



Agenda for Regular Meeting of Planning & Zoning And Public Hearing

Thursday, August 22, 2024 @ 6:00 PM

**Location: DALTON GARDENS CITY HALL,
6360 N 4th St., Dalton Gardens, ID**

The meeting will be conducted in person and with online access using ZOOM:

<https://us02web.zoom.us/j/86383623711?pwd=3c6ObbNy2jfiLSnbm3HoqWpa6ytQ2V.1>

Number: 1-669-900-6833 or 1-346-248-7799 or 1-253-215-8782

Webinar ID 863 8362 3711; Passcode: 747539

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. APPROVAL OF THE P&Z REGULAR MEETING JUNE 20, 2024**
- 4. CITY PLANNER REPORT**
- 5. PUBLIC COMMENT:** Each speaker will be allowed a maximum of three (3) minutes to address the Planning & Zoning Commission on matters relating to City government business. Comments related to future public hearings should be held for that public hearing. Please be advised that the Planning & Zoning Commission can only take official action this evening for those items already listed on the agenda.
- 6. DISCUSSION OF HILLSIDE ORDINANCE**
- 7. DISCUSSION OF AREA OF CITY IMPACT**
- 8. DISCUSSION OF PLANNING AND ZONING MEETING DATES**
- 9. DISCUSSION OF AGENDA ITEMS FOR SEPTEMBER 26, 2024, MEETING**
- 10. ADJOURN- ACTION ITEM**

Original Posting: August 16, 2024

The purpose of the Agenda is to assist the Commission and interested citizens in the conduct of the public meeting. Careful review of the Agenda is encouraged. Testimony from the public will be solicited for any item or issue listed under the category of Public Hearings. Any individual who wishes to address the Commission on any other subject should plan to speak when Item: Public Comments is identified by the Chairman. The Chairman and Commission will not normally allow audience participation at any other time. Please no repetitive or abusive comments. Workshops are for Commission Members discussion only on a topic, no action or decisions occur at this time. No Public Comment is taken during Workshops. Assistance for persons with disabilities will be provided upon 24-hour notice prior to the meeting by calling, City Clerk at (208) 772-3698 x102.

City of Dalton Gardens
Planning & Zoning Meeting Minutes
Thursday, June 20, 2024

Meeting conducted via teleconference and in person.

1. **CALL TO ORDER REGULAR CITY COUNCIL MEETING:** Opened 6:00 PM
2. **ROLL CALL:** Commissioners Chad Haunschild, Melissa Cleveland, Caitlin O'Brien, and Chairman Mike Becker were physically present; Also present: Kurtis Johnson -Assistant City Planner and Candi Baker-Interim City Clerk. Commissioner Ron Sampert was absent.
3. **MINUTES FROM THE P&Z TO BE FORTHCOMING FOR APPROVAL**
4. **CITY PLANNER REPORT:** City planner updated the commission of the discussed modifications made to the Ordinance Draft for Short-Term Rentals. Additionally, he gave an update on all relevant planner business.
5. **PUBLIC COMMENT:** Opened 6:07 PM - Closed 6:07 PM
6. **PUBLIC HEARING FOR RECOMMENDATION OF SHORT-TERM RENTAL CODE AMENDMENT:** The commission reviewed the commission's proposal to conduct short-term rentals. He specified that the city will require registration rather than permits.
7. **PUBLIC HEARING COMMENT:** Opened 6:10 PM Closed 6:20 PM

No Comments

Carrie Chase- 7512 N 4th Street: Not in favor of STR in the city and asked the commission to show the state regulation from prohibiting STR's.

Vicki Johnson- 7776 N Baillie Street: Opposed STR's. Concerned that there is not enough enforcement to

Douglas Johnson- 7776 N Baillie Street: Opposed STR's. City should charge to cover the cost of enforcement business and administrative needs to process requests.

Gene Story- 7688 N Baillie Street: Opposed STR's. Invites transients and not conducive to the city's environment.

Pam- Opposed STR's.

Eileen Wilson- Opposed STR's

Commissioner Chad Haunschild read the definition of short-term rental into record for public understanding. Additionally, he added any fees would be covered by registration and renewal fees. He also provided the public with the violation protocol outlined by the state code. He also read Idaho State Code; Title 67 Chapter 65 Section 39, restricting any Idaho city from prohibiting STR's.

CO'Brien made a motion to approve the recommendation to City Council for the Short-Term Rental Ordinance as presented for approval. CHaunschild seconded.

CHaunschild: yes MCleveland: yes CO'Brien: yes Motion carries.

8. **DISCUSSION OF COMMERCIAL CORRIDOR DESIGN GUIDELINES:** The commission discussed examples presented by the city planner for the commercial district signage proposal. The commission asked for direction to move towards the next step to create uniform sign ideas. The city planner suggested developing an identity for the commercial district. The commission stated they collectively would like to see uniform colors, logos, and fonts. The clerk reminded the commission that this discussion will be addressed at the joint workshop with the city council. The commission gave directions to the planner to highlight what specifically will and will not be allowed, address size minimums, and prohibit temporary signage. Chairman Becker suggested the Dalton Gardens logo be present on commercial businesses.
9. **DISCUSSION OF JOINT WORKSHOP WITH CITY COUNCIL:** Workshop to be held July 24, 2024, at 5:00 PM before the City Council Meeting to discuss short-term rentals and commercial corridor signage designs and standards.
10. **DISCUSSION OF AGENDA ITEMS FOR JULY 25, 2024, MEETING:**
 - a. Open meeting laws
 - b. City Picnic P&Z outreach booth
 - c. Area of City Impact review

11. **ADJOURNMENT: ACTION**

**CO'Brien made a motion to adjourn the meeting. CHaunschild seconded.
All in favor. Adjourned 7:07 PM**

Mike Becker, Chairman

ATTEST:

Candi Baker, Interim City Clerk

HILLSIDE DEVELOPMENT ORDINANCE NO 166

AN ORDINANCE OF DALTON GARDENS, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, ESTABLISHING REQUIREMENTS FOR HILLSIDE DEVELOPMENT.

BE IT ORDAINED by the Mayor and City Council of Dalton Gardens, Idaho:

- Section 1: Title
- Section 2: Authority
- Section 3: Purpose
- Section 4: Definitions
- Section 5: Applicability
- Section 6: Application and Information Requirements
- Section 7: Process
- Section 8: Standards
- Section 9: Waiver of Standards
- Section 10: Administrations of Ordinance
- Section 11: Inspection
- Section 12: Maintenance
- Section 13: Prohibited Conduct, Enforcement, and Penalties
- Section 14: Severability
- Section 15: Conflicting Ordinance Provisions
- Section 16: Effective Date

SECTION 1: TITLE

This Ordinance shall be known as the HILLSIDE DEVELOPMENT ORDINANCE of Dalton Gardens.

SECTION 2: AUTHORITY

This Ordinance is authorized under the provisions of Idaho Code Section 67-6513.

SECTION 3: PURPOSE:

- A. To provide the maximum in public safety and welfare in the development and design of building sites, roadways, and other service amenities; and
- B. To provide safe ingress and egress for vehicular, bicycle, and pedestrian traffic to and within the hillside areas, while at the same time minimizing the scarring effects of hillside development; and
- C. To use to the fullest extent the current understanding of the planning, design, and engineering professions and the natural sciences including botany,

biology, ecology, soils and geology, to mitigate potential hazards to public health, safety, and welfare., and to enhance the existing and future appearance and resources of the hillsides; and

- D. To provide guidelines in the creation of buildings suited to the natural hillside surroundings through imaginative and innovative building techniques; and
- E. To provide a variety of development patterns on the hillside; and
- F. To provide variations in architectural design to reduce grading and scarring of the hillside.

SECTION 4: DEFINITIONS

Administrator – An official appointed by the Mayor and City Council to administer provisions of this Ordinance. This official may be a contract professional such as a licensed engineer.

Development – Any work requiring a Dalton Gardens Site Disturbance Permit.

Scarring – Any permanent scar left on a hillside by a development activity.

Site Disturbance Ordinance – Dalton Gardens Ordinance number 166, and all subsequent amendments.

Visual Impact – The visible change in a hillside as a result of any development activity.

SECTION 5: APPLICABILITY:

This Ordinance shall apply whenever a Site Disturbance Permit is required and the overall slope is greater than 6%. This Ordinance shall apply in conjunction with the Dalton Gardens site disturbance Ordinance and any subsequent amendments. Any conflicts between Ordinances shall be interpreted to mean that the most restrictive standard shall apply. This Ordinance shall apply to all development including individual building permits, special use permits, and land divisions.

SECTION 6: APPLICATION AND INFORMATION REQUIREMENTS:

Application: All applications for a hillside development permit shall be submitted to the City on a form provided by the City with a filing fee as set by resolution of the City Council. At a minimum, the following shall be required:

A. Visual Impact Report: A visual impact report which has been reviewed and approved by an Idaho licensed design professional. The report shall include the following information:

1. Graphic rendition: The existing view (prior to development) and the proposed view (after development) in a computer/photographic generated graphic form.
2. Detailed methods on mitigation of visual impacts. These methods include but are not limited to: architectural design, building site envelopes, height restrictions, landscaping, fencing, construction materials, and colors.
3. The existing vegetation and the proposed method of preserving and/or replacing such vegetation.
4. A statement detailing how the proposed development or subdivision minimizes visual impact and hillside scarring through careful site placement, roadway design, or other methods.

B. Slope Stabilization and Re-Vegetation Plan and Report: The applicant shall hire an Idaho licensed design professional with expertise in landscape architecture to review and approve the slope stabilization and re-vegetation plan and report. The report shall include a description of the existing soils, the vegetation to be planted, soils amendments if necessary, and slope stabilization measures to be implemented. The report shall also include an analysis of the environmental effects of such operations including the effects on slope stability, soil erosion and water quality.

C. Engineering Hydrology Report: Based upon the slope stabilization plan and report, the city may require a professional engineer registered in the state of Idaho to complete an engineering hydrology investigation and report. This individual should be experienced and knowledgeable in the science of hydrology and in the techniques of hydrologic investigation. This report shall include the following information:

An adequate description of the hydrology of the site, conclusions on the proposed development, and opinions and recommendations covering the adequacy of sites to be developed. The report shall include results of field investigations of the site, unless existing information is determined by the City to be sufficient to satisfy the purpose of this article.

D. A natural features plan and report with the following information:

1. Hazardous Areas: Location and identification of all potential hazardous areas including, but not limited to, land that is unsuitable for development because of poor drainage areas, high

ground water, steep slopes, rock formation, buried pipelines, or other similar conditions likely to be encountered.

