



## DESOTO COUNTY DEVELOPMENT DEPARTMENT STAFF REPORT

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**CASE NO.:** LDR-0011-2025

**REQUEST:** County-Initiated Amendment to the Land Development Code to include the Family Homestead Act

**PROPERTY OWNER:** DeSoto County Government

**PROPERTY ID:** NA

**PROPERTY ADDRESS:** NA

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### BACKGROUND & OVERVIEW OF REQUEST

In May 2024, Development Dept. staff presented “Planning 101” and a “Plat Process” presentations to the Planning Commission and the Board of County Commissioners. Subsequently, on January 28, 2025, staff provided the Board with a follow-up presentation on the subdivision of lands, that resulted in an additional evening workshop on Feb. 24, 2025, which provided an additional opportunity for public comment and participation.

The presentations included an overview of issues and highlighted potential LDR and Comprehensive Plan changes to improve, simplify, and clarify the process for the subdivision of land.

Recommendations included a comprehensive plan amendment to allow the use of a parcel of property solely as a homestead by an individual who is the relative of the person who conveyed the parcel to said individual, notwithstanding the density or intensity of use assigned to the parcel in the plan, in accordance with Section 163.3179, F.S. (referred to herein as the “Family Homestead Act”).

State law reads as follows:

**163.3179 Family homestead.**—A local government may include in its comprehensive plan a provision allowing the use of a parcel of property solely as a homestead by an individual who is the grandparent, parent, stepparent, adopted parent, sibling, child, stepchild, adopted child, or grandchild of the person who conveyed the parcel to said individual, notwithstanding the density or intensity of use assigned to the parcel in the plan. Such a provision shall apply only once to any individual.

DeSoto County initiated a Comprehensive Plan text amendment to add this opportunity for the community, by drafting new policy 1.1.15, as follows:

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**Policy 1.1.15: Family Homestead.** Pursuant to Florida Statutes Section 163.3179, a person owning a parcel may convey a portion of the parcel to an “immediate family member”, defined as a grandparent, parent, stepparent, adopted parent, sibling, child, stepchild, adopted child or grandchild of the person who conveyed the parcel to said individual, for use of that family member solely as a homestead, as an exception to the density provisions contained in this element. This exception shall apply only once to any such immediate family member. However, this exception shall not apply to lots in platted subdivisions. The land development regulations shall provide procedures for lot splits or subdivision of land for the purpose of conveying a lot or parcel to immediate family members meeting these requirements for the establishment of a homestead and shall provide for minimum lot size of the lots so created and the remaining lot. Lot splits or subdivisions of land permitted pursuant to this policy shall be subject to compliance with all other applicable provisions of this Comprehensive Plan and the LDRs.

The Board approved the transmittal of the Comprehensive Plan text amendment (COMP-0014-2025, Resolution 2025-068) (Exhibit A) on August 12, 2025, and staff received a letter from the Florida Department of Commerce on September 9, 2025, stating, “Florida Commerce has no comment on the proposed amendment.” (Exhibit B).

Staff has prepared an amendment to the LDR as the next step to implementing the Comprehensive Plan policy and both adoption of the Comprehensive Plan Amendment and the LDR amendments are scheduled for December 16, 2025. Should the Comprehensive Plan amendment be denied by the Board, the LDR text amendment could not move forward.

**LDR AMENDMENT:** The following are proposed amendments to the DeSoto County Land Development Regulations to implement the Comprehensive Plan text amendment (Policy 1.1.15) recognizing the Family Homestead Act.

The proposed amendment adds Section 20-233 to the LDR, providing for the requirements when subdividing land under the family homestead exemption.

The items highlighted in yellow were added to the staff recommended amendment following the Planning Commission hearing.

**20-233. Family Homestead Exemption**

**(a) Applicability. Per F.S. 163.3179, as amended, a family homestead exemption may be granted an exception to the density standards of the Comprehensive Plan Future Land Use Map designation. Such exemption shall also apply to the minimum lot area, lot width and depth standard, and lot frontage, under the applicable zoning category.**

**(b) Application shall include the applicable fee established by the Board of County Commissioners and the following when submitted to the Development Department and be administratively reviewed.**

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(1) A Certified Boundary Survey (signed & sealed) and Legal Description(s) created within 1-year of application, titled as "Boundary Survey for Family Homestead Exemption", accompanied by an attorney opinion of title or a title search report, with the following information on the survey:

- a. North Arrow, Scale, Legend, Key Map, and Legal Description(s);
- b. Dimensions of the proposed parcel(s) and all property lines, and the lot area for each parcel, including permanent reference monuments (PRMs);
- c. All structures located within 50' of new lot lines (for both the proposed parcel and for contiguous lots) or a note stating that none exist;
- d. Existing onsite driveways, well/septic, and public utilities (for both the proposed parcel and within 300 feet for contiguous lots), or a note stating that none exist. An ingress/egress easement shall be provided for the driveway if it will be used to provide access to the Family Homestead Lots.
- e. Existing easements, platted and maintained rights-of-way within and contiguous to proposed lot(s) or a note stating that none exist;
- f. Any encumbrances identified in the title opinion or title search report and a note stating, "the survey was prepared with the benefit of a title report."
- g. Updated access easement if an existing private street is used for access to new lot(s).

