

# Hanover County

Application and Procedures for

## **FAMILY DIVISIONS: HOMESTEAD AGREEMENT/AFFIDAVIT** A-1, Agricultural District, Homestead Lots less than 10 acres



County of Hanover Department of Planning  
7516 County Complex Road  
P.O. Box 470  
Hanover, VA 23069  
(804) 365-6171 (p) (804) 365-6540 (f)  
[www.hanovercounty.gov](http://www.hanovercounty.gov)

## Summary of the Requirements for Lots Created by the Family Division Process:

Certain divisions of property where lots are created to be conveyed to family do not have to meet the regular requirements for a subdivision. Those property owners interested in conveying property to a family member must submit an application for a Family Division for review by the Planning Department. These divisions must meet the requirements of Chapter 25, Article II, Division 5 of the Subdivision Ordinance as well as Section 26-31 of the Zoning Ordinance. The new lot is referred to as the homestead lot. The following is a list of requirements that must be met in order to be eligible for this procedure:

- The new lot must be conveyed to a family member. Eligible family members include **children, grandchildren, grandparents, parents, and spouses**. (If the new lot will be conveyed to a spouse, please contact the Planning Department staff. These types of family divisions are permitted only in limited circumstances.) Each family member is eligible to receive a lot using this process only one time. At the time of application, the property must be titled in the name(s) of the family member(s), not the family member's business or corporation. Please note: Family divisions involving properties held in trust for a family member are possible but have additional requirements. Please contact the Planning Staff for additional information and application forms.
- This application should be used for parcels zoned A-1, Agricultural District, when the homestead lot is to be greater than 2 acres but less than 10 acres. The homestead lot must meet the minimum width, yard, and area requirements of the A-1 District.

Minimum lot size – 2 acres  
Minimum lot width – 250 feet  
Minimum lot depth – 200 feet

- Each homestead lot shall have frontage on a public road (minimum 250') or on a 20' right-of-way or access easement. The driveway within the right-of-way shall be a minimum of 10 feet, constructed with an all-weather surface consisting of rock, stone, or gravel, with a minimum depth of 1 inch. Improvements within the right-of-way may require an application for an Erosion and Sedimentation Control Plan with Public Works if the driveway disturbs more than 2,500 square feet of the property. Please be advised that your access easement should not divide the subject property and should run along a property line.
- The Parent Tract must remain greater than 10 acres in size after subdivision of the homestead lot and continue to comply with all district regulations.
- The homestead lot must be for **new construction only**. This lot cannot contain the existing house.
- The family member who is granted the homestead lot must apply for a building permit within 2 years of the date of the recorded homestead agreement and plat. This family member must also obtain a certificate of occupancy within 3 years of recordation of the agreement and plat. This family member must then hold the title to the property for a minimum of 3 years from the date of the issuance of the certificate of occupancy.
- Floodplain should be shown and noted on every plat submitted for review and recordation.
- **Please be advised:** If the property you are proposing to divide is in the Land Use Program, please contact the Commissioner of Revenue's Office to discuss possible rollback taxes.

# Approval Process for Family Division Applications

## Application Submittal

- Submittal shall include the following:
  - A completed application which includes the homestead agreement and affidavit
  - Three (3) copies of **Survey plat, preferably 8 ½ x 14 in size (legal size), showing the individual homestead lot and its frontage on a public road or a private right-of-way or easement. The plat should include a surveyor's seal with an original signature and date. The plat must address the checklist items on Page 6.** Include the GPIN of the remaining area of the original parcel.
  - One (1) copy of a sketch of the remaining parcel, showing any existing structures. *(Staff is available to assist with this sketch.)*
  - Select your option and sign the attached sheet regarding the Department of Public Works requirements.

## Planning and Zoning Review for Compliance

- The review by Planning and Zoning staff should be completed within 3-6 weeks.
- Applicant will be contacted if additional information or changes are needed.

## Approval and Recordation

- Once the application has been approved, the Planning staff then will record the Homestead Agreement/ Affidavit and Plat in the Clerk's Office of the Hanover County Circuit Court Building.
- A letter of approval will then be sent to the applicant containing the deed book and page number of the recorded documents.

## Deed Recordation and Building Permit Application

- Following approval and recordation of the application, a deed must be recorded which transfers the homestead lot from the grantor to the grantee.
- The grantee must then apply for a building permit within 2 years of the recordation of the Homestead Agreement and Plat. Prior to approval of a building permit, the applicant must provide evidence of recordation of the deed.
- The grantee must obtain a certificate of occupancy within 3 years of the date of recordation of the Homestead Agreement and Plat. The grantee must then hold the title of the property for a minimum of 3 years after the date of the issuance of a certificate of occupancy.

## Hanover County Planning Department Application

### Request for a FAMILY DIVISION

Please type or print using **black ink**.

