



AMENDMENT TO TITLE 9, TETON COUNTY SUBDIVISION ORDINANCE –

ADDING CHAPTER 11 - BUILDING PERMIT ELIGIBILITY OF PREVIOUSLY CREATED PARCELS

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: Staff is proposing to add a chapter to Title 9, the Subdivision Ordinance, to clarify (codify) a process for: 1) better define what parcels qualify for building rights, 2) determining the building right eligibility of a parcel, 3) providing an action for recourse for a property owner who unknowingly purchases a parcel without building rights, and 4) provides a process for property owners to obtain building rights (other than a “retro-active” One-Time Only or subdivision).

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: The Teton County Planning and Building Department started to be concerned about how parcels were created and if they had building rights in the fall of 2014. To help educate the public and provide a resource for property owners, we start the “Property Inquiry Process” (see attached flyer and application- Attachment #1). Since the fall of 2014, we have researched over 400 parcels in the county. The majority of the parcels we researched were created through a proper legal process to obtain building rights. (It is important to understand the distinction between a parcel being created and a parcel obtaining building rights. A survey or a deed are used to create a parcel. However, a county adopted process such as a One-Time-Only or Subdivision that has specific criteria (and that criteria is met) must be used to create a parcel with building rights.)

The reasons the parcels did not meet the ordinance mainly can be narrowed down to two issues: 1) lot size didn’t meet the underlying zoning 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 (Attachment #2 provides further explanation).

Through providing the “Inquiry Process” we identified parcels that do not have building rights for a variety of reasons.

The summary of our findings includes (Attachment #3 provides a map of the findings):

- 331- Parcels that are buildable
- 34- Parcels that did not have building rights
 - 31 have existing options for obtaining building rights
 - 3 have no option at this time
- 4- Parcels that have one RP# with multiple building rights
- 62- Parcels that have multiple RP#’s but only have 1 building right

This proposed code provides clarity to the existing “Inquiry Process” (9-11-4 & 9-11-5) and what property owners can expect from going through the process- “Certificate of Compliance”.

In most cases the only way for a property owner without building rights to obtain them under the current code is to go through the subdivision process. There have been some instances where the parent parcel qualified for an OTO when they were created, and we have worked with both property owners to create the lots through a legal process, all be it retroactively.

This proposed ordinance’s intent is to provide an additional remedy option to parcels that were created outside a legally adopted process for any number of reasons. It does this in the following ways:

- 1. It accepts all parcels created through a One-Time-Only survey that is signed and recorded.*
- 2. It provides a process for parcels that were created through a recorded survey that meet the ordinance*

**AMENDMENTS TO TITLE 9 –
TETON COUNTY SUBDIVISION
ORDINANCE**

See Attachment #4

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 Planning Act 67-65.

67-6502. PURPOSE. The purpose of this act shall be to promote the health, safety and general welfare of the people of the state of Idaho as follows:

(a) To protect property rights while making accommodations for other necessary types of development such as low-cost housing and mobile home parks.

(b) To ensure that adequate public facilities and services are provided to the people at reasonable cost.

(c) To ensure that the economy of the state and localities is protected.

(d) To ensure that the important environmental features of the state and localities are protected.

(e) To encourage the protection of prime agricultural, forestry and mining lands and land uses for production of food, fiber and minerals, as well as the economic benefits they provide to the community.

(f) To encourage urban and urban-type development within incorporated cities.

(g) To avoid undue concentration of population and overcrowding of land.

(h) To ensure that the development on land is commensurate with the physical characteristics of the land.

(i) To protect life and property in areas subject to natural hazards and disasters.

(j) To protect fish, wildlife and recreation resources.

(k) To avoid undue water and air pollution.

(l) To allow local school districts to participate in the community planning and development process so as to address public school needs and impacts on an ongoing basis.

