



## **ARTICLE 10: USE PROVISIONS**

FROM: Kristin Owen, Planning Administrator  
RE: Summary of Changes, Compliance with Goals, Related Public Comment  
Prepared For: Planning & Zoning Commission Public Hearing of October 5, 2016  
Report Date: October 1, 2016

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### **Introduction**

The purpose of Article 10 is to establish the types of uses allowed in each of the zoning districts, as well as specific requirements for certain types of uses.

### **Applicable County Code Section(s)**

Article 10 covers provisions found in the current Teton County Code.

- Title 8: Zoning Regulations (8-2, 8-4)

### **General Changes/Comments**

1. The organization of uses has been changed. In the existing code, there are 5 categories: Agriculture, Residential, Retail/Service/Office, Manufacturing, and Public, Quasi-Public. In the new code, there are 8 categories: Residential, Public/Institutional, Commercial, Industrial, Recreational, Agricultural, Accessory, and Temporary. The uses within each category are then identified by zoning district.
2. Many of the identified uses are generalized. For example, in the existing code, there are specific types of retail sales listed, such as Book Store, Variety Store, Florist Shop, etc. In the proposed code, this use is identified as Retail Sales, then broken out by square footage.
3. The Permitted with Conditions category in the existing code has been replaced with “Limited”, which no longer requires a specific permit from the county. Instead, the criteria that is required for these uses are specifically listed in the code. This brings our code in to compliance with Idaho State Code 67-6512.

### **Specific Changes/Comments**

1. Div. 10.5.4.E Transient Rentals has been added to address short term rentals of homes (such as using AirBnB or VRBO), which are not currently regulated in the county.
2. Div. 10.6.6 Mineral Resource Development has been expanded from our current code to address some of the existing issues we have with mineral resource sites in the county.
  - a. There are several of these sites in the County, and it is unclear in some cases what conditions were placed upon the operation, if there was an expiration of the extraction, and if all necessary permits were obtained. In an effort to standardize the approval process and the conditions these operations must meet, this section will require every Mineral Resource Development (including all gravel pits) to submit certain items and obtain a new permit. This will ensure state standards are being met and that we are aware of the operations.
3. Div. 10.7 Recreational Uses has been added to clarify and expand these types of uses.
  - a. The Comprehensive Plan identifies recreation as a key component for Teton County’s future success, and our Recreation Master Plan identifies recreational opportunities for the county. The existing code is vague with recreational uses. The proposed code identifies specific uses for indoor and outdoor recreation.
4. Div. 10.9 Accessory Uses has been added to clarify these types of uses.
  - a. The current code only mentions accessory uses in a few definitions of the main uses. It can be confusing when trying to understand what other uses may be allowed on a property in conjunction with a main use. By creating a specific category for accessory uses, it is much

