

At a meeting of the Gloucester County Board of Supervisors held on August 1, 2006 in the Colonial Courthouse, Gloucester, Virginia: On a motion duly made by _____ and seconded by _____ the following ordinance was adopted by the following vote:

John J. Adams, Sr., _____
Charles R. Allen, Jr., _____
Teresa L. Altemus, _____
Burton M. Bland, _____
Michelle Ressler, _____
Christian D. Rilee, _____
Louise Theberge, _____

AN ORDINANCE TO AMEND AND REENACT CHAPTER 15 OF THE GLOUCESTER COUNTY CODE ENTITLED "SUBDIVISIONS" BY ADDING SECTIONS 15-2.1 - CONFORMANCE WITH REQUIREMENTS OF CHAPTER, 15-3.1 – CLASSIFICATION OF SUBDIVISIONS, AND 15-3.2 – FAMILY TRANSFERS; BY AMENDING SECTIONS 15-3 - DEFINITIONS, 15-9 – VIOLATIONS AND PENALTIES, 15-14.1 – SUBSURFACE SEWAGE DISPOSAL, 15-19 – STREETS AND DRAINAGE FACILITIES, 15-31 – PRIVATE STREETS, AND 15-63 – FINAL PLAT.

(These changes address family subdivisions, private streets, private sewage disposal systems and add certain related administrative provisions.)

WHEREAS, the Planning Commission has prepared certain amendments to the Gloucester County Subdivision Ordinance, codified as Chapter 15 of the County Code, pertaining to family subdivisions, private streets, private sewage disposal systems and certain related administrative provisions; and

WHEREAS, the Planning Commission held a public hearing on these changes and has forwarded to the Board of Supervisors a recommendation for approval; and

WHEREAS, the Board has reviewed the recommendation of the Planning Commission and with minor modification believes them to be in the best interest of health, safety, and welfare of the citizens of Gloucester County; and

WHEREAS, the Board has conducted a duly advertised public hearing this 1st day of August, 2006.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Gloucester County Board of Supervisors this 1st day of August 2006, that Chapter 15 of the Gloucester County Code entitled "Subdivisions" be, and it hereby is, amended as follows:

1. Add a new section numbered 15-2.1 entitled "Conformance with Requirements of Chapter" to read as follows:

Section 15-2.1 – Conformance with Requirements of Chapter

This chapter shall apply to all subdivisions of land in the County.

a. No person shall subdivide any land without making and recording a plat of such subdivision and fully complying with the requirements of this chapter and state law.

b. No plat of any subdivision shall be recorded unless and until it shall have been submitted to and approved by the agent. No clerk of any court shall file or record a plat of subdivision required by this chapter until such plat has been approved by the agent as required herein, nor shall any instrument which has the effect of creating a subdivision be filed or recorded until such has been approved by the agent.

c. No person shall sell or transfer any land of a subdivision before a plat has been duly approved and recorded as provided herein, unless such subdivision was lawfully created prior to the adoption of a subdivision ordinance applicable thereto, provided that nothing herein contained shall be construed as preventing the recordation of the instrument by which such land is transferred or the passage of title as between the parties to the instrument.

2. *Amend portions of Section 15-3 entitled “Definitions” as follows:*

Subdivision means the division of any lot, tract, or parcel of land into two (2) or more lots or parcels, for the purpose, **whether immediate or future**, of transfer of ownership, or building development, ~~,-except:-~~.

~~A single division is permitted of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner provided that the following conditions are met:~~

~~(1) — Such lots shall contain three (3) acres, or the minimum lot size permitted in the residential zoning district, whichever is less, as well as minimum width and setbacks as required by the zoning ordinance.~~

~~(2) — Such lots shall have a clearly identifiable right-of-way or road of a width not less than twenty (20) feet wide wherever possible to provide access to a state maintained highway.~~

~~(3) — For property with on-site water and sewer Documentation shall be submitted demonstrating the presence of wells and primary and reserve drainfields.~~

~~(4) — Lot corners shall be marked in accordance with this chapter.~~

~~(5) — A final plat shall be submitted to the agent, along with the appropriate fee as established by this chapter, and a sworn affidavit describing the purpose of the division and identifying the receiving family members.~~

~~(6) — Only one (1) such subdivision shall be allowed for each eligible family member set forth in subsection (7) below.~~

~~(7) — For the purposes of this section, a member of the immediate family is defined as any person who is a naturally or legally defined offspring, spouse, sibling, grandchild, grandparent, or parent of the owner of such property.~~

~~(8) — Such transfer shall not be used for the purposes of circumventing this chapter.~~

~~The term "subdivision" shall further be classified as follows:~~

~~Minor subdivision means any subdivision of no more than three (3) lots, or any subdivision in which no new street is extended.~~

~~Major subdivision means any subdivision of four (4) or more lots, or any subdivision in which a new street is extended except as permitted under subsection 15-31(c).~~

~~For the purposes of this section, extension of an existing street shall be considered a new street.~~

~~The term "subdivision" shall not include a division or partition of land by a court of competent jurisdiction or a division for the sole purpose of rearranging or straightening of property lines. The straightening or rearranging of property lines of adjacent parcels shall not be considered a subdivision if such rearrangements are, in the opinion of the agent, reasonable and conform to the intent of these regulations.~~

~~The term "subdivision" includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land to be subdivided.~~

~~The term "subdivision" shall include any development, division or redivision of real property for the purposes of condominium development.~~

3. Add a new section numbered 15-3.1 entitled "Classification of Subdivisions" to read as follows:

Section 15-3.1 – Classification of Subdivisions

Subdivisions shall be classified as follows:

a. ***Public Service Lots, Rights-of-Way.*** When a parcel is created for the sole purpose of developing a sewage or water facility or any other public facility, or for the sole purpose of widening or enlarging a road right-of-way, to be owned and operated or maintained by the Commonwealth of Virginia, the County, other governmental or municipal entity, service authority, or sanitary district, and title to such property passes at the same time as the plat is recorded, such parcel shall be exempt from the requirements of this chapter except that the record plat shall adhere to the applicable requirements as set forth in Section 15-63 of this Chapter.

b. ***Minor Subdivision.*** A minor subdivision is any subdivision of no more than three (3) lots or any subdivision in which no new street is extended. A preliminary plat shall not be required for minor subdivisions.

c. ***Major Subdivision.*** A subdivision of four (4) or more lots or any subdivision in which a new street (whether public or private) is extended, except as permitted under subsection 15-31 (c).

d. ***Townhouse/Condominium Subdivision.*** A division of property into lots for townhouse or condominium development.

e. ***Planned Development Subdivision.*** The division of property in accordance with an overall development master plan approved by the governing body as part of a rezoning to a planned unit development classification. A preliminary plat shall not be required

for planned development subdivisions unless specifically required in the approval of the overall master plan by the governing body. Any requirements imposed by the approving ordinance shall be fully binding on the subdivision.

f. *Boundary Line Adjustment.* A re-subdivision of a part of an otherwise valid and properly recorded plat of subdivision or of two (2) or more adjacent lots, where no additional lots are created and existing or platted streets, rights-of-way, public easements, and public improvements are unaffected by such action. Further, no private easements or private rights-of-way shall be relocated or altered without the recordation of appropriate documents effecting such relocation or alteration. Typically a boundary line adjustment is a minor realignment of a single line between two (2) adjacent lots. A preliminary plat is not required. This paragraph shall not be interpreted to authorize the creation of a lot or lots which would otherwise be prohibited. Boundary line adjustments involving one (1) or more legally non-conforming lots shall not be permitted where the result of such adjustment would increase the degree of non-conformity. Boundary line adjustments shall be approved by the agent if such re-arrangements are reasonable and conforming to the intent of this ordinance. The record plat shall adhere to the applicable requirements set forth in Section 15-63 of this Chapter.

g. *Court Partitions.* The division of land by Court of competent jurisdiction shall be exempt from the requirements of this chapter except that the record plat shall adhere to the applicable requirements set forth in Section 15-63 of this Chapter.

h. *Family Transfer.* A subdivision of land for contemporaneous conveyance to a member of the immediate family of the property owner. Family transfers shall be permitted only in accordance with the provisions of Section 15-3.2 of this Chapter.