(m) To protect public airports as essential community facilities that provide safe transportation alternatives and contribute to the economy of the state.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

1. The proposed amendment supports the goals, purposes and intent of the Teton County Comprehensive Plan.
 - a. Goal ED 2, Policy 2.1: Encourage development and land use proposals that support prime economic values of rural character and heritage.
 - b. Goal ED 4, Policy 4.9: Maintain rural areas that encourage farming and ranching and support low density residential development.
 - c. Goal ARH 1 Policy 1.6: Encourage higher density development in the cities of Driggs, Victor, and Teton.
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, specifically the Purpose found in 67-6502.

PUBLIC NOTICE: Legal ads were made to the Teton Valley News and sent to political subdivisions 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.

POSSIBLE MOTIONS

Recommending Approval- 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, for the following reasons_____ 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 BUILDING PERMIT ELIGIBILITY OF PREVIOUSLY CREATED PARCELS**" to the Board of County Commissioners *[with the following changes]*.

Recommending Denial- - Having found that the proposed amendment to Title 9 is not compliance with state statute and supports the comprehensive plan and other Teton County ordinances, for the following reasons_____ and that a public hearing was legally noticed and conducted, I move to recommend denial of the amendment as presented in the attachment entitled "**CHAPTER 11 BUILDING PERMIT ELIGIBILITY OF PREVIOUSLY CREATED PARCELS**" to the Board of County Commissioners.

Attachments:

- #1- Buildability Handout & Inquiry Application
- #2- Unbuildable Parcel Determinations
- #3- Property Inquiry Map
- #4- Proposed 9-11 Ordinance

Dividing or Buying Parcels

WHAT YOU NEED TO KNOW



Teton County Planning and Building Department

February 2015

ILLEGAL LOT SPLITS & BUILDING RIGHTS

There are many reasons why a property owner may want to divide an existing parcel of land. However, if the division of land does not comply with County and State laws, the property owner may forfeit a residential building right to one or all of the parcels when the division is recorded with the County Recorder.

The Teton County Subdivision Ordinance states that property owners are allowed a One Time Only Split of One Parcel of Land, allowed since June 14, 1999, without being required to subdivide and plat. At least 20 acres of land is required for this One Time Only Split of One Parcel of Land. Once this One Time Only Split has been utilized on a parcel, any further divisions are required to subdivide and plat according to the Teton County Subdivision Ordinance. **If this process is not followed and a deed is recorded with the County Recorder, one or all parcels WILL lose residential building rights.**

Teton County Planning & Building recommends that anyone desiring to split a parcel or considering purchasing a parcel to call or stop by our office. At your request, Teton County Planning & Building will research the recorded history of a parcel to determine if a split is available. If a split is not available, there may be steps available to remedy the issue. All potential buyers of parcels are recommended to request property research, because even if the current property owner did not split the land, an illegal split by a previous owner will render the property non-buildable.

Requests for property research may be submitted to Teton County Planning & Building using the attached form, which may be delivered to the office, faxed, or emailed. We ask for up to ten (10) days to complete property research.



**TETON COUNTY
PLANNING & BUILDING**
150 Courthouse Drive
Driggs, ID 83422

PHONE: 208-354-2593

FAX: 208-354-8401

EMAIL: pz@co.teton.id.us



TETON COUNTY PLANNING & BUILDING DEPARTMENT

150 COURTHOUSE DRIVE | DRIGGS, ID 83422 | pz@co.teton.id.us

PHONE: 208-354-2593 | FAX: 208-354-8410

PROPERTY INQUIRY REQUEST

☐ Owner ☐ Developer ☐ Appraiser ☐ Other: _____

Personal Information

NAME: _____

MAILING ADDRESS: _____

CITY, STATE, ZIP: _____

PHONE NUMBER(S): _____

EMAIL ADDRESS: _____

HOW WOULD YOU PREFER TO RECEIVE THE RESULTS OF THIS REQUEST?

