

DRAFT AMENDMENT

Growth Management & Transfer of Division Rights (TDR)

The purpose of these amendments is to help manage residential growth in a way that supports the County's Comprehensive Plan. The changes are intended to encourage more development in designated growth areas, where roads, utilities, schools, and other public services can be provided more efficiently, while helping protect the rural character, farms, forests, open spaces, and natural resources in other parts of the County. The amendments also establish clearer standards for lot size, road frontage, setbacks, access, subdivisions, and family divisions, and encourage planned unit developments to include a mix of housing, businesses, open space, infrastructure improvements, and other community benefits. *These amendments are also intended to adopt regulations for implementing a Transfer of Development Rights (TDR) program that will further support the growth management amendments by providing incentives for developing within the designated growth areas.*

ARTICLE I. - GENERAL PROVISIONS

DIVISION 2. – DEFINITIONS

Sec. 86-13. - Definitions.

Development right. As used throughout this chapter, development rights (also referred to as division rights) as they apply to the agricultural zoning districts, shall mean the following:

- 1. Agricultural (A-1 and A-1 GAOD) -** A maximum of two (2) lots/parcels and one (1) residue parcel, shall be permitted on parent parcels in existence as of December 18, 1997; subject to all zoning and subdivision regulations contained within this chapter.
- 2. Agricultural (A-2 and A-2 GAOD) -** A maximum of seven (7) lots/parcels, shall be permitted on parent parcels in existence as of December 18, 1997; subject to all zoning and subdivision regulations contained within this chapter.

~~*Division, parcel.* To divide a parent parcel into no more than two additional parts for the purpose of transfer of ownership or building development. Lots shall be divided from parent tracts, or the residue parcel that remains after a prior one lot division, so long as such residue parcel has five or more acres or a minimum of 300 feet of existing state road frontage. For clarity, it is the specific intent of this provision to allow a maximum of three total lots, including the residual parcel, to be created from any parent parcel by division, if any. Divisions are not subject to the provisions set forth in the subdivision ordinance except for subsection 86-567(11), private lanes.~~

~~However, similar to the requirements of [section 86-587](#), a lot created by division shall be required to include provisions for the dedication of right-of-way when the property is adjacent to a state road that is less than 50 feet in width; provided that, this requirement does not apply to a residual portion of the parent tract that is five or more acres or has a minimum of 300 feet of existing state road frontage.~~

Division, parcel. To divide a parent parcel into no more than two (2) additional parts for the purpose of transfer of ownership or building development. Divisions are not subject to the provisions set forth in the subdivision ordinance, except for applicable access and frontage requirements. Lots created by division shall front on a public street and shall not rely on private lanes for access.

Dwelling/residence, multi-family. A structure containing three or more dwelling units. Included in the use type would be **single family attached units, townhouses, villas, garden apartments, low rise apartments, apartments for elderly housing, condominiums, and other similar housing types.**

~~***Dwelling/residence, single-family attached.*** Two or more single-family horizontal dwellings sharing one or more common structural walls, each on its own individual lot. Attached dwellings are not vertically stacked. Included in the use type are townhouses, villas and other similar dwelling types.~~

Family subdivision. Pursuant to Code of Virginia, §§ 15.2-2244(C), **15.2-2244.1** and 15.2-2244.2, means splitting any tract, parcel or lot of land, within the agricultural (A-1), agricultural (A-2), residential limited (R-1), or residential general (R-2) zoning districts, into two or more parts for the purpose of sale or gift to a member of the immediate family of the property owner or the beneficiary of a trust that owns the property, subject to the requirements of [section 86-531](#) of this Code. See "immediate family" definition.

Private lane. An access way for residential use serving less than three lots which is within a 50-foot deeded right-of-way or easement and built to the design standards in subsection 86-567(11). Private lanes are restricted as to the hours of access by the public or by those who may use it and are maintained by the property owner's association or by the lot or parcel owners who are afforded access to their lots or parcels by such private lanes. **Private lanes shall not be permitted to serve any new lot created by subdivision, division, or other land division, except as otherwise expressly allowed by this chapter.**

~~***Subdivision.*** Splitting any tract, parcel or lot of land into two or more parts, other than a division of a parent parcel or a family subdivision, for the purpose of transfer of ownership or building development. Consistent with this definition, any new road constructed to serve more than two lots shall be constructed to VDOT standards for subdivision roads. The residue tract after subdividing is not counted as a lot for the purposes of this definition. Subdivided parcels may~~

~~not be further subdivided or divided unless the remaining division rights are noted on a recorded plat or in conformance with existing ordinances.~~

Subdivision. The division of a parcel of land into three (3) or more lots or parcels, whether by deed, plat, lease, or other means, for the purpose of sale, transfer, or development. Except as expressly provided herein, all divisions of land shall be treated as subdivisions and shall be subject to the subdivision requirements of this chapter.

The following divisions shall not be considered subdivisions, provided that all applicable criteria are met:

1. Family subdivisions, as defined and regulated by this chapter; and
2. Estate divisions made in connection with the settlement of an estate or court order.

Any land division that does not fully qualify for one of the above exceptions shall be deemed a subdivision

ARTICLE II. - ZONING ORDINANCE AND MAPS

DIVISION 3. - ZONING DISTRICT USE MATRIX

Sec. 86-109. - Matrix table.

