

## Appendix A

### Summary of Proposed Title 12 Updates:

**12-122 (Planning Commission):** Expands and clarifies the Planning Commission's jurisdiction to include holding quasi-judicial hearings for applicant-initiated Comprehensive Plan map amendments. Previously, the Commission's authority was limited to legislative actions such as recommending amendments to the Comprehensive Plan, zoning map, and land use ordinances.

**12-123 (Zoning Commission):** The proposed change removes language allowing the Zoning Commission to appoint a Hearing Examiner, clarifying that appointments to that role are made by the Board of County Commissioners. The Zoning Commission retains responsibility for quasi-judicial hearings for applicant-driven land use requests.

**12-131 (Complaints of Violation):** Establishes that all zoning complaints must be submitted on a standard form provided by the Planning Department. This helps formalize the complaint intake process, ensures consistency in documentation, and provides clear guidance on how to initiate enforcement actions.

**12-214, 12-217, 12-224, 12-235, 12-247 (Noticing Procedures):** Revises public notice language across these sections to reference Section 12-268 ensuring consistent application of notice standards.

**12-232 (Variance Definitions):** Clarifies the definition and scope of a variance, aligning it with bulk, placement, and parcel standards only.

**12-238 (Administrative Variances):** Revises the threshold for administrative variances from 30% to 20%, narrowing the scope of what can be approved without a public hearing. It also updates noticing procedures to follow Section 12-268.

**12-247 (Special Use Permits):** Aligns public hearing notice procedures with Section 12-268 and clarifies that the review of special use permits is conducted by the appropriate decision-making body, such as the Zoning Commission or Hearing Examiner. This provides consistency in how such applications are processed and reviewed.

**12-261 (Administrative Appeals):** Adds clarity to the process and timeframes for appealing administrative decisions made by the Planning Director. It formalizes the procedure for scheduling appeal hearings before the Board of County Commissioners.

**12-262 (Appeals from Final Decisions):** Expands the procedural framework for appealing final decisions from the Zoning Commission or Hearing Examiner. New language addresses how to handle tie votes or lack of quorum, specifying that failure to take affirmative action results in denial of the appeal and affirms the underlying decision.

**12-263 (Reconsideration):** New language addresses how to handle tie votes or lack of quorum, specifying that failure to take affirmative action results in denial of the appeal and affirms the underlying decision.

**12-266 (Modification of Terms):** Clarifies noticing standards and decision timelines to ensure consistent decision making and notice standards.

**12-268 (Application Process):** Centralizes all public notice and application processing standards into one section. It incorporates Idaho Code 67-6509 and 67-6511 by reference, requires an additional 15 days of notice beyond state minimums, and introduces a zone-specific mailing radius table to ensure proportional outreach. The section also adds a 45-working-day timeline for the County to issue written decisions after final action.

Below are the proposed amendments to each specific section and the description of the changes. The language in red and underlined is recommended as additions to the existing code. Those words in ~~red and strike through~~ would be deleted from the ordinance.

#### **12-122: PLANNING COMMISSION:**

A. Establishment: The Bonner County Planning Commission is hereby established as provided for by Idaho Code section 67-6504. This commission shall be composed of seven (7) members assigned to positions A through G.

B. Organization: The Planning Commission shall elect a Chair~~man~~ and Vice Chair~~man~~. This commission shall abide by the provisions of this title, the Local Land Use Planning Act, and shall also adopt bylaws as required.

C. Terms of Office: Positions A, B, and C shall first expire September 30, 2025, and then every three (3) years thereafter. Positions D and E shall expire September 30, 2024, and every three (3) years thereafter. Positions F and G shall expire September 30, 2023, and every three (3) years thereafter. Appointment to complete the term of a vacated position or appointment to a new term shall be done by motion and order of the Board of Bonner County Commissioners.

D. Jurisdiction: The Planning Commission shall be responsible for recommending legislative amendments of the Bonner County Comprehensive Plan, Comprehensive Plan map, and land use ordinances, and zoning map to the Board of Bonner County Commissioners. The Planning Commission shall also hold quasi-judicial hearings for applicant-initiated Comprehensive Plan map amendments. However, it shall not consider other site-specific land use applications that are deemed quasi-judicial proceedings. The Planning Commission shall not consider amendments which are deemed to be quasi-judicial proceedings.

#### **12-123: ZONING COMMISSION:**

A. Establishment: The Bonner County Zoning Commission is hereby established as provided for by Idaho Code section 67-6504. This commission shall be composed of five (5) members assigned to positions A through E.

