

EXEMPT SUBDIVISION GUIDELINES AND DEFINITIONS



The following are exempt from the definition of a subdivision and, as such, are not governed by the regulations for subdivisions of this Ordinance. Exempt subdivisions, however, are subject to applicable zoning district regulations.

5:2.2-1 STATE LAW EXEMPTIONS (under SC Code of Law 6-29-1110)

The following exceptions are included within this definition only for the purpose of requiring that the Planning and Zoning Department be informed and have a record of the subdivisions:

- A. The combination or re-combination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to the standards of this Ordinance and other applicable regulations.
- B. The division of land into parcels of five acres or more where no new street is involved. Plats of these exceptions must be received as information by the Planning and Zoning Department, which shall indicate that fact on the plats.
- C. The combination or recombination of entire lots of record where no new street or change in existing streets is involved.

5:2.2-2 KERSHAW COUNTY EXEMPTIONS

The following exemptions are hereby established by Kershaw County and are included within this definition only for the purpose of requiring that the Planning and Zoning Department be informed and have a record of the subdivisions:

- A. The division of land to create a cemetery lot.
- B. The division of land by will or inheritance under the statute of descent and distribution as long as no new street is involved.
- C. The division of land by gift conveyed by deed as long as no new street is involved. Such exemption shall be limited to the conveyance of land from one (1) member to another member of the same immediate family i.e. (husband, wife, mother, father, children, grandchildren, brothers, sisters). Land so divided may not be further transferred by sale or gift to any party other than a member of the same immediate family for a period of eighteen (18) months from the date the plat is approved for recording and shall be so notated on the plat. The Planning Official may waive the eighteen (18) month waiting period if the property owner can establish legitimate and compelling cause. The eighteen (18) month waiting period shall also be waived in the event of a judicial foreclosure.

DEFINITIONS

Street - Except as provided by these regulations, a street is any publicly or privately maintained thoroughfare (street, road, drive, avenue, circle, way, lane, boulevard, etc.) or space which has been dedicated, deeded, designed, or used for vehicular traffic that provides access to more than three (3) parcels of land. Access within multiple parcel group developments is excluded from this definition. The words street and road shall be used interchangeably in this section.

- A. For family exemptions pertaining to the division of land (parcel) by gift conveyed by deed conveying land from one member to another member of the same immediate family (husband, wife, mother, father, children, grandchildren, brothers, sisters) in which access (the access) will be provided by an unimproved private street/drive, the family exemption will be limited to the division of land hereunder into no more than ten (10) lots from the original parcel.

Driveway - A paved or unpaved area used for ingress or egress of vehicles, and allowing access from a street to a building, lot, structure, or facility that provides access to no more than three (3) parcels of land. Access to multiple parcel group developments is excluded from the three parcel restriction.

Easement - A right-of-way granted, but not dedicated, for limited use of private land for a public or quasi-public purpose and within which the owner of the property shall not erect any permanent structures. Access easements providing vehicular access to no more than three (3) parcels of land or access easements to multiple parcel group developments shall be classified as driveways for the purpose of this the ZLDR. Access easements providing vehicular access to more than three (3) parcels of land shall be classified as streets for the purpose of the ZLDR.

Flag Lot - A lot with dedicated access to a public road provided to the bulk of the lot by means of a narrow corridor.

FLAG LOTS AND ACCESS EASEMENTS

Notwithstanding the exemptions from the definition of a subdivision, no lot may be created without vehicular and pedestrian access. The Planning Official shall approve a flag lot or an access easement in exempt subdivisions only upon a determination that it:

1. Will not be detrimental to public health, safety, or general welfare;
2. Will not adversely affect the reasonable development of adjacent property;
3. Is consistent with the objectives of the ZLDR and will not have the effect of nullifying the intent or purpose of the ZLDR or the Comprehensive plan; and;
4. Will not conflict with applicable requirements of the zoning district regulations.

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5. The area of an access driveway shall not be counted when computing the minimum area of a lot as required by zoning district regulations.
 6. Access driveways shall be not less than thirty (30) feet wide, and shall front for at least thirty (30) feet on a public street or previously recorded private street.
 7. Flag lot access driveways shall be separated from other driveways by the required minimum lot width for the zoning district in which the flag lot is to be created, measured from the front property line unless shared driveways are provided.
 8. Use of access driveways by adjoining lots on either side of the driveway is encouraged as a means of limiting curb cuts, but a flag lot driveway shall not be used to access a second flag lot.

APPROVAL PROCESS (PER SECTION 5:2.2-4)

- A. The Planning Official shall make a determination that the proposed subdivision qualifies for and meets the requirements of an exempt subdivision. Supporting documentation such as deeds, wills, titles, supplemental plats and maps, etc. shall be reviewed and evaluated. The Planning Official shall prepare a plat approval guideline and checklist.
- B. Within ten (10) working days of submission of the plat, the Planning Official shall make a determination that the proposed exempt subdivision conforms to applicable zoning district regulations of this Ordinance and shall approve, approve with changes, or reject the plat. If rejected, changes, additional analysis, or other information necessary to make an approval determination shall be identified and transmitted to the applicant.
- C. Upon determination that all conditions for approval have been met, the Planning Official shall sign and stamp the plat as approved for recording.