Proposed Amendments to <u>Section 86-109 Use Matrix</u> to amend and identify the districts in which <i>multi-family dwelling</i> may be allowed as a permitted use or with a conditional use permit; and to remove <i>single-family dwelling, attached</i> .																			
Defined Use	A-1	A-1 GAOD	A-2	A-2 GAOD	R-1	R-1 GAOD	R-2	R-2 GAOD	C-1	C-1 GAOD	C-2	C-2 GAOD	IND	IND GAOD	I-1	I-1 GAOD	I-2	I-2 GAOD	RD
RESIDENTIAL																			
<i>Multi-family dwelling</i>	X	X	X	X	X	XC	X	C-B	X	X	X	X	X	X	X	X	X	X	X
<i>Single-family dwellings, attached</i>	X	X	X	X	X	C	X	C	X	X	X	X	X	X	X	X	X	X	X
The proposed amendments affect only those uses listed above to be amended; and makes no changes to any other listed uses in Section 86-109																			
B = Allowable by-right																			
B(R) = Allowable by-right (with restrictions)																			
C = Conditional use perm																			
X = Not allowable																			

DIVISION 4. - ADDITIONAL REQUIREMENTS

Sec. 86-115. - Setback regulations for buildings and structures—Generally.

The setback regulations in all zoning districts shall be as follows, except where otherwise provided in individual district regulations.

- Interstate 64: 60 feet from the edge of the right-of-way line.
- U.S. Route 15 and all primary highways: 100 feet from the edge of the right-of-way line (includes Routes 22, 208, 250, 33, 522). All roads shall be deemed to have a right-of-way width of at least 50 feet and setbacks should be measured accordingly from the edge of the right-of-way.
- Reserved.
- Secondary roads: 60 feet from the edge of the right-of-way line. All roads shall be deemed to have a right-of-way width of at least 50 feet and setbacks should be measured accordingly from the edge of the right-of-way.
- Agricultural or residential subdivision streets: 40 feet from the edge of the right-of-way line. All roads shall be deemed to have a right-of-way width of at least 50 feet and setbacks should be measured accordingly from the edge of the right-of-way.
- Commercial or industrial subdivision streets: 40 feet from the edge of the right-of-way line. All roads shall be deemed to have a right-of-way width of at least 50 feet and setbacks should be measured accordingly from the edge of the right-of-way.

(g) Access easements of ten to 50 feet serving family divisions: Ten feet from the edge of the right-of-way line.

(h) Access easements serving common areas, utility lots or other non-subdivision related parcels: Ten feet from the edge of the right-of-way line.

Sec. 86-117. - Setbacks; yard areas.

(c) Setbacks, public utility infrastructure, specifically associated ancillary structures existing or proposed to be built, on property located along public highways in the county shall be exempt from the front yard setback regulations of sections 86-115 and 86-116.

This section is applicable, as follows:

- (1) to ancillary or accessory structures only that are necessary along a public utility line(s)/easement(s) for maintenance, including, but not limited to wastewater pump stations, water booster and pressure reducing pump stations, back-up generators, backflow preventors, well houses;**
- (2) does not apply to primary structures associated with a public utility, including, but not limited to, water towers, water and wastewater treatment plants; and**
- (3) to County owned and operated utilities only.**

DIVISION 5. - GROWTH AREA OVERLAY STANDARDS

Sec. 86-122A. - Purpose, intent and exceptions.

The growth area overlay zoning districts are hereby created to provide additional architectural and site requirements for development and redevelopment ~~in the mixed-use and industrial land-use areas as identified in the 2040 Comprehensive Plan. s' future land-use map adopted September 3, 2019.~~ Exceptions include the majority of the Ferncliff growth area showing industrial uses and the Louisa growth area showing mixed use and industrial uses. However, parcels 67-30-12, 67-16-1, 67-30-B, 67-30-A, 67-30-16, 67-30-15, 67-30-14, 67-30-13, 67-30-11, 67-30-10, 67-30-9, 67-30-8, 67-30-7, 67-30-6, 67-30-5, 67-30-5A, 67-30-4, 67-30-3, 67-30-2 and 67-30-1 shall remain designated in the Ferncliff Growth Area Overlay District. The additional requirements in these areas will ensure the development or redevelopment that occurs meets the expectations of the citizens of Louisa County by:

- (1) Ensuring adequate buffering, screening and landscaping to help reduce the visual impacts of development;
- (2) Promoting architectural standards that will improve the quality and appearance of development and redevelopment; and
- (3) Encouraging well-planned development that employs consistent site design themes and practices and that provides quality development.

DIVISION 6. - ZONING DISTRICTS AND LAND USES

Sec. 86-137. - Minimum lot area.(A-1)

(a) The minimum lot area in the agricultural (A-1) district shall be not less than ~~1.5~~ **15** acres, or larger as required by the health department for the provision of adequate on-site water and septic systems, as defined by this Code, **except for the following:**

- 1. Lots created for public purposes, including but not limited to public rights-of-way or public utilities; or**
- 2. Lots created through bona fide family or estate divisions that comply with all applicable requirements of this chapter, shall be a minimum of 1.5 acres.**

~~(b) For family divisions, as defined in [section 86-13](#) of this Code, the minimum lot area in the agricultural (A-1) district shall be 1.5 acres.~~

Sec. 86-138. - Setback regulations.

The setback regulations in the agricultural (A-1) district shall be as provided in [section 86-115](#), **with the exception of the following:**

(a) **U.S. Route 15 and all primary highways: 250 feet from the edge of the right-of-way line (includes Routes 22, 208, 250, 33, 522). All roads shall be deemed to have a right-of-way width of at least 50 feet and setbacks should be measured accordingly from the edge of the right-of-way.**

(b) **Secondary roads: 250 feet from the edge of the right-of-way line. All roads shall be deemed to have a right-of-way width of at least 50 feet and setbacks should be measured accordingly from the edge of the right-of-way.**

Sec. 86-139. - Frontage; minimum lot width (A-1)

~~Only two lots with a~~ **The minimum road frontage shall be of 200 450 feet of road frontage shall be allowed on existing state roads or federal highways per parent parcel. Otherwise, the minimum lot frontage on existing state roads or federal highways shall be 300 feet.**

The minimum lot width in the agricultural (A-1) district shall be ~~200~~ **300** feet at the building setback line. In no case shall the lot width be less than ~~20~~ **30** percent of the depth of the lot at its widest point.