☐ USPS Mail

☐ Email

Property Information

PROPERTY OWNER: _____

PROPERTY ADDRESS: _____

PARCEL ID (RP NUMBER): _____

This information can be obtained from the Assessor's Office, tax notices, or the online, public GIS.

What exactly do you want to know about the history of this property? Please be very specific.



FROM: Planning & Building Administrator Jason Boal
TO: Board of County Commissioners
RE: Unbuildable Parcel Determinations
MEETING: February 22nd, 2016

Staff has reviewed the inquiries that we have completed up to this point to identify a list of “potential” issues which explain how a parcel has become unbuildable. The list below identifies the issues along with a brief explanation of why it is an issue. I also identify current solutions available under the existing code. It should be noted that each individual parcel has unique circumstances which influence the available options to remedy the issue. Generally, all the options may be available to remedy a particular situation, with a few exceptions. Finally, I included a list of possible actions the county could discuss about additional remedies.

Staff’s recommendation is that we try to utilize the existing “approvals” (OTO or Subdivision) as much as possible. This would clarify any issues moving forward, provide specific approval for each property which is documented and not provide a large loophole that other property owners did not have opportunity for. I think there may be opportunity to provide some “relief” in obtaining these approvals, as long as they are specific and narrowly defined. Some of these relief options may include- 1) modification of fees & 2) modification of process. Staff would not recommend a “grandfathering” resolution or any resolutions that attempts to remedy the issues without specific property applications.

Possible reasons for no building rights:

1. Parcels deeded off without going through a division process-
 - a. Explanation- A parcel owner came into the county and records two or more new deeds dividing their property into two parcels. Starting in 1999 Teton County required the One-Time-Only process to review this type of split in order to create “legally created parcels” outside of the subdivision process.
 - b. Existing Solutions (See below): 1, 2, 3, 4.
2. Parcel created through an Ag Split-
 - a. Explanation- If deeded and recorded before 9-22-2003, Ag Splits were allowed one building permit. Parcels created after 9-22-2003 through the Ag Split were/are not eligible for a building permit.
 - b. Existing Solutions (See below): 1, 3, 4: One-Time-Only Division could never be used on Ag Splits. These cases require subdivision to make them buildable.
3. Parcel split through the OTO and did not meet the ordinances-
 - a. Explanation- We have identified at least five (5) reasons that what appears to be a correct process One-Time-Only was not in fact in conformance with the ordinance. These are splits where there is a survey that appears to be signed off by a county employee. It should be noted that the signature is not the issue, the issue is that the criteria identified in the ordinance, at the time the split happened, was not met. It should also be noted that there have been modifications to the OTO ordinance, but in most cases the only remedy to obtain building rights on these parcels is the subdivision process.

- i. Not valid because the parent parcel was created through an Ag Split. (*Ag Split parcels were not eligible for OTO's according to the ordinance*)
 - ii. Not valid because they did not meet the underlying zoning
 - 1. Minimum lot size of new parcels (*i.e. creating a one acre lot in the A-20 zone, where the minimum lot size is 20 acres, through the OTO*)- **Unless the parcel meets the underlying zoning requirements now (lot size), there is no remedy currently for these parcels to obtain building rights. The Land Use Code the PZC is working on would possibly change the minimum lot size to 1 acre, so as long as the overall density of the parent parcel and divided parcels meet the ordinance they would be eligible for the OTO, Land Division or Subdivision.**
 - 2. Minimum lot size of parent parcel to be eligible (*i.e. the parent parcel was only 10 acres when the ordinance requires the parcel to be 20 acres before it can be eligible for a OTO*). **See notes above about minimum lot size, as it applies here as well.**
 - iii. Not valid because the parent parcel was created through an “illegal” split, i.e. a process was not followed and parcel did not have building rights to begin with (*i.e. the parcel that applied to be split through the OTO was just deeded off from a larger parent parcel*)
 - iv. Not valid because the parent parcel was created through a OTO (*i.e. the parcel that applied to be split through the OTO was the product of a previous OTO*)
 - v. Not valid because the parent parcel was created through the Subdivision, and a plat amendment was required to split the property again. (*OTO's cannot be utilized for amending a plat, only unplatted parcels*)
 - b. Existing Solutions (See below): 1, 3, 4.
4. Parent parcel created through a Family Exemption and those conditions were not met-
- a. Explanation- The ordinance required that the parcel be deeded to separate family members, only once, had to maintain deed for a number of years, etc. (*I don't think we've had any of these yet, but we did have a family exemption that met the rules, so the lots were considered buildable*)
 - b. Existing Solutions (See below): 1, 2, 3, 4.
5. Parcel is part of a subdivision that has not been completed-
- a. Explanation- Technically the lot has building rights because it's platted, however it may not be eligible for a building permit and/or certificate of occupancy at this time because the development as a whole is out of compliance with the conditions of approval or the development agreement.
 - b. Existing Solutions- The solution here is for the development to come into compliance with the requirements. This may take action by multiple land owners, the HOA or the “developer” to complete these requirements and have them signed off by the county.

