

**CHAPTER 3
ADMINISTRATION; HEARING REGULATIONS**

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10-3-1: PURPOSE AND GENERAL ORGANIZATION:

A. Purpose: This chapter identifies the means and provisions for administration of this title.

B. General Organization: For the purpose of carrying out the provisions of this title, a Zoning Administrator and Planning and Zoning Commission are hereby created. They shall be designated and duly appointed, respectively, by the Board of County Commissioners. (Ord. 2012-08, 10-9-2012, eff. 10-26-2012)

10-3-2: ZONING ADMINISTRATOR:

The Board of County Commissioners may appoint an Administrator or designee to administer the provisions of this title. The Administrator shall manage the relevant staff of the Planning and Zoning Office and, for the purpose of this title, shall have the following responsibilities:

A. Advise interested persons of the ordinance provisions.

B. Notify the news media regarding matters of public interest.

C. Aid applicants in the preparation and expedition of required applications.

D. Make on site examination, or ensure that such examinations are made, of all permit application locations.

E. Oversee the issuance of permits, notifications, publications, and similar administrative duties.

F. Investigate all violations, or ensure that such investigation is made of this and notify the person(s) responsible for such violation(s), ordering the action necessary to correct the same.

G. Assist the Board and commission in carrying out the provisions of this title.

H. In carrying out these duties, the Administrator, or designated personnel, may call upon the services of appropriate County departments or other governmental agencies for assistance in enforcing these provisions.

I. All administrative decisions made in writing shall contain language informing the recipient or other affected persons of their right to an administrative appeal under section 10-10-1 of this title, where appropriate. (Ord. 2012-08, 10-9-2012, eff. 10-26-2012)

10-3-3: PLANNING AND ZONING COMMISSION:

A. Membership:

1. The commission shall consist of nine (9) voting members, a minimum of two (2) from each County Commissioner's district with no more than four (4) from any one district, all appointed by the Board Chairperson and confirmed by majority vote of the Board in compliance with State law.

2. An appointed commission member must be a U.S. citizen and have resided in the County for at least two (2) years prior to appointment; and must remain a resident of the County while serving on the commission.

3. Not more than three (3) commission members may reside within an incorporated City with a population of one thousand five hundred (1,500) or more and at least one-half (1/2) of the commission members must reside outside the boundaries of any city's area of impact; provided however, if this requirement cannot be met, then the procedures set forth in Idaho Code Section 67-6504 shall apply.

4. The term of office shall be three (3) years and a commission member may serve no more than two (2) consecutive terms without specific concurrence by two-thirds (2/3) of the Board as adopted by motion and recorded in the Board's minutes.

5. Vacancies shall be filled in the same manner as the original appointment.

6. Commission members shall be selected without respect to political affiliation and may be removed for cause by a majority vote of the Board.

7. A majority of current commission members shall constitute a quorum.

8. At least one regular meeting shall be held each month for not less than nine (9) months of the year and commission members will receive mileage and a stipend to attend regular or special commission meetings as established by the Board.

B. Organization: The commission shall elect a Chairperson and create other offices that may be deemed necessary. The commission may also establish subcommittees, advisory committees or neighborhood groups to advise or assist in carrying out the commission's responsibilities.

C. Rules, Records And Meetings: Written organization papers or bylaws shall be adopted. Records of meetings, hearings, resolutions, studies, findings, permits, and actions taken by the commission shall be maintained and open to the public.

D. Duties And Responsibilities: The commission shall have the following powers and responsibilities:

1. Full authority of the Board as it applies to this title, excluding the authority to adopt ordinances, zone changes, or final approval of platted subdivisions.
2. Review and make recommendations to the Board on amendments to the plan.
3. Periodically review and initiate proposed amendments to the zoning ordinance, and make recommendations to the Board.
4. Review and hold public hearings for all planned unit development, subdivision and zone change applications, and make recommendations to the Board.
5. Review and hold public hearings for all conditional use and variance applications and make appropriate decisions in accordance with this title.
6. Hear all appeals regarding decisions made by the Administrator.
7. Endeavor to promote understanding and public interest of commission activities by holding citizen informational meetings, consulting with public officials, public utilities, educational or other organizations and by holding hearings, doing informational surveys or using other methods to obtain advice on the planning process.
8. With the express consent of the owner, the commission or County employees in the performance of their duties, may enter upon any land and make examinations.
9. The commission shall have the right to seek judicial process as may be necessary to enable it to fulfill applicable commission functions. (Ord. 2012-08, 10-9-2012, eff. 10-26-2012)

10-3-4: EXPENDITURES AND STAFF:

With the approval of the Board, the commission and/or the Administrator, the commission may receive and expend funds, goods and services in accordance with State law. (Ord. 2012-08, 10-9-2012, eff. 10-26-2012)

10-3-5: CONFLICT OF INTEREST:

A. Conflicts of interest in the planning and zoning process shall be governed by applicable provisions of the Idaho Code, including but not limited to, Idaho Code section 67-6506; title 59, chapter 7; and title 18, chapter 13.

B. In the event that there has been a violation of laws regarding conflicts of interest, any final recommendation or final decision involving the person committing such violation may be vacated after due consideration by disinterested members of the commission. (Ord. 2012-08, 10-9-2012, eff. 10-26-2012)

10-3-6: PUBLIC HEARINGS:

A. Procedures For Subdivision, Planned Unit Development, Ordinance Or Plan Amendment And Rezone Public Hearings: Any person seeking an amendment of the plan, ordinance or zoning map shall submit to the County Zoning Administrator a written petition designating the change

desired and the reasons therefor, together with a fee as determined by the Board. Before recommending an amendment to the zoning ordinance, evidence must be submitted to the commission showing that such an amendment is reasonably necessary, is in the interest of the public and is in harmony with the objectives and purposes of this title. The following procedures shall apply:

1. The commission shall conduct at least one public hearing on each: subdivision application; ordinance or plan text and/or map revision in which interested persons shall have an opportunity to be heard.

2. The hearing notice shall give the date, time and place of hearing, the name of the applicant, name of the property owner if not the applicant, identification of the property and such other facts as required by this title. Identification of the property may include (a) the grid address of the location or approximate location if an address has not been assigned; (b) the parcel number and the Township, Range, and Section. If for any reason one of the notification identifiers is inaccurate or contains a scrivener's error, but all other identifiers are accurate, the notice will still be deemed valid and not require a new publication.

3. At least twenty two (22) days prior to the hearing, notice of the time and place and a summary of the proposal shall be published in the official newspaper or paper of general circulation within the jurisdiction. Notice shall also be made available to other newspapers, radio and television stations serving the jurisdiction for use as a public service announcement.

4. A summary of the proposed action shall be sent to all political subdivisions providing services within the planning jurisdiction, including fire districts, school districts, utility companies, etc., at least twenty two (22) days prior to the hearing.

5. Notice shall be provided by regular parcel post to all property owners within three hundred feet (300') beyond the external boundaries of the land being considered for the proposed application at a minimum of twenty two (22) days prior to the meeting. Comprehensive Plan changes and changes to this title, which do not relate to a specified real property, do not require mailed individual notices.

6. Notice shall be posted on the premises, not less than fifteen (15) days prior to the hearing. Should the property be inaccessible to the public, additional notice shall be posted at the closest public access of the site.

7. When notice is required for two hundred (200) or more property owners or purchasers of record, in lieu of mailing notification, the following alternate form of notice may be followed: The notice shall be published three (3) times in a newspaper of general circulation in the County, the last publication of such notice shall be at least ten (10) days before the date set for the public hearing, ~~the notice shall give the date, time and place of hearing, the name of the applicant, identification of the property, and closest approximate grid address and such other facts as required by this title.~~

8. No more than two (2) pages of written testimony will be accepted less than eight (8) calendar days before a hearing.

9. Before recommending an amendment to the zoning ordinance, evidence must be submitted to the commission showing that such an amendment is reasonably necessary, is in the interest of the public and is in harmony with the objectives and purposes of the zoning ordinance.

10. If after the public hearing, the commission makes a material change to the advertised application, a second hearing shall be held before the commission unless a hearing will be held before the Board.

11. The Board, prior to adopting, revising or denying a zone change application as recommended by the commission, shall conduct at least one public hearing using the same notice and hearing procedures as the commission.

12. If the Board makes a significant material change from what was presented at the public hearing, further notice and hearing shall be provided before the Board adopts the amendment.