FD Case #: \_\_\_\_\_

| PARENT TRACT   | HOMESTEAD (NEW) LOT   |
|--|---|
| GPIN (Tax Parcel Number): _____<br>Total Lot Area (Acres): _____<br>Current Zoning: _____<br>Rezoning Case No. (if applicable): _____<br>Magisterial District: _____<br>Deed book _____ Page _____ | Lot Area (acres): _____<br><br>Water: [ ] Public [ ] Private (Well) [ ] Private (Central)<br>Sewer: [ ] Public [ ] Private (Septic) [ ] Private (Central) |

| APPLICANT INFORMATION   |  |
|---|--|
| The undersigned request(s) authorization to subdivide a lot from GPIN _____ located at (street address) _____ for the purpose of transferring ownership to a member of my immediate family.<br>Please provide relationship of grantor to recipient: _____<br>If the homestead lot will be conveyed to a spouse, please indicate which family member will be sold or given the remaining tract of land (see Page 2): _____ |  |
| Grantor's Signature: _____<br>Print Name: _____<br>Grantor's Signature: _____<br>Print Name: _____<br>Address: _____<br>_____   | Date of Signatures _____<br>Telephone No. _____<br>Fax No. _____<br>Email Address _____<br>_____ |
| Grantee's Signature: _____<br>Print Name: _____<br>Grantee's Signature: _____<br>Print Name: _____<br>Address: _____<br>_____   | Date of Signatures _____<br>Telephone No. _____<br>Fax No. _____<br>Email Address _____<br>_____ |

| STAFF USE ONLY:                            |
|--|
| Accepted by: _____ Date: _____ HTE#: _____ |

**APPLICANT STATEMENT**

The undersigned (grantor) have read and understand the following:

1. Only one such division shall be allowed per allowed per family member and shall not be for the purpose of circumventing this subsection of the Hanover County Zoning Ordinance. For the purpose of this subsection, a member of the immediate family is defined as any person who is a natural or legally defined offspring, spouse, parent, or grandparent of the owner.
2. Any lot created shall conform to the provisions of the Zoning Ordinance.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**HISTORIC SURVEY INFORMATION**

Specifically list below any known or suspected historic resources on both the subject property and the immediately adjacent properties to include structural and non-structural resources, trenches, cemeteries, and archeological sites. Please include the GPIN associated with the historic resource. Describe the impact of the proposed subdivision on these resources. The Planning Staff is available to assist with this requested information.

| Historic Resource | Impact |
|-------------------|--------|
| _____             | _____  |
| _____             | _____  |
| _____             | _____  |
| _____             | _____  |
| _____             | _____  |
| _____             | _____  |
| _____             | _____  |
| _____             | _____  |

If there are no known or suspected historic resources, including structural and non-structural resources, trenches, cemeteries, and archeological site, please sign and date.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**ATTACHMENTS**

**Use this checklist to make sure that your application is complete and will be accepted for processing and review. Failure to include all the necessary information for a complete application will result in the application not being accepted for processing until it is completed. The staff will use this checklist to make sure that the application is complete when it is turned in to the Planning Department.**

| Yes                      | No                       |  | Staff: | Yes                      | No                       |
|--------------------------|--------------------------|--|--------|--------------------------|--------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | 1. A completed copy of application. (2 pages)  |        | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> | 2. Survey plat (3 copies) of the proposed lot with a surveyor's seal with an original signature and date. (It is not necessary to show the entire area of the remainder parcel.) |        | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> | 3. A completed copy of the plat checklist on Page 6.   |        | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> | 4. A completed copy of the attached Requirements of the Department of Public Works.  |        | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> | 5. A completed copy of the attached Family Homestead Agreement & Affidavit.  |        | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> | 6. A sketch of the remainder parcel showing all existing structures. (Staff is available to assist with this sketch)   |        | <input type="checkbox"/> | <input type="checkbox"/> |



### Requirements of Public Works:

Prior to the approval of any building permit on each lot, the following items will need to be addressed:

- a. A perennality study will need to be performed on all drainage ways on this property in accordance with the Chesapeake Bay Preservation Act. The results of the study need to be shown on the plat, if any drainage ways are determined to be perennial;
- b. Wetlands need to be delineated and a wetland certification statement needs to be provided;
- c. A Water Quality Impact Assessment may be required pending the results of the above referenced delineation and study;
- d. If more than 1 acre is going to be disturbed either in conjunction with a building permit or as a result of land clearing, an engineered Erosion and Sediment Control Plan will need to be submitted to Public Works and approved. This process will also require posting an Erosion and Sediment Control Bond, payment of the appropriate Erosion and Sediment Control Inspection Fee, and obtaining a Land Disturbance Permit.

