

### 11-831. Review of land divisions; definitions

A. The board of supervisors of each county may adopt ordinances and regulations pursuant to this section for staff review and approval of land divisions of five or fewer lots, parcels or fractional interests, any of which is ten acres or smaller in size. The county may not deny approval of any land division that meets the requirements of this section. If review of the request is not completed within thirty days after receiving the request, the land division is considered to be approved. At its option, the board of supervisors may submit a ballot question to the voters of the county to allow the voters to determine the application of subsections B and C to qualifying land divisions in that county.

B. An application to split a parcel of land shall be approved if:

1. The lots, parcels or fractional interests each meet the minimum applicable county zoning requirements of the applicable zoning designation.
2. The applicant provides a standard preliminary title report or other acceptable document that demonstrates legal access to the lots, parcels or fractional interests.
3. The applicant provides a statement from a licensed surveyor or engineer, or other evidence acceptable to the county, stating whether each lot, parcel or fractional interest has physical access that is traversable by a two-wheel drive passenger motor vehicle.
4. The applicant reserves the necessary and appropriate utility easements to serve each lot, parcel or fractional interest created by the land division.

C. An application to split a parcel of land that does not comply with one or more of the items listed in subsection B shall still be approved if the applicant provides an acknowledgment that is signed by the applicant and that confirms that no building or use permit will be issued by the county until the lot, parcel or fractional interest has met the requirements of subsection B. The county may grant a variance from one or more of the items listed in subsection B.

D. Any approval of a land division under this section may:

1. Include the minimum statutory requirements for legal and physical on-site access that must be met as a condition to the issuance of a building or use permit for the lots, parcels or fractional interests.
2. Identify topographic, hydrologic or other site constraints, requirements or limitations that must be addressed as conditions to the eventual issuance of a building or use permit. These constraints, requirements or limitations may be as noted by the applicant or through county staff review, but there shall be no requirement for independent studies.

E. If the requirements of subsections A through D do not apply, a county may adopt ordinances and regulations pursuant to this chapter for staff review of land divisions of five or fewer lots, parcels or fractional interests but only to determine compliance with minimum applicable county zoning requirements and legal access and may grant waivers from the county zoning and legal access requirements. The county may not deny approval of any land division that meets the requirements of this section or where the deficiencies are noticed in the deed. A county may not require a public hearing on a request to divide five or fewer lots, parcels or fractional interests. If review of the request is not completed within thirty days from receipt of the request, the land division shall be

deemed approved. If no legal access is available, the legal access does not allow access by emergency vehicles or the county zoning requirements are not met, the access or zoning deficiencies shall be noticed in the deed. If a county by ordinance requires a legal access of more than twenty-four feet roadway width, the county is responsible for the improvement and maintenance of the improvement. If the legal access does not allow access to the lots, parcels or fractional interests by emergency vehicles, neither the county nor its agents or employees are liable for damages resulting from the failure of emergency vehicles to reach the lot, parcel or fractional interest.

F. It is unlawful for a person or group of persons acting in concert to attempt to avoid this section or the subdivision laws of this state by acting in concert to divide a parcel of land into six or more lots or sell or lease six or more lots by using a series of owners or conveyances. Either the county where the division occurred or the state real estate department pursuant to title 32, chapter 20, but not both, may enforce this prohibition. A familial relationship alone is not sufficient to constitute unlawful acting in concert.

G. For any subdivision that consists of ten or fewer lots, tracts or parcels, each of which is of a size as prescribed by the board of supervisors, the board of supervisors of each county may waive the requirement to prepare, submit and receive approval of a preliminary plat as a condition precedent to submitting a final plat and may waive or reduce infrastructure standards or requirements except for improved dust-controlled access and minimum drainage improvements.

H. For the purposes of this section:

1. "Legal access" means a public right of vehicular ingress and egress between the lots, parcels or fractional interests being created.
2. "Minimum applicable county zoning requirements" means the minimum acreage and dimensions of the resulting lot, parcel or fractional interest as required by the county's zoning ordinance.
3. "Utility easement" means an easement of eight feet in width dedicated to the general public to install, maintain and access sewer, electric, gas and water utilities.