Sec. 86-144. - Subdivisions.

(b) Parcels may be eligible for the Transfer of Development Rights program, as defined in Article _____.

Sec. 86-155. - Minimum lot area.(A-2)

(a) The minimum lot area in the agricultural (A-2) district shall be not less than ~~1.5~~ **15** acres, or larger as required by the health department for the provision of adequate onsite water and septic systems, as defined by this Code, **except for the following:**

- 1. Lots created for public purposes, including but not limited to public rights-of-way or public utilities; or**
- 2. Lots created through bona fide family or estate divisions that comply with all applicable requirements of this chapter, shall be a minimum of 1.5 acres.**

~~(b) — For family divisions, as defined in [section 86-13](#) of this Code, the minimum lot area in the agricultural (A-2) district shall be 1.5 acres.~~

Sec. 86-156. - Setback regulations.

The setback regulations in the agricultural (A-2) district shall be-as provided in [section 86-115](#), **with the exception of the following:**

(a) **U.S. Route 15 and all primary highways: 250 feet from the edge of the right-of- way line (includes Routes 22, 208, 250, 33, 522). All roads shall be deemed to have a right-of-way width of at least 50 feet and setbacks should be measured accordingly from the edge of the right-of-way.**

(b) **Secondary roads: 250 feet from the edge of the right-of-way line. All roads shall be deemed to have a right-of-way width of at least 50 feet and setbacks should be measured accordingly from the edge of the right-of-way.**

Sec. 86-157. - Frontage; minimum lot width. (A-2)

~~Only two lots with A~~ **A** minimum of ~~200~~ **450** feet of road frontage shall be allowed on existing state roads or federal highways per parent parcel. Otherwise, the minimum lot frontage on existing state roads or federal highways shall be ~~300~~ **550** feet. The minimum lot width and road frontage on public or private internal roads, ~~or streets or lanes~~ shall be ~~150~~ **250** feet except for culs-de-sac where the minimum lot frontage shall be ~~25~~ **50** feet. For new subdivisions, the minimum lot width and road frontage shall be 300 feet along the newly created internal subdivision street on corner lots adjacent to the existing state road.

In no case shall the lot width be less than ~~20~~ **30** percent of the depth of the lot at its widest point.

Sec. 86-161. - Subdivisions. (A-2)

To preserve and maintain agricultural and forestry activities; protect ground and surface water supplies; and conserve natural, historic and scenic resources, subdivisions in the agricultural (A-2) district shall comply with the regulations herein.

(1) *Restrictions on road extension.* No road may be extended to a second parent parcel with the primary purpose of providing access for a subdivision; with the exception that a road may be extended when the total number of proposed lots for all parent parcels does not exceed seven plus any density bonuses that may apply as provided for herein.

(2) *Lot density.* Lot density shall be limited, except where specifically stated otherwise herein, to a maximum of seven lots per parent parcel.

a. ~~*Density bonuses.* The zoning administrator may allow up to three additional lots for a subdivision, for a total of up to ten lots, in the following circumstances:~~

1. ~~*Affordable housing.* A density bonus of three additional lots for a subdivision when at least three lots are dedicated for affordable housing.~~

(3) Parcels may be eligible for the Transfer of Development Rights program, as defined in Article _____.

Sec. 86-172. - Minimum lot area. (R-1)

In the residential limited district (R-1), the minimum lot areas for residences shall be 1.5 acres. Public health approval is required for individual water or sewerage disposal, **except for the following:**

1. **Lots created for public purposes, including but not limited to public rights-of-way or public utilities; or**
2. **Lots created through bona fide family or estate divisions that comply with all applicable requirements of this chapter, shall be a minimum of 1.5 acres.**

Sec. 86-196. - Minimum lot area. (R-2)

(a) For residential lots containing or intended to contain a single-family dwelling or two-family dwelling served by individual water and sewage disposal systems, the minimum lot area shall be 1.5 acres for each dwelling unit. Health department approval shall be required for proposed lots, **except for the following:**

1. **Lots created for public purposes, including but not limited to public rights-of-way or public utilities; or**
2. **Lots created through bona fide family or estate divisions that comply with all applicable requirements of this chapter, shall be a minimum of 1.5 acres.**

(b) For permitted uses utilizing individual sewage disposal systems, the required area for any such use shall be approved by the health official. The administrator may require a greater area if considered necessary by the health official.

(c) Any property rezoned, including adjoining R-2 property shown in the rezoning application as intended to be developed with the rezoned property, to R-2 between February 2019 and February 2021 shall be able to subdivide and develop the property with a minimum lot area of 40,000 square feet.

Sec. 86-310. - Character of development. (PUD)

The goal of a planned unit development district is to encourage a development form and character that is different from conventional suburban development by providing the following characteristics:

- (1) Pedestrian orientation;
- (2) Neighborhood friendly streets and paths;
- (3) Interconnected streets and transportation networks;
- (4) Parks and open space as amenities;
- (5) Neighborhood centers;
- (6) Buildings and spaces of appropriate scale;
- (7) Relegated parking;
- (8) Mixture of **non-residential** uses and use types;
- (9) Mixture of housing types and affordability;
- (10) Environmentally sensitive design; and
- (11) Clear boundaries with any surrounding rural areas.