**If you have any questions concerning any of these comments, please call John Saunders with Public Works at 365-6156.**

Please check one box, and return to the Planning Department:

- We would like to submit the required information to the Department of Public Works **prior** to approval of this Family Division application.
- We would like to **proceed** with the approval of this Family Division and submit the above information at the time of building permit application.

Signature of Grantee: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

FAMILY HOMESTEAD AGREEMENT

\_\_\_\_\_ (Grantor[s])  
and \_\_\_\_\_, (Grantee[s]), (together "the Family Members"), and HANOVER COUNTY, a political subdivision of the Commonwealth of Virginia ("the County") enter into this Agreement dated \_\_\_\_\_, 20\_\_\_\_, in order to set out the obligations of the Family Members regarding property described on the attached plat, dated \_\_\_\_\_, prepared by \_\_\_\_\_ and entitled: " \_\_\_\_\_ "  
("the Property").

In accordance with the obligations set out in the Hanover County Zoning Ordinance for Family Homesteads, the Family Members for themselves, their heirs and successors, agree as follows:

1. Only one homestead lot may be created for any one family member, and such lot shall not be created for the purpose of circumventing the Zoning Ordinance.

2. Any homestead lot created shall be titled in the name of the family member for whom the home is built for a period of no less than three (3) years following issuance of the certificate of occupancy unless the lot is the subject of an involuntary transfer such as foreclosure, death, judicial sale, condemnation, or bankruptcy.

3. When requested by the Director of Planning ("the Director"), Grantor and Grantee shall submit to the Director documentation as to compliance with these requirements, and the Director or agents of the Director may enter the property, without prior notice, in order to inspect to determine compliance.

4. An application for a building permit shall be submitted within two (2) years of creation of any homestead lot and shall include confirmation of previously submitted documentation. A certificate of occupancy for the residence must be obtained within three years after creation of any homestead lot, unless this time period is extended by the Director, for good cause, consistent with the purposes of the Zoning Ordinance, demonstrated by the applicant.

5. Any lots created shall comply with all requirements of the Family Homestead provisions of the Hanover County Zoning Ordinance, and all other applicable requirements.

6. The minimum width, yard, and area requirements of all such lots, including the remaining property from which the lot is divided, shall be in accordance with the Zoning Ordinance.

7. For property not served with public water and public sewer, each lot shall have its septic tank system and water source approved by the Health Department, and those facilities shall be located on the lot served.

8. Each lot or parcel of property created shall front on a road which is part of the Virginia System of Highways or shall front on a private drive or road which is a right-of-way no less than twenty (20) feet in width. Such right-of-way shall remain private and shall include a driveway within it consisting of, at a minimum, an all-weather surface of rock, stone, or gravel, with a minimum depth of one inch and a width of ten (10) feet. An erosion and sediment control plan with appropriate surety shall be submitted for approval if the proposed right-of-way and drive construction disturbs more than two thousand five hundred (2,500) square feet of the property.

In the event the Family Members do not comply with the terms of this Agreement, the County may pursue remedies at law or equity, including petitioning for injunction and specific performance, as well as zoning enforcement actions pursuant to the Zoning Ordinance. The Family Members agree that the Director or his agents may enter the Property, without notice, to determine compliance with requirements of the Zoning Ordinance. Any delay in seeking remedies shall not preclude the County from obtaining those remedies.

The signatures and seals of the parties are set out below in acknowledgement of this Agreement.

This Agreement shall be recorded in the Hanover County Circuit Court Clerk's Office and the obligations of the Agreement shall be binding on the Family Members and their heirs and successors in title.

**GRANTOR(S):**

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

COMMONWEALTH OF VIRGINIA )  
 ) to-wit:  
COUNTY OF HANOVER )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
by \_\_\_\_\_ (Family Member Name).

My commission expires:  
Commission ID No. \_\_\_\_\_

\_\_\_\_\_  
Notary Public

COMMONWEALTH OF VIRGINIA )  
 ) to-wit:  
COUNTY OF HANOVER )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
by \_\_\_\_\_ (Family Member Name).

My commission expires:  
Commission ID No. \_\_\_\_\_

\_\_\_\_\_  
Notary Public







GRANTEE(S):

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA )  
 ) to-wit:  
COUNTY OF HANOVER )

Sworn and subscribed to before me, a Notary Public, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by  
\_\_\_\_\_ (Family Member Name).

My commission expires:  
Commission ID No. \_\_\_\_\_

\_\_\_\_\_  
Notary Public

COMMONWEALTH OF VIRGINIA )  
 ) to-wit:  
COUNTY OF HANOVER )

Sworn and subscribed to before me, a Notary Public, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by  
\_\_\_\_\_ (Family Member Name).

My commission expires:  
Commission ID No. \_\_\_\_\_

\_\_\_\_\_  
Notary Public