



AN AMENDMENT TO TITLE 1 TO ADD A NEW SECTION:
Chapter 10 Procedures for Governing the Imposition of Administrative Fines
Prepared March 19th for the Planning & Zoning Commission
Public Hearing of April 10, 2012

APPLICANT: Teton County Prosecuting Attorney

APPLICABLE CODE: Title 1- Administration

REQUESTS:

- 1) Add Chapter 10, Procedures Governing the Imposition of Administrative Fines, to Title 1
- 2) Add to 1-4-1 General Penalty, Section C. *Administrative Fine: Every offense subject to an administrative fine will be governed by the procedures set forth in Title 1, Chapter 10 of the Teton County Code.*

APPLICABILITY: County wide, all Chapters of the Teton County Code

BACKGROUND: At present, Teton County’s only enforcement option for all its codes is to charge an alleged violator with a misdemeanor. These charges often are difficult to enforce and inflict large fines or jail time. A more nimble approach to enforcement might allow more and better enforcement of the regulations that exist in the code.

This proposed amendment would do the following:

1. Set forth procedures for issuing administrative fines, notice, remedies for non-payment of the fines, the appeal process, and the process by which a hearing officer would make a finding.
2. Allow the County to deny an application for a license or permit in the event fines are unpaid.
3. Establish a penalty for non-compliance.

The University of Idaho College of Law Legal Aid Clinic helped to research the background and appropriateness in the State of Idaho and to draft an initial draft of the ordinance. The ordinance has since been revised by the prosecuting attorney’s office and is proposed in the attached document. Additionally, amendments to Title 5, 6, and 8 will eventually need to be made to allow administrative enforcement in these titles specifically.

PRECEDENCE: Few, if any, Idaho jurisdictions use overarching administrative enforcement provisions, however, administrative penalties are prevalent in Idaho. Administrative penalties appear to be implicitly permitted in Idaho, though no Idaho code section expressly grants such powers or explains a procedural protocol.

The City of McCall, Kootenai County, Cascade County and Star County all have administrative ordinances in their codes. The University of Idaho College of Law Legal Aid Clinic has done a review of the legality of and implementation requirements of administrative enforcement provisions in Idaho and had determined that adding this section to our code is appropriate.

STANDARDS FOR AMENDMENTS TO THE TEXT OF THE COUNTY ORDINANCE:

Consistent with Comprehensive Plan. The proposed amendment to Title 1 are consistent with the Teton County Comprehensive Plan 2004-2010 and any trends that are apparent in the on-going comp plan surveys, in that it allows us to enforce the code that is intended to implement the Comprehensive Plan. This proposed amendment affects enforcement of existing regulations, it does not add regulations or alter those that already exist.

PLANNING & ZONING COMMISSION ACTIONS:

- A. APPROVE the text amendment to Title 1 as presented in the application, having provided the reasons and justifications for the approval.
- B. Approve the text amendment with MODIFICATIONS, having provided the reasons and justifications for the approval and for any modifications or conditions.
- C. DENY the text amendment request and provide the reasons and justifications for the denial.
- D. CONTINUE to a future PZC Public Hearing with reasons given as to the continuation or need for additional information.

Staff suggests the following motion:

Having found that Title 1, Chapter 10: Procedures for Governing the Imposition of Administrative Fines is consistent with the purposes and goals of the Comprehensive Plan and other Teton County regulations, I recommend approval to the Board of County Commissioners of the proposed Title 1, as presented by the prosecuting attorney in the attachment documents [with the following changes].