

Bonner County Planning Department

"Protecting property rights and enhancing property value"

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Board of County Commissioners Staff Report for February 3, 2025

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|---|--|
| Amendment Title | Creation of Title 16, Agriculture Protection Area |
| File Number, Type: | AM0009-24; Title 16 Text Amendment and Fee Schedule |
| Proposal: | <p><u>Title 16, Agriculture Protection Area</u></p> <ol style="list-style-type: none">1. Bonner County has drafted Title 16, Agricultural Protection Areas, as mandated by and in accordance with Idaho Code 67-97. This new title contains three chapters:<ol style="list-style-type: none">a. Chapter 1: Purpose, Application, and Procedures;b. Chapter 2: Agricultural Protection Area Commission and Meetings; andc. Chapter 3: Definitions |
| | <p><u>Title 16, Agriculture Protection Area Fee Schedule</u></p> <ol style="list-style-type: none">1. Bonner County is proposing a fee scheduled for the proposed Title 16 of Bonner County Revised Code. The proposed fees are to cover the actual cost of reviewing projects and administering requirements of the code. |
| Applicants: | Bonner County 1500 Highway 2, Suite 208 Sandpoint, ID 83864 |
| Project Representative: | Bonner County Planning Department |
| Notice of Text Amendment Provided: | Agency Notice: January 13, 2025 Published in Newspaper: January 16, 2025 |
| | Notice of the public hearing to consider the amendment to Title 12 has been provided at least 15 days prior to the hearing to the political subdivisions providing services in Bonner County, to area newspapers, radio and television stations, incorporated cities within Bonner County, and the school districts, consistent with Idaho Code §67-6509. |

Fee Notice provided:

Published in Newspaper: January 21, 2025 and January 28, 2025
Draft fee schedules have been posted on the planning department web page in accordance with Idaho Code §63-1311A.

Enclosure

Annex A – Notice of Public Hearing Record of Mailing
Annex B – Agency Comments
Annex C – Idaho Code 67-97, Agriculture Protection Area Act

Project Authority:

This Ordinance is proposed under the authority granted at Idaho Code:

- §31-714 through §31-716 (Board of County Commissioners)
- §31-801 (Powers And Duties Of Board Of Commissioners);
- §67-97 (Agriculture Protection Area Act)

The fee schedule is established under the authority granted at Idaho Code:

- §31-870, Powers & Duties of Board of Commissioners, Fees for County Services;
- §63-1311, Miscellaneous Provisions of Tax Law, Fees for services;
- §67-9704, Agriculture Protection Area Act;
- §63-1311A, Miscellaneous Provisions of Tax Law, Advertisement of and hearing on fee increases.

Public and Agency Comment:

Agency Review

A notice was provided to public agencies and political subdivisions in accordance with BCRC 12-268 and Idaho Code 67-6509, see Annex A for a complete agency notification list.

The following agencies replied:

None

The following agencies replied with “no comment”:

Idaho Department of Fish and Game

No other agency comments were received.

Public Comments: As of the date of this staff report, no public comments have been received in regard to the proposed amendment.

Proposed Code:

Typically, when code amendments are presented the proposed modifications are outlined in red and underlined. This proposal is to create a new title, Title 16, as found below, which currently does not exist in Bonner County Revised Code. The Agriculture Protection Areas Act, Idaho Code 67-97 was enacted by the Idaho Legislator, became effective on July 1, 2024, and required each County in Idaho to create an Agriculture Protection Area ordinance.

Title 16 Agricultural Protection Areas

BCRC TITLE 16, CHAPTER 1: PURPOSE, APPLICATION, AND PROCEDURES

16-101: PURPOSE:

The purpose of this title is to provide for a voluntary process through which agricultural and timber producers located within Bonner County may make application to commit lands actively devoted to agriculture for long-term future agricultural use. The Agricultural Protection Area (APA) designation process aims to protect productive farmland, rangeland, and forest land; promote farm viability; support the local agricultural economy; and provide for long-term planning stability. This title sets out the process for creation of Agricultural Protection Areas.

16-102 APPLICABILITY:

The provisions of this title shall apply to any person or legal entity that owns five (5) contiguous acres or more of land which has been in active agricultural or forest production for the previous three (3) consecutive years, consistent with the provisions of Idaho Code section 63-604 or section 63-1701 as applicable, and who voluntarily applies for that land to be designated as an agricultural protection area.

