

**DRAFT ONLY  
NOT APPROVED FOR  
INTRODUCTION**

HOUSE BILL NO. \_\_\_\_\_

Subdivisions-development.

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; defining water supply  
6 systems; providing for subdivision of land prior to  
7 construction or sale; requiring homeowners associations in  
8 subdivision plans as specified; requiring arbitration or  
9 mediation for disputes between members of homeowner  
10 associations; requiring notice of ownership of appurtenant  
11 mineral estates in subdivisions; specifying legislative  
12 intent and providing for an effective date.

13

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

2

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

5

6

ARTICLE 4

7

CONSERVATION DESIGN PROCESS

8

9

**18-5-401. Authority.**

10

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

15

16

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

17

18

(a) As used in this article:

19

20

21

22

23

(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

1 described in W.S. 18-5-303(b) using cluster development,  
2 density bonuses and parcel bonuses to:

3

4 (A) Preserve open space;

5

6 (B) Protect wildlife habitat and critical  
7 areas; and

8

9 (C) Enhance and maintain the rural  
10 character of lands with contiguity to agricultural lands  
11 suitable for long range farming and ranching operations.

12

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

17

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

20

21 (B) At least two-thirds (2/3) of the total  
22 area of the tract or tracts is reserved for the  
23 preservation of open space;

1

2 (C) The gross overall density shall not  
3 exceed one (1) residential unit for each seventeen and one-  
4 half (17 1/2) acres; and

5

6 (D) Land set aside to preserve open space  
7 or to protect wildlife habitat or critical areas shall not  
8 be developed for at least forty (40) years from the date  
9 the cluster development is approved.

10

11 (iii) "Density bonus" means a land use design  
12 incentive that encourages optimized preservation of open  
13 space by allowing a gross overall density of not more than  
14 two (2) parcels for each thirty-five (35) acres.

15

16 (iv) "Parcel bonus" means a land use design  
17 incentive that encourages optimized preservation of open  
18 space by allowing an increase in the total number of  
19 parcels beyond that permitted through traditional thirty-  
20 five (35) acre divisions of land described in W.S.  
21 18-5-303(b).

22

23 **18-5-403. Cluster development permits.**

1

2 (a) No person shall divide land or commence the  
3 physical layout or construction of any cluster development  
4 without first obtaining a permit from the board of county  
5 commissioners in which the land is located.

6

7 (b) No permit shall be approved until a plat of the  
8 cluster development has been prepared by or under the  
9 supervision of a Wyoming professional land surveyor and  
10 recorded with the county clerk in the county in which the  
11 land is located.

12

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

16

17 **18-5-404. Enforcement; rules and regulations.**

18

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

1

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

4

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

10

11           **Section 2.** W.S. 18-5-302(a)(v), (ix), 18-5-303(a) by  
12 creating a new paragraph (xii), 18-5-304, 18-5-306(a) by  
13 creating a new paragraph (xii), by creating a new  
14 paragraph (xiii), 18-5-309, 18-5-312 and 18-5-314 are  
15 amended to read:

16

17           **18-5-302. Definitions.**

18

19           (a) As used in this article:

20

21                   (v) "Sell" or "sale" includes sale as evidenced  
22 by the delivery of a deed, ~~contract to sell, lease,~~  
23 assignment, auction, or award by lottery, ~~or any offer or~~

1 ~~solicitation of any offer to do any of the foregoing,~~  
2 concerning a subdivision or any part of a subdivision;

3  
4 (ix) "Water supply system" includes development  
5 of the source and all structures for conveyance of raw  
6 water to the treatment plant or delivery systems; all water  
7 treatment plants including disinfection facilities; water  
8 supply systems used for irrigation and stock water; and all  
9 finished water delivery systems including pipelines,  
10 pumping stations and finished water storage facilities.

11 ~~Separate water supply systems used solely for irrigation or~~  
12 ~~stock water are not included.~~

13  
14 **18-5-303. Exemptions from provisions.**

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

1

2

3

4

5

6

**18-5-304. Subdivision permit required.**

7

8

No person shall ~~subdivide~~sell land subject to subdivision

9

regulation under this article or commence ~~the physical~~

10

~~layout or~~ construction of a subdivision without first

11

obtaining a subdivision permit from the board of the county

12

in which the land is located.