4. *Add a new section numbered 15-3.2 entitled “Family Transfers” to read as follows:*

Section 15-3.2 – Family Transfers

a. It is the purpose and intent of this section to reduce potential development impacts on the community as a whole by encouraging and promoting the ability of family members to remain in close proximity as housing needs change, to provide opportunities for mutual support and care of family members, and to allow for the preservation of family land holdings which might otherwise be fragmented for economic reasons. Allowing the conveyance of property between immediate family members without the necessity of compliance with all of the subdivision requirements imposed on unrelated parties will further this purpose.

b. A single division of a lot or parcel is permitted for the purpose of sale or gift to a member of the immediate family of the property owner. For the purposes of this section, a member of the immediate family is defined

as any person who is a natural or legally defined offspring, sibling, or a parent or grandparent of the owner. If the property to be subdivided is owned jointly by husband and wife, the necessary relationship to the grantee may exist between either husband or wife. If the grantee of the parcel is married, only one such parcel may be conveyed to the grantee and his or her spouse. The property to be subdivided may be titled in a trust, provided the agent determines that beneficial ownership of the property remains in a person who has a qualifying family relationship with the grantee.

c. Family Transfers shall be subject to the following provisions and conditions in lieu of the other regulations imposed by this chapter:

1. Only one (1) such division shall be allowed within Gloucester County for each immediate family member.
2. The lot or parcel to be divided shall have been titled of record in the name(s) of the owner(s) for a minimum of three (3) years prior to the date of recordation of the family transfer, unless the owner(s) thereof has established his or her primary domicile on such lot or parcel to be divided.
3. All lots or parcels, including the parent tract, created under this section shall remain titled in the name(s) of the immediate family member by or for whom the division is made for a period of not less than seven (7) years from the date of recordation of the deed of conveyance unless:

- (a) The parcel to be transferred out of the immediate family is the subject of an involuntary transfer such as foreclosure, divorce, death, judicial sale, condemnation, or bankruptcy, in which case, upon application to the agent, any remaining required holding period shall be waived; or
- (b) The owner(s) of the parent tract dies, in which case, upon application to the agent, any remaining holding period shall be waived for both the parent tract and the parcel(s) transferred from the parent tract; or
- (c) The parcel is later transferred to another grantee qualifying as an immediate family member as set forth in this section, in which case only the remainder of the required holding period shall apply to the subsequent grantee; or
- (d) The proposed transfer is submitted to the subdivision agent for approval, and all requirements of the Gloucester County Subdivision Ordinance in effect at the time the parcel was first created as part of a family transfer are met; or
- (e) An exception is made by the Board of Supervisors upon a determination of injustice or hardship made after ten (10) days written notification to adjacent property owners.

4. The minimum width, yard, and area requirements of all lots or parcels, including the remaining property from which the lot or parcel is subdivided, shall be in accordance with the applicable provisions of the Gloucester County Zoning Ordinance.

5. Each lot or parcel shall front on a public road or upon a private driveway or road which is in a permanent easement of right-of-way a **minimum of twenty (20) feet in width.** (Where the parcel to be subdivided fronts on an existing right-of-way less than twenty (20) feet in width, a twenty (20) foot right-of-way shall only be required on the parcel to be subdivided.)

Prior to the use of any such lot or parcel for residential purposes, the required right-of-way shall include an improved driveway within it consisting of, at a minimum, an all-weather surface of rock, stone, or gravel, with a minimum depth of three (3) inches and a minimum width of ten (10) feet. The right-of-way shall be maintained by those having a right to use it in a condition passable by emergency vehicles at all times. A notation to this effect shall be placed on the face of the final plat and this provision shall be included in the deeds by which the subdivision is effected. Passable condition refers to not only the surface, but also to horizontal and vertical clearance.

An erosion and sediment control plan with appropriate surety is required if the proposed right-of-way and driveway construction disturbs more than two thousand five hundred (2500) square feet.

6. Drainage and utility easements shall be dedicated to the County when deemed necessary by the agent to accommodate drainage and/or public utility facilities, whether for current or future needs, in accordance with the requirements of the County Code.

7. Property corners shall be marked in accordance with this chapter.

8. Family transfers shall not be permitted in a major subdivision previously approved under the terms of the Gloucester County Subdivision Ordinance when any lot or parcel to be created will be smaller than the average parcel size in the subdivision in which the parent tract is located.

9. A final plat shall be submitted to the agent for approval. The final plat shall adhere to the applicable requirements set forth in Section 15-63 of this Chapter. Along with the plat an affidavit, under oath, shall be submitted, in the form prescribed by the agent, describing the purposes of the subdivision and identifying the member of the immediate family receiving the lot created. Such plat shall be subject to the fee set forth in Section 15-56(a) of this Chapter. Public improvements, if any, shall be guaranteed as required by the Gloucester County Code. The proposed deed of

conveyance shall be submitted and, once approved for compliance with this Section, recorded along with the approved plat. Both the deed and the plat shall contain the following statement set forth so as to readily be seen in a minimum of 12 point type:

THIS LOT IS CREATED AS A FAMILY TRANSFER PURSUANT TO THE PROVISIONS OF THE GLOUCESTER COUNTY SUBDIVISION ORDINANCE. THE USE AND TRANSFER OF THE PROPERTY ARE RESTRICTED BY THE TERMS OF THAT ORDINANCE.

d. The agent shall reject any proposed family transfer if, after investigation of the facts and circumstances involved in the proposed transfer, the agent believes that the proposed transfer is for the purpose of circumventing the requirements of this chapter and is not in accordance with the purpose and intent of this section. The burden of proving compliance with the purpose, intent, and conditions of this section shall be on the property owner. Nothing in this section shall be deemed to exempt family transfers from the requirements of other provisions of the Gloucester County Code which are applicable.

5. *Section 15-4 entitled "Administrative provisions of state code" is deleted.*

~~No person shall subdivide any tract of land that is located within the county, within the purview of Sections 15.2-2240 through 15.2-2278 of the Code of Virginia, 1950, as amended, except in conformity with the provisions of this chapter.~~

6. ***Amend Section 15-9 entitled “Violations and Penalties” to read as follows:***

Sec. 15-9. ~~Violations and penalties.~~ Violations, Penalties, and Enforcement.

a. Any person, firm, or corporation, whether as principal, agent, employee, or otherwise, violating the provisions of this article shall be subject to a fine of not more than five hundred dollars (\$500.00) for each lot or parcel of land so subdivided, transferred, or sold. The description of the lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from the penalties or remedies herein provided.

b. No building permit shall be granted for construction on any lot created in violation of the provisions of this chapter.

7. ***Amend 15-14.1 entitled “Subsurface Sewage Disposal” as follows:***

Sec. 15-14.1. Subsurface sewage disposal.

~~The agent shall require in subdivisions where sanitary sewers are not provided a preliminary opinion form the applicable health official regarding the suitability of the subdivision for installation of subsurface sewage disposal system where such method of sewage disposal is to be utilized in the development of a subdivision. When subsurface sewage disposal systems are installed, they must be subsequently approved by the health department on an individual basis.~~

a. ~~If public sewer is not available~~ **required**, subdivisions with lots served by septic systems may be approved by the agent provided that **compliance with the following conditions is documented:**

1. Both a primary location and a one hundred percent (100%) reserve location for the drain field will be provided within the boundaries of each lot, neither of which shall be located in whole or in part in the resource protection area;
 2. The location and design for each drainfield (both primary and reserve) has been accomplished in accordance with the most current edition of the sewage handling and disposal regulations of the Virginia Department of Health and all applicable provisions of the Gloucester County Code and has been specifically and individually certified by the Health Department.
- b. Any such subdivision submitted for review shall include the specific locations proposed for both primary and reserve on-site septic system installations with documentation of Health Department certification for each proposed location. Any proposed lot(s) not suitable for the installation of private sewage disposal systems shall either be combined with lots that are suitable or dedicated to common open space or recreation use so that only buildable lots are created.
- c. The requirements of paragraphs “a” and “b” of this section shall not apply when:
1. The lot being created, to which the requirements would otherwise be applicable, is more than twenty (20) acres in size, and

2. The Owner certifies to the Agent that no development requiring a sewage disposal system will be proposed or implemented until a method of sewage disposal approved by the County and the Virginia Department of Health is provided, and
3. The following notation is prominently displayed on the plat in, at a minimum, 12 point lettering:

NO DEVELOPMENT SHALL OCCUR ON LOT _____ AS SHOWN ON THIS PLAT THAT, BY LAW, REQUIRES A SANITARY SEWAGE DISPOSAL SYSTEM UNTIL SUCH TIME AS A SYSTEM SHALL BE SUBMITTED TO AND APPROVED BY THE COUNTY OF GLOUCESTER AND THE VIRGINIA DEPARTMENT OF HEALTH.