Current Solutions for Obtaining Building Rights on Currently Unbuildable Lots:

Current solutions allowed by Title 9 include-

1. **Record Deeds Identifying one of the parcels that was previously created as buildable and the others as unbuildable.** (*This is usually not a very viable option as often times the parcels are in different ownerships and/or have passed through several ownerships from the entity that split them.*)
2. **“Retroactive” One-Time-Only**
 - a. This solution requires the applicant to submit all of the items currently required for a OTO, including:
 - i. Application- We would require all owners of parcels created from the parent parcel to sign any application, if they want building rights.
 - ii. A new updated survey (they can utilize the surveyor and data of an old survey, if one was completed)

- iii. New deeds
- iv. Fee- \$206 & \$200 Survey review fee
- v. Outside Costs-
 - 1. Survey/Deeds
 - 2. Recording Fees
- vi. Time to Complete- this application is highly dependent on the applicant and the surveyor/engineer they use for the survey. Staff usually provides comments for revisions back to the applicant within two-weeks of receiving the application. Once the revisions are satisfied final documents can be created, signed and recorded.

3. Two-Lot Subdivision

- a. This solution requires the applicant to submit all of the items currently required for Two-Lot Subdivision:
 - i. Application- We would require all owners of parcels created from the parent parcel to sign any application, if they want building rights.
 - ii. Plat
 - iii. County Fee- \$1,000
 - 1. Survey Review Fee- \$350
 - iv. Outside Costs-
 - 1. Plat & Improvement Plans (storm water plans, utilities, roads, etc.)
 - 2. Possible Studies (See Notes)
 - 3. Recording Fees
 - v. Time to complete
 - 1. If the parcels are outside an overlay they do require 3 public hearings- Best case scenario is 4 months (not realistic).
 - 2. If the parcel is in an overlay it requires an additional public hearing (4 total)- best case scenario 4 months (not realistic).
 - vi. Notes
 - 1. Two Lot Subdivisions do not require fire protection (fire ponds)
 - 2. Depending on the location, there may be habitat, NP or other studies required in addition to the application and plat.

4. Three or more -Lot Subdivision

- i. Application
- ii. Plat
- iii. County Fee- \$2,139
 - 1. Survey Review Fee- \$350
- iv. Outside Costs-
 - 1. Plat & Improvement Plans (storm water plans, utilities, roads, etc.)
 - 2. Possible Studies (See Notes)
 - 3. Recording Fees
- v. Time to complete
 - 1. If the parcels are outside an overlay they do require 3 public hearings- Best case scenario is 4 months (not realistic).
 - 2. If the parcel is in an overlay it requires an additional public hearing (4 total)- best case scenario 4 months (not realistic).
- vi. Notes
 - 1. Three or more lots in a subdivision does trigger the fire protection requirement.
 - 2. Depending on the location, there may be habitat, NP or other studies required in addition to the application and plat.

