

DIVISION OF FAMILY PROPERTY

DRAFT – FOR REVIEW AND DISCUSSION PURPOSES ONLY

I.) PURPOSE AND INTENT: The purpose of this section is to allow property owners to subdivide property without implementing a full subdivision review as per this ordinance. This section will allow property owners to subdivide their property for the purpose of gift or sale only to a legally defined family member. This division is NOT for the purpose of evading any part of the Benton County Subdivision Regulations and NOT for short-term investment or for resale after division to persons outside of the Grantor(s) immediate family. This ordinance is only to be used by family members for the purpose of creating additional land parcels for the use of immediate family members ensuring that property may be passed down to those family members without the need for full subdivision review.

II.) AUTHORITY: The Benton County Planning Board is vested with the authority to review and decide on applicable divisions of family property permit applications based on the thresholds provided for in this chapter. The Planning Board may grant modifications, waivers, and variances to these provisions as per Chapter II of this Ordinance.

III.) DEFINITIONS: For the purposes of this Ordinance, certain terms and words are hereby defined:

- A. Informal Plat (Family Land Division):** is defined as the division of a lot into no more than ten (10) additional lots for the purpose of sale or as a gift to a member, or members, of the immediate family of the property owner. Each family member is eligible to receive a lot using this process only one time.
- B. An immediate family member:** is defined as any person who is a natural or legally defined child, stepchild, grandchild, spouse, or parent of the property owner.

IV.) REQUIREMENTS:

- A.** The property owner is required to have owned the property for at least one year prior to filing the Family Subdivision.
- B.** A lot created through the Family Subdivision process is not eligible for sale for at least two years. Should a family member wish to sell a parcel within a family land division before the allotted two year time period a waiver of the provision may be requested by the property owner.

- C. **Access:** All lots created by a family subdivision shall have access to a public right-of way or shall have recorded an adequate easement extending to a public right of way for the provision of accessibility and utilities. Should any individual family member wish to sell their property an easement provision must be provided indicting continued use of the original easement for that new property owner or create a private road providing access to all properties with in the family land division.
- D. The plat shall clearly state that it is a family land division and shall state the name(s) of the owner(s) of the original tract being subdivided and the specific family member and relation to which the subdivided property is to be conveyed.
- E. A deed must accompany the plat showing that the property is a family conveyance.
- F. Lot size requirements minimums and maximums;
 - 1. Family land division cannot create lot sizes less than one acre
 - 2. Original tract must be greater than five acres

V. Plat Requirements:

- A. All plats of any family land division, phased or not phased shall show all street improvements, drainage improvements, easements, rights-of-way, and all other encroachment or other restrictions on the property in final form.
- B. The lots shall be designated lot one, block one, and so forth. Boundaries for each and every lot shall be clearly marked and further described with a corresponding metes and bounds legal description.
- C. All lots bordering a street or street right-of-way shall be subject to a minimum street or road right-of-way as set forth herein.
- D. A preliminary and final be plat may submitted at the same time Signed affidavit acknowledging the land division as between family members;

Recordation: Upon approval of an informal plat subdivision by the Benton County Planning Board, the entire plat shall be recorded and filed of record in the office of the Benton County Circuit Clerk and Ex Officio as such is deemed necessary and proper by the Benton County Planning Board. Items on recorded plat must at least contain the following three (3) items:

- 1. Covenant clause permanently restricting future lot split

2. Covenant clause indicating the method of maintenance of the roads
3. Private Road Disclosure Statement.
4. Family Land Division affidavit; A family land division affidavit will be required stating the division shall not include lots or parcels to be sold. If multiple lots are to be sold the property owners must apply for a subdivision permit and meet the designated requirements of the Benton County Subdivision Ordinance.

DRAFT