



AMENDMENT TO TITLE 9, TETON COUNTY SUBDIVISION
ORDINANCE –
ADDING CHAPTER 11 - GRANTING BUILDING PERMIT
ELIGIBILITY OF PREVIOUSLY CREATED PARCELS.

Prepared March 22 for the Planning and Zoning Commission

APPLICANT: Teton County Planning Department

APPLICABLE CODE: Idaho State Code- 67-6513 Subdivision Ordinance
Teton County Subdivision Ordinance- Title 9-10-1 Amendment Procedure

REQUESTS: Add a section of code to the Subdivision Ordinance to develop a process for rectifying parcels that are currently out of compliance with our ordinance, out of compliance when they were created, and need an official process to obtain building rights.

APPLICABILITY: County wide, all zoning districts

AMENDMENT DESCRIPTION: The proposed ordinance identifies the application, processing and approval requirements that are needed to utilize this new process. This process will be used to “rectify” parcels that were created and may have had an expectation of a building permit. However, they cannot be considered “legally designated “lots”” (Teton County Code: 8-3-5) because they did not meet the legal (ordinance) requirements at the time of their creation. The purpose is to provide an official process, for land owners, where these lots can be reviewed and approved, and the building rights guaranteed.

BACKGROUND: At present, if a lot was created through a survey, but did not meet the ordinance at the time of the creation, it is not considered “legally designated” and building permits cannot be issued on the lot. As the Planning Department has researched how lots were created, we have identified a large number of lots that appear to be “legally designated” but are not. The reasons they did not meet the ordinance mainly can be narrowed down to two issues: 1) lot size and 2) they were not eligible to split (the parent parcel was created through the OTO, the parent parcel was illegally created, or the parent parcel was created through an Ag Split). The ordinance is mainly aimed at remedying parcels that didn’t meet the ordinance due to reason #2. If a new zoning ordinance is adopted with different minimum lots sizes, parcels with issue #1 may be able to use this process within the new code as well.

AMENDMENTS TO TITLE 9 -TETON COUNTY SUBDIVISION ORDINANCE

See attached text.

STAFF ANALYSIS:

1. **Consistent with purposes of the Teton County Subdivision Ordinance.** The proposed amendment and associated text changes are consistent with Section 9-1-3 **Purposes and Scope** of Title 9 of the Teton County Subdivision Ordinance, and in particular 9-1-3-G: “The manner and form of making and filing of any plat.” This process would require a plat to be recorded to ensure the building rights are obtained.
2. **Consistent with Comprehensive Plan.** The proposed amendment is consistent with the Teton County Comprehensive Plan 2012-2030. This proposal maintains larger lots in most cases, and provides an approval process to reduce the “incentives” or desire to subdivide into smaller lots to obtain building rights.
3. **Consistent with other sections of the Teton County Zoning and Subdivision Ordinance.** The proposed amendment is consistent with other provisions of the Teton County Code. The proposed amendment utilizes the basic framework for the Plat Amendment Process.
4. **Consistent with State Statute.** The proposed amendment is consistent with the Idaho State Local Land Use Act 67-65.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

1. The proposed amendment supports the goals, purposes and intent of the Teton County Comprehensive Plan.
2. The proposed amendment supports the goals, purposes and intent of Teton County Title 9, Subdivision Ordinance.
3. The proposed amendment is in compliance with Idaho State Statute.

PUBLIC NOTICE: Legal ads were made to the Teton Valley News in accordance with local and state requirements.

COMMENTS FROM NOTIFIED NEIGHBORS AND GENERAL PUBLIC

No comments have been received at the time of this reports writing.

STAFF RECOMMENDATION: It is staff’s recommendation that you recommend approval this amendment to the BoCC.

Recommended Motion: Having found that the proposed amendment to Title 9 is in compliance with state statute and supports the comprehensive plan and other Teton County ordinances, and that a public hearing was legally noticed and conducted, I move to recommend approval of the amendment as presented in the attachment entitled “**CHAPTER 11 GRANTING BUILDING PERMIT ELIGIBILITY OF PREVIOUSLY CREATED PARCELS**” to the Board of County Commissioners [with the following changes].

ORDINANCE NO. 2016-9-11

AN ORDINANCE OF THE COUNTY OF TETON, STATE OF IDAHO, ADDING TETON COUNTY CODE TITLE 9, CHAPTER 11 TO ADDRESS PREVIOUSLY CREATED PARCELS THAT DID NOT FOLLOW THE LEGAL PROCESS AT THE TIME OF CREATION TO QUALIFY FOR BUILDING PERMITS.

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

CHAPTER 11

GRANTING BUILDING PERMIT ELIGIBILITY OF PREVIOUSLY CREATED PARCELS

SECTION:

- 9-11-1: **APPLICABILITY**
- 9-11-2: **APPLICATION REQUIRED**
- 9-11-3: **PROCESS FOR APPROVAL**
- 9-11-4: **CRITERIA FOR APPROVAL**
- 9-11-5: **DENIAL OF APPLICATION**
- 9-11-6: **APPEAL OF FINAL DECISIONS**
- 9-11-7: **EXPIRATION OF THIS CODE SECTION**

9-11-1: **APPLICABILITY:** This chapter is only applicable to parcels where the current property owner desires to be recognized as a “legally designated lot” for building permit purposes, as required in Teton County Code 8-3-5, and only applied to those parcels that were created after June 14, 1999 either through: 1) a process outside of those identified in the Teton County Title 9: Subdivision Regulations, 2) following a process in the Teton County Title 9: Subdivision Regulations but not meeting the criteria of approval identified, or 3) created through an agricultural only parcel process.