8. *Amend Section 15-19 entitled "Streets and Drainage Facilities" to read as follows:*

Sec. 15-19. Streets and drainage facilities.

- a. **Unless specifically provided otherwise in this chapter, a**Any person who subdivides shall provide right of access **to and within the subdivision** for streets, curb, gutter and drainage facilities of sufficient width to meet the minimum requirements of the ~~state department of highways and transportation~~**Virginia Department of Transportation (VDOT).**~~for secondary roads as provided by standards of September 1, 1963, and as amended; such right of access is to be filed with a plat of the proposed subdivision.~~
- b. All rights of access shall be a minimum of fifty (50) feet wide **except where the parcel to be subdivided fronts on an existing road in the**

state highway system with a right-of-way less than fifty (50) feet in width, and in such cases a fifty (50) foot right-of-way shall be required only on the property included in the subdivision. This subparagraph “b” shall not apply when Section 15-31(c) of this chapter is applicable.

- c. Curb and gutter shall be required in subdivisions containing lots less than twenty thousand (20,000) square feet and in subdivisions with lots having frontage of less than one hundred twenty-five (125) feet, excluding lots fronting the turnaround portion of a cul-de-sac pursuant to section 15-40. Curb and gutter design shall be in accordance with Virginia Department of Transportation (VDOT) standards. When curb and gutter is required for any part of the subdivision, it shall be required for the entire subdivision regardless of lot sizes or frontage unless the commission grants an exception. In considering whether to grant an exception, the commission shall apply the criteria set forth in subsection 15-8(a).

9. Amend Section 15-31 entitled “Private Streets” to read as follows:

Sec. 15-31. Private streets.

- (a) Except as permitted in section ~~15-315-3.2~~ and subsection (c) below, every subdivided property shall be served from a publicly dedicated street unless the commission grants an exception. In considering whether to grant an exception, the commission shall ~~apply the criteria set forth in subsection 15-8(a).~~ **consider the nature of the project, the benefit to both the subdivision and to the County as a whole of establishing the streets as private streets, and**

whether or not a substantial injustice or hardship because of topographical or other conditions exists. If, in the opinion of the commission, a departure may be made that is in accord with the intent of this chapter, the commission may grant an exception.

(b) Where private streets are authorized by exception, they shall be constructed to standards **required for acceptance by the Virginia Department of Transportation (VDOT) into the state secondary system and specifically to the standards required by the Subdivision Street Requirements and the Design Guide for Subdivision Streets published by the Virginia Department of Transportation (VDOT).** Deed restrictions or other documents approved by the county attorney shall be established to ensure maintenance of the streets by a developer and/or property owners, which instrument or other documents must also create covenants and conditions imposing a lien on the property or properties involved that would run with the land and be enforceable by the owners or any other of them by action at law or suit in equity.

(c) **Subdivisions served by** private roads shall be permitted where the design of the division of land is such that no lot **is** less than five (5) acres in area and the ~~street private road will provide primary access to~~ **serves** no more than ~~three two (32)~~ **three (3)** lots or dwelling units. ~~There are no standards for roadway grading and paving for such private streets.~~ **Such private roads shall consist of a permanent easement of right-of-way a minimum of twenty (20) feet in width from the lots to an existing road in the state highway system. Such right-of-way shall include within it a driveway consisting of,**

at a minimum, an all-weather surface of rock, stone, or gravel, with a minimum depth of three (3) inches and a minimum width of ten (10) feet. The right-of-way shall be maintained by ~~the adjacent property owners~~ those having a right to use the right-of-way in a condition passable by emergency vehicles at all times. A notation to this effect shall be placed on the face of the final plat and this provision shall be included in the deeds by which the subdivision is effected. Passable condition refers to not only the surface, but also to horizontal and vertical clearance. An erosion and sediment control plan with appropriate surety is required if the proposed right-of-way and driveway construction disturbs more than two thousand five hundred (2500) square feet. This exception shall only apply to the subdivision of a parcel of record as of January 1, 2000.

(d) All streets that are not constructed to meet the standards necessary for inclusion in the system of state highways will be privately maintained and will not be eligible for acceptance into the system of state highways unless improved to current Virginia Department of Transportation standards with funds other than those appropriated by the General Assembly and allocated by the Commonwealth Transportation Board. For any street that is not constructed to Virginia Department of Transportation standards, the subdivision plat and all approved deeds of subdivision, or similar instruments, shall contain a statement advertising that the streets in the subdivision do not meet the standards necessary for inclusion in the system of state highways and will not be maintained by the Virginia

Department of Transportation or the County and are not eligible for rural addition funds or any other funds appropriated by the General Assembly and allocated by the Commonwealth Transportation Board.

10. Amend Section 15-63 entitled “Final Plat”, to read as follows:

Sec. 15-63. Final plat.

For minor subdivisions, or subsequent to preliminary plat approval for major subdivision, the subdivider shall submit to the agent one (1) reproducible copy (record plat) plus five (5) prints of a final plat for approval and subsequent recording. Upon meeting all submittal requirements, the plat shall be reviewed by the agent and other agencies as deemed necessary by the agent. The agent shall within sixty (60) days approve or deny the plat and notify the subdivider of the action in writing. The plat shall not be approved until the developer has complied with the general requirements and minimum standards of design and has made satisfactory arrangements for performance guarantees as outlined in this article. Approval of the final plat shall be written on the face of the plat by the agent. If a final plat is approved, the agent shall certify such approval by signing the record plat. If disapproved, the agent shall specify the reasons for denial. The reasons for denial shall identify deficiencies in the plat which cause the disapproval by reference to specific duly adopted ordinances, regulations, or policies and shall generally identify such modifications or corrections as will permit approval of the plat.

The final plat shall be clearly and legibly drawn at a scale of not more than one hundred (100) feet to the inch on sheets having a maximum size of eighteen (18) inches by twenty-four (24) inches. It shall show the following information:

- (1) Name of subdivision, magisterial district, county, state, north arrow and source of meridian used for the survey; scale of drawing and number of sheets. If shown on more than one (1) sheet, matched lines shall clearly indicate where the several sheets join.
- (2) Owner's name, deed book reference where the acquisition deed was recorded and tax map parcel number.
- (3) Location of proposed subdivision by an insert map at a scale of not less than two (2) inches equal one (1) mile, indicating adjoining roads, their names and numbers, subdivisions, streams adjoining or running through the land and other prominent or well know landmarks.
- (4) A boundary survey with an error of closure within the limits of fifteen (15) seconds or metric equivalent per angle observed and one (1) in five thousand (5,000) feet or metric equivalent of perimeter length and showing the location of all monuments and their type of material. The survey may be related to the United States Coast and Geodetic Survey state grid north if the coordinates of two (2) adjacent corners of the subdivision are shown.
- (5) Certificates signed by the surveyor or engineer setting forth the source of title of the owners of the land subdivided and the place of record of the last instrument in the chain of title as set forth in Appendix A to this chapter (Section 15.2-2262 of the Code of Virginia, 1950, as amended.)
- (6) A statement to the effect that the subdivision as it appears on this plat is with the free consent and in accordance with the desires of the owners, proprietors, and trustees, if any, which shall be signed by the owners, proprietors,

and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgments of deed as set forth in Appendix B to this chapter (Section 15.2-2264 of the Code of Virginia 1950, as amended.)

(7) When the subdivision consists of land acquired from more than one (1) source of title the outlines of the various tracts shall be indicated by dash-lines, and identification of the respective tracts shall be placed on the plat.

(8) The accurate location and dimensions by bearings and distances with all curve data on all lots and street lines, boundaries of all proposed or existing easements, parks, school sites or other public areas, the number and the area of all building sites, all existing public and private streets, their names, numbers and widths, existing utilities, and those to be provided such as sanitary sewers, storm drains, water mains, manholes and underground conduits including their size and type, watercourses and their names, names of owners and their property lines, both within the boundary of the subdivision and adjoining said boundaries.

(9) Any grave, object, or structure marking a place of burial located on the land proposed for subdivision.

(10) All dimensions shown in feet and decimals of a foot to the closest 1/100 of a foot, all bearings in degrees, minutes and seconds to the nearest thirty (30) seconds.

(11) Data of all curves along the street frontages shall be shown in detail at the curve, or in a curve data table containing the delta, radius, arc, tangent, chord and chord bearings.

(12) Certificate of approval and compliance to requirements, signed by the subdivision agent on a form set forth in Appendix C to this chapter. Resident engineer and director of department of public utilities shall be required to approve working drawings and specifications of construction when applicable.