An application is not necessarily required to possess every characteristic of the planned unit development district as delineated above to receive approval. The size of the proposed district, its integration with surrounding districts, or other similar factors may prevent the application from possessing every characteristic. **It is expected that each Planned Unit Development master plan will contain a mixture of non-residential uses available to the public, in addition to a mixture of housing types.**

Sec. 86-313. - Mixture of uses.

A variety of housing types and non-residential uses are ~~strongly encouraged~~ **required as part of the Planned Unit Development**. The mixture of uses shall be based upon the uses recommended in the comprehensive plan. This mixture may be obtained with different uses in different buildings or a mixture of uses within the same building.

Sec. 86-316. - Densities. (PUD)

The gross and net residential densities shall be shown on the approved final master plan by area and for the development as a whole in dwelling units per acre and shall be binding upon its approval. The overall gross density so approved shall be determined by the board of supervisors with reference to the comprehensive plan, but shall not exceed ~~ten~~ **four (4)** dwelling units per acre, unless the density is increased with the provisions of [section 86-315](#)(2).

Non-residential density should be expressed in terms of total square footage by area and for the development as a whole. There is no maximum square footage for non-residential uses but the proposed uses should be in proportion to the overall intent and functionality of the planned district concept.

Section 86-322 Reserved Density requirements. (PUD)

1. The base residential density shall be four (4) dwelling units per acre.
2. Additional density above the base density may be earned through community benefits established by ordinance, including:
 - a. Workforce or affordable housing
 - b. Infrastructure improvements
 - c. Open space preservation
 - d. Other public benefits identified by the County
3. Additional density may be permitted if the parcel is part of a Transfer of Development Rights program. Refer to Article _____ Transfer of Development Rights regulations.

Section 86-323 Reserved Commercial development requirements. (PUD)

All Planned Unit Developments (PUDs) shall include commercial development as part of the overall project design.

1. A minimum commercial floor area requirement of 1,500 square feet shall be required for the first 10 dwelling units.
2. An additional 150 square feet of commercial floor area for each additional dwelling unit.
3. Commercial uses should be designed to provide:
 - a. Neighborhood-serving retail
 - b. Restaurants and personal services
 - c. Professional and medical offices
 - d. Employment opportunities
 - e. Other community-serving commercial uses

Section 86-323 Reserved Commercial phasing requirements. (PUD)

1. Site plans for all required commercial buildings must be submitted and approved prior to issuance of the first residential Certificate of Occupancy.
2. Residential occupancy shall be limited until commercial development is delivered, unless otherwise established in an executed performance agreement with the County:
 - a. No more than 50 % of approved residential Certificates of Occupancy may be issued until the required commercial building(s) have received a Certificate of Occupancy.
 - b. Additional residential Certificates of Occupancy may be withheld if commercial development milestones established through rezoning conditions, proffers, development agreements, or approved master plans are not achieved.

Sec. 86-340. - Minimum lot area. (A-1 GAOD)

- (c) **Minimum lot area requirements may be reduced if the parcel is part of a Transfer of Development Rights program. Refer to Article _____ Transfer of Development Rights regulations.**

Sec. 86-341 - Setback regulations.

The setback regulations in the agricultural (A-1) district within the growth area overlay district shall be as provided in [section 86-115](#) 116.

Sec. 86-346. - Subdivisions.(A-1 GAOD)

- (a) Lot density. The subdivision of property within the A-1 district within the growth area overlay district is restricted. The number of lots that may be split per parent parcel within the A-1 district shall be limited to only those created by family subdivision and/or division.
- (b) All divisions and/or family subdivisions are subject to the applicable provisions of the agricultural (A-1) zoning district within the growth area overlay district and article III subdivision of this code.
- (c) **A subdivision, as defined, may be permitted if the parcel is part of a Transfer of Development Rights program. Refer to Article _____ Transfer of Development Rights regulations.**
- (d) **Additional density may be permitted if the parcel is part of a Transfer of Development Rights program. Refer to Article _____ Transfer of Development Rights regulations.**

Sec. 86-366. - Subdivisions. (A-2 GAOD)

To preserve and maintain agricultural and forestry activities; protect ground and surface water supplies; and conserve natural, historic and scenic resources, subdivisions in the agricultural (A-2) district shall comply with the regulations herein.

(1) Restrictions on road extension. No road may be extended to a second parent parcel with the primary purpose of providing access for a subdivision; with the exception that a road may be extended when the total number of proposed lots for all parent parcels does not exceed seven plus any density bonuses that may apply as provided for herein.

(2) Lot density. Lot density shall be limited, except where specifically stated otherwise herein, to a maximum of seven lots per parent parcel.

(3) **Additional density may be permitted if the parcel is part of a Transfer of Development Rights program. Refer to Article _____ Transfer of Development Rights regulations.**

a. ~~Density bonuses. The zoning administrator may allow up to three additional lots for a subdivision, for a total of up to ten lots, in the following circumstances:~~

1. ~~Affordable housing. A density bonus of three additional lots for a subdivision when at least three lots are dedicated for affordable housing.~~

(3)(4) All divisions, subdivisions, and/or family subdivisions are subject to the applicable provisions of the agricultural (A-2) zoning district and article III subdivision of this Code.

Sec. 86-378. - Permitted uses with a conditional use permit. (R-1 GAOD)

RESIDENTIAL

Multi-family dwelling

~~Single-family dwelling, attached~~

Sec. 86-379. - Minimum lot area.

