



CODE CHANGE APPLICATION

Teton County, Idaho

The planning staff is available to discuss this application and answer questions. Once a complete application is received, it will be reviewed by the planning administrator or his designee and then scheduled for a public hearing with the Planning and Zoning Commission, who will make a recommendation to the Board of County Commissioners. A second public hearing will be scheduled with the Board of County Commissioners who will make the final decision. It is recommended that the applicant review Title 9 of the Teton County. Application materials may be viewed on the Teton County Idaho website at www.tetoncountyidaho.gov.

To expedite the review of your application, please be sure to address each of the following items.

SECTION I: PERSONAL AND PROPERTY RELATED DATA

Owner: _____

Applicant: __Teton County Planning Department__ E-mail : arutherford@co.teton.id.us _____

Phone: (208) 354-2593 _____ Mailing Address: 150 Courthouse Drive, rm 107 _____

City: Driggs _____ State:ID _____ Zip Code:83422 _____

Engineering Firm: _N/A_____ **Contact Person:** _____ **Phone:** () _____

Address: _____ **E-mail:** _____

Code Section to be Addressed:

Current Code Section: __Title 9, Chapter 9-3-1_ One-Time-Only Land Split _____

Is this an **amendment** or a **new section** of code (circle one)

Please provide a copy of the current code section and a draft of the proposed new code.

- Current Code Draft Amendment Fees paid in accordance with current fee schedule
 Narrative

I, the undersigned, have reviewed the attached information and found it to be correct. I also understand that the items listed below are required for my application to be considered complete and for it to be scheduled on the agenda for the Board of County Commissioners public hearing.

• Applicant Signature: _____ Date: _____

Fees are non-refundable.

SECTION II: REQUIRED ITEMS

1. **Narrative.** Please include an explanation of the following:
 - a. Why is the proposed code change needed
 - b. What is the pertinent background information
 - c. What is the anticipated outcome of the proposed code change
 - d. What area(s) of the County will the code change effect
 - e. The proposed code change does not affect the County's ability to provide services
 - f. The proposed code change does not conflict with any other section of Teton County Code
 - g. The proposed code change does not conflict with State of Federal code
 - h. The proposed code change is in accordance with the Comprehensive Plan
2. Copy of the current, **existing code**
3. Draft copy of the **proposed code** and any other amendments that might result (i.e. changes to definitions or other sections of the code that address the topic)

SECTION III: CRITERIA FOR RECOMMENDATIONS AND DECISIONS

1. Recommendations of the commission and the decisions of the board shall be made a matter of public record in accordance with sections 67-6511 of the Idaho Code. The recommendations and decisions shall specifically find that such changes, modifications, or amendments to the code meet the following criteria:
 - The comprehensive plan is considered for compliance and conformance with the goals, policies and objectives as outlined in the plan and other evidence gathered through the public hearing process;
 - The proposed change will maintain the purposes and objectives of zoning and secure the public health, safety and general welfare;
 - The proposed change shall not have a negative impact on the county's ability to provide services;
 - The approval or denial shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant facts relied upon, and explains the rationale for the decision based upon the applicable provisions of the comprehensive plan, relevant ordinances and statutory provisions, pertinent constitutional principles and factual information contained in the record.

SECTION IV: SPECIFIC REQUIREMENTS FOR PUBLIC HEARING AND NOTICE

Notification is required for both hearings in accordance with Title 67, Chapter 65; Section 6509 of the Idaho Code. At least fifteen (15) days prior to the hearing, notice of the time, date and place and a summary of the plan to be discussed shall be published in the paper of general circulation within the jurisdiction. This procedure will be completed by the planning staff.