(13) All subdivision plats shall show the limits of the "A" and "V" zones ("X" zones do not have to be shown) and the floodway areas as defined on the National Flood Insurance Rate Map (FIRM). A general note depicting the source shall be shown.

i.e.: Flood lines shown herein are approximate and are taken from FIRM Community Panel No. _____, dated August 4, 1987.

(14.) All subdivision plats, including family transfers, which contain any street or right of access to be privately maintained shall display in addition to all other required notations and certifications the following notation prominently displayed in, at minimum, 12 point lettering:

THE STREET(S) SHOWN HEREON IS/ARE PRIVATE, MAY NOT MEET STATE STANDARDS, AND WILL NOT BE MAINTAINED OR IMPROVED BY EITHER THE COMMONWEALTH OF VIRGINIA OR THE COUNTY OF GLOUCESTER. MAINTENANCE OF THE STREET(S) AND/OR RIGHTS-OF-WAY SHOWN HEREON IS/ARE THE RESPONSIBILITY OF THE PROPERTY OWNERS OF THE LOTS CREATED BY THIS PLAT.

Grantors of any subdivision lot to which the above statement applies must include a substantially similar statement on each subsequent deed of conveyance thereof.

AN ORDINANCE TO AMEND AND REENACT CHAPTER 15 OF THE GLOUCESTER COUNTY CODE ENTITLED “SUBDIVISIONS” BY ADDING SECTIONS 15-2.1 -CONFORMANCE WITH REQUIREMENTS OF CHAPTER, 15-3.1 – CLASSIFICATION OF SUBDIVISIONS, AND 15-3.2 – FAMILY TRANSFERS; BY AMENDING SECTIONS 15-3 - DEFINITIONS, 15-9 – VIOLATIONS AND PENALTIES, 15-14.1 – SUBSURFACE SEWAGE DISPOSAL, 15-19 – STREETS AND DRAINAGE FACILITIES, 15-31 – PRIVATE STREETS, AND 15-63 – FINAL PLAT. THESE CHANGES ADDRESS FAMILY SUBDIVISIONS, PRIVATE STREETS, PRIVATE SEWAGE DISPOSAL SYSTEMS AND ADD CERTAIN RELATED ADMINISTRATIVE PROVISIONS.

COMPARISON BETWEEN PROPOSED & EXISTING ORDINANCES

Administrative and Clarification Changes

	Proposed Ordinance	Current Ordinance	Comments
	<p>1. Add a new section numbered 15-2.1 entitled “Conformance with Requirements of Chapter” to read as follows:</p> <p>Section 15-2.1 – Conformance with Requirements of Chapter This chapter shall apply to all subdivisions of land in the County.</p> <p>1. No person shall subdivide any land without making and recording a plat of such subdivision and fully complying with the requirements of this chapter and state law.</p>	<p><i>Replaces the current language under Section 15- 4 below:</i></p> <p>Section 15-4 – No person shall subdivide any tract of land that is located in the county, within the purview of Sections 15.2-2240 through 15.2-2278 of the Codes of Virginia, 1950, as amended, except in conformity with the provisions of this chapter.</p>	<p>No real change.</p> <p>Combines requirements under one section whereas the current ordinance has similar requirements in other sections.</p>

Administrative and Clarification Changes

	Proposed Ordinance	Current Ordinance	Comments
	<p>2. No plat of any subdivision shall be recorded unless and until it shall have been submitted to and approved by the agent. No clerk of any court shall file or record a plat of subdivision required by this chapter until such plat has been approved by the agent as required herein, nor shall any instrument which has the effect of creating a subdivision be filed or recorded until such has been approved by the agent.</p> <p>3. No person shall sell or transfer any land of a subdivision before a plat has been duly approved and recorded as provided herein, unless such subdivision was lawfully created prior to the adoption of a subdivision ordinance applicable thereto, provided that nothing herein contained shall be construed as preventing the recordation of the instrument by which such land is transferred or the passage of title as between the parties to the instrument.</p>	<p>Sec. 15-52. Platting required; approval and recording of plats. (a) Any owner or developer of any tract of land situated within the county who subdivided such tract shall cause a plat of such subdivision, with reference to known or permanent monuments, to be made and recorded in the office of the clerk of the circuit court of Gloucester County. No such subdivision plat hereinafter called the "final plat" shall be recorded unless and until it shall have been submitted, approved and certified by the agent in accordance with the regulations set forth in this chapter. No lot shall be sold or transferred in any such subdivision before the plat shall have been recorded.</p>	<p>No significant change.</p> <p>Re-organization.</p>

Administrative and Clarification Changes

	Proposed Ordinance	Current Ordinance	Comments
	<p>2. Amend portions of Section 15-3 entitled “Definitions” as follows:</p> <p><i>Subdivision</i> means the division of any lot, tract, or parcel of land into two (2) or more lots or parcels, for the purpose, whether immediate or future, of transfer of ownership, or building development.</p>	<p>Section 15-3, “Definitions”</p> <p><i>Subdivision:</i> The division of any tract or parcel of land into two (2) or more lots or parcels, for the purpose of transfer of ownership, or building development, except:</p> <p><i>The exceptions listed under this definition will be compared individually with each of the proposed changes below.</i></p>	<p><i>No significant change - corrects poor drafting in original ordinance.</i></p> <p>This section simplifies the definition of subdivision into a more general definition and relocates family transfers, boundary line adjustments and court partitions to new section 15 - 3.1 “Classifications of Subdivisions”</p>
	<p>3. Add a new section numbered 15-3.1 entitled “Classification of Subdivisions” to read as follows:</p> <p>Section 15-3.1 – Classification of Subdivisions Subdivisions shall be classified as follows:</p>	<p>Not in current ordinance.</p>	<p>Subdivisions are currently classified or excluded under definition of subdivision within Section 15-3.</p>

Administrative and Clarification Changes

	Proposed Ordinance	Current Ordinance	Comments
<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<p>a. <i>Public Service Lots, Rights-of-Way.</i> When a parcel is created for the sole purpose of developing a sewage or water facility or any other public facility, or for the sole purpose of widening or enlarging a road right-of-way, to be owned and operated or maintained by the Commonwealth of Virginia, the County, other governmental or municipal entity, service authority, or sanitary district, and title to such property passes at the same time as the plat is recorded, such parcel shall be exempt from the requirements of this chapter except that the record plat shall adhere to the applicable requirements as set forth in Section 15-63 of this Chapter.</p>	<p>Not addressed in the current ordinance except as implemented as part of the subdivision review (i.e. pump station lot)</p>	<p>Administrative change. Will help to clarify how to handle these issues when they arise.</p>
	<p>b. <i>Minor Subdivision.</i> A minor subdivision is any subdivision of no more than three (3) lots or any subdivision in which no new street is extended. A preliminary plat shall not be required for minor subdivisions.</p> <p>c. <i>Major Subdivision.</i> A subdivision of four (4) or more lots or any subdivision in which a new street (whether public or private) is extended, except as permitted under subsection 15-31 (c).</p>	<p>Currently listed under Section 15-3, “Definitions”</p> <p>The term “subdivision” shall further be classified as follows: <i>Minor subdivision:</i> Any subdivision of no more than 3 lots, or any subdivision in which no new street is extended. <i>Major subdivision:</i> Any subdivision of 4 or more lots, or any subdivision in which a new street is extended except as permitted under Section 15-31(c).</p>	<p>No change.</p> <p>The new language does clarify that the street may be public or private.</p>

Administrative and Clarification Changes

	Proposed Ordinance	Current Ordinance	Comments
	<p><i>d. Townhouse/Condominium Subdivision. A division of property into lots for townhouse or condominium development.</i></p>	<p>Section 15-3, “Definitions” The term “subdivision” shall include any development, division or redivision of real property for the purposes of condominium development.</p>	<p>Clarification. No significant change. Currently only condominiums are included under the definition of subdivision, however townhouse developments are treated as subdivisions since they create separate lots.</p>
<p>☒ ☒ ☒ ☒</p>	<p><i>e. Planned Development Subdivision. The division of property in accordance with an overall development master plan approved by the governing body as part of a rezoning to a planned unit development classification. A preliminary plat shall not be required for planned development subdivisions unless specifically required in the approval of the overall master plan by the governing body. Any requirements imposed by the approving ordinance shall be fully binding on the subdivision.</i></p>	<p>Not currently addressed in the Subdivision Ordinance – addressed under Article 8 of the Zoning Ordinance (ZO) which requires approval of a Master Plan by the BOS. Section 8-18 of the ZO states “In addition to the requirements outlined above, projects involving the subdivision of land must meet the planting requirements of the Gloucester County Subdivision Ordinance.” The Platting procedures require a preliminary plat for major subdivisions. This proposed section eliminates that requirement since the plans have to be consistent with the master plan.</p>	<p>A change to provide more efficiency and eliminate duplication of effort.</p>

