

LAND DEVELOPMENT CODE – Frequently Asked Questions & Responses to Public Comment TETON COUNTY, IDAHO

Community projects that elected officials make into a priority, like rewriting a very old conflicted heavily amended county Land Development Code (LDC), takes patience—a lot of it. The planning consultant hired in 2019 by Teton County to write the draft code originally planned on it taking 18 months. We are now well into the third year of the project.

Our County Commissioners made sure that State statute guided the hiring of consultants, writing, and public involvement. Each phase has been led by Planning and Zoning Commissioners past and present, planning staff and professional consultants working hard to produce a fair, clean, new draft Code. They included 85% of the original code, adding indexing, chapter headings and definitions for easy look up of any specific land use issue.

SOME HISTORY

The Planning and Zoning Commission (P&Z) embarked on the county's first LDC replacement effort in 2015. Over the course of a year and a half, P&Z worked with the planning staff to create a new draft code. The draft was made available for public review in late summer 2016. A series of open houses and public hearings were held that fall, but the process stalled out and the P&Z never made a recommendation to the Board of County Commissioners (BoCC) on adoption. No further work was done with the 2016 draft code.

In 2019, there was a renewed commitment to update Teton County's Code in order to more fully implement the Comp Plan, as required by statute. At that point, it had been over two years since work had been done on the P&Z's draft Code. In moving forward with a renewed Code writing effort, the County Commissioners and P&Z Commissioners committed to a fresh start. In Spring 2019, Teton County hired planning consultant Logan Simpson. At the consultant's request, a Steering Committee was formed to help coordinate the code update project.

Since the beginning the County has interacted with the public in multiple ways with the current LDC update effort. Early in the project in 2019, over 50 individuals were interviewed in several small group stakeholder interview sessions over the course of four days in June and July. Groups interviewed at these meetings included realtors, estate attorneys, large landowners, contractors, interested non-profits, state agencies, city planners and many others.

Also in 2019, and before beginning to write the new draft code, about 30 interested community members attended a heavily advertised county open house held in late July at the Driggs Senior Center. Questions, along with some background information, were provided on poster boards around the open house venue for attendees to comment on and were used to guide discussion with their neighbors. Comments from the public during the stakeholder meetings and open house were recorded and incorporated, initially into an exhaustive existing code audit, and subsequently into the eventual first draft of the new draft Code.

LET'S CLEAR UP MISINFORMATION

Many of the issues brought up in comments from the public hearings on the new draft Land Development Code were based on inaccurate information. Please read the proposed ordinance in its entirety. If you still have a question or concern, put it in writing with page numbers from the draft document and list the ordinance in question for the Planning & Zoning Commission and planners to look up. Remember that the county draft Land Development Code only applies to the unincorporated areas of the valley, outside of the cities and their areas of impact.

“Who wrote the new draft LDC?”

Consultants from Logan Simpson were the primary authors of the first draft of the new draft Code, assisted by members of a local steering committee. Legal professionals reviewed each phase of work. The draft LDC borrowed heavily from the existing Teton County Title 8 and Title 9 ordinances to the point where over three-quarters of the new draft Code incorporates our existing code.

During 2020's COVID-19 pandemic the project was suspended for many months and then was restarted later in the year and finally a revised draft Code was completed early in 2021. The pandemic appeared to be receding by spring of 2021 and we picked up with public involvement where we left off over a year before.

The steering committee and consultant invited the public to attend a three-day open house which was held April 27, 28 & 29, 2021 at the Driggs City Center. Topic-specific tables were set up where citizens could get information on the new draft Code and ask questions.

Public comment was accepted by the Planning and Zoning Commission leading up to a public hearing on May 18, 2021. Since May 2021, the code editing effort has been led by the Planning & Zoning Commission and public input.

This led to in depth work sessions and re-editing of the draft code and, ultimately, to a second public hearing held on October 25 that was continued on October 27, 2021.

This project has been over nine years in the making since the adoption of the Comp Plan in 2012. The Code revision project is many years overdue.

“When will the new Code take effect?”

The new Teton County Land Development Code will take effect when adopted by the Board of County Commissioners. This is expected to occur in 2022.

“I've heard that Valley Advocates for Responsible Development (VARD) attempted to underhandedly rush through this land use code with no input from our community.”