Possible “Additional” Remedies to Aid in the Obtaining Building Rights on Currently Unbuildable Lots:

The BoCC could pass a resolution detailing the specific issues and remedies you are seeking to address.

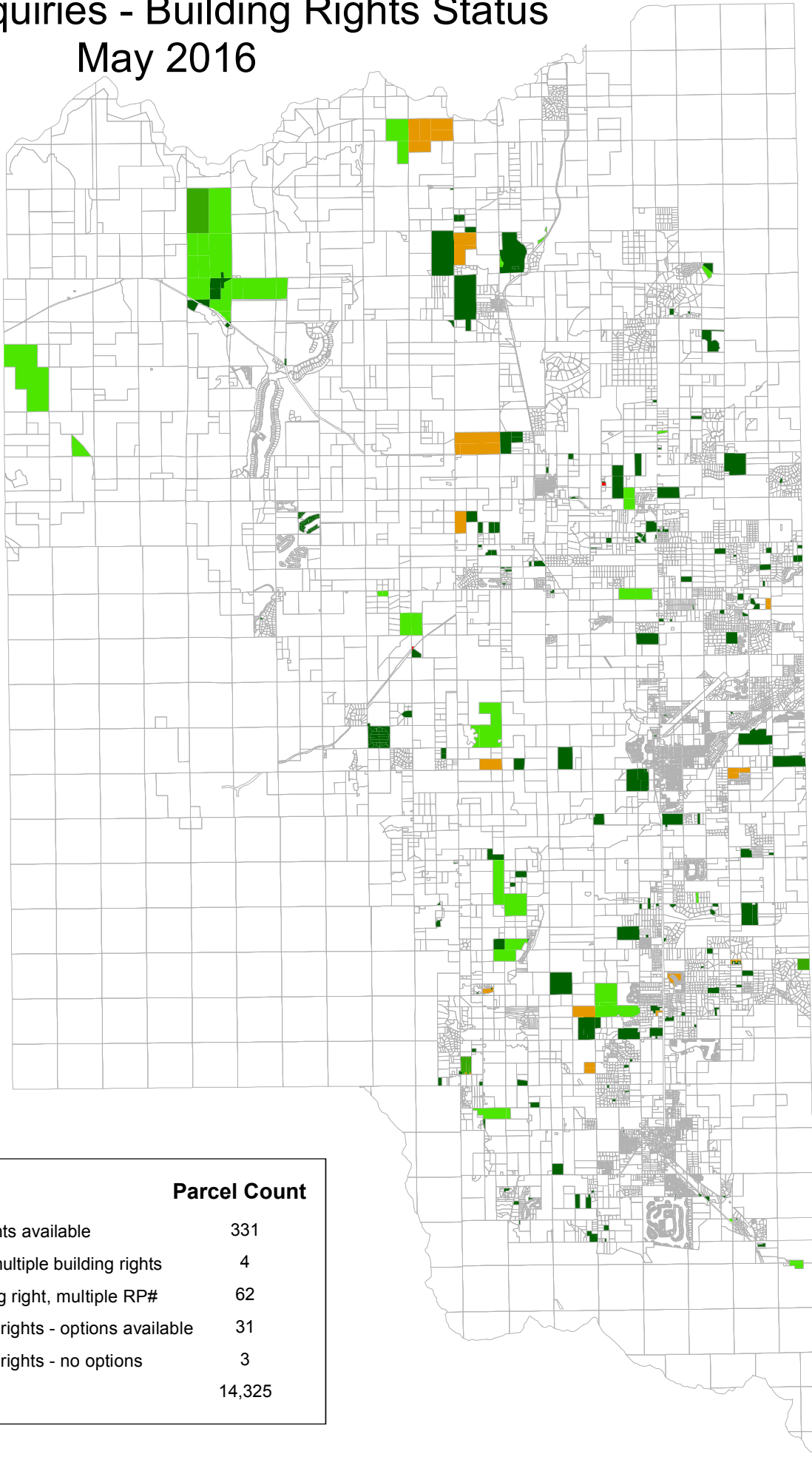
1. **Fee Waiver/Reduction-** The fees for the following could be waived or reduced. It should be noted that these fees are intended to cover: staff time, noticing requirements, PZC/BoCC stipends/time and supplies. These costs will need to be paid for or covered by another source. Also, in some cases there have been fees paid to the county in the past for a process of dividing the land.
 - a. OTO Application Fee
 - b. 2 Lot Subdivision Fee
 - c. 3- 7 Lot Subdivision Fee
 - d. Survey Review Fee
2. **Modification of Process** – This would modify the process that applicants would need to go through to obtain approval. One of the complaints we have heard is the amount of time it will take to come into compliance.
 - a. OTO- This really is the simplest process available and I don’t see any way of simplifying it.
 - b. Subdivisions- State Code 67-6513 does not require a public hearing for the approval of a subdivision. The BoCC could hold a public hearing to adopt a “special” subdivision process that would modify the process (Concept, Preliminary, and Final approval) and the number of PZC and BoCC meetings required for applicants who are seeking to come into compliance. It could be similar to the process for Plat Amendments, for example. This ordinance could be made very narrow (i.e. only for 2 lot subdivisions that meet the current zoning requirements and have a record of survey recorded with the county prior to 2010) and “sunset” or automatically become void after a period of time. Another option to narrowly define the eligible applicants and make it more equitable, would be to allow the modified process only available to those who have applied/paid to the county in the past for approval.
3. **Modification of Requirements-** This would change the requirements an applicant would have to meet in order to obtain approval. Staff is leery of any action taken in this regard. There are property owners who have met the requirements of the code to obtain approval since 1999. I am sure there are also property owners who were denied or didn’t apply because they could not meet the requirements.







