

County of Albemarle  
Department of Community Development

A Citizen's How to Manual



If you want to...

- divide land in the RA zoning district
- build more than one house on a parcel in the RA zoning district
- transfer some land to a family member in the RA zoning district

...then you need to know about

**Development Rights**

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## What are development rights, division rights, and subdivision rights?

These are all the same thing; however, they are most commonly called development rights. They permit the division of land into parcels of less than 21 acres and allow the placement of more than one dwelling on a property.

## Where did development rights come from?

Development rights were created as part of the RA, Rural Areas, zoning district on December 10, 1980, when the Board of Supervisors adopted the current Zoning Ordinance.

## What do development rights do?

Development rights permit the division of land into lots of less than 21 acres and allow for the location of more than one dwelling on a parcel. Division of land into lots of 21 acres or greater does not require a development right.

## Why are development rights important?

Development rights are required to create a lot of less than 21 acres. Also, a development right, or an area of at least 21 acres is required for each dwelling.

## Do development rights matter in any zoning district other than RA?

No, development rights exist only in the RA, Rural Areas [district](#).

## What is the maximum number of development rights for a property?

The maximum number of development rights for any parcel is 5.

## Can I transfer development rights to or from my neighbor?

No, transferring development rights is not permitted in Virginia. However, If your neighbor's property and your property were created from the same parent parcel, it may be possible to reassign a development right.



### Did You Know...

Albemarle County has a cluster development option which legally allows you to transfer development rights. It's called a Rural Preservation Development (see [Sec. 10.3.3 of the Zoning Ordinance for more](#)).

## Can all property with development rights be subdivided?

Not necessarily. Any new lot must meet all requirements of the [Subdivision](#) and Zoning Ordinances (Chapter 18 of the [County Code](#)).

## Do lots created by family subdivision require a development right?

Family Subdivisions require development rights just like any other type of subdivision in the RA that creates one or more lots of less than 21 acres.

## If I divide my property and have unused development rights, what happens to them?

The owner of the property determines how to assign development rights. This is done during the subdivision review process, and the assignment of development rights is noted on the plat.

## How do I determine the number of development rights on a parcel?

See Page 4 for step-by-step directions.

## What is the minimum lot size in the RA district?

The minimum lot size is 21 acres unless you utilize a development right. When using a development right, the minimum lot size is 2 acres.

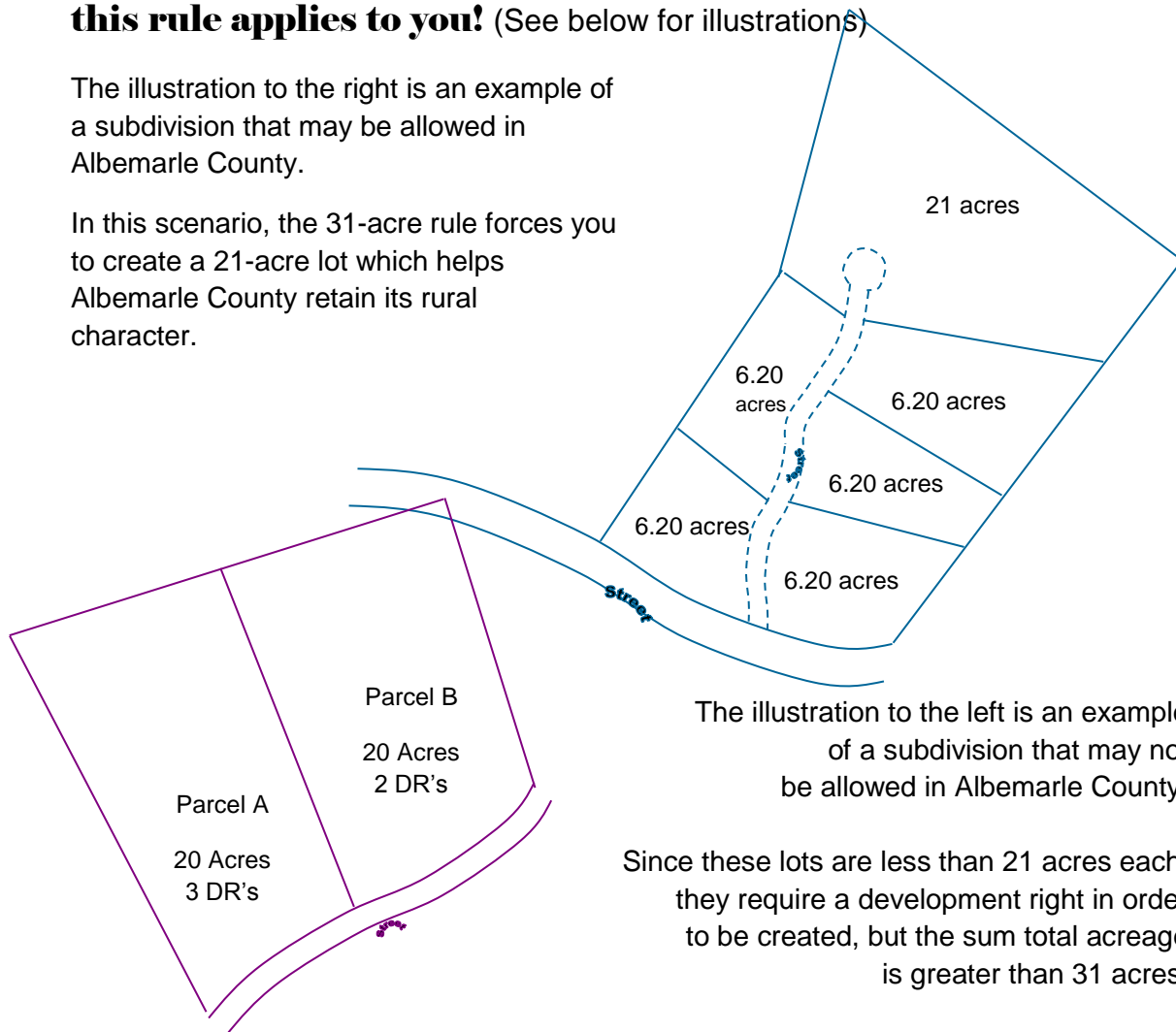
## If I have one development right can I divide my property?