In the residential limited district (R-1) within the growth area overlay district, the minimum lot areas for residences shall be ~~40,000 square feet~~ **2.5 acres**. Public health approval is required for individual water or sewerage disposal.

Sec. 86-385. - Subdivisions.

All divisions, subdivisions, and/or family subdivisions are subject to the applicable provisions of the residential limited (R-1) zoning district and article III subdivision of this Code.

Additional density may be permitted if the parcel is part of a Transfer of Development Rights program. Refer to Article _____ Transfer of Development Rights regulations.

Sec. 86-392. - Permitted uses—Generally. (R-2 GAOD)

RESIDENTIAL

Multi-family dwelling

Sec. 86-394. - Permitted uses with a conditional use permit. (R-2 GAOD)

RESIDENTIAL

Multi-family dwelling

Single-family dwelling, attached

Sec. 86-395. - Minimum lot area.

In the residential limited district (R-2) within the growth area overlay district, the minimum lot areas for residences shall be 2.5 acres. Public health approval is required for individual water or sewerage disposal.

Additional density may be permitted if the parcel is part of a Transfer of Development Rights program. Refer to Article _____ Transfer of Development Rights regulations.

~~In the residential general district (R-2) within the growth area overlay district, for residential lots containing or intended to contain a single-family dwelling served by public water and sewage disposal systems, the minimum lot area shall be 20,000 square feet.~~

~~(1) — For residential lots containing or intended to contain a single-family dwelling served by either public water or sewage systems, the minimum lot area shall be 30,000 square feet. Health department approval shall be required for proposed lots.~~

~~(2) — For residential lots containing or intended to contain a single-family dwelling or two-family dwelling served by individual water and sewage disposal systems, the minimum lot area shall be 40,000 square feet for each dwelling unit. Health department approval shall be required for proposed lots.~~

~~(3) — For residential lots containing or intended to contain more than a single-family dwelling served by public water and sewage disposal systems, the minimum lot area shall be:~~

~~a. — Two units: 24,000 square feet.~~

~~b. — Three units: 28,000 square feet.~~

~~c. — For each additional unit above three: 10,000 square feet.~~

~~(4) — For residential lots containing or intended to contain more than a single-family dwelling served by public water systems, but having individual sewage disposal systems, the minimum lot area shall be:~~

- a. ~~Two units: 30,000 square feet.~~
 - b. ~~Three units: 40,000 square feet.~~
 - c. ~~For each additional unit above three: 10,000 square feet.~~
- (5) ~~For permitted uses utilizing individual sewage disposal systems, the required area for any such use shall be approved by the health official. The administrator may require a greater area if considered necessary by the health official.~~

Sec. 86-401. - Subdivisions.

All divisions, subdivisions, and/or family subdivisions are subject to the applicable provisions of the residential general (R-2) zoning district and article III subdivision of this Code.

Additional density may be permitted if the parcel is part of a Transfer of Development Rights program. Refer to Article _____ Transfer of Development Rights regulations.

ARTICLE III. - SUBDIVISION

DIVISION 1. - GENERAL PROVISIONS

Sec. 86-531. Same – For family subdivision

(a) A family subdivision shall be permitted only where the parent parcel has been owned by the applicant for a continuous period of five (5) years prior to submission of a family subdivision application. A family subdivision shall meet all provisions of this chapter related to zoning, health requirements; but shall be exempt from other provisions of this chapter, provided it meets the following requirements:

(4) Each such division shall remain in the name of the qualified family member for a minimum of ~~five (5) years~~ ten (10) years from the date of recordation, unless the lot is the subject of an involuntary transfer such as foreclosure, death, divorce, judicial sale, condemnation or bankruptcy. If a parcel has remained under the exact same deeded ownership for a period of ten (10) or more years, the retention period is reduced to five (5) years from the date of recordation.

Sec. 86-567 Streets and alleys.

(11) Private lanes.

~~*Private lanes.* Lots accessed by roads in subdivisions of less than three lots can be accessed by private lanes which do not meet VDOT subdivision street standards and are approved by the agent. Lots in subdivisions of less than three lots must have the minimum frontage requirements on a deeded access way or easement which is owned by the property owners association or developer or by the lot or parcel owners who are afforded access to their lots or parcels by such private lanes of such subdivision. A maximum of two separate private lanes shall be permitted in a subdivision. All plats describing lots served by private lanes shall include language found in subsections [86-587](#)(10) g.1 — 3. Subdivision roads serving less than three lots shall be approved by the zoning administrator and shall meet the following minimum standards:~~

(11) Private lanes.

Private lanes, where permitted, shall be designed, constructed, and maintained in accordance with the standards set forth in this section.

Private lanes shall not be designed and installed as a means of access for any lot after the (effective date of this ordinance).

(chart remains)

AMENDMENT

Creation of Article VI. Transfer of Development Rights

Article VI. Transfer of Development Rights

Sec. 86-xxx. – Purpose and Applicability.