In any case, some examples of these modifications could include:

 - a. Submittal requirements for:
 - i. OTO
 - ii. Subdivision
 1. Plans required for submittal, such as storm-water, wildlife habitat, NP study
 - b. Lot size requirements
 - c. Parent Parcel Requirements (*How the parent parcel was created. So for example an Ag Split Parcel could be eligible for an OTO, or a deeded property could be eligible for an OTO.*)
4. **Potential Changes in the new Land Use Code which may provide additional remedies-**
 - a. The new Land Use Code does modify the lot size requirements, so that past divisions that did not meet the lot size requirements, but would meet the density standards, would have the ability to apply for a retro-active OTO, Land Division or Subdivision.
 - b. The New Land Use Code does provide additional division options that we do not currently have: Land Division and Short Plat. These division options may provide some land owners additional options, with reduced standards from the Full-Plat Subdivision that they currently do not have.

Property Inquiries - Building Rights Status

May 2016



Legend		Parcel Count
	Building rights available	331
	One RP#, multiple building rights	4
	One building right, multiple RP#	62
	No building rights - options available	31
	No building rights - no options	3
	No inquiry	14,325

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 THE BUILDING RIGHT ELIGIBILITY OF PREVIOUSLY CREATED PARCELS.

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

BUILDING PERMIT ELIGIBILITY OF PREVIOUSLY CREATED PARCELS

SECTION:

9-11-1 PURPOSE AND INTENT OF PROVISIONS.

9-11-2 LEGALLY CREATED PARCELS – REQUIRED FOR GRANTING OF CERTAIN PERMITS – CRITERIA FOR DETERMINATION.

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

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

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

9-11-6 VOIDABILITY OF DEEDS OR CONTRACTS VIOLATING PROVISIONS.