Every lot must have one development right or 21 acres. Therefore if you have a 10 acre parcel and only one development right, you may not divide to get two lots. If you have 10 acres and two development rights, the possibility exists to divide it. If you have 23 acres with one development right, the possibility exists to create two lots: one with 2 acres and one with 21 acres. Also, watch out for one of the quirks of development rights — the **“31-acre” rule** — simply stated “The total acreage, of all lots created with development rights may not exceed 31 acres.” If your property has not been subdivided since November 8, 1989 then...

**this rule applies to you!** (See below for illustrations)

The illustration to the right is an example of a subdivision that may be allowed in Albemarle County.

In this scenario, the 31-acre rule forces you to create a 21-acre lot which helps Albemarle County retain its rural character.



The illustration to the left is an example of a subdivision that may not be allowed in Albemarle County.

Since these lots are less than 21 acres each, they require a development right in order to be created, but the sum total acreage is greater than 31 acres.

## Can I obtain additional development rights?

For properties located within the portions of the County that drain to a drinking water reservoir, it is not possible to obtain additional development rights. For properties located outside the reservoir watersheds, it is possible to apply for a special use permit to obtain additional development rights. However, the County has approved very few additional development rights. For more information on the requirements for applying for additional development rights please [contact](#) any Rural Area Planner in Planning.

## How do I determine the zoning of a property?

You may reference the official zoning maps in the Zoning Division, [use the GIS-Web](#), or consult the zoning staff of the Department of Community Development.

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## Steps in Determining the Number of Development Rights

In order to determine the number of development rights, you must first determine what the boundaries of the parcel were on December 10, 1980 (the date of adoption of the Zoning Ordinance.) If no changes have occurred since December 10, 1980, the parcel has its full compliment of development rights.

The steps below will help you to determine the number of development rights.

**1** -Determine your tax map and parcel number. This is sometimes referred to as the Tax ID number or Parcel ID number. The 14-digit number appears on your real estate tax bill. If you have an address for the property, you can determine the tax map and parcel number [using GIS-Web](#). (GIS-Web is a computer based information system. Terminals are available for public use in the Department of Community Development). You may also determine the tax map and parcel number by using the tax maps available in the Community Development front office or [online by clicking here](#). Staff in the Departments of Community Development and Real Estate can also assist you in finding the tax map and parcel number.

**2** - Review the 1979 tax map book and the current tax map book. These maps are available in the Community Development front office or [online by clicking here](#). If the parcel is exactly the same in the two books, then it is likely that the parcel has its full complement of development rights. If the parcel is different then you will need to do the following steps;

**A** – Open the [GIS-Web](#) and enter the Tax/Parcel ID number to find your parcel. Once the parcel shows up in the list you will click on the “Property Info” link. This page defaults to the “Summary Information” and the summary will have reference to the most recent Deed Book and Page where the property was recorded with the [Clerk of the Circuit Court of Albemarle](#). There may be information in the “Notes” section of the summary as to more recent Deed Book and Page number activity. Use the Deed

Book and Page number to find any history as to recorded plats. Review the parcel's history in the Clerk's Office. If the most recent record in the Clerk's Office is prior to Deed Book 706, Page 421, the parcel has its full complement of development rights. If records exist after Deed Book 706, Page 421 you will need to review each deed to find a plat that will have notes addressing development rights. Plats signed by the County after December 10, 1980 should have notes referencing division rights or development rights. If multiple plats exist, start with the most recent plat. There should be a note on the plat that states "Parcel X retains Y development rights" or "Parcel X may be further divided" or "Parcel X may be divided into Y lots of less than 21 acres" or some type of similar language. Also, look for a note that may follow the above notes that states "When used, the development rights may consume not more than \_\_\_ acres."

If you are unable to determine the development rights by using the above process then you have two (2) other options: An informal assessment of development rights and an Official Determination of Parcels and or Development Rights.

#### Steps in getting an **informal assessment** of development rights from staff.

Fill out an **Informal Development Rights Assessment** form and leave it with the intake staff in the Department of Community Development. [The form is available from the website here](#) or in Community Development front office.

It may take up to two weeks for staff to conduct the research. Longer review times may be needed for multiple parcels or for complex divisions.

#### Steps in getting an **official letter of determination** of Development Rights.

Fill out an **Official Letter of Determination**. [The application is available from the website here](#) or in Community Development front office.

Submit the required information as stated on the application to the Department of Community Development.

Submit a fee                    for each existing Parcel ID number.

Written determinations may take 30 to 90 days to complete. Please note that official determinations may be appealed to the Board of Zoning Appeals, if you believe an error in interpretation has occurred. However, after the appeal period (30 days) has elapsed, no appeal is possible and the determination is final.

All forms/documents mentioned in this and other brochures can be found at our [website](#).