- (A) Pursuant to Virginia Code Article 7.1, Transfer of Development Rights (Va. Code §§ 15.2-2316.1–15.2-2316.2), a transfer of development rights (“TDR”) program is established. The purpose of the TDR program is to provide landowners with a mechanism where owners may transfer development rights from sending areas to receiving areas through a voluntary process intended to permanently conserve agricultural and forestal lands, reduce development pressures on those lands, and shift development to areas of the county designated by the Comprehensive Plan as appropriate for growth. This program is intended to complement and supplement the county’s land use regulations, land preservation efforts, and other resource protection efforts with the goal of maintaining the rural nature of Louisa County and better accommodating growth with less impact on public services and natural resources.
- (B) This article shall apply to the transfer of development rights from land in sending areas to land in receiving areas. Land utilizing transferred development rights may be subdivided or developed in receiving areas at the maximum density specified in this article. All developments utilizing transferred development rights shall conform to the guidelines and goals contained in the Comprehensive Plan.
- (C) For the purpose of this article only, the following words shall be defined as:
- (1) “Director” shall mean the Director of Community Development or their designee.
 - (2) “Transferor” shall mean the owner of sending property who is transferring the development right from their sending property to separate receiving property.
 - (3) “Transferee” shall mean the owner of a receiving property or developer authorized to act on the receiving property owner’s behalf who is requesting the transfer of development rights to their property.

TEXT LEGEND

Bolded Text = To Be Added

Regular Text = To Remain

~~Strikethrough Text~~ = To Be Removed

Red Text – For Information Purposes Only

- (4) “Transfer of Development Rights” means the process by which development rights from a sending property are affixed to one or more receiving properties.
- (5) “Transferable Development Rights” mean a development right that has been certified by the County, received a Letter of Intent to Transfer Development Rights (“Letter of Intent”), and qualifies to be transferred to a receiving property.

Sec. 86-xxx. – Rights to Transfer Development Rights; General Provisions.

- (A) A development right shall only be transferred by means of the recordation of a Transfer of Development Rights Certificate (“TDR Certificate”) and a covenant as outlined in this article to which the county is a party that restricts further development of the sending property and joins all lien holders, who must execute any necessary releases in order for the transfer of development rights to take place.
- (B) Each transferor shall have the right to sever all or a portion of the development rights from a sending property and to sell, trade, or barter all or a portion of those development rights to a transferee’s receiving property consistent with the purposes of this article and the Comprehensive Plan if the conditions contained herein are met.
- (C) Any transfer of development rights under this article only authorizes an increase in maximum density. A transfer shall not alter or waive the development standards of any property in the receiving area, nor shall it allow for uses otherwise not permitted in a receiving area.
- (D) Transfer of development rights shall not be available for land restricted from development by covenants, conservation easements, deed restrictions, or lien holder who refuse to join the transaction.
- (E) No transfer of development rights is effective until the director has authorized a TDR certificate, and both the certificate and the covenant have been recorded in the land records of Louisa County, Virginia by the transferor and proof of recordation submitted to the director and Commissioner Revenue.
- (F) The value of a development right is determined by the transferee and transferor. The County shall provide no guidance or impact in determining the amount.
- (G) The director shall ensure that the number of development rights permitted to be attached to the receiving areas shall be equal to or greater than the development rights permitted to be severed from the sending areas.
- (H) The director shall not require property owners to sever or transfer development rights as a condition of development of any property.

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- (I) The severance of a transferable development right shall occur simultaneously to the purchase, sale, exchange, or other conveyance of that right.
- (J) The director shall regularly assess the infrastructure in the receiving area that identifies the ability of the area to accept increases in density and plan to provide necessary utility services within any designated receiving area. The director may change the receiving areas if the director determines that infrastructure is insufficient to adequately receive the increased density.

Sec. 86-xxx. – Sending and Receiving Properties.

(A) Sending Properties.

- (1) For the purposes of this article, a sending property shall be an entire tax map parcel that complies with all requirements of this article. Sending areas may only be located within Rural Areas as designated in the Comprehensive Plan that are zoned Agricultural (A-1 or A-2) on the County's Official Zoning Map.
- (2) A property shall meet the following requirements to qualify as a sending property:
 - (a) Located in an area of the county designated as rural in the Comprehensive Plan;
 - (b) Located outside of a growth area as designated in the Comprehensive Plan;
 - (c) Designated by the Louisa County Zoning Maps as zoned Agricultural (A-1 or A-2);
and
 - (d) Designated on the Sending Area Map.
- (3) All zoning classifications not meeting the requirements stated above shall not be eligible to send development rights.
- (4) If a sending property has outstanding code violations or unpaid taxes, the owner shall completely resolve all violations, including, but not limited to, any required abatement, restoration, or payments, before the property may receive a TDR certificate from the director.
- (5) Uses on a sending property shall not be impacted because of transferring development rights.

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(B) Receiving Properties.

- (1) For the purposes of this article, a receiving property shall be an entire tax map parcel that complies with all requirements of this article. Receiving areas may only be located within Growth Areas as designated in the Comprehensive Plan.
- (2) For a property to qualify as a receiving property, the property shall meet the following requirements:
 - (a) Located in one of the following zoning districts: Agricultural GAOD (A-1 or A-2), Residential GAOD (R-1 or R-2), or a Planned Unit Development (PUD);
 - (b) Located in an area designated as a Growth Area by the Comprehensive Plan;
 - (c) Located in an area designated on the Receiving Area Map.
- (3) All zoning classifications not meeting the requirements stated above shall not be eligible to receive development rights.
- (4) If a receiving property has outstanding code violations or unpaid taxes, the owner shall completely resolve all violations, including, but not limited to, any required abatement, restoration, or payments, before the property may have any development rights transferred pursuant to this article.
- (5) A receiving property may accept development rights from more than one sending property, however, the total density on the property shall not exceed the maximum capacity specified in this article.
- (6) All development completed on a receiving property shall be accordance with the County Code and the Comprehensive Plan.
- (7) Uses on a receiving property shall not be impacted because of transferring development rights.

Sec. 86-xxx. – Calculation of Development Rights.

