TETON COUNTY, IDAHO
ORDINANCE NO. 2026-1026

AN ORDINANCE OF TETON COUNTY IDAHO AMENDING THE LAND DEVELOPMENT CODE TO CREATE FAMILY LAND DIVISIONS; AMENDING SECTION 4-10.A.2 OF THE CODE TO EXCLUDE FAMILY LAND DIVISIONS FROM THE DEFINITION OF SUBDIVISION; AMENDING SECTION 4-12 TO ADD FAMILY LAND DIVISIONS; REQUIRING A DEED RESTRICTION, COVENANTS, REMEDIES, AND REVERSION; PRESERVING PRIOR ORDINANCES; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Teton County, in accordance with Idaho Code and the provisions of the Teton County Land Development Code (including LDC § 4-4), has initiated this legislation to amend the Teton County Land Development Code;

WHEREAS, Teton County desires to support families in continuing to reside in Teton County across generations;

WHEREAS, Teton County finds that exempting certain land divisions between family members from many of the requirements of other land divisions driven by other non-family or pecuniary motives will support multiple generations of families to continue residing in Teton County;

WHEREAS, Teton County also finds that the exemption from land division requirements for family land divisions as provided in this ordinance is established for the purposes of supporting multigenerational residence in Teton County and creating affordable housing opportunities, and supporting continuity of generational farming or ranching land uses and the open space preservation and community character benefits associated with these uses, which benefits will not be present in every case but will be present in some;

WHEREAS, Teton County also finds that enacting this exemption will also reduce 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;

WHEREAS, a Family Land Division is a voluntary alternative to ordinary land division and subdivision review, and a landowner who does not wish to accept the conditions of this ordinance may seek approval through those processes;

WHEREAS, where a recipient transfers a parcel created by a Family Land Division within five (5) years of conveyance to a person who is not entitled to receive it under this ordinance, 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 resulting loss is difficult to ascertain with precision at the time of division;

WHEREAS, the Board finds, based on the cost estimate prepared by staff, that One Hundred Thousand Dollars ($100,000) is 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 sum is intended as compensation for that loss and not as a penalty;

WHEREAS, where a recipient fails to obtain a building permit within the time allowed by this ordinance, the Board finds that the purposes of this ordinance are best served by returning the parcel to the original parcel, rather than by assessing damages;

WHEREAS, after considering the recommendation of Teton County Planning and Zoning Commission and after a public hearing by the Teton County Board of County Commissioners, the County has taken into account all of the public input in regard to this proposed use.

NOW, THEREFORE, BE IT ORDAINED BY THE TETON COUNTY, IDAHO, BOARD OF COUNTY COMMISSIONERS:

Section 1: Amendment of Section 4-10.A.2 of the Teton County Land Development Code. *Section 4-10.A.2 of the Teton County Land Development Code is hereby amended as follows. Existing items i through iv are relettered c through f to correct a numbering error, and a new item g is added. The remainder of Section 4-10 is not changed.*

4-10 Land Division Review

A. Applicability

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2. Idaho Code Title 50, Chapter 13 defines "subdivision" as "A tract of land divided into five (5) or more lots, parcels, or sites for the purpose of sale or building development…", but allows cities and counties to adopt their own definition of subdivision in lieu of the statutory definition. Teton County excludes from the definition of subdivision the following:

    a. Minor Plat Amendment

        An adjustment of lot lines in a recorded plat that does not reduce the area, frontage, width, depth, or building setback lines below the minimums required in the Zoning District.

    b. Boundary line adjustment

        The exchange of land for the purpose of straightening property boundaries or adding land to existing parcels by trade or sale that does not result in a change of the present land use or in any way result in land parcels which do not meet existing zoning and other regulations.

~~i.~~c. An allocation of interests in real estate in the settlement of an estate, or a court decree for the distribution of property interests, with the stipulation that the land is not physically divided, only that the ownership interests in the land are allocated to different owners.

~~ii.~~d. Agricultural Land Division

~~iii.~~e. Short Plat Land Division

~~iv.~~f. The unwilling sale of land as a result of legal condemnation as defined and allowed in Idaho Code, and when the dedication of a right of way for public purposes is initiated by a public body.

g. Family Land Division

A Family Land Division approved under Section 4-12.B, regardless of the number of parcels created. A Family Land Division is not a subdivision for any purpose of this Code, and the parcels created by a Family Land Division, together with the remainder of the original parcel, shall not be counted together in determining whether a division constitutes a subdivision. A Family Land Division remains a land division subject to Section 4-10.A.3 and to the review required by Section 4-12.B. This exclusion applies only where Section 4-12.B applies.