Administrative and Clarification Changes

	Proposed Ordinance	Current Ordinance	Comments
<p>☒ ☒ ☒ ☒</p>	<p>f. <i>Boundary Line Adjustment.</i> A re-subdivision of a part of an otherwise valid and properly recorded plat of subdivision or of two (2) or more adjacent lots, where no additional lots are created and existing or platted streets, rights-of-way, public easements, and public improvements are unaffected by such action. Further, no private easements or private rights-of-way shall be relocated or altered without the recordation of appropriate documents effecting such relocation or alteration. Typically a boundary line adjustment is a minor realignment of a single line between two (2) adjacent lots. A preliminary plat is not required. This paragraph shall not be interpreted to authorize the creation of a lot or lots which would otherwise be prohibited. Boundary line adjustments involving one (1) or more legally non-conforming lots shall not be permitted where the result of such adjustment would increase the degree of non-conformity. Boundary line adjustments may be approved by the agent if such rearrangements are, in the opinion of the agent, reasonable and conforming to the intent of this ordinance. The record plat shall adhere to the applicable requirements set forth in Section 15-63 of this Chapter.</p>	<p>Section 15-3, definition of subdivision, currently states, “The straightening or rearranging of property lines of adjacent parcels shall not be considered a subdivision if such rearrangements are, in the opinion of the agent, reasonable and conform to the intent of these regulations.”</p> <p>Section 15-65 (b) states: “Boundary line changes; action by agent. As provided under section 15.2-2275 of the Code of Virginia, 1950, as amended, the agent may approve a boundary line of any lot or parcel of land on a plat of record to be vacated, relocated or otherwise altered as a part of an otherwise valid plat of subdivision or resubdivision, provided that such action is executed by the owner or owners of such land as provided in section 15.2-2264 of the Code of Virginia, 1950, as amended, provided such action does not involve the relocation or alteration of streets, alleys, easements for public passage, or other public areas and provided further than no easements of utility right-of-way shall be relocated or altered without the express consent of all persons holding any interest therein. (Ord. of 9-6-83)”</p>	<p>No real change other than requirements to comply with Section 15-63 which provides for improvement in the quality of land records.</p> <p>This section provides some additional direction regarding what constitutes a BLA’s and clearly indicates that a final plat meeting the requirements of 15-63 is required. Staff considers BLA’s to include “add-ons” and requires that both lots being affected by the BLA be shown in their entirety if they are under 10 acres in area. Staff strongly encourages the plats to be prepared similarly to a final plat, but does not require all the information that is typically required for a final plat (RPA, health department letters, insert map).</p>

Administrative and Clarification Changes

	Proposed Ordinance	Current Ordinance	Comments
<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<p>g. <i>Court Partitions.</i> The division of land by Court of competent jurisdiction shall be exempt from the requirements of this chapter except that the record plat shall adhere to the applicable requirements set forth in Section 15-63 of this Chapter.</p>	<p>Section 15-3, “Definitions” - Subdivision, the Ordinance states: The term “subdivision” shall not include a division or partition of land by a court of competent jurisdiction</p>	<p>No change other than the requirement that the recorded plat meet the requirements of 15-63. This is meant to improve the quality of the land records.</p>
	<p>h. <i>Family Transfer.</i> A subdivision of land for contemporaneous conveyance to a member of the immediate family of the property owner. Family transfers shall be permitted only in accordance with the provisions of Section 15-3.2 of this Chapter.</p>	<p>Section 15-3, “Definitions” - Subdivision, the Ordinance states: A single division is permitted of a lot or parcel for the purpose of sale or gift to an immediate family of the property owner provided that the following conditions are met: <i>Conditions addressed individually below.</i></p>	<p>Drafting Change. Family transfers would be a type of subdivision with limited regulations. Inclusion of the word “contemporaneous” clarifies that the transfer of land to the family member must occur at the time of the subdivision (recording).</p>

Changes Related to Family Transfers

	Proposed Ordinance	Current Ordinance	Comments
<p>☒ ☒ ☒ ☒</p>	<p>4. Add a new section numbered 15-3.2 entitled “Family Transfers” to read as follows:</p> <p>Section 15-3.2 – Family Transfers</p> <p>a. It is the purpose and intent of this section to reduce potential development impacts on the community as a whole by encouraging and promoting the ability of family members to remain in close proximity as housing needs change, to provide opportunities for mutual support and care of family members, and to allow for the preservation of family land holdings which might otherwise be fragmented for economic reasons. Allowing the conveyance of property between immediate family members without the necessity of compliance with all of the subdivision requirements imposed on unrelated parties will further this purpose.</p>	<p>Family Transfer requirements currently under Section 15-3, “Definitions” under Subdivision.</p> <p>The current ordinance does not include a clear purpose and intent other than the statement contained within the definition:</p> <p>8. Such transfer shall not be used for the purposes of circumventing this ordinance.”</p>	<p>Provides a clear purpose for the family transfer provision.</p>

Changes Related to Family Transfers

	Proposed Ordinance	Current Ordinance	Comments
<p>☒ ☒ ☒ ☒</p>	<p>b. A single division of a lot or parcel is permitted for the purpose of sale or gift to a member of the immediate family of the property owner. For the purposes of this section, a member of the immediate family is defined as any person who is a natural or legally <u>defined offspring, sibling or a parent or grandparent of the owner.</u> If the property to be subdivided is owned jointly by husband and wife, the necessary relationship to the grantee may exist between either husband or wife. If the grantee of the parcel is married, only one such parcel may be conveyed to the grantee and his or her spouse. <u>The property to be subdivided may be titled in a trust, provided the agent determines that beneficial ownership of the property remains in a person who has a qualifying family relationship with the grantee.</u></p>	<p>7. For the purposes of this section, a member of the immediate family is defined as any person who is a <u>naturally or legally defined offspring, spouse, sibling, grandchild, grandparent, or parent</u> of the owner of such property.</p>	<p>Proposed ordinance would eliminate spouse from eligible family members.</p> <p>Allows family transfers from trusts under specific conditions.</p> <p>Current Ordinance does not allow for trusts to do a family transfer.</p> <p>Note: the term “offspring” means all lineal descendants such as children, grandchildren and great grandchildren.</p>

Changes Related to Family Transfers

	Proposed Ordinance	Current Ordinance	Comments
	<p>c. Family Transfers shall be subject to the following provisions and conditions in lieu of the other regulations imposed by this chapter:</p> <p>1. Only one (1) such division shall be allowed within Gloucester County for each immediate family member.</p>	<p>Under Section 15-3, the current requirement reads:</p> <p>6. Only one such subdivision shall be allowed for each eligible family member set forth in subdivision 7 below.</p>	<p>No change.</p>
<p><input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/></p>	<p>2. The lot or parcel to be divided shall have been titled of record in the name(s) of the owner(s) for a minimum of three (3) years prior to the date of recordation of the family transfer, unless the owner(s) thereof has established his or her primary domicile on such lot or parcel to be divided.</p>	<p>Section 15-3 of the current ordinance does not specify that the property needs to remain in the family member or provide any other qualifications for length of ownership of the parent parcel.</p>	<p>Significant Change.</p> <p>Provides a 3 year holding period on front or the establishment of a primary residence</p>
<p><input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/></p>	<p>3. All lots or parcels, including the parent tract, created under this section shall remain titled in the name(s) of the immediate family member by or for whom the division is made for a period of not less than seven (7) years from the date of recordation of the deed of conveyance unless-:</p>	<p>Section 15-3 of the current ordinance does not specify that the property needs to remain in the family member or provide any other qualifications for length of ownership of the family transfer parcel.</p>	<p>Provides a 7 year holding period on the parcels created by the Family Transfer (<i>including the parent parcel</i>) with exceptions listed in the sections below.</p>