- (A) The director shall calculate the number of development rights a sending property is eligible to send by using the TDR Calculator that applies zoning standards as of X XX, 2026, which shall include a minimum lot size of 1.5 acres and required road frontage per new lot of 230 feet for A-1 parcels and 270 feet for A-2 parcels. The director shall evaluate the following criteria when utilizing the TDR Calculator:

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- (1) Zoning District;
 - (2) Total Acreage of the Parcel;
 - (3) Total Usable Road Frontage;
 - (4) Access Type;
 - (5) Prior Divisions Used Since December 18, 1997; and
 - (6) Family Divisions Since December 18, 1997.
- (B) Any fractions of development rights resulting from the TDR Calculator shall not be included in amount of transferrable density.
- (C) A sending property may transfer development rights to more than one receiving property, and one receiving property may accept development rights from more than one sending property.
- (D) The director shall issue a Letter of Intent that outlines the total number of development rights a sending property has available. The Letter of Intent shall be a final determination, not subject to revision. Such determination shall only be valid for the purpose of the Transfer of Development Rights Program. Any changes to the proposed sending property shall void the Letter of Intent, including, but not limited to, change of ownership or any division of the property.
- (E) A transferor may extinguish, sever, sell, and transfer development right to transferee's receiving property for the purpose of adding density beyond that is allowed by-right under the property's zoning classification. The maximum amount of transferable density shall be outlined in the chart below:

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Maximum Amount of Density Allowed to be Transferred to a Receiving Property Through TDRs		
Zoning District	Maximum Density Without TDRs	Maximum Density With TDRs
A-1 Growth Area	3 Development Rights	Up to 6 Development Rights
A-2 Growth Area	7 Development Rights	Up to 14 Development Rights
R-1 Growth Area	1 Development Right Per 2.5 Acres	Well and Septic + 1 Development Right Per 1.5 Acres Public Water and Sewer +1 Development Right Per 40,000 sq. ft.
R-2 Growth Area	1 Development Right Per 2.5 Acres	Well and Septic + 1 Unit Per 1.5 Acres Public Water and Sewer + 1 Development Rights Per 40,000 sq. ft.
Planned Unit of Development (PUD)	4 Development Right Per 1 Acre	Up to 6 Development Rights Per Acre Community Benefits Included + Up to 8 Development Rights Per Acre

- (1) Location of water and sewage shall only be a consideration for R-1 Growth Area and R-2 Growth Area and shall not impact the density in other zoning districts.
- (2) For the purpose of Planned Unit of Development, community benefits shall include, but are not limited to, workforce housing, infrastructure improvements, parks, open space, preservation, and other public improvements established by ordinance.

Sec. 86-xxx. – Transfer of Development Rights Sending Property Development Limitations.

Following the transfer of a development right, a sending property that has retained a portion of its development rights may:

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- (A) subsequently subdivide the parcel if such division is consistent with Agricultural (A-1 or A-2) zoning requirements outlined in the County Code and the sending property has remaining development rights to utilize;
- (B) transfer the remaining development rights to other receiving properties under the provisions of this article; or
- (C) develop the property as is consistent with permitted and conditional uses provided in the county code.

Sec. 86-xxx. – Procedure for Transfer.

(A) Sending Property Certification.

- (1) The director shall determine if a proposed sending property meets the requirements set forth in this article and such decision shall be rendered within a reasonable time after the submission of the application.
- (2) Determinations made by the director are appealable to the Planning Commission by filing a notice of appeal with the director within thirty (30) days of the date of the determination. Following the review and recommendation of the Planning Commission, the Board of Supervisors shall provide final determination within sixty (60) days of Planning Commission recommendation. All decisions by the Board of Supervisors shall be final.
- (3) If a proposed sending property meets the requirements of this article, the director shall issue a Letter of Intent. The Letter of Intent shall be valid until the development rights are:
 - (a) Severed, extinguished, and retired through the transfer process outlined in this article;
 - (b) until applicable zoning ordinances are changed in a manner that would impact the sending property; or
 - (c) a material change in title has occurred on the sending property.
- (4) A transferor shall not begin negotiations with a transferee until the transferor has been issued a Letter of Intent.
- (5) The Letter of Intent shall include the following information:
 - (a) The name of the transferor;

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- (b) A legal description of the sending property on which the calculation of development rights is based;
 - (c) The tax map parcel identification of the sending property;
 - (d) A statement containing the information finalized on the TDR Calculator;
 - (e) A statement of any remaining development rights remaining on the sending property if only a portion of the total development rights are being authorized for transfer from the sending property;
 - (f) The date of issuance;
 - (g) A tracking number assigned by the director; and
 - (h) The signature of the director.
- (6) Upon request for a Letter of Intent, the transferor shall be responsible for submitting a completed application which shall contain all of the following requirements:
- (a) At least one of the following:
 - (1) A certificate of title for the proposed sending property dated no more than thirty days before the date the completed TDR application is submitted prepared by an attorney admitted to practice law in the Commonwealth of Virginia;
 - (2) A title company report dated no more than thirty days before the date the completed TDR application is submitted; or
 - (3) A title company policy dated no more than thirty days before the date the completed TDR application is submitted;
 - (b) A valid recorded plat or survey of the proposed sending property that meets the requirements of the director and is prepared and certified by an engineer or land surveyor licensed in the Commonwealth of Virginia;
 - (c) A signed statement by all owners of the proposed sending property consenting to the requested determination and requesting that the director issue a Letter of Intent;
 - (d) A chain of title that includes all deeds, covenants, easements, and other encumbrances that materially limit or restrict the ability to develop on the proposed sending property;

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- (e) The applicable application fee adopted by the Board of Supervisors; and
 - (f) Any additional information the director deems necessary to determine the number of transferable development rights.
- (7) The director shall maintain permanent records in accordance with this article. The records shall include the following information:
- (a) TDR applications and all supporting documents received;
 - (b) Letters of Intent issued to sending properties that indicate the determined number of transferable development rights or determinations indicating that a property was denied access to the TDR program;
 - (c) Other written correspondence between the director and property owners related to applications and determinations of development rights;
 - (d) TDR Certificates issued;
 - (e) Deed restrictions and covenants known to be recorded;
 - (f) Development rights retired, otherwise extinguished, or transferred to specific receiving properties; and
 - (g) Active public database of all eligible sending properties including, but not limited to, name and contact information for the owners of the sending property, the tax map identification, and the number of eligible transferable development rights.