13

14

**18-5-306. Minimum requirements for subdivision**

15

**permits.**

16

17

(a) The board shall require the following information

18

to be submitted with each application for a subdivision

19

permit, provided the board may by rule exempt from any of

20

the following requirements of this subsection or subsection

21

(c) of this section the subdivision of one (1) or more

22

units of land into not more than a total of five (5) units

23

of land:



1

2

(xii) Evidence satisfactory to the board that the owners of all parcels of land created by the subdivision have entered into a homeowner's association agreement, binding on subsequent owners of the land within the subdivision, that addresses at least the following topics:

8

9

(A) Maintenance and responsibility for common areas, roads and water supply systems and assessments against all parcels of land in the subdivision to defray the costs thereof;

13

14

(B) Continued management of the homeowner's association;

16

17

(C) Provisions requiring dispute resolution between members of the homeowner's association through arbitration as provided in W.S. 1-36-101 through 1-36-119 or mediation as provided in W.S. 1-43-101 through 1-43-104;

21

22

(D) Provisions designating a person or entity initially responsible for representing the

23

1 landowners in disputes against the association where  
 2 another party is asserting legal rights or responsibilities  
 3 against the association which shall be filed with the  
 4 county clerk initially and upon any change of the person  
 5 designated; and

6

7 (E) Nuisance abatement and covenants.

8

9 (xiii) A statement which identifies all owners,  
 10 as recorded in the records of the county in which the  
 11 property is located, of the surface and subsurface mineral  
 12 estate of the land to be subdivided. The applicant shall  
 13 provide evidence that all owners of the surface and  
 14 subsurface mineral estate of the land to be subdivided have  
 15 been notified by certified mail of the application for a  
 16 subdivision permit. If the permit is approved the board  
 17 shall require the applicant to give notice on the plat that  
 18 the surface estate of the land to be subdivided is subject  
 19 to full and effective development of the mineral estate.

20

21 **18-5-309. Permit fee.**

22

1 Each application for a subdivision permit shall be  
2 accompanied by a fee to be determined by the board. The fee  
3 shall be ~~the greater of one hundred dollars (\$100.00) or~~  
4 ~~ten dollars (\$10.00) per lot up to a maximum fee of one~~  
5 ~~thousand dollars (\$1,000.00)~~ determined based on the cost  
6 to the county to review the application for the subdivision  
7 permit. All fees collected shall be credited to the county  
8 general fund.

9

10 **18-5-312. Enforcement.**

11

12 (a) Except as provided in subsection (b) of this  
13 section, the provisions of this article are enforceable by  
14 all appropriate legal remedies including but not limited to  
15 injunctive relief or a writ of mandamus. Upon failure or  
16 refusal of any county attorney to act upon a violation of  
17 the provisions of this article, the attorney general at the  
18 request of the board shall initiate civil or criminal  
19 proceedings to enforce the provisions of this article.

20

21 (b) Before civil proceedings may be brought pursuant  
22 to subsection (a) of this section, all disputes arising  
23 under homeowner's association agreements required under

1 W.S. 18-5-306(a)(xii) shall be subject to mediation  
2 proceedings as provided in this section and subject to the  
3 provisions of W.S. 1-43-101 through 1-43-104 or arbitration  
4 pursuant to W.S. 1-36-101 through 1-36-119. The board of  
5 county commissioners may make available a list of qualified  
6 mediators, from which the parties to the dispute shall  
7 choose a mediator. Expenses and fees for the mediators  
8 shall be borne by the parties to the mediation.

9  
10 **18-5-314. Penalties.**

11  
12 Any person who willfully violates any provision of this  
13 article or any rule or order issued under this article, ~~and~~  
14 ~~any person who as an agent for a subdivider, developer or~~  
15 ~~owner of subdivided lands offers for sale any subdivided~~  
16 ~~lands or subdivisions without first complying with the~~  
17 ~~provisions of this article~~ shall upon conviction be fined  
18 not more than five hundred dollars (\$500.00) or imprisoned  
19 in a county jail for not more than thirty (30) days or  
20 both. Each day of violation constitutes a new offense.

21  
22 **Section 3.** Legislative declaration.  
23

1           (a) It is in the public interest to encourage  
2 clustering of residential dwellings on tracts of land that  
3 are exempt from subdivision regulation by county government  
4 pursuant to W.S. 18-5-303(a)(xii) to preserve open space  
5 and reduce the extension of roads and utilities to  
6 residential development.

7

8           (b) Landowners should have the option to consider  
9 cluster development when dividing land as an alternative to  
10 the traditional thirty-five (35) acre parcels described in  
11 W.S. 18-5-303(b).

12

13           (c) A process should be available for the development  
14 of parcels of land for residential purposes that will  
15 authorize the use of clustering, density bonuses and parcel  
16 bonuses and fulfill the goals of the county to preserve  
17 open space, protect wildlife habitat and critical areas and  
18 enhance and maintain the rural character of lands with  
19 contiguity to agricultural lands suitable for long range  
20 farming and ranching operations.

21

22           **Section 4.** This act is effective July 1, 2008.

23

1

(END)