Changes Related to Family Transfers

	Proposed Ordinance	Current Ordinance	Comments
<p>⊗ ⊗ ⊗ ⊗</p>	<p>a. The parcel to be transferred out of the immediate family is the subject of an involuntary transfer such as foreclosure, divorce, death, judicial sale, condemnation, or bankruptcy, in which case, upon application to the agent, any remaining required holding period shall be waived; or</p> <p>b. The owner(s) of the parent tract dies, in which case, upon application to the agent, any remaining holding period shall be waived for both the parent tract and the parcel(s) transferred from the parent tract; or</p> <p>c. The parcel is later transferred to another grantee qualifying as an immediate family member as set forth in this section, in which case only the remainder of the required holding period shall apply to the subsequent grantee; or</p> <p>d. The proposed transfer is submitted to the subdivision agent for approval, and all requirements of the Gloucester County Subdivision Ordinance in effect at the time the lot parcel was first created as part of a family transfer are met; or</p> <p>e. An exception is made by the Board of Supervisors upon a determination of injustice or hardship made after ten (10) days written notification to adjacent property owners.</p>	<p>The current ordinance does not have a provision for “opting out” of the family transfer provision. It is currently left up to the opinion of the Subdivision Agent whether an individual is circumventing the ordinance when the family transfer parcels are transferred outside the family.</p>	<p>Provides the specific conditions for the ownership of the family transfer parcel and its future disposition.</p> <p>Item “b” waives the holding period upon the death of the grantee. This was added by the Planning Commission to address instances where a family transfer is done to allow family to live close to help an ailing relative and the relative dies. This would allow the parcels to be sold prior to the seven years.</p> <p>Provides an opportunity for exception to be made by the governing body based on hardship and with notice to adjoining property owners.</p>

Changes Related to Family Transfers

	Proposed Ordinance	Current Ordinance	Comments
<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<p>4. The minimum width, yard, and area requirements of all lots, including the remaining property from which the lot is subdivided, shall be in accordance with the applicable provisions of the Gloucester County Zoning Ordinance.</p>	<p>Under Section 15-3, the current requirement reads:</p> <p>1. Such lots shall contain <u>three (3) acres</u>, or the minimum lot size permitted in the residential zoning district, whichever is less, as well as minimum width and setbacks as required by the Zoning Ordinance.</p>	<p>Fairly significant change in the requirements for the family transfer lot size to increase from 3 acres to 5 acres in the C-2, RC-1 and RC-2 zoning districts, consistent with the required lot size for those districts.</p>

Changes Related to Family Transfers

	Proposed Ordinance	Current Ordinance	Comments
<p>☒ ☒ ☒ ☒</p>	<p>5. Each lot or parcel shall front on a public road or upon a private driveway or road which is in a permanent easement of right-of-way a minimum of twenty (20) feet in width. (Where the parcel to be subdivided fronts on an existing right-of-way less than twenty (20) feet in width, a twenty (20) foot right-of-way shall only be required on the parcel to be subdivided.) Prior to the use of any such lot or parcel for residential purposes, the required right-of-way shall include an improved driveway within it consisting of, at a minimum, an all-weather surface of rock, stone, or gravel, with a minimum depth of three (3) inches and a minimum width of ten (10) feet. The right-of-way shall be maintained by those having a right to use it in a condition passable by emergency vehicles at all times. A notation to this effect shall be placed on the face of the final plat and this provision shall be included in the deeds by which the subdivision is effected. Passable condition refers to not only the surface, but also to horizontal and vertical clearance. An erosion and sediment control plan with appropriate surety is required if the proposed right-of-way and driveway construction disturbs more than two thousand five hundred (2500) square feet.</p>	<p>Under Section 15-3, the current requirement reads:</p> <p>2. Such lots shall have a clearly identifiable right-of-way or road of a width not less than twenty (20) feet wide <u>wherever possible</u> to provide access to a state maintained highway.</p>	<p>Fairly substantial change.</p> <p>The current ordinance has no standards for the roadway serving the lot and requires a 20 foot right of way “where possible” but does not restrict the right-of-way to 20 feet.</p> <p>These requirements will apply when a house is constructed on the parcel.</p>

Changes Related to Family Transfers

	Proposed Ordinance	Current Ordinance	Comments
	<p>6. Drainage and utility easements shall be dedicated to the County when deemed necessary by the agent to accommodate drainage and/or public utility facilities, whether for current or future needs, in accordance with the requirements of the County Code.</p>	<p>The current ordinance does not specifically address drainage and utility easements on family transfer plats. The requirement for submittal of a final plat may include the required easements depending on the specific site.</p>	<p>Not a significant change. Procedural and/or administrative clarification.</p>
	<p>7. Lot corners shall be marked in accordance with this chapter.</p>	<p>Under Section 15-3, the current requirement reads: 4. Lot corners shall be marked in accordance with this ordinance.</p>	<p>No change.</p>

Changes Related to Family Transfers

	Proposed Ordinance	Current Ordinance	Comments
<p> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> </p>	<p>8. Family transfers shall not be permitted in a major subdivision previously approved under the terms of the Gloucester County Subdivision Ordinance when any lot or parcel to be created will be smaller than the average parcel size in the subdivision in which the parent tract is located.</p>	<p>No such requirement in the current ordinance.</p>	<p>Significant Change.</p> <p>This requirement was meant to address family transfers in the smaller lot zoning districts (2 acres in SC-1, 30,000 sf in SF-1), which are permitted in subdivisions that required minimum lot sizes of 5 acres on private roads in the previous Subdivision Ordinance. Many of these “5-acre” subdivisions are zoned SC-1. While a minimum lot size of 5 acres is required for a subdivision on a private road (Section 15-31c) a family transfer lot only has to meet the minimum lot size (2 acres or 30,000 sf).</p> <p>“Average parcel size” was used to address subdivisions that contained larger acreage lots.</p>

Changes Related to Family Transfers

	Proposed Ordinance	Current Ordinance	Comments
<p>☒ ☒ ☒ ☒</p>	<p>9. A final plat shall be submitted to the agent for approval. The final plat shall adhere to the applicable requirements set forth in Section 15-63 of this Chapter. Along with the plat an affidavit, under oath, shall be submitted, in the form prescribed by the agent, describing the purposes of the subdivision and identifying the member of the immediate family receiving the lot created. Such plat shall be subject to the fee set forth in Section 15-56(a) of this Chapter. Public improvements, if any, shall be guaranteed as required by the Gloucester County Code. The proposed deed of conveyance shall be submitted and, once approved for compliance with this Section, recorded along with the approved plat. Both the deed and the plat shall contain the following statement set forth so as to readily seen in a minimum of 12 point type:</p> <p style="padding-left: 40px;">THIS LOT IS CREATED AS A FAMILY TRANSFER PURSUANT TO THE PROVISIONS OF THE GLOUCESTER COUNTY SUBDIVISION ORDINANCE. THE USE AND TRANSFER OF THE PROPERTY ARE RESTRICTED BY THE TERMS OF THAT ORDINANCE.</p>	<p>Under Section 15-3, the current requirement reads:</p> <p>5. A final plat shall be submitted to the agent, along with the appropriate fee as established by this ordinance, and a sworn affidavit describing the purpose of the division and identifying the receiving family members.</p>	<p>No significant change other than a note on the plat.</p> <p>Currently the staff stamps plat approved under the Family Transfer provision with a stamp indicating the grantor and grantee. Staff does not currently record plats or deeds but plans to develop a procedure to record all plats approved by the Subdivision Agent.</p> <p>The proposed ordinance provides more detail as to what's required. The note on the plat will clearly identify the subdivision as a family transfer. Staff will have to make sure the deed is transferring the property to the legitimate grantee and record the deed with the plat.</p>

Changes Related to Family Transfers

	Proposed Ordinance	Current Ordinance	Comments
	<p>d. The agent shall reject any proposed family transfer if, after investigation of the facts and circumstances involved in the proposed transfer, the agent believes that the proposed transfer is for the purpose of circumventing the requirements of this chapter and is not in accordance with the purpose and intent of this section. The burden of proving compliance with the purpose, intent, and conditions of this section shall be on the property owner. Nothing in this section shall be deemed to exempt family transfers from the requirements of other provisions of the Gloucester County Code which are applicable.</p>	<p>Under Section 15-3, the current requirement reads:</p> <p>8. Such transfer shall not be used for the purposes of circumventing this chapter.</p>	<p>Not a significant change, although this section provides a better statement of the current rule and clearly gives the agent the authority to deny a family transfer if they feel it is circumvention. It places the burden of proof on the applicant to demonstrate that they meet the purpose, intent and conditions of the ordinance (i.e. not in accordance with the stated purpose and intent of the ordinance).</p>
	<p>5. <i>Section 15-4 entitled “Administrative provisions of state code” is deleted.</i></p>	<p>Section 15-4 reads:</p> <p>No person shall subdivide any tract of land that is located within the county, within the purview of Sections 15.2-2240 through 15.2-2278 of the Code of Virginia, 1950, as amended, except in conformity with the provisions of this chapter.</p>	<p>No real change.</p> <p>Replaced by new section 15-2.1 (see page 1).</p> <p>Combines requirements under one section whereas the current ordinance has similar requirements in various sections.</p>

