



**Amherst County Board of Supervisors
County Ordinance No. 2022-0007**

AN ORDINANCE, NO. 2022-0007

Amending § 1207.01 (A) Family Divisions of Section 1207 Administrative Review of Certain Plats, of Appendix A – Zoning and Subdivisions, Article XII – Subdivision Platting Requirements, to the Code of the County of Amherst, relating to family divisions.

Approved as to form and legality by the Amherst County Attorney

**FIRST READING: Board of Supervisors, June 7, 2022
PUBLIC HEARING: Board of Supervisors, June 21, 2022**

THE COUNTY OF AMHERST HEREBY ORDAINS:

§ 1. That § 1207.01, of Section 1207 Administrative review of certain plats, of Appendix A – Zoning and Subdivisions, of Article XII – Subdivision Platting Requirements, of the Code of Amherst County, 1987, be and hereby enacted, as follows:

1207. Administrative review of certain plats.

The zoning administrator or planning director is hereby delegated the authority to receive, review and approve or disapprove plats of family divisions, reconfigurations and matters described in Section 1207.03.

1207.01. Family divisions.

(A) A single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner or of the beneficiary of a family trust as provided in this section. Only one (1) such division is to be allowed per family member, and shall not be for the purpose of circumventing this subsection. For the purposes of this subsection a member of the immediate family is defined as any person who is a natural or legally defined offspring, stepchild, spouse, aunt, uncle, niece, nephew, grandchild, grandparent, sister or brother or parent of the owner or beneficiary. Such a division shall be called a family division. The applicant shall submit three (3) copies of said family division plat to the planning department for review and approval. Within sixty (60) days of official submission, the plat shall be approved or disapproved by the zoning administrator or his/her designee. The applicant shall be responsible for recording the plat in the office of the clerk of the circuit court within six (6) months of approval or it will become invalid. The family division plat shall clearly show the following information:

1. Every plat which is intended for recording shall be prepared by a certified professional engineer or land surveyor, who shall endorse upon each such plat a certificate signed by him or her setting forth the source of title of the owner(s) of the land(s) involved in the family division and the place of record of the last instrument(s) in the chain of title;
2. Date of plat;
3. Scale;

4. North arrow;
 5. Adjoining property owners;
 6. Bearings and distances of all lines surveyed as part of the family division;
 7. An execution of the owner's consent to subdivision, in accordance with Code of Virginia, § 15.2-2264, as amended, stating that "The platting or dedication of the following described land (here insert a correct description of the land subdivided) is with the free consent and in accordance with the desire of the undersigned owners, proprietors, and trustees, if any";
 8. Acreage of the conveyed property, per Section 801;
 9. The acreage and frontage width of the remainder or a statement certifying the surveyor's knowledge that the remainder of the property meets the minimum acreage and frontage width requirements;
 10. Tax map section, block and lot number;
 11. Plat clearly labeled FAMILY DIVISION by the surveyor;
 12. Name(s) of family member grantee;
 13. Sufficient dedicated easement to the county to meet the standards of the Virginia Department of Transportation when a lot fronts on a state maintained road;
 14. Signature block for county official;
 15. All family subdivisions not fronting on a public road shall provide for the conveyance of a right-of-way twenty (20) feet in width;
 16. If the property is located within a watershed overlay district, all requirements applicable to the subdivision of land therein must be met.
- (B) A family division is permitted for a sale or gift to a member of the immediate family of the property owner, subject only to the express requirements contained in the Code of Virginia (1950), as amended, and the following provisions:
1. No previous transfer from the same source tract under this provision has been granted to the grantee in Amherst County;
 2. The grantee is at least eighteen (18) years of age and able to hold title to real estate under Virginia law;
 3. The property owner must place a restrictive covenant on the subdivided property that would prohibit the transfer of the property to a nonmember of the immediate family for a period of five (5) years. Upon application, the zoning administrator or his/her designee may reduce or provide exceptions to the five-year retention period when changed circumstances so require, including, but not limited to, foreclosure, death, judicial sale, condemnation, bankruptcy or permanent relocation by the owner out-of-state. Additionally, the zoning administrator or his/her designee may approve the transfer of property between eligible family members as defined in Section 1207.01(A) "definition of family member" within the five-year retention period. Any such relief granted by the administrator shall be in the form of an instrument that the applicant shall record against the parcel in the land records of the circuit court; and
 4. All proposed plats for family subdivision shall include an affidavit which shall be signed by the grantor and grantee under oath and penalty of perjury that identifies the subdivision as being for the purposes of conveyance to a qualifying family member and identifies the receiving family members and their relationship to the grantor.
- (C) A family division is permitted for a sale or gift to a member of the immediate family of the beneficiary or beneficiaries of a family trust of land held in the trust, subject to the following provisions:


Member

David W. Pugh, Jr., Chair
Tom Martin, Vice-Chair
L. J. "Jimmy" Ayers, III
Claudia D. Tucker
Drew Wade

Vote

AYE
NAY
AYE
AYE
AYE

ATTEST:




Dean C. Rodgers, Clerk
Amherst County Board of Supervisors

1. No previous transfer from the same source tract under this provision has been granted to the grantee in Amherst County;
 2. The grantee is at least eighteen (18) years of age and able to hold title to real estate under Virginia law;
 3. That all grantees are immediate family members of all beneficiaries, and all beneficiaries agree, by their signature on the plat, to the subdivision;
 4. The grantor must place a restrictive covenant on the subdivided property that would prohibit the transfer of the property to a nonmember of the immediate family of the beneficiary or beneficiaries for a period of five (5) years. Upon application, the zoning administrator or his/her designee may reduce or provide exceptions to the retention period when changed circumstances so require, including, but not limited to, foreclosure, death, judicial sale, condemnation, bankruptcy or permanent relocation by the owner out-of-state. Additionally, the zoning administrator or his/her designee may approve the transfer of property between immediate family members of the beneficiary or beneficiaries within the five-year retention period. Any such relief granted by the administrator shall be in the form of an instrument that the applicant shall record against the parcel in the land records of the circuit court; and
 5. All proposed plats for family subdivision shall include an affidavit which shall be signed by all beneficiaries of the trust under oath and penalty of perjury that identifies the subdivision as being for the purposes of conveyance to a qualifying family member and identifies the receiving family members and their relationship to the beneficiary or beneficiaries of the trust.
- (D) In the event the zoning administrator or his/her designee determines that a family division has been used to circumvent the Subdivision Ordinance, he shall initiate the vacation of all or part of the plat or plats of the original lot or parcel to the extent necessary to correct the violation.
- (E) The approved family subdivision plat shall be recorded in the office of the clerk of the circuit court within six (6) months.
- (F) Family subdivisions that do not comply with these requirements shall be presumed to have intended at the time of approval to circumvent this chapter and shall be deemed to be in violation and may result in one (1) more of the following:
1. Any action specified in Article X of the Zoning Ordinance, including, but not limited to, civil remedy and relief and criminal penalties and fines;
 2. Vacation of the subdivision; and
 3. Refusal of building permits and other development permits.

(Ord. No. 2020-0014, § 1, 11-17-20)

§ 2. That this ordinance shall be in force and effect upon adoption.

Adopted this 21st day of June 2022.


David W. Pugh, Jr., Chair
Amherst County Board of Supervisors