Exempt Family Land Divisions (4.10 – 4.12 optional sections to add this)

A. Purpose: Family Land Divisions are established for the primary purpose of continuity of generational farming or ranching land uses and the open space preservation and community character benefits associated with these uses. Other purposes include a reduction in the financial and procedural burden on families and agricultural operations associated with subdivision, which can affect the ultimate cost of housing, allowing for continuity of existing residents in Teton County, and continuity of existing local businesses.

B. Family Divisions Defined: A division of unplatted land which is made for the purpose of a single inter vivos gift or sale to the landowner's parent, child, grandparent or grandchild in accordance with the provisions of the subsection.

1. Familial status may be established by blood, marriage, or adoption, .
2. Family divisions shall comply with all of the following standards:

a. The parcel to be divided has not previously been divided for purposes of a gift or sale pursuant to this subsection by (any) prior owner. More than one parcel may be created pursuant to the limitations of this subsection. No property owner shall create more than four (4) parcels pursuant to this exemption in the owner's lifetime, whether such parcels were created by the owner as an individual, a co-owner with a spouse, or a trustee of a trust in which the owner retains beneficial ownership.

b. The parcel to be divided must be owned by an individual, married couple, or trust in which an individual or married couple retain beneficial ownership.

c. Ownership of the parcel to be divided cannot have changed within the previous ten (10) years. The following shall not be considered to be a change of ownership:

(1) The death of a spouse, so long as the surviving spouse continues to own the property.

(2) A divorce between owners who were married prior to the divorce, so long as at least one of the former spouses continues to own the property.

(3) A transfer of the property into trust where the owners prior to the transfer are the beneficial owners after the transfer, or a transfer of the property out of trust where the beneficial owners prior to the transfer are the owners after the transfer.

d. An individual may receive only one (1) parcel created pursuant to this subsection by gift or sale.

e. Where the landowner is a business entity and 80% of the shares are held by individuals related by blood or marriage, the sale or gift may be made subject to the provisions of this Section to an immediate family member of any shareholder who has owned at least 5% of the outstanding shares for at least five years continuously before the date of the sale or gift.

e. The parcels created pursuant to this subsection shall:

(1) Be a minimum of five (1.00) gross acres and a minimum average density of five (5.00) acres regardless of the underlying zoning,

(2) Have legal access to a public road, and (consider adding language to address buildability, (e.g. include site plan demonstrating the proposed lots are generally buildable based on being free from constrating factors such as wetlands, floodplains, or steep slopes (exceeding x percent, that may require a subsequent variance to allow for a building permit)),

(3) Be otherwise in conformance with the provisions of this title.

f. The recipient of the parcel shall be at least eighteen (18) years of age at the time of parcel creation and conveyance.

Commented [JC1]: We have specific provisions to modifications of platted land. Generally the increase in number of lots is considered a major change and with potential impacts to other lot owners. Unless the plat is entirely owned and controlled by a single entity, the use of this tool for further division is not advised.

Commented [JC2]: Only responses with greater than 50% recommendation for the questionnaire have been retained or included.

Commented [JC3]: There was zero consensus on this matter from the questionnaire responses

Commented [JC4]: New text for consideration from Teton Co., WYO

Commented [JC5]: This should either be left as is (based on the majority of respondents) or modified as shown based on additional discussion by the BoCC.

Commented [JC6]: Overly generic as to not accomplish much.

g. The parcel to be divided is not subject to any deed restriction or Covenants, Conditions and Restrictions (CCRs) that prohibit further division of the parcel.

3. Following a pre-application conference, An application, including a descriptive narrative, for a Family Division for each parcel to be created shall be submitted to the Planning Department for review and approval before the division is recorded. The application for a Family Division shall include the following:

a. Proof of approval of an approach permit from the highway district with jurisdiction for the existing or new point of access to the adjacent public road. Where the subject property will access onto a private road or common driveway, proof of easements to demonstrate legal access.

b. An acknowledgment from Eastern Idaho Public Health indicating that a location (on the subject property, or on a nearby property by easement) has been identified and approved that can meet the wastewater disposal requirements for the parcel in question.

c. An unrecorded conveyance deed or similar instrument that will be used to execute the proposed division shall be attached to the application for Family Division and record of survey. The conveyance deed or similar instrument shall contain the legal descriptions of each parcel to be created and any other information deemed necessary for approval of the proposed division.

d. A title report prepared within six (6) months of submittal of the Application for Family Division that contains the legal description, ownership, and any exceptions to title, such as easements or covenants, conditions and restrictions (CC&Rs).

