



**RESOURCE
MANAGEMENT AGENCY
COUNTY OF TULARE
AGENDA ITEM**

BOARD OF SUPERVISORS

ALLEN ISHIDA
District One

PETER VANDER POEL
District Two

PHILLIP A. COX
District Three

J. STEVEN WORTHLEY
District Four

MIKE ENNIS
District Five

AGENDA DATE: July 27, 2010

Public Hearing Required	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
Scheduled Public Hearing W/Clerk	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
Published Notice Required	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
Advertised Published Notice	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Electronic File(s) has been sent	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Resolution, Ordinance or Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
CONTACT PERSON: Celeste Perez PHONE: 559-624-7000						

SUBJECT: Amendment to Section 15.D.2 of Tulare County Zoning Ordinance 352 pertaining to Division of Land Exceptions in Agricultural Zones

REQUEST(S):

That the Board of Supervisors:

1. Introduce and waive the first reading of an Amendment to Section 15.D.2 of the Tulare County Zoning Ordinance 352, pertaining to Division of Land Exceptions in Agricultural Zones as recommended by the Planning Commission.
2. Approve the Ordinance Amendment summary and direct the Clerk of the Board to publish such summary and to post a certified copy of the complete ordinance five (5) days prior to the Ordinance Amendment adoption date (August 10, 2010) as required by Section 25124 et. seq.
3. Set a Public Hearing for August 10, 2010 at 9:30 a.m.
4. Hold a Public Hearing on August 10, 2010, at 9:30 a.m.
5. Waive the final reading of an amendment to Section 15.D.2 of Ordinance No. 352 of the Tulare County Zoning Ordinance pertaining to Division of Land Exceptions within Agricultural Zones.
6. Find there is no substantial evidence that said Zoning Ordinance Amendment will have a significant effect on the environment and that a Notice of Exemption for said Zoning Ordinance Amendment reflects the independent judgment of the County and has been completed in compliance with the California Environmental Quality Act and the State Guidelines for the Implementation of the California Environmental Quality Act of 1970, as amended.
7. Adopt the Planning Commission recommendation relating to the amendment to

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pertaining to Division of Land Exceptions in Agricultural Zones

DATE: July 27, 2010

Ordinance 352, the Tulare County Zoning Ordinance, pertaining to Division of Land Exceptions in Agricultural Zones, as set for in the Planning Commission Resolution No. 8498;

8. Direct the Clerk of the Board of Supervisors to publish the summary of the ordinance amendment and to post a certified copy of the full ordinance amending the Tulare County Zoning Ordinance with the names of the Board of Supervisors voting for and against the amendment, within fifteen (15) days as required by Section 25124 et. seq.

SUMMARY:

The Homesite Parcel Ordinance is a request to modify Section 15.D.2 of the Tulare County Zoning Ordinance to address the following concerns:

- Need for larger maximum homesite parcel size to allow property owners to retain existing site improvements that cannot be configured into the existing 65,000 sq. ft. maximum homesite parcel size.
- Protect viable agricultural parcels from excessive parcelization.
- Address the significant number of variances being received and processed over the past 10 years.

Over the past year and a half, Resource Management Agency (RMA) staff has met with a Stakeholders Group comprised of local land surveyors and engineers and more recently with the Tulare County Farm Bureau, the Tulare County Agricultural Advisory Committee and representatives from the cities to evaluate homesite parcel standards.

A summary of the Stakeholder's Group comments & concerns include:

- Maximum homesite parcel size should be determined by existing improvements, and established yard boundaries. The maximum homesite parcel size of 65,000 sq. ft. deprives property owners from retaining improvements on land that is no longer suitable for agricultural production.
- Multiple homesite parcels should be permitted where a property contains multiple residences.
- A homesite parcel should be permitted where a parcel does not contain the minimum acreage in the zone which the property is located; specifically, a homesite parcel should be permitted where county initiated rezoning has resulted in existing parcels not conforming to the minimum acreage requirement.
- Settling of an estate or distributing property through a trust should be recognized by the County for the purpose of allowing divisions of land that do not conform to the minimum acreage requirement.

A summary of the Farm Bureau's comments & concerns include:

- Tulare County Farm Bureau discourages the parcelization of agricultural lands into non-viable commercial agriculture units and maintains that this should be prohibited whenever possible to maintain the viability of commercial agriculture.

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pertaining to Division of Land Exceptions in Agricultural Zones
DATE: July 27, 2010

As this policy asserts, Farm Bureau supports the desire of the County to revise the ordinance to protect unnecessary parcelization of agricultural land. Further, we support steps being taken to eliminate loopholes in the ordinance which has led in the past to many unnecessary variances being granted.

- Farm Bureau supports eliminating the public hearing process at the Zoning Administration and Site Plan Council Review level and suggests that the hearing process be held at the Planning Commission level for more transparency and objectivity in the process.
- Farm Bureau would not object to the City Urban Development Boundary (UDBs) being removed from this amendment to the zoning ordinance. Providing that the County and Cities agree to recognize and abide by the same Urban Development Boundaries.
- Farm Bureau agrees that physical issues and use lines should be reasonably applied for variances, as shown in the examples used in the meetings.
- Farm Bureau maintains that variances are not an acceptable norm and should only be approved under extraordinary circumstances when warranted. We support the County in addressing this issue to eliminate governance by exceptions.