9-11-7 FAILURE TO COMPLY AND ILLEGAL DIVISION OF LAND DEEMED MISDEMEANOR – PENALTY.

9-11-8 NONCOMPLYING PARCELS – PROCESSES FOR OBTAINING BUILDING RIGHTS.

9-11-9 DENIAL OF APPLICATION.

9-11-10 APPEAL OF FINAL DECISIONS.

9-11-1 PURPOSE AND INTENT OF PROVISIONS.

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

9-11-2 LEGALLY CREATED PARCELS – REQUIRED FOR GRANTING OF CERTAIN PERMITS – CRITERIA FOR DETERMINATION.

No building permit, grading permit nor any other permit may be issued, nor any approval granted necessary to develop any property, unless and until said property has been determined to have been

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

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

- A. A signed & recorded subdivision plat;
- B. If the parcel was created BEFORE June 14, 1999-
 - a. A deed describing the parcel by a metes-and-bounds description recorded prior to June 14, 1999 (contiguous sub-“lots” or sub-“parcels” described on a single deed are considered a single parcel);
 - b. A record of survey recorded prior to June 14, 1999 showing the existing boundaries;
- C. If the parcel was created AFTER June 14, 1999-
 - a. A recorded One-Time-Only survey with a Teton County authorization signature;
 - b. A recorded survey identifying the legal process in Title 9 and the created parcels met the requirements of the identified process in Title 9 at the date of creation;
- D. Any of the above means combined with a County-approved and recorded boundary adjustment survey or amended plat;
- E. Signed & recorded “Parcel Rectification Plat”, in compliance with 9-11-8.

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

If the Planning Director becomes aware of any parcel which has not resulted from a legal division or consolidation of property in compliance with LLUPA and applicable County Codes, he/she will send to the property owner, or owners, of said property written notice notifying them of the violation. This written notification will advise the property owner(s) that:

- A. The Planning Director has determined that subject property together with other contiguous property has been divided or has resulted from a division in violation of LLUPA and applicable County codes;
- B. No building permit, grading permit nor any other permit may be issued, nor any approval granted necessary to develop said property, unless and until an identified approval process 9-11-8 is completed, approved, and recorded in full compliance with the LLUPA and provisions of this Chapter, adopted pursuant thereto.
- C. The Planning Director will cause a notice of violation to be recorded in the office of the county recorder within 15 days of notification to property owner(s) which will describe the violation and the property and name the owner(s) thereof. This notice when recorded will be constructive notice of the violation to all successors in interest of said property;
- D. If subject property was purchased through a licensed real estate salesman or broker after the adoption of this ordinance and it is felt that the property was misrepresented, the Idaho Real Estate Commission shall be notified.

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

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

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

A. Application.

1. Application for a “Certificate of Compliance” shall be made with the Planning and Building Department in accordance with the following specifications:
 - i. A completed application form must be filled out
2. Each plat shall contain the following information:

B. A notice stating the following shall be signed:

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

C. The required filing fee(s).

9-11-6 VOIDABILITY OF DEEDS OR CONTRACTS VIOLATING PROVISIONS.

Any deed of conveyance, sale or contract to sell made contrary to the provisions of this title may be voidable in accordance with Idaho State Code 55-9.

9-11-7 FAILURE TO COMPLY AND ILLEGAL DIVISION OF LAND DEEMED MISDEMEANOR – PENALTY.

Those parcels of land which are subdivided contrary to the provisions of this title shall not constitute legal building sites and no permit shall be issued for the installation of fixtures or equipment or for the erection, construction, conversion, establishment, alteration or enlargement of any building, structure or improvement thereon unless and until an identified approval process (9-11-8) is completed, approved, and recorded in full compliance with the LLUPA and provisions of this Chapter. Any person who subdivides or causes to be subdivided land without complying in all respects with the provisions of this title shall be subject to prosecution for a misdemeanor as defined hereinafter. Any offer to sell, contract to sell, sale or deed of conveyance made contrary to the provisions of this title is a misdemeanor, and any person, firm or corporation, upon conviction thereof, shall be punishable by a fine of not more than \$10,000, or imprisonment for a period of not more than one year, or by both such fine and imprisonment.

