

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. _____

Subdivisions-cluster developments.

Sponsored by: Joint Corporations, Elections and Political
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to subdivisions; modifying exemptions from
2 county subdivision regulation; authorizing a county
3 conservation design process; providing for cluster
4 development in unincorporated areas; providing for
5 incentives for land use design; specifying legislative
6 intent; and providing for an effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 18-5-401 through 18-5-405 are created
11 to read:

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13

ARTICLE 4

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CONSERVATION DESIGN PROCESS

18-5-401. Authority.

The establishment, regulation and control of a conservation design process for the unincorporated area in each county is vested in the board of county commissioners of the county in which the land is located.

18-5-402. Definitions.

(a) As used in this article:

(i) "Conservation design process" means a planning process adopted by a county to offer a land use option for single family residential purposes that differs from traditional thirty-five (35) acre divisions of land described in W.S. 18-5-303(b) using cluster development, density bonuses and parcel bonuses to:

(A) Preserve open space;

1 (B) Protect wildlife habitat and critical
2 areas; and

3
4 (C) Enhance and maintain the rural
5 character of lands with contiguity to agricultural lands
6 suitable for long range farming and ranching operations.

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8 (ii) "Cluster development" means any division of
9 land that creates parcels containing less than thirty-five
10 (35) acres each, for single family residential purposes
11 only, provided:

12
13 (A) One (1) or more parcels are being
14 divided pursuant to a county conservation design process;

15
16 (B) At least two-thirds (2/3) of the total
17 area of the parcel being divided is reserved for the
18 preservation of open space;

19
20 (C) Unless otherwise provided through a
21 density bonus or parcel bonus, the gross overall density
22 shall not exceed one (1) residential unit for each
23 seventeen and one-half (17 1/2) acres; and

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2 ***** Staff note: This provision sets the base at no**
3 **more than 2 units per 35 acres, but the board may provide**
4 **for greater density through the use of "density bonuses"**
5 **now that the committee has changed that definition to allow**
6 **for 2 or more units per 35 acres. *****

7

8 (D) Land set aside to preserve open space
9 or to protect wildlife habitat or critical areas shall not
10 be developed in any way that changes its open space
11 designation for at least forty (40) years from the date the
12 cluster development is approved and shall be governed by
13 the provisions of W.S. 18-5-403(b)(ii).

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15 (iii) "Density bonus" means a land use design
16 incentive that encourages optimized preservation of open
17 space by allowing a gross overall density of two (2) or
18 more residential units for each thirty-five (35) acres;

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20 (iv) "Open space" means an area of land or water
21 that is substantially free of structures, impervious
22 surfaces and other land-altering activities. "Open space"
23 includes lands used for agricultural activities;

24

25 (v) "Parcel bonus" means a land use design
26 incentive that encourages optimized preservation of open

1 space by allowing an increase in the total number of
2 parcels beyond that permitted through traditional thirty-
3 five (35) acre divisions of land described in W.S.
4 18-5-303(b).

5

6 **18-5-403. Cluster development permits.**

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8 (a) No person shall divide land or commence the
9 construction of any cluster development without first
10 obtaining a permit from the board of county commissioners
11 in which the land is located.

12

13 (b) No permit shall be approved until:

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15 (i) A plat of the cluster development has been
16 prepared by or under the supervision of a Wyoming
17 professional land surveyor, approved by the board and
18 recorded with the county clerk in the county in which the
19 land is located;

20

21 (ii) A provision is approved by the board
22 providing for the retention and maintenance of the open
23 space, which may be evidenced by restrictive covenants,

1 dedication of open space to the public where the dedication
2 will be accepted by the governing body or any other
3 evidence approved by the board. The provision shall
4 provide for a mechanism by which the owners of the lots in
5 the development may retain the land in open space after the
6 expiration of the initial forty (40) year period;

7

8 (iii) The board finds that the development has
9 met the conservation design process requirements adopted by
10 the board.

11

12 (c) Each application for a cluster development permit
13 shall be accompanied by a fee to be determined by the board
14 of county commissioners.

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16 **18-5-404. Enforcement; rules and regulations.**

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18 Each board of county commissioners shall enforce this
19 article and in accordance with the Wyoming Administrative
20 Procedure Act shall adopt rules and regulations to
21 implement the provisions of and to insure compliance with
22 the intent and purposes of this article.

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1 **18-5-405. Cluster development; notice to state**
2 **engineer.**

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4 Within thirty (30) days after a cluster development
5 has been approved pursuant to the conservation design
6 process, the board of county commissioners shall notify the
7 state engineer of the approval and shall provide the state
8 engineer a copy of the approved cluster development plan.

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10 **Section 2.** W.S. 18-5-303(a) by creating a new
11 paragraph (xii) is amended to read:

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13 **18-5-303. Exemptions from provisions.**

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15 (a) Unless the method of sale or other disposition is
16 adopted for the purpose of evading the provisions of this
17 article, this article shall not apply to the following
18 subdivisions of land however, the following subdivisions
19 are subject to requirements which may be adopted by the
20 board of county commissioners regarding documentation of
21 the proper use and implementation of the following
22 exemptions:

23

1 (xii) A division which creates a cluster
2 development pursuant to and in accordance with article 4 of
3 this chapter.

4
5 **Section 3.** Legislative declaration.

6
7 (a) It is in the public interest to encourage
8 clustering of residential dwellings on tracts of land that
9 are exempt from subdivision regulation by county government
10 to preserve open space and reduce the extension of roads
11 and utilities to residential development.

12
13 (b) Landowners should have the option to consider
14 cluster development when dividing land as an alternative to
15 the traditional thirty-five (35) acre parcels described in
16 W.S. 18-5-303(b).

17
18 (c) A process should be available for the development
19 of parcels of land for residential purposes that will
20 authorize the use of clustering, density bonuses and parcel
21 bonuses and fulfill the goals of the county to preserve
22 open space, protect wildlife habitat and critical areas and
23 enhance and maintain the rural character of lands with

1 contiguity to agricultural lands suitable for long range
2 farming and ranching operations.

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4 **Section 4.** This act is effective July 1, 2009.

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(END)