

HOUSE BILL NO. HB0009

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; and providing for an
6 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:

12

13

ARTICLE 4

14

CONSERVATION DESIGN PROCESS

15

16

18-5-401. Authority.

1

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

6

7 **18-5-402. Definitions.**

8

9 (a) As used in this article:

10

11 (i) "Conservation design process" means a
12 planning process adopted by a county to offer a land use
13 option for residential purposes that differs from
14 traditional thirty-five (35) acre divisions of land
15 described in W.S. 18-5-303(b) using cluster development and
16 density bonuses to preserve open space through:

17

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

20

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

1

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

5

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

8

9 (B) An area within the county equal to not
10 less than two-thirds (2/3) of the total area of the parcel
11 being divided is reserved at the time of the development
12 for the preservation of open space in furtherance of one
13 (1) or more of the objectives described in paragraph (i) of
14 this subsection;

15

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

20

21 (D) Land set aside to preserve open space
22 or to protect wildlife habitat or critical areas shall not
23 be developed in any way that changes its open space
24 designation for at least ninety-nine (99) years from the

1 date the cluster development is approved and shall be
2 governed by the provisions of W.S. 18-5-403(b)(ii).

3

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

8

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

19

20 (v) "Residential unit" means a structure or part
21 of a structure containing dwelling units, including single
22 family or two-family houses, multiple dwellings or
23 apartments. Residential units do not include transient

1 accommodations such as transient hotels, motels, tourist
2 cabins, boarding or rooming houses or dormitories.

3

4 **18-5-403. Cluster development permits.**

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

10

11 (b) No permit shall be approved until:

12

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

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 conservation easements,
24 restrictive covenants, dedication of open space to the

1 public where the dedication will be accepted by the
2 governing body or any other evidence approved by the board.
3 The provision shall provide for a process by which the
4 owners of the lots in the development may retain the land
5 in open space after the expiration of the initial ninety-
6 nine (99) 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 reasonable fee not to exceed the
14 cost of processing the application as determined by the
15 board of county commissioners.

16

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

23

24 **18-5-404. Enforcement; rules and regulations.**

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2 Each board of county commissioners shall enforce this
3 article and in accordance with the Wyoming Administrative
4 Procedure Act shall adopt rules and regulations to
5 implement the provisions of and to insure compliance with
6 the intent and purposes of this article.

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8 **18-5-405. Cluster development; notice to state**
9 **engineer.**

10

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

16

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

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20 **18-5-303. Exemptions from provisions.**

21

22 (a) Unless the method of sale or other disposition is
23 adopted for the purpose of evading the provisions of this
24 article, this article shall not apply to the following

1 subdivisions of land however, the following subdivisions
2 are subject to requirements which may be adopted by the
3 board of county commissioners regarding documentation of
4 the proper use and implementation of the following
5 exemptions:

6

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

10

11 **Section 3.** This act is effective July 1, 2009.

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(END)