9-11-2: APPLICATION REQUIRED

Application: A property owner(s) of parcels identified through the Property Inquiry process (application for a Property Inquiry was made and finding letter was sent to the property owner) as not buildable due to the way they were created, must complete and submit the “Granting Building Permit Eligibility of a Previously Created Parcel” application provided by the Planning and Building Department. Application to this process does not guarantee approval. In addition to the complete application form, the following is required:

1. Fees (Application and Survey/Plat review fee);
2. Narrative outlining how, when, and by whom the parcels were originally created;
3. Approval letter from Eastern Idaho Public Health;

4. Approval letter from Teton County Fire District;
5. Acceptance letter from the city for sewer hookup, or from the providing community, if applicable;
6. Covenants, Conditions, and Restrictions, if being proposed;
7. Plat created by a surveyor, licensed in the State of Idaho which includes:
 - i. Vicinity Map, Date of Survey, and North Arrow
 - ii. Map scale adequate to depict all adjusted lots (show Bar Scale)
 - iii. Legend with a description for all line weights and symbols used
 - iv. All bearings and distances for all property lines. Include Basis of Bearing and CP&F Reference
 - v. All known easements shown with their instrument numbers
 - vi. All existing physical access points shown
 - vii. Legal access points shown or possibility for future County Road access permits established
 - viii. Property Legal Descriptions
 - ix. Surveyor's Certification – Signature block with statement
 - x. County Treasurer's Certification
 - xi. County Assessor's Certification
 - xii. Easter Idaho Public Health Certification
 - xiii. Teton County Board of County Commissioners Chair Certification
 - xiv. Fire District – Signature block with approval statement
 - xv. Certificate of Survey Review – Signature block with approval statement
 - xvi. Owner's Certificate – Signature block with approval statement. **MUST BE NOTARIZED**
 - xvii. Recorder's Certificate
 - xviii. Certificate of Acceptance of Mortgagee, if applicable. **MUST BE NOTARIZED**

9-11-3: PROCESS FOR APPROVAL: Property owners desiring to have their lots recognized as a “legally designated lot” for building permit purposes must follow the process outlined below:

- A. Property Inquiry: A Property Inquiry Request must be submitted to Teton County Planning and Building Department, and a Property Inquiry Results Letter must be returned to the applicant prior to beginning this process.
- B. Application: Once the Property Inquiry Results Letter is returned to the property owners and verifies eligibility for this chapter, an application to the Planning and Building Department can be made. A complete application including the items listed in 9-11-2 must be submitted.
- C. Staff Review: Any proposed application shall first be reviewed by the Planning Administrator to determine if the application meets the criteria of this Chapter and the intent of the Comprehensive Plan. The Planning Administrator has the discretion to schedule a meeting with the applicant to review possible modifications of the application. Once the Planning Administrator has reviewed the application and finds it does or does not meet the criteria of this Chapter and the intent of the Comprehensive Plan, a letter will be sent to the applicant outlining the findings. If

the application does meet the criteria of this section and the intent of the Comprehensive Plan, it will be scheduled on the next available Board of County Commissioner Agenda.

- D. Board Review: The Board will review staff's findings and the application during a regularly schedule public meeting. The Board will approve, deny, or table the application to another meeting if additional information is needed. Approvals will only be granted if the application meets the criteria found in 9-11-4.
- E. Survey Review: Once the Board has approved the application, the County Surveyor will review the submitted plat. Any changes needed to the plat will be forwarded to the applicant.
- F. Recording: Once the plat has been reviewed and approved by the County Surveyor, the following shall be submitted to the Teton County Planning and Building Department for recording:
 - Two mylar copies of the Final Plat with approval signatures
 - At least one paper copy of the Final Plat with approval signatures (for the applicant)
 - Development Agreement, if required
 - Final Covenants, Conditions, and Restrictions
 - DWG format of Final Plat on CD

The applicant is responsible for all recording fees required at the time of recording.

9-11-4: CRITERIA FOR APPROVAL: The following criteria must be met in order for the application to be approved by the Board.

- A. The proposed lots must meet the minimum lot size of the underlying zone, exclusive of any public dedicated easements or right-of-ways, either based on the adopted requirements at the time of this application or the adopted requirements at the time the parcels were created through one of the processes identified in 9-11-1.
- B. The proposed lots must have approved access.
- C. There must have been a survey recorded with Teton County showing the creation of the parcel(s) prior to 2010.
- D. No more than two (2) buildable lots are being created.

9-11-5: DENIAL OF APPLICATION: If the application fails to meet the criteria identified above, other remedies, such as a Full Plat Subdivision, may still remain available to the property owner. Fees paid are not refundable if the application is denied.

9-11-6: APPEAL OF FINAL DECISIONS: Decisions of the Board of County Commissioners are final. Applicants or affected property owners shall have no more than 14 days after the written decision is delivered to request reconsideration by the BoCC. If still not satisfied with a decision of the Board of County Commissioners, one may pursue appeals to District Court within 28 days of the written decision being delivered.

9-11-7: EXPIRATION OF THIS CODE SECTION: This code section and the ability to utilize this process shall expire January 1, 2018.