Miscellaneous Changes

	Proposed Ordinance	Current Ordinance	Comments
<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<p>6. Amend Section 15-9 entitled “Violations and Penalties” to read as follows:</p> <p>Sec. 15-9. Violations, Penalties, and Enforcement.</p> <p>a. Any person, firm, or corporation, whether as principal, agent, employee, or otherwise, violating the provisions of this article shall be subject to a fine of not more than five hundred dollars (\$500.00) for each lot or parcel of land so subdivided, transferred, or sold. The description of the lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from the penalties or remedies herein provided.</p> <p>b. <u>No building permit shall be granted for construction on any lot created in violation of the provisions of this chapter.</u></p>	<p>Sec. 15-9. Violations and penalties. Any person, firm, or corporation, whether as principal, agent, employee, or otherwise, violating the provisions of this Ordinance shall be subject to a fine of not more than Five Hundred Dollars (\$500.00) for each lot or parcel of land so subdivided, transferred, or sold. The description of the lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from the penalties or remedies herein provided.</p>	<p>Not a substantial change, but the proposed ordinance adds clear enforcement capabilities by prohibiting the issuance of a building permit for <u>any</u> subdivision if the property has been illegally subdivided.</p>

Miscellaneous Changes

	Proposed Ordinance	Current Ordinance	Comments
<p>⊗ ⊗ ⊗ ⊗</p>	<p>7. Amend 15.14.1 entitled “Subsurface Sewage Disposal” as follows:</p> <p>Sec. 15-14.1. Subsurface sewage disposal. a. If public sewer is not available required, subdivisions with lots served by septic systems may be approved by the agent provided that compliance with the following conditions is documented: 1. Both a primary location and a one hundred percent (100%) reserve location for the drain field will be provided within the boundaries of each lot, neither of which shall be located in whole or in part in the resource protection area; 2. The location and design for each drainfield (both primary and reserve) has been accomplished in accordance with the most current addition of the sewage handling and disposal regulations of the Virginia Department of Health and all applicable provisions of the Gloucester County Code and has been specifically and individually certified by the Health Department. b. Any such subdivision submitted for review shall include the specific locations proposed for both primary and reserve on-site septic system installations with documentation of Health Department certification for each proposed location. Any proposed lots not suitable for the installation of private sewage disposal systems shall either be combined with lots that are suitable or dedicated to common open space or recreation use so that only buildable lots are created.</p>	<p>Sec. 15-14.1. Subsurface sewage disposal. The agent shall require in subdivisions where sanitary sewers are not provided a preliminary opinion from the applicable health official regarding the suitability of the subdivision for installation of subsurface sewage disposal system where such method of sewage disposal is to be utilized in the development of a subdivision. When subsurface sewage disposal systems are installed, they must be subsequently approved by the health department on an individual basis. (10-21-65, § 5-5-14-D; Ord. of 9-6-83)</p> <p>This section would be deleted and replace by the new wording in the left column.</p>	<p>Fairly substantial change.</p> <p>This proposal would require on-site septic and reserve to be located on the lots they serve. Otherwise the requirements for documentation are essentially the same.</p> <p>Several board members asked that the Commission to consider this provision.</p> <p>This requirement would only apply to new lots created by a subdivision.</p>

Miscellaneous Changes

	Proposed Ordinance	Current Ordinance	Comments
<p>☒ ☒ ☒ ☒</p>	<p>c. The requirements of paragraphs “a” and “b” of this section shall not apply when:</p> <p>1. The lot being created, to which the requirements would otherwise be applicable, is more than twenty (20) acres in size, and</p> <p>2. The Owner certifies to the Agent that no development requiring a sewage disposal system will be proposed or implemented until a method of sewage disposal approved by the County and the Virginia Department of Health is provided, and</p> <p>3. The following notation is prominently displayed on the plat in, at a minimum, 12 point lettering:</p> <p style="text-align: center;">NO DEVELOPMENT SHALL OCCUR ON LOT _____ AS SHOWN ON THIS PLAT THAT, BY LAW, REQUIRES A SANITARY SEWAGE DISPOSAL SYSTEM UNTIL SUCH TIME AS A SYSTEM SHALL BE SUBMITTED TO AND APPROVED BY THE COUNTY OF GLOUCESTER AND THE VIRGINIA DEPARTMENT OF HEALTH.</p>	<p>No such provision in the current ordinance.</p>	<p>This language was added after discussion by the Planning Commission about creating lots not for residential development which should not require sewage disposal, such as for timbering, agriculture or other non-residential purposes.</p> <p>Staff has used similar notations on plats which show lots that require a waiver of the reserve drainfields under the Chesapeake Bay Preservation Ordinance.</p>

Changes Related to VDOT Requirements for Rural Addition Funding

	Proposed Ordinance	Current Ordinance	Comments
	<p>8. Amend Section 15-19 entitled “Streets and Drainage Facilities” to read as follows:</p> <p>Sec. 15-19. Streets and drainage facilities.</p> <p>a. Unless specifically provided otherwise in this chapter, any person who subdivides shall provide right of access to and within the subdivision for streets, curb, gutter and drainage facilities of sufficient width to meet the minimum requirements of the Virginia Department of Transportation (VDOT).</p> <p>b.. All rights of access shall be a minimum of fifty (50) feet wide except where the parcel to be subdivided fronts on an existing road in the state highway system with a right-of-way less than fifty (50) feet in width, and in such cases a fifty (50) foot right-of-way shall be required only on the property included in the subdivision. <i>This subparagraph “b” shall not apply when Section 15-31(c) of this chapter is applicable.</i></p>	<p>Sec. 15-19. Streets and drainage facilities.</p> <p>Any person who subdivides shall provide right of access for streets, curb, gutter and drainage facilities of sufficient width to meet the minimum requirements of the state department of highways and transportation for secondary roads as provided by standards of September 1, 1963, and as amended; such right of access is to be filed with a plat of the proposed subdivision. All rights of access shall be a minimum of fifty feet (50') wide.</p>	<p>No significant change – clarifies language.</p>

Changes Related to VDOT Requirements for Rural Addition Funding

	Proposed Ordinance	Current Ordinance	Comments
	<p>9. Amend Section 15-31 entitled “Private Streets” to read as follows:</p> <p>Sec. 15-31. Private streets. (a) Except as permitted in section 15-3.2 and subsection (c) below, every subdivided property shall be served from a publicly dedicated street unless the commission grants an exception. In considering whether to grant an exception, the commission shall consider the nature of the project, the benefit to both the subdivision and to the County as a whole of establishing the streets as private streets, and whether or not a substantial injustice or hardship because of topographical or other conditions exists. If, in the opinion of the commission, a departure may be made that is in accord with the intent of this chapter, the commission may grant an exception.</p>	<p>Sec. 15-31. Private streets. (a) Except as permitted in Section 15-3 and Sub Section (c) below every subdivided property shall be served from a publicly dedicated street, unless the Commission grants an exception. In considering whether to grant an exception, the Commission shall apply the criteria set forth in Section 15-8(a).</p>	<p>No real change, but gives the Planning Commission more flexibility to permit private roads that meet VDOT standards through the exemption process under certain circumstances, not only for a hardship, as in the current ordinance. An example would be to permit private roads for a gated community.</p> <p>The current ordinance requires the Commission to apply the hardship criteria under section 15-8a in order to allow private roads.</p>

