



Planning Commission - Staff Report

Subject: AMD2021-0003: Wildlife Friendly Fencing LDR Text Amendment

Agent/Applicant: Teton County

Property Owner: n/a; County-wide

Presenter: Ryan Hostetter, Principal Long-Range Planner

REQUESTED ACTION

Proposal to amend the Teton County Land Development Regulations (LDRs), pursuant to Section 8.7.1, to amend section 5.1.2 related to Wildlife Friendly Fencing. This amendment is made by the Teton County Planning Division at the direction of the Teton County Board of County Commissioners to update the Natural Resource Land Development Regulations in phases. The proposed amendments to this chapter would update and clarify certain standards for when wildlife friendly fencing is required, how it shall be constructed, and certain exemptions for specific uses.

BACKGROUND/DESCRIPTION

PROJECT DESCRIPTION

This proposed project includes an update to the Wildlife Friendly Fencing regulations outlined in section 5.1.2 of the LDRs. The update includes clarification and predictability to existing fence repair and replacement, additional exemptions for agricultural operations, and an update to the design requirements for wildlife friendly fencing. The updates were a cooperative effort between the Teton Conservation District, Wyoming Game and Fish, Teton Wildlife Foundation, Teton County, and concerned members of the public. The updates also follow the guidance outlined in the State of Wyoming guide to Wildlife Friendly Fencing which is published by the Wyoming Wildlife Foundation in cooperation with agricultural operators throughout the state.

BACKGROUND

The FY 2021 Work Plan includes a County assigned task to “continue with a status update and resource inventory for the Natural Resource Regulations Update”. A draft update of the Natural Resource Regulations was presented to the community in September of 2018 which included a comprehensive update of much of Article 5., including Div. 5.1 and 5.2 of the LDRs. The draft included updated sections for water quality, wildlife feeding, migration regulations, and tiered habitat designations for development to replace the Natural Resource Overlay (NRO) requirements. While this draft was released in 2018 the regulations were never adopted and continue to remain in draft form. Since then, the County has been on hold with regards to picking this project up until staff positions were filled (former project manager at the County resigned) and the work could continue.

On December 28, 2020, staff provided an update and strategy to continuing this work moving forward with the recent hire of additional staff to continue this project along with other projects outlined in the Work Plan. The proposal presented to the Commissioners in December of 2020 included breaking chapter 5.1 into topics for completion. Topics within LDR section 5.1 include Wildlife Friendly Fencing, Wildlife Feeding, Water Quality (in the form of development regulations and setbacks) and Air Quality. When presented to the County Commissioners the direction provided was a near term completion of Wildlife Feeding, Wildlife Friendly Fencing, and Water Quality with more research and expertise needed to address the Air Quality section at another time. The tiered habitat regulations are separated out as a larger effort and have been included with some funding attached in the FY22 budget and FY22 Work Plan to continue with that component of Div. 5.2 of the LDRs.

LOCATION

N/A; applies County-wide.

STAFF ANALYSIS

A draft of the proposed text amendment is included as an attachment to this report and was released June 14, 2021 pursuant to the LDRs and Wyoming Statue §16-3-103.

SUMMARY OF KEY CHANGES

Many of the pre-existing requirements for fence design remain in place and are unchanged. Some items however have been updated to reflect guidance based on the Wyoming Wildlife Foundation fencing guide which is currently used statewide as a guide for wildlife friendly fencing designs. The updated components of the new draft language include:

- Solid material for top rail added
- Height to top rail reduced from 42" to now 40" from grade
- Height from ground to bottom rail/wire no less than 18" above grade
- Maximum of three horizontal elements
- No barbed wires for top or bottom horizontal elements
- Distance between vertical posts to a minimum of 12' rather than current requirement of exactly 12' (added flexibility)
- Worm (zig-zag) fencing not allowed unless approved through Special Purpose Permit similar to buck and rail
- Limit land disturbance and grading for fence installation, and direct reader to grading standards of Div. 5.7 for earth work
- Fences shall not block natural corridor or movement for wildlife (i.e. not block natural funneling through canyons or areas where topography may restrict movement)
- Fencing next to some topographic features (i.e. drop off or gully) shall contain room for wildlife to take off/land on either side of fence
- Fences next to each other in parallel (double fences) shall be at least 30' apart from each other

KEY ISSUES

KEY ISSUE 1: Repair and Replacement

The current Wildlife Friendly Fencing standards outlined in Div. 5.1.2 of the LDRs allow for repair and replacement of existing non-conforming fences "up to 50% of the linear feet" which has proven to be an issue with enforcement and interpretation. For example, is this 50% per side, is it 50% within a year, how many times can this be used before it is considered a new fence? Currently this allows for any repair and replacement of up to 50% of the linear feet of the existing non-conforming fence and this fence may never come into compliance with wildlife friendly fence design standards.

One of the main reasons for this update is to clarify and tighten up these standards which will increase predictability for property owners and staff implementing the measures as well as ensuring more of the existing fences in the County become more wildlife friendly over time. The updated language allows for any legally existing non-conforming fence to be repaired up to "10% of the total linear fence perimeter of each enclosure being repaired." This change clarifies the language and allows for some small repair and replacement, however the goal is that most fencing become wildlife friendly over time (unless a special purpose fence permit is approved).

KEY ISSUE 2: Amended Agricultural Exemption

Currently, fences for agricultural uses are partially exempt from the wildlife friendly fencing standards. Essentially, agricultural fencing can be repaired or relocated if the fencing is/has been previously existing on the property. New fencing, however, has not previously been exempt for agricultural purposes. The new updated standards proposed would amend this requirement and allow all agricultural fencing to be exempt for agricultural purposes (any new and existing fencing). Additional clarifying language requires the property to contain agriculturally assessed area (per the Assessor's Office) to meet the new agricultural exemption, and that the exempt fencing

must be for the agricultural use only (i.e. not for residential portions of the property). With these amendments the County is striving to exempt bona fide agricultural activities from the fencing requirements and ensure that the new regulations do not have negative impacts on agricultural operations.

KEY ISSUE 3: Fence Height & Design

One common thread in comments received includes issues regarding fence height specifically for containing livestock and horses as well as some comments regarding design. Many of the comments received to date ask to create design requirements which are more wildlife friendly from the existing regulations. Staff has received no comments or concerns about solid top rails, barbed wire only in middle strand, number of horizontal elements and distance from ground to the lower rail/wire. One of the main issues however remains the height of the top rail. There continues to be disagreement regarding an appropriate top rail height from grade. The existing standards require the top rail be constructed no higher than 42 inches, however the Wyoming Wildlife Foundation fencing guide states that 40" is better for wildlife (especially for pregnant or weaker animals). Comments from livestock owners however ask for a height of at least 42" and even 48" to contain livestock or horses.

Staff recommends a height of 40" and if there are special circumstances for which a livestock owner requires a unique fence design, that they apply for a Special Purpose Fence Permit for review and approval. When containing horses, the difference in two inches is negligible, and there are methodologies which the horse owners could utilize to ensure their animals remain safely contained through electric fence wires, proper feeding, and management of the animals. Horses are herd animals and prefer to be in a place with other horses and would not want to escape a situation unless under extreme duress. The primary goal with this update is to amend the requirements so that wildlife is a priority based on Comprehensive Plan Common Value Number One – Ecosystem Stewardship which is the first chapter in the Comprehensive Plan.

STAKEHOLDER ANALYSIS

PUBLIC COMMENT

All written public comments received as of the publishing of this report are attached. A list of some of the main points are as follows:

- Remove exemption for repair and replacement, all fencing including repairs and maintenance should be wildlife friendly, and keep agricultural exemption
- Fence height should be taller for livestock
- Limit unnecessary grading, leveling, and earthwork for fence installation
- County should not have fence requirements and should allow state to regulate
- Agricultural exemption should only include areas assessed as agriculture by Accessor's Office
- All fences should have a permit review and requirement
- Good to remove current 50% exemption however the revised 10% language should have timeframe associated with it
- Include diagrams

DEPARTMENTAL REVIEW

A draft of the proposed amendment was sent to the following departments for review in conjunction with the proposed Text amendment (AMD2021-0003). All reviews received from other departments and advisory agencies are attached.

LEGAL REVIEW

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RECOMMENDATIONS

PLANNING DIRECTOR RECOMMENDATION

The Planning Director recommends **APPROVAL** of **AMD2021-0003**, as presented in the draft attached dated June 23, 2021, with no conditions based on the findings recommended below.

PLANNING DIRECTOR RECOMMENDED FINDINGS

Pursuant to Section 8.7.1.C. of the Land Development Regulations, the advisability of amending the text of the LDRs is a matter committed to the legislative discretion of the Board of County Commissioners and is not controlled by any one factor. In deciding to adopt or deny a proposed LDR text amendment the Board of County Commissioners shall consider factors including, but not limited to, the extent to which the proposed amendment:

1. Is consistent with the purposes and organization of the LDRs:

Division 1.3: Purpose and Intent: *Based on the legislative discretion of the Board of County Commissioners, these LDRs are in accordance with the Jackson/Teton County Comprehensive Plan. Their purpose is to implement the Jackson/Teton County Comprehensive Plan and promote the health, safety, and general welfare of the present and future inhabitants of the community with the intent listed below.*

1.3.1. Implement the Community Vision: Preserve and protect the area's ecosystem in order to ensure a healthy environment, community, and economy for current and future generations.

1.3.2. Implement the Common Values of Community Character

A. Ecosystem Stewardship

1. Maintain healthy populations of all native species and preserve the ability of future generations to enjoy the quality natural, scenic, and agricultural resources that largely define our community character.

2. Consume less nonrenewable energy as a community in the future than we do today.

B. Growth Management

1. Direct future growth into a series of connected, Complete Neighborhoods in order to preserve critical habitat, scenery and open space in our Rural Areas.

2. The Town of Jackson will continue to be the primary location for jobs, housing, shopping, educational, and cultural activities.

C. Quality of Life

1. Ensure a variety of workforce housing opportunities exist so that at least 65% of those employed locally also live locally.

2. Develop a sustainable, vibrant, stable and diversified local economy.

3. Residents and visitors will safely, efficiently, and economically move within our community and throughout the region using alternative modes of transportation.

4. Timely, efficiently, and safely deliver quality services and facilities in a fiscally responsible and coordinated manner.

1.3.3. Implement the Illustration of Our Vision

A. Achieve the desired future character identified for each Character District.

B. Implement the policy objectives for each Character District.

C. Achieve the character-defining features identified for each Subarea.

1.3.4. Predictable Regulations, Incentives, and Allowances

A. Ensure standards are consistently applied to similar applications and circumstances.

B. Ensure landowners, the public, and decision-makers know the amount, location, and type of growth to expect.

C. Use data analysis and best practices to inform standards and implement the adaptive management philosophy of the Growth Management Program.

1.3.5. Coordination Between Jurisdictions

A. Implement the joint Town/County Vision through coordinated, supportive actions.

B. Maintain a common structure, format, and definitions in Town and County LDRs.

Div. 1.4. Organization of the LDRs: These LDRs constitute the County's zoning and subdivision regulations. They have two organizing principles. Primarily, they are organized by zone in order to implement and emphasize the community's character-based planning approach. Secondly, to provide ease of use, they are organized to answer three questions:

- What can be built or physically developed?
- What uses are allowed?
- How can the land be developed or subdivided?

Can Be Made. The purpose of this update to the LDRs is to further bring the wildlife friendly fencing requirements into compliance with the goals of the Comprehensive Plan through enhanced ecosystem stewardship. The current language includes loopholes and confusing language open for interpretation thus reducing predictability and effectiveness at supporting wildlife movement. The update of the current 50% repair language is a major improvement for wildlife friendly fencing while still allowing some repair to remain in place when necessary (proposed up to 10%).

2. Improves the consistency of the LDRs with other provisions of the LDRs:

Can be Made. The updated wildlife friendly fencing requirements are consistent with all other provisions of the LDRs. The proposed updates include added language which also tie to other portions of the LDRs such as the grading requirements for any earthwork, as well as the wildlife feeding section regarding small exclusionary fencing areas which are encouraged to protect wildlife to increase consistency.

3. Provides flexibility for landowners within standards that clearly define desired character:

Can Be Made. The proposed updates do strengthen the repair and replacement requirements, however there remains an option for a landowner to repair existing fencing as well as apply for a Special Purpose Fence Permit in the event special circumstances arise which necessitate a non-wildlife friendly fence design.

4. Is necessary to address changing conditions or a public necessity and/or state or federal legislation:

Not applicable.

5. Improves implementation of the Comprehensive Plan; and

Can Be Made. This proposed amendment of the LDRs is intended to implement the ecosystem stewardship Common Value One outlined in the Comprehensive Plan. Maintaining healthy populations of all native species is outlined in Principle 1.1 and this wildlife friendly fencing division in the LDRs exists to implement this principal by ensuring fencing is not negatively impacting natural wildlife movement.

6. Is consistent with the other adopted County Resolutions.

Can Be Made. No apparent conflict or relationship to other County Resolutions was identified by staff in this review.

ATTACHMENTS

- Draft Amendment
- Public Comment

SUGGESTED MOTION

I move to recommend **APPROVAL** of **AMD2021-0003**, as presented in the draft dated June 23, 2021, to amend division 5.1.2 for Wildlife Friendly Fencing, being able to make the findings of Section 8.7.1 . as recommended by the Planning Director.

Wildlife Friendly Fencing Amendment AMD2021-0003

~~Strikeouts= delete~~

Underline = add

5.1.2. Wildlife Friendly Fencing

A. Findings

Fencing is a structural element that can create an impediment for wildlife movement, resulting in both injuries and death to wildlife and damage to the fencing. The purpose of wildlife friendly fencing is to ease wildlife passage to the habitats that sustain them and reduce incidents of injury and mortality. Wildlife friendly fencing allows wildlife to jump over and pass under more easily, reduces the chance of entanglement, and may incorporate openings or wildlife passes. It also includes consideration of topography and placement, such as to allow free and safe passage around special purpose or barrier fencing.

B. Applicability

~~New fences erected after September 12, 2006 shall comply with the standards of this Section.~~

~~If over 50% of the linear feet of an existing fence is replaced, the fence shall be considered "new" and shall abide by the standards of this Section. Except that the following shall be exempt from the provision of this Section:~~

- ~~1. Repair, or relocation of prior or existing fences associated with agricultural use meeting the standards for exemption in Section 6.1.3.B.; and~~
- ~~2. Fences built for new riding arenas, as defined in these LDRs.~~

1. Repair or replacement of legally established nonconforming fencing (including fencing erected prior to September 12, 2006) that does not meet the standards of Sec. 5.1.2. is permissible under the following standards:

- a. Repair of less than 10% of the total linear fence perimeter of each enclosure being repaired;
- b. Approval of a Special Purpose Fence Permit as outlined in Sec. 5.1.2. D.
- c. ~~Any repair of existing buck and rail or worm fencing shall receive approval of a Special Purpose Fence Permit and comply with the design requirements of 5.1.2 C.~~

2. Exemptions for Wildlife Friendly Fencing outlined in Sec. 5.1.2 :

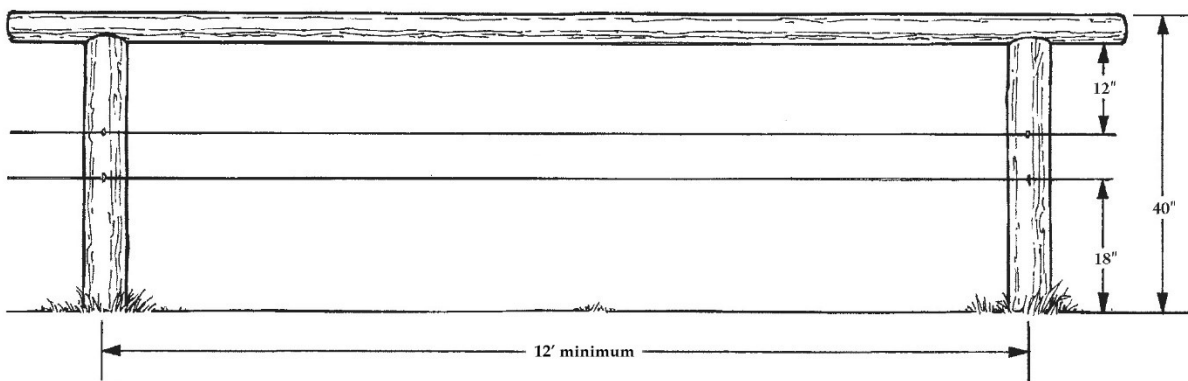
- a. Fences associated with agricultural use on properties meeting all of the following:

- i. Properties of 70 acres or more and meeting the standards in Section 6.1.3.B.; and;
 - ii. Properties containing agriculture as assessed by the Teton County Assessor; and
 - iii. Exempt fencing per this section is used only for agricultural purposes on the property as defined herein.
- b. 2- Fences built for new riding arenas, as defined in these LDRs;
 - c. Fences erected for exclusionary purposes of small areas to protect such as hotwire around automatic trout feeders, apiaries, vegetable gardens, composting areas, haystacks, livestock feed storage, and ornamental landscaping areas directly adjacent to structures.

C. Fencing HeightDesign

Fencing materials and design shall comply with the following standards:

1. Measurements: The top rail Fencing, for purposes other than livestock control, shall be no higher than 38 inches above the ground. Fencing The top rail for livestock control shall be no higher than 42 40 inches above the ground. There shall be no more than three horizontal strands/rails permitted. These heights allow wild ungulates (deer, elk, moose, antelope) to jump over more easily. For both of the above fence types Spacing between the top two wires or top pole/rail and adjacent wire shall be at least 12 inches. The distance between the bottom wire/rail and the ground shall be no less than 18". The spacing of fence posts shall be a minimum of 12-foot centers unless topography prohibits this spacing. The posts may have extra height to allow for any necessary lower or raising of the top rail.



D. Materials and Design

2. Materials: Wood (or similar highly visible solid material) top poles, and either wood rails or wire strands are permitted as horizontal elements in fencing, however wire shall not be used as the top most horizontal strand. When using wire, the middle or bottom wire strands shall be smooth or twisted wire. Barbed wire may be used in the middle strand when necessary to control livestock. Barbed wire is prohibited in the top and bottom strands of the fence.

2. ~~The required fencing design includes a top level of a wood (or similar material) pole rather than wire. The bottom rail or wire strand shall be at least 16 18 inches above the ground. This bottom height allows easier passage for pronghorn, young deer, elk and moose, and other medium-sized mammals, and smooth wire reduces injury.~~
3. ~~The spacing of fence posts shall be on 12 foot centers unless topography prohibits this spacing. The posts shall have extra height to allow for any necessary lower or raising of the top rail. Spacing of the second and third wire shall be evenly spaced. Spacing distances may vary from 7-8 inches depending on the height of the fence.~~
3. Double Fences: The spacing between parallel fencing (regardless of ownership) shall be at least 30 feet as to not create a trap for wildlife.
4. The top level of a newly constructed fence shall be flagged immediately after construction. The flagging shall be white and maintained for at least 1 year.
5. ~~All exclusionary fencing shall demonstrate ability for wildlife to safely circumnavigate~~
6. New buck and rail or, buck and wire, and worm fencing is prohibited unless approved by the Planning Director through a Special Purpose Fencing Exemption. When buck and rail fencing is necessary due to rocky or wet soil, a portion of the fence shall be laid down or constructed to a lower height, not to exceed 38 inches, to allow wildlife movement.
7. Land disturbance and vegetation clearing for fence installation and repair shall be the minimum necessary to install fence posts and allow installation of fence materials. Any land disturbance shall comply with the requirements of Div. 5.7. of the Land Development Regulations.
8. Fencing adjacent to a swale, gully, or other topographic feature shall be designed to allow wildlife to safely cross. In these instances, the fence shall require a minimum 8 foot clear area between the fence and the animal landing/takeoff area.
9. Fences shall not be placed in such a manner as to block the natural funneling of wildlife through canyons and areas such as swales, gullies, ridges, canals, streams or other topographic features.

DE. Special Purpose Fencing

Notwithstanding the provisions of this Section, the Planning Director may exempt individual special purpose fencing from this Section, provided the fencing meets the below standards. The applicant shall provide a written explanation for how the proposal qualifies for a special purpose fencing request based on the information in this section.

EXAMPLE: Examples of special purpose fencing within a non-qualifying agricultural property include fencing for a dog kennel, certain types of agricultural fencing (such as bull enclosure, pig pens, sheep enclosure, fencing to secure stored livestock feed, fencing for winter livestock feeding sites, and fencing for 4-H projects), fencing for mitigation sites, fencing for restoration areas, securing a construction site, swimming pool enclosure, screening of refuse facilities, recycling containers, dumpsters, and small yard enclosure. See Sec. 5.1.3 Wildlife Feeding.

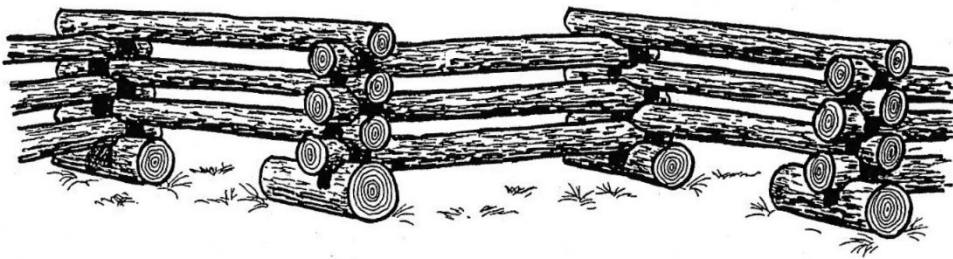
1. Smallest area. The special purpose fencing shall encompass the smallest area necessary to achieve the purpose.

2. Specific design. The applicant shall demonstrate that the Special purpose fencing is constructed for a particular use and requires a specific design to accomplish the purpose of the fence.

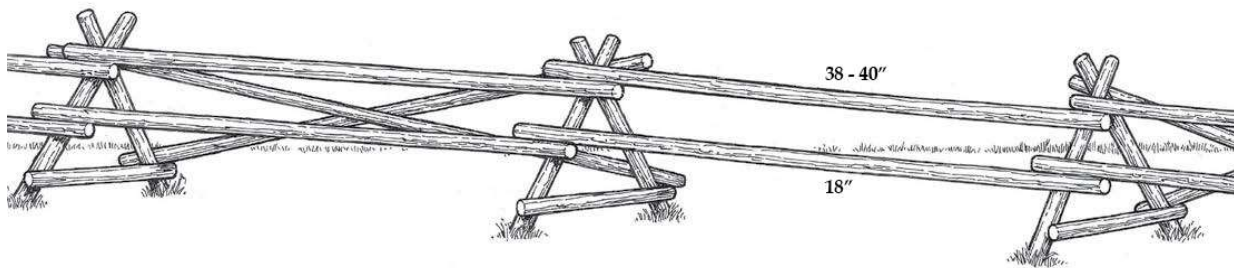
3. Height in yards. Special purpose fencing located in a street yard shall not exceed 4 feet in height. Special purpose fencing located in a side or rear yard shall not exceed 6 feet in height.

4. Setback. Special purpose fencing is not subject to a setback from property lines.

5. Rocky or wet soil. Buck and rail or worm fencing may be approved when the applicant demonstrates necessity due to rocky or wet soil. A 10 foot gap in the fence shall be provided every 120 feet or constructed to a lower height, not to exceed 38 inches, to allow wildlife movement. All buck and rail or worm fencing permitted under this section shall comply with the design requirements of Section 5.1.2 C above.



Worm Fencing



Buck and Rail Fencing

6. The Planning Director may consider other mitigation practices demonstrating improved wildlife passage such as drop down horizontal elements, open gates and other practices recommended by Wyoming Game and Fish Department or as included in the “Wyoming Landowner’s Handbook to Fences and Wildlife: Practical Tips for Fencing with Wildlife in Mind” by Christine Paige, 2015 Wyoming Community Foundation, Laramie.

7. All standards for natural resource protection as recommended by the Planning Director shall be recorded in the permit.

DRAFT

Ryan Hostetter

From: Ryan Hostetter
Sent: Thursday, March 11, 2021 8:32 AM
To: Ryan Hostetter
Cc: Chris Neubecker; Rian Rooney; Kristi Malone
Subject: Technical Review of new Wildlife Friendly Fencing Land Development Regulations (LDRs)
Attachments: Draft Fencing Update.docx

Agency Representatives and County Partners,

The Long Range Planning section is pleased to submit this first draft language which will update the Wildlife Friendly Fencing requirements of the County's LDRs (currently section 5.1.2 which can be found [here](#)). Much of this work has been perfected by partners in the community, including Roby Hurley who completed the lion's share of this effort early on (thanks to Roby!). While we were hoping to have this draft released for public review early March, however we took some extra time to vet the language with staff at the County a bit more these last couple weeks.

In an effort to move this proposed language forward, we are seeking your technical review and input on the draft language (attached) prior to a more complete or final draft for review by the general public. I would ask that you review and submit any comments/additions to me no later than Friday March 26th. If there are any questions please don't hesitate to contact me and I would be happy to walk you through the changes being prepared and I am also open to any suggestions you may have.

This is the first piece of updating sections of the County's Natural Resource LDR's, and our next section we are revising includes language updates for wildlife feeding and bear proof trash containers. The wildlife feeding regulations are taking a bit more time in an effort to partner with waste management and a comprehensive roll out of the pay as you throw program (if you want to chat more about this effort please give me a call).

Please submit any comments/questions/additions to attached draft by **March 26th** (track changes in this document is best), and I look forward to completing this step in the process.

Thank You,

Ryan Hostetter, AICP

Principal Long Range Planner

Planning & Building Services – Teton County

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Ryan Hostetter
Long-Range Planner | Teton County Planning and Development
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April 2, 2021

Dear Ms. Hostetter,

Thank you for asking Teton Conservation District (TCD) to provide comments on the draft amendment to Teton County's Land Development Regulations (LDR) regarding fencing. The TCD staff does not create or interpret LDRs but staff is familiar with the needs of agriculture and wildlife ecology regarding fences. TCD programs provide support for landowner fencing needs and best management practices for considering wildlife movement.

TCD's comments are intended to acknowledge landowner rights to construct fences and the need to use fencing to achieve valuable human purposes while addressing the unintentional negative effects to the wildlife resource and interruptions to healthy ecological function. In addition, TCD's comments strive to clarify and simplify the regulations and the improve the ability to achieve compliance.

To begin, Agriculture, as defined by the Wyoming Department of Revenue and Wyoming Administrative Rules, is a valuable human endeavor, which is also cited in the Town and County Comprehensive Plan as providing many beneficial social, cultural, and ecological benefits. Therefore, TCD is encouraged that exemptions exists in the LDRs, for certain properties with agricultural classification, agriculture is exempted so as not to hinder the generation of such benefits.

Please consider the following TCD suggestions (in red):

Overall:

1. The term "Wildlife Friendlier Fencing" be incorporated throughout the draft amendment.
2. A definition of a "fence section" be provided – *The fencing components from one vertical fence element (e.g., posts or bucks) and the next subsequent vertical fence element.*
3. Aligning the LDRs with the Wyoming Department of Revenue's agricultural land tax classification qualifications, including the Wyoming Department of Revenue's 35-acre qualification versus the LDR's proposed 70-acre qualification.

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Section 5.1.2.A. Findings:

TCD suggests that this introductory section could be made more accurate and complete with the following suggested wording:

“Fencing as a structural element can have various negative effects on wildlife ecology. This is in part due to design of the fence. Negative effects include wildlife injuries, mortality, changes in movement patterns, and increased energy consumption by wildlife. The purpose of wildlife friendlier fencing is to ease wildlife passage to the habitats that sustain them and reduce incidents of wildlife injury and mortality. Wildlife friendlier fence allows wildlife to jump over, pass under and/or circumnavigate fences more easily thereby reducing negative effects and reducing the degradation of our currently intact ecological functions and processes.”

Section 5.1.2.B. Applicability:

No new section F was included in the Draft LDR’s provided.

1.a. TCD suggests that a diagram of what is intended by the term “perimeter” could be useful for the public noting that some fences that create ecological issues may not form a “perimeter” or encirclement around a piece of land. TCD will provide diagrams separately.

1.b. TCD suggests a simplification of this wording because replacing various fence elements such as just the top wire, or a dozen rotted posts or “bucks” within a period can circumvent the intended outcomes (e.g., No time frame is given. This allows for non-conforming fence replacement to be completed in phases just replacing the posts, then the top element, then the second element, etc. ending up with an entire fence that is still non-conforming). Please consider the following suggestion: *“Repair of less than 10% of the horizontal length of the entire fence or repair of less than 10% of the fence sections (defn.) need not be conforming. Replacement of any single horizontal element constitutes the replacement of the horizontal length of the fence.”*

Section 5.1.2.C. Fencing Horizontal Element Heights:

Rather than provide measurements for all the possible variations of horizontal elements, the regulations could be simplified and made more enforceable by establishing the height limit of the top element (38-40 inches) and the bottom element elevation (18” above the ground) with no more than three horizontal elements allowed. There is no room for a fourth horizontal element when the above prescribed bottom and top strand elevations are used, and a three horizontal element fence is a relatively wildlife friendlier design, particularly with a wooden element on the top (rail or plank) and a smooth wire on the bottom. If this concept is confusing, TCD can provide a diagram upon request.

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Section 5.1.2.D. Materials and Designs:

1. Wood (or similar material) top poles/rails, *dimensional lumber (e.g. wood planks no larger than 2" thick by 6" wide and placed horizontally)*, or wire strands are permitted as horizontal elements in fencing. The wire strands shall be smooth or twisted wire. Barbed wires may be used in the middle strand, *but not as the top and bottom strands.*
2. The exclusion of wire as a top horizontal element contradicts #1, which states that wire strands are allowed without specification as top element or otherwise. Consider combining #1 and #2 or clarifying #1.
5. The *top horizontal element* of a newly constructed fence that is wire shall be flagged immediately after construction using one marker per fence section (defn.). The flagging shall be *white a color recommended by Wyoming Game and Fish Department* and maintained for at least 1 year after construction is completed. (The proposed #5 is also in conflict with #2)
6. All exclusionary fencing shall allow wildlife to *reasonably* circumnavigate the excluded area. *Consider adding language that would allow for exclusionary fencing, enclosing less than 50 square feet, to be allowed without requiring any permit because wildlife can unarguably circumnavigate that size of enclosure. In addition, entanglement is unlikely given that the fence would be designed to exclude crossings.*
7. *Construction of new buck and rail or buck and wire fencing (after September 12, 2006?) is prohibited unless approved by the Planning Director through a Special Purpose Fencing Exemption. Replacement of non-conforming buck and rail, or buck and wire fencing of a quantity greater than 10% in horizontal length of the entire fence length or 10% of all the fence sections within a fence line, also requires a Special Purpose Fencing Exemption. In addition, "Worm Fencing" should be given special considerations as a special purpose fence, with 10-foot-wide gaps required every 120 linear feet of fence, etc. When buck and rail fencing is necessary due to rocky or wet soil, a portion of the fence shall be laid down or constructed to a lower height, not to exceed 38 inches, to allow wildlife movement.*

5.1.2.E, Special Purpose Fencing:

Examples: Fence *on a non-qualifying agricultural property* for a dog kennel, bull enclosures, pig pens, sheep enclosure, *(Are these likely on a non-agricultural property? Agricultural*

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property owners may find using these examples in this context confusing.) fencing to secure livestock feed, wildlife exclusion fencing for winter livestock feeding sites and fencing for 4-H projects, *patches of landscaping*, etc.), securing a construction site, *erosion control on a construction site*, swimming pool enclosure, ...

5. Buck and rail fencing demonstrating necessity due to rocky or wet soil. A 10-foot gap in the fence shall be provided every 120 feet (10 fence sections) or constructed to a lower height, not to exceed 38 inches. *This* allows wildlife movement. All buck and rail fencing permitted under this section shall comply with the design requirements of 5.1.2 D 1-6.

6. The Planning Director may consider other mitigation practices demonstrating *improved wildlife* passage such as drop-down horizontal elements rails, open gates and other practices recommended by Wyoming Game and Fish Department. Please consider citing “*A Wyoming Landowner’s Handbook to Fences and Wildlife: Practical Tips for Fencing with Wildlife in Mind*”, by Christine Paige, 2015, Wyoming Community Foundation, Laramie, WY, 56pg.

TCD hopes that the suggestions above can make the public’s understanding the County fencing LDR’s clearer and allow for the expression of land ownership rights, while improving the community benefits derived from healthy agriculture, free-ranging wildlife populations and elevated ecological function in Teton County.

Sincerely,


Tom Segerstrom
Executive Director

Conserving our natural resources – air, land, water, vegetation, and wildlife

420 W. Pearl Ave.
P.O. Box 1070
Jackson, Wyoming 83001

307/733-2110, Ext 2
www.tetonconservation.org
tom@tetonconservation.org



WYOMING GAME AND FISH DEPARTMENT

5400 Bishop Blvd. Cheyenne, WY 82006

Phone: (307) 777-4600 Fax: (307) 777-4699

wgfd: wyo.gov

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KENNETH D. ROBERTS

June 7, 2021

Ryan Hostetter, Principal Long Range Planner
Teton County Planning and Building Services
200 S. Willow St.
Jackson, WY 83001

Dear Ms. Hostetter,

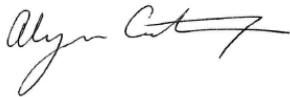
Thank you for the opportunity to provide a technical review of the draft Wildlife Friendly Fencing Amendment (Section 5.1.2) to Teton County's Land Development Regulations. Wyoming Game and Fish Department (WGFD) Jackson Region staff have reviewed the draft amendment and offer the following comments for your consideration.

1. In 5.1.2.B.2 Exemptions, we suggest adding "haystacks" and "livestock feed storage" to the list of examples of where fences can be erected for exclusionary purposes. There are many landowners in Teton County who own livestock who do not meet the agricultural exemption criteria listed in the regulations, but who need to secure hay and other livestock feed from wildlife. The ability to quickly secure hay and livestock feed from wildlife is an important tool in preventing and/or remedying wildlife conflict on private lands.
2. In 5.1.2.C.1. Measurement, we recommend removing the text, "including pregnant or stressed animals".
3. We suggest removing the standard 5.1.2.C.4, which requires the top level of a newly constructed fence to be flagged. Since this regulation will require all new fences to have a wooden top rail or similar material, this will provide an adequate visual element for wildlife.
4. We suggest removing most of the language in standard 5.1.2.C.9, which prohibits placing fences on a number of different topographical features. As long as the fence meets the design criteria outlined in this regulation, wildlife should be able to navigate across it even within these topographical features. The exceptions would be waterways such as canals, streams, and creeks. Therefore, we suggest modifying 5.1.2.C.9 to "Fences shall not be placed across streams, creeks, or canals, unless for livestock control".
5. In 5.1.2.D Special Purpose Fencing, we suggest clarifying what is meant by "fencing for conservation easement areas", which is listed as an example.

6. We would also like to suggest that the County consider prohibiting barbed and smooth wire use in fences that are not used for livestock containment. Wire that is not maintained on a regular basis can pose an entanglement and injury risk for wildlife.

Thank you for the opportunity to provide technical expertise feedback to this draft regulation. If you have any questions, please contact Doug McWhirter, Wildlife Management Coordinator, or me at 307-733-2321.

Sincerely,

A handwritten signature in black ink, appearing to read 'Alyson Courtemanch', with a stylized flourish at the end.

Alyson Courtemanch, North Jackson Wildlife Biologist

Ryan Hostetter

From: Pence, Jay -FS <jay.pence@usda.gov>
Sent: Thursday, March 11, 2021 1:36 PM
To: Ryan Hostetter
Subject: FW: [External Email]Technical Review of new Wildlife Friendly Fencing Land Development Regulations (LDRs)

[NOTICE: This message originated outside of the Teton County's mail system -- **DO NOT CLICK** on links or open **attachments** unless you are sure the content is safe.]

Ryan: I'm pretty sure the USFS fences are exempt from this direction based on the size of the acreage we manage. I thought you might be interested in some of the issues my Range specialists observed. Mainly while we want wildlife friendly fences and support this effort. In certain situations we feel that there are areas that need a bit beefier fencing to function (keep the livestock on the right side of the fence).

I thought the let down fence concern was valid. If someone wanted to construct a let down fence in many situations with migratory or winter use by wildlife this would be significantly easier for the animals than a low fence? It might be an option for a "taller fence" when in use and the wildlife have migrated but its let down and not an issue during the heavier wildlife season?

I'm not sure how to recommend handling the areas with high pressure where a taller fence may be needed. If the fence is not high enough then it may not function for holding livestock and create a significant hazard. You may want to spell out some kind of process to consider granting exemptions for case by case situations?

As always it is hard to have a rule that addresses all situations. Best of luck and I hope this was helpful?

From: Hanson, Greg -FS <greg.hanson@usda.gov>
Sent: Thursday, March 11, 2021 12:14 PM
To: Pence, Jay -FS <jay.pence@usda.gov>; Hoggan, Matthew -FS <matthew.hoggan@usda.gov>; Stokes, Jaimi -FS <jaimi.stokes@usda.gov>
Subject: RE: [External Email]Technical Review of new Wildlife Friendly Fencing Land Development Regulations (LDRs)

If we are exempt no. If we are not exempt see the following

C. Fencing Height Fencing, for purposes other than livestock control, shall be no higher than 38 inches above the ground. Fencing for livestock control shall be no higher than 42 inches above the ground. For both of the above fence types, spacing between the top two wires or top pole/rail and adjacent wire shall be at least 12 inches. 2. The required fencing design includes a top level of a wood (or similar material) pole rather than wire. The bottom rail or wire strand shall be at least 16 inches above the ground.

Generally this works well but in high pressure areas sometimes we use taller fences with 4 or five wires.

D. Materials and Design Fencing materials and design shall comply with the following standards:

1. Wood (or similar material) top poles, and either wood rails or wire strands are permitted as horizontal elements in fencing. The wire strands shall be smooth or twisted wire. Barbed wires may be used in the middle strands, not including the top and bottom strands, when necessary to control livestock.

Smooth wires do not control cattle as well as barbed wires. We could probably get along with smooth bottom wires.

2. The required fencing design includes a top level of a wood (or similar material) pole rather than wire. The bottom rail or wire strand shall be at least 16 inches above the ground.

- Hard to make a let down fence with a wood top rail.
- A wood top rail is very costly compared to wire.
- Wood top rail will also prohibit the type of post used as it is difficult to hang wood rails on steel posts.

3. The spacing of fence posts shall be on 12-foot centers unless topography prohibits this spacing. The posts shall have extra height to allow for any necessary lower or raising of the top rail. Spacing of the second and third wire shall be evenly spaced. Spacing distances may vary from 7-8 inches depending on the height of the fence.

Some places we go further spacing on posts this would add expense to the fence.

4. New buck and rail or buck and wire fencing is prohibited unless approved by the Planning Director through a Special Purpose Fencing Exemption. When buck and rail fencing is necessary due to rocky or wet soil, a portion of the fence shall be laid down or constructed to a lower height, not to exceed 38 inches, to allow wildlife movement.

The buck rail fence we buy is taller than this. In areas we need buck and rail fence we would need to special order jacks, or shorten jacks. Many of our rail fences are in high pressure areas. Usually these are shorter runs of fence but often we want them tall and formidable.

5. The top level of a newly constructed fence shall be flagged immediately after construction. The flagging shall be white and maintained for at least 1 year

This is from Page 5-6 .



Greg Hanson
Rangeland Management Specialist

Forest Service
Caribou-Targhee National Forest, Palisades and Teton Basin Ranger Districts

p: 208-542-5808

c: 208-313-7939

greg.hanson@usda.gov

3659 East Ririe Highway
Idaho Falls, ID 83401

www.fs.fed.us



Caring for the land and serving people

From: Pence, Jay -FS <jay.pence@usda.gov>

Sent: Thursday, March 11, 2021 8:44 AM

To: Hanson, Greg -FS <greg.hanson@usda.gov>; Hoggan, Matthew -FS <matthew.hoggan@usda.gov>

Subject: FW: [External Email] Technical Review of new Wildlife Friendly Fencing Land Development Regulations (LDRs)

Do either of you see anything that needs to be addressed? It appears the USFS is exempt?

Exemptions

- Fences associated with agricultural use on properties greater than 70 acres, meeting the standards for exemption in Section 6.1.3.B., and assessed as Agricultural by the Teton County Assessor;

Thanks

From: Ryan Hostetter <rhostetter@tetoncountywy.gov>

Sent: Thursday, March 11, 2021 8:32 AM

To: Ryan Hostetter <rhostetter@tetoncountywy.gov>

Cc: Chris Neubecker <cneubecker@tetoncountywy.gov>; Rian Rooney <rrooney@tetoncountywy.gov>; Kristi Malone <kmalone@tetoncountywy.gov>

Subject: [External Email]Technical Review of new Wildlife Friendly Fencing Land Development Regulations (LDRs)

[External Email]

If this message comes from an **unexpected sender** or references a **vague/unexpected topic**;

Use caution before clicking links or opening attachments.

Please send any concerns or suspicious messages to: Spam.Abuse@usda.gov

Agency Representatives and County Partners,

The Long Range Planning section is pleased to submit this first draft language which will update the Wildlife Friendly Fencing requirements of the County's LDRs (currently section 5.1.2 which can be found [here](#)). Much of this work has been perfected by partners in the community, including Roby Hurley who completed the lion's share of this effort early on (thanks to Roby!). While we were hoping to have this draft released for public review early March, however we took some extra time to vet the language with staff at the County a bit more these last couple weeks.

In an effort to move this proposed language forward, we are seeking your technical review and input on the draft language (attached) prior to a more complete or final draft for review by the general public. I would ask that you review and submit any comments/additions to me no later than Friday March 26th. If there are any questions please don't hesitate to contact me and I would be happy to walk you through the changes being prepared and I am also open to any suggestions you may have.

This is the first piece of updating sections of the County's Natural Resource LDR's, and our next section we are revising includes language updates for wildlife feeding and bear proof trash containers. The wildlife feeding regulations are taking a bit more time in an effort to partner with waste management and a comprehensive roll out of the pay as you throw program (if you want to chat more about this effort please give me a call).

Please submit any comments/questions/additions to attached draft by **March 26th** (track changes in this document is best), and I look forward to completing this step in the process.

Thank You,

Ryan Hostetter, AICP

Principal Long Range Planner

Planning & Building Services – Teton County

PO Box 3594

200 S. Willow Street

Jackson, WY 83001

(307) 732-8414



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Ryan Hostetter

From: Bob Hammond <bob.hammond@wyo.gov>
Sent: Friday, March 26, 2021 11:20 AM
To: Ryan Hostetter
Cc: Chris Neubecker; Rian Rooney; Kristi Malone
Subject: Re: Technical Review of new Wildlife Friendly Fencing Land Development Regulations (LDRs)

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Ryan,

Thank you for sending this information for our review. WYDOT fencing on WYDOTR projects is not under the jurisdiction of Teton County. WYDOT does have wildlife friendly fencing designs that we have developed and modified over the years with WY Game & Fish input. We also have wildlife exclusion fencing that is used in appropriate locations. WYDOT fencing is standardized for ease of bidding by contractors as well as ease of maintaining by our crews.

Thank you again for sharing.

Bob Hammond, P.E.

Resident Engineer
WYDOT - Jackson, WY
Direct - (307) 732-9602
Office - (307) 733-3665

On Fri, Mar 26, 2021 at 8:54 AM Ryan Hostetter <rhostetter@tetoncountywy.gov> wrote:

Good Morning All,

I have received a request to spend a bit more time with our technical review on this effort – If you can please get comments by **April 2nd** (for those that need it) I would appreciate it. I will go through all of your comments, and will provide an update on timing for future hearings once I see what type of comments I get back from everyone. Thank You,

Ryan Hostetter, AICP

Pronouns: She/Her/Hers

Principal Long Range Planner

Planning & Building Services – Teton County

PO Box 3594

200 S. Willow Street

Jackson, WY 83001

(307) 732-8414



From: Ryan Hostetter

Sent: Thursday, March 11, 2021 8:32 AM

To: Ryan Hostetter <rhostetter@tetoncountywy.gov>

Cc: Chris Neubecker <cneubecker@tetoncountywy.gov>; Rian Rooney <rrooney@tetoncountywy.gov>; Kristi Malone <kmalone@tetoncountywy.gov>

Subject: Technical Review of new Wildlife Friendly Fencing Land Development Regulations (LDRs)

Agency Representatives and County Partners,

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In an effort to move this proposed language forward, we are seeking your technical review and input on the draft language (attached) prior to a more complete or final draft for review by the general public. I would ask that you review and submit any comments/additions to me no later than Friday March 26th. If there are any questions please

don't hesitate to contact me and I would be happy to walk you through the changes being prepared and I am also open to any suggestions you may have.

This is the first piece of updating sections of the County's Natural Resource LDR's, and our next section we are revising includes language updates for wildlife feeding and bear proof trash containers. The wildlife feeding regulations are taking a bit more time in an effort to partner with waste management and a comprehensive roll out of the pay as you throw program (if you want to chat more about this effort please give me a call).

Please submit any comments/questions/additions to attached draft by **March 26th** (track changes in this document is best), and I look forward to completing this step in the process.

Thank You,

Ryan Hostetter, AICP

Principal Long Range Planner

Planning & Building Services – Teton County

PO Box 3594

200 S. Willow Street

Jackson, WY 83001

(307) 732-8414



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E-Mail to and from me, in connection with the transaction of public business, is subject to the Wyoming Public Records Act and may be disclosed to third parties.

Ryan Hostetter

From: Anna DiSanto <annacdisanto@gmail.com>
Sent: Tuesday, March 16, 2021 7:28 PM
To: Ryan Hostetter
Subject: Re: Technical Review of new Wildlife Friendly Fencing Land Development Regulations (LDRs)
Attachments: Draft Fencing Update_acd.docx

[**NOTICE:** This message originated outside of the Teton County's mail system -- **DO NOT CLICK** on links or open **attachments** unless you are sure the content is safe.]

Hi Ryan, thank you for sending this for review. I have attached a track-changes version with just one comment.

Thanks!

Anna

On Thu, Mar 11, 2021 at 8:31 AM Ryan Hostetter <rhostetter@tetoncountywy.gov> wrote:

Agency Representatives and County Partners,

The Long Range Planning section is pleased to submit this first draft language which will update the Wildlife Friendly Fencing requirements of the County's LDRs (currently section 5.1.2 which can be found [here](#)). Much of this work has been perfected by partners in the community, including Roby Hurley who completed the lion's share of this effort early on (thanks to Roby!). While we were hoping to have this draft released for public review early March, however we took some extra time to vet the language with staff at the County a bit more these last couple weeks.

In an effort to move this proposed language forward, we are seeking your technical review and input on the draft language (attached) prior to a more complete or final draft for review by the general public. I would ask that you review and submit any comments/additions to me no later than Friday March 26th. If there are any questions please don't hesitate to contact me and I would be happy to walk you through the changes being prepared and I am also open to any suggestions you may have.

This is the first piece of updating sections of the County's Natural Resource LDR's, and our next section we are revising includes language updates for wildlife feeding and bear proof trash containers. The wildlife feeding regulations are taking a bit more time in an effort to partner with waste management and a comprehensive roll out of the pay as you throw program (if you want to chat more about this effort please give me a call).

Please submit any comments/questions/additions to attached draft by **March 26th** (track changes in this document is best), and I look forward to completing this step in the process.

Thank You,

Ryan Hostetter, AICP

Principal Long Range Planner

Planning & Building Services – Teton County

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(307) 732-8414



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--

Anna C. DiSanto

Summit Environmental Solutions, Inc.

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anna@summitenvsolutions.com

Wildlife Friendly Fencing Amendment

~~Strikeouts= delete~~

Underline = add

5.1.2. Wildlife Friendly Fencing (1/1/21)

A. Findings

Fencing is a structural element that can create an impediment for wildlife movement, resulting in both injuries *and death* to wildlife and damage to the fencing. *The purpose of wildlife friendly fencing is to ease wildlife passage to the habitats that sustain them and reduce incidents of injury and mortality. Wildlife friendly fence allows wildlife to jump over and pass under easily, reduces the chance of entanglement, and may incorporate openings or wildlife passes. It also includes consideration of topography and placement, such as to allow free and safe passage around special purpose or barrier fencing.*

B. Applicability

New fences erected after September 12, 2006 shall comply with the standards of this Section.

~~If over 50% of the linear feet of an existing fence is replaced, the fence shall be considered "new" and shall abide by the standards of this Section. Except that the following shall be exempt from the provision of this Section:~~

~~1. Repair, or relocation of prior or existing fences associated with agricultural use meeting the standards for exemption in Section 6.1.3.B.; and (see new sec. F)~~

~~2. Fences built for new riding arenas, as defined in these LDRs. (see new sec. F)~~

~~1. Repair of legally non conforming fencing erected prior to September 12, 2006 that does not meet the standards of Sec. 5.1.2.C and D. is permissible under the following standards:~~

- ~~a. Repair of less than 10% of the total fence perimeter;~~
- ~~b. If more than 10% of the total fence perimeter is repaired, the repaired sections shall meet the standards of 5.1.2.C. and D; and~~
- ~~c. Approval of a Special Purpose Fence Permit~~

2. Exemptions

- ~~a. Fences associated with agricultural use on properties greater than 70 acres, meeting the standards for exemption in Section 6.1.3.B., and assessed as Agricultural by the Teton County Assessor;~~

- b. Fences built for new riding arenas, as defined in these LDRs; and
- c. Fences erected for exclusionary purposes to protect hotwire around automatic trout feeders, apiaries, gardens, composting areas and landscaping and no larger than 60 linear feet in length per enclosure. See Sec. 6.4.9. Wildlife Feeding.

C. Fencing Height

Fencing, for purposes other than livestock control, shall be no higher than 38 inches above the ground. Fencing for livestock control shall be no higher than ~~42~~ 40 inches above the ground. These heights allow wild ungulates (deer, elk, moose) to jump over easily, including pregnant or stressed animals. For both of the above fence types, spacing between the top two wires or top ~~pole~~ rail and adjacent wire shall be at least 12 inches. A 12" gap has been shown to significantly reduce the possibility of ungulates entangling their hooves as they clear the fence.

D. Materials and Design

Fencing materials and design shall comply with the following standards:

1. Wood (or similar material) top poles, and either wood rails or wire strands are permitted as horizontal elements in fencing. The wire strands shall be smooth or twisted wire. Barbed wires may be used in the middle strands, not including the top and bottom strands, when necessary to control livestock.
2. The required fencing design includes a top level of a wood (or similar material) pole rather than wire. The bottom rail or wire strand shall be at least ~~16~~ 18 inches above the ground. This bottom height allows easier passage for pronghorn, young deer, elk and moose, and other medium-sized mammals, and smooth wire reduces injury.
3. The spacing of fence posts shall be on 12-foot centers unless topography prohibits this spacing. The posts shall have extra height to allow for any necessary lower or raising of the top rail. Spacing of the second and third wire shall be evenly spaced. Spacing distances may vary from 7-8 inches depending on the height of the fence.
4. Parallel fencing, regardless of ownership, shall be avoided to the maximum amount feasible as to not create a small corridor wildlife can't escape. The spacing between parallel fencing shall be at least 30 feet.
5. The top level of a newly constructed fence shall be flagged immediately after construction. The flagging shall be ~~white~~ a color recommended by Wy Game and Fish and maintained for at least 1 year.
6. All exclusionary fencing shall demonstrate ability for wildlife to safely circumnavigate.
7. New buck and rail or buck and wire fencing is prohibited unless approved by the Planning Director through a Special Purpose Fencing Exemption. ~~When buck and rail fencing is necessary due to rocky or~~

~~wet soil, a portion of the fence shall be laid down or constructed to a lower height, not to exceed 38 inches, to allow wildlife movement.~~

E. Special Purpose Fencing

Notwithstanding the provisions of this Section, the Planning Director may exempt special purpose fencing from this Section, provided the fencing meets the below standards. The applicant shall provide a written explanation for how the proposal qualifies for a special purpose fencing request based on the information in this section.

EXAMPLE: Examples of special purpose fencing include fencing for a dog kennel, certain types of agricultural fencing (such as bull enclosure, pig pens, sheep enclosure, fencing to secure stored livestock feed, fencing for winter livestock feeding sites, and fencing for 4-H projects), securing a construction site, swimming pool enclosure, screening of refuse facilities, recycling containers, dumpsters, and small yard enclosure. See Sec. 6.4.9. Wildlife Feeding.

1. Smallest area. The special purpose fencing shall encompass the smallest area necessary to achieve the purpose.

2. Specific design. Special purpose fencing is constructed for a particular use and requires a specific design to accomplish the purpose of the fence.

3. Height in yards. Special purpose fencing located in a street yard shall not exceed 4 feet in height. Special purpose fencing located in a side or rear yard shall not exceed 6 feet in height.

4. Setback. Special purpose fencing is not subject to a setback from property lines.

5. Buck and rail fencing demonstrating necessity due to rocky or wet soil. A 10 foot gap in the fence shall be provided every 120 feet or constructed to a lower height, not to exceed 38 inches, to allow wildlife movement. All Buck and rail fencing permitted under this section shall comply with the design requirements of 5.1.2 D 1-6.

6. The Planning Director may consider other mitigation practices demonstrating free passage such as drop rails, open gates and other practices recommended by Wyoming Game and Fish.

7. All standards for natural resource protection as recommended by the Code Compliance Office and Planning Director shall be recorded in the permit.

Commented [AD1]: Perhaps mitigation sites and conservation easement sites should be included in this list of special purpose fencing exemptions

Ryan Hostetter

From: lorna miller <lornamiller@live.com>
Sent: Friday, April 2, 2021 2:40 PM
To: Ryan Hostetter
Subject: fence comments 2 B. Applicability

[NOTICE: This message originated outside of the Teton County's mail system -- **DO NOT CLICK** on links or open **attachments** unless you are sure the content is safe.]

Comments re B. Applicability

1. Repair of legally non conforming fencing erected prior to September 12, 2006 that does not meet the standards of Sec. 5.1.2.C and D. is permissible under the following standards:

1. Repair of less than 10% of the total fence perimeter;

1. If more than 10% of the total fence perimeter is repaired, the repaired sections shall meet the standards of 5.1.2.C. and D; and

1. Approval of a Special Purpose Fence Permit

It a very good thing to eliminate the 50% exemption rule because that has been a giant loophole and has been heavily and widely abused .

I think it's important to look at the history of this section.

When then Commissioner Leland Christensen introduced this amendment to the fencing regulations back in 2006, his stated reason for this exemption on repair and replace was for the express purpose of accommodating working agricultural interests, most especially for the sheep ranchers in Alta. At that time, agriculture was subject to these regulations. Now that agriculture is totally exempt from these regulations, I have to ask why any exemption on repair and replace is included in this draft.

The devil is always in the details and it will end up being a complicated and a very time consuming enforcement challenge to monitor the 10%. Most people will interpret this as a 10% repair regardless of when the fence was built and whether or not it is legally non conforming. The absence of a way of tracking fences makes it extremely difficult to prove nonconforming or otherwise .

The *intent* of fencing regulations when they were first introduced and prior to 2006 was to acknowledge that fencing has a finite lifetime and that as fences reached the end of that functional life time, 15 or 20 or more years , the stock of fencing in Teton County would gradually be replaced with fencing that was more suitable for wildlife permeability. Due to the 50% exemption and lack of enforcement generally, this gradual and organic change towards wildlife friendlier fencing (WFF) has been only marginally successful.

Some questions that come to mind regarding calculation of total perimeter: “ Total perimeter fence “: does this mean length of the perimeter of the enclosure or field or pasture to be repaired or is it the entire perimeter of the ownership ?

What constitutes “repair” and when does that morph into replacement?

Could the 10% be interpreted as 10% of the posts or 10% of other materials. Can 10% be “repaired “annually over 10 years or more?.

if a residential property owner owns two or three residential lots which have not been combined into one parcel, is the total perimeter fence calculated on the entire ownership or on the individual parcel where the fence repair may be contemplated or on the field or paddock in question ?

if the fencing that is going to be repaired is an interior or cross fence, is the 10% still calculated using the perimeter fence? Or could it be calculated on the length of the side of the pasture being repaired. A number of fences that are a serious barrier to movement of wildlife are interior or cross fences.

Again since the County does not keep track of fencing in a manner that can be easily tracked, attempting to administer any exemption will easily become an enforcement challenge (nightmare)which is very time consuming for staff

Keep in mind that there is already a stock of residential fences that were built **after** 2006 but which ignored the wildlife friendlier fencing standards. These fences will not have a 10% repair loophole. This will be very confusing for people and will be easily exploited as a loophole.

Given that the original justification for exemptions was to accommodate working agricultural ranches and they are now exempt from regulation, I would like to suggest that there be no exemption for repairs and that the regulations be returned to the original intent which was that over the next X number of years as existing fences reach the end of their functional lifespan, they will gradually and organically be replaced with fences that meet the standards for wildlife permeability .

In fact, if repairs are required to be at the WFF standards, overtime this will increase the permeability of the old stock of non conforming fences it would be a real plus for wildlife and the vision of the comprehensive plan.