SECTION V: STAFF SUMMARY ANALYSIS, REASONING AND FACT FINDING

SECTION VI: PLANNING AND ZONING COMMISSION ACTION

SECTION VII: BOARD OF COUNTY COMMISSIONERS ACTION



**AN AMENDMENT TO SECTION 9-3-1:
THE ONE-TIME-ONLY LAND SPLIT**

Prepared August 17 for the Planning & Zoning Commission
Public Hearing of September 11, 2012

- APPLICANT:** Teton County Planning Administrator
- APPLICABLE CODE:** Teton County Subdivision Ordinance
- REQUESTS:** Amend Title 9- Subdivision Ordinance- Section 9-3-1 to eliminate the sections that permit the creation of non-conforming sized lots in the ARR-20 Zoning District.
- APPLICABILITY:** County wide, all Chapters of the Teton County Code
- BACKGROUND:** This proposed amendment would do the following:
Remove the clauses in 9-3-1 that allow parcels less than 20 –acres in size to be created in the ARR-20 Zoning District
- STAFF ANALYSIS:**

Why is this amendment being proposed?

- Non-conforming lots are being created in rural areas of large lots and it is diminishing the rural character over time.
- The new Comp Plan is not supportive of small lots in rural areas.
- There is a more-than-surplus supply of smaller lots in Teton County. The supply can exceed the demand for many years.
- Provides consistency for adjacent property owners and predictable land use.

**FINDINGS OF FACT TO AMEND THE TETON COUNTY SUBDIVISION
ORDINANCE:**

1. **Consistent with purposes of planning ordinances.** The proposed text amendment changes to Section 9-3-1 One-time Only are consistent with Section 8-1-3 Purposes of Zoning Ordinance and with 9-1-3 Purposes and Scope of Title 9 of the Teton County Subdivision Ordinance.
2. **Consistent with Comprehensive Plan.** The proposed are consistent with the Teton County Comprehensive Plan 2004-2010 and any trends that are apparent in the on-going comp plan surveys.

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 such as the Sanitation standards of Eastern Idaho Public Health Department.

CONSISTENT WITH STATE STATUTE 67-6511

- (a) **Particular consideration shall be given to the effects of any proposed zone change upon the delivery of services by any political subdivision providing public services, including school districts, within the planning jurisdiction.** The proposed amendment will reduce the number of potential non-conforming lots and therefore decrease the burden of delivery of services to the County.
- (b) This hearing has been noticed appropriately.
- (c) **The governing board shall analyze proposed changes to zoning ordinances to ensure that they are not in conflict with the policies of the adopted comprehensive plan.** The proposed amendment reduces the number of potential non-conforming lots. Lots that are non-conforming do not comply with the Comp Plan. In particular, small lots in rural areas diminishes the rural character of the community.

PLANNING & ZONING COMMISSION ACTIONS:

- A. APPROVE the text amendment to the One-Time-Only section in Title 9 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.

PLANNING DEPARTMENT RECOMENDARTION:

Action A- Given the information available at the time of this report, staff recommends approval of the proposed amendment

Staff suggests the following motion:

Having found that the proposed amendment to 9-3-1 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 amendment to Title 9, as presented by the Planning Administrator in the attachment documents [with the following changes].

CHAPTER 3

PROCEDURE FOR APPROVAL

SECTION

9-3-1: One Time Only Split of One Parcel of Land

9-3-2: Subdivision or PUD

9-3-1: ONE TIME ONLY SPLIT OF ONE PARCEL OF LAND

A. PURPOSE: The purpose of this chapter is to provide for a division of large land parcels in the county as outlined below and to provide a landowner the opportunity to split a large parcel of land meeting specific criteria into two (2) parcels. (Title 9 as amd. through 9-25-2000)

B. INTENT:

1. It is the intent of this section to provide for ~~allow for an~~ expedited process to split ~~of a~~ parcel of land having at least 20 acres ~~into~~ two (2) parcels. This provision is meant to accommodate owners who wish to break off a single parcel to transfer to another party. No more than one (1) One Time Only Land Split shall ever be exercised on any given parcel. Future splits will be required to follow a formal subdivision process.