B. Organization: The Zoning Commission shall elect a Chair~~man~~ and Vice Chair~~man~~. This commission shall abide by the provisions of this title, the Local Land Use Planning Act, and shall also adopt bylaws as required.

C. Terms of Office: Position A shall first expire September 30, 2023, and then every three (3) years thereafter. Positions B and C shall expire September 30, 2024, and every three (3) years thereafter. Positions D and E shall expire September 30, 2025, and every three (3) years thereafter. Appointment to complete the term of a vacated position or appointment to a new term shall be done by motion and order of the Board of Bonner County Commissioners.

D. Jurisdiction: The Zoning Commission shall be responsible for holding quasi-judicial hearings required by this title and Idaho Code for applicant initiated land use requests. ~~When requested by staff, by a majority of the Zoning Commission members, or by the Board of Bonner County Commissioners, the Zoning Commission or Board of Bonner County Commissioners may appoint a hearings examiner in accordance with Idaho Code section 67-6520 upon approval by the Board of Bonner County Commissioners.~~

## **12-131: COMPLAINTS OF VIOLATION**

When a violation of this title occurs, or is alleged to have occurred, any person may file a written complaint on a form provided by the department. The form may be submitted electronically or in person to the Planning Department. The complaint shall state fully the causes and basis for the complaint and shall be filed with the planning director. The planning director has the authority to investigate and take actions on the complaint as provided in this title. The planning director may also dismiss the complaint based upon a finding that there is insufficient evidence that a violation exists.

## **12-214: PROCEDURES FOR AMENDMENTS TO THIS TITLE:**

B. ~~Notices and public hearings shall be provided in accordance with section 12-268 of this chapter. At least twenty two (22) days prior to the hearing, notice of the time and place of the hearing and a summary of the proposed amendment shall be published in the official newspaper or paper of general circulation within the jurisdiction. Notice shall also be made available to other papers, radio and television stations serving the jurisdiction for use as a public service announcement. A record of the hearing, the findings made, and actions taken shall be maintained.~~

C. When a hearing is required before the Planning Commission as prescribed in this section, the Planning Commission shall produce written findings and recommendations and transmit them to the Board of County Commissioners. ~~within thirty (30) working days of the date of the hearing. This time limit may be extended or modified by written consent of the Board of County Commissioners. Failure of the Planning Commission to issue a decision within the time period prescribed in this section shall be deemed a denial or a recommendation of denial. The Board of County Commissioners, prior to taking action on the amendment, may conduct a public hearing using the same notice and hearing procedures as the Planning Commission.~~ The Board of County Commissioners shall not hold a public hearing, give notice of a proposed hearing nor take action on the proposed amendment until recommendations have been received from the Planning Commission. ~~or thirty (30) working days have passed and the Planning Commission has failed to transmit its findings and recommendations to the Board. If the Board fails to act within twenty (20) working days of the first day it could take action, such inaction shall be deemed an approval of the Planning Commission's recommendation.~~

D. If the Board of County Commissioners approves an amendment, the amendment shall then be made a part of this title by passage of an appropriate ordinance.

E. When a hearing is required before the Zoning Commission as prescribed in this section, the Zoning Commission shall produce written findings and recommendations and transmit them to the Board of County Commissioners ~~within thirty (30) working days of the date of the hearing. This time limit may be extended or modified by written consent of the Board of County Commissioners. Failure of the Commission to issue a decision within the time period prescribed in this section shall be deemed a denial or a recommendation of denial.~~ The Board of County Commissioners, prior to taking action on the amendment, may conduct a public hearing using the same notice and hearing procedures as the Planning Zoning Commission. ~~The Board of County Commissioners shall not hold a~~

~~public hearing, give notice of a proposed hearing nor take action on the proposed amendment until recommendations have been received from the Zoning Commission or thirty (30) working days have passed and the Planning Commission has failed to transmit its findings and recommendations to the Board. If the Board fails to act within twenty (20) working days of the first day it could take action, such inaction shall be deemed an approval of the Zoning Commission's recommendation.~~

#### **12-217: PUBLIC HEARINGS, NOTICE OF:**

Notices and public hearings shall be provided in accordance with section 12-268 of this chapter. ~~pursuant to Idaho Code section 67-6512. When notice is required to two hundred (200) or more property owners or purchasers of record, in lieu of the mail notification, three (3) notices in the official newspaper or paper of general circulation is sufficient; provided, that the third notice appears no later than ten (10) days prior to the public hearing.~~