VARD has played absolutely no role in Teton County’s code writing effort. While VARD did submit a “code proposal” document to Teton County in 2019, which was based primarily on Code Studio’s 2016 draft, this unsolicited document was never utilized by the County even in part.

No member of VARD ever put any pressure on any County staff, P&Z, or elected officials to influence the writing process or speed it up. Any person or group making these statements is simply misinformed.

“What was the makeup of the original Steering Committee? How were they selected?”

Under the joint authority of the BoCC and the P&Z Commission, a consultant selection committee was comprised of one County Commissioner (Bob Heneage), one P&Z Commissioner (Sarah Johnston), two former P&Z Chairmen (Chris Larson and Cleve Booker), and the county’s Planning Administrator and Senior Staff Planner (Gary Armstrong and Joshua Chase).

Following the selection of Logan Simpson as the County’s code consultant in Spring 2019, the consulting team requested a steering committee to work with to help develop a first draft. Given the makeup and qualifications of the existing selection committee, the members agreed to re-form as the project’s new steering committee.

“Does this Code change development standards for the entire valley?”

It does not.

Teton County contains seven different land planning jurisdictions—the three cities of Victor, Driggs and Teton, the three doughnut-shaped areas of impact (AOI’s) that surround each city, and the unincorporated county beyond the AOI’s. The new Teton County Land Development Code will only govern development in the seventh jurisdiction—the unincorporated rural parts of the county outside of the cities’ areas of impact.

The cities of Driggs, Teton and Victor will remain as high-density areas of development under their respective individual development ordinances. The three areas of impact surrounding each city will remain under the control of individual AOI agreements negotiated between each city and the county. They are intended to contain transitional zoning with densities that are lower than the cities but higher than the rural county.

“Will the Code make existing landowners comply with new standards?”

Existing buildings and development will not be affected by the new draft Code. They will be allowed to continue as “nonconforming uses.” Existing lots that don’t comply with new density assignments will be allowed to be developed per their original entitlements. The new LDC only regulates new land division proposals and establishes minimal regulation of short-term rentals.

Nonconforming structures: If structures become non-conforming, it only means they are not up to code. Most old structures of any age fall into this category each year, as the International Building Code gets updated every three years or a land development code gets changed over time.

With any new Land Development Code that gets adopted, it applies only to new construction projects and new developments. What is already built, subdivided and existing now is not affected by new density requirements, fencing requirements, height limits or view corridor requirements. No one will ever be asked to tear down or replace existing structures by a governing body.

“I heard the Scenic View Corridor set back was 1000 feet!”

Regarding scenic view corridors, the set back is not 1000 feet along the highway. The initial sentence in the draft pertains to the definition of a view. The draft ordinance originates from state law.

The LDC draft has five options for new applicants and includes graduated increases in height limits as the home location steps back from the right of way beginning with distances of 100 feet and increasing to 150, 250, 350, and 450 feet.

“How will the new Code affect my home business?”

Small home businesses in residential zones have become less restricted in the draft LDC. What was a four-page section of restrictions in the old code, is now just one page. A business sign is now allowed with a permit for starters.

The restrictions, for example, on deliveries of two per day, sets a limit of what neighbors could be impacted by from small businesses in their residential zone.

Any home business with traffic and high levels of activity in one form or another has outgrown a residential zone and needs to relocate to a commercially zoned parcel.

“How will the new Code affect my short-term rental?”

Because of the rapid unregulated spread of short-term rentals throughout the county, and since Idaho Statute allows for a county or city to implement “reasonable regulations....to safeguard the public health, safety and general welfare,” the new Teton County code does establish standards for parking, limits the allowed numbers of occupants based on septic size, establishes quiet hours, and sets other basic civil standards. The new draft Code additionally establishes requirements for trash storage, smoke detectors, etc.

Short-term rentals will be required to obtain a Short-Term Rental Registration (Permit) with the Planning Department to verify that use standards have been met prior to the use being approved. A building inspection may be performed prior to permit issuance. A permit will identify the owner of the property and their contact information. Property management contact information, if applicable, will also be listed.

The permit requires notification of the neighbors in each direction that may be impacted by the new rental activity. Having proof of emails or letters that notify neighbors 30 days prior to the start of rental activity is the new requirement in the LDC.

