

**AN ORDINANCE AMENDING THE SUBDIVISION ORDINANCE, CHAPTER 70 OF THE CHESAPEAKE CITY CODE, ARTICLE I, SECTION 70-1, AND THE ZONING ORDINANCE, APPENDIX A OF THE CHESAPEAKE CITY CODE, ARTICLE 3, SECTION 3-403, ARTICLE 4, SECTION 4-204, ARTICLE 5, SECTIONS 5-202 AND 5-800, ARTICLE 6, SECTIONS 6-301 AND 6-302, AND ARTICLE 10, SECTION 10-502, TO MODIFY DEFINITIONS RELATED TO AGRICULTURAL DIVISIONS; AMEND THE DEFINITION OF MINOR SUBDIVISIONS; REVISE THE RESIDENTIAL DENSITY STANDARD IN THE RURAL OVERLAY DISTRICT, WHICH SHALL INCLUDE CORRELATING UPDATES TO THE MINIMUM ACREAGE FOR RESIDENTIAL ESTATE PARCELS IN THE RURAL OVERLAY DISTRICT; AND INCREASE THE MINIMUM LOT SIZE FOR AGRICULTURE PROPERTY FROM THREE (3) TO FIVE (5) ACRES.**

**BE IT ORDAINED** by the Council of the City of Chesapeake, Virginia that Chapter 70 of the Chesapeake City Code, entitled “Subdivisions,” Article I, entitled “In General,” Section 70-1, and the Zoning Ordinance, Appendix A of the Chesapeake City Code, Article 3, entitled “Interpretation and Definitions,” Section 3-403, Article 4, entitled “Establishment of Districts,” Section 4-204, Article 5, entitled “Urban, Suburban, and Rural Overlay Districts,” Sections 5-202 and 5-800, Article 6, entitled “Residential Districts,” Sections 6-301 and 6-302, and Article 10, entitled “Conservation and Agricultural Districts,” Section 10-502 thereof, be amended as follows:

**CHAPTER 70. – SUBDIVISIONS**

**ARTICLE I. – IN GENERAL**

**Section 70-1. Definitions.**

*Agricultural lands* means agriculturally zoned lands that are devoted to the bona fide production of crops, animals, or fowl, including the production of fruits and vegetables of all kinds; meat, dairy, and poultry products; nuts, tobacco, nursery, and floral products; and qualified silvicultural activities.

Bona fide agricultural use means uses that are conducted as a primary use on agricultural lands, including but not limited to, crop production, pasture, dairy and feedlot operations, or other activities lawfully conducted on agricultural lands, as that term is defined by this ordinance.

*Subdivision* means the division of any lot, parcel or tract of land into two or more lots, parcels, tracts or other divisions of property, for the immediate or future transfer of ownership or development, including without limitation, all changes in existing streets or lot lines, all divisions which result in the creation of a new lot, all divisions which are necessary to facilitate the development of a property for any purpose, and all divisions of land which include a new street or the extension of an existing street.

The following divisions of land shall be exempt from the public improvement requirements set out in articles II through V of this chapter; provided that no such property, other than vacation of lot lines, shall be deemed lawfully subdivided unless a plat, as described in subsection 70-22 and approved by the director of planning, or other designated official, has been properly recorded in the clerk's office for the circuit court of the city as required by the Code of Virginia.

- (1) *Agricultural division.* The division of property located wholly on agricultural lands, as that term is defined by this ordinance, devoted to ~~within an agricultural zoning district for~~ bona fide agricultural use and not for development purposes, ~~provided that:~~

~~e. — No portion of the original tract of land is further subdivided for a period of one year from date of recordation of the plat depicting the agricultural division of land, unless such property has been appropriately rezoned for development.~~

## APPENDIX A. – ZONING ORDINANCE

### ARTICLE 3. – INTERPRETATION AND DEFINITIONS

#### Section 3-403. Definitions.

*Subdivision.* As defined in Section 70-1 of the Chesapeake City Code. The use of the term "minor subdivision" in this ordinance shall mean any subdivision of property into not more than five (5) lots, parcels or tracts of land, including the residual parcel, provided that (a) no new public street or public street extension is required, and existing public streets have been improved and accepted for maintenance by the City, (b) no public facilities need be installed, altered, improved or extended to serve the lots within the subdivision, (c) frontage along a city right-of-way that is part of a cluster development shall not count toward the minimum frontage required by this ordinance, and (ed) none of the five (5) or fewer lots, including the residual parcel, is ~~capable of being~~ further subdivided in accordance with minimum lot development criteria set ~~forth out~~ in this ordinance and other applicable city regulations, including without limitation, proffered lot restrictions, minimum street frontage, minimum lot width requirements and minimum lot area requirements, as determined on the basis of the then current zoning of the property. The use of the terms "major subdivision," "major residential subdivision," "residential major subdivision," or "major residential development" in this ordinance shall mean a subdivision other than one meeting the criteria for "minor subdivision" set out above.

### ARTICLE 4. – ESTABLISHMENT OF DISTRICTS

#### Section 4-204. RE-1 residential estate district.

This district is created to provide for developments of low density with a minimum lot size of three (3) acres in the suburban overlay district and five (5) acres in the rural overlay district. The RE-1 district is characterized by large lots interspersed with agricultural lands.