16-103 CREATION AND DESIGNATION OF APA:

An Agriculture Protection Area shall be designated as an "APA." An APA designation is a voluntary land use designation available to landowners who wish to protect their agricultural land from future nonagricultural development. To qualify for an APA designation, the land must be:

- A. At least five (5) contiguous acres,
- B. Actively devoted to an agricultural or forest purpose,
- C. Assessed as agriculture or forest land, and
- D. Located within a zone that allows for agricultural or forest use.

16-104 APPLICATION REQUIREMENTS:

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

- A. Application Form: A completed application form must be submitted with the property owner's signature, or with the applicant's signature together with a notarized letter from the property owner authorizing the applicant to file the permit application.
- B. Fees: An application fee shall be required to cover administrative costs, including, but not limited to, reviewing materials, conducting public meetings and hearings, processing and recording documents, and updating county land use maps. The application fee shall not exceed the actual costs of processing the application, in compliance with Section 67-9704(e) of Idaho Code. Fees as adopted by resolution of the Board of County Commissioners.
- C. Site Plan: A site plan must be submitted which is drawn to scale showing a north arrow, lot boundaries, location of all structures and utilities, the location, dimension and purpose of existing easements, the location of future structures, and other relevant information regarding the site and the request.
- D. Proof of property ownership.
- E. A legal description of the property proposed to be included in the APA.
- F. A narrative which describes in detail the existing conditions of the property and the nature of the proposal, including the following:
 - 1. A statement outlining the current contiguous acreages of land, land use, agricultural productivity, and other relevant characteristics of the land to be included in the APA.
 - 2. The number of years the land has been in agricultural or forest production, the types of agricultural or forest commodities produced, and the applicant's plan to continue using the land for agricultural or forest purposes.
 - 3. The reasons for seeking an APA designation.
 - 4. Any other information that may be relevant to the application.
- G. Relevant soil surveys, documentation of water rights, and any other environmental assessments which have been completed with respect to that property.

16-105 REVIEW AND APPROVAL PROCEDURE:

- A. Upon receipt of a complete and sufficient application, the APA commission shall review the proposal and make a recommendation to the Board of County Commissioners within sixty (60) days after the application has been determined

to be complete and sufficient.

- B. Evaluation of the application shall be based on the following criteria:
1. The total contiguous acreage of the property is at least five (5) acres in size and is actively devoted to agricultural or forest production.
 2. Whether the property that is the subject of the application is within or adjacent to an existing area of city impact.
 3. Possible conflicts with existing city annexation or development plans or agreements.
 4. Proximity to existing public rights of way.
 5. Proximity to planned transportation corridors or future public rights of way.
 6. Proximity to planned airport expansion or development.
 7. Proximity to planned development with existing entitlements.
 8. Agricultural production capability of the land within the proposed APA.
 9. Other local impacts relevant to the proposed APA.
- C. The Board of County Commissioners shall hold a public hearing and issue its decision within sixty (60) days after the APA commission issues its recommendation to the Board of County Commissioners. Notice of the hearing shall be published in a newspaper of general circulation in Bonner County at least fourteen (14) days before the hearing date. Written comments on the application may be accepted at any time before the hearing and at the hearing. The hearing on the request for APA designation shall be conducted in accordance with Idaho Code section 67-6509.
- D. Failure to make a decision shall render the APA commission's recommendation final.
- E. The Board of County Commissioners' order of decision shall cite the applicable legal standards, state the evidence and conclusions on which the decision was based, and explain any relevant contested facts and its evaluation of those facts.
- F. The Board of County Commissioners may place conditions of approval of an APA designation, including, but not limited to, setbacks from existing public rights of way, setbacks from existing public structures, or a review of the land's APA designation after twenty (20) years. Decisions of approval shall include any conditions of approval.
- G. Upon making a decision of approval, the Board of County Commissioners shall:
1. Record the order of decision approving the APA designation, including a legal description of the area within the designated APA, with the office of the

Bonner County Recorder, at the property owner's expense, within ten (10) days after issuance of the order of decision;

2. Direct the amendment of the future land use map in the County Comprehensive Plan to reflect the boundaries of the APA; and
3. Notify relevant public officials and agencies of the designation.

16-106 RECONSIDERATION:

- A. Reconsideration: Every applicant or affected person seeking judicial review of the Board of County Commissioners' final decision must first file with the Board of County Commissioners a motion for reconsideration of the Board of County Commissioners' 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 of County Commissioners 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 of County Commissioners grants reconsideration in whole or in part, a hearing before the Board of County Commissioners 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 of County Commissioners 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 Planning 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 Planning 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 of County Commissioners 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 of County Commissioners fails to timely decide, the original decision of the Board of County Commissioners will stand.