Property owners and managers that follow these guidelines will reduce the number of problems for neighborhoods throughout the valley.

“Why change the zoning districts?”

Teton County’s existing Zoning Map identifies basically two zone densities in the unincorporated parts of the valley—A-20 and A/R-2.5. These zones were established in the early 1990’s, were largely self-assigned by property owners, were not based on a comprehensive plan, and only vaguely reflect the valley’s actual land use patterns and landforms. In contrast, the Comprehensive Plan’s Framework Map identifies six zones which have been delineated according to actual topography and existing settlement patterns. These include Rural Agriculture, Rural Neighborhood, Foothills, Mixed Ag/Rural Neighborhood, Mixed Ag/Wetland, and Industrial/Research.

“Why change density assignments?”

The Comprehensive Plan calls for changes in how lands may be divided in each zone, including revised densities. In response, the Steering Committee proposed new densities to each new zone as follows: Rural Agriculture- 35-acre, Mixed Ag/Wetland-35-acre, Mixed Ag/Rural Neighborhood-20 acre, Foothills-10-acre, Rural Neighborhood-5 acre, and Industrial/Research-1 acre.

Update: In subsequent editing by the P&Z Commission, Rural Agriculture zoning was revised to 40-acre zoning and Mixed Ag/Rural Neighborhood was revised to 8-acre zoning.

The current valley-wide basic densities of 2.5 acres and 20 acres offer little choice and are relatively small in size for a rural community. 20-acre zoning is simply too small for most agricultural purposes and does little to protect meaningful open space. Other comparable mountain communities around the Rockies offer both a wider range of assigned densities, and far lower density limits (with corresponding higher acreage numbers).

“Why switch to average density zoning?”

For the most part, the LDC Steering Committee proposed to get rid of minimum lot size requirements in favor of using average density as the guiding principle in how many lots can be created in a subdivision (a 1-acre minimum lot size is planned to remain in all zones to accommodate fundamental well-septic separation requirements). By definition, this would allow clustering by right. This change represents a major shift in land development policy for the county. It is absolutely intended to help families get the additional lots they desire and keep quality farmland and families together. It is a win for everyone.

Average density zoning provides greater flexibility for property owners and developers, while allowing the community to reach many of its most important goals from the Comp Plan. An enormous advantage of average density zoning is that rather than having all the land in the parcel incorporated into lots, any land leftover could either be put into a conservation easement, deeded to a homeowners’ association, left as a working farm or otherwise utilized in a similar manner.

“Can I split off a small piece of land to give/sell to one of my family members? How?”

Two methods are available to larger landowners to achieve this goal. The first is to simply utilize the average density zoning method just described in the previous answer. The second is to utilize administrative land divisions, to divide acreage into up to four parcels, when the acreage under consideration exceeds the underlying zoning by double in the 35-acre zones, by triple in the 20-acre zone and by quadruple in the 5- and 10-acre zones.

“How does the new Code help protect wildlife and natural resources as highlighted in the Comp Plan?”

All development proposed within wildlife habitat as identified on the Teton County Natural Resource Overlay Map will be subject to Site Plan review to ensure that the location of proposed development or use avoids or mitigates impacts to indicator species and indicator habitats to the extent practical. The location of proposed development will reduce fragmentation of habitat, avoid locations that affect landscape elements such as unique rock formations, sheltered draws, drainage ways, or other features, maintain connectivity among habitats, and protect sensitive fish and wildlife breeding areas and winter ranges.

If impacts cannot be avoided, the lost habitat will be required to be mitigated by replacing it with similar vegetation communities at a one to one (1:1) ratio. The replacement ratio must be higher within a half mile of riparian areas and equal a two-to-one (2:1) ratio. Perimeter fencing will need to be wildlife friendly—this requirement does not apply to privacy fencing used to enclose the living space immediately adjacent to a Dwelling Unit.

“How is the Code different from the Comprehensive Plan?”

Both a Comprehensive Plan and a Land Development Code are required by state statutes contained in Idaho’s Local Land Use Planning Act. The Comprehensive Plan is a conceptual document outlining the community’s vision and goals. In Teton County’s case, our Comprehensive Plan was adopted by a BoCC resolution in 2012. The Code is then supposed to be built from the Comprehensive Plan’s outline into a working set of ordinances.