Ryan Hostetter

From: lorna miller <lornamiller@live.com>
Sent: Friday, April 2, 2021 4:38 PM
To: Ryan Hostetter
Subject: Fence 3 comment special purpose fence permit

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Fence 3 special purpose fence permit

I would suggest that rather than using the [Miscellaneous Planning Request \(MSC\) Application](#), please consider designing a permit application that is specifically intended for fence applications.

For a layperson who does not know how to navigate the Land Development Regulations nor understand the nuances of what may or may not be required, the [Miscellaneous Planning Request \(MSC\) Application](#) is intimidating.

The application form should be fit for purpose, easy to understand and not complicated by asking the applicant to decide whether or not the other categories apply to them too. It is confusing. It is likely the homeowner who will fill out a fence application, not a planning, design or engineering professional.

Is there a fee for the application?

Give clear directions, with sketches and explanations of how to find the property on the GIS map system. Sketches of the fences with dimensions as required by the regulations; and include the actual regulation section. Trying to find the current version of the LDR's can be frustrating if you do not know what you are looking for. Give an example of the site plan you want to see. Have as much visual information as possible.

Use the application as an educational tool.

What is a worm fence, is it permitted under a special permit application?
What are the dimensions of the buckrail fence including the width and the preferred modified design.

How topography can affect the actual height of the fence.

If the material is not described in the standards, is it not permitted unless reviewed under Special Purpose Fence application.?

What is not permitted?

Eg woven wire, fences topped with barbs or pointed spikes, such as decorative iron fences, (The spike fences do exist: Storage Stables, a residence in Wilson)

A very important question regarding Special Purpose Applications:

My understanding is that these applications at least for fences are reviewed by the planner of the day in a rather pro forma manner. (I think I mentioned this under the landscape fencing comment) I think

it's really important that there be a thorough review of these special applications If the approval is pro forma without looking at the fences in context then we will not have accomplished what I think these regulations are intended to do .

Ryan Hostetter

From: lorna miller <lornamiller@live.com>
Sent: Friday, April 2, 2021 5:20 PM
To: Ryan Hostetter
Subject: Draft regs one last thought

[**NOTICE:** This message originated outside of the Teton County's mail system -- **DO NOT CLICK** on links or open **attachments** unless you are sure the content is safe.]

Dear Ryan

Thanks for the opportunity to comment on the draft fencing regs. I did it in the the previously sent a narrative form because I had so many different points that I wanted to include for your consideration.

I have thought for years that in an ideal world there would be a very easy straight forward online permit system that would enable the County to keep track of what fences are being constructed each year and their location. As it stands right now there's no way to keep track of it all. And because the County relies on neighborhood complaints to monitor fence construction, a lot of information is lost each year and a lot of fences are constructed that don't comply with existing regulations. This makes the work of the compliance officer extremely time-consuming and challenging. Such a permit system would also be a great educational tool because people would have the opportunity to read information about the importance of appropriate fencing for wildlife permeability and to understand the pros and cons of different kinds of fencing. In 2021, most people are accustomed to filling in online forms for all sorts of reasons. If I had a magic wand, I'd give you a totally up to date IT system with a fence permit process included!

I did have one other question. The draft is talking about fencing as a structural element that can affect wildlife permeability. However, there are other structural elements that perform the same function or a similar function to fencing and they are I'm wondering if this if they should be addressed at this time too : for example, walls. Such an element has not been in great demand thus far but with the change in demographics and the number of people moving to Jackson Hole who can likely afford to build a high wall for privacy or security one has to wonder if this should be addressed now. Is this the place to do so? Or is it already addressed somewhere else?

I hope you have/had a great weekend and thanks again for the opportunity to comment

Lorna

Lorna Miller

Ryan Hostetter

From: melvinreel@yahoo.com
Sent: Saturday, June 19, 2021 5:54 AM
To: Ryan Hostetter
Subject: Wildlife fencing

[NOTICE: This message originated outside of the Teton County's mail system -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Hi. I am not a resident of teton county Wyoming, but rather live in the foothills in teton county Idaho. Because i am NOT effected by your decision regarding fencing i am sharing my unbiased opinion.

We have highland cattle that are fenced in by a buck and rail (some call it a jack pole) fence. The fence height averages over 42 inches. We also have seen moose , elk, deer and foxes going through our property regularly. Our fences do not impede the movement of wildlife, but a fence lower than 42 inches would not contain cattle that were determined to get out.

Just an fyi as you weigh your decisions.

Ryan Hostetter

From: KELLY LOCKHART <kellylockhart@me.com>
Sent: Friday, March 26, 2021 11:25 AM
To: Ryan Hostetter
Cc: Chris Neubecker; Rian Rooney; Kristi Malone; Board Of County Commissioners; Jim Magagna
Subject: Re: Technical Review of new Wildlife Friendly Fencing Land Development Regulations (LDRs)
Attachments: Draft Fencing Update.docx

[NOTICE: This message originated outside of the Teton County's mail system -- **DO NOT CLICK** on links or open **attachments** unless you are sure the content is safe.]

Good Morning,

The purpose of most fences is to control animals. Note the 8 foot high fence around the elk refuge, or the new fences on south hi-way 89, or the fences and corrals all over the valley. Please let the people who own the livestock be responsible for the fencing to control their animals they know more about what is necessary to do that than Teton County.

This is an ill-conceived regulation. If you want to have a regulation that speaks to ornamental back yard fences or dog runs knock yourself out. The State of Wyoming has statutes that speaks to Livestock fencing.

My recommendation is that you eliminate any regulation that has to do with the control of domestic livestock. Fencing is not your expertise and is not an area you should be worried about. The State of Wyoming can handle that for you.

Regards,

Kelly Lockhart
(307) 730-9155
kellylockhart@me.com

On Mar 26, 2021, at 8:54 AM, Ryan Hostetter <rhostetter@tetoncountywy.gov> wrote:

Good Morning All,

I have received a request to spend a bit more time with our technical review on this effort – If you can please get comments by **April 2nd**(for those that need it) I would appreciate it. I will go through all of your comments, and will provide an update on timing for future hearings once I see what type of comments I get back from everyone. Thank You,

Ryan Hostetter, AICP

Pronouns: She/Her/Hers

Principal Long Range Planner

Planning & Building Services – Teton County

PO Box 3594

200 S. Willow Street

Jackson, WY 83001

(307) 732-8414



From: Ryan Hostetter

Sent: Thursday, March 11, 2021 8:32 AM

To: Ryan Hostetter <rhostetter@tetoncountywy.gov>

Cc: Chris Neubecker <cneubecker@tetoncountywy.gov>; Rian Rooney <rrooney@tetoncountywy.gov>; Kristi Malone <kmalone@tetoncountywy.gov>

Subject: Technical Review of new Wildlife Friendly Fencing Land Development Regulations (LDRs)

Agency Representatives and County Partners,

The Long Range Planning section is pleased to submit this first draft language which will update the Wildlife Friendly Fencing requirements of the County's LDRs (currently section 5.1.2 which can be found [here](#)). Much of this work has been perfected by partners in the community, including Roby Hurley who completed the lion's share of this effort early on (thanks to Roby!). While we were hoping to have this draft released for public review early March, however we took some extra time to vet the language with staff at the County a bit more these last couple weeks.

In an effort to move this proposed language forward, we are seeking your technical review and input on the draft language (attached) prior to a more complete or final draft for review by the general public. I would ask that you review and submit any comments/additions to me no later than Friday March 26th. If there are any questions please don't hesitate to contact me and I would be happy to walk you through the changes being prepared and I am also open to any suggestions you may have.

This is the first piece of updating sections of the County's Natural Resource LDR's, and our next section we are revising includes language updates for wildlife feeding and bear proof trash containers. The wildlife feeding regulations are taking a bit more time in an effort to partner with waste management and a comprehensive roll out of the pay as you throw program (if you want to chat more about this effort please give me a call).

Please submit any comments/questions/additions to attached draft by **March 26th** (track changes in this document is best), and I look forward to completing this step in the process.

Thank You,

Ryan Hostetter, AICP
Principal Long Range Planner

Planning & Building Services – Teton County
PO Box 3594
200 S. Willow Street
Jackson, WY 83001
(307) 732-8414

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Ryan Hostetter

From: Richard Bloom <richbloom.jh@gmail.com>
Sent: Thursday, March 11, 2021 9:48 AM
To: Ryan Hostetter
Subject: Re: Technical Review of new Wildlife Friendly Fencing Land Development Regulations (LDRs)

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Ryan - I am sure this has been vetted with the wildlife and agency experts - so I will defer to them.

Two items:

1. The following section could be tightened as it stood out to me to be rather subjective - while most all of the other sections are very objective.

Since fencing can not talk - how will the exclusionary fencing demonstrate its ability for wildlife to safely circumnavigate? Is there any objective - qualitative - quantitative additions that could be made to this section? Can you add that the Planning Director has the power to interpret this section?

I think this is an important section to enhance so no one tries to game a way around it.

6. All exclusionary fencing shall demonstrate ability for wildlife to safely circumnavigate.

2. I assume per my previous conversation and email with you - that you have a plan to preview this release to the agricultural interests before a public release - so there is not again an over reaction based on incomplete or incorrect information?

Thanks - Rich

On Mar 11, 2021, at 8:31 AM, Ryan Hostetter <rhostetter@tetoncountywy.gov> wrote:

Agency Representatives and County Partners,

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Thank You,

Ryan Hostetter, AICP

Principal Long Range Planner

Planning & Building Services – Teton County

PO Box 3594

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Jackson, WY 83001

(307) 732-8414

<image001.jpg>

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Ryan Hostetter

From: Robb Sgroi <robb@tetonconservation.org>
Sent: Friday, April 2, 2021 2:05 PM
To: Ryan Hostetter
Subject: RE: Technical Review of new Wildlife Friendly Fencing Land Development Regulations (LDRs)
Attachments: L_FenceLDRamendment_04022021.pdf

[NOTICE: This message originated outside of the Teton County's mail system -- **DO NOT CLICK** on links or open **attachments** unless you are sure the content is safe.]

