent agenda, and shall be considered approved unless removed from this agenda and denied. If a Plan of Development is denied, the subdivider must file a preliminary plat pursuant to Chapter 9 of this Ordinance.

I) Construction Plans/Final Plats *(Amended by the Board of Supervisors on June 12, 2014.)*

As set forth in Article 10.

3-3 Duties

The agent shall perform its duties as regards subdivision and subdividing in accordance with this Ordinance and the Virginia Land Subdivision and Development Act.

3-4 Consultations

In the performance of its duties, the agent may request opinions and/or decisions, either verbal or written, from other departments of the County government, officials and departments of the State of Virginia, and such other qualified persons as may from time to time be retained.

3-5 Procedures and Policy *(Amended by the Board of Supervisors on December 13, 2012.)*

Subdivision plats qualifying under 3-2 of this Ordinance shall be submitted to the Department of Community Development. Upon determination that the application may be processed for review, the Department of Community Development shall notify all adjacent property owners, members of the Planning Commission and members of the Board of Supervisors. Any comments shall be directed to the agent in writing within 15 days of the date notification was sent.

If the agent determines the submission requirements have not been met, notice will be sent with a list of deficiencies to the applicant within 7 working days. The agent shall have 7 working days to review and notify the applicant of any deficiencies with respect to applicable County Ordinances.

Adjacent shall be defined as contiguous or across the road, not classified as an interstate or major arterial.

In addition to regulations herein contained for the subdivision of land the agent, subject to the approval of the governing body, may from time to time establish reasonable additional administrative procedures and policy requirements as deemed necessary for the proper administration of this Ordinance. Procedures as established shall govern the administration of this Ordinance.

3-6 *Dedication for Public Use*

No private or public easement or right-of-way as shown on any plat of subdivision hereafter recorded shall be accepted for dedication for public use until such proposed dedication shall first have been formally approved by the governing body in meeting duly assembled and evidence of such approval shown on the instrument to be recorded. Such approval shall not be given by the governing body until such easement or right-of-way complies with all requirements of the Virginia Department of Transportation and such other requirements as the governing body may impose for public streets, roads, and drainage. Approval of any final subdivision plat shall not be deemed acceptance by the governing body of any street, alley or other public space shown on the plat for maintenance, repair or operation thereof unless acceptance is expressly indicated on the final plat.

3-7 *Permits*

All public utility and drainage easements outside the rights-of-way of public streets or accessways are to be shown on the final plats. Where it is necessary to place public utilities within the rights-of-way shown for public street purposes, a permit shall first be obtained from the governing body or its agent for subdivision installation. Utility installations to be constructed within public streets or rights-of-way shall be obtained with the street construction plans and profiles as approved by the Virginia Department of Transportation, Resident Engineer for Fauquier County.