13. Amendments shall require a majority of the members of the Board before an amendment can be effective.

14. ~~Ordinance or plan text changes shall have a public notice posted throughout the County in conspicuous locations. Notwithstanding the foregoing, Comprehensive Plan changes and changes to this title, which do not relate to a specified real property, do not require mailed individual notices. No Comprehensive Plan (and/or map) amendments shall be effective unless adopted by Resolution by definitive reference to the specific plan document.~~

15. A record of the hearings, findings made, and action taken shall be maintained.

B. Procedures For Conditional Use Permit And Variance Hearings:

1. The Planning and Zoning Commission shall conduct at least one public hearing on each conditional use permit or variance application in which interested persons shall have an opportunity to be heard.

2. The hearing notice shall give the date, time and place of hearing, the name of the applicant, name of the property owner if not the applicant, identification of the property and such other facts as required by this title. Identification of the property may include (a) the grid address of the location or approximate location if an address has not been assigned; (b) the parcel number and the Township, Range, and Section. If for any reason one of the notification identifiers is inaccurate or contains a scrivener's error, but all other identifiers are accurate, the notice will still be deemed valid and not require a new publication.

3. At least twenty two (22) days prior to the conditional use hearing, notice of the time and place and a summary of the proposal shall be published in the official newspaper or paper of general circulation within the jurisdiction. Notice may also be made available to other newspapers, radio and television stations serving the jurisdiction for use as a public service announcement.

4. Notice shall be provided by regular parcel post to all property owners within three hundred feet (300') beyond the external boundaries of the land being considered for the proposed application at a minimum of twenty two (22) days prior to the conditional use hearing and a minimum of fifteen (15) days prior to the variance hearing.

5. Notice shall be posted on the premises, not less than fifteen (15) days prior to the conditional use hearing. Should the property be inaccessible to the public, the notice shall additionally be posted at the closest public access of the site.

6. Alternate notice; when notice is required for two hundred (200) or more property owners or purchasers of record, in lieu of mailing notification, the following alternate form of notice may be followed: The notice be published three (3) times in a newspaper of general circulation in the County, the last publication of such notice shall be at least ten (10) days before the date set for the public hearing; ~~the notice shall give the date, time and place of hearing, the name of the applicant, identification of the property, and closest approximate grid address and such other facts as required by this title.~~

7. No more than two (2) pages of written testimony will be accepted less than eight (8) calendar days before a hearing.

8. A record of the hearings, findings made, and action taken shall be maintained. (Ord. 2012-08, 10-9-2012, eff. 10-26-2012)

10-3-7: REMAND BY BOARD TO COMMISSION APPEAL OF A COMMISSION DECISION, RECONSIDERATION OF A BOARD DECISION, REMAND BY BOARD TO COMMISSION AND JUDICIAL REVIEW:

A. The procedures for an appeal of a commission decision, reconsideration of a Board decision, Remand by the Board to the commission and judicial review are defined in this title, Chapter 10.

~~—A. The Board may direct that any matter before the Board that was previously heard by the commission be returned to the commission for additional fact finding on a specific issue and reconsideration of their previous decision in light of that additional fact finding.~~

~~—B. The taking of additional testimony and evidence shall be limited to those issues stated by the Board as per its written directive.~~

~~—C. The Administrator shall publish notice in the official newspaper at least fifteen (15) days prior to the hearing as well as sending such notice by regular mail to the applicant and to any parties who presented testimony or evidence regarding the application.~~

~~—D. The notice shall list the limitations on testimony as per the Board's directive.~~

~~—E. If after hearing the new testimony or evidence, the commission decision or recommendation is changed, new findings of fact and conclusions of law shall be sent to the Board for further action.~~

~~—F. If under appeal, the appeal may be withdrawn, or a different appeal may be filed by an affected party. (Ord. 2012-08, 10-9-2012, eff. 10-26-2012)~~

10-3-8: FINDINGS:

Whenever the Board or commission grant or deny an application, a written decision in compliance with Idaho Code section 67-6535 or its successor shall be approved. The date of the Board or commissions decision, once approved, is the effective date of the decision. (Ord. 2012-08, 10-9-2012, eff. 10-26-2012)

10-3-9: TRANSCRIPT OF PUBLIC HEARINGS:

Digital recordings of public hearings shall be made available to any person for a fee as determined by the Board. Any person requesting a transcript of the proceedings shall have the burden of all expenses for preparing said transcript except as provided for by Idaho Code. (Ord. 2012-08, 10-9-2012, eff. 10-26-2012)

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