

1 **ORDINANCE NO. 2016-9-11**

2
3 AN ORDINANCE OF THE COUNTY OF TETON, STATE OF IDAHO, ADDING TETON
4 COUNTY CODE TITLE 9, CHAPTER 11 TO ADDRESS THE BUILDING RIGHT ELIGIBILITY
5 OF PREVIOUSLY CREATED PARCELS.
6

7 BE IT ORDAINED by the Board of County Commissioners of Teton County, Idaho that Title 9,
8 Chapter 11 of the Teton County Code shall be added as follows:
9

10
11 **CHAPTER 11**

12
13 **BUILDING PERMIT ELIGIBILITY OF PREVIOUSLY CREATED PARCELS**

14
15 **SECTION:**

16
17 9-11-1 PURPOSE AND INTENT OF PROVISIONS.

18 9-11-2 LOT OF RECORD – REQUIRED FOR GRANTING OF CERTAIN PERMITS – CRITERIA
19 FOR DETERMINATION.

20 9-11-3 NOTICE OF VIOLATION – REQUIRED WHEN – CONTENTS – EFFECT.

21 9-11-4 CERTIFICATE OF COMPLIANCE – REQUEST FOR DETERMINATION
22 AUTHORIZED.

23 9-11-5 CERTIFICATE OF COMPLIANCE – APPLICATION PROCEDURE – DOCUMENTS TO
24 BE SUBMITTED – FEE.

25 9-11-6 FAILURE TO COMPLY AND ILLEGAL DIVISION OF LAND DEEMED
26 MISDEMEANOR – PENALTY.

27 9-11-7 NONCOMPLYING PARCELS – PROCESSES FOR OBTAINING BUILDING RIGHTS.

28 9-11-8 APPEAL OF FINAL DECISIONS.
29

30 **9-11-1 PURPOSE AND INTENT OF PROVISIONS**

31
32 In accordance with the provisions of the LLUPA (Idaho State Code 67-65), it is the purpose and intent
33 of the Board of County Commissioners to establish procedures for placing purchasers of illegally split
34 parcels on notice that such parcel split occurred in violation of the LLUPA and the requirements of
35 Teton County Code- Title 9, and to provide for a means of certifying that the real property does comply
36 with the provisions of LLUPA and Teton County Code- Title 9.
37

38 **9-11-2 LOT OF RECORD – REQUIRED FOR GRANTING OF CERTAIN PERMITS –**
39 **CRITERIA FOR DETERMINATION**

40
41 No building permit, grading permit, nor any other permit may be issued, nor any approval granted
42 necessary to develop any property, unless and until said property has been determined to be a lot of

43 record; provided further, such permits may be denied if the applicant was the owner of the real property
44 at the same time of the violation or currently owns the property with the knowledge of the violation as
45 provided through a notice of violation pursuant to the procedures set forth herein.

46

47 For a parcel to be considered a lot of record, its specific boundaries must have been established or set
48 forth by one of the following means:

49

50 A. A signed & recorded subdivision plat;

51 B. If the parcel was created BEFORE June 14, 1999;

52 a. A deed describing the parcel by a metes-and-bounds description recorded prior to June
53 14, 1999 (contiguous sub- “lots” or sub- “parcels” described on a single deed are
54 considered a single parcel); or

55 b. A record of survey recorded prior to June 14, 1999 showing the existing boundaries.

56 C. If the parcel was created AFTER June 14, 1999;

57 a. A recorded “One-Time-Only” survey with a Teton County authorization signature
58 (these may also be labeled as “Lot Split”, “Land Splits”, or something similar); or

59 b. A recorded “Agricultural Exemption” survey recorded prior to September 22, 2003
60 (these may be labeled as an “Ag. Split”, “Ag. Break-off” or something similar); or

61 c. A recorded survey identifying the legal process in Title 9 and the created parcels met
62 the requirements of the identified process in Title 9 at the date of creation.

63 D. Any of the above means combined with a County-approved and recorded boundary adjustment
64 survey or amended plat;

65 E. Any parcel that was approved by the Planning and Zoning Commission or Board of County
66 Commissioners and there are minutes verifying the final approval;

67

68 **9-11-3 NOTICE OF NO BUILDING RIGHTS – REQUIRED WHEN – CONTENTS –**
69 **EFFECT**

70

71 If the Planning Administrator becomes aware of any parcel which has not resulted from a legal division
72 or consolidation of property in compliance with LLUPA and applicable County Codes, he/she will
73 send to the property owner, or owners, of said property written notice notifying them of the violation.