#### **12-224: PUBLIC HEARINGS AND NOTICES:**

Notices and public hearings shall be provided in accordance with section 12-268 of this chapter. ~~pursuant to Idaho Code section 67-6512. When notice is required to two hundred (200) or more property owners or purchasers of record, in lieu of the mail notification, three (3) notices in the official newspaper or paper of general circulation is sufficient; provided, that the third notice appears no later than ten (10) days prior to the public hearing.~~

#### **12-232: GENERAL PROVISIONS:**

A variance is a modification of the bulk and placement requirements of this title as to lot or parcel size, lot coverage, width, depth, ~~front yard, side yard, rear yard,~~ setbacks, parking space size, ~~height of buildings,~~ or other provisions of this title affecting the size or shape of a structure or the placement of a structure upon a lot or parcel, or the size of the lot or parcel.

#### **12-235: PUBLIC HEARING AND NOTICES:**

Notices and public hearings shall be provided in accordance with section 12-268 of this chapter. ~~pursuant to Idaho Code section 67-6512. When notice is required to two hundred (200) or more property owners or purchasers of record, in lieu of the mail notification, three (3) notices in the official newspaper or paper of general circulation is sufficient; provided, that the third notice appears no later than ten (10) days prior to the public hearing.~~

#### **12-238: ADMINISTRATIVE VARIANCES:**

A. The Director may grant a variance, as an administrative decision, of up to twenty percent (20%)~~thirty percent (30%)~~ of a modification of the bulk and placement requirements of this title as to lot or parcel size, lot coverage, width, depth, ~~front yard, side yard, rear yard,~~ setbacks, parking space size, ~~height of buildings,~~ or other provisions

of this title affecting the size or shape of a structure or the placement of a structure upon a lot or parcel, or the size of the lot or parcel.

B. The applicant shall submit an application for administrative variance along with the appropriate fee.

C. The application shall be processed as follows:

1. Application And Administrative Requirements: A site plan and application shall be submitted for review together with all appropriate fees as established by the adopted fee schedule. The burden of proof lies upon the applicant to show whether characteristics of the site conform to the standards in section 12-234 of this subchapter.

2. Area Of ~~City~~ Impact: If the property is located in an area of ~~city~~ impact, the County shall notify the affected city and allow the required amount of time for a response.

3. Notifications: Upon acceptance of an application, and while in an Area of Impact AGI review, if appropriate, the Director shall provide notification in accordance with section 12-268 of this chapter. ~~by mail of the variance request to the owners of parcels within three hundred feet (300') of the external boundaries of the parcel and shall provide such individuals a period of twenty one (21) calendar days from the date of the mailing to submit comments concerning the proposed variance.~~

4. Action On Application: Based on the comments from staff, agency, and those from affected property owners, the Planning Director shall review the proposed request and shall either approve, approve subject to conditions, or deny the application per section 12-234 of this subchapter within ~~seven (7)~~ ten (10) working days from the end of the ~~twenty one (21) day~~ comment period. Alternatively, the Planning Director may, at any time during this review, forward the application to the Zoning Commission for a public hearing and decision in accordance with the public hearing process in section 12-267 of this chapter. In considering comments, the ~~p~~Planning ~~d~~Director shall evaluate whether granting the variance will be consistent with the standards listed in section 12-234, ~~“Variances, Standards For Review Of Applications”,~~ of this subchapter.

#### **12-247: PROCEDURE FOR REVIEW OF SPECIAL USE PERMIT:**

A. On receipt of a completed application for a special use permit, the planning director shall schedule a public hearing before the Hearing Examiner or Zoning Commission board for the next available meeting, allowing time for the requirement for notice and staff and agency review.

B. Notices and public hearings shall be provided in accordance with section 12-268 of this chapter. ~~At a minimum, the planning director shall provide public hearing notice to adjacent property owners as set forth in subsection 12-244E of this subchapter, notifying them of the public hearing. These letters shall be sent by U.S. mail, at least fifteen (15) days prior to the date of the hearing and shall include a description of the proposed special use, and the date, time and place of the public hearing. The planning director shall also send the public hearing notice to be sent to those public agencies that may be affected by the proposed special use.~~

~~—C. The planning director shall have notice of the public hearing published in one issue of the official county newspaper at least fifteen (15) days prior to the date of the public hearing. This notice shall contain a description of the proposed special use, and the date, time and place of the public hearing. The planning director shall have the notice of public hearing posted in a prominent place on the property at least one week prior to the date of the public hearing.~~