2. **Important Features:** The plan shall show important features, including, but not limited to, the following: outline of existing structures, watercourses, surface water, wetlands, power lines, telephone lines, airport influence areas, any existing easements, municipal boundaries, section lines, and property lines.
 3. A written statement explaining how the site plan, private road, and/or plat protects or mitigates impacts on the important natural features of the site.
- E. **Supplemental Data:** Other supplemental data may be required by the City when deemed appropriate by the Administrator, Planning Commission, Mayor, or City Council.

SECTION 7: PROCESS:

Upon review of the application, the City shall apply the criteria listed in this section to determine whether or not to approve, approve with conditions, or deny the hillside development permit. No grading, filling, clearing, or excavation of any kind shall be initiated until the hillside development permit is approved by the City, a site disturbance permit (or waiver) is obtained from the City, and the development has received approval by the decision-making body. The hillside development application must first be submitted to the Planning Commission for a public hearing, who will then make a recommendation to the City Council for final decision.

Criteria for Approval:

- A. The site is physically suitable for the design and location of the proposed development.
- B. The proposed development will provide safe ingress and egress for all building sites, and to the public at large.
- C. The proposed development shall result in minimum disturbance of hillside areas;
- D. Areas not suited for development because of soil, geology, vegetation, or hydrology limitations are designated as open space;
- E. Disruption of existing native vegetation is minimized;

- F. The proposal sets forth sufficient and adequate mitigation for the identified visual impacts beyond the normally expected impact of hillside development.

SECTION 8: STANDARDS:

To ensure the intent of this Ordinance is achieved, the applicant shall retain a professional civil engineer currently registered in the state of Idaho to serve as the engineer of record.

- A. It shall be the responsibility of the engineer of record:
 - 1. To prepare the preliminary development plan and permit application.
 - 2. To incorporate into the development plans all recommendations contained in the plans and other reports as required in this article.
 - 3. To act as coordinating agent between other professionals, the owner, the City, and other government agencies with a regulatory interest in the development.
 - 4. To prepare any revised plans and to submit an as-built record to the City upon the completion of the project.
- B. The engineer of record shall submit all necessary reports to the City both prior to and during development activities.
- C. If the engineer of record, in the course of fulfilling the specified responsibilities, discovers that any work is being accomplished to a substantially lesser standard than required by this Ordinance or by the approved hillside development plan, the noncompliance shall be reported in writing to the owner, with copies of the report delivered to the City within three (3) working days of the discovery. The owner shall provide the City with recommendations for corrective measures, within five (5) calendar days of the notice. The City may require corrective action within a specified period. If any deficiency is deemed by the City to be an imminent threat to the public health, safety, or welfare, that work shall be stopped immediately until such deficiencies are corrected.
- D. If the engineer of record is replaced during the course of work, the work shall be stopped. Work may resume when the replacement engineer of record has agreed to accept the responsibility for previous and future work.
- E. In the event work is stopped during inclement weather, all open, and/or unfinished work on the project shall be protected to the satisfaction of the City.

- F. At the conclusion of the approved work, the engineer of record shall submit a report to the City stating that the work has been executed in compliance with the approved plans. The report shall have the signature and professional seal of the engineer of record, along with copies of all testing reports required by this Ordinance, by the City, or by the Administrator.
- G. The City may require the grading operation and/or project schedule be modified if delays occur which result in weather-generated problems not anticipated at the time approval was granted. Construction shall be scheduled to minimize soil disturbance.
- H. Development Of Special Hazard Areas: Any area that presents one or more of the following limiting factors shall not be permitted to be developed unless the engineer of record can demonstrate to the City, based on the required engineering reports, that these limitations can be overcome in such a manner as to prevent hazard to life, hazard to property, adverse effects on the use or stability of a public way or adverse impact on the natural environment:
1. Landslide areas or scarps, or areas of active landslides.
 2. Natural slopes greater than 15%.
 3. Water table within six feet (6') of the surface at any time of the year.
 4. Any area of hydrologic hazard as determined by the engineering hydrology report.
- I. Vegetation and Slope Stabilization
1. Vegetation shall be removed only when absolutely necessary, such as for the construction of structures, filled areas, roadways, firebreaks, or as required by this title.
 2. Every effort shall be made to conserve topsoil that is removed during construction for later use on areas requiring re-vegetation or landscaping.
 3. Adequate soil and slope stabilization using any combination of vegetation and/or chemical or mechanical methods shall be established on all disturbed areas as each stage of development completed.
 4. New plantings shall be protected with organic cover unless determined not to be necessary in the slope stabilization and re-vegetation plan and report.
- J. Slopes And Stabilization:

1. All retaining walls with a total vertical height of four feet (4') or more, including footing, shall be designed in accord with the regulations of the Dalton Gardens Municipal Code for building permits.
2. All slopes that are stabilized by mechanical or chemical means shall conform to the surrounding terrain and shall be given aesthetic treatment that is designed to blend into the background and minimize the visual impacts on surrounding areas.
3. Large tracts shall be divided into smaller workable units on which construction can be completed within one construction season so that large areas are not left bare and exposed during the winter-spring runoff period.

K. Roadways:

1. Roadway alignments shall be designed to create the minimum feasible amounts of hillside scarring, land coverage and the disturbance of the soil.
2. Roadway alignments shall be designed to minimize removal of existing deep-rooted perennial vegetation.
3. Roadway alignments shall be designed to follow natural terrain.
4. Roadways shall meet the standards of the Associated Highway Districts of Kootenai County design criteria, except as revised by Ordinance or variance.

SECTION 9: WAIVER OF STANDARDS:

- A. The City has the authority to grant a waiver if the engineer of record can demonstrate to the satisfaction of the City that any of the standards required by this article are not necessary in the proposed development, and that the omission of such requirements would not result in any of the following:
 1. Hazard to public safety.
 2. Hazard to public or private property.
 3. Excessive hillside scarring.
- B. The request for a waiver of standards shall be in writing and shall state the reason for the request. The justification for the waiver shall be based on the engineering reports required in Section 6 of this Ordinance. The request for

waiver shall be forwarded by the Clerk to the Planning Commission for recommendation and the City Council for final decision.

- C. Alternatives: The City or Administrator may approve an alternative development proposal when the overall design, as proposed by the applicant, meets or exceeds the intent and the requirements of this Ordinance and shall not be detrimental to the public health, safety, or welfare, and provides adequate mitigation of visual impacts and hillside scarring.

SECTION 10: ADMINISTRATION OF ORDINANCE

- A. General: The Ordinance shall be administered in a manner consistent with other Ordinances of Dalton Gardens by an Administrator as appointed by the Mayor and City Council. All applicants shall use the Department of Environmental Quality's Best Management Practices as guidelines to implement the requirements and standards set forth in this Ordinance. Changes in the supporting documents may be accomplished by subsequently adopted resolution.
- B. Duration of Permit: Permits shall expire if the work authorized by the permit is not started within 180 days of issuance of the permit, or if work is suspended or abandoned at any time after the work has started for a period of 180 days or more. The City may grant one time extension for an additional 180 days on written request by the permittee showing that circumstances beyond the control of the permittee have prevented work authorized by the permit. The City may set specific time limits to the permit for project initiation and completion for environmental reasons or for coordination with other permitted site work.
- C. Appeals: Appeals concerning interpretation or administration of this Ordinance may be made by any person aggrieved. Such appeals shall be filed, along with the applicable filing fee, within a reasonable time, not to exceed forty-five (45) days from occurrence of the action being appealed. A notice of Appeal specifying the grounds of the appeal shall be filed with the Administrator. The Administrator shall transmit to the Planning Commission all papers constituting the record upon which the action appealed was taken. The Administrator shall schedule the item for a hearing to be commenced within sixty-five (65) days of filing the Notice of Appeal and shall give legal public notice, as well as due notice to the parties in interest. The Planning Commission shall decide the matter within forty-five (45) days of completion of the Appeal hearing.

The decision of the Planning Commission may be appealed to the Mayor and City Council, provided that a Notice of Appeal is filed with the Administrator within ten (10) days of the decision. The Mayor and City Council shall decide the matter within forty-five (45) business days.

SECTION 11: INSPECTION

All activities governed by these regulations shall be subject to inspection by the City as work is in progress. It shall be the permittee's responsibility to keep the City notified of the progress of the project and call for all required inspections. If deemed necessary by the City, special inspections and testing may be performed to verify conformance with this Ordinance. The cost of such special inspections and testing shall be borne by the applicant.

SECTION 12: MAINTENANCE

Maintenance requirements and responsibility shall be clearly identified for all projects where hillside development permits are required. When improvements benefit more than one lot, a maintenance agreement between all parties which benefit from the improvements must be established, including assurance of adequate funding. Easements across private property for maintenance access to improvements shall also be required where necessary. All maintenance agreements must be approved by the Administrator.

In the event that appropriate maintenance of any improvements is not conducted, the City shall have the option of requiring the property owner or association to provide for maintenance, or take other enforcement measures as outlined in Section 13.

SECTION 13: PROHIBITED CONDUCT, ENFORCEMENT, AND PENALTIES

The following actions shall be considered violations of this Ordinance:

- A. Failure to obtain a permit prior to the start of any development activity for which a permit is required under this Ordinance;
- B. Failure to call for inspections as required by this Ordinance, or by the approved hillside development plan and reports;
- C. Failure to complete the development activity within the time limits specified by the permit;
- D. Failure to install in a timely manner and maintain the necessary slope stabilization measures;
- E. Failure to minimize hillside scarring, road alignment, land coverage and soil disturbance;

F. Conducting work on a site outside the scope of work outlined in the approved plans;

G. Continuing work at a site after a Stop Work order has been placed;

H. Failure to notify the City of substandard work as required in Section 8-C.

If any of the above violations have occurred, the Administrator may revoke the permit or order the work stopped by notice, in writing, served on any persons engaged in doing or causing such work to be done. Such person shall stop all site work until authorized by the Administrator to proceed. The Administrator may also withhold further issuance of permits. Stop Work orders may be appealed in the same manner as other appeals.

Violations of this Ordinance may be considered a criminal misdemeanor and shall be punishable by a maximum fine of \$300 or six (6) months in jail, or both. Each day of violation shall constitute a separate offense. The City may also take civil action to compel performance and completion of, or maintenance of, improvements installed pursuant to this Ordinance.

SECTION 14: SEVERABILITY

Should any section, clause, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, it shall not affect the validity of the remaining portions of this Ordinance.


SECTION 15: CONFLICTING ORDINANCE PROVISIONS

If any conflict occurs between this Ordinance and provisions of the Uniform Building Code or other City Ordinances, the more restrictive Ordinance shall take precedence.

SECTION 16: EFFECTIVE DATE

This Ordinance shall take effect and be in full force upon its passage, approval, and publication in one (1) issue of the Coeur d'Alene Press.