9-11-8 NONCOMPLYING PARCELS – PROCESSES FOR OBTAINING BUILDING RIGHTS.

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

- A. Recordation of no building rights: if the illegal split resulted in two (2) parcels, but there was only one (1) building right and the property owners of the two lots agree that one of the lots will remain unbuildable, they may record an official document clarifying which parcel would receive the building right and which one would not.
- B. Retroactive One-Time-Only:
 - 1. Applicability-The parent parcel of the illegal split would be eligible for a One-Time-Only under the existing code.
 - 2. Process- The process for a One-Time-Only split must be followed, and the required fees for that process shall be submitted as well. The property owners of both parcels must sign the application.
 - 3. Criteria for Approval- All requirements and submittals for the One-Time-Only shall be followed.
- C. Parcel Rectification Plat:
 - 1. Applicability-The parcel would not qualify for a retroactive One-Time-Only, yet can meet the criteria found in 9-11-8-C-4.
 - 2. Application-

A property owner(s) of parcel(s) receiving a notice of violation, that does not qualify for a Retroactive One-Time-Only can complete and submit the “Parcel Rectification Plat” 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:

 - i. Fees (Application and Survey/Plat review fee);
 - ii. Narrative outlining how, when, and by whom the parcels were originally created;
 - iii. Approval letter from Eastern Idaho Public Health;
 - iv. Approval letter from Teton County Fire District;
 - v. Acceptance letter from the city for sewer hookup, or from the providing community, if applicable;
 - vi. Plat created by a surveyor, licensed in the State of Idaho which includes:
 - a. Vicinity Map, Date of Survey, and North Arrow
 - b. Map scale adequate to depict all adjusted lots (show Bar Scale)
 - c. Legend with a description for all line weights and symbols used
 - d. All bearings and distances for all property lines. Include Basis of Bearing and CP&F Reference
 - e. All known easements shown with their instrument numbers
 - f. All existing physical access points shown
 - g. Legal access points shown or possibility for future County Road access permits established
 - h. Property Legal Descriptions
 - i. Surveyor’s Certification – Signature block with statement
 - j. County Treasurer’s Certification
 - k. County Assessor’s Certification
 - l. Eastern Idaho Public Health Certification
 - m. Teton County Board of County Commissioners Chair Certification
 - n. Fire District – Signature block with approval statement
 - o. Certificate of Survey Review – Signature block with approval statement

- p. Owner's Certificate – Signature block with approval statement. MUST BE NOTARIZED
- q. Recorder's Certificate
- r. Certificate of Acceptance of Mortgagee, if applicable. MUST BE NOTARIZED

3. Process

Once a completed "Parcel Rectification Plat" application is made the process for approval is as follows:

- i. 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.
- ii. 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.
- iii. 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.
- iv. 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
 - DWG format of Final Plat on CD

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

4. Criteria for Approval-

The following criteria must be met in order for the application to be approved by the Board.

- i. 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.
- ii. The proposed lots must have approved access.
- iii. There must have been a survey recorded with Teton County showing the creation of the parcel(s) prior to 2010.

iv. No more than two (2) buildable lots are being created through this process.

D. Subdivision Process:

1. Applicability-The parent parcel of the illegal split would be eligible for a subdivision under the existing code.
2. Process- The process for a subdivision must be followed, and the required fees for that process shall be submitted as well. The property owners of all parcels must sign the application.
3. Criteria for Approval- All requirements and submittals for the subdivision shall be followed.

9-11-9 DENIAL OF APPLICATION.

If the application fails to meet the criteria identified above, it shall be denied. Fees paid are not refundable if the application is denied.

9-11-10 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.