- easier to identify what is in fact accessory, where it is allowed, and what specific criteria is to be applied to the use.
5. Div. 10.9.6-10.9.8 have been added to address home business. Currently, we only have a Home Occupation use, which doesn't always cover the specific home business use that property owners are interested in. The proposed code breaks this out into Home Business, Home Occupation, and Home Industry, each of which identifies different business types (i.e. clients visiting the home vs. not, additional employees).
  6. **STAFF RECOMMENDATION:** Make the following changes to Div. 10.2 Use Table
    - a. Add "as listed below" to "Wind Energy System" and remove dashes under Residential and Mixed Use Districts. It would read as: [Wind Energy System, as listed below.](#) [page 10-7]
    - b. Add "as listed below" to "All Wireless Telecommunication Facility", remove "All", and remove dashes under Residential and Mixed Use Districts. It would read as: [Wireless Telecommunication Facility, as listed below.](#) [page 10-8]
    - c. Identify zoning districts for "Indoor Recreation, except as listed below" [page 10-8]
      - i. These uses include: Amusement center, game/video arcade; Assembly hall, auditorium, meeting hall; Billiard hall, pool hall; Bowling alley; Extreme sports facility such as BMX, skateboarding, or roller blading; Ice or roller skating rink; Indoor sports facility; Inflatable playground, indoor trampolines; Miniature golf facility; Motor track; Movie theater or other indoor theater.
        1. These may not be appropriate in the Rural Districts, but they might be in the REC District. These could also remain in the code for the Area of Impacts, which will be identified later.
    - d. Identify zoning districts for "Outdoor Recreation, except as listed below" [page 10-8]
      - i. These uses include: Drive-in theater; Extreme sports facility, such as BMX, skateboarding, or roller blading; Outdoor amusement such as batting cage, golf driving range, amusement park, miniature golf facility, or water park; Outdoor theater; Racetrack.
        1. These may not be appropriate in the Rural Districts, but they might be in the REC District. These could also remain in the code for the Area of Impacts, which will be identified later.
    - e. Change "Accessory uses not otherwise listed below, as determined by the Planning Administrator" to "Accessory Uses, as listed below". It would read as: [Accessory Uses, as listed below.](#) [page 10-9]
      - i. We do not have any other use categories defined this way in the table. If there are uses that are not identified, in any category, Div. 10.1.1 would apply.
    - f. **CONSIDERATION:** Add Special Event Facility to the REC District with a Conditional Use Permit. [page 10-6]
  7. **STAFF RECOMMENDATION:** Review Div. 10.6.12 with Idaho State Code 55-2904 with the County Prosecutor and change as needed.
    - a. Mr. Haddox received a verbal comment at one of the Open Houses that this section did not meet Idaho Code. The comment was not written down, so I am assuming that person was referencing 55-2904. Amateur Radio Operator Tower is identified as a Limited use in the RA, LA, FH, and ARN zoning districts. The standards that apply for this use include height, setbacks, one tower per lot, and requiring a copy of a valid Amateur Radio Operators License with the building permit application. I feel that these restrictions reasonably accommodate amateur radio communications, but I will confirm with the Prosecuting Attorney.
      - i. 55-2904. Antenna support structures -- Antennas -- Restrictions on local units of government. Any rule or ordinance of a local unit of government involving the placement, screening or height of antennas and towers based on health, safety or aesthetic considerations must be crafted to reasonably accommodate amateur radio

communications and to represent the minimum practicable regulation to accomplish a legitimate purpose of the local unit of government.

8. **STAFF RECOMMENDATION:** Add “Golf Course” and “Park, Recreation Field” to the list in Div. 10.7.3.A as #9 and #10 [page 10-37]
  - a. These uses are broken out in this section, but they are not included in the “Defined” list. For other uses, like Indoor Recreation, all of the uses are identified in the “Defined” list, with some broken out separated to define in more detail.
9. **STAFF RECOMMENDATION:** Add Div. 10.9.15 Sleeping Unit to Accessory Uses and work with the Building Department to determine specific standards related to size, permit requirements, etc.
  - a. This is a use that is not currently defined. There has been a lot of confusion on whether or not sleeping units are allowed and how to enforce them. Sleeping Units may have a living space and bathroom, living space and kitchen, or only living space. These are not considered dwellings until they include all three: living space, bathroom, and kitchen.
  - b. **CONSIDERATION:** Should sleeping units be permitted if an accessory dwelling is permitted or vice versa?
  - c. **CONSIDERATION:** How many sleeping units should be permitted per lot?
  - d. **CONSIDERATION:** Should sleeping units be permitted if Overnight Lodging is permitted or vice versa? (i.e. Bed & Breakfast, Transient Rentals)
10. **STAFF RECOMMENDATION:** Add additional standards to Div. 10.10.4 Temporary Structures as Living Quarters.
  - a. Add that this use requires a Temporary Structure Permit or Registration, so the Building Official and Fire Marshal can inspect the space, and the County can maintain a record of time the use has been on the property.
    - i. The existing code says temporary structures require a Temporary Use Permit if the structure is being used during construction. It is unclear if all temporary structures require the permit though. The Building Code also identifies some Temporary Structures as requiring a permit from the Building Official.
  - b. **CONSIDERATION:** Add that Temporary Structures as Living Quarters may only be located on a property for 180 days or less, unless placed in storage.
    - i. It is currently unclear if these structures are allowed on the property after they are being used. However, if they are allowed to continue to be on the property, there is no way to prevent them being uses for more than the allowed 180 days.
    - ii. If this isn’t added and a Permit or Registration is required, we would be able to identify the 180 days of use allowed, then use code enforcement for structures being used outside of that. We could also use code enforcement for structures that were not permitted.
11. **CONSIDERATION:** Increase the number of rooms for a Bed & Breakfast from 4 to 5 rooms. This would also require that the number of rooms be changed for a Boutique Hotel from “5 to 30 rooms” to “6 to 30 rooms”.
  - a. We have received public comment about this issue during the code process and through other applications. The existing code only allows 3 rooms, so this has been increased to 4. One of the major concerns we have heard is that it is difficult to receive business insurance for a Bed & Breakfast with fewer than 4 rooms. This would be addressed with the proposed code allowing 4 rooms.
12. **CONSIDERATION:** Identify specific standards for Div. 10.6.9 Warehouse, Storage, and Distribution.
  - a. This is considered a Limited use, but standards have not been identified. Do we want to limit the number of storage units or size of storage spaces a lot can have, or do we want to limit it based on the lot coverage and setback requirements of the underlying zoning district? This use is currently only identified as Limited in the Industrial Districts, but a lot of storage units could be built with the 80% lot coverage and setback requirements.