REQUIRED PLAT DATA AND INFORMATION

The following data and information is required in order to assist the Planning Official in reviewing and adjudicating the submitted minor subdivision plat in the most timely and efficient manner possible. Cooperation with these guidelines will expedite a determination of approval.

DOCUMENTATION SUPPORTING FAMILY EXEMPTION

If a platted activity requires either of the two conditions listed below in order to be approved, documentation that those conditions have been met must be presented at the time of plat approval. Approved supporting documentation maybe in the form of a deedand/or an affidavit including an affidavit recorded on the plat itself.

- The division of land by will or inheritance under the statute of descent and distribution.
- The conveyance of land from one (1) member to another member of the same immediate family i.e. (husband, wife,mother, father, children, grandchildren, brothers, sisters).

EXEMPTION NOTATION

The following notation shall be included on all exempt subdivision plats submitted for approval for recording:

This parcel is/These parcels are exempt from Kershaw County subdivision regulations under Section 5:2.2 of the ZLDR. Land so divided may not be further transferred by sale or gift to any party other than a member of the same immediate family for a period of eighteen (18) months from the date that the plat is approved for recording unless a waiver per Section 5:2.2-2 C of the ZLDR has been granted.

PLAT SHEETS

Plat sheets should be sized appropriately to convey all required plat information, notations, and certifications with adequate space provided for plat approval and recording stamps such that the plat is not overcrowded and difficult to read. In general,plat sheets sized 11 x 17 or greater are preferred.

PARENT PARCEL

When a new parcel is created from a parent parcel, the Planning Official is required to review the remaining portion of the parent parcel to determine that it complies with the applicable zoning, subdivision, and land development regulations. Therefore, the relation of the divided lot (s) to the parent lot must be clearly shown on the plat. This does not require a re-survey of the entire parent parcel. The entire parent parcel and the proposed division(s) must be shown on the plat when feasible. The previous survey must be referenced on the plat. When the parent parcel is of a size that it is not feasible to show the entire parcel on the plat to be recorded, the surveyor may present a compiled map drawn from previously recorded documents, photographic materials, or tax maps which represent the general configuration of the parcel where partial (the subject divisions) surveying has been performed by the land surveyor preparing the map. A compiled map, if needed, must be prepared by the surveyor. It shall not be the responsibility of the Planning Official to perform research for the data necessary to make a determination about the parent lot.

EXISTING BUILDINGS

Any existing buildings on the parcel to be subdivided(parent parcel) and on the parcel being created shall be located on the plat with setback distances from the new property lines shown to demonstrate compliance with zoning district building setback regulations.

MINIMUM LOT SIZE

The minimum lot size for rural zoning districts is one (1) acre. Effective 5/28/2024 the minimum lot size for all other zoning districts is applicable only for those lots that are on public sewer.

For those lots in all zoning districts other than rural that are on a private well with a septic tank, the minimum lot size shall be one (1) acre.

For those lots in all zoning districts other than rural that are on public water with a septic tank, the minimum lot size shall be three-quarters (.75) of an acre.

Therefore, in order to determine if the platted minimum lot size meets these requirements, one of the following documentation must be presented when submitting a plat for approval for recording on those lots in all zoning districts other than rural that are less than one (1) acre.

Public Water - Monthly water bill or water tap receipt - required for any lot that is less than 1 acre.

OR

Public Sewer - Monthly sewer bill or sewer tap receipt - required for any lot that is less than three-quarters (.75) of an acre.

DRAFT PLAT

Many times, plats submitted for approval to Planning and Zoning do not meet Kershaw County zoning and land development standards. These plats must be returned and revised, adding time and expense for all parties. In the interest of achieving accuracy and efficiency, the surveyor is encouraged to prepare, prior to the final physical survey, a draft plat of the proposed subdivisions for submission to Planning and Zoning for preliminary approval. The staff will be happy to assist with preliminary review and approval.

WATER QUALITY BUFFERS

If the subject parcel contains an intermittent or perennial stream and/or a water body (lake, pond), the survey may require the delineation of a water quality buffer per Section 5:3.6 of the ZLDR. When a subdivision of a property is proposed, the water quality buffer plats must be prepared and approved for the entire parcel prior to approval of the subdivision. The water quality buffer plat shall address the following items:

1. The extent of any stream or shoreline buffer shall be shown on the subject property by metes and bounds.
2. The stream and shoreline buffer shall be labeled.
3. A note shall be provided to reference all buffers stating: "There shall be no clearing, grading, construction, or disturbance of vegetation except as permitted by the Kershaw County Planning Official."
4. A note shall be provided to reference any protective covenants governing all buffer areas stating: "Any buffer shown on the plat is subject of protective covenants which may be found in the land records and which restrict disturbance and use of these areas."
5. If a study supporting an exception to the required buffer width has been approved, a note must be provided stating, "Exception to required buffer width approved _____ (date)."
6. If the buffer area will not be part of an individual lot (such as common open space or conservation easement), then ownership must be stated by identifying who is the responsible party.
7. The location of permanent boundary marker signs shall be provided. The number and location of marker signs shall be determined by the individual parcel conditions. Boundary marker signs shall be required at access points and not required on inaccessible areas of the site.