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Section 2: Amendment of Section 4-12 of the Teton County Land Development Code. *Section 4-12 of the Teton County Land Development Code is hereby amended as follows. The existing provisions on short plat land divisions become Section 4-12.A, with their subsections renumbered as shown, and a correction is made to the Submittals subsection. A new Section 4-12.B, Family Land Divisions, is added.*

4-12 Short Plat and Family Land Divisions

A. Short Plat Land Divisions

~~A.~~1. Generally

~~1.~~a. The purpose of the short plat land division is to provide for a division of large, rural, unplatted parcels in the County, into four (4) or fewer parcels for residential use through a simplified process while meeting specific criteria, in order to allow for limited residential uses in agricultural areas in conjunction with on-going agricultural operations.

~~2.~~b. Short plat land divisions can be utilized to create up to four (4) parcels from any existing parcel located in the RA-35, LA-35, RR-20, FH-10, FH-20, and RN-5 zone districts that has not been previously platted. The number of allowed

parcels (existing and new) must comply with average density requirements in the Zone District Table, Section 2-1.

~~3.~~c. Lands divided using short plat land divisions are not eligible for further division by the short plat process. This restriction shall be noted on the plat.

~~4.~~d. The minimum resulting parcel sizes must also be in accordance with the minimum lot size of the underlying base Zoning District. These divisions may be utilized all at one time or spread out through time. A plat note is required indicating use of density allowance.

~~5.~~e. If a property is located in an area of Natural Resource Overlay, the full subdivision process shall apply.

~~B.~~2. Submittals

The following materials are required for a complete application for ~~agricultural~~short plat land divisions:

~~1.~~a. A completed application form and required submittals;

~~2.~~b. Two (2) copies of draft deeds (unrecorded) for each of the proposed new parcels that would be created providing the land division is approved, and

~~3.~~c. Plat of survey created by a licensed land surveyor in the State of Idaho, showing the new land parcels.

~~4.~~d. The deeds shall contain a notation clearly identifying the allocation of the residential entitlements, if any, among the resulting parcels. The survey shall also clearly identify to which parcels the residential entitlements, if any, are assigned. The documentation of allocation of residential units among resulting parcels must be accomplished with notations on a plat map, and by deed restriction placed in the document of conveyance.

~~C.~~3. Public Notice

Public notice shall follow the noticing procedures set out in Section 4-2-D above.

~~D.~~4. Review Procedures

The procedures for review and approval of short plat land divisions are as follows:

~~1.~~a. Short plat land divisions require a pre-application conference with the Administrator before submitting an application.

~~a.~~i. The PZC will review short plat applications. Public input will be solicited prior to the PZC hearing the proposal.

~~b.~~ii. Short Plat Subdivisions require a pre-application conference with the Administrator before submitting an application for concept plan.

~~c.~~iii. Within seven (7) calendar days of receipt of a complete short plat application, the Administrator will distribute the application and other

submittal materials for review by internal County and external agencies impacted by or which have jurisdiction related to the proposed development, including the County Assessor and fire marshal.

~~d.~~iv. Within thirty (30) calendar days of the day the application is transmitted, County and external agencies' comments are due.

~~e.~~v. Within seven (7) calendar days of the close of the agency comment period, or the resolution of any matters identified by a commenting agency, the Administrator will transmit the application and any County or other agency comments to the PZC for its review of the short plat.

~~E.~~5. Review Criteria

The following criteria must be met for a short plat land division to be approved by the Administrator:

~~1.~~a. The survey submitted by the applicant is deemed accurate and to meet the standards set forth in Idaho State Code by the Teton County Surveyor or approved agent.

~~2.~~b. The plat of survey and deeds all document the allocation of residential density entitlement, if any;

~~3.~~c. The proposed division does not create more than four total parcels or lots;

~~4.~~d. The division does not require the extension of public utilities (other than individual service lines) or other municipal facilities and no substantial alteration of existing utility installations is involved;

~~5.~~e. The division does not require the dedication of public right of way;

~~6.~~f. The division does not require new public roads and each proposed lot fronts on an existing public road or easement that contains the necessary Right of Way width; and

~~7.~~g. Each proposed lot or parcel meets all applicable requirements of this Code, including applicable minimum lot size.

~~8.~~h. Each proposed parcel meets all applicable requirements of the LDC, including those set forth in Chapter 6.

~~F.~~6. Final Decision

Final decisions are made by and must be reflected in a written decision issued by the Administrator.

~~G.~~7. Expiration

~~1.~~a. After a short plat land division is approved by the PZC, and the technical survey review is completed, a Mylar copy of the Map of survey and all other required

materials outlined above shall be submitted to the Planning Department prior to recording with the Teton County Clerk/Recorder.

~~2.~~b. An application that is approved and not recorded within six (6) months of the date of approval shall be considered expired and a new application shall be required.