13. **CONSIDERATION:** Identify standards for Div. 10.9.14 Residential Solar Systems, Wind Turbines, Rainwater Collection Systems.
- The only standard currently identified is height. Should there be size requirements? Setback requirements? It is unclear if these are allowed to encroach into a setback in Article 2.

### **Goals for Draft Code**

- The Zoning Code is not always clear in regards to the process or the requirements.**
  - The proposed code clearly sets out the uses in new uses categories which makes it easy to understand. It also uses more generalized definitions and categories for uses that are similar. This makes it much easier to understand and classify uses.
- The existing Code does not provide usable options for developing or dividing land.**
  - This Article provides clear options for developing land based on the uses that are permitted.
- The new code needs to do a better job of protecting and promoting the resources Teton County has.**
  - This Article identifies uses that are appropriate in certain areas and uses that are not appropriate, such as industrial uses. This article also helps promote certain uses, such as Recreational and Agricultural, but calling them out specifically.
- The new code should allow for flexibility and creativity in the design.**
  - By utilizing more general definitions, we can allow additional flexibility from our current code. The differences between a Book Store, Variety Store, and Florist Shop are negligible. By using a general “Retail Sales” definition, we are less likely to miss uses that may be appropriate.
- The new code needs to provide a more useful mechanism for revising existing undeveloped subdivisions.**
  - This Article does not address this goal.

### **Public Comments**

- Aline Sarria: Written comment to increase number of rooms for a Bed & Breakfast

*See CONSIDERATION (#11) above under Specific Changes/Comments.*

- Charles Gaudet: Written comment about housing for farm workers.

*This Article defines different housing types, which could be used to house seasonal workers. Specifically, properties of 1 acre or more are allowed an accessory dwelling unit, which could be an Attached Accessory Apartment or a Backyard Cottage. If one accessory dwelling is not enough, the property could be divided through the subdivision options in Article 14. Each of those lots would then be allowed a primary dwelling unit and an accessory dwelling unit. Another option may be the Campground Use, which requires a Conditional Use Permit. This use can utilize RVs, cabins, tents, etc. This use could be used for seasonal workers, as well as a typical campground when seasonal workers are not being used.*

- Jolene Nissan: Written comment related to building types being limited by zoning district. Wants more options for families, such as duplexes.

*In the existing code, detached, single family homes are the only building type permitted in the A-2.5 and A-20 zones. Accessory Dwelling Units are allowed on lots of 1 acre or more, with a size restriction if the lot is less than 5 acres (50% the primary dwelling or 900 ft<sup>2</sup>, whichever is greater – max. 1500 ft<sup>2</sup>). The existing code also identifies an Accessory Dwelling Unit as Permitted with Conditions, which would require a separate permit approval. Two-family and multi-family unit, such as duplexes or townhomes, are only allowed in the R-1 zone, which is reserved for the Areas of Impact.*

*The proposed code continues to allow single family, detached homes in the Rural Districts, as well as Accessory Dwelling Units. Accessory Dwelling Units are defined more clearly as an attached apartment or a backyard cottage. The size restrictions are similar to the existing code (attached apartment – less than or equal to 50% of the primary, 900 ft<sup>2</sup> max; backyard cottage – 1500 ft<sup>2</sup> max, no size restriction if lot is 5 acres or more). Two-family and multi-family units are still reserved for the Areas of Impact and Cities, which have higher densities and more services available.*

*A lot could also be divided to create additional lots, which would increase the total number of homes possible.*