(B) Instruments of Transfer.

- (1) Upon agreement between transferor and transferee and after issuance of the Letter of Intent, the parties may request the director to issue a TDR Certificate.
- (2) Upon request for a TDR Certificate, the transferor and transferee shall be responsible for submitting a completed application which shall contain all of the following requirements:
 - (a) At least one of the following for both the sending and receiving properties:
 - (1) A certificate of title for the proposed sending property dated no more than thirty days before the date the completed TDR application is submitted prepared by an attorney admitted to practice law in the Commonwealth of Virginia;

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- (2) A title company report dated no more than thirty days before the date the completed TDR application is submitted; or
 - (3) A title company policy dated no more than thirty days before the date the completed TDR application is submitted;
 - (g) A valid recorded plat or survey of both the proposed sending and receiving properties that meets the requirements of the director and is prepared and certified by an engineer or land surveyor licensed in the Commonwealth of Virginia;
 - (b) A signed statement by all owners of the proposed sending property and receiving property consenting to the requested determination and requesting that the director issue a Letter of Intent;
 - (c) A chain of title that includes all deeds, covenants, easements, and other encumbrances that materially limit or restrict the ability to develop on the proposed sending and receiving properties;
 - (d) The applicable application fee adopted by the Board of Supervisors; and
 - (e) Any additional information the director deems necessary.
- (3) The TDR Certificate shall include the following information:
- (a) The name of the transferor and transferee;
 - (b) A legal description of the sending property including tax map identification;
 - (c) A statement indicating the number of development rights being severed, extinguished, and retired as well as the number of development rights remaining on the sending property;
 - (d) A legal description of the receiving property including tax map identification;
 - (e) A statement of the number of development rights on the receiving property prior to the transfer and after the transfer;
 - (f) Copies of title certificates dated no more than thirty (30) days from the date of application of the TDR certificate for both the sending and receiving properties;
 - (g) The signature of the director; and

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(h) Any additional information the director deems necessary.

(4) The parties shall also submit a covenant to the director and county attorney that is reviewed for legal sufficiency and names the county as a party to the agreement. The county attorney shall review and approve the covenant as to form and legal sufficiency. The covenant shall include, but is not limited to, the following information:

(a) The names of the transferor and transferee;

(b) A legal description and plat of the receiving property prepared by a land surveyor licensed in the Commonwealth of Virginia;

(c) A statement indicating the number of development rights remaining on the sending property and stating the sending property may not be subdivided to or developed to a greater density than permitted by the remaining development rights;

(d) A statement indicating the number of development rights on the receiving property after the transfer occurs;

(e) A statement that the transferor grants and assigns to the transferee and the transferee's heirs, assigns, and successors a specific number of development rights from the sending property to a receiving property;

(f) A statement indicating that the transferor agrees to the provisions listed in this article related to the Transfer of Development Rights Sending Property Development Limitations.

(g) A statement indicating that the transferred development rights run with and bind the land in perpetuity and may be enforced by Louisa County;

(h) A statement by which the transferor acknowledges that he has no further use or right of use with respect to development rights being transferred; and

(i) A statement joining all lien holders of such property and necessary signatures;

(j) Any other provisions deemed necessary by the transferor and transferee at the time of the agreement.

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- (5) The Covenant and TDR Certificate shall together serve as the instruments of transfer and shall be recorded by the transferor in the land records in Louisa County, Virginia. Failure to file both documents will result in an improper transfer and shall not be recognized by Louisa County. Upon recordation, the development rights subject to the TDR certificate shall be severed, extinguished, and retired from the sending property, and the transferor shall notify the director and the Commissioner of Revenue of the applicable deed book, page number, instrument number, and plat book where the recorded document may be found in the land records. The transferor shall also provide a copy of the instruments of transfer to the Commissioner of Revenue.

(C) Transfer Process.

Development rights shall be transferred using the following process:

- (1) A transferor shall request a Letter of Intent by submitting a completed application which the director shall issue if the property meets the requirements set forth in this article. The Letter of Intent shall remain valid unless conditions set forth in this article are met.
- (2) Following the issuance of the Letter of Intent, the transferor and transferee may apply for a TDR Certificate from the director. The parties shall submit their covenant to the county for legal review at the time of their application for the TDR certificate. The covenant shall name the county as a party and meet the requirements set forth in this article.
- (3) Upon review and approval of the covenant, the director shall issue a TDR Certificate to the parties that meet the requirements set forth in the article.
- (4) The parties shall record the Instruments of Transfer and provide copies to the Commissioner of Revenue and the director.
- (5) All procedural elements shall meet the requirements set forth in this article. Failure to meet all requirements of this article shall make the parties ineligible to participate in the Transfer of Development Rights Program established under this article.

(D) Development Approval Procedures.

A transferee shall follow all requirements set forth in Chapter 86, Land Development Regulations, when utilizing development rights transferred on the receiving property.

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