

FAMILY ESTATE OVERLAY ZONE (FEO). Drafted by Summit County, UT

Purpose: The purpose of the Family Estate Overlay Zone (FEO) is to:

- Give long-time Eastern Summit County residents an opportunity to protect a traditional way of life and provide affordable housing for family members that in turn supports the Eastern Summit County General plan goal to consider mechanisms that provide a realistic opportunity to meet estimated housing needs within Eastern Summit County, including a variety of housing types and affordability.

Qualifying Provisions: To qualify for review as a Family Estate the applicant must meet following standards:

- A. **Fifty (50) Years of Ownership.** A single member of the family, multiple members of the family, or an unbroken succession of family members shall own a family estate property for no less than 50 years. All owners of the property shall consent to the family estate application.
- B. **Familial Relationship of those Receiving Property and/or Dwelling Unit.** The person(s) for whom the family dwelling units are built and/or the property subdivided shall be related to the owner of the property by blood, marriage, or adoption.
- C. **Property May be Subdivided.** Family estates shall be developed and the dwelling units built, or the family estate property may be subdivided and conveyed by the landowner to a family member to build a dwelling unit.

Commented [JRM1]: This section is problematic for equal protection of the Law. Is there an alternative that the Commission would consider?

Commented [JRM2]: Problematic for equal protection. Is there an alternative that the Commission would consider?

Family Estate Design: The family estate shall be designed as follows:

1. The maximum density that may be achieved on family estates is four (4) units per acre.
2. The maximum number of units or lots allowed under a family estate application is eight (8).
3. The minimum separation between dwelling units is 15 feet.
4. The maximum separation between dwelling units is 100 feet.
5. A Conditional Use Permit application shall be reviewed and approved by the Planning Commission prior to construction or recordation of a subdivision plat. See Section 11-4-12 of the Development Code.
6. Family estates that are subdivided shall be subject to all applicable subdivision requirements in Section 11-4-9 of this Code.

Septic Systems: No family estate dwelling unit shall be built unless the Summit County Health Department has determined that septic systems in the family estate are sufficient to serve the entire development.

Water Systems: No family dwelling unit shall be built unless the Summit County Health Department has determined that the water system in the family estate is sufficient to serve the entire development.

Leasing: No family dwelling unit shall be leased for five years from the date of approval unless the lessee is related to the property owner by blood, marriage, or adoption.

Conveyance of Land Approved as Family Estate: No portion of a tract of land approved as a family estate in accordance with this Section shall be conveyed for five years from the date of approval of the family estate unless the grantee is related to the property owner by blood, marriage, or adoption. This limitation on conveyance shall:

1. Be recorded on the plat of the property, on the plats of any property subdivided and conveyed by the landowner(s) under this Section, and in a database accessible to county staff.
2. Not operate to prohibit actions in foreclosure brought by lenders that are participating in the secondary mortgage market.
3. Not operate to prohibit sale by the county of the entire tract or a portion of it for nonpayment of property taxes.

Affidavit Required. Applicants must submit a sworn affidavit recorded in the Office of the County Recorder with the following information:

1. There has been no intentional misrepresentation during the application process;
2. There shall be no lease of a family dwelling unit to a nonfamily member within five years of approval; or
3. There shall be no conveyance of any portion of a tract of land granted a dwelling unit or lot under this section to a nonfamily member within five years of approval.

Violations and Enforcement: A violation of this section shall consist of the following:

- a. Intentional misrepresentation during the application process;
- b. Lease of a family dwelling unit to a nonfamily member within five years of approval; or
- c. Conveyance of any portion of a tract of land granted a dwelling unit or lot under this section to a nonfamily member within five years of approval.

Penalties may be waived by the Director if it can be shown that lease or conveyance to a nonfamily member was absolutely necessary to avoid foreclosure on either a family dwelling unit or any portion of a tract granted a dwelling unit under this section.

Until the violation has been addressed, the Director shall not permit additional dwelling units on the family estate or further subdivision under this section in the violator's family estate.

As a condition of approval, the applicant and the person(s) for whom the family dwelling unit is to be built or the property subdivided shall read and sign disclosure forms describing any violations of this section and applicable penalties.

SUMMIT COUNTY POST PROPOSAL COMMENTS:

Back in 2017(?) when we went through the comprehensive rezone of the East Side we looked into the idea of a subdivision process specifically tailored to 'family compound' type development. This was at the request of a variety of engaged community members and we were happy to go through the effort. As that particular aspect of the map and development code

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amendments began to reach a conclusion the property owners themselves began to realize the complex nature of the possible consequences. One example was the question of how to deed restrict a property to allow only the development of a residence for an immediate family member which by its nature dramatically restricted the ability to obtain construction financing or borrow money against a property or how to deal with the disposition of property by sale or will if it could only be held by a member of the family. In the end it was those who made the request to create the code asked that we withdraw the provision.

Ray Milliner, our Principal Planner, was the one most involved in drafting the original version(s). I have copied ray here so that you have his email contact. You might want to chat with him in more.

Peter Barnes
Director of Planning, Zoning and Design.

The biggest problem was equal protection. How can we write something up that would favor one group of people over another. If we gave old timers preferential treatment over move-ins we would get sued and lose.

Thanks,

Ray

Summit County Planning Department

LEGACY OVERLAY ZONE. DRAFTED BY Doug Evans

LEGACY OVERLAY ZONE (LOZ) (add to Section 13-4)

Purpose. The purpose of the Legacy Overlay Zone (LOZ) is to provide long-time Oakley City residents an opportunity through a limited but simplified Legacy Subdivision process, to protect a traditional way of life and provide affordable housing for family members that in turn supports the City General plan goal to consider mechanisms that provide a realistic opportunity to meet estimated housing needs within the City, including a variety of housing types and affordability.

