

ORD(____)-2024

**TETON COUNTY, IDAHO ORDINANCE
AMENDMENT TO THE LAND DEVELOPMENT CODE TO INCLUDE
AGRICULTURE PROTECTION AREAS**

AN ORDINANCE OF TETON COUNTY IDAHO; AMENDING THE TETON COUNTY LAND DEVELOPMENT CODE TO INCLUDE CHAPTER 2, SECTION 11 AGRICULTURAL PROTECTION AREAS; TO ALLOW FOR THE ESTABLISHMENT OF AGRICULTURE PROTECTION AREAS (APAs) ESTABLISHMENT OF AN AGRICULTURE PROTECTION AREA COMMISSION, A PROCESS FOR APPROVAL OF APAS, CRITERIA FOR ACCEPTANCE OF APAS, AND ESTABLISHING AN EFFECTIVE OF THIS ORDINANCE.

WHEREAS, Teton County in accordance with Idaho Statute Title 67 State Government and State Affairs, Chapter 97 Agricultural Protection Area Act, has subsequently prepared an amendment to develop policies regarding Agricultural Protection Areas;

WHEREAS, Teton County Board of County Commissioners adopted Resolution 2024-1209B which created the Agricultural Protection Commission, a five (5) member Commission.

WHEREAS, after complying with public hearing procedures of the State of Idaho and Teton County, Teton County Planning and Zoning Commission reviewed the amendment, deliberated and recommended approval of said amendments unanimously on **XX, of 2024**.

WHEREAS, after considering the recommendation of Teton County Planning and Zoning Commission, the Teton County Board of County Commissioners, after a public hearing by the Board of County Commissioners on **XX, of 2024** has made and does hereby make the following findings, to wit:

NOW, THEREFORE, BE IT ORDAINED BY THE TETON COUNTY IDAHO BOARD OF COUNTY COMMISSIONERS:

Section 1: Amending Teton County Land Development Code Chapter 2, Section 11 to hereby read as follows:

Chapter 2, Section 11. Agriculture Protection Areas: As required by Idaho Statute Title 67, Chapter 97, the purpose of this section of code is to provide for a voluntary process through which agricultural and timber producers of Teton County, Idaho may make application to commit lands actively devoted to agriculture for future agricultural use. An APA designation aims to protect productive farmland, rangeland, and forest land; promote farm viability; support the local agricultural economy; and provide for long-term planning stability.

A. Definitions -FOR THE PURPOSE OF THIS SECTION ONLY

1. Agriculture Production: means activities or conditions conducted on land actively

devoted to agriculture as defined in section 63-604, Idaho Code, or on forest land as defined in section 63-1701, Idaho Code.

2. Agriculture Protection Area (APA): means specific parcels of land in a designated geographic area voluntarily created under the authority of this chapter for the purpose of protecting and preserving agricultural land.
3. Agriculture Protection Area Commission: means the advisory board to the governing body created pursuant to section 67-9705, Idaho Code and Teton County's Resolution 2024-1209B.
4. Applicant: means anyone who owns five (5) contiguous acres or more of land that has been in active agricultural or forest production for the previous three (3) consecutive years, consistent with the provisions of sections 63-604 and 63-1701, Idaho Code, and who voluntarily applies for that land to be part of an agricultural protection area.
5. Area of City Impact (AOI): area designated by county ordinance where city growth and development are expected to occur.
6. Hardship: means a situation or circumstance over which a landowner in an agricultural protection area has no control and can then petition for removal for reasons that include but are not limited to an adverse result in litigation against the farm or landowner, death of a close family member that would lead to unanticipated financial hardships, significant tax liabilities, bankruptcy due to another person's fraud, or any other illegal activity.
7. Proposal: means written documents submitted to a governing body or agricultural protection area commission from a landowner regarding his property.

B. Application

1. An APA designation is a voluntary land use designation available to landowners who wish to protect their agricultural land from future nonagricultural development. To qualify for an APA designation, the land must be:

- a) At least five (5) contiguous acres,
- b) Actively devoted to an agricultural or forest purpose,
- c) Assessed as agriculture or forest land, and
- d) Located within a zone district that allows agricultural or forest use

2. Application Process: Landowners wishing to establish an APA must submit an application to the Teton County Planning Department. At a minimum, the application shall include the following:

- a) Name, phone number, email, and mailing address of the land owner;
- b) Proof of land ownership;
- c) A legal description of the parcels.
- d) A description of structures, and facilities proposed to be included in the APA;
- e) A map showing the boundaries of the proposed APA;
- f) A statement outlining the number of years the land has been in agricultural or forest production, the types of agricultural or forest commodities produced, and the applicant's plan to continue using the land for agricultural or forest purposes;
- g) The stated reasons for seeking an APA designation;

3. Fees: An application fee shall be required to cover administrative costs, including, but not limited to, reviewing materials, conducting public meetings and hearings, processing and recording documents, and updating county land use maps.

4. The application shall be reviewed for completion by the Planning Department. If found to be incomplete, it will be returned to the applicant.

C. Agriculture Protection Areas Review Process and Criteria:

1. Upon receipt of a completed application, the APA commission shall review the proposal and make a recommendation to the Board of County Commissioners within sixty (60) days of receiving the complete application.
2. The application shall be evaluated on the following criteria:
 - a. The total contiguous acreage of the land is at least five (5) acres in size and is actively devoted to agricultural or forest production,
 - b. Possible or potential conflict with a city AOI, including existing city annexation or development plans, including applications, and/or or agreements,
 - c. Agricultural or Forestry production capability of the land within the proposed APA,
 - d. The extent of secondary benefits that might arise from the proposed APA including availability of food for local markets, wildlife or fishery habitat protection, recreation opportunities with landowner permission, and
 - e. Other local impacts or benefits relevant to the proposed APA.
3. Notwithstanding the criteria and review process outlined in this code, the Board of County Commissioners may place additional conditions on lands designated as an APA, including, but not limited to, setbacks from existing public rights of way, setbacks from existing public structures, and a review of the land's APA designation after twenty (20) years.
4. Once the APA commission makes its recommendation to the Board of County Commissioners, the Board of County Commissioners shall hold a public hearing and issue its decision within 60 days. The Board of County Commissioner's decision shall include findings and facts supporting its decision and be issued in the form of a written decision within 90 days of the final decision.
5. Upon making its decision, the Board of County Commissioners shall:
 - a. Record the designation of an APA, a legal description of the area, any findings and facts, and signature of land owner approving the final APA.
 - b. Amend county land use planning maps to reflect the boundaries of the APA; and
 - c. Notify relevant public officials and agencies of the designation.

D. Expansion, Modification and Duration of an APA

1. An expansion, modification, or termination of an existing APA shall follow the same application, review, and hearing procedures outlined in this code. Any expansion of an APA shall be contiguous to the APA.

2. Termination of an APA

A landowner wishing to terminate an APA must follow the same application, review and hearing procedures as outlined in this code. A termination application must also include proof of hardship. Early termination of the APA shall only occur upon the proving by the landowner of an undue hardship as defined in this code. The landowner seeking to terminate an APA bears the burden of proof in demonstrating the hardship. Early termination of an APA is not taken lightly and will be carefully considered.

3. Enrollment Duration and Review

Lands designated as an APA will remain so designated for a period of twenty (20) years. A landowner wishing to end an approved APA designation after twenty (20) years must notify the board of county commissioners in writing of their desire not to renew the land's APA designation. Failure of the landowner to notify the county, or failure of the county to review the APA terms, will result in the APA designation continuing for another twenty (20) years.

E. Enforcement, Prohibitions, and Penalties

1. Unless otherwise approved by the board of county commissioners, the following land uses are not allowed within an APA:

a. Any land use that is not actively devoted to agriculture as defined in Section 63-604 of Idaho Code or land that is not actively dedicated to forestry.

2. The Board of County Commissioners or acting code enforcement officer shall be responsible for enforcing the provisions of this ordinance. Any person found to be in violation of this code shall be held to section 1-7 of the Land Development Code.

Section 2: Severability

If any section, subsection, sentence, clause, or phrase of this title is held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this title and they shall remain in full force and effect.

Section 3: Effective Date

This ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

PASSED and APPROVED by the Teton County Board of County Commissioners on this _____ day of _____, 2024.

Board of County Commissioners, Chair

Attest by:

CLERK Signature

Date