

ENROLLED ACT NO. 23, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2009 GENERAL SESSION

AN ACT relating to subdivisions; modifying exemptions from county subdivision regulation; authorizing a county conservation design process; providing for cluster development in unincorporated areas; providing for incentives for land use design; providing an exception to qualify parcels as agricultural land for taxation purposes; and providing for effective dates.

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

Section 1. W.S. 18-5-318 and 18-5-401 through 18-5-405 are created to read:

18-5-318. Large parcels used for agricultural purposes.

If any lot, unit, tract or parcel thirty-five (35) acres or more in size is used for agricultural purposes within a platted subdivision and otherwise qualifies as agricultural land for purposes of W.S. 39-13-103(b)(x), the parcel shall be deemed not to be part of a platted subdivision for purposes of W.S. 39-13-103(b)(x)(B)(II).

ARTICLE 4
CONSERVATION DESIGN PROCESS

18-5-401. Authority.

The board of county commissioners in each county, by resolution, may establish, regulate and control a conservation design process for the unincorporated area in the county as provided in this article.

18-5-402. Definitions.

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(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 residential purposes that differs from traditional thirty-five (35) acre divisions of land described in W.S. 18-5-303(b) using cluster development and density bonuses to preserve open space through:

(A) Protection of wildlife habitat and critical areas; or

(B) Enhancement and maintenance of the rural character of lands with contiguity to agricultural lands suitable for long range farming and ranching operations.

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

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

(B) An area within the county equal to not less than two-thirds ($2/3$) of the total area of the parcel, as defined in W.S. 18-5-302(a)(x), being divided is reserved at the time of the development for the preservation of open space in furtherance of one (1) or more of the objectives described in paragraph (i) of this subsection;

(C) Unless otherwise provided through a density bonus, the gross overall density shall not exceed one (1) residential unit for each seventeen and one-half ($17 \frac{1}{2}$) acres; and

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(D) Land set aside to preserve open space or to protect wildlife habitat or critical areas shall not be developed in any way that changes its open space designation for at least sixty-five (65) years from the date the cluster development is approved and shall be governed by the provisions of W.S. 18-5-403(b)(ii).

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

(iv) "Open space" means an area of land or water that is substantially free of structures, impervious surfaces, roads and other land-altering activities and does not include lands used for private recreation such as golf courses and residential yards, areas devoted to parking, vehicular traffic, nonagricultural private use or any other use which does not significantly lend itself to the furtherance of one (1) or more of the objectives described in paragraph (i) of this subsection. "Open space" includes lands used for agricultural activities;

(v) "Private recreation" shall not include nature trails or hiking trails;

(vi) "Residential unit" means a structure or part of a structure containing dwelling units, including single family or two-family houses, multiple dwellings or apartments. Residential units do not include transient accommodations such as transient hotels, motels, tourist cabins, boarding or rooming houses or dormitories.

18-5-403. Cluster development permits.

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(a) No person shall sell land subject to subdivision regulation under this article, record a plat or commence the construction of any cluster development under this article without first obtaining a permit from the board of county commissioners in which the land is located.

(b) No permit shall be approved until:

(i) A plat of the cluster development has been prepared by or under the supervision of a Wyoming professional land surveyor, approved by the board and recorded with the county clerk in the county in which the land is located which includes a statement on the plat designating the open space area and clearly noting the duration of the open space reservation;

(ii) A provision is approved by the board providing for the designation of the open space, which may be evidenced by conservation easements, restrictive covenants, dedication of open space to the public where the dedication will be accepted by the governing body or any other evidence approved by the board. The provision shall provide for a process by which the owners of the lots in the development may retain the designation of land as open space after the expiration of the initial sixty-five (65) year period;

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

(c) Each application for a cluster development permit shall be accompanied by a reasonable fee not to exceed the cost of processing the application as determined by the board of county commissioners.

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(d) If the open space areas created pursuant to a permit issued under this article are used for agricultural purposes and otherwise qualify as agricultural land for purposes of W.S. 39-13-103(b)(x), the area designated as open space shall be deemed not to be part of a platted subdivision for purposes of W.S. 39-13-103(b)(x)(B)(II).

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

If a board of county commissioners adopts the process described in this article, it shall enforce this article and, in accordance with the Wyoming Administrative Procedure Act, shall adopt rules and regulations to implement the provisions of and to insure compliance with the intent and purposes of this article.

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

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

Section 2. W.S. 18-5-303(a) by creating a new paragraph (xii) and 39-13-103(b)(x)(B)(II) are amended to read:

18-5-303. Exemptions from provisions.

(a) Unless the method of sale or other disposition is adopted for the purpose of evading the provisions of this article, this article shall not apply to the following subdivisions of land however, the following subdivisions are subject to requirements which may be adopted by the

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board of county commissioners regarding documentation of the proper use and implementation of the following exemptions:

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

39-13-103. Imposition.

(b) Basis of tax. The following shall apply:

(x) The following shall apply to agricultural land:

(B) Contiguous or noncontiguous parcels of land under one (1) operation owned or leased shall qualify for classification as agricultural land if the land meets each of the following qualifications:

(II) The land is not part of a platted subdivision, except for a parcel of thirty-five (35) acres or more which otherwise qualifies as agricultural land;

Section 3. W.S. 18-5-318 as created by section 1 of this act and W.S. 39-13-103(b)(x)(B)(II) as amended by section 2 of this act shall apply to any property tax assessed on or after January 1, 2009.

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Section 4.

(a) Sections 1 and 3 of this act are effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(b) The remainder of this act is effective July 1, 2009.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk