

To: Tyler Sinclair, Planning Director, Town of Jackson and Teton County
Jackson Town Council and Teton County Board of Commissioners
From: The Jackson Hole Conservation Alliance
Re: Natural Resource Regulations Update
Date: March 1, 2016

Purpose

The Jackson Hole Conservation Alliance (Alliance) undertook the attached research paper to support implementation of the 2012 Jackson/Teton County Comprehensive Plan (Comp Plan), with a focus on Section 1: Stewardship of wildlife, natural resources, and scenery. Our objectives were to identify areas of improvement with the existing Natural Resource Regulations (NRR) and to help focus the update process for the NRR on solving existing problems while also identifying and proposing best practices and standards that would make the NRR state of the art.

Research Paper Approach

In order to craft a research paper that achieved these objectives, we:

1. Conducted individual, anonymous stakeholder interviews with a wide range of people who are involved in the current NRR processes to uncover what works well, and what does not work so well, with the existing NRR and application review processes.
2. Completed a literature review and model code search to identify state of the art regulatory tools and best practices that could be adapted for use in Teton County.
3. Formulated recommendations on desirable update provisions to help meet the goals of our Comprehensive Plan.

This work resulted in the attached paper, *"Best Practices and Recommended Improvements to the Natural Resource Protection Regulations, for Teton County and the Town of Jackson, WY."*

Summary of Recommendations

In order to ensure the updated Natural Resources Regulations effectively implement our Comp Plan, the Town of Jackson and Teton County should:

- Make enforcement a priority.* Enforcement of the Natural Resource Regulations is the single largest improvement that our community can make and is critical to the well being of our natural resources. Enforcement should be made routine, and in follow-up to every approved application, there should be an on site inspection. This would require shifting from the exiting model of complaint-based enforcement, to a fully staffed and proactive program. This program would inventory what is on each parcel and retain and update the site use and development inventory regularly. This includes fences, for which permits should be required.
- Incorporate the recommended Safer for Wildlife Fencing Standards* into Town and County land development regulations (LDRs) in place of the existing Wildlife Friendly Fencing standards and include these provisions in the NRR draft for public

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685 S. Cache St. • P.O. Box 2728 • Jackson, WY 83001 • (307) 733-9417 • info@jhalliance.org • JHalliance.org

review. Fence standards are not technically part of the NRR chapter of the LDRs, but should be reviewed as if they are, as they affect our wildlife resources.

- Hire a Wildlife Biologist* on Town/County Planning and Development staff.
- Adopt similar NRR provisions for both the Town and County.* Right now the Town does not have adopted NRR provisions.
- Require all parties* called upon by the Town or County to review and comment on the Environmental Assessment application, to attend or send their input to the pre-application conference.
- Revise the Environmental Analysis Review Process to require the consultation of a wildlife biologist* at the pre-application conference.
- Revise the pre-Application process and conference to include all interested parties, the application/owner, the EA consultant(s), the staff, and all commenting agencies.* It would be best if these were put on a public calendar so interested members of the public could also attend.
- Change the process to require applicants to perform the habitat inventory before determining the location of the proposed use or development.* The habitat inventory should inform the location of development and take place prior to applicants investing in site design, engineering, and layout plans for development that is location specific, when that location may not be appropriate.
- Change the definition of "stream,"* specifically the characteristics for flow level and habitat.
- Increase all water body and wetland setbacks/buffers,* based on current and relevant science.
- Require setback standards for irrigation induced wetlands and irrigation induced riparian habitats.*
- Tier classifications and protection standards for wetlands* from highest value to lower value.
- Expand the Natural Resources Overlay and Standards* to protect additional habitats and species of concern, such as Cutthroat Trout.
- Remove the vague, immeasurable and unenforceable language in Crucial Wildlife Protection Standards that reads "...unless the applicant can demonstrate that it can be located in such a way that it will not detrimentally affect..."* crucial wildlife habitat.
- Require setbacks to buffer migration routes, crucial winter ranges and daily movement patterns,* from development encroachment.
- Re-title "Vegetative Cover Type Standards" to "Habitat Type Standards".*
- Include the five categories of 'Water bodies' in the ordinal ranking standards for vegetative cover/habitat types.*
- Rank habitat type based on its importance to wildlife,* and the level of certainty of successful mitigation, with some habitats deemed irreplaceable, as mitigation of certain habitats is not regularly successful.
- Rank all native vegetative cover types higher than lands in agricultural use.*

Recommended Process for Updating the Natural Resources Regulations

In order to identify additional areas of improvement, existing problems, and potential solutions to these problems, the Town of Jackson and Teton County should update the NRR using standard best practices for policy development. Through the implementation of a deliberate framework used by many other similar communities in structuring policy development, the NRR update will more likely result in a robust, locally applicable, politically supported policy product in a timely fashion.

Through the establishment and use of a broad based stakeholder advisory committee, many issues would get resolved early on in the process through meaningful vetting, resulting in a draft product with strong policy direction and stakeholder support presented for the formal public review. Specifically, this stakeholder group would work with staff in the development and drafting of the updated NRR, and staff would get input and direction on next steps, support in preparing sections, and immediate review and input on each section. Many communities rely on this kind of approach as it usually helps develop better policies in a more timely fashion than other methods of policy development.

Recommended steps for implementing this proven and effective approach include:

- The Board of County Commissioners and Town Council *appoint a Citizen Advisory Committee (CAC)* with expertise from a cross section of perspectives to support and advise planning staff on the policy goals and mechanisms to achieve them.
- The CAC should be made up of interests such as: an ecologist, a wildlife biologist, a developer or development consultant, a planner with natural resources regulation expertise, a rancher, someone with open space conservation expertise, and a neighborhood advocate.
- The CAC will serve to guide staff in drafting the updated regulations. This process should take place in open public meetings. The objective of the CAC is to clarify policy direction, and let staff do the rule making to best implement those policies, bringing back sections at a time for input and feedback.
- When the draft is complete, the CAC, via staff, would send their report and recommendations to the respective Planning Commissions, to start the formal public review process.
- With this process, by the time the Jackson Town Council and Board of County Commissioners hold hearings on the draft code language, it would be approximately 90% acceptable to key stakeholders and should facilitate a relatively smooth and constructive public review process.

Conclusions

Through the incorporation of proven best practices for both policy and process, the Town and County can update the Natural Resource Regulations to achieve a state of the art policy product that effectively implements our Comprehensive Plan.