A summary of the Agricultural Advisory Committee's comments & concerns include:

- Supportive of the general concept of the Amendment however, certain provisions contained, included in various drafts of the Amendment, may result in unfavorable ramifications, such as allowing homesite parcels to be created from existing parcels that are substandard in size.
- Supportive of reducing the continued parcelization of agricultural lands.

A summary of the City of Tulare's comments & concerns include:

- Only one homestead parcel should be allowed to be created. If one has already been created, then no additional homestead parcels could be created.
- A recorded document signifying that record owner waives their right to protest an annexation if the property is inside a city's Urban Area Boundary.
- No homesite parcel should be created in a city's Urban Development Boundary without City Council approval and the imposition of conditions related to street dedication, setbacks, and waiver of annexation protest rights.

A summary of the City of Visalia comments & concerns include:

- The City concurs with the City of Tulare's comments.
- The City opposes any Amendment that would promote rural residential sprawl.
- The City opposes the breakdown of parcels into sizes and configurations that are inefficient for future urban development as the City expands.

There have been numerous drafts and versions of the proposed Amendment. Reaching a consensus with the various participating groups has been difficult. Groups with opposing viewpoints are becoming more entrenched in their interests and are becoming

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DATE: July 27, 2010

less cooperative in reaching an agreement. The proposed version represents staff's best effort to develop an Ordinance that addresses the existing concerns. This is the version that the Planning Commission recommended approval of at their June 9, 2010 public hearing. The principal components of this draft include:

- Section 15.D.2.h is repealed as the two existing age requirements for the residence (three years and ten years) have been removed and an age requirement of five years for the residence would be imposed. Therefore, two separate paragraphs defining homesite parcel requirements are not necessary and all Amendments will be referred to as Section 15.D.2.g.
- The maximum homesite parcel size allowed would be 20% of the original parcel size, not to exceed four (4) acres, and would be determined by existing improvements, yard lines, and physical barriers.
- If the original parcel is greater in size than is required in the zone district in which it is located, a maximum of one (1) homesite parcel would be permitted, unless and until the remaining agricultural acreage is divided into parcels consistent with the zone district in which the property is located.

The following were removed from previous drafts due to the significant level of controversy and opposition to them: However, staff recommends that the Board consider the following:

- 10 year ownership requirement of property
- 10-acre minimum parcel size regardless of the zone which the property is located, allowing homesite parcels to be created from lots that do not conform to the minimum size requirements of the zone they are located in.

Additionally, staff recommends that the Board consider a 10-acre minimum parcel size in the AE & A-1 (5 acre minimum) Zones to qualify for a division for a homesite parcel.

If you challenge the decision of the Board of Supervisors on the foregoing matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Supervisors of the County of Tulare at, or prior to, the public hearing. Judicial review of this Board of Supervisors decision is appealable pursuant to Code of Civil Procedure section 1094.6.

FISCAL IMPACT/FINANCING:

Code Amendment projects are funded through building permit fees. Each building permit is charged a \$38 fee to help fund updates and amendments to the Zoning Ordinance and other County Ordinances.

SUBJECT: Amendment to Section 15.D.2 of Tulare County Zoning Ordinance 352
pertaining to Division of Land Exceptions in Agricultural Zones

DATE: July 27, 2010

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

The Zoning Ordinance Amendment is linked to Economic Well-Being Initiative of Tulare County's Strategic Business Plan 2006-2011 by promoting effective growth management and quality standard of living. This Amendment will allow a property owner to create a homesite parcel greater than 65,000 sq. ft. maximum parcel size currently allowed; thereby, allowing property owners to include existing improvements on the parcel being created that contains an existing residence.


ALTERNATIVES:

1. Approve the Amendment with the requirement that no parcel less than 10 acres may be divided (removed during public review) and prohibit homesite parcels within Urban Development Boundaries of incorporated cities.
2. Direct the Amendment be modified however, any modification of the proposed Amendment not previously considered by the Planning Commission during its hearings, shall first be referred to the Planning Commission for report and recommendation (Section 65857).
3. Deny the proposed Amendment.
4. Refer back to staff for further consideration.

INVOLVEMENT OF OTHER DEPARTMENTS OR AGENCIES:

The proposed Ordinance Amendment has been referred to a Stakeholders Group comprised of land surveyors and civil engineers that represent a majority of property owners wishing to create homesite parcels. Additionally, the proposed Amendment was submitted to interested property owners, the eight incorporated cities, the Tulare County Farm Bureau, the Tulare County Agricultural Advisory Committee, and the Tulare County Planning Commission for comments/recommendations.