#### **12-261: ADMINISTRATIVE APPEALS:**

A. Any determination made by the Planning Director in the administration of the provisions of this title may be appealed to the Board by paying the required fee and notifying the Planning Director in writing of the intent to appeal within ten (10) working days from the date of the determination. Within ten (10) working days of receipt of an appeal, the Planning Director shall schedule a meeting with the Board to hear the appeal and shall provide written notice to the appellant of the time and place of the meeting. The meeting shall be held no sooner than fifteen (15) and no later than forty five (45) calendar days of receipt of the appeal. The Planning Director and appellant shall be provided an opportunity to present the relevant issues to the Board at that meeting. The appellant bears the burden of proof and may be responsible for costs incurred for producing such proof, including engineering or surveying documents or other evidence. The Board's decision shall be final, and further recourse of the appellant shall be as provided by Idaho Code. If no appeal to the Board is filed, the Planning Director's decision shall be deemed final.

~~—B. An administrative appeal shall not be granted if it would function as a grant of special privilege or provide an exception to the regulations contained within this title.~~

#### **12-262: APPEALS FROM FINAL DECISION OF ZONING COMMISSION/HEARING EXAMINER:**

A. Presentation Of Appeal: Any “affected person”, as defined by Idaho Code title 67, chapter 65, may appeal to the Board any final decision by the Zoning Commission/hearing examiner.

B. Filing Time Limit; Fee: Any affected person may file an appeal of the final decision of the Zoning Commission/hearing examiner with the Planning Director within twenty eight (28) days after the final written decision of the Zoning Commission/hearing examiner has been issued. The appellant shall pay the fee required by this title upon filing the appeal. An appeal shall not be considered to be filed until such fee has been paid. Failure to file the appeal within the time limits shall cause automatic dismissal of the appeal.

C. Notice of Appeal Contents: The notice of appeal shall be detailed in writing and shall provide the grounds for the appeal. The grounds for appeal shall be that the decision of the commission or hearing examiner was at a minimum one of the following:

1. In violation of constitutional or statutory provisions;
2. In excess of the statutory authority of the commission or hearing examiner;
3. Made upon unlawful procedure;
4. Arbitrary, capricious or an abuse of discretion; or



5. Not supported by substantial evidence on the record as a whole.

D. Procedures For Consideration Of Appeal:

1. Within sixty (60) days of the receipt of the appeal, the Board shall conduct a public hearing. The Board shall be conducted in the same manner using the same standards, as if the Board had original jurisdiction to hear the application.

affirm, reverse, or modify the decision of the Zoning Commission/hearing examiner, after compliance with applicable procedural standards.

3. The decision of the Board shall be final, and any further recourse shall be as provided by law.

E. Applicability: The appeal process shall be coordinated with administration of land use ordinances. The procedures for appeal set forth herein shall be applied in a manner which is consistent with the zoning, subdivision and related land use ordinances of Bonner County.

F. Decision: In the event of a tie vote or inability to gain a quorum due to a conflict of interest or abstention, the failure to gain an affirmative action by the Board is considered a final decision of denial of the appeal and the underlying decision shall be deemed the final decision of the Board.

**12-263: RECONSIDERATION:**

A. Reconsideration: Every applicant or affected person seeking judicial review of the Board's final decision must first file with the Board a motion for reconsideration of the Board's decision, specifying deficiencies in the decision within fourteen (14) days of the date of the decision, along with the applicable fee. A failure to seek reconsideration is also a failure to exhaust administrative remedies.

B. Initial Decision: The Board may consider the reconsideration motion as scheduled on an open business meeting agenda and determine whether to grant or deny the request. If the Board grants reconsideration in whole or in part, a hearing before the Board will be scheduled to address the specific deficiencies identified by the applicant or affected person and to allow interested persons to have an opportunity to be heard. If the Board denies the request for reconsideration, it shall promptly notify the parties in writing.

C. Public Notice On Hearing: Notice of the public hearing on the reconsideration, identifying the specific deficiencies alleged in the reconsideration request, will be provided as follows, including:

1. Notice To Agencies And Political Subdivisions: At least fifteen (15) days prior to the public hearing, the Director shall send notice to all political subdivisions providing services with the planning jurisdiction, including school districts and the manager or person in charge of the local public airport.

2. Legal Notice: At least fifteen (15) days prior to the public hearing, the Director shall publish a notice of the time and place in the official newspaper or paper of general circulation in the County.