Changes Related to VDOT Requirements for Rural Addition Funding

	Proposed Ordinance	Current Ordinance	Comments
<p>☒ ☒ ☒ ☒</p>	<p>Sec. 15-31. Private streets. (b) Where private streets are authorized by exception, they shall be constructed to standards required for acceptance by the Virginia Department of Transportation (VDOT) into the state secondary system and specifically to the standards required by the Subdivision Street Requirements and the Design Guide for Subdivision Streets published Virginia Department of Transportation (VDOT). Deed restrictions or other documents approved by the county attorney shall be established to ensure maintenance of the streets by a developer and/or property owners, which instrument or other documents must also create covenants and conditions imposing a lien on the property or properties involved that would run with the land and be enforceable by the owners or any other of them by action at law or suit in equity.</p>	<p>Sec. 15-31. Private streets. (b) Where private streets are authorized by exception, they shall be constructed to standards acceptable to the Commission. In reviewing private street construction standards, the Commission may utilize the advice of the resident engineer. The Commission shall encourage private roads to be constructed to VDOT standards. Deed restrictions or other documents approved by the County Attorney shall be established to ensure maintenance of the streets by a developer and/or property owners, which instrument or other documents must also create covenants and conditions imposing a lien on the property or properties involved that would run with the land and be enforceable by the owners or any other of them by action at law or suit in equity. (Ord. of 1-7-86).</p>	<p>This section requires private road to be built to VDOT standards and is essentially the same as the current ordinance, however the proposed revision <u>requires</u> these standards and the current ordinance <u>“encourages”</u> roads to state standards.</p>

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	Proposed Ordinance	Current Ordinance	Comments
<p>☒ ☒ ☒ ☒</p>	<p>(c) Subdivisions served by private roads shall be permitted where the design of the division of land is such that no lot is less than five (5) acres in area and the private road serves no more than two (2) three (3) lots or dwelling units. Such private roads shall consist of a permanent easement of right-of-way a minimum of twenty (20) feet in width from the lots to an existing road in the state highway system. Such right of way shall include within it a driveway consisting of, at a minimum, an all-weather surface of rock, stone, or gravel, with a minimum depth of three (3) inches and a minimum width of ten (10) feet. The right-of-way shall be maintained by those having a right to use the right-of-way in a condition passable by emergency vehicles at all times. A notation to this effect shall be placed on the face of the final plat and this provision shall be included in the deeds by which the subdivision is effected. Passable condition refers to not only the surface, but also to horizontal and vertical clearance. An erosion and sediment control plan with appropriate surety is required if the proposed right-of-way and driveway construction disturbs more than two thousand five hundred (2500) square feet. This exception shall only apply to the subdivision of a parcel of record as of January 1, 2000.</p>	<p>(c) Private roads shall be permitted where the design of the division of land is such that no lot less than five (5) acres in area and the street will provide primary access to no more than three (3) lots or dwelling units. There are no standards for roadway grading and paving for such private streets. This exception shall only apply to the subdivision of a parcel of record as of January 1, 2000.</p>	<p>This revision permits the right of way to be 20 feet where the current ordinance requires 50 feet, and provides minimum standards and maintenance provisions for the proposed private roadway.</p>

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	PROPOSED ORDINANCE	CURRENT ORDINANCE	COMMENTS
	<p>(d) All streets that are not constructed to meet the standards necessary for inclusion in the system of state highways will be privately maintained and will not be eligible for acceptance into the system of state highways unless improved to current Virginia Department of Transportation standards with funds other than those appropriated by the General Assembly and allocated by the Commonwealth Transportation Board. For any street that is not constructed to Virginia Department of Transportation standards, the subdivision plat and all approved deeds of subdivision, or similar instruments, shall contain a statement advertising that the streets in the subdivision do not meet the standards necessary for inclusion in the system of state highways and will not be maintained by the Virginia Department of Transportation or the County and are not eligible for rural addition funds or any other funds appropriated by the General Assembly and allocated by the Commonwealth Transportation Board.</p>		<p>Change required by state statute (2006) to continue to accept Rural Addition funding.</p>

Changes related to VDOT Requirements for Rural Addition Funding

	PROPOSED ORDINANCE	CURRENT ORDINANCE	COMMENTS
<p><input checked="" type="checkbox"/></p> <p><input checked="" type="checkbox"/></p> <p><input checked="" type="checkbox"/></p> <p><input checked="" type="checkbox"/></p>	<p>10. Amend Section 15-63 entitled "Final Plat", to read as follows:</p> <p>14. All subdivision plats, including family transfers, which contain any street or right of access to be privately maintained shall display in addition to all other required notations and certifications the following notation prominently displayed in, at minimum, 12 point lettering:</p> <p style="padding-left: 40px;">THE STREET(S) SHOWN HEREON IS/ARE PRIVATE, MAY NOT MEET STATE STANDARDS, AND WILL NOT BE MAINTAINED OR IMPROVED BY EITHER THE COMMONWEALTH OF VIRGINIA OR THE COUNTY OF GLOUCESTER. MAINTENANCE OF THE STREET(S) AND/OR RIGHTS-OF-WAY SHOWN HEREON IS/ARE THE RESPONSIBILITY OF THE PROPERTY OWNERS OF THE LOTS CREATED BY THIS PLAT.</p> <p>Grantors of any subdivision lot to which the above statement applies must include a substantially similar statement on each subsequent deed of conveyance thereof.</p>	<p>There is no such requirement in the current ordinance.</p>	<p>Not significant change other than a note on the plat.</p> <p>This section requires a note on all plats and within all deeds so that it is clear that the ownership and maintenance of any private right of way is the responsibility of the owners of the affected lots and that these roads will not be taken into the state system. This note is also required by VDOT in order for the County to continue to use rural addition funding</p> <p>The Subdivision Ordinance once had a similar note that was required on plats involving private roads, but this requirement was removed when the Ordinance was updated in Dec. 7, 1999 to require all lots to be served by a public road.</p>

**GLOUCESTER COUNTY BOARD OF SUPERVISORS
PUBLIC NOTICE OF INTENT TO ADOPT**

The Gloucester County Board of Supervisors will hold a Public Hearing in the Colonial Courthouse, Gloucester, Virginia on August 1, 2006 beginning at 7:00 p.m. to consider the following:

AN ORDINANCE TO AMEND AND REENACT CHAPTER 15 OF THE GLOUCESTER COUNTY CODE ENTITLED "SUBDIVISIONS" BY ADDING SECTIONS 15-2.1 -CONFORMANCE WITH REQUIREMENTS OF CHAPTER, 15-3.1 – CLASSIFICATION OF SUBDIVISIONS, AND 15-3.2 – FAMILY TRANSFERS; BY AMENDING SECTIONS 15-3 - DEFINITIONS, 15-9 – VIOLATIONS AND PENALTIES, 15-14.1 – SUBSURFACE SEWAGE DISPOSAL, 15-19 – STREETS AND DRAINAGE FACILITIES, 15-31 – PRIVATE STREETS, AND 15-63 – FINAL PLAT.

(These changes address family subdivisions, private streets, private sewage disposal systems and add certain related administrative provisions.)

The proposed changes will make a number of administrative and substantive changes to the Gloucester County Subdivision Ordinance. The following subdivision classifications will be established or continued: public service lots and rights-of-way, minor subdivisions, major subdivisions, townhouse/condominium subdivision, planned development subdivision, boundary line adjustment, court partitions and family transfers. Changes to the family transfer provisions are proposed. The amendments require that property subject to a family transfer be owned by the grantor for a minimum of three (3) years, or alternatively that the owner establish a permanent place of residence on the property, prior to executing a family transfer. The modifications also require that parcels created through family transfer, including the parent tract, must be held for a period of seven (7) years after the transfer; however, a sale out of the family would be permitted under specific circumstances outlined in the ordinance including an exception from the Board of Supervisors upon a determination of injustice or hardship. The proposed amendments would prohibit a family transfer in a previously approved subdivision of four (4) lots or more when the lot or parcel to be created will be smaller than the average parcel size in the existing subdivision. Other changes regulate access requirements and platting requirements for family transfers.

New subdivision lots (other than family transfers) would, at a minimum, be required to have a subsurface sewage disposal system and reserve drain field area within the boundaries of the lot or parcel that the system serves. Other amendments clarify the requirements for access on a public street when a subdivision is created and modify the criteria under which the Planning Commission may allow an exception to the requirement for subdivided property to be served by a public street. Private streets authorized by Planning Commission exception must be built to state standards.

The preceding summary is not intended to be a complete explanation of the changes. A complete copy of the proposed ordinance is available and may be reviewed at the Gloucester County Administrator's office at 6467 Main Street, Gloucester, Virginia and at both branches of the Gloucester County Library - Main Branch: 6920 Main Street, Gloucester, Virginia - Gloucester Point Branch: 1720 George Washington Memorial Hwy, Gloucester Point, Virginia.

All interested parties are invited to attend the hearing to express their views. Persons requiring assistance to attend the hearing should contact the Gloucester County Administrator's office at (804) 693-4042.

William H. Whitley
County Administrator