ADOPTED this 5th day of February, 2004



Dan Franklin, Mayor

CITY OF DALTON GARDENS

ATTEST: 
CLERK Marcia Wingfield

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
County of Kootenai,

} ss.

Kattie Hoy

being first duly sworn

upon oath deposes and says:

1. I am now and at all times hereinafter mentioned was a citizen of the United States, resident of the State of Idaho, over the age of twenty-one years and not a party of the above entitled action.

2. I am now and at all times hereinafter mentioned was the printer (principal clerk) of the "Coeur d'Alene Press," a newspaper printed and published daily except Sunday in Coeur d'Alene, Kootenai County, Idaho, and having a general circulation in said county.

3. The Legal Notice

of which the annexed is a printed copy, was published in the regular Thursday issue of said newspaper for one consecutive day commencing on the 4 day of March, 2004, and ending on the 4 day of March, 2004, and such publication was made as often during said period as said Daily newspaper was regularly issued.

4. That said newspaper has been continuously and uninterruptedly published in said Kootenai County, during a period of more than seventy-eight consecutive weeks immediately prior to the first publication of said notice.

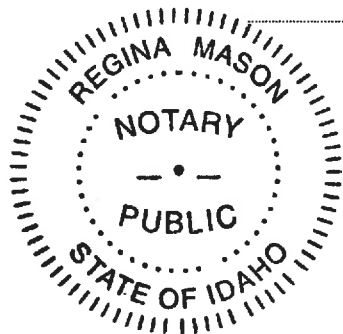
Kattie L. Hoy

Personally appeared before me this 4 day of March, 2004

Regina Mason

Notary Public for the State of Idaho,
residing at Coeur d'Alene, Idaho.

MY COMMISSION EXPIRES 6/18/09



City of Dalton Gardens
Notice of Adoption
Hillside Ordinance Number 166
March 4, 2004
The Dalton Gardens City Council, at a duly notice public hearing held on February 5, 2004, adopted the Dalton Gardens Hillside Ordinance Number 166, which provides for definitions for terms found in the ordinance, establishes the purpose of the ordinance to be to provide the maximum in public safety and welfare in the development and design of building sites, roadways, and other service amenities; and to provide safe ingress and egress for vehicular, bicycle, and pedestrian traffic to and within the hillside areas, while at the same time minimizing the scarring effects of hillside development; and to use to the fullest extent the current understanding of the planning, design, and engineering professions and the natural sciences including botany, biology, ecology, soils and geology, to mitigate potential hazards to public health, safety, and welfare, and to enhance the existing and future appearance and resources of the hillside; and to provide guidelines in the creation of buildings suited to the natural hillside surroundings through imaginative and innovative building techniques; and to provide a variety of development patterns on the hillside; and to provide variations in architectural design to reduce grading and scarring of the hillside. The ordinance also provides for the criteria for applicability of the ordinance, sets forth the standards required to comply with the ordinance, outlines the required elements of the hillside permit and the process necessary to obtain. The ordinance also outlines the inspection process, engineering standards, and prohibited conduct, enforcement and penalties which may include but are not limited to criminal prosecution and civil litigation. The ordinance will take effect upon the first publication which is scheduled for March 4, 2004. The full text of the Hillside Ordinance is available at the Dalton Gardens City Hall, 6360 N. 4th Street during regular office hours.
Legal 4771
March 4, 2004

City of Dalton Gardens
Notice of Adoption
Hillside Ordinance Number 166
March 4, 2004

The Dalton Gardens City Council, at a duly notice public hearing held on February 5, 2004, adopted the Dalton Gardens Hillside Ordinance Number 166, which provides for definitions for terms found in the ordinance, establishes the purpose of the ordinance to be to provide the maximum in public safety and welfare in the development and design of building sites, roadways, and other service amenities; and to provide safe ingress and egress for vehicular, bicycle, and pedestrian traffic to and within the hillside areas, while at the same time minimizing the scarring effects of hillside development; and to use to the fullest extent the current understanding of the planning, design, and engineering professions and the natural sciences including botany, biology, ecology, soils and geology, to mitigate potential hazards to public health, safety, and welfare., and to enhance the existing and future appearance and resources of the hillsides; and to provide guidelines in the creation of buildings suited to the natural hillside surroundings through imaginative and innovative building techniques; and to provide a variety of development patterns on the hillside; and to provide variations in architectural design to reduce grading and scarring of the hillside. The ordinance also provides for the criteria for applicability of the ordinance, sets forth the standards required to comply with the ordinance, outlines the required elements of the hillside permit and the process necessary to obtain. The ordinance also outlines the inspection process, engineering standards, and prohibited conduct, enforcement and penalties which may include but are not limited to criminal prosecution and civil litigation. The ordinance will take effect upon the first publication which is scheduled for March 4, 2004. The full text of the Hillside Ordinance is available at the Dalton Gardens City Hall, 6360 N. 4th Street during regular office hours.

March 1, 2004

To Whom it May Concern:

I am Ken Jacobson, attorney at law and legal advisor for the City of Dalton Gardens, Idaho. I do certify that the summary of Ordinance Number 166 is a true and complete summary and provides adequate notice to the public regarding zoning and subdivision regulations.



CHAPTER 5

HILLSIDE DEVELOPMENT

SECTION:

4-5-1: Short Title

4-5-2: Authority

4-5-3: Purpose

4-5-4: Definitions

4-5-5: Applicability

4-5-6: Application And Information Requirements

4-5-7: Process

4-5-8: Standards

4-5-9: Waiver Of Standards

4-5-10: Administration

4-5-11: Inspection

4-5-12: Maintenance

4-5-13: Prohibited Conduct, Enforcement, And Penalties

4-5-1: SHORT TITLE:

This chapter shall be known as the *HILLSIDE DEVELOPMENT ORDINANCE* of Dalton Gardens. (Ord. 166, 2-5-2004)

4-5-2: AUTHORITY:

This chapter is authorized under the provisions of Idaho Code section 67-6513. (Ord. 166, 2-5-2004)

4-5-3: PURPOSE:

- A. To provide the maximum in public safety and welfare in the development and design of building sites, roadways, and other service amenities; and
- B. To provide safe ingress and egress for vehicular, bicycle, and pedestrian traffic to and within the hillside areas, while at the same time minimizing the scarring effects of hillside development; and
- C. To use to the fullest extent the current understanding of the planning, design, and engineering professions and the natural sciences including botany, biology, ecology, soils and geology, to mitigate potential hazards to public health, safety, and welfare, and to enhance the existing and future appearance and resources of the hillsides; and
- D. To provide guidelines in the creation of buildings suited to the natural hillside surroundings through imaginative and innovative building techniques; and
- E. To provide a variety of development patterns on the hillside; and
- F. To provide variations in architectural design to reduce grading and scarring of the hillside. (Ord. 166, 2-5-2004)

4-5-4: DEFINITIONS:

ADMINISTRATOR: An official appointed by the mayor and city council to administer provisions of this chapter. This official may be a contract professional such as a licensed engineer.

DEVELOPMENT: Any work requiring a Dalton Gardens site disturbance permit.

SCARRING: Any permanent scar left on a hillside by a development activity.

SITE DISTURBANCE ORDINANCE: Dalton Gardens ordinance 165, and all subsequent amendments.

VISUAL IMPACT: The visible change in a hillside as a result of any development activity. (Ord. 166, 2-5-2004)

4-5-5: APPLICABILITY:

This chapter shall apply whenever a site disturbance permit is required and the overall slope is greater than six percent (6%). This chapter shall apply in conjunction with the Dalton Gardens site disturbance ordinance and any subsequent amendments. Any conflicts between ordinances shall be interpreted to mean that the most restrictive standard shall apply. This chapter shall apply to all development including individual building permits, special use permits, and land divisions. (Ord. 166, 2-5-2004)

4-5-6: APPLICATION AND INFORMATION REQUIREMENTS:

All applications for a hillside development permit shall be submitted to the city on a form provided by the city with a filing fee as set by resolution of the city council. At a minimum, the following shall be required:

A. **Visual Impact Report:** A visual impact report which has been reviewed and approved by an Idaho licensed design professional. The report shall include the following information:

1. **Graphic Rendition:** The existing view (prior to development) and the proposed view (after development) in a computer/photographic generated graphic form.

2. **Detailed Methods On Mitigation Of Visual Impacts:** These methods include, but are not limited to: architectural design, building site envelopes, height restrictions, landscaping, fencing, construction materials, and colors.

3. **Vegetation:** The existing vegetation and the proposed method of preserving and/or replacing such vegetation.

4. **Methods To Minimize Effects:** A statement detailing how the proposed development or subdivision minimizes visual impact and hillside scarring through careful site placement, roadway design, or other methods.

B. **Slope Stabilization And Revegetation Plan And Report:** The applicant shall hire an Idaho licensed design professional with expertise in landscape architecture to review and approve the slope stabilization and revegetation plan and report. The report shall include a description of the existing soils, the vegetation to be planted, soils amendments if necessary, and slope stabilization measures to be implemented. The report shall also include an analysis of the environmental effects of such operations including the effects on slope stability, soil erosion and water quality.

C. **Engineering Hydrology Report:** Based upon the slope stabilization plan and report, the city may require a professional engineer registered in the state of Idaho to complete an engineering hydrology investigation and report. This individual should be experienced and knowledgeable in the science of hydrology and in the techniques of hydrologic investigation. This report shall include the following information:

An adequate description of the hydrology of the site, conclusions on the proposed development, and opinions and recommendations covering the adequacy of sites to be developed. The report shall

include results of field investigations of the site, unless existing information is determined by the city to be sufficient to satisfy the purpose of this chapter.

D. **Natural Features Plan And Report:** A natural features plan and report with the following information:

1. **Hazardous Areas:** Location and identification of all potential hazardous areas including, but not limited to, land that is unsuitable for development because of poor drainage areas, high ground water, steep slopes, rock formation, buried pipelines, or other similar conditions likely to be encountered.

2. **Important Features:** The plan shall show important features, including, but not limited to, the following: outline of existing structures, watercourses, surface water, wetlands, power lines, telephone lines, airport influence areas, any existing easements, municipal boundaries, section lines, and property lines.

3. **Protecting Important Features:** A written statement explaining how the site plan, private road, and/or plat protects or mitigates impacts on the important natural features of the site.

E. **Supplemental Data:** Other supplemental data may be required by the city when deemed appropriate by the administrator, planning commission, mayor, or city council. (Ord. 166, 2-5-2004)

4-5-7: PROCESS:

Upon review of the application, the city shall apply the criteria listed in this section to determine whether or not to approve, approve with conditions, or deny the hillside development permit. No grading, filling, clearing, or excavation of any kind shall be initiated until the hillside development permit is approved by the city, a site disturbance permit (or waiver) is obtained from the city, and the development has received approval by the decision making body. The hillside development application must first be submitted to the planning commission for a public hearing, who will then make a recommendation to the city council for final decision.

Criteria for approval:

- A. The site is physically suitable for the design and location of the proposed development;
- B. The proposed development will provide safe ingress and egress for all building sites, and to the public at large;
- C. The proposed development shall result in minimum disturbance of hillside areas;
- D. Areas not suited for development because of soil, geology, vegetation, or hydrology limitations are designated as open space;
- E. Disruption of existing native vegetation is minimized;
- F. The proposal sets forth sufficient and adequate mitigation for the identified visual impacts beyond the normally expected impact of hillside development. (Ord. 166, 2-5-2004)

4-5-8: STANDARDS:

To ensure the intent of this chapter is achieved, the applicant shall retain a professional civil engineer currently registered in the state of Idaho to serve as the engineer of record.

- A. **Responsibilities:** It shall be the responsibility of the engineer of record:
 - 1. To prepare the preliminary development plan and permit application.
 - 2. To incorporate into the development plans all recommendations contained in the plans and other reports as required in this chapter.
 - 3. To act as coordinating agent between other professionals, the owner, the city, and other government agencies with a regulatory interest in the development.

4. To prepare any revised plans and to submit an as built record to the city upon the completion of the project.

B. Reports: The engineer of record shall submit all necessary reports to the city both prior to and during development activities.

C. Noncompliance: If the engineer of record, in the course of fulfilling the specified responsibilities, discovers that any work is being accomplished to a substantially lesser standard than required by this chapter or by the approved hillside development plan, the noncompliance shall be reported in writing to the owner, with copies of the report delivered to the city within three (3) working days of the discovery. The owner shall provide the city with recommendations for corrective measures, within five (5) calendar days of the notice. The city may require corrective action within a specified period. If any deficiency is deemed by the city to be an imminent threat to the public health, safety, or welfare, that work shall be stopped immediately until such deficiencies are corrected.

D. Replacement Of Engineer: If the engineer of record is replaced during the course of work, the work shall be stopped. Work may resume when the replacement engineer of record has agreed to accept the responsibility for previous and future work.

E. Inclement Weather: In the event work is stopped during inclement weather, all open, and/or unfinished work on the project shall be protected to the satisfaction of the city.

F. Completion Of Work: At the conclusion of the approved work, the engineer of record shall submit a report to the city stating that the work has been executed in compliance with the approved plans. The report shall have the signature and professional seal of the engineer of record, along with copies of all testing reports required by this chapter, by the city, or by the administrator.

G. Delays: The city may require the grading operation and/or project schedule be modified if delays occur which result in weather generated problems not anticipated at the time approval was granted. Construction shall be scheduled to minimize soil disturbance.

H. Development Of Special Hazard Areas: Any area that presents one or more of the following limiting factors shall not be permitted to be developed unless the engineer of record can demonstrate to the city, based on the required engineering reports, that these limitations can be overcome in such a manner as to prevent hazard to life, hazard to property, adverse effects on the use or stability of a public way or adverse impact on the natural environment:

1. Landslide areas or scarps, or areas of active landslides.
2. Natural slopes greater than fifteen percent (15%).
3. Water table within six feet (6') of the surface at any time of the year.
4. Any area of hydrologic hazard as determined by the engineering hydrology report.

I. Vegetation And Slope Stabilization:

1. Vegetation shall be removed only when absolutely necessary, such as for the construction of structures, filled areas, roadways, firebreaks, or as required by this title.

2. Every effort shall be made to conserve topsoil that is removed during construction for later use on areas requiring revegetation or landscaping.

3. Adequate soil and slope stabilization using any combination of vegetation and/or chemical or mechanical methods shall be established on all disturbed areas as each stage of development is completed.

4. New plantings shall be protected with organic cover unless determined not to be necessary in the slope stabilization and revegetation plan and report.

J. Slopes And Stabilization:

1. All retaining walls with a total vertical height of four feet (4') or more, including footing, shall be designed in accord with the regulations of this code for building permits.
2. All slopes that are stabilized by mechanical or chemical means shall conform to the surrounding terrain and shall be given aesthetic treatment that is designed to blend into the background and minimize the visual impacts on surrounding areas.
3. Large tracts shall be divided into smaller workable units on which construction can be completed within one construction season so that large areas are not left bare and exposed during the winter-spring runoff period.

K. Roadways:

1. Roadway alignments shall be designed to create the minimum feasible amounts of hillside scarring, land coverage and the disturbance of the soil.
2. Roadway alignments shall be designed to minimize removal of existing deep rooted perennial vegetation.
3. Roadway alignments shall be designed to follow natural terrain.
4. Roadways shall meet the standards of the associated highway districts of Kootenai County design criteria, except as revised by ordinance or variance. (Ord. 166, 2-5-2004)

4-5-9: WAIVER OF STANDARDS:

A. Authority: The city has the authority to grant a waiver if the engineer of record can demonstrate to the satisfaction of the city that any of the standards required by this article are not necessary in the proposed development, and that the omission of such requirements would not result in any of the following:

1. Hazard to public safety.
2. Hazard to public or private property.
3. Excessive hillside scarring.

B. Request: The request for a waiver of standards shall be in writing and shall state the reason for the request. The justification for the waiver shall be based on the engineering reports required in section 4-5-6 of this chapter. The request for a waiver shall be forwarded by the clerk to the planning commission for recommendation and the city council for final decision.

C. Alternatives: The city or administrator may approve an alternative development proposal when the overall design, as proposed by the applicant, meets or exceeds the intent and the requirements of this chapter and shall not be detrimental to the public health, safety, or welfare, and provides adequate mitigation of visual impacts and hillside scarring. (Ord. 166, 2-5-2004)

4-5-10: ADMINISTRATION:

A. General: This chapter shall be administered in a manner consistent with other ordinances of Dalton Gardens by an administrator as appointed by the mayor and city council. All applicants shall use the department of environmental quality's best management practices as guidelines to implement the requirements and standards set forth in this chapter. Changes in the supporting documents may be accomplished by subsequently adopted resolution.

B. Duration Of Permit: Permits shall expire if the work authorized by the permit is not started within one hundred eighty (180) days of issuance of the permit, or if work is suspended or abandoned at any time after the work has started for a period of one hundred eighty (180) days or more. The city may grant one time extension for an additional one hundred eighty (180) days on written request by the permittee showing that circumstances beyond the control of the permittee have prevented work

authorized by the permit. The city may set specific time limits to the permit for project initiation and completion for environmental reasons or for coordination with other permitted site work.

C. Appeals: Appeals concerning interpretation or administration of this chapter shall be processed in accordance with Section 1-11-1. (Ord. 166, 2-5-2004; amd. Ord. 264, 3-5-2020)

4-5-11: INSPECTION:

All activities governed by these regulations shall be subject to inspection by the city as work is in progress. It shall be the permittee's responsibility to keep the city notified of the progress of the project and call for all required inspections. If deemed necessary by the city, special inspections and testing may be performed to verify conformance with this chapter. The cost of such special inspections and testing shall be borne by the applicant. (Ord. 166, 2-5-2004)

4-5-12: MAINTENANCE:

Maintenance requirements and responsibility shall be clearly identified for all projects where hillside development permits are required. When improvements benefit more than one lot, a maintenance agreement between all parties which benefit from the improvements must be established, including assurance of adequate funding. Easements across private property for maintenance access to improvements shall also be required where necessary. All maintenance agreements must be approved by the administrator.

In the event that appropriate maintenance of any improvements is not conducted, the city shall have the option of requiring the property owner or association to provide for maintenance, or take other enforcement measures as outlined in section 4-5-13 of this chapter. (Ord. 166, 2-5-2004)

4-5-13: PROHIBITED CONDUCT, ENFORCEMENT, AND PENALTIES:

The following actions shall be considered violations of this chapter:

- A. Failure to obtain a permit prior to the start of any development activity for which a permit is required under this chapter;
- B. Failure to call for inspections as required by this chapter, or by the approved hillside development plan and reports;
- C. Failure to complete the development activity within the time limits specified by the permit;
- D. Failure to install in a timely manner and maintain the necessary slope stabilization measures;
- E. Failure to minimize hillside scarring, road alignment, land coverage and soil disturbance;
- F. Conducting work on a site outside the scope of work outlined in the approved plans;
- G. Continuing work at a site after a stop work order has been placed;
- H. Failure to notify the city of substandard work as required in subsection 4-5-8C of this chapter.

If any of the above violations have occurred, the administrator may revoke the permit or order the work stopped by notice, in writing, served on any persons engaged in doing or causing such work to be done. Such person shall stop all site work until authorized by the administrator to proceed. The administrator may also withhold further issuance of permits. Stop work orders may be appealed in the same manner as other appeals.

Violations of this chapter may be considered a criminal misdemeanor and shall be punishable by a maximum fine of three hundred dollars (\$300.00) or six (6) months in jail, or both. Each day of violation shall constitute a separate offense. The city may also take civil action to compel performance and completion of, or maintenance of, improvements installed pursuant to this chapter. (Ord. 166, 2-5-2004)



Idaho Statutes

Idaho Statutes are updated to the website July 1 following the legislative session.

TITLE 67
STATE GOVERNMENT AND STATE AFFAIRS
CHAPTER 65
LOCAL LAND USE PLANNING

67-6526. AREAS OF IMPACT. (1) Legislative findings and intent.

(a) The legislature finds that areas of impact are properly under the jurisdiction of the county because the elected representatives of citizens in areas of impact are county officials, not city officials. While cities should receive notice of, and may provide input on, applications brought to the county in an area of impact, cities do not govern or control decisions on those applications. County commissioners make the final determination regarding area of impact boundaries within their county.

(b) An area of impact is where growth and development are expected to occur. Areas of impact should be planned for growth and development and should not be used to stop growth and development that conforms to applicable plans and ordinances. Areas of impact should be established, modified, or confirmed based on the ability and likelihood of a city or cities to annex lands within that area of impact in the near future. A city may adopt a comprehensive plan and conduct infrastructure, capital improvement, and other planning activities that extend beyond its current area of impact. Counties and cities shall review their area of impact boundaries at least every five (5) years to determine if modifications are needed or to confirm existing boundaries and may pursue modification of an established area of impact more frequently than every five (5) years.

(c) Prior to conducting the public hearings required under this chapter to establish, modify, or confirm an area of impact, cities and counties should work together to develop a proposed area of impact to be considered at the public hearing.

(d) Decisions regarding the establishment, modification, or confirmation of areas of impact are legislative actions and are not subject to judicial review or challenge except as provided in subsection (5) of this section.

(2) Establishing an area of impact.

(a) Following the notice and hearing procedures provided in section 67-6509, Idaho Code, and in accordance with the provisions of subsection (4) of this section, the board of county commissioners of each county shall adopt by ordinance a map identifying the area of impact within the unincorporated area of the county for each city located in the county. Written notice of the hearing to be conducted under this subsection shall be provided by the county to each owner of property located within a proposed area of impact. If notice is also published pursuant to section 67-6509, Idaho Code, individual property owners may not challenge the proceeding on the basis that they did not actually receive notice by mail. The cost of the notice shall be

reimbursed to the county by the city whose area of impact is under consideration. The board of county commissioners is not required to receive a recommendation from the planning and zoning commission prior to enacting an ordinance establishing an area of impact. An area of impact must be established before a city may annex adjacent territory pursuant to the provisions of section 50-222, Idaho Code.

(b) If the requirements of paragraph (a) of this subsection are not met in establishing an area of impact, the city may demand compliance with this subsection by providing notice to the board of county commissioners of the demand for compliance. Once a demand has been made, a recommendation committee shall be established. The city and county shall each select a representative to participate on the committee within thirty (30) days of the demand for compliance and the process set forth in this paragraph shall commence.

(i) After the city and county representatives have been selected, they shall in turn select another city representative living within the applicable city and another county representative living in the county and not within any city to serve on the recommending committee. Meetings of the recommending committee may be hosted by the city or county and shall be conducted in accordance with Idaho open meetings law. These four (4) persons shall, by majority vote, provide a written recommendation to the board of county commissioners for an area of impact. The written recommendation shall be submitted to the governing boards within one hundred eighty (180) days after the selection of the recommending committee members.

(ii) If the board of county commissioners fails to enact an ordinance providing for an area of impact within ninety (90) days of receipt of the committee recommendation or expiration of the one hundred eighty (180) days for the committee to make its recommendation, the city may file a petition with the district court to identify the area of impact pursuant to subsection (5) of this section and in accordance with other applicable provisions of this section.

(3) Modification or confirmation of area of impact boundaries.

(a) Modification or confirmation of an existing area of impact boundary may be initiated by a city or cities or the county. If a county is initiating a modification or confirmation of an area of impact, the county shall provide at least thirty (30) days written notice to the applicable city or cities of the hearing on the proposed modification or confirmation. Any modifications to or confirmation of an area of impact boundary must be adopted by an ordinance approved by the board of county commissioners of the applicable county, following the notice and hearing procedures provided in section 67-6509, Idaho Code, and in accordance with the requirements for defining an area of impact as set forth in subsection (4) of this section. At least fifteen (15) days prior to the hearing, written notice of the hearing to be conducted under this paragraph shall be provided by the county to each owner of property located within the portion of the area of impact that is proposed to be modified. If notice is also published pursuant to section 67-6509, Idaho Code, individual property owners may not challenge the proceeding on the basis that they did not actually receive notice by mail. If the modification or confirmation

is proposed by a city, then the cost of the notice shall be reimbursed to the county by such city. If the county is pursuing the modification or confirmation, then the cost of notification shall be borne by the county. The board of county commissioners is not required to receive a recommendation from the planning and zoning commission prior to enacting an ordinance modifying or confirming an area of impact.

(b) Where areas of impact abut each other and adjustments are being proposed, or where areas of impact are proposed to abut each other, the cities involved shall negotiate boundary adjustments to be recommended to the respective city councils. The city council of each city must approve the area of impact or modifications thereto to be proposed to the board of county commissioners. These decisions by the city councils are proposals and not subject to judicial review or challenge. If the cities with impact area boundaries that abut or are proposed to abut each other reach agreement on the proposed boundaries or adjustments thereto, the requested boundaries or adjustments shall be collectively submitted by the cities to the county for consideration in accordance with paragraph (a) of this subsection. If the cities cannot reach agreement, then any or all of the cities involved may submit their requests to the board of county commissioners for consideration pursuant to paragraph (a) of this subsection. In either case, the county shall conduct at least one (1) consolidated public hearing where it considers all such requests together.

(c) The county may accept, reject, or modify a city's requested modification or confirmation regarding an impact area boundary, but if the county does not make a final decision on the request within ninety (90) days of submission of the request, the city may petition the court to make a determination on the request pursuant to subsection (5) of this section.

(4) Provisions applicable to areas of impact.

(a) In defining an initial area of impact or in modifying or confirming an existing area of impact, the criteria set forth in this subsection shall be considered:

- (i) Anticipated commercial and residential growth;
- (ii) Geographic factors;
- (iii) Transportation infrastructure and systems, including connectivity;
- (iv) Areas where municipal or public sewer and water are expected to be provided within five (5) years; and
- (v) Other public service district boundaries.

(b) In addition to the criteria set forth in paragraph (a) of this subsection, an area of impact shall not exceed the areas that are very likely to be annexed to the city within the next five (5) years. Except as otherwise provided in this paragraph, an area of impact shall not extend more than two (2) miles from existing city limits. An area of impact boundary shall not divide county recognized parcels of land. If only a portion of a recognized parcel falls within the two (2) mile limit, then the boundary may extend beyond two (2) miles on that parcel so that it encompasses the entire parcel. Adjustments to an area of impact may be proposed and considered at any time following the initial establishment of the area of impact.

(c) Areas of impact may cross county boundaries only by approval of the governing board of county commissioners after following the procedures and complying with the requirements for modification or confirmation of an area of impact boundary.

(d) Areas of impact shall not overlap.

(e) The applicable county's comprehensive plan and zoning and subdivision ordinances shall apply in the area of impact. The county may adopt individual county comprehensive plan and zoning and subdivision ordinance provisions regarding a specific area of impact.

(f) Following adoption of an area of impact, the board of county commissioners shall provide the city with written notice at least fifteen (15) days in advance of any county public hearings held pursuant to this chapter or to chapter 13, title 50, Idaho Code, involving land within that area of impact.

(g) Areas of impact shall remain fixed until modifications are made pursuant to subsection (3) of this section.

(h) Prior to considering a request to establish, modify, or confirm an area of impact, the governing boards may, but are not required to, submit the request to the planning, zoning, or planning and zoning commission for recommendation. Each commission shall have a reasonable time fixed by its governing board in compliance with all required timelines set forth in this section to make its recommendation to the governing board. The county and the city shall undertake a review of the area of impact at least once every five (5) years and shall consider whether adjustments are in the best interests of the citizenry.

(i) This section shall not preclude annexation or other growth and development in areas of any county within the state of Idaho that are not within the areas of impact provided for herein.

(j) The county's decision establishing, modifying, or confirming the boundaries for an area of impact shall be made in writing and shall contain the reasoning of the board of county commissioners, including application of the facts relied upon by the commissioners and the application of the pertinent requirements and criteria to establish or modify an area of impact.

(k) If the area of impact has been properly established, persons living within the delimited area of impact shall be entitled to representation on the planning, zoning, or the planning and zoning commission of the city of impact. Such representation shall as nearly as possible reflect the proportion of population living within the city as opposed to the population living within the areas of impact for that city. To achieve such proportional representation, membership of the planning, zoning or planning and zoning commission may exceed twelve (12) persons, notwithstanding the provisions of subsection (a) of section 67-6504, Idaho Code. In instances where a city has combined either or both of its planning and zoning functions with the county, representation on the resulting joint planning, zoning or planning and zoning commission shall as nearly as possible reflect the proportion of population living within the impacted city, the area of impact outside the city, and the remaining unincorporated area of the county. Membership on such a joint planning, zoning or planning and zoning commission may exceed twelve (12) persons, notwithstanding the provisions of section 67-6504(a), Idaho Code.

(5) Petitions for review of establishment, modification, or confirmation of area of impact. The decisions by the board of county commissioners regarding the establishment, modification, or confirmation of areas of impact are legislative actions and are not subject to judicial review, declaratory action, or other legal challenge, except as specifically provided in this subsection.

(a)(i) If a county has not complied with the provisions of subsection (2) or (3) of this section, the city seeking the establishment, modification, or confirmation of an area of impact may petition the district court to establish, modify, or confirm an area of impact that meets the criteria and requirements of subsection (4) of this section in accordance with the procedures provided in this subsection. If the modification of an area of impact boundary involves areas of impact boundaries that abut each other or that are proposed to abut each other, then any city whose area of impact abuts or is proposed to abut another area of impact boundary may file a petition challenging the county's determination regarding only those boundaries that abut or that are proposed to abut each other. Any petition regarding a proposed area of impact or portion thereof that is subject to challenge must be filed in the county in which the proposed area of impact or portion thereof is located.

(ii) Before a city may file a petition for review of an area of impact decision made by the county, as provided in paragraph (a) (i) of this subsection, it must first file a request for reconsideration with the board of county commissioners. Such request must be filed within fourteen (14) days of the issuance of the written decision by the board of county commissioners and must specify deficiencies in the decision of the board of county commissioners. Filing a timely request for reconsideration is a prerequisite to the city having standing to file a petition with the district court. The county shall act on and issue a written decision on the request for reconsideration within thirty (30) days of receipt of the request or the request shall be deemed denied. A petition challenging the decision of the county must be filed by the city within twenty-eight (28) days after the issuance of a decision by the county on the request for reconsideration or expiration of the thirty (30) day period for the county to act on the request.

(b) When filing a petition challenging the decision of the board of county commissioners with the clerk of the court, the petitioner shall pay a fee of one hundred dollars (\$100), which fee shall be in full for all clerk's fees except the regular fees provided by law for appeals. The court shall fix a time for the hearing on the petition to be held no less than thirty (30) days and no more than ninety (90) days from the filing of the petition. The petitioner shall serve or cause to be served a copy of the petition and notice of the hearing on the board of county commissioners or county clerk and the mayor or city clerk of such other city whose area of impact boundary is in question pursuant to paragraph (a) of this subsection at least twenty (20) days before the date of the hearing.

(c) No petition, objection, or reply authorized under this subsection need be verified.

(d) The hearing on a petition filed pursuant to this subsection shall be held within the county in which the area of impact or portion thereof is situated. The regular district court reporter shall reduce to writing the testimony and evidence introduced in the same manner as in a trial of civil actions. The judge of the court, either before or after the hearing, may view the lands pertaining to the proposed area of impact, lands on the outside of the city or cities in the same vicinity in which the lands sought to be included in the area of impact are situated, and other lands within the corporate limits of the city that might in any way be affected by the granting of the petition. The judge may consider such modifications as the judge finds in connection with the evidence introduced at the hearing, in making and arriving at a final decision and determination of the matter.

(e) (i) If the court finds that the board of county commissioners did not follow the notice and hearing requirements provided in this subsection, the court shall remand the matter back to the board of county commissioners to comply with the requirements and issue a new decision. If the court finds that the decision of the board of county commissioners was not arbitrary, capricious, or an abuse of discretion, the court shall affirm the decision of the board of commissioners. If the court finds that the decision of the board of county commissioners was arbitrary, capricious, or an abuse of discretion, the court may remand the matter to the board of county commissioners to correct its decision or the court may determine the appropriate boundaries of the area of impact in question before it. It shall not be necessary for the judge of the court to make written findings of fact or conclusions of law unless the court establishes the area of impact boundary. The court may award attorney's fees and costs to the prevailing party in such an action only if it finds that the other party or parties acted without a reasonable basis in fact or law.

(ii) If the court establishes the area of impact boundary, such boundary shall become the area of impact boundary as of the date of the decree establishing the boundary. Within twenty (20) days after the filing of the decree, the petitioner shall file or cause to be filed with the county recorder and with the city clerk a certified copy of the decree. The board of county commissioners shall adopt an ordinance consistent with the court decree within thirty (30) days of the entry of the decree or be subject to contempt and other sanctions or actions deemed appropriate by the court.

(f) Any city or county aggrieved by the decision of the court may appeal from the decision and judgment to the supreme court. The procedure of the appeal shall be the same as the procedure for appeals from final judgment in civil actions.

(6) Cities and counties shall review their existing areas of impact and shall reestablish the areas in conformance with the provisions of this section by December 31, 2025. Failure to timely conduct such review and reestablishment shall nullify the current area of impact boundaries and require the city and county to go through the process set forth in subsection (2) of this section.

History:

[67-6526, added 1975, ch. 188, sec. 2, p. 515; am. 1977, ch. 155, sec. 1, p. 396; am. 1979, ch. 87, sec. 1, p. 212; am. 1993, ch. 55, sec. 1, p. 150; am. 1995, ch. 118, sec. 97, p. 506; am. 1996, ch. 116, sec. 2, p. 428; am. 1999, ch. 251, sec. 1, p. 651; am. 2002, ch. 333, sec. 6, p. 947.; am. 2024, ch. 227, sec. 2, p. 796.]

How current is this law?

2024 Legislation

SENATE BILL 1403

The status of each bill, resolution, proclamation, and memorial is updated when the offices of the Secretary of the Senate and the Chief Clerk of the House publish the un-official daily journals and should not be deemed official. The official bill actions are located in the final journal, which are maintained by the offices of the Secretary of the Senate and the Chief Clerk of the House. **The daily journals are published at the end of each legislative day.**

Full Bill Information

Individual Links:

- Bill Text
- Statement of Purpose / Fiscal Note
- Legislative Co-sponsors

S1403 by JUDICIARY AND RULES COMMITTEE

PLANNING AND ZONING – Amends existing law to revise provisions regarding comprehensive plans and areas of impact.

- 03/04 Introduced; read first time; referred to JR for Printing
- 03/05 Reported Printed; referred to State Affairs
- 03/08 Reported out of Committee with Do Pass Recommendation; Filed for second reading
- 03/11 Read second time; filed for Third Reading
- 03/12 Read third time in full – **PASSED - 34-0-1**
AYES – Adams, Anthon, Bernt, Bjerke, Burtenshaw, Carlson, Cook, Den Hartog, Foreman, Grow, Guthrie, Harris, Hart, Hartgen, Herndon, Just, Lakey, Lee, Lenney, Nichols, Okuniewicz, Rabe, Ricks, Ruchti, Schroeder, Semmelroth, Taylor, Toews(Toews), Trakel, VanOrden, Ward-Engelking, Winder, Wintrow, Zuiderveld
NAYS – None
Absent and excused – Lent
Floor Sponsor - Lakey
 Title apvd - to House
- 03/13 Received from the Senate, Filed for First Reading
 Read First Time, Referred to Local Government
- 03/22 Reported out of Committee with Do Pass Recommendation, Filed for Second Reading
- 03/25 Read second time; Filed for Third Reading

Rules Suspended: Ayes 69 Nays 1 Abs/Excd 0, read in full as required – **PASSED - 69-1-0**

AYES – Achilles, Alfieri, Allgood, Andrus, Barbieri, Blanksma, Boyle, Bundy, Burns, Cannon, Cheatum, Chew(Harada), Clow, Cornilles, Crane(12), Crane(13), Dixon(1), Dixon(24), Durrant, Ehardt, Ehlers, Erickson, Furniss, Galaviz, Gallagher, Gannon, Garner, Green, Handy, Hawkins, Healey, Hill, Holtzclaw(Johnson), Horman, Kingsley, Lambert, Lanting, Manwaring, Mathias, McCann, Mendive, Mickelsen, Miller, Mitchell, Monks, Necochea, Nelsen, Palmer, Petzke, Pickett, Price, Raybould, Raymond, Redman, Roberts, Rubel, Sauter, Scott, Shepherd, Skaug, Tanner, Vander Woude, Weber(Weber), Wheeler, Wisniewski, Wroten, Yamamoto, Young, Mr. Speaker

NAYS – Berch

Absent – None

Floor Sponsor - Manwaring

Title apvd - to Senate

- 03/26 Returned From House Passed; referred to enrolling
Reported enrolled; signed by President; to House for signature of Speaker
Received from Senate; Signed by Speaker; Returned to Senate
- 03/27 Reported signed by the Speaker & ordered delivered to Governor
Reported delivered to Governor at 11:43 a.m. on 03/27/24
- 03/29 Signed by Governor on 03/28/24
Session Law Chapter 227
Effective: 07/01/2024

IN THE SENATE

SENATE BILL NO. 1403

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO PLANNING AND ZONING; AMENDING SECTION 67-6509, IDAHO CODE, TO
2 REVISE PROVISIONS REGARDING COMPREHENSIVE PLANS; AMENDING SECTION
3 67-6526, IDAHO CODE, TO REVISE PROVISIONS REGARDING AREAS OF IMPACT;
4 AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
5

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 67-6509, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 67-6509. RECOMMENDATION AND ADOPTION, AMENDMENT, AND REPEAL OF THE
10 PLAN. ~~(a)~~ (1) The planning or planning and zoning commission, prior to rec-
11 ommending the plan, amendment, or repeal of the plan to the governing board,
12 shall conduct at least one (1) public hearing in which interested persons
13 shall have an opportunity to be heard. At least fifteen (15) days prior to
14 the hearing, notice of the time and place and a summary of the plan to be
15 discussed shall be published in the official newspaper or paper of general
16 circulation within the jurisdiction. The commission shall also make avail-
17 able a notice to other papers, radio, and television stations serving the
18 jurisdiction for use as a public service announcement. Notice of intent to
19 adopt, repeal, or amend the plan shall be sent to all political subdivisions
20 providing services within the planning jurisdiction, including school dis-
21 tricts and the manager or person in charge of the local public airport, at
22 least fifteen (15) days prior to the public hearing scheduled by the com-
23 mission. Following the commission hearing, if the commission recommends a
24 material change to the proposed amendment to the plan ~~which~~ that was con-
25 sidered at the hearing, it shall give notice of its proposed recommendation
26 and conduct another public hearing concerning the matter if the governing
27 board will not conduct a subsequent public hearing concerning the proposed
28 amendment. If the governing board will conduct a subsequent public hear-
29 ing, notice of the planning and zoning commission recommendation shall be
30 included in the notice of public hearing provided by the governing board. A
31 record of the hearings, findings made, and actions taken by the commission
32 shall be maintained by the city or county.

33 ~~(b)~~ (2) The governing board, as provided by local ordinance, prior to
34 adoption, amendment, or repeal of the plan, may conduct at least one (1) pub-
35 lic hearing, in addition to the public hearing ~~(s)~~ or hearings conducted by
36 the commission, using the same notice and hearing procedures as the commis-
37 sion. The governing board shall not hold a public hearing, give notice of a
38 proposed hearing, nor take action upon the plan, amendments, or repeal un-
39 til recommendations have been received from the commission. ~~Following con-~~
40 ~~sideration by the governing board, if the governing board makes a material~~
41 ~~change in the recommendation or alternative options contained in the rec-~~
42 ~~ommendation by the commission concerning adoption, amendment or repeal of~~

1 ~~a plan, further notice and hearing shall be provided before the governing~~
 2 ~~board adopts, amends or repeals the plan.~~

3 ~~(e)~~ (3) No plan shall be effective unless adopted by resolution by the
 4 governing board. A resolution enacting or amending a plan or part of a plan
 5 may be adopted, amended, or repealed by definitive reference to the specific
 6 plan document. A copy of the adopted or amended plan shall accompany each
 7 adopting resolution and shall be kept on file with the city clerk or county
 8 clerk.

9 ~~(d)~~ (4) Any person may petition the commission or, in absence of a com-
 10 mission, the governing board, for a plan amendment at any time, unless the
 11 governing board has established by resolution a minimum interval between
 12 consideration of requests to amend, which interval shall not exceed six (6)
 13 months. The commission may recommend amendments to the comprehensive plan
 14 and to other ordinances authorized by this chapter to the governing board at
 15 any time.

16 SECTION 2. That Section 67-6526, Idaho Code, be, and the same is hereby
 17 amended to read as follows:

18 67-6526. AREAS OF CITY IMPACT -- NEGOTIATION PROCEDURE. (1) ~~(a)~~ The
 19 governing board of each county and each city therein shall adopt by ordinance
 20 following the notice and hearing procedures provided in section 67-6509,
 21 Idaho Code, a map identifying an area of city impact within the unincorpo-
 22 rated area of the county. A separate ordinance providing for application of
 23 plans and ordinances for the area of city impact shall be adopted. Subject
 24 to the provisions of section 50-222, Idaho Code, an Legislative findings and
 25 intent.

26 (a) The legislature finds that areas of impact are properly under the
 27 jurisdiction of the county because the elected representatives of citi-
 28 zens in areas of impact are county officials, not city officials. While
 29 cities should receive notice of, and may provide input on, applications
 30 brought to the county in an area of impact, cities do not govern or con-
 31 trol decisions on those applications. County commissioners make the
 32 final determination regarding area of impact boundaries within their
 33 county.

34 (b) An area of impact is where growth and development are expected to
 35 occur. Areas of impact should be planned for growth and development and
 36 should not be used to stop growth and development that conforms to ap-
 37 plicable plans and ordinances. Areas of impact should be established,
 38 modified, or confirmed based on the ability and likelihood of a city or
 39 cities to annex lands within that area of impact in the near future. A
 40 city may adopt a comprehensive plan and conduct infrastructure, capi-
 41 tal improvement, and other planning activities that extend beyond its
 42 current area of impact. Counties and cities shall review their area of
 43 impact boundaries at least every five (5) years to determine if modifi-
 44 cations are needed or to confirm existing boundaries and may pursue mod-
 45 ification of an established area of impact more frequently than every
 46 five (5) years.