2. It is not intended that this chapter be used in conjunction with any other portions of this title to obtain additional land splits; nor is it the intent for the property owner to create a subdivision without complying with the requirements of this title. For instance, a parcel may not be split using the twenty (20) acre subdivision agriculture exemption, and then be subject to this One Time Only Land Split provision, creating multiple lots without formal subdivision review. Further, this section is not intended to create additional lots within approved subdivisions. (Title 9 as Amd. through 09-25-2000; Amd. 09-22-2003)

C: ONE TIME ONLY SPLIT OF ONE PARCEL OF LAND: Notwithstanding the procedures outlined in this title and title 9 of this code, a one time split of one parcel of land shall comply with the following:

1. Split Allowed: An applicant must have a parcel with at least 20 acres of land to apply for a one-time-only lot split to create two (2) lots from the one. with at least a 20-acre parcel in the AR 2.5 zone may apply for a split of the on parcel of land to create two (2) lots. The minimum lot size for any newly created lots shall conform to underlying zoning. ~~be a~~ minimum of 2.5 acres, unless the remainder lot is connected to a community water and sewer system

2. No Further Split: The two (2) lots created by this split shall not be split or divided further without full compliance of the provisions of this Title and Title 8 of this code. The provision of the one time only split of one parcel of land applies to the property and not the owner(s). (Title 9 as amd. through 9-25-2000)

D. CRITERIA FOR APPROVAL: The Planning Administrator shall approve applications of one time only lot splits when all of the following criteria have been met:

1. The proposed split conforms with the underlying zoning district.
2. Parcels in platted subdivisions shall not be split.
3. Parcels of land with deed restrictions shall not be split unless the split conforms to the restrictions of the deed.
4. The original parcel of land is at least 20 acres in size.
- ~~4. — Parcels of land in the A-20 zone shall be allowed one split of 2.5 acre or more in accordance with the intent outlined in section 9-3-1 B of this chapter, provided the all resultant — parcels are twenty (20) acres or larger parcel was not created through the agriculture exemption process outlined in this title. (Title 9 as amd. Through 9-25-2000).~~
5. The land split or the combination of land splits does not create a de facto subdivision, or has the split been used in conjunction with other provisions of this title creating a de facto subdivision.
6. Approval in writing and signature on the plat survey shall be required by the Teton County Fire Marshal that the split is acceptable according to the fire codes. (amd. 12/12/05)
7. The survey be created by a licensed surveyor in the State of Idaho and shall comply with all local and state regulations.
- ~~7. — The original parcel, prior to the split has enough area to assure remainder lots are — conforming with a minimum of 2.5 acres. — (amd. 12/12/05)~~
8. The land split would provide each parcel with legal access for ingress/egress and utility easements. (amd. 12/12/05)
9. The land split would not result in harm to the public health, safety or welfare of the County. (amd. 12/12/05)

E: PROCESS FOR ONE TIME ONLY SPLIT OF ONE PARCEL OF LAND:

1. Deeds; Restriction: The applicant shall provide two (2) draft deeds (unrecorded) for the proposed new lots that shall be created providing the land split is approved and a survey created by a licensed land surveyor in the State of Idaho. The deeds shall contain a restriction clearly stating that these parcels cannot be split again under the provisions of this title. (Amd. 09-22-2003)

2. Action by the Planning Administrator: The Planning Administrator shall review and may approve or disapprove the application. The proposed survey shall be reviewed for compliance with all state and local requirements. An application that is disapproved may be appealed to the Board of County Commissioners for review and final determination. (amd. 05-13-2002; amd. 09-22-2003)

3. Fees: Fees for this process shall be in accordance with the current fee schedule and are due at the time of submission of the application for review by the Planning Department. Pass-through fees for outside survey review shall be paid in full before the survey and deeds may be recorded. The fees for this process are nonrefundable after the Planning Department reviews the proposed land split.

9-3-1 (E-4)

9-3-2 (A-2-c)

4. Voiding or Canceling of Approved Application: The original applicant desiring to void or cancel an approved application shall submit a plat of survey to be recorded with deeds that restore the land to its prior deeded condition and land use. The County Assessor may void the existing documents upon a written certified request of the original applicant with the documents required above without additional fees. (amd. 06-05)

5. Submission to Planning Department: All required materials outlined above for a one time only split of one parcel of land may be submitted to the Planning Department at any time. An application that is approved and not recorded within six (6) months of the date of approval shall be cancelled. (amd. 09-22-2003)



Idaho Statutes

TITLE 67 STATE GOVERNMENT AND STATE AFFAIRS

CHAPTER 65 LOCAL LAND USE PLANNING

67-6511. ZONING ORDINANCE. Each governing board shall, by ordinance adopted, amended, or repealed in accordance with the notice and hearing procedures provided under section 67-6509, Idaho Code, establish within its jurisdiction one (1) or more zones or zoning districts where appropriate. The zoning districts shall be in accordance with the policies set forth in the adopted comprehensive plan.