**ARTICLE 5. – URBAN, SUBURBAN, AND RURAL OVERLAY DISTRICTS**

**Section 5-202. Residential density standards for rural overlay district.**

The density of any residential development or site or portion of a development or site located within the rural overlay district shall not exceed one (1) dwelling unit for every ~~three~~ five (5) acres of land. The overall density of any residential development in the rural overlay district shall not exceed this density standard, regardless of the size of the lots within the development.

**Section 5-800. Table of maximum permitted residential densities in the overlay districts.**

Overlay District	Maximum Permitted Residential Density*
Rural	One (1) dwelling unit per <del>three (3)</del> <u>five (5)</u> acres of land.
Suburban	Single-Family Detached and Two-Family Attached: Four (4) dwelling units <u>per</u> acre of land, with the exception of townhouse and multifamily development set out below.
	Townhouse Development: Ten (10) dwelling units per acre of land.
	Multifamily Development:
	(1) R-MF-1 properties. Sixteen (16) dwelling units per acre of land.
Urban	Single-Family Detached and Two-Family Attached: Seven (7) dwelling units per acre of land, with the exception of townhouse and multifamily development set out below.
	Townhouse Development: Ten (10) dwelling units per acre of land.
	Multifamily Development:
	(1) R-MF-1 properties. Sixteen (16) dwelling units per acre of land.

	(2) R-MF-2 properties. Thirty (30) dwelling units per acre of land.
	(3) Urban Planned Unit Development. Thirty (30) dwelling units per acre of land. The maximum density may be increased to forty-five (45) units per acre by approval of a conditional use permit in accordance with § 11-1303.
	(4) MXD-U mixed use urban district properties. Thirty (30) dwelling units per acre of land.

\* See section 5-600 regarding the properties excluded from applicable acreage in density calculation.

**ARTICLE 6. – RESIDENTIAL DISTRICTS**

**Section 6-301. Description.**

This district is created to provide for developments of low density with a minimum lot size of three (3) acres in the suburban overlay district and five (5) acres in the rural overlay district. This district is characterized by large lots interspersed with agricultural lands.

**Section 6-302. Development standards.**

A. *General site standards.* (The Chesapeake Health Department may require larger lots, widths, and setbacks where deemed necessary for adequate sewage disposal.)

1. *Minimum lot size, three (3) acres in the suburban overlay district and five (5) acres in the rural overlay district.*

C. *Resubdivision Allowance for Existing RE-1 Lots. Any RE-1 zoned lot located within the Rural Overlay District that is less than five (5) acres of lot area and was lawfully existing as of September 16, 2022 may be resubdivided in accordance with Section 15-109 of this ordinance. In addition, and notwithstanding the standards set forth in Section 15-109, the Planning Director may also approve a proposed resubdivision subject to this section if it is determined that the resubdivision does not increase or intensify the*

existing nonconformity. Any resubdivision or change in boundary lines must also comply with all applicable procedures required by state law and the Subdivision Ordinance.

- € D. *Other development standards.* Other development standards pertaining to all residential districts are set out in section 6-2000 et seq.

## **ARTICLE 10. – CONSERVATION AND AGRICULTURAL DISTRICTS**

### **Section 10-502. Development standards for residential use.**

#### **B. Exemptions.**

1. Approved cluster developments shall be subject to section 6-2200 et seq. of this ordinance.
2. The ~~three (3)~~ five (5) acre minimum lot size for A-1 lots may be reduced to one (1) acre or more in the case of property immediately surrounding a residential structure that was in existence and occupied prior to July 20, 1995; provided that, where septic tanks are used, the Chesapeake Health Department certifies that adequate sewage disposal can be assured. Any such lot shall comply with the minimum lot widths, setbacks and maximum lot coverage standards for nonresidential development of A-1 lots as set out in subsection 10-503(A) below and the provisions in sections 6-2000 through 6-2003 of this ordinance.
3. Minor Subdivision Allowance for Existing A-1 lots. Any A-1 lot located within the Rural Overlay District that is greater than, or equal to, six (6) acres of lot area that was lawfully existing as of September 16, 2022, shall be permitted one (1) minor subdivision of no more than five (5) lots with a maximum residential development or site density of one (1) dwelling unit per three (3) acres of land

and with each newly created lot containing no less than three (3) acres in lot area; provided that all other applicable legal requirements are met.

4. Resubdivision Allowance for Existing A-1 Lots. Any A-1 zoned lot located within the Rural Overlay District that is less than five (5) acres of lot area and was lawfully existing as of September 16, 2022 may be resubdivided in accordance with Section 15-109 of this ordinance. In addition, and notwithstanding the standards set forth in Section 15-109, the Planning Director may also approve a proposed resubdivision subject to this section if it is determined that the resubdivision does not increase or intensify the existing nonconformity. Any resubdivision or change in boundary lines must also comply with all applicable procedures required by state law and the Subdivision Ordinance.

**ADOPTED** by the Council of the City of Chesapeake, Virginia this \_\_\_\_ day of \_\_\_\_\_, 2022.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Clerk of the Council

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy City Attorney