

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

5

6 **18-5-402. Definitions.**

7

8 (a) As used in this article:

9

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

16

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

19

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

24

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

4

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

7

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

14

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

19

20 (D) Land set aside to preserve open space
21 or to protect wildlife habitat or critical areas shall not
22 be developed in any way that changes its open space
23 designation for at least sixty-five (65) 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) "Private recreation" shall not include
21 nature trails or hiking trails;

22

23 (vi) "Residential unit" means a structure or
24 part of a structure containing dwelling units, including

1 single family or two-family houses, multiple dwellings or
2 apartments. Residential units do not include transient
3 accommodations such as transient hotels, motels, tourist
4 cabins, boarding or rooming houses or dormitories.

5

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

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

13

14 (b) No permit shall be approved until:

15

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

23

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

11

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

15

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

20

21 (d) If the open space areas created pursuant to a
22 permit issued under this article are used for agricultural
23 purposes and otherwise qualify as agricultural land for
24 purposes of W.S. 39-13-103(b)(x), the area designated as

1 open space shall be deemed not to be part of a platted
2 subdivision for purposes of W.S. 39-13-103(b)(x)(B)(II).

3

4 **18-5-404. Enforcement; rules and regulations.**

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

12

13 **18-5-405. Cluster development; notice to state**
14 **engineer.**

15

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

21

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

24

1 **18-5-303. Exemptions from provisions.**

2

3 (a) Unless the method of sale or other disposition is
4 adopted for the purpose of evading the provisions of this
5 article, this article shall not apply to the following
6 subdivisions of land however, the following subdivisions
7 are subject to requirements which may be adopted by the
8 board of county commissioners regarding documentation of
9 the proper use and implementation of the following
10 exemptions:

11

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

15

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

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(END)