ADMINISTRATIVE SIGN-OFF:



Jake Raper, Jr., AICP
Director

cc: County Counsel
County Administrative Office (2)

ATTACHMENT 1 – Ordinance Summary

ATTACHMENT 2 – Notice of Exemption

ATTACHMENT 3 – Public Hearing Notice

ATTACHMENT 4 – Planning Commission Resolution No. 8498 with draft Ordinance as
“Exhibit A”

ATTACHMENT 5 – Proposed Ordinance with track changes

ATTACHMENT 6 – Homesite Ordinance Proposed by the Stakeholders Group

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF AMENDMENT TO)
SECTION 15.D.2 OF TULARE COUNTY) RESOLUTION NO. _____
ZONING ORDINANCE 352 PERTAINING)
TO DIVISION OF LAND EXCEPTIONS IN)
AGRICULTURAL ZONES)

UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD JULY 27, 2010, BY
THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: JEAN ROUSSEAU
ADMINISTRATIVE OFFICER
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

The Board of Supervisors:

1. Introduced and waived the first reading of an Amendment to Section 15.D.2 of the Tulare County Zoning Ordinance 352, pertaining to Division of Land Exceptions in Agricultural Zones as recommended by the Planning Commission.
2. Approve the Ordinance Amendment summary and direct the Clerk of the Board to publish such summary and to post a certified copy of the complete ordinance five (5) days prior to the Ordinance Amendment adoption date (August 10, 2010) as required by Section 25124 et. seq.
3. Set a Public Hearing for August 10, 2010 at 9:30 a.m.

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF AMENDMENT TO)
SECTION 15.D.2 OF TULARE COUNTY) RESOLUTION NO. _____
ZONING ORDINANCE 352 PERTAINING)
TO DIVISION OF LAND EXCEPTIONS IN)
AGRICULTURAL ZONES)

UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD AUGUST 10, 2010,
BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: JEAN ROUSSEAU
ADMINISTRATIVE OFFICER
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

The Board of Supervisors:

1. Held a Public Hearing on August 10, 2010, at 9:30 a.m.;
2. Waived the final reading of an amendment to Section 15.D.2 of Ordinance No. 352 of the Tulare County Zoning Ordinance pertaining to Division of Land Exceptions within Agricultural Zones.
3. Found there is no substantial evidence that said Zoning Ordinance Amendment will have a significant effect on the environment and that a Notice of Exemption for said Zoning Ordinance Amendment reflects the independent judgment of the County and has been completed in compliance with the California Environmental Quality Act and the State Guidelines for the Implementation of the California Environmental Quality Act of 1970, as amended;
4. Adopted the Planning Commission recommendation relating to the amendment to Ordinance 352, the Tulare County Zoning Ordinance, pertaining to Division of Land Exceptions in Agricultural Zones, as set for in the Planning Commission Resolution No. 8498;
5. Directed the Clerk of the Board of Supervisors to publish the summary of the ordinance amendment and to post a certified copy of the full ordinance amending the Tulare County Zoning Ordinance with the names of the Board of Supervisors voting for and against the amendment, within fifteen (15) days as required by Section 25124 et. seq.

ATTACHMENT NO. 1

ORDINANCE NO. _____

PURSUANT TO GOVERNMENT CODE SECTION 25124(b)(1), THE FOLLOWING IS A SUMMARY OF AN ORDINANCE AMENDING TULARE COUNTY ORDINANCE NO. 352, THE ZONING ORDINANCE OF TULARE COUNTY, TO AMMEND SECTION 15.D.2 PERTAINING TO DIVISION OF LAND EXCEPTIONS IN AGRICULTURAL ZONES.

SUMMARY OF PROPOSED ORDINANCE

The proposed ordinance will amend Section 15.D.2.g and repeal Section 15.D.2.h to Tulare County Ordinance No. 352, commonly known as the Tulare County Zoning Ordinance. A change to the text of the Zoning Ordinance by amending Section 15.D.2, pertaining to Division of Land Exceptions in agricultural zones to allow creation of a homesite parcel that incorporates existing improvements that cannot be configured within the existing 65,000 sq. ft. maximum homesite parcel currently allowed.

The ordinance herein summarized will be considered by the Tulare County Board of Supervisors on August 10, 2010, at a regular meeting of said Board. At least five (5) days prior to August 10, 2010, a certified copy of the full text of the proposed ordinance shall be posted in the office of the Clerk of the Board of Supervisors and shall be available for public inspection at that location.

COUNTY OF TULARE

By _____
Chairman, Board of Supervisors

ATTEST: JEAN ROUSSEAU
County Administrative Officer/
Clerk of the Board of Supervisor of
Tulare County

By _____
Deputy

NOTICE OF EXEMPTION

TO: Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

FROM: County of Tulare
Resource Management Agency
5961 S. Mooney Blvd.
Visalia, CA 93277 9394

County Assessor/Clerk-Recorder
County of Tulare
221 South Mooney Blvd.
Courthouse, Room 105
Visalia, CA 93291

Project Title: Amendment to the Tulare County Zoning Ordinance pertaining to Division of Land Exceptions in Agricultural Zones.

Project Location - Specific: Countywide

Project Location - County: Unincorporated areas of Tulare County

Description of Nature, Purpose, and Beneficiaries of Project: The proposed amendment will revise the text of the Zoning Ordinance by amending Section 15.D.2 pertaining to division of land requirements in agricultural zones for the creation of a homesite parcel and defining the requirements for such divisions.