Qualifying Provisions. To qualify for review as a Legacy Subdivision the applicant must meet following standards:

- A. **Zone.** The property must lie in the Legacy Overlay Zone (LOZ).
- B. **Years of Ownership.** A single member of the family, multiple members of the family, or an unbroken succession of family members shall own the related family estate or legacy property for no less than 20 years. Residents owning property less than ten (20) years can

still apply for one (1) accessory dwelling unit under the Low Impact Permit process in accordance with Section _____ of this code. All owners of the property shall consent to the Legacy Subdivision application.

- C. **Familial Relationship of those Receiving Property and/or Dwelling Unit.** The person(s) for whom the family dwelling units are built and/or the property subdivided shall be related to the owner of the property by blood, marriage, or adoption.
- D. **Property May be Subdivided.** Legacy Subdivisions shall be developed, and the dwelling units built, or the Legacy Subdivision property may be subdivided and conveyed by the landowner to a family member to build a dwelling unit. If the lot is conveyed to a family member, the raw land must be gifted to the family member.
- E. **Legacy Subdivision Design.** The subdivision shall be designed as follows:
 - 1. The maximum density that may be achieved on family estates is four (4) units per acre.
 - 2. The Legacy Subdivision may be developed as a component of a larger subdivision, where the density afforded by the Legacy Subdivision is in addition to the zoning density of the conventional subdivision.
 - 3. While not defined by numbers, where possible, clustering of smaller lots and preservation of open spaces should still be provided.
 - 4. The maximum number of units or lots allowed under a Legacy Subdivision application is based on the family's continuous ownership of the underlying property and is designated as follows:
 - a. Less than twenty (20) years, one (1) unit as per Section _____ of the code.
 - b. Twenty (20) years, two (2) units.
 - c. Thirty (30) years, four (4) units.
 - d. Forty (40) years, six (6) units.
 - e. Fifty (50) or more years, eight (8) units.
 - 5. The minimum separation between dwelling units is 15 feet.
 - 6. The maximum separation between dwelling units is 100 feet.
 - 7. A Conditional Use Permit application shall be reviewed and approved by the Planning Commission prior to construction or recordation of a Legacy Subdivision plat. See Section _____ of the Development Code.
 - 8. Legacy Subdivisions shall be subject to all applicable subdivision requirements in Section _____ of this Code, including water and wastewater regulations, however, the following more simplified standards shall apply:
 - a. Subdivision application and review fees may be reduced.
 - b. Bonding for all improvements is waived.
 - c. The subdivision may be phased, including extensions of any improvements.
 - d. Roads shall remain private, however, some adjustment to road specifications may be allowed, i.e. roads can be non-paved, narrower in

width, providing emergency access approvals are granted by the local Fire District.

e. Once the subdivision is platted, there is no set time requirement for construction of improvements and/or phases.

9. **Septic Systems.** If not serviced by the City wastewater system, no Legacy Subdivision dwelling unit shall be built unless the Summit County Health Department has determined that septic systems in the Legacy Subdivision are sufficient to serve the entire development.

10. **Water Systems.** No Legacy Subdivision unit shall be built unless the City has determined that the water system serving the subdivision is sufficient to serve the entire development.

F. **Leasing.** No dwelling unit in the Legacy Subdivision shall be leased for five years from the date of approval unless the lessee is related to the property owner by blood, marriage, or adoption. Further, no dwelling unit can ever be leased for short-term nightly rentals (30 days or less).

G. **Conveyance of Land Approved in Legacy Subdivision.** No portion of a tract of land approved as a Legacy Subdivision in accordance with this Section shall be conveyed for five years from the date of approval of the Legacy Subdivision unless the grantee is related to the property owner by blood, marriage, or adoption. This limitation on conveyance shall:

1. Be recorded on the plat of the property, on the plats of any property subdivided and conveyed by the landowner(s) under this Section, and in a database accessible to City staff.
2. Not operate to prohibit actions in foreclosure brought by lenders that are participating in the secondary mortgage market.
3. Not operate to prohibit sale by the Summit County of the entire tract or a portion of it for nonpayment of property taxes.

H. **Affidavit Required.** Applicants must submit a sworn affidavit recorded in the Office of the Summit County Recorder with the following information:

1. There has been no intentional misrepresentation during the application process;
2. There shall be no lease of a family dwelling unit to a nonfamily member within five years of approval; or
3. There shall be no conveyance of any portion of a tract of land granted a dwelling unit or lot under this section to a nonfamily member within five years of approval.

I. **Violations and Enforcement.** A violation of this section shall consist of the following:

1. Intentional misrepresentation during the application process;
2. Lease of a family dwelling unit to a nonfamily member within five years of approval; or
3. Conveyance of any portion of a tract of land granted a dwelling unit or lot under this section to a nonfamily member within five years of approval.

Penalties may be waived by the Planning Director if it can be shown that lease or conveyance to a nonfamily member was absolutely necessary to avoid foreclosure on either a Legacy Subdivision dwelling unit or any portion of a tract granted a dwelling unit under this section.

Until the violation has been addressed, the Planning Director shall not permit additional dwelling units in the Legacy Subdivision or further subdivision under this section in the violator's development.

As a condition of approval, the applicant and the person(s) for whom the family dwelling unit is to be built or the property subdivided shall read and sign disclosure forms describing any violations of this section and applicable penalties.