B. Family Land Divisions

1. Generally

a. The purpose of the Family Land Division is to allow the owner of unplatted land to divide off a limited number of small parcels, as a single gift or sale to a family member, through a simplified process, in order to support multigenerational residence in Teton County and to create affordable housing opportunities for those who grew up in the community. Where the land is in agricultural use, a Family Land Division may also support continuity of generational farming and ranching.

b. A Family Land Division is excluded from the definition of subdivision by Section 4-10.A.2.g. It is a voluntary alternative to the other land division processes in this Code, and a landowner may instead seek approval under Section 4-11, Section 4-12.A, or Section 4-13, as applicable.

c. As used in this Section 4-12.B:

i. "Family Land Division" means a division of unplatted land made for the purpose of a single gift or sale to the landowner's parent, child, sibling, grandparent, or grandchild. Familial status may be established by blood, marriage, or adoption.

ii. "Original parcel" means the parcel of record immediately before the first Family Land Division of it under this Section 4-12.B.

iii. "Remainder" means the part of the original parcel that is not conveyed as a parcel created by a Family Land Division.

2. Applicability. A Family Land Division is available only if all of the following are met:

a. The original parcel contained at least five (5) acres immediately before its first Family Land Division. The parcel to be divided must be the original parcel or its remainder. A parcel created by a Family Land Division may not itself be divided by a Family Land Division. Use of another provision of this Code to divide a parcel, including a one-time-only split, does not make it ineligible.

b. No more than three (3) parcels, not counting the remainder, may be created from any original parcel, whether at one time or over time. A parcel that reverts under Section 4-12.B.8.c does not count toward this limit.

c. The parcel is not subject to a deed restriction, covenant, condition, or other restriction, unless every person holding an interest in it consents to the division.

d. The parcel is not located in or partly within any City Area of Impact (including the AOI zoning districts), unless and until these Family Land Division provisions are jointly adopted by the County and the affected city, by ordinance of each, for that Area of Impact. Until then, this Section 4-12.B and the exclusion in Section 4-10.A.2.g do not apply there.

e. Ownership of the parcel (or of the business entity that owns it) has not changed within the previous ten (10) years. A change of ownership does not include:

i. the death of a spouse, if the surviving spouse continues to own the property;

ii. a divorce between owners, if at least one former spouse continues to own the property; or

iii. a transfer into or out of a trust, if the beneficial owners are the same before and after the transfer.

f. The recipient of each parcel is one individual, one married couple (at least one of whom is a parent, child, sibling, grandparent, or grandchild of the landowner), or one trust whose primary beneficiary is one individual or a married couple. Each recipient (or trust beneficiary) must be at least eighteen (18) years old and may receive only one parcel. A business entity may not be a recipient. If the landowner is a business entity, each recipient must be a parent, child, sibling, grandparent, or grandchild of an owner of at least 5% of the entity.

3. Submittals. The following materials are required for a complete application for a Family Land Division:

a. A completed application form with a narrative for each parcel to be created, and required fees;

b. Information showing that the division is eligible under Section 4-12.B.2;

c. A site plan and narrative explaining how the proposal minimizes impacts on agricultural use and natural resources and avoids sensitive areas;

d. Proof of an approach permit from the highway district, or proof of easements where access is by private road or common driveway;

e. An acknowledgment from Eastern Idaho Public Health that wastewater disposal can be provided for each parcel;

f. A record of survey by a licensed land surveyor in the State of Idaho showing each parcel and the remainder;

g. The unrecorded conveyance deed, with the legal description of each parcel and the reversion condition required by Section 4-12.B.8.d;

h. A title report prepared within six (6) months of the application; and

i. The Declaration of Deed Restriction required by Section 4-12.B.9, ready to record with the deed.

4. Public Notice. After approving a Family Land Division, the Administrator will notify properties within three hundred feet (300') of the property being divided.

5. Review Procedures. The procedures for review and approval of Family Land Divisions are as follows:

a. A Family Land Division requires a pre-application conference with the Administrator before an application is submitted.

b. The application must be submitted to the Planning Department and approved before the division is recorded.

c. The Administrator will review the application for compliance with this Section 4-12.B.

6. Review Criteria. The following criteria must be met for a Family Land Division to be approved by the Administrator:

a. The division meets the requirements of Section 4-12.B.2.

b. The record of survey is deemed accurate and to meet the standards set forth in Idaho Code by the Teton County Surveyor or approved agent.

c. Each parcel created:

i. is at least one (1) acre and not more than five (5) acres, and the remainder is at least one (1) acre;

ii. meets the average density of the underlying zoning district, except that the first parcel created from an original parcel is exempt and is not counted in applying density to later parcels. The number of later parcels plus the remainder may not exceed the acreage of the original parcel divided by the average-density acreage of the zoning district, rounded down to the nearest whole number;

iii. has legal access to a public road or a private easement that connects to a public road;

iv. is designed to safely accommodate development, including land area for water supply and wastewater systems as determined by Eastern Idaho Public Health Department, and has building areas and access routes free of constraints such as wetlands, floodplains, or slopes exceeding 30 percent;

v. is clustered with the other parcels created by the Family Land Division to minimize impact on agricultural uses and natural resources; and

vi. meets all other applicable requirements of the LDC, including those set forth in Chapter 6.