Beneficiaries of the Project are: County of Tulare

Name of Public Agency Approving Project: Tulare County Board of Supervisors, Resource Management Agency

Name of Person or Agency Carrying Out Project: Tulare County Resource Management Agency

Exempt Status:

- Ministerial (Section 21080(b); 15268)
- Declared Emergency (Section 21080(b)(3); 15269(a))
- Emergency Project (Section 21080(b)(4); 15269(b)(c))
- Categorical Exemption - State type and section number (see below)
- Statutory Exemption - State type and section number (see below)
- General Rule Exemption (Section 15061(b)(3))

Reasons why project is exempt: Article 19, §15305 refers to minor alterations in land use limitations in areas which do not result in any changes in land use or density. By adopting this amendment to Ordinance 352, it is the intent of the County to implement regulations that will allow property owners to create a homesite parcel that incorporates existing improvements to that cannot be configured within the 65,000 sq. ft. maximum homesite parcel size currently allowed. The amendment will reduce the significant number of Variance applications traditionally submitted with Tentative Parcel Map applications for the division of a homesite parcel around an existing homesite within agricultural zones. The project is not changing the land use designation or zoning of the site as it will remain Agricultural, and will not increase the density of the Zones, and no density increases will be allowed. The Board of Supervisors therefore directs that the Notice of Exemption be filed with Tulare County Clerk in accordance with the Tulare County Guideline for the implementation of CEQA.

Lead Agency Contact Person: Nick Hahn **Area Code/Telephone/Ext.:** (559) 624-7000

Determination made by:

_____ Title _____ Date _____

Lead Agency:

Tulare County Resource Management Agency

Signed by Lead Agency Signed by Applicant Date Received for filing at OPR: _____

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Tulare County Board of Supervisors will hold a public hearing on Tuesday, August 10, 2010 at 9:30 am., or as soon thereafter as it can be heard, in the Chambers of the Board of Supervisors, Administration Building, County Civic Center, 2800 West Burrel, Visalia, California.

The hearing will pertain to consideration of a Zone Ordinance Amendment to Section 15.D.2 of the Tulare County Zoning Ordinance 352 (the Zoning Ordinance) pertaining to Division of Land Exceptions in Agricultural Zones. Section 65850 of the California Government Code allows each local government to regulate the intensity of land use through its Zoning Ordinance.

If you challenge the decision of the Board of Supervisors on the foregoing matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Supervisors of the County of Tulare at, or prior to, the public hearing. Judicial review of this Board of Supervisors decision is appealable pursuant to Code of Civil Procedure section 1094.6.

Jean M. Rousseau, County Administrator/Clerk, Board of Supervisors

TO BE PUBLISHED ONLY ONCE

BY: July 22, 2010

Send to: Valley Voice

SEND BILL AND TEAR SHEET TO:
Tulare County Resource Management
Agency - Planning Branch
5961 South Mooney Blvd.
Visalia, CA 93277-9394

ATTACHMENT NO. 4

BEFORE THE PLANNING COMMISSION

COUNTY OF TULARE, STATE OF CALIFORNIA

IN THE MATTER OF AMENDMENT TO THE)
ZONING REGULATIONS -) RESOLUTION NO. 8498
DIVISION OF LAND EXCEPTIONS IN AG. ZONES)

Resolution of the Planning Commission of the County of Tulare recommending the Board of Supervisors approve an amendment to Section 15.D.2 of Ordinance 352 pertaining to Division of Land Exceptions in Agricultural Zones.

WHEREAS, the Board of Supervisors approved an initiation of a blanket amendment to Ordinance No. 352 (Zoning Ordinance), and Part 7 of the Ordinance Code (Land Use Regulation and Planning) on June 2, 2009 by Resolution No. 2009-0405; and

WHEREAS, the Planning Commission has given notice of the proposed Ordinance amendment as provided in Section 18 of said Ordinance No. 352 and Section 65854 of the Government Code of the State of California; and

WHEREAS, staff research found substantial information from existing ordinances in other jurisdictions which were made part of the record before the Planning Commission; and

WHEREAS, the Planning Commission reviewed the draft ordinance attached herein (Exhibit A); and

WHEREAS, a public hearing was held and an opportunity for public testimony was provided at regular meetings of the Planning Commission on December 2, 2009, January 27, 2010, February 24, 2010, March 24, 2010, May 12, 2010, and June 9, 2010; and

NOW, THEREFORE, BE IT RESOLVED as follows:

1. Recommend that the Board of Supervisors find that this ordinance is exempt from the requirements of the California Environmental Quality Act of 1970 (CEQA), pursuant to Section 15305, Class 5 pertaining to minor alterations of land and General Rule Exemption, Section 15061 (b) (3).
2. Recommend that the Board of Supervisors amend Section 15.D.2 of the Tulare County Zoning Ordinance regarding Division of Land Exceptions in Agricultural Zones.