Within a zoning district, the governing board shall where appropriate, establish standards to regulate and restrict the height, number of stories, size, construction, reconstruction, alteration, repair or use of buildings and structures; percentage of lot occupancy, size of courts, yards, and open spaces; density of population; and the location and use of buildings and structures. All standards shall be uniform for each class or kind of buildings throughout each district, but the standards in one (1) district may differ from those in another district.

Ordinances establishing zoning districts shall be amended as follows:

(a) Requests for an amendment to the zoning ordinance shall be submitted to the zoning or planning and zoning commission which shall evaluate the request to determine the extent and nature of the amendment requested. Particular consideration shall be given to the effects of any proposed zone change upon the delivery of services by any political subdivision providing public services, including school districts, within the planning jurisdiction. An amendment of a zoning ordinance applicable to an owner's lands or approval of conditional rezoning or denial of a request for rezoning may be subject to the regulatory taking analysis provided for by section 67-8003, Idaho Code, consistent with the requirements established thereby.

(b) After considering the comprehensive plan and other evidence gathered through the public hearing process, the zoning or planning and zoning commission may recommend and the governing board may adopt or reject an ordinance amendment pursuant to the notice and hearing procedures provided in section 67-6509, Idaho Code, provided that in the case of a zoning district boundary change, and notwithstanding jurisdictional boundaries, additional notice shall be provided by mail to property owners or purchasers of record within the land being considered, and within three hundred (300) feet of the external boundaries of the land being considered, and any additional area that may be impacted by the proposed change as determined by the commission. Notice shall also be posted on the premises not less than one (1) week prior to the hearing. When notice is required to two hundred (200) or more property owners or purchasers of record, alternate forms of procedures which would provide adequate notice may be provided by local ordinance in lieu of posted or mailed notice. In the absence of a locally adopted alternative notice procedure, sufficient notice shall be deemed to have been provided if the city or county provides notice through a display advertisement at least four (4) inches by two (2) columns in size in the official newspaper of the city or county at least fifteen (15) days

prior to the hearing date, in addition to site posting on all external boundaries of the site. Any property owner entitled to specific notice pursuant to the provisions of this subsection shall have a right to participate in public hearings before a planning commission, planning and zoning commission or governing board subject to applicable procedures.

(c) The governing board shall analyze proposed changes to zoning ordinances to ensure that they are not in conflict with the policies of the adopted comprehensive plan. If the request is found by the governing board to be in conflict with the adopted plan, or would result in demonstrable adverse impacts upon the delivery of services by any political subdivision providing public services, including school districts, within the planning jurisdiction, the governing board may require the request to be submitted to the planning or planning and zoning commission or, in absence of a commission, the governing board may consider an amendment to the comprehensive plan pursuant to the notice and hearing procedures provided in section 67-6509, Idaho Code. After the plan has been amended, the zoning ordinance may then be considered for amendment pursuant to section 67-6511(b), Idaho Code.

(d) If a governing board adopts a zoning classification pursuant to a request by a property owner based upon a valid, existing comprehensive plan and zoning ordinance, the governing board shall not subsequently reverse its action or otherwise change the zoning classification of said property without the consent in writing of the current property owner for a period of four (4) years from the date the governing board adopted said individual property owner's request for a zoning classification change. If the governing body does reverse its action or otherwise change the zoning classification of said property during the above four (4) year period without the current property owner's consent in writing, the current property owner shall have standing in a court of competent jurisdiction to enforce the provisions of this section.

History:

[67-6511, added 1975, ch. 188, sec. 2, p. 515; am. 1983, ch. 121, sec. 1, p. 314; am. 1985, ch. 141, sec. 1, p. 384; am. 1987, ch. 329, sec. 1, p. 688; am. 1992, ch. 269, sec. 4, p. 833; am. 1999, ch. 396, sec. 8, p. 1105; am. 2003, ch. 142, sec. 1, p. 411; am. 2011, ch. 89, sec. 3, p. 194.]

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