

AN ORDINANCE AMENDING CHAPTER 78 OF THE ACCOMACK COUNTY CODE, ENTITLED “SUBDIVISIONS,” BY AMENDING SECTION 78-3 THEREOF AND ADDING SECTION 78-8.1 THERETO, TO INCLUDE MANDATORY CHANGES TO THE DEFINITION OF “SUBDIVISION” REQUIRED BY STATE LAW AND TO PROVIDE ADDITIONAL REGULATIONS GOVERNING THE ADJUSTMENT OF BOUNDARY LINES.

WHEREAS on July 20, 2022, the Accomack County Board of Supervisors (“Board of Supervisors”) adopted a resolution initiating certain amendments to Chapter 78 of the of the Accomack County Code to reflect mandatory changes to the definition of “subdivision” as required by Section 15.2-2201 of the Code of Virginia and to provide additional regulations governing the adjustment of boundary lines; and

WHEREAS, on September 14, 2022, the Accomack County Planning Commission (“Planning Commission”) held a duly advertised public hearing to consider the proposed amendments to Chapter 78 of the Accomack County Code; and

WHEREAS, on November 16, 2022, the Board of Supervisors held a duly advertised public hearing to consider the proposed amendments and found that public necessity, convenience, and general welfare require the amendment of Section 78-3 and the addition of Section 78-8.1 of the Accomack County Code to reflect mandatory changes to the definition of “subdivision” as required by Section 15.2-2201 of the Code of Virginia and to provide additional regulations governing the adjustment of boundary lines; and

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors for the County of Accomack, Virginia that Chapter 78 of the Accomack County Code be amended and reordained to amend Section 78-3 and to add Section 78-8.1, as follows:

CHAPTER 78. SUBDIVISIONS.

Sec. 78-3. - Definitions.

Certain words and terms used in this chapter shall be interpreted or defined as follows: 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"; the word "shall" is mandatory and not discretionary; the word "approve" shall be considered to be followed by the words "or disapprove"; any reference to this chapter includes all ordinances amending or supplementing this chapter; all distances and areas refer to measurements in a horizontal plane.

Agent means the representative of the board of supervisors who has been appointed to serve as the agent of the board in approving the subdivision plats, or the agent's officially appointed designee.

Applicant means the owner, subdivider or developer seeking to subdivide land.

Boundary adjustment means the vacation, alteration or relocation of lawfully established lot lines but shall exclude conveyances so as to combine existing lots by deed or other instrument.

Building means any structure having a roof supported by columns or walls, for the housing or enclosure of persons, animals or chattels.

Day, business means any day, Monday through Friday, except local or state government holidays.

Developer means an owner of property being subdivided, whether or not represented by his agent.

Easement means a grant by a property owner of the use of land for a specific purpose.

Engineer means an engineer licensed by the commonwealth.

Health official means the district health director or sanitarian for the county.

Jurisdiction means the area or territory subject to the legislative control of the board of supervisors.

Large lot subdivision means any subdivision of land in three or more parts of at least five acres in the agricultural zoned areas and three acres in the residential zoned areas each that creates either a public street or a private street.

Lot means a numbered and recorded portion of a subdivision intended for transfer of ownership, lease, rental or for building development.

Lot, corner means a lot abutting upon two or more streets at their intersection; the shorter side fronting upon a street shall be considered the front of the lot, and the longest side fronting upon a street shall be considered the side of the lot.

Lot, flag means a lot that does not meet the required frontage at the setback line, due to being configured with a narrow panhandle or pipestem providing access to the bulk of the lot, which is located behind the bulk of other lots or parcels.

Lot, width of means the mean horizontal distance between the side lot lines.

Plat means and includes the terms: map, plan, plot, replat, or replot; a map or plan of a tract or parcel of land which is to be, or which has been subdivided. When used as a verb "plat" is synonymous with "subdivide."

Private street means a street owned by one or more persons, restricted in use, and not maintained by the Virginia Department of Transportation, and not intended by the subdivider for acceptance into the secondary system of state highways.

Property means any tract, lot, parcel or several tracts, lots, or parcels collected together for the purpose of subdividing.

Public street means a street maintained by the Virginia Department of Transportation or one intended by the subdivider for acceptance into the secondary system of state highways and approved by the resident engineer as meeting the Virginia Department of Transportation's current subdivision street requirements.

Resident engineer means the resident engineer employed by the Virginia Department of Transportation.

Resubdivision means the further division or relocation of lot lines of any lot within a subdivision previously made and approved or recorded according to law; or, the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law, but does not include conveyances so as to combine existing lots by deed or other instrument.

Street means the principal means of access to abutting properties.

Street, public use of means the unrestricted use of a specified area or right-of-way for ingress and egress to two or more abutting properties.

Street width means the total width of the strip of land dedicated or reserved for travel, including roadway, curbs, gutters, sidewalks and planting strips.