7. Final Decision. Final decisions are made by and must be reflected in a written decision issued by the Administrator. A decision is subject to the provisions for appeals and reconsideration established in the LDC.

8. Expiration

a. After a Family Land Division is approved, the record of survey and all other required materials must be submitted to the Planning Department before recording with the Teton County Clerk/Recorder. An application that is approved and not recorded within six (6) months of the date of approval is expired and a new application is required.

b. The recipient of each parcel must obtain a residential building permit for a primary single-family residence within two (2) years of the date of conveyance, unless the parcel already has at least one conforming residence at the time of it is conveyed to the recipient. The Administrator may grant up to two (2) extensions of up to one (1) year each.

c. If the building permit is not obtained within the time allowed, the Administrator will give written notice to the recipient and any lender of record. If the permit is still not obtained within ninety (90) days after the notice, the Administrator may record a notice of reversion. When the notice is recorded the division of the parcel is void, and the parcel returns to and merges with the remainder, with title vesting in the then owner of the remainder;and no liquidated damages are owed.

d. The conveyance deed must state that the recipient takes title subject to this reversion.

9. Deed Restriction; Covenants; Remedies

a. Before the deed conveying a parcel is recorded, the recipient must sign and record a Declaration of Deed Restriction (the “Declaration”) as an agreement between the County and the recipient that runs with the land for five (5) years from recording (the “Term”).

b. During the Term, the recipient may not sell or transfer the parcel except by a Permitted Transfer. The following are “Permitted Transfers” and do not violate the Declaration or result in liquidated damages: a transfer by reason of the recipient’s death; a transfer to the recipient’s spouse, including in a divorce; and a transfer into or out of a revocable trust of which the recipient is a beneficiary.

The Declaration continues in effect after a Permitted Transfer and binds the person who takes title.

d. If the recipient transfers the parcel during the Term other than by a Permitted Transfer, including by foreclosure or deed in lieu of foreclosure, the County may pursue all remedies afforded by the Declaration, which may include monetary damages, liquidated damages, injunctive relief and any other other legal or equitable remedy. Any successful challenges to liquidated damages will not defeat the covenants, reversion, or remedies available at law.

e. The Declaration does not bind a bona fide third-party lender or a bona fide purchaser at a foreclosure sale or by deed in lieu of foreclosure, or their successors. The recipient remains liable for liquidated damages.

g. After the Term ends, the County will release the Declaration upon written request of the recipient.

10. Administrative Procedure

The Administrator will adopt and may amend a written procedure for administering this Section 4-12.B. The procedure is not part of this Code and must be consistent with it. An amendment to the procedure does not change the terms of a Declaration already recorded.

Section 3: Form of Declaration and Administrative Procedure. The County Attorney shall prepare a standard form of Declaration of Deed Restriction consistent with Section 4-12.B.9 of the Teton County Land Development Code, and the Administrator shall adopt the written procedure described in Section 4-12.B.10, before the County accepts an application under Section 4-12.B. The Administrative Procedure shall include a detailed cost assessment supporting the liquidated damages amount.

Section 4: Codification. The Administrator shall conform the table of contents of the Land Development Code to reflect the revised title of Section 4-12, "Short Plat and Family Land Divisions."

Section 5: Methodology. Text that is underlined in the preceding sections means new text added to the existing Ordinance or Code Section, and text that is stricken through means text that is being deleted from the existing Ordinance or Code Section. In Section 2, the existing provisions on short plat land divisions are renumbered as Section 4-12.A, and each changed number or letter is shown by striking the former designation and underlining the new one. Section 4-12.B is new and is underlined in its entirety.

Section 6: Preservation of Prior Ordinance. The sections of the Teton County Code repealed and/or amended by this Ordinance shall be preserved to the extent necessary to allow the arrest, prosecution, punishment, and indebtedness of any person who violates such provisions prior to the effective date hereof.

Section 7: Severability. If any section, subsection, sentence, clause, or phrase of this title is held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this title and they shall remain in full force and effect.

Section 8: Effective Date. This ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

PASSED and APPROVED by the Teton County Board of County Commissioners on this 26th day of October, 2026.

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Board of County Commissioners, Chair

Attest by:

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CLERK