The foregoing resolution was adopted upon motion of Commissioner Dias, seconded by Commissioner Gong, at a regular meeting of the Planning Commission on June 9, 2010 by the following roll call vote:

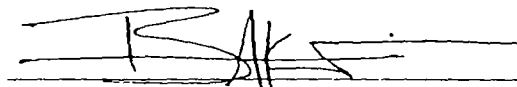
AYES: Gong, Millies, Elliot, Dias, Pitigliano, and Aguilar

NOES: Whitlatch

ABSTAIN: None

ABSENT: Norman

TULARE COUNTY PLANNING COMMISSION

A handwritten signature in black ink, appearing to read 'B. Kimball', is written over a horizontal dashed line.

Benjamin A. Kimball, Secretary

“Exhibit A”

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 15.D.2 PERTAINING TO DIVISION OF LAND EXCEPTIONS WITHIN AGRICULTURAL ZONES, OF ORDINANCE NO. 352, THE ZONING ORDINANCE OF THE COUNTY OF TULARE.

THE BOARD OF SUPERVISORS OF THE COUNTY OF TULARE ORDAINS AS FOLLOWS:

Section 1. Section 15.D.2 pertaining to “Division of Land Exceptions” is hereby amended in Ordinance No. 352, the Zoning Ordinance of the County of Tulare, to read as follows.

**AGRICUL-
TURAL
ZONES**

**Division of
Land
Exceptions** 2.

All agricultural zones established in this Ordinance (AE, AE-10, AE-20, AE-40, AE-80, A-1, AF and RC) provide that no real property shown on the latest County tax role as a unit or as contiguous units, and which is owned by the same person or persons, may be divided for any purpose if any one (1) lot or parcel resulting from the division of land contains less than a certain minimum acreage requirement, the amount of which is specified in each agricultural zone. Unless otherwise provided in this Ordinance, the following transactions shall not be subject to the minimum acreage requirement established in agricultural zones (Subsection D.2 added by Ord. No. 2751, effective 2-1-87; amended by Ord. No. 2956, effective 4-11-91):

- a. Any conveyance made or required by court decree for intestate or testamentary dispositions of land. (Amended by Ord. No. 3131, effective 10-12-95.)
- b. Any conveyance to the State of California, any city or county, any political subdivision of the State of California, or any public utility subject to regulation by the State Public Utilities Commission. However, this exception does not apply to conveyances to any of said entities, including the State Department of Veterans Affairs, which are financing transactions.
- c. Any conveyance of easements or oil, gas and mineral rights.

- d. If a portion of a parcel of property is separated from the main portion of the property by a river, railroad, improved public road or a canal which is regularly used for the conveyance of water and the channel of which is six (6) feet or more in width, said portion of the parcel may be conveyed as a single unit even though it contains less than the minimum acreage required in the agricultural zone in which the property is located. This paragraph shall not be applicable to property located in the AF, Foothill Agricultural Zone, and RC, Resource Conservation Zone. (Amended by Ord. No. 2956, effective 4-11-91.)

- e. If a person desires to convey a portion of his/her property to the owner of property contiguous to the property to be conveyed, he/she may do so even though the parcel being conveyed contains less than the minimum acreage required in the agricultural zone in which the property is located. However, the parcel being retained shall contain at least the minimum acreage required in the agricultural zone unless the transaction comes within one of the following provisions:
 - (1) The conveyance to the contiguous owner is to convey property on which improvements, including growing improvements, owned by the contiguous owner have been constructed or planted in error.
 - (2) The conveyance to the contiguous owner is to convey property to provide necessary yard areas as required for the zone in which the property is located.
 - (3) If there is a residence or mobilehome on the property to be retained by the person making conveyance, he/she may retain the residence or mobilehome on a parcel at least twelve thousand five hundred (12,500) square feet in size but not more than sixty-five thousand (65,000) square feet in size, and convey the remainder of the property to the contiguous owner. Once a parcel has been divided for this purpose, the parcel containing the residence or mobilehome may not be divided again for any purpose.

- f. If a person desires to construct a residence on his/her property for use in compliance with the provisions of the

agricultural zone in which the property is located, one (1) parcel of at least twelve thousand five hundred (12,500) square feet in size but not more than sixty-five thousand (65,000) square feet in size, may be divided for the purpose of financing a residence. Once a person has divided one (1) parcel from his/ her property pursuant to this paragraph, he/she may not at any time thereafter cause a second parcel to be divided from the property pursuant to this paragraph. However, if a person who has created one (1) parcel pursuant to this paragraph, conveys all or part of his/her property, his/her successors in interest shall also have the right to create one (1) parcel pursuant to this paragraph if they meet all of the requirements of this paragraph.

- g. A homesite parcel may be created for the purpose of separating an existing residence or mobilehome from the remaining agricultural portion of the site. If the original parcel is greater in size than is required in the zone district in which it is located, a maximum of one (1) homesite parcel shall be permitted, unless, and until the remaining agricultural acreage is divided into parcels consistent with the zone district in which the property is located. The creation of a homesite parcel shall comply with all of the following provisions (Amended by Ord. No. _____ effective ____/____/____):

- (1) The original parcel to be divided shall contain the minimum acreage required for the agricultural zone which the property is located. The original parcel to be divided shall have been legally established in accordance with all applicable requirements of the California Subdivision Map Act and County Ordinance Code.
- (2) The property contains a residence or mobile home which has been established in accordance with all applicable building and zoning regulations and which has existed on that property for a minimum of five (5) years.
- (3) The minimum homesite parcel size shall be twelve thousand five-hundred (12,500) square feet. The creation of a homesite parcel containing less than one (1) acre net shall require off-site domestic water service and/or off-site sewage disposal service in accordance with all state and local standards.