Subdivider means an individual, corporation or registered partnership, owning any tract, lot or parcel of land to be subdivided, or a group of two or more persons owning any tract, lot or parcel of land to be subdivided, who have given their power of attorney to one of their group or to another individual to act on their behalf in planning, negotiating for, in representing or executing the legal requirements of the subdivision.

Subdivision means the division of any tract, lot or parcel of land into three or more parts, or any division of a tract, lot or parcel of land in which a new street is created, regardless of whether the individual parts are sold, leased or rented. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or the land subdivided; ~~except that. Nothing in this definition shall preclude different owners of adjacent parcels from entering into a valid and enforceable boundary line agreement with one another so long as (i) such agreement is only used to resolve a bona fide property line dispute; (ii) the boundary line agreement does not move any boundary by more than 250 feet from the center of the current platted line or alter either parcel's resultant acreage by more than five percent (5%) of the smaller parcel size, (iii) the boundary line agreement does not create an additional lot, alter the County's boundaries, result in greater street frontage, or interfere with any recorded easement; (iv) the boundary line agreement conforms with the Accomack County Code and all Virginia Health Department regulations; and (v) notice and opportunity for review is given to the County's zoning administrator or designee.~~

~~Unless otherwise stated below,~~ the following divisions of land shall not be considered subdivisions, provided the division ~~complies with applicable provisions of chapter 106 and~~ does not create or extend either a public street or private street or, if such a street is created, the street is subject to the same deed and plat restrictions as set out in subsection 78-6(c)(1) or subsection 78-9(g)(6) unless it is intended for and constructed to standards for addition to the secondary system of state highways; ~~further provided that an An~~ easement or right-of-way not over 20 feet in width shall not be considered a public or private street for purposes of defining these exemptions; :

(1) Division ordered by a court of competent jurisdiction; ~~provided that any such division of land subject to a partition suit by virtue of order or decree by said court shall take precedence over the requirements of this chapter and the minimum lot area, width and frontage requirements in chapter 106, so long as the lot or parcel resulting from such order or decree does not vary from minimum lot area, width or frontage requirements by more than 20 percent (20%). A copy of the final court order or decree shall be provided to the zoning administrator or designee;~~

(2) Divisions made solely for bona fide agricultural or timber purposes;

(3) Division by deed of gift or will;

(4) ~~Divisions whereby a parcel is separated in order to become a permanent part of an adjoining tract (changing the location of a parcel boundary line)~~ Boundary survey plats that do not (i) alter property lines except by a valid and enforceable property line agreement as described above; (ii) establish or alter public streets, public easements or other public areas, or (iii) create additional parcels of land.

(5) Division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner, provided the lot satisfies the minimum lot size requirements of this chapter, including section 78-12, and of the applicable regulations of chapter 106.

None of the exemptions in subsections (1) through (5) of this section shall be used for the purpose of circumventing this chapter.

The word "subdivision" and any derivative thereof shall have reference to the term "subdivider" as defined in this section.

Surveyor means a surveyor licensed by the commonwealth.

Sec. 78-8.1 Boundary adjustments.

Except in the case of partition orders and valid and enforceable property line agreements satisfying the criteria set out in the definition of subdivision in section 78-3 above, the boundary line of a lot or parcel of land may only be altered or relocated by recordation of a resubdivision plat approved by the County. Any such boundary adjustment shall be subject to the following conditions:

1) No additional lots or parcels are created as a result of the boundary adjustment, other than the validation of lots or parcels (i) lawfully created prior to this subdivision ordinance or applicable amendment thereto, (ii) created by a plat or instrument recorded prior to May 1, 1973, or (iii) lawfully created pursuant to an exemption from the definition of "subdivision" set out in Section 78-3 of this chapter.

2) All applicable requirements of the Accomack County Code are met, including but not limited to, lot frontage and lot area requirements set out in this chapter and Chapter 106 of this Code.

3) No public streets, alleys, easements for public passage or other public areas are created, relocated or extinguished by the boundary adjustment.

4) No public easements or utility rights-of-way are relocated, altered or extinguished without the express written consent of all persons holding any interest therein, including approval by the board of supervisors for those easements and utility rights-of-way benefitting the County.

5) No private streets, alleys, rights of way, or easements are relocated, altered or extinguished unless by deed or other legal instrument by and between all persons holding any interest therein.

6) All persons owning property shown on the resubdivision plat, other than the Commonwealth and incorporated towns in the County shall be required to sign such plat.

A subdivision plat meeting the requirements of this chapter shall be required where the boundary adjustment affects a lot or parcel that was not lawfully created or recorded prior to May 1, 1973.


This ordinance shall be effective immediately upon adoption.

VOTE:

AYES: H. Phillips, Johnson, Muhly, Wolff, Tarr, J. Phillips, Crockett, Major, Hart

NAYS: None.

ABSENT: None.




William 'Billy' Joe Tarr, Chairman

Dated: November 16, 2022

I hereby certify that the foregoing is a true and correct copy of the Resolution approved November 16, 2022. at a meeting of the Accomack County Board of Supervisors, Accomack County, Virginia.

A COPY TESTE:



Michael T. Mason, Clerk
County Administrator