Good afternoon Ryan. Thank you for the opportunity to provide comment on the draft LDR amendment for fencing. We have had a high level of discussion between supervisors and staff on this subject, in order to provide comment. Comments are attached. Please note TCD has committed to developing diagram(s), which are forthcoming, likely next week. If any clarification is needed on any comments, please don't hesitate to give a call. Thank you.

Robb Sgroi

Land Resources Specialist | Teton Conservation District
Office: (307) 733-2110 | Cell: (307) 413-4474
420 W. Pearl Ave. | PO Box 1070 | Jackson, WY 83001



Certified Wildfire Mitigation Specialist
ISA Certified Arborist. RM-8201A

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From: Ryan Hostetter <rhostetter@tetoncountywy.gov>
Sent: Thursday, March 11, 2021 8:32 AM
To: Ryan Hostetter <rhostetter@tetoncountywy.gov>
Cc: Chris Neubecker <cneubecker@tetoncountywy.gov>; Rian Rooney <rrooney@tetoncountywy.gov>; Kristi Malone <kmalone@tetoncountywy.gov>
Subject: Technical Review of new Wildlife Friendly Fencing Land Development Regulations (LDRs)

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Please submit any comments/questions/additions to attached draft by **March 26th** (track changes in this document is best), and I look forward to completing this step in the process.

Thank You,

Ryan Hostetter, AICP

Principal Long Range Planner

Planning & Building Services – Teton County

PO Box 3594

200 S. Willow Street

Jackson, WY 83001

(307) 732-8414



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Ryan Hostetter

From: Robb Sgroi <robb@tetonconservation.org>
Sent: Wednesday, April 14, 2021 4:29 PM
To: Ryan Hostetter
Subject: FW: Technical Review of new Wildlife Friendly Fencing Land Development Regulations (LDRs)
Attachments: FenceGuideP20_example.pdf; FenceImage2.pdf; M_LDRfence_04142021.pdf

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Hello Ryan. Hope you are well.

TCD offered to provide diagrams to illustrate concepts of the amended LDR for fencing. Attached are two images that could be utilized (first and second attachments). Also attached are the suggested captions, and credit/citation information (third attachment). The captions are lengthy. If I can be of future help to abbreviate those, please don't hesitate to reach out.

Thank you.

From: Robb Sgroi
Sent: Friday, April 2, 2021 2:05 PM
To: rhostetter@tetoncountywy.gov
Subject: RE: Technical Review of new Wildlife Friendly Fencing Land Development Regulations (LDRs)

Good afternoon Ryan. Thank you for the opportunity to provide comment on the draft LDR amendment for fencing. We have had a high level of discussion between supervisors and staff on this subject, in order to provide comment. Comments are attached. Please note TCD has committed to developing diagram(s), which are forthcoming, likely next week. If any clarification is needed on any comments, please don't hesitate to give a call. Thank you.

Robb Sgroi

Land Resources Specialist | Teton Conservation District

Office: (307) 733-2110 | Cell: (307) 413-4474

420 W. Pearl Ave. | PO Box 1070 | Jackson, WY 83001



Certified Wildfire Mitigation Specialist

ISA Certified Arborist. RM-8201A

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From: Ryan Hostetter <rhostetter@tetoncountywy.gov>
Sent: Thursday, March 11, 2021 8:32 AM
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Cc: Chris Neubecker <cneubecker@tetoncountywy.gov>; Rian Rooney <rrooney@tetoncountywy.gov>; Kristi Malone <kmalone@tetoncountywy.gov>
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Thank You,

Ryan Hostetter, AICP

Principal Long Range Planner

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Ryan Hostetter

From: Scott Pierson <spierson842@live.com>
Sent: Thursday, March 11, 2021 4:08 PM
To: Ryan Hostetter
Subject: RE: Technical Review of new Wildlife Friendly Fencing Land Development Regulations (LDRs)

[NOTICE: This message originated outside of the Teton County's mail system -- **DO NOT CLICK** on links or open **attachments** unless you are sure the content is safe.]

Ryan,
Thanks, got it.

Scott

[Spierson842@live.com](mailto:spierson842@live.com)
307.413.8522

From: Ryan Hostetter <rhostetter@tetoncountywy.gov>
Sent: Thursday, March 11, 2021 8:32 AM
To: Ryan Hostetter <rhostetter@tetoncountywy.gov>
Cc: Chris Neubecker <cneubecker@tetoncountywy.gov>; Rian Rooney <rrooney@tetoncountywy.gov>; Kristi Malone <kmalone@tetoncountywy.gov>
Subject: Technical Review of new Wildlife Friendly Fencing Land Development Regulations (LDRs)

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Thank You,

Ryan Hostetter, AICP

Principal Long Range Planner

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Ryan Hostetter

From: William Best <wjbest295@gmail.com>
Sent: Monday, June 21, 2021 10:02 AM
To: Ryan Hostetter
Subject: Comment on Wildlife Friendly Fencing
Attachments: PDF Fencing PC Draft 2021-06.pdf; Untitled attachment 00003.htm

[NOTICE: This message originated outside of the Teton County's mail system -- **DO NOT CLICK** on links or open **attachments** unless you are sure the content is safe.]

Dear Teton County Planning Department:

Thank you for the opportunity to comment on these proposed changes to the fencing regulations. I have commented previously (in 2017) in regards to the reduction of the maximum height of fencing to 42 inches, and would like to incorporate those comments into this response.

We have four horses on our property, which consists of a total of 6 acres (in two lots), north of town. Approximately 2/3 of the property is fenced with 48 inch high, three rail wood fencing, originally constructed in the 1990's. It has been repaired since the original fence was installed. In fact, we have taken down some of the fencing (and mesh screening) that encircled the full six acres when we bought the property in 2010.

Thus, my reading of the attached modification is that our fence is fully compliant, but mainly because it was constructed in the 1990's. However, I would like to make some comments regarding the proposed regulations.

- First and foremost, the 48 inch height is absolutely necessary to contain some horses. We have one horse who has jumped the 48 inch fence a couple of times. I can imagine that some horses who are better trained and/or taller, would easily jump the 48 inch height if frightened. Thus, the 42 inch fencing is inadequate. Again, while this does not impact us due to the grandfather clause, it may impact future properties in Teton County.
- At a 38 or 42 inch height, horses could easily hop over the fence. Lower fences would encourage horses to more regularly attempt a jump, which can lead to injury.
- Other wildlife can easily jump our 48 inch fence. We regularly have deer, moose, and elk in our pastures, which are surrounded by 48 inch fencing. These tend to be the adults. Smaller animals can make their way through or under the rails. We also have 12" wide "pass-throughs" mainly intended for humans that the small animals can use. Horses cannot make it through these openings.
- In the spring, we regularly have some of the Kelly Buffalo herd wander into our neighborhood. These animals also can jump the 48 inch fence...we have seen them do it. Thankfully, they jump it rather than push their way through, which they could easily do at their weight of 2000 pounds

Finally, there are a number of inconsistencies between the “redline” version (attachment) of the regulations and those proposed as final (as shown below). These should be corrected, as it is confusing, and subject to misinterpretation during enforcement.

Thanks you for your consideration of this matter.

If possible, I will attend the July 12 meeting of the planning commission to answer any further questions.

Bill

W.J.Best

wjbest295@gmail.com

Cell: 847-420-4031

Home: 307-733-4835

5.1.2. Wildlife Friendly Fencing (1/1/15)

A. Findings

Fencing is a structural element that can create an impediment for wildlife movement, resulting in both injuries to wildlife and damage to the fencing.

B. Applicability

New fences erected after September 12, 2006 shall comply with the standards of this Section. If over 50% of the linear feet of an existing fence is replaced, the fence shall be considered “new” and shall abide by the standards of this Section. Except that the following shall be exempt from the provision of this Section:

1. Repair, or relocation of prior or existing agricultural fences; and
2. Fences built for new riding arenas, as defined in these LDRs.

C. Fencing Height

Fencing, for purposes other than livestock control, shall be no higher than 38 inches above the ground. Fencing for livestock control shall be no higher than 42 inches above the ground. For both of the above fence types, spacing between the top two wires or top pole/rail and adjacent wire shall be at least 12 inches. 5-6 Teton County Land Development Regulations

5.1.2. Wildlife Friendly Fencing (1/1/15) Article 5. Physical Development Standards Applicable in All Zones | Div.

5.1. General Environmental Standards

D. Materials and Design

Fencing materials and design shall comply with the following standards:

1. Wood (or similar material) top poles, and either wood rails or wire strands are permitted as horizontal elements in fencing. The wire strands shall be smooth or twisted wire. Barbed wires may be used in the middle strands, not including the top and bottom strands, when necessary to control livestock.
2. The required fencing design includes a top level of a wood (or similar material) pole rather than wire. The bottom rail or wire strand shall be at least 16 inches above the ground.
3. The spacing of fence posts shall be on 12-foot centers unless topography prohibits this spacing. The posts shall have extra height to allow for any necessary lower or raising of the top rail. Spacing of the second and third wire

shall be evenly spaced. Spacing distances may vary from 7-8 inches depending on the height of the fence.

4. Buck and rail fencing shall be avoided. When buck and rail fencing is necessary due to rocky soil, a portion of the fence shall be laid down or constructed to a lower height, not to exceed 38 inches, to allow wildlife movement.

5. The top level of a newly constructed fence shall be flagged immediately after construction. The flagging shall be white and maintained for at least 1 year