- (4) The maximum homesite parcel size shall be determined by the existing homesite use lines, not to exceed twenty (20) percent of the original parcel size, or four (4) acres gross, whichever is less. Features that may be considered as establishing the homesite use lines may include: fences, developed yard areas, vegetation, canals, roads, easements, railroads, etc.
- h. (Creation of Homesite Parcel to retain balance of acreage)
- Repealed by Ord. No. _____, effective _____)
 - i. The following transactions do not conform to the minimum acreage required in the agricultural zone in which the property is located, but they do have the following special temporary status:
 - (1) A person owning two (2) or more contiguous parcels, lots or units shown on a final subdivision or parcel map recorded in the office of the Tulare County Recorder shall have the right to convey, lease or finance one or more of such parcels, lots or units, and to secure permits to develop any of such parcels, lots or units although the individual parcels, lots or units contain less than the minimum acreage required in the agricultural zone, unless and until the circumstances stated in Subparagraph (4) below occur.
 - (2) A person owning two (2) or more contiguous parcels, lots or units shown on a parcel map, when the recordation of a final parcel map has been waived, or two (2) or more contiguous parcels, lots or units in an approved lot split map under the former County Ordinance establishing lot split procedures which did not authorize recordation of a final map, shall also have the rights set forth in Subparagraph (1) above, unless and until the circumstances stated in Subparagraph (4) below occur.
 - (3) A person owning property who has filed with the Building and Planning Director a tentative subdivision or parcel map which contains parcels, lots or units of a size that conforms to the existing zoning, but do not conform to the minimum acreage required in the agricultural zone in which the property is located, and said filing is made

before the agricultural zone becomes applicable to the property being divided, shall have the right to have said map processed after the agricultural zone becomes effective and shall have the right to convey, lease or finance one or more parcels, lots or units and to secure permits to develop such parcels, lots or units, after the agricultural zoning becomes effective, even though the parcels, lots or units contain less than the minimum acreage required in the agricultural zone, unless and until the circumstances stated in Subparagraph (4) below occur.

- (4) Under Sections 7-01-2710 - 7-01-2735 of the Tulare County Ordinance Code, the Board of Supervisors has the power, after a public hearing, to merge existing parcels, lots or units in subdivisions, parcel maps and lot splits. If such merger occurs with regard to property described in Subparagraphs (1) through (3) above, all of the contiguous parcels, lots or units under a single ownership shall merge and thereafter no parcels, lots or units may be conveyed, leased or financed until a new subdivision or parcel map has been approved when required by State law or the Tulare County Ordinance Code, and no permits for development may be issued except in conformity with the requirements of the agricultural zone in which the property is located.
- (5) Two (2) or more contiguous parcels, lots or units of the type described in Subparagraphs (1) through (3) above shall not have the special temporary status described in Subparagraphs (1) through (3) above if: (a) the parcels, lots or units lie outside of the Urban Area Boundary as designated by the General Plan; (b) the parcel, lot or unit to be conveyed, leased or financed is less than ten (10) acres or the total property to be retained is less than ten (10) acres or, in the case of AE and A-1 zoning only, the parcel, lot or unit to be conveyed, leased or financed is less than five (5) acres or the total property to be retained is less than five (5) acres; (c) the parcel, lot or unit to be conveyed was created prior to February 3, 1959; and (d) in the case of A-1 zoning only, the parcels, lots, or units to be conveyed lie west of the eastern boundary of the Foothill Region, as delineated in the Foothill

Growth Management Plan, said boundary to include the northern boundary of the Three Rivers Planning Area, as delineated in the Three Rivers Community Plan. Therefore, none of such parcels, lots or units may be conveyed, leased or financed under this Paragraph i.

- j. (Division of gift parcels - Repealed by Ord. No. 2858, effective 10-20-88)

Section 2: The foregoing ordinance shall take effect thirty (30) days from the date of passage hereof, and prior to the expiration of fifteen (15) days from the passage hereof a summary shall be published once in the Tulare Valley Voice, a newspaper printed and published in the County of Tulare, State of California, together with the names of the Board of Supervisors voting for and against the same.