(2) Deed of the parent parcel showing the applicant has owned the parent parcel for a minimum of 2-years;

(3) Proposed covenants and restrictions provided by subsection (d), executed by the applicant; and

(4) An affidavit made jointly by the applicant/owner and the immediate family member to whom a portion of the property is intended to be conveyed, devised, or transferred, on a form provided by the Development Department, and verifying the following:

- a. The Parent parcel and the proposed Family Homestead Exemption lot;
- b. The intended recipient of the land is an immediate family member of the person from whom the parcel is conveyed, devised, or transferred, as defined in Policy 1.1.15 of the Future Land Use Element, DeSoto County Comprehensive Plan, and is legally eligible to own fee simple title to homestead property under Florida law.

(c) Requirements for approval:

- (1) Existing parent parcel shall be located in the A-10 or A-5 zoning districts, is a legal lot of record and owned a minimum of two consecutive years by the person who plans to convey property under this exemption.
- (2) The parcels to be created by the proposed division shall only be conveyed to an immediate family member, as defined by Policy 1.1.15 of the Future Land Use Element, DeSoto County Comprehensive Plan, and these LDRs.
- (3) Any person who is conveyed a parcel created by a family homestead exemption may not be conveyed any other parcels created under such an exemption.
- (4) All parcels to be created by this section, including the remaining parent parcel, shall be a minimum of one-half acre and have frontage on a public road or publicly maintained right-of-

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way, private street (may require updated access easement) or a driveway within a recorded ingress/egress easement, built to Engineering Detail, D-5 standards.

- (5) The parent parcel proposed for division shall not be located in a recorded or unrecorded platted subdivision or be a parcel created through any administrative lot split process, including certified lots.
- (6) A parent parcel may be divided under this section for a maximum of 6 lots with submittal of an application and review fee for each lot. Creation of 7 or more lots requires approval of a subdivision plat and is subject to all applicable standards of LDRs and DeSoto County Comprehensive Plan.
- (7) All parcels to be created by this section, including the balance of the remaining parent parcel, must have access to the public street system. Access shall include direct frontage on a public street, county-maintained right-of-way, or via a driveway or private street (may require updated access easement) that intersects with the public street system. Said driveway shall be constructed at a minimum to Detail D-5, Engineering Standards within a recorded ingress/egress easement, with full consideration given to the functional, structural and aesthetic requirements, as approved by the County Engineer. There shall be only one ingress/egress easement allowed per parent parcel for Family Homestead Exemption lots.
- (8) Addresses shall be assigned to each lot based on the public or private road frontage or nearest connected road via the driveway.
- (9) The immediate family member to whom the Family Homestead Lot is conveyed shall apply for a building permit for a homestead within 6 months of recording the family homestead exemption approval letter with the Clerk of the Court.

(d) Limits on Transferability

- (1) The parcel or parcels to be created by the proposed division shall be used solely as the homestead of an immediate family member of the person who conveyed the parcel to said individual for twenty years from the date of approval of the Family Homestead Lot. and shall not be transferable before the expiration of that twenty-year period, unless authorized by the Board of County Commissioners or as allowed by 20-233 (d)(2).
- (2) The applicant shall provide covenants and restrictions to be executed by the applicant and the Development Director, on behalf of DeSoto County, which shall be recorded in the clerk of the court's records at the applicant's expense, restricting transfer, and regulating the development of the property to comply with the limitations of this section. The covenants and restrictions shall be enforceable by DeSoto County. The covenants and restrictions may be amended by the Board of County Commissioners, as necessary or can be administratively released in the case of death or institutionalization of the originally intended immediate family member.

(e) Recording

The family homestead exemption approval letter and signed & sealed survey shall be recorded in the clerk of the court's records at the applicant's expense, along with the executed covenants and

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restrictions required by this section within 5 business days and a certified copy of the recorded documents provided to the Development Department.

(f) Compliance with other requirements.

(1) The parent parcel and all parcels created pursuant to this section shall comply with these and all other applicable comprehensive plan policies, and federal, state, and county regulations, including the requirements of this Code.

(2) Demonstration of compliance with the requirements for a family homestead exemption shall not itself constitute a basis for the granting of a variance from any other applicable provisions of this Code.

(g) Definitions. As used in this section, the following terms shall have the meanings set forth below:

(1) Immediate Family Member shall mean grandparent, parent, stepparent, adopted parent, sibling, child, stepchild, adopted child or grandchild, per F.S. 163.3179, as amended.

(2) Parent Parcel shall mean the same a “Lot of Record” as defined in Section 20-1650.

~~Secs. 20-231—20-253. Reserved.~~ 20-234---20-252 Reserved.

## PLANNING COMMISSION:

The Planning Commission considered this matter at their December 2, 2025, public hearing and recommended adoption of the LDR Amendment by a vote of 4-0, with concerns. While the Planning Commission did not have consensus on the concerns, the concerns raised included

- Too much regulation. Allow the exemption outright without limitations.
- Fast process needed to release the restrictive covenant because individuals may need to sell quickly.
- Require ownership of parent parcel for a minimum number of years to exercise the Homestead option.
- A 20 year restrictive covenant seems too long.
- Five acre parent parcel size and ½ acre minimum lot size for new lots.
- Question on whether they should be required to build a structure if it is to be used as homestead — otherwise, land can remain vacant.
- General concerns regarding abuse of the exemption and how it will be enforced.

## **RECOMMENDED ACTIONS**

1. Motion to adopt the Land Development Regulations amendment, implementing Policy 1.1.15 of the Comprehensive Plan to prescribe specific standards for the division of property when conveying land as a family homestead.