4. The Administrator or designee shall review the application and supporting documents for compliance with the provisions of this subsection. The Administrator or designee shall review the Notice of Family Division and upon a determination that the request complies with the provisions of this subsection shall notice the application for review by…. The application for Family Division, with the exception of the title report and any originally submitted unrecorded conveyance deed or similar instrument, shall be attached to all deeds to be recorded. The grantor shall provide a copy of the recorded Notice of Family Division to the Planning Department.

5. Parcels created pursuant to this subsection are immediately eligible for a building or development permit as long as they are retained by the grantee. Building and development permits issued to the grantee shall be non-transferrable.

6. Parcels created pursuant to this subsection that are not retained by the grantee for a period of five (5) years from the date of recording of the division shall not be eligible for building or development permits until a period of ten (10) years has elapsed from the date of recording of the division. This restriction shall not apply to building or development permits which the Administrator determines are necessary for life safety or to remedy a nuisance or hazard.

.

7. ~~Parcels created pursuant to this subsection which are located within an area of city impact shall be exempt from the provisions of Chapter 10 of this title. (Ord. 514, 9-28-2017; amd. Ord. 546, 10-17-2019; Ord. 592, 4-29-2024; Ord. 597, 7-30-2024; Ord. 619, 10-1-2025) In this context, this referenced Chapter is the AOI codes/regulations.~~ (AOI code would also have to be amended to allow for these provisions to be used in a city AOI. (should these be restricted in AOIs?)

8. Parcels created pursuant to this subsection are subject to a lien(42.9%)/deed restriction (50%) to enforce provisions of this section related to maintaining ownership of the parcel to meet the intended purposes of this exempt division.

- **Preservation and Land Use:** Mandate that all newly created parcels utilize building envelopes strategically placed to avoid prime agricultural soils and vital irrigation

Commented [JC7]: As demonstrated in a title report? What is sufficient documentation to satisfy this.

Commented [JC8]: Can this provision be used multiple times from the same parent parcel?

Commented [JC9]: This option was not in the questionnaire but is consistent with other land division procedures. It seems advisable, but is not required in the model ordinance. Respondents indicated a requirement for a metes and bounds or M&B with a plat. Staff would recommend a R-O-S in almost all cases. Larger parcels could be sufficiently described by M&B potentially.

Commented [JC10]: This flexible provision may give latitude for different tools for recording the division, in very few cases a metes and bounds may be sufficient

Commented [JC11]: No consensus on review process. The majority of responses suggest a requirement for PZC recommendation and BoCC approval. The second most common response is Admin only.

Formatted: Highlight

Formatted: Highlight

Formatted: Highlight

Commented [JC12]: I need to review the source code to understand the implications.

Formatted: Strikethrough

Formatted: Strikethrough

infrastructure, while ensuring that the rest of the land continues to be used for agriculture. The ordinance should prioritize the long-term preservation of the county's rural character and consider requiring documentation that the applicant is actively engaged in agricultural use of the property. There was some consensus that this would not only be restriced to ag uses. (possible to allow other benefits if an ag use is preserved.

- **Discouraging Speculative Development:** Implement a tiered enforcement strategy to discourage speculative development and prevent the division process from becoming a loophole for real estate profit.
- **Protection of Agricultural Operations:** Include a "Right to Farm" disclosure in the CC&Rs for all created lots, ensuring new residents acknowledge and accept the noise, dust, and operations inherent to the surrounding agricultural landscape, thereby protecting the business continuity of the original ranch or farm.
- **Enforcement and Alternatives:** Examine alternative methods for land division and discuss the positives and negatives of previous methods, such as the 'one-time only lot split,' with a specific focus on concerns related to enforcement and abuse.
- **Hardship Exceptions:** Consider allowing heritage families over the age of 65 to sell a portion of their property to someone other than family to support their ability to retire and remain in their home.