THE FOREGOING ORDINANCE was passed and adopted by the Board of Supervisors of the County of Tulare, State of California, on the ____ day of _____, 2010, at a regular meeting of said Board duly and regularly convened on said day by the following vote:

AYES: _____

NOES: _____

ABSENT: _____

Chairman of the Board of Supervisors

Attest: JEAN M. ROUSSEAU
County Administrative Officer/
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

Section 15.D.2 – Division of Land Exceptions (HOMESITE PARCEL)

Proposed Ordinance Amendment with Track Changes

**Division of
Land
Exceptions**

2. All agricultural zones established in this Ordinance (AE, AE-10, AE-20, AE-40, AE-80, A-1, AF and RC) provide that no real property shown on the latest County tax role as a unit or as contiguous units, and which is owned by the same person or persons, may be divided for any purpose if any one (1) lot or parcel resulting from the division of land contains less than a certain minimum acreage requirement, the amount of which is specified in each agricultural zone. Unless otherwise provided in this Ordinance, the following transactions shall not be subject to the minimum acreage requirement established in agricultural zones (Subsection D.2 added by Ord. No. 2751, effective 2-1-87; amended by Ord. No. 2956, effective 4-11-91):
 - a. Any conveyance made or required by court decree for intestate or testamentary dispositions of land. (Amended by Ord. No. 3131, effective 10-12-95.)
 - b. Any conveyance to the State of California, any city or county, any political subdivision of the State of California, or any public utility subject to regulation by the State Public Utilities Commission. However, this exception does not apply to conveyances to any of said entities, including the State Department of Veterans Affairs, which are financing transactions.
 - c. Any conveyance of easements or oil, gas and mineral rights.
 - d. If a portion of a parcel of property is separated from the main portion of the property by a river, railroad, improved public road or a canal which is regularly used for the conveyance of water and the channel of which is six (6) feet or more in width, said portion of the parcel may be conveyed as a single unit even though it contains less than the minimum acreage required in the agricultural zone in which the property is located. This paragraph shall not be applicable to property located in the AF, Foothill Agricultural Zone, and RC, Resource Conservation Zone. (Amended by Ord. No. 2956, effective 4-11-91.)
 - e. If a person desires to convey a portion of his/her property to the owner of property contiguous to the property to be

conveyed, he/she may do so even though the parcel being conveyed contains less than the minimum acreage required in the agricultural zone in which the property is located. However, the parcel being retained shall contain at least the minimum acreage required in the agricultural zone unless the transaction comes within one of the following provisions:

- (1) The conveyance to the contiguous owner is to convey property on which improvements, including growing improvements, owned by the contiguous owner have been constructed or planted in error.
 - (2) The conveyance to the contiguous owner is to convey property to provide necessary yard areas as required for the zone in which the property is located.
 - (3) If there is a residence or mobilehome on the property to be retained by the person making conveyance, he/she may retain the residence or mobilehome on a parcel at least twelve thousand five hundred (12,500) square feet in size but not more than sixty-five thousand (65,000) square feet in size, and convey the remainder of the property to the contiguous owner. Once a parcel has been divided for this purpose, the parcel containing the residence or mobilehome may not be divided again for any purpose.
- f. If a person desires to construct a residence on his/her property for use in compliance with the provisions of the agricultural zone in which the property is located, one (1) parcel of at least twelve thousand five hundred (12,500) square feet in size but not more than sixty-five thousand (65,000) square feet in size, may be divided for the purpose of financing a residence. Once a person has divided one (1) parcel from his/ her property pursuant to this paragraph, he/she may not at any time thereafter cause a second parcel to be divided from the property pursuant to this paragraph. However, if a person who has created one (1) parcel pursuant to this paragraph, conveys all or part of his/her property, his/her successors in interest shall also have the right to create one (1) parcel pursuant to this paragraph if they meet all of the requirements of this

paragraph.

- g. ~~If a person desires to sell his/her property but wishes to retain a parcel of land containing a residence or mobilehome which has been established in accordance with all applicable building and zoning regulations and which has existed on that property for at least three (3) years, one (1) parcel of at least twelve thousand five hundred (12,500) square feet in size but not more than sixty five thousand (65,000) square feet in size, may be divided for this purpose. However, the provisions of this paragraph shall not be applicable if the lot or parcel being divided contains less than the minimum acreage required in the agricultural zone in which the property is located. Once a parcel has been divided for this purpose, the parcel containing the residence or mobilehome may not be divided again for any purpose.~~

A homesite parcel may be created for the purpose of separating an existing residence or mobilehome from the remaining agricultural portion of the site. If the original parcel is greater in size than is required in the zone district in which it is located, a maximum of one (1) homesite parcel shall be permitted, unless, and until the remaining agricultural acreage is divided into parcels consistent with the zone district in which the property is located. The creation of a homesite parcel shall comply with all of the following provisions (Amended by Ord. No. _____ effective _____):

- (1) *The original parcel to be divided shall contain the minimum acreage required for the agricultural zone which the property is located. The original parcel to be divided shall have been legally established in accordance with all applicable requirements of the California Subdivision Map Act and County Ordinance Code.*
- (2) *The property contains a residence or mobile home which has been established in accordance with all applicable building and zoning regulations and which has existed on that property for a minimum of five (5) years.*
- (3) *The minimum homesite parcel size shall be twelve thousand five-hundred (12,500) square feet. The*

creation of a homesite parcel containing less than one (1) acre net shall require off-site domestic water service and/or off-site sewage disposal service in accordance with all state and local standards.

