

AN ORDINANCE TO AMEND CHAPTER 155 OF THE WARREN COUNTY CODE (SUBDIVISION ORDINANCE) TO ADD A REQUIREMENT FOR FAMILY SUBDIVISION TO ONLY BE PERMITTED FOR LAND IN THE AGRICULTURAL ZONING DISTRICT.

BE IT ORDAINED BY THE WARREN COUNTY BOARD OF SUPERVISORS that Section 155-3B of the Warren County Code (Subdivision Ordinance) be amended, added, and re-ordained as follows:

Chapter 155. Subdivision of Land

Article I. General Provisions

§ 155-3 Definitions and word usage.

- A. Word usage. Words used in the present tense include the future, words in the singular number include the plural, and the plural, the singular, unless the natural construction of the word indicates otherwise; the word "lot" includes the word "parcel" or "tract"; the word "shall" is mandatory and not discretionary; the word "approve" shall be considered to be followed by the words "or disapproved"; any reference to this chapter includes all ordinances amending or supplementing the same; all distances and areas refer to measurement in a horizontal plane.
- B. Definitions.

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SUBDIVISION

The division of any parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building development whether such transfer or development is immediate or future. The term "subdivision" includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

(1) However, the term "subdivision" shall not include the following:

- (a) The straightening or rearranging of property lines or the division of parcels for exchange between adjoining lot owners if the number of lots remains the same or decreases and the division is not in conflict with the general intent of this chapter. Such property line adjustments must contain the original parcel and/or have a common border with the original parcel. In order for such realignment of property lines not to be considered an act of "subdivision," only one boundary adjustment per parcel of record as of the effective date of this chapter (September 19, 1995) shall be allowed in any one year period.

[Amended 9-19-1995]

- (b) Family subdivision. A single division of a lot or parcel for the sale or gift to a member of the immediate family of the property owner, including the family member's spouse. Only one such division shall be allowed per family member and shall not be for the purpose of circumventing this chapter. A member of the immediate family is defined as any person who is a natural or legally defined offspring, spouse, sibling, grandchild, parent or grandparent of the property owner; provided, however, that only one conveyance of land shall be permitted to

each set of parents of each one of the individual property owners, and provided further that a maximum of two conveyances of land shall be permitted to a maximum of two different sets of parents where there is more than one individual property owner. No person who has previously received a conveyance of land as a grantee under § 15.2-2244 of the Code of Virginia or any local ordinance enacted pursuant thereto shall be eligible to be a grantee of a lot or parcel created pursuant hereto. The Planning Director shall have the authority to certify that a family subdivision is exempt as evidence by his signature on the plat, provided that the following requirements are met:

[Amended 12-2-1991; 7-21-1998; 10-21-2008; 7-20-2010; 9-20-2011]

- [1] All applicable requirements of Chapter 180, Zoning.
- [2] The property owner requesting such subdivision shall have held fee simple title to the property to be subdivided for a period of five years prior to the filing of the family subdivision application with the county.
- [3] The grantee is at least 12 years of age.
- [4] If the property is held in a trust, all trust beneficiaries must:
 - [a] Be immediate family members;
 - [b] Agree that the property should be subdivided; and
 - [c] Agree to place a restrictive covenant on the subdivided property that prohibits a transfer of the property to a nonmember of the immediate family for a period of 15 years.
- [5] The lot may not be voluntarily transferred to a nonimmediate family member for at least five years after approval of the family subdivision plat, except under the following:
 - [a] A transfer of a shared interest may be subsequently or simultaneously made to the spouse of the grantee. This restriction shall be noted in the deed.
 - [b] Upon the granting of a variance in accordance with the provisions of § 155-18 of this chapter; provided, however, that § 155-18B(1), (2) and (5) need not be shown, and provided further that the property owner requesting the variance produces proof that because of the particular conditions pertaining to the property owner, which conditions have arisen since the property owner acquired the property to be conveyed, a particular hardship to the owner would result, as distinguished from a mere inconvenience.

[6] Except as provided in Subsection B(1)(b)[5][a] and [b] above, if a family subdivision grantee conveys a lot or parcel received pursuant to an approved family subdivision within five years after the date of approval of the family subdivision, the grantee shall be presumed to have intended at the time of the approval of the family subdivision to circumvent this chapter of the Warren County Code. Such conveyance shall entitle the Director to take any reasonable actions necessary to ameliorate the effect of such circumvention, including, without limitation, recommending to the Board of Supervisors the adoption of an ordinance vacating said subdivision in whole or in part as provided in § 15.2-2272 of the Code of Virginia. A note to this effect must be placed conspicuously upon the family subdivision plat before it may be approved. This subsection shall not apply to a conveyance made to secure an obligation nor pursuant to the foreclosure of a lien, provided that the recordation of such lien against such lot or parcel occurs after the recordation required by Subsection B(1)(b)[5][a] above.

[7] No zoning permit or building permit shall be issued for any lot or parcel with respect to which any of the foregoing provisions of this subsection has been violated unless and until correction of such violation has been accomplished to the satisfaction of the Director. No zoning permit or building permit shall be issued for any lot or parcel created pursuant to a family subdivision plat unless evidence of the required recordations has been supplied to the Director.

[8] Upon satisfactory evidence of a conveyance as described in Subsection B(1)(b)[6] above or other action constituting a circumvention or violation of any provision of this Subsection B(1)(b), the Board of Supervisors may adopt an ordinance vacating in whole or in part any such family subdivision plat in accordance with § 15.2-2272 of the Code of Virginia.

[9] Family subdivisions shall only be permitted for land located in the Agricultural zoning district.

- (c) The division of land solely for agricultural or forestal purposes and not for building or development. Such division shall not be for the purpose of circumventing this chapter.
- (d) The division of land for dedication for widening or straightening the rights-of-ways for roads within or eligible for inclusion within the state highway system or the division of land for dedication for public utilities.
- (e) A division of land which results in all lots, including residue, becoming 20 acres or more if the division does not involve any dedication of land to public use other

than for the widening of an existing right-of-way and it conforms to the general meaning and purposes of this chapter. Any lot created under such exemption after March 18, 2008, shall not be adjusted to an acreage below 15 acres.
[Amended 3-20-2001; 3-18-2008]

- (2) Any person proposing to divide land who contends that such division is exempted from the provisions of this chapter under Subsection (1)(a), (b) or (c) above shall submit to the Administrator a plat and/or other evidence satisfactory to the Administrator to enable him to determine if the proposed division is exempt. If, in the opinion of the Administrator, the division is exempted, he shall so certify on the plat or deed of conveyance by which the property is to be divided. Except for divisions of land defined by Subsection (1)(d) or (e) above, no person shall record a plat or conveyance for a division of land without complying with the provisions of this chapter or without obtaining the Administrator's certificate of exemption.

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