47 (c) Prior to conducting the public hearings required under this chapter
 48 to establish, modify, or confirm an area of impact, cities and counties

1 should work together to develop a proposed area of impact to be consid-
 2 ered at the public hearing.

3 (d) Decisions regarding the establishment, modification, or confir-
 4 mation of areas of impact are legislative actions and are not subject
 5 to judicial review or challenge except as provided in subsection (5) of
 6 this section.

7 (2) Establishing an area of impact.

8 (a) Following the notice and hearing procedures provided in section
 9 67-6509, Idaho Code, and in accordance with the provisions of subsec-
 10 tion (4) of this section, the board of county commissioners of each
 11 county shall adopt by ordinance a map identifying the area of impact
 12 within the unincorporated area of the county for each city located in
 13 the county. Written notice of the hearing to be conducted under this
 14 subsection shall be provided by the county to each owner of property
 15 located within a proposed area of impact. If notice is also published
 16 pursuant to section 67-6509, Idaho Code, individual property owners
 17 may not challenge the proceeding on the basis that they did not actu-
 18 ally receive notice by mail. The cost of the notice shall be reimbursed
 19 to the county by the city whose area of impact is under consideration.
 20 The board of county commissioners is not required to receive a recom-
 21 mendation from the planning and zoning commission prior to enacting an
 22 ordinance establishing an area of impact. An area of city impact must
 23 be established before a city may annex adjacent territory pursuant to
 24 the provisions of section 50-222, Idaho Code. This separate ordinance
 25 shall provide for one (1) of the following:

26 (1) Application of the city plan and ordinances adopted under this
 27 chapter to the area of city impact; or

28 (2) Application of the county plan and ordinances adopted under this
 29 chapter to the area of city impact; or

30 (3) Application of any mutually agreed upon plan and ordinances adopted
 31 under this chapter to the area of city impact.

32 Areas of city impact, together with plan and ordinance requirements,
 33 may cross county boundaries by agreement of the city and county concerned if
 34 the city is within three (3) miles of the adjoining county.

35 (b) If the requirements of section 67-6526(a), Idaho Code, have not
 36 been met, either the city or the county may demand compliance with this
 37 section by providing written notice to the other of said demand for compli-
 38 ance. Once a demand has been made, the city shall select its representative
 39 as hereinafter provided, within thirty (30) days of said demand, and the
 40 process set forth in this subsection shall commence. The county commission-
 41 ers for the county concerned, together with three (3) elected city officials
 42 designated by the mayor of the city and confirmed by the council, shall,
 43 within thirty (30) days after the city officials have been confirmed by the
 44 council, select three (3) city or county residents. These nine (9) persons
 45 shall, by majority vote, recommend to the city and county governing boards
 46 an area of city impact together with plan and ordinance requirements. The
 47 recommendations shall be submitted to the governing boards within one hun-
 48 dred eighty (180) days after the selection of the three (3) members at large
 49 and shall be acted upon by the governing boards within sixty (60) days of re-
 50 ceipt. If the city or county fails to enact ordinances providing for an area

1 ~~of city impact, plan, and ordinance requirements, either the city or county~~
 2 ~~may seek a declaratory judgment from the district court identifying the area~~
 3 ~~of city impact, and plan and ordinance requirements. In defining an area~~
 4 ~~of city impact, the following factors shall be considered: (1) trade area;~~
 5 ~~(2) geographic factors; and (3) areas that can reasonably be expected to be~~
 6 ~~annexed to the city in the future.~~

7 (b) If the requirements of paragraph (a) of this subsection are not
 8 met in establishing an area of impact, the city may demand compliance
 9 with this subsection by providing notice to the board of county com-
 10 missioners of the demand for compliance. Once a demand has been made,
 11 a recommendation committee shall be established. The city and county
 12 shall each select a representative to participate on the committee
 13 within thirty (30) days of the demand for compliance and the process set
 14 forth in this paragraph shall commence.

15 (i) After the city and county representatives have been se-
 16 lected, they shall in turn select another city representative
 17 living within the applicable city and another county representa-
 18 tive living in the county and not within any city to serve on the
 19 recommending committee. Meetings of the recommending committee
 20 may be hosted by the city or county and shall be conducted in accor-
 21 dance with Idaho open meetings law. These four (4) persons shall,
 22 by majority vote, provide a written recommendation to the board
 23 of county commissioners for an area of impact. The written rec-
 24 ommendation shall be submitted to the governing boards within one
 25 hundred eighty (180) days after the selection of the recommending
 26 committee members.

27 (ii) If the board of county commissioners fails to enact an or-
 28 dinance providing for an area of impact within ninety (90) days
 29 of receipt of the committee recommendation or expiration of the
 30 one hundred eighty (180) days for the committee to make its rec-
 31 ommendation, the city may file a petition with the district court
 32 to identify the area of impact pursuant to subsection (5) of this
 33 section and in accordance with other applicable provisions of this
 34 section.

35 ~~(c) If areas of city impact overlap, the cities involved shall negoti-~~
 36 ~~ate boundary adjustments to be recommended to the respective city councils.~~
 37 ~~If the cities cannot reach agreement, the board of county commissioners~~
 38 ~~shall, upon a request from either city, within thirty (30) days, recommend~~
 39 ~~adjustments to the areas of city impact which shall be adopted by ordinance~~
 40 ~~by the cities following the notice and hearing procedures provided in sec-~~
 41 ~~tion 67-6509, Idaho Code. If any city objects to the recommendation of the~~
 42 ~~board of county commissioners, the county shall conduct an election, sub-~~
 43 ~~ject to the provisions of section 34-106, Idaho Code, and establish polling~~
 44 ~~places for the purpose of submitting to the qualified electors residing in~~
 45 ~~the overlapping impact area, the question of which area of city impact the~~
 46 ~~electors wish to reside. The results of the election shall be conclusive~~
 47 ~~and binding, and no further proceedings shall be entertained by the board~~
 48 ~~of county commissioners, and the decision shall not be appealable by either~~
 49 ~~city involved. The clerk of the board of county commissioners shall by ab-~~
 50 ~~stract of the results of the election, certify that fact, record the same and~~

1 ~~transmit copies of the original abstract of the result of the election to the~~
2 ~~clerk of the involved cities.~~

3 (3) Modification or confirmation of area of impact boundaries.

4 (a) Modification or confirmation of an existing area of impact boundary
5 may be initiated by a city or cities or the county. If a county is ini-
6 tiating a modification or confirmation of an area of impact, the county
7 shall provide at least thirty (30) days written notice to the applicable
8 city or cities of the hearing on the proposed modification or confirma-
9 tion. Any modifications to or confirmation of an area of impact bound-
10 ary must be adopted by an ordinance approved by the board of county com-
11 missioners of the applicable county, following the notice and hearing
12 procedures provided in section 67-6509, Idaho Code, and in accordance
13 with the requirements for defining an area of impact as set forth in sub-
14 section (4) of this section. At least fifteen (15) days prior to the
15 hearing, written notice of the hearing to be conducted under this para-
16 graph shall be provided by the county to each owner of property located
17 within the portion of the area of impact that is proposed to be modi-
18 fied. If notice is also published pursuant to section 67-6509, Idaho
19 Code, individual property owners may not challenge the proceeding on
20 the basis that they did not actually receive notice by mail. If the mod-
21 ification or confirmation is proposed by a city, then the cost of the
22 notice shall be reimbursed to the county by such city. If the county
23 is pursuing the modification or confirmation, then the cost of notifi-
24 cation shall be borne by the county. The board of county commissioners
25 is not required to receive a recommendation from the planning and zon-
26 ing commission prior to enacting an ordinance modifying or confirming
27 an area of impact.

28 (b) Where areas of impact abut each other and adjustments are being
29 proposed, or where areas of impact are proposed to abut each other, the
30 cities involved shall negotiate boundary adjustments to be recommended
31 to the respective city councils. The city council of each city must
32 approve the area of impact or modifications thereto to be proposed to
33 the board of county commissioners. These decisions by the city councils
34 are proposals and not subject to judicial review or challenge. If the
35 cities with impact area boundaries that abut or are proposed to abut
36 each other reach agreement on the proposed boundaries or adjustments
37 thereto, the requested boundaries or adjustments shall be collectively
38 submitted by the cities to the county for consideration in accordance
39 with paragraph (a) of this subsection. If the cities cannot reach
40 agreement, then any or all of the cities involved may submit their re-
41 quests to the board of county commissioners for consideration pursuant
42 to paragraph (a) of this subsection. In either case, the county shall
43 conduct at least one (1) consolidated public hearing where it considers
44 all such requests together.

45 (c) The county may accept, reject, or modify a city's requested modi-
46 fication or confirmation regarding an impact area boundary, but if the
47 county does not make a final decision on the request within ninety (90)
48 days of submission of the request, the city may petition the court to
49 make a determination on the request pursuant to subsection (5) of this
50 section.

1 (4) Provisions applicable to areas of impact.

2 (a) In defining an initial area of impact or in modifying or confirming
3 an existing area of impact, the criteria set forth in this subsection
4 shall be considered:

5 (i) Anticipated commercial and residential growth;

6 (ii) Geographic factors;

7 (iii) Transportation infrastructure and systems, including con-
8 nectivity;

9 (iv) Areas where municipal or public sewer and water are expected
10 to be provided within five (5) years; and

11 (v) Other public service district boundaries.

12 (b) In addition to the criteria set forth in paragraph (a) of this
13 subsection, an area of impact shall not exceed the areas that are very
14 likely to be annexed to the city within the next five (5) years. Except
15 as otherwise provided in this paragraph, an area of impact shall not
16 extend more than two (2) miles from existing city limits. An area of
17 impact boundary shall not divide county recognized parcels of land.
18 If only a portion of a recognized parcel falls within the two (2) mile
19 limit, then the boundary may extend beyond two (2) miles on that parcel
20 so that it encompasses the entire parcel. Adjustments to an area of
21 impact may be proposed and considered at any time following the initial
22 establishment of the area of impact.

23 (c) Areas of impact may cross county boundaries only by approval of the
24 governing board of county commissioners after following the procedures
25 and complying with the requirements for modification or confirmation of
26 an area of impact boundary.

27 (d) Areas of impact shall not overlap.

28 (e) The applicable county's comprehensive plan and zoning and subdivi-
29 sion ordinances shall apply in the area of impact. The county may adopt
30 individual county comprehensive plan and zoning and subdivision ordi-
31 nance provisions regarding a specific area of impact.

32 (f) Following adoption of an area of impact, the board of county com-
33 missioners shall provide the city with written notice at least fifteen
34 (15) days in advance of any county public hearings held pursuant to this
35 chapter or to chapter 13, title 50, Idaho Code, involving land within
36 that area of impact.

37 ~~(d) Areas of city impact, plan, and ordinance requirements shall remain~~
38 ~~fixed until both governing boards agree to renegotiate. In the event the~~
39 ~~city and county cannot agree, the judicial review process of subsection (b)~~
40 ~~of this section shall apply. Renegotiations shall begin within thirty (30)~~
41 ~~days after written request by the city or county and shall follow the proce-~~
42 ~~dures for original negotiation provided in this section.~~

43 ~~(e) Prior to negotiation or renegotiation of areas of city impact,~~
44 ~~plan, and ordinance requirements, the governing boards shall submit the~~
45 ~~questions to the planning, zoning, or planning and zoning commission for~~
46 ~~recommendation. Each commission shall have a reasonable time fixed by the~~
47 ~~governing board to make its recommendations to the governing board. The gov-~~
48 ~~erning boards shall undertake a review at least every ten (10) years of the~~
49 ~~city impact plan and ordinance requirements to determine whether renegoti-~~
50 ~~ations are in the best interests of the citizenry.~~

1 (g) Areas of impact shall remain fixed until modifications are made
 2 pursuant to subsection (3) of this section.

3 (h) Prior to considering a request to establish, modify, or confirm an
 4 area of impact, the governing boards may, but are not required to, sub-
 5 mit the request to the planning, zoning, or planning and zoning commis-
 6 sion for recommendation. Each commission shall have a reasonable time
 7 fixed by its governing board in compliance with all required timelines
 8 set forth in this section to make its recommendation to the governing
 9 board. The county and the city shall undertake a review of the area of
 10 impact at least once every five (5) years and shall consider whether ad-
 11 justments are in the best interests of the citizenry.

12 ~~(f)~~ (i) This section shall not preclude annexation or other growth and
 13 development in areas of any county within the state of Idaho which that
 14 are not within the areas of city impact provided for herein.

15 (j) The county's decision establishing, modifying, or confirming the
 16 boundaries for an area of impact shall be made in writing and shall con-
 17 tain the reasoning of the board of county commissioners, including ap-
 18 plication of the facts relied upon by the commissioners and the applica-
 19 tion of the pertinent requirements and criteria to establish or modify
 20 an area of impact.

21 ~~(g)~~ (k) If the area of impact has been delimited pursuant to the pro-
 22 visions of subsection (a) (1) of this section properly established,
 23 persons living within the delimited area of impact shall be entitled
 24 to representation on the planning, zoning, or the planning and zoning
 25 commission of the city of impact. Such representation shall as nearly
 26 as possible reflect the proportion of population living within the
 27 city as opposed to the population living within the areas of impact for
 28 that city. To achieve such proportional representation, membership
 29 of the planning, zoning or planning and zoning commission, may exceed
 30 twelve (12) persons, notwithstanding the provisions of subsection (a)
 31 of section 67-6504, Idaho Code. In instances where a city has combined
 32 either or both of its planning and zoning functions with the county,
 33 representation on the resulting joint planning, zoning or planning and
 34 zoning commission shall as nearly as possible reflect the proportion
 35 of population living within the impacted city, the area of city impact
 36 outside the city, and the remaining unincorporated area of the county.
 37 Membership on such a joint planning, zoning or planning and zoning com-
 38 mission may exceed twelve (12) persons, notwithstanding the provisions
 39 of subsection (a) of section 67-6504(a), Idaho Code.

40 (5) Petitions for review of establishment, modification, or confirma-
 41 tion of area of impact. The decisions by the board of county commissioners
 42 regarding the establishment, modification, or confirmation of areas of
 43 impact are legislative actions and are not subject to judicial review,
 44 declaratory action, or other legal challenge, except as specifically pro-
 45 vided in this subsection.

46 (a) (i) If a county has not complied with the provisions of subsec-
 47 tion (2) or (3) of this section, the city seeking the establish-
 48 ment, modification, or confirmation of an area of impact may pe-
 49 tition the district court to establish, modify, or confirm an area
 50 of impact that meets the criteria and requirements of subsection

1 (4) of this section in accordance with the procedures provided in
2 this subsection. If the modification of an area of impact boundary
3 involves areas of impact boundaries that abut each other or that
4 are proposed to abut each other, then any city whose area of impact
5 abuts or is proposed to abut another area of impact boundary may
6 file a petition challenging the county's determination regarding
7 only those boundaries that abut or that are proposed to abut each
8 other. Any petition regarding a proposed area of impact or portion
9 thereof that is subject to challenge must be filed in the county in
10 which the proposed area of impact or portion thereof is located.

11 (ii) Before a city may file a petition for review of an area of im-
12 act decision made by the county, as provided in paragraph (a) (i)
13 of this subsection, it must first file a request for reconsider-
14 ation with the board of county commissioners. Such request must
15 be filed within fourteen (14) days of the issuance of the writ-
16 ten decision by the board of county commissioners and must specify
17 deficiencies in the decision of the board of county commis-
18 ioners. Filing a timely request for reconsideration is a prerequi-
19 site to the city having standing to file a petition with the dis-
20 trict court. The county shall act on and issue a written decision
21 on the request for reconsideration within thirty (30) days of re-
22 ceipt of the request or the request shall be deemed denied. A pe-
23 tition challenging the decision of the county must be filed by the
24 city within twenty-eight (28) days after the issuance of a deci-
25 sion by the county on the request for reconsideration or expira-
26 tion of the thirty (30) day period for the county to act on the re-
27 quest.

28 (b) When filing a petition challenging the decision of the board of
29 county commissioners with the clerk of the court, the petitioner shall
30 pay a fee of one hundred dollars (\$100), which fee shall be in full for
31 all clerk's fees except the regular fees provided by law for appeals.
32 The court shall fix a time for the hearing on the petition to be held no
33 less than thirty (30) days and no more than ninety (90) days from the
34 filing of the petition. The petitioner shall serve or cause to be served
35 a copy of the petition and notice of the hearing on the board of county
36 commissioners or county clerk and the mayor or city clerk of such other
37 city whose area of impact boundary is in question pursuant to paragraph
38 (a) of this subsection at least twenty (20) days before the date of the
39 hearing.

40 (c) No petition, objection, or reply authorized under this subsection
41 need be verified.

42 (d) The hearing on a petition filed pursuant to this subsection shall be
43 held within the county in which the area of impact or portion thereof is
44 situated. The regular district court reporter shall reduce to writing
45 the testimony and evidence introduced in the same manner as in a trial of
46 civil actions. The judge of the court, either before or after the hear-
47 ing, may view the lands pertaining to the proposed area of impact, lands
48 on the outside of the city or cities in the same vicinity in which the
49 lands sought to be included in the area of impact are situated, and other
50 lands within the corporate limits of the city that might in any way be

1 affected by the granting of the petition. The judge may consider such
2 modifications as the judge finds in connection with the evidence intro-
3 duced at the hearing, in making and arriving at a final decision and de-
4 termination of the matter.

5 (e) (i) If the court finds that the board of county commission-
6 ers did not follow the notice and hearing requirements provided
7 in this subsection, the court shall remand the matter back to the
8 board of county commissioners to comply with the requirements and
9 issue a new decision. If the court finds that the decision of the
10 board of county commissioners was not arbitrary, capricious, or
11 an abuse of discretion, the court shall affirm the decision of
12 the board of commissioners. If the court finds that the decision
13 of the board of county commissioners was arbitrary, capricious,
14 or an abuse of discretion, the court may remand the matter to the
15 board of county commissioners to correct its decision or the court
16 may determine the appropriate boundaries of the area of impact in
17 question before it. It shall not be necessary for the judge of the
18 court to make written findings of fact or conclusions of law unless
19 the court establishes the area of impact boundary. The court may
20 award attorney's fees and costs to the prevailing party in such an
21 action only if it finds that the other party or parties acted with-
22 out a reasonable basis in fact or law.

23 (ii) If the court establishes the area of impact boundary, such
24 boundary shall become the area of impact boundary as of the date of
25 the decree establishing the boundary. Within twenty (20) days af-
26 ter the filing of the decree, the petitioner shall file or cause to
27 be filed with the county recorder and with the city clerk a certi-
28 fied copy of the decree. The board of county commissioners shall
29 adopt an ordinance consistent with the court decree within thirty
30 (30) days of the entry of the decree or be subject to contempt and
31 other sanctions or actions deemed appropriate by the court.

32 (f) Any city or county aggrieved by the decision of the court may ap-
33 peal from the decision and judgment to the supreme court. The procedure
34 of the appeal shall be the same as the procedure for appeals from final
35 judgment in civil actions.

36 (6) Cities and counties shall review their existing areas of impact
37 and shall reestablish the areas in conformance with the provisions of this
38 section by December 31, 2025. Failure to timely conduct such review and
39 reestablishment shall nullify the current area of impact boundaries and re-
40 quire the city and county to go through the process set forth in subsection
41 (2) of this section.

42 SECTION 3. An emergency existing therefor, which emergency is hereby
43 declared to exist, this act shall be in full force and effect on and after
44 July 1, 2024.

2024

2025

January						
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22	23	24	25	26	27	28
29	30					

July						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

August						
Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

September						
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

July						
Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
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20	21	22	23	24	25	26
27	28	29	30	31		

August						
Su	Mo	Tu	We	Th	Fr	Sa
					1	2
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10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

September						
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28	29	30				

October						
Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
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20	21	22	23	24	25	26
27	28	29	30	31		

November						
Su	Mo	Tu	We	Th	Fr	Sa
					1	2
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10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

December						
Su	Mo	Tu	We	Th	Fr	Sa
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29	30	31				

October						
Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
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12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

November						
Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

December						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
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21	22	23	24	25	26	27
28	29	30	31			

Federal Holidays 2024

Jan 1	New Year's Day	Jun 19	Juneteenth	Nov 11	Veterans Day
Jan 15	Martin Luther King Day	Jul 4	Independence Day	Nov 28	Thanksgiving Day
Feb 19	Presidents' Day	Sep 2	Labor Day	Dec 25	Christmas Day
May 27	Memorial Day	Oct 14	Columbus Day		

Federal Holidays 2025

Jan 1	New Year's Day	Jun 19	Juneteenth	Nov 11	Veterans Day
Jan 20	Martin Luther King Day	Jul 4	Independence Day	Nov 27	Thanksgiving Day
Feb 17	Presidents' Day	Sep 1	Labor Day	Dec 25	Christmas Day
May 26	Memorial Day	Oct 13	Columbus Day		