(4) *The maximum homesite parcel size shall be determined by the existing homesite use lines, not to exceed twenty (20) percent of the original parcel size, or four (4) acres gross, whichever is less. Features that may be considered as establishing the homesite use lines may include: fences, developed yard areas, vegetation, canals, roads, easements, railroads, etc.*

h. ~~If a person decides to sell a residence or mobilehome which has existed on the property for at least ten (10) years, and retain the balance of the property, a parcel of at least twelve thousand five hundred (12,500) square feet in size but not more than sixty five thousand (65,000) square feet in size may be divided for this purpose. If there is more than one such residence or mobilehome on the property, there may be more than one division of land pursuant to this paragraph. However, the provisions of this paragraph shall not be applicable if the lot or parcel being divided contains less than the minimum acreage required in the agricultural zone in which the property is located. Once a parcel has been divided for this purpose, the parcel containing the residence or mobilehome may not be divided again for any purpose.~~

(Creation of Homesite Parcel to retain balance of acreage) - Repealed by Ord. No. _____, effective _____)

i. The following transactions do not conform to the minimum acreage required in the agricultural zone in which the property is located, but they do have the following special temporary status:

(1) A person owning two (2) or more contiguous parcels, lots or units shown on a final subdivision or parcel map recorded in the office of the Tulare County Recorder shall have the right to convey, lease or finance one or more of such parcels, lots or units, and to secure permits to develop any of such

parcels, lots or units although the individual parcels, lots or units contain less than the minimum acreage required in the agricultural zone, unless and until the circumstances stated in Subparagraph (4) below occur.

- (2) A person owning two (2) or more contiguous parcels, lots or units shown on a parcel map, when the recordation of a final parcel map has been waived, or two (2) or more contiguous parcels, lots or units in an approved lot split map under the former County Ordinance establishing lot split procedures which did not authorize recordation of a final map, shall also have the rights set forth in Subparagraph (1) above, unless and until the circumstances stated in Subparagraph (4) below occur.
- (3) A person owning property who has filed with the Building and Planning Director a tentative subdivision or parcel map which contains parcels, lots or units of a size that conforms to the existing zoning, but do not conform to the minimum acreage required in the agricultural zone in which the property is located, and said filing is made before the agricultural zone becomes applicable to the property being divided, shall have the right to have said map processed after the agricultural zone becomes effective and shall have the right to convey, lease or finance one or more parcels, lots or units and to secure permits to develop such parcels, lots or units, after the agricultural zoning becomes effective, even though the parcels, lots or units contain less than the minimum acreage required in the agricultural zone, unless and until the circumstances stated in Subparagraph (4) below occur.
- (4) Under Sections 7-01-2710 - 7-01-2735 of the Tulare County Ordinance Code, the Board of Supervisors has the power, after a public hearing, to merge existing parcels, lots or units in subdivisions, parcel maps and lot splits. If such merger occurs with regard to property described in Subparagraphs (1) through (3) above, all of the contiguous parcels, lots or units under a single

ownership shall merge and thereafter no parcels, lots or units may be conveyed, leased or financed until a new subdivision or parcel map has been approved when required by State law or the Tulare County Ordinance Code, and no permits for development may be issued except in conformity with the requirements of the agricultural zone in which the property is located.

- (5) Two (2) or more contiguous parcels, lots or units of the type described in Subparagraphs (1) through (3) above shall not have the special temporary status described in Subparagraphs (1) through (3) above if: (a) the parcels, lots or units lie outside of the Urban Area Boundary as designated by the General Plan; (b) the parcel, lot or unit to be conveyed, leased or financed is less than ten (10) acres or the total property to be retained is less than ten (10) acres or, in the case of AE and A-1 zoning only, the parcel, lot or unit to be conveyed, leased or financed is less than five (5) acres or the total property to be retained is less than five (5) acres; (c) the parcel, lot or unit to be conveyed was created prior to February 3, 1959; and (d) in the case of A-1 zoning only, the parcels, lots, or units to be conveyed lie west of the eastern boundary of the Foothill Region, as delineated in the Foothill Growth Management Plan, said boundary to include the northern boundary of the Three Rivers Planning Area, as delineated in the Three Rivers Community Plan. Therefore, none of such parcels, lots or units may be conveyed, leased or financed under this Paragraph i.

- j. (Division of gift parcels - Repealed by Ord. No. 2858, effective 10-20-88)

ATTACHMENT NO. 6

CLARIFICATION FOR HOME SITE PARCEL CREATION

In order to create a home site parcel, each property shall have been existing and legally created at the time that zoning was placed on the property and shall comply with the following criteria:

- A. Minimum parcel size shall be:
 - 6,000 square feet if community sewer and water is available
 - 8,000 square feet if on-site water and off-site sewer is available
 - 12,500 square feet if on-site sewer and off-site water is available
 - 43,500 square feet if on-site sewer and water is to be used
- B. Maximum home site parcel size shall be determined by the existing home site use lines, not to exceed 20% of the original parcel size or four (4) acres.
- C. Existing dwelling unit shall have been on the subject site a minimum of five (5) years.
- D. Financing parcels for home sites shall conform to the same minimum parcel size as existing home sites. The maximum parcel size shall not exceed 20% of the original parcel area or four (4) acres, which ever is less.
- E. Home site parcels created by Lot Line Adjustment shall conform to the same requirements as to size and age as required for the division of existing home site parcels.