3. Radius Notice: Will be provided in the same manner as originally provided on the application.



D. Decision: Following the hearing on the reconsideration, the Board may affirm, reverse or modify its prior decision and shall provide a written decision to the applicant and the affected person(s) within sixty (60) days of receipt of the request for reconsideration. If the Board fails to timely decide, the original decision of the Board will stand. In the event of a tie vote or inability to gain a quorum due to a conflict of interest or abstention, the failure to gain an affirmative action by the Board is considered a final decision of denial of the appeal and the underlying decision shall be deemed the final decision of the Board.

#### **12-266: MODIFICATION OF TERMS AND CONDITIONS OF PERMIT APPROVAL:**

A. The terms and conditions of the approval of any permit authorized or required in this title may be modified only by the Planning Director, Zoning Commission and/or Board as established in this section. This section applies to modifications of approved permits, including, but not limited to, conditional use permits, special use permits, variances, preliminary plats, final plats, lot line adjustments and planned unit developments.

B. Application for a modification of terms and conditions of approval shall be made to the Planning Department, on forms provided by the department, and accompanied by the fee specified in section [12-265](#) of this subchapter.

C. If applicable, a public hearing shall be scheduled and notice provided in accordance with the requirements for [in section 12-268 of this subchapter](#) ~~the original permit issuance~~.

D. The Planning Director, Zoning Commission and/or Board shall consider the proposed modification in accordance with the requirements for the original permit application and shall confine the review to the proposed modification.

E. The Planning Director, Zoning Commission and/or Board shall render a decision in writing on the proposed modification [in accordance with section 12-268 of this subchapter](#) ~~within five (5) working days~~ after consideration of the proposal, and the decision shall conform to the procedures, standards and requirements pertaining to the original permit.

#### **12-268: APPLICATION PROCESS, GENERAL PROVISIONS:**

Applications submitted for action under the provisions of this title shall be processed as follows:

A. All applications shall be submitted with their required fees to the Planning Department.

B. The Planning Department shall have thirty (30) days to examine the application to determine its completeness, based on the requirements provided in this title for each type of application. The Board, by resolution, may extend the thirty (30) day time period when extenuating circumstances merit an extension.

C. The Planning Director shall inform the applicant in writing if the application is incomplete and specify the items or information necessary to complete the application.

D. Applications which involve broadband infrastructure shall be processed in accordance with Idaho Code 67-6540.

~~—D. When the Planning Director has determined the application is complete and in compliance with this title, the Planning Director shall send copies of the application to public agencies and entities that may be affected by the proposal, including, but not limited to, the Health District, fire districts, irrigation or drainage districts, sewer and water districts, school districts, solid waste and transportation agencies and fish and wildlife agencies. The notice shall be sent at least twenty two (22) days prior to the public hearing.~~

~~E. When the Planning Director has determined the application is complete and in compliance with this title, the Planning Director shall provide public hearing notice in accordance with the requirements of Idaho Code 67-6509 and 67-6511. Notice shall include publication, posting, and mailed notice to property owners or purchasers of record within the land being considered, within the distance specified in Table E-1 below, based on the zoning designation of the subject property. In addition to the minimum noticing requirements of Idaho Code, the County shall provide an additional fifteen (15) calendar days of notice prior to the public hearing.~~

Table E-1: Mailed Notice Distance Requirements Based on Subject Property Zoning

<u>Zoning Districts</u>	<u>Mailed Notice Distance</u>
<u>Forestry</u>	<u>2800 feet</u>
<u>Agricultural/Forestry</u>	<u>2800 feet</u>
<u>Rural</u>	<u>1400 feet</u>
<u>Suburban</u>	<u>300 feet</u>
<u>Commercial</u>	<u>300 feet</u>
<u>Industrial</u>	<u>300 feet</u>
<u>Rural Service Center</u>	<u>300 feet</u>
<u>Recreation</u>	<u>300 feet</u>
<u>Alpine Village</u>	<u>300 feet</u>

~~E E.~~ Applications for permits within an Area of ~~City~~ Impact shall be noticed in accordance with the provisions of this subchapter and according to the ~~agreements applicable area of impact agreement for the individual community.~~

~~—F. Reserved.~~

G. Any permit application which relates to a public school facility or public emergency facility shall receive priority consideration and shall be reviewed at the earliest reasonable time, regardless of the timing of its submission, relative to other applications.

H. The Governing Body may consider related permits concurrently at a single public hearing for the convenience of the applicants and the public.

I. When the Governing Body has made a final decision on an application, the Planning Director shall provide notice to applicants of the final decision in writing within forty-five (45) working days of the date of the decision, unless otherwise specified by other provisions of this Title.