74 This written notification will advise the property owner(s) that:

75

76 A. The Planning Administrator has determined that subject property together with other
77 contiguous property has been divided or has resulted from a division in violation of LLUPA
78 and applicable County codes;

79 B. No building permit, grading permit nor any other permit may be issued, nor any approval
80 granted necessary to physically develop said property (this does not include subdividing),
81 unless and until an identified approval process 9-11-8 is completed, approved, and recorded in
82 full compliance with the LLUPA and provisions of this Chapter, adopted pursuant thereto.

83 C. The Planning Administrator will cause a notice of violation to be recorded in the office of the
84 county recorder within 15 days of notification to property owner(s) which will describe the

85 violation and the property and name the owner(s) thereof. This notice when recorded will be
86 constructive notice of the violation to all successors in interest of said property;

87
88 **9-11-4 CERTIFICATE OF BUILDING PERMIT ELIGIBILITY - REQUEST FOR**
89 **DETERMINATION AUTHORIZED**

90
91 Any person owning real property may apply for a Certificate of Building Permit Eligibility, and the
92 County shall determine whether said property was created in a way that complied with the provisions
93 of Title 9, and thus constitutes a legal and buildable parcel.

94
95 **9-11-5 CERTIFICATE OF BUILDING PERMIT ELIGIBILITY – APPLICATION**
96 **PROCEDURE – DOCUMENTS TO BE SUBMITTED – FEE**

97
98 A. Application.

99 a. Application for a “Certificate of Building Permit Eligibility” shall be made with the
100 Planning Department in accordance with the following specifications:

101 i. A completed application form must be filled out

102 B. A notice stating the following shall be signed:

103 a. This certificate relates on to issues of compliance or noncompliance with LLUPA and
104 local ordinances enacted pursuant thereto. The parcel described herein may be sold,
105 leased or financed without further compliance with LLUPA or any local ordinance
106 enacted pursuant hereto. Development of the parcel may require issuance of a permit
107 or permits, or other grants of approval.

108 C. The required filing fee(s).

109
110 **9-11-6 FAILURE TO COMPLY AND ILLEGAL DIVISION OF LAND DEEMED A**
111 **VIOLATION**

112
113 Those parcels of land which are subdivided contrary to the provisions of this title shall not constitute
114 legal building sites and no permit shall be issued for the installation of fixtures or equipment or for the
115 erection, construction, conversion, establishment, alteration, or enlargement of any building, structure
116 or improvement thereon unless and until an identified approval process (9-11-7) is completed,
117 approved, and recorded in full compliance with the LLUPA and provisions of this Chapter. Any person
118 who subdivides or causes to be subdivided land without complying in all respects with the provisions
119 of this title shall be subject to prosecution as define in Teton County Code Title 1, Chapter 4.

120
121 **EXCEPTION:** Parcels created for bona-fide agricultural purposes in conformance with Teton County
122 Code, Title 9-2-2, definition of “Agricultural Exemption“ or parcels created without building rights,
123 where a “Notice of No Building Rights” has been recorded referencing the property, shall not be found
124 to be in violation of this title.

126 **9-11-7 NONCOMPLYING PARCELS – PROCESSES FOR OBTAINING BUILDING**
127 **RIGHTS**

128
129 The owner, purchaser, or his successor in interest, of a parcel which is the result of a division of land
130 that did not comply with the provisions of Title 9 may utilize the following provisions to bring the
131 parcel/parcels into compliance:

- 132
133 A. Recordation of no building rights: if the illegal split resulted in two (2) parcels, but there was
134 only one (1) building right and the property owners of the two lots agree that one of the lots
135 will remain unbuildable, they may record an official document clarifying which parcel would
136 receive the building right and which one would not.
- 137 B. Retroactive One-Time-Only:
- 138 a. Applicability-The parent parcel of the illegal split would be eligible for a One-Time-
139 Only under the current code.
 - 140 b. Process- The process for a One-Time-Only split must be followed, and the required
141 fees for that process shall be submitted as well. The property owners of both parcels
142 must sign the application.
 - 143 c. Criteria for Approval- All requirements and submittals for the One-Time-Only shall be
144 followed.
- 145 C. Subdivision Process:
- 146 a. Applicability-The parent parcel of the illegal split would be eligible for a subdivision
147 under the current code.
 - 148 b. Process- The process for a subdivision must be followed, and the required fees for that
149 process shall be submitted as well. The property owners of all parcels must sign the
150 application.
 - 151 c. Criteria for Approval- All requirements and submittals for the subdivision shall be
152 followed.

153
154 **9-11-8 APPEAL OF FINAL DECISIONS**

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156 Decisions of the Board of County Commissioners are final. Applicants or affected property owners
157 shall have no more than 14 days after the written decision is delivered to request reconsideration by
158 the BoCC. If still not satisfied with a decision of the Board of County Commissioners, one may pursue
159 appeals to District Court within 28 days of the written decision being delivered.