Proposed Amendments to the Exempt Family Land Division Ordinance

Prepared for BOCC consideration - October 13, 2026

Amendment 1 — Parcel Creation: First Split, Phased Splits, and Eligibility

Purpose: (a) allows a single 1-acre split from any 2+ acre parcel without a density test; (b) allows the remaining parcels to be created later, over time, rather than all at once - but only from the original parcel or its undivided remainder, never from a parcel already created by a Family Land Division; and (c) clarifies that using a different Code provision (e.g., the prior one-time-only split) in the past does not disqualify a parcel from this exemption.

1(a). Revise Section 4-10.D.3.a:

Current text:

Meet the underlying zoning for average density, with a minimum one (1) acre with the maximum number of parcels based on zoning of property, but not to exceed a total of four (4) parcels.

Proposed redline:

Meet the underlying zoning for average density, with a minimum one (1) acre, and with the maximum number of parcels based on zoning of the property, but not to exceed a total of four (4) parcels; provided, however, that: (i) a landowner holding a parcel of at least two (2) acres may create a single one (1)-acre parcel as the first parcel created from that parcel under this subsection, without regard to the average density requirement of this subsection, so long as the remainder parcel retains no less than one (1) acre; and (ii) each parcel created from the same original parcel after the first shall comply with the average density requirement of this subsection, calculated using the entirety of the original parcel as it existed immediately before the first parcel was created from it under this subsection~~, but not to exceed a total of four (4) parcels.~~

1(b). Revise Section 4-10.D.2.d:

Current text:

More than one parcel may be created by a Family Land Division, provided however, that no Family Land Division can create more than four (4) parcels.

Proposed redline:

More than one parcel may be created by a Family Land Division, provided however, that no original parcel may yield more than four (4) parcels in total under this subsection. The parcels need not be created simultaneously, and may instead be created through successive Family Land Division applications over time, subject to Section 4-10.D.2.a(ii) and Section 4-10.D.3.a~~Family Land Division can create more than four (4) parcels~~.

1(c). Revise Section 4-10.D.2.a:

Current text:

The parcel to be divided has not previously been divided for purposes of a gift or sale as a Family Land Division by any prior owner.

Proposed redline:

The parcel to be divided is either (i) the original, undivided parcel, or (ii) the undivided remainder of an original parcel following one or more prior Family Land Divisions under this subsection. A parcel created by a Family Land Division shall not itself be eligible for any subsequent Family Land Division. The total number of parcels created from any original parcel under this subsection, whether in a single application or through successive applications over time, shall not exceed four (4), consistent with subsection (d). A parcel's prior use of any other provision of this Code authorizing a land division outside of subdivision review — including, without limitation, a one-time-only split — shall not render the parcel ineligible for a Family Land Division under this subsection~~The parcel to be divided has not previously been divided for purposes of a gift or sale as a Family Land Division by any prior owner~~.

Amendment 2 — Construction Timeline Requirement

Purpose: requires the recipient to apply for a building permit within one (1) year and commence construction within two (2) years of conveyance, so the exemption serves immediate housing need.

New Section 4-10.D.2.g:

Construction Timeline. As a condition of a Family Land Division, the recipient of each parcel created by the division shall apply for a residential building permit for a primary single-family residence on the parcel within one (1) year of the date of conveyance, and shall commence construction of the residence within two (2) years of the date of conveyance. The Administrator may grant a single extension of up to one (1) year upon a showing of good cause. Failure to meet either deadline shall be a violation of this Section, subject to the enforcement provisions of [cite applicable LDC enforcement section] and the deed restriction required by Section 4-10.D.2.h.

Amendment 3 — Deed Restriction with Liquidated Damages

Establishes recorded deed restriction with $100,000 liquidated damages and justification for the amount.

New ordinance findings:

WHEREAS, a developer creating a conventional subdivision is typically required to conduct studies addressing matters such as wildlife migration, traffic impacts, and nutrient and pathogen loading, and to design, permit, and install infrastructure including internal subdivision roads, highway approach and turn-lane improvements, utility conduit, and fire suppression systems, the cost of which is substantial;

WHEREAS, a Family Land Division exempts the recipient from these study and infrastructure requirements in reliance on the premise that the division serves the purpose of this ordinance — enabling a family member to establish multigenerational residence in Teton County — rather than facilitating development for sale or non-family purposes;

WHEREAS, where a recipient parcel is not used for its intended purpose, as evidenced by a transfer of the parcel within five (5) years of conveyance or a failure to meet the construction timeline of Section 4-10.D.2.g, the County and the public are deprived of the benefit of that premise without having received the review and infrastructure investment that would otherwise have been required, and the actual damages resulting from this loss are difficult to ascertain with precision at the time of division; and

WHEREAS, the Board finds that One Hundred Thousand Dollars ($100,000) represents a reasonable, good-faith pre-estimate of the costs a developer would otherwise incur to conduct comparable studies and install comparable infrastructure for a single parcel created outside of a Family Land Division, and that this figure is intended as compensation for that loss and not as a penalty;

New Section 4-10.D.2.h:

Deed Restriction; Liquidated Damages.

i. As a condition of a Family Land Division, prior to recordation of the deed conveying any parcel created by the division, the recipient shall execute and record a Declaration of Deed Restriction, in a form approved by the County Attorney, encumbering the parcel and running with the land, which shall remain in effect for five (5) years from the date of recordation.

ii. The Declaration shall provide that, if within the five (5)-year period the recipient (A) sells, transfers, or conveys any interest in the parcel to a person other than a qualifying family member under this subsection, or (B) fails to satisfy the construction timeline in Section 4-10.D.2.g, the recipient shall pay to the County liquidated damages in the amount set forth in subsection (i) below, as compensation for the costs described in the findings supporting this ordinance, and not as a penalty.

iii. Upon a breach described in (ii), the County may record a claim of lien against the parcel in the amount of the liquidated damages owed, enforceable as provided by law, and may pursue any other remedy available at law or in equity.

iv. At the expiration of the five (5)-year period without a breach, the County shall, upon written request, execute and record a release of the Declaration.

Amount of liquidated damages — two options for Section 4-10.D.2.i (pick one):

Option A — flat amount:

The liquidated damages required by subsection (h) shall be in the amount of One Hundred Thousand Dollars ($100,000), which amount shall not decline during the five (5)-year term of the Declaration.

Option B — declining amount:

The liquidated damages required by subsection (h) shall be in the initial amount of One Hundred Thousand Dollars ($100,000), which amount shall be reduced by Twenty Thousand Dollars ($20,000) on each anniversary of the date of recordation, until no liquidated damages remain payable on the fifth anniversary.

Add to Section 4-10.D.4.b as new item vi:

A Declaration of Deed Restriction satisfying the requirements of Section 4-10.D.2.h, in a form acceptable to the County Attorney, ready for recordation concurrently with the deed.

Amendment 4 - Reduce Maximum to Three New Parcels (Four Total)

Discussion: The P&Z draft's four-new-parcel cap appears to track Idaho Code § 50-1301(18)'s default definition of "subdivision" as "a tract of land divided into five (5) or more lots, parcels, or sites" — i.e., staying at four new parcels keeps a literal division count at four, avoiding the number five. But that statute also says: "Cities or counties may adopt their own definition of subdivision in lieu of this definition." Teton County has already exercised that authority in Section 4-10.A.2, which independently excludes any Family Land Division from the definition of subdivision — not by staying under a lot count, but categorically. If the goal is to avoid the state's definition of "subdivision", then the Family Land Division should be limited to three new parcels (for a total of four) rather than four new parcels (five total). This is a policy decision.

To lower the cap, Revise Section 4-10.D.2.d and D.3.a to replace "four (4)" with "three (3)" new parcels.

Proposed Motions

I move to adopt and enact Ordinance No. 26-1013 amending the Teton County Land Development Code to exempt specified family land divisions from certain requirements, as presented by its short title:

> AN ORDINANCE OF TETON COUNTY IDAHO; AMENDING THE TETON COUNTY LAND DEVELOPMENT CODE TO EXEMPT SPECIFIED FAMILY LAND DIVISIONS FROM CERTAIN REQUIREMENTS GENERALLY APPLICABLE TO LAND DIVISIONS; AMENDING SECTION 4-10 OF THE TETON COUNTY LAND DEVELOPMENT CODE; PROVIDING METHODOLOGY; PRESERVING PRIOR ORDINANCES; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE OF THIS ORDINANCE.

[With the following amendments . . .]

> ***Amendment 1: . . .*** *revisions to Sections 4-10.D.2.a, D.2.d, and D.3.a to: (1) permit a landowner with at least two acres to create a single one-acre parcel without regard to average density; (2) permit the remaining parcels to be created over time through successive applications, limited to the original parcel or its undivided remainder, with recipient parcels ineligible for further division, and with average density required for each split after the first, calculated against the entirety of the original parcel; and (3) clarify that prior use of another Code division provision does not disqualify a parcel from this exemption.*
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> ***Amendment 2:*** *. . .the addition of a new Section 4-10.D.2.g, requiring that the recipient of each parcel created by a Family Land Division apply for a residential building permit within one (1) year of conveyance and commence construction of a residence within two (2) years of conveyance, subject to a single one (1)-year extension by the Administrator for good cause.*
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> ***Amendment 3: . . . t****he addition of the findings and Sections 4-10.D.2.h and D.2.i as circulated, establishing a five (5)-year deed restriction requiring payment of liquidated damages of [$100,000 flat or $100,000 declining by $20,000 per year] upon an unauthorized transfer or failure to meet the construction timeline, together with the corresponding submittal requirement in Section 4-10.D.4.b.*
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> ***Amendment 4:*** *. . . replacing "four" with "three" wherever it appears in Sections 4-10.D.2.d and D.3.a, limiting a Family Land Division to three new parcels, four total including the original.*

I further move to direct the Planning Administrator to publish the full text of this adopted ordinance—or an approved summary thereof—in the official newspaper of Teton County within one month of its passage, pursuant to Idaho Code §§ 31-715 and 31-715A.