16-107 EXPANSION OR MODIFICATION OF AN APA:

- A. An expansion, modification, or removal of an existing APA shall comply with the same application, review, and hearing procedures outlined in this title.
- B. Any expansion of an APA shall be contiguous to an existing APA.

16-108 RENEWAL OR TERMINATION OF AN APA:

Twenty (20) years after the creation of an agricultural protection area, if the landowner desires to continue with the agricultural protection area, no action on the part of the landowner is necessary and the board of county commissioners shall automatically renew the agricultural protection area for another twenty (20) years, in accordance with Idaho Code 67-9708.

If the landowner desires to terminate the agricultural protection area, written notice to the Board of County Commissioners, along with the applicable fee, are required at least ninety (90) days prior to the expiration of the agricultural protection area before the board of county commissioners terminates the designation, in accordance with Idaho Code 67-9708.

Early termination of the APA may be requested via application and the applicable fee, in accordance with Idaho Code 67-9709, and shall only be approved upon proof of a hardship by clear and convincing evidence. The owner seeking to terminate an APA shall bear the burden of proof, including the burden of going forward with evidence and the burden of persuasion. The request for early termination shall be in accordance with Idaho Code 67-9709.

16-109 DURATION OF DESIGNATION:

Lands designated as an APA shall remain so designated for a period of no less than twenty (20) years unless terminated pursuant to section 16-108 of this title. A property owner who intends to end an approved APA designation after twenty (20) years must notify the Planning Department in writing prior to the end of the then-current period. Failure of the owner to so notify the Planning Department will result in the continuation of the APA designation for another period of twenty (20) years.

16-110 PROHIBITION OF USES AND ENFORCEMENT:

- A. Unless otherwise approved by the Board of County Commissioners, the following land uses shall be prohibited within an APA:
 - 1. The siting of large confined animal feeding operations (CAFOs);
 - 2. The siting of residential, commercial, manufacturing, industrial, solar energy, wind energy, or battery storage structures; or
 - 3. Any other nonagricultural land uses.

BCRC TITLE 16, CHAPTER 2: AGRICULTURAL PROTECTION AREA COMMISSION AND MEETINGS

16-201: AGRICULTURAL PROTECTION AREA COMMISSION:

- A. Establishment. An Agricultural Protection Area Commission (“the APA Commission”) is hereby established in and for the County pursuant to Idaho Code Title 67, Chapter 97. The APA Commission shall consist of five (5) members appointed by majority vote of the Board of County Commissioners. Members shall be selected without regard to political affiliation and shall serve without compensation, provided, however, that actual and necessary expenses shall be allowed if approved by the Board of County Commissioners.
- B. Qualifications. Commission members shall meet the requirements of Idaho Code 67-9705.
- C. Terms of Office. The terms of office for APA Commission members shall conform to the requirements of Idaho Code section 67-9705 and shall be for three (3) years. Positions A and B shall first expire December 31, 2025, and then every three (3) years thereafter. Positions C and D shall expire December 31, 2026, and every three (3) years thereafter. Position E shall expire December 31, 2027, and every three (3) years thereafter. Expired or vacant positions shall be filled within ninety (90) days. 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. Removal of Members. Any member of the APA Commission may be removed for cause by a majority vote of the Board of County Commissioners. Any member who is absent from any series of three (3) consecutive regular and/or special meetings and study sessions, without the formal consent of the APA Commission, or who fails to attend at least seventy five percent (75%) of such regular and special meetings and study sessions, in any one calendar year, may be removed by the Board of County Commissioners.
- E. Chair. Once every year, at the regular meeting held in February, or the first regular meeting thereafter, the APA Commission shall select one of its members as Chair of the APA Commission and one of its members as Vice Chair.
- F. Powers and Duties. The APA Commission shall act in an advisory capacity to the Board of County Commissioners, and shall perform such duties as may be required under Idaho Code 67-97.
- G. Procedural Rules. The APA Commission may adopt such bylaws or rules of procedure as it may deem necessary to properly exercise its powers and duties. Such rules shall be kept on file with the Planning Department and a copy thereof shall be furnished to any person upon request.
- H. Liability. Neither the APA Commission, nor any person connected with the APA Commission, shall incur any financial liability in the name of the County.

16-202 AGRICULTURAL PROTECTION AREA MEETINGS:

- A. Time of Meetings. Once each year, the Planning Director shall publish the APA Commission's monthly meeting schedule for the following year. Special meetings may be called at any time by the Chair of the APA Commission or by the Planning Director, subject to the notification requirements set forth herein.
- B. Quorum. A majority of the filled positions on the APA Commission shall constitute a quorum for the purpose of conducting the APA Commission's business, provided there are at least three (3) filled positions. For purposes of determining a quorum, a member who is present, but who cannot hear or deliberate on an application because of a conflict of interest, shall be counted as a member present for quorum purposes.
- C. Record of Proceedings: Minutes shall be kept of all APA Commission proceedings, and a recording of all APA Commission proceedings shall be kept. Voting: Each member of the APA Commission which does not have a conflict as defined in section 67-6506, Idaho Code, including the Chair, Chair pro tem and Vice Chair, shall be entitled to one vote on each matter before the APA Commission.

BCRC TITLE 16, CHAPTER 3: DEFINITIONS

16-301 GENERAL RULES FOR USE OF LANGUAGE:

- A. All provisions, terms, phrases and expressions contained in this title shall be constructed in accordance with the following general rules:
 - 1. In any case of any difference of meaning or implication between the text of this chapter and any heading, drawing, table, figure or illustration, the more restrictive text shall control.
 - 2. Unless otherwise specifically indicated, lists of items or examples that use terms such as "including", "such as", or similar language are intended to provide examples and not to be exhaustive lists of all possibilities.
 - 3. References to days are calendar days unless otherwise stated. Excluding the first day and including the last day shall determine the time in which an act is to be done. If the last day is a Saturday, Sunday or holiday observed by Bonner County, that day shall be excluded.
 - 4. Whenever reference is made to a resolution, ordinance, statute, regulation or document, it shall be construed as a reference to the most recent edition or amendment of such resolution, ordinance, statute, regulation or document, unless otherwise specifically stated.
 - 5. Terms not defined within this title shall have the meaning customarily assigned to them as defined in Webster's dictionary ("The Merriam-Webster Collegiate Dictionary", eleventh edition).
 - 6. All public officials, bodies, and agencies to which references are made are those of Bonner County, unless otherwise indicated.

7. The words "shall", "will", and "must" are always mandatory. The words "may" and "should" are advisory and discretionary terms.
8. The words used in one tense (past, present, or future) include all other tenses, unless the context clearly indicates the contrary.
9. The singular includes the plural and the plural includes the singular (including numeric values), i.e., truck vs. trucks.
10. Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:
 - a. "And" indicates that all connected items, conditions, provisions or events apply.
 - b. "Or" indicates that one or more of the connected items, conditions, provisions or events may apply or be optional.
11. The word "lot" includes the words "plot", "parcel", or "tract".
12. The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

16-302 DEFINITIONS:

AGRICULTURE PRODUCTION: Activities or conditions conducted on land actively devoted to agriculture as defined in Idaho Code section 63-604 or on forest land as defined in Idaho Code section 63-1701.

AGRICULTURE PROTECTION AREA (APA): One or more specific parcels of land in a designated geographic area voluntarily created under the authority of this title for the purpose of protecting and preserving agricultural land.

AGRICULTURE PROTECTION AREA COMMISSION (APA Commission): The advisory board to the Board of County Commissioners created pursuant to Idaho Code section 67-9705 and section 16-201 of this title.

AREA OF IMPACT (AOI): An area designated by county ordinance which is adjacent to a city and where city growth and development are expected to occur.

APPLICANT: Anyone who owns five (5) acres or more of land that has been in active agricultural or forest production for the previous three (3) consecutive years, consistent with the provisions of Idaho Code sections 63-604 and 63-1701 and who voluntarily applies for that land to be part of an agricultural protection area.

HARDSHIP: A situation or circumstance over which an owner of property designated as an agricultural protection area has no control, including, without limitation, an adverse result in litigation against the farm or landowner, death of the owner or a family member that would lead to unanticipated financial hardships, significant tax liabilities, bankruptcy due to another person's fraud, or any other illegal activity.

NUISANCES (1) Recognizing that Idaho is a right-to-farm state and that agricultural operations and agricultural facilities pursuant to chapter 45, title 22, Idaho Code, are protected from nuisance actions if they follow generally recognized farming practices, a political subdivision shall ensure that any of its laws or ordinances that define or prohibit a public nuisance shall exclude agricultural protection areas from its definition or from any prohibition for any agricultural activity or operation within an agricultural protection area as long as those agricultural activities or operations follow generally recognized farming practices.

(2) In a civil action for nuisance or criminal action for public nuisance, it is a complete defense if the action involves otherwise lawful agricultural activities that were:

(a) Conducted within an agricultural protection area; and

(b) Not in violation of any federal, state, or local law or regulation relating to the alleged nuisance and were conducted using generally recognized farming practices.

PLANNING DIRECTOR: An official appointed by the board who has knowledge in the practice of planning and zoning or his or her designee or appointee.

Staff Analysis and Conclusion:

Idaho Code 67-97, effective July 1, 2024, requires all counties in Idaho to adopt an ordinance establishing procedures for the creation and management of Agricultural Protection Areas (APAs). The intent of this legislation is to preserve agricultural and forest land, promote agricultural viability, and support long-term land use planning in alignment with local and state priorities.

The proposed Title 16 meets the statutory requirements set forth in Idaho Code 67-9704 by outlining clear procedures for the designation, expansion, modification, and renewal of APAs. The ordinance provides landowners with a voluntary mechanism to protect agricultural and forest land from non-agricultural development. Key provisions of the ordinance include:

1. **Eligibility Requirements:** The ordinance aligns with Idaho Code by setting a minimum parcel size of five contiguous acres and requiring active agricultural or forest production for at least three consecutive years.
2. **Application Process:** The draft includes detailed application requirements, such as property ownership documentation, site plans, and a narrative describing the agricultural or forest use. These requirements ensure a thorough evaluation of the land's suitability for APA designation.
3. **Review and Decision-Making:** The ordinance establishes a structured process for application review, including evaluation criteria that address potential conflicts with development plans, transportation corridors, and public infrastructure. The inclusion of specific timeframes for decision-making by the APA commission and the Board of County Commissioners promotes transparency and predictability.

4. Reconsideration and Appeals: The inclusion of a reconsideration process provides landowners and affected parties with a clear mechanism to address objections, ensuring compliance with procedural due process.
5. Long-Term Management: Provisions for renewal, modification, and termination of APAs establish a framework for long-term stewardship of agricultural and forest lands. The requirement for periodic review after 20 years reflects a balance between permanence and adaptability to changing land use needs.

The proposed Title 16 provides a well-structured framework for implementing Agricultural Protection Areas in Bonner County. It fulfills the statutory requirements of Idaho Code 67-97 and meets the statutory intent of preserving agricultural and forest lands.

Planner's Initials: JG

Date: January 24, 2025

Note: The final decision rests with the governing body after the completion of the public hearing and consideration of all relevant oral and written testimony and evidence.

Motion by the Governing Body:

BOARD OF COUNTY COMMISSIONERS

MOTIONS TO ADOPT/DENY THE TITLE 16 TEXT:

MOTION TO APPROVE: I move to approve this FILE AM0009-24 to adopt Title 16, Bonner County Revised Code, finding that it **is** in accord with Idaho Code 67-97, The Agriculture Protection Area Act. This decision is based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. I further move to adopt the findings of fact and conclusions of law as set forth in the Staff Report (or as amended during this hearing) and direct planning staff to draft written findings and conclusions to reflect this motion, have the Chairman sign, and transmit to all interested parties. This action does not result in a taking of private property.

BOARD MOTION TO ADOPT ORDINANCE (Roll Call Vote): I move to approve an Ordinance of Bonner County, Idaho, the number to be assigned, citing its authority, and providing for the adoption of Title 16, Bonner County Revised Code as presented or amended in this hearing, and providing for an effective date.

MOTION TO DENY: I move to approve this FILE AM0009-24 to adopt Title 16, Bonner County Revised Code, finding that it **is not** in accord with Idaho Code 67-97, The Agriculture Protection Area Act. This decision is based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. I further move to adopt the findings of fact and conclusions of law as set forth in the Staff Report (or as amended during this hearing) and direct planning staff to draft written findings and conclusions to reflect this motion, have the Chairman sign, and transmit to all interested parties. This action does not result in a taking of private property.

Findings of Fact:

1. In 2024, the Idaho Legislature adopted House Bill 608, as amended in the Senate, which added a new chapter to the Idaho Code, namely 67-97, entitled the "Agricultural Protection Area Act"
2. The Agricultural Protection Area Act, Idaho Code 67-97 requires each Board of County Commissioners in Idaho to establish an agricultural protection area ordinance in accordance with the notice and hearing procedures in Idaho Code section 67-6509 no later than January 1, 2025.
3. The Agricultural Protection Area Act also requires each Board of County Commissioners in Idaho to establish, by either resolution or ordinance, an agricultural protection area commission pursuant to Idaho Code section 67-9705 no later than January 1, 2025.
4. The Bonner County Board of Commissioners desires to comply with the above-referenced requirements; and
5. The Bonner County Board of Commissioners desires to promote the long- term use of lands for agricultural and timber production in conjunction with the legislative intent articulated in Idaho Code section 67-9702
6. The proposed Title 16 is in accordance with the provision of Idaho Code 67-97.
7. The Board of County Commission held a duly noticed public hearing on February 3, 2025.

Proposed Fee Schedule:

| ITEM | FEE |
|--|--|
| Agricultural Protection Area (APA) Fees | |
| APA Designation Application | \$650 |
| APA Expansion or Modification Application | \$650 |
| Appeal/Reconsideration | \$300 |
| APA Renewal Request | \$0 |
| APA Termination Request | \$450 |
| Recording Fees | As per Recorder's Office Fee Schedule |
| Technology Fee | \$30 added to each application/request |
| Request by applicant to reschedule public hearing | \$250 |

The Board of County Commissioners has the authority to establish fees for the administration of the Agriculture Protection Area ordinance under the following provisions of Idaho Code:

- Idaho Code §31-870, Powers & Duties of Board of Commissioners, Fees for County Services: 1) *"Notwithstanding any other provision of law, a board of county commissioners may impose and collect fees for those services provided by the county which would otherwise be funded by ad valorem tax revenues. The fees collected pursuant to this section shall be reasonably related to, but shall not exceed, the actual cost of the service being rendered..."*
- Idaho Code §63-1311, Miscellaneous Provisions of Tax Law, Fees for services. *"(1) Notwithstanding any other provision of law, the governing board of any taxing district may impose and cause to be collected fees for those services provided by that district which would otherwise be funded by property tax revenues. The fees collected pursuant to this section shall be reasonably related to, but shall not exceed, the actual cost of the service being rendered."*
- Idaho Code §67-9704, Agriculture Protection Area Act, the ordinance shall *"(e) Establish an application fee to cover the administrative costs of processing applications, including but not limited to reviewing application materials, holding public meetings and hearings, providing public notice, recording applicable documents, and updating county land use maps, provided that such fee shall not exceed the actual costs of processing the application."*
- Idaho Code §63-1311A, Miscellaneous Provisions of Tax Law, Advertisement of and hearing on fee increases. *"No taxing district may make a decision approving a fee increase that is in excess of five percent (5%) of the amount of the fee last collected or a decision imposing a new fee, unless it first holds a hearing upon such proposed fee increase or fee imposition at a regular or special meeting of the district's governing body and after it gives public notice of such hearing in the manner provided in this section. Any taxing district that is required to hold a hearing and give public notice of the hearing as provided in this section, and which fails to do so, shall have the validity of all or a portion of the fee increase that it collects be voidable."*

Staff Analysis:

Idaho Code 67-9704 requires the BOCC adopt an applicant fee to cover the administrative cost of processing APA applications. Generally, rate and time studies are completed to ensure applications fees are the appropriate amount to cover the total cost of reviewing an application. The APA ordinance is new both to the State and County, and there have been no applications by which a rate study could be performed. Given that, staff has communicated with other Idaho county planning departments to ensure Bonner County APA fees are in general alignment with other county's fees. Staff anticipates performing a rate study within the next two years, so long as there are APA applications to review.

Motion by the Governing Body:

MOTION TO APPROVE: I move to approve and adopt the Official Fee Schedules for Title 16 for the Bonner County Planning Department, finding the proposed fee schedules are in accord with the findings of fact and conclusions of law. I further move to adopt Board of Commissioners' Resolution No. _____, enacting the Official Fee Schedule for Title 16.

MOTION TO DENY: I move to deny the Official Fee Schedules for Titles 16, finding the proposed fee schedules are not in accord with the findings of fact and conclusions of law because [state reasons for denial].

Findings of Fact and Conclusions of Law:

1. The Board of Commissioners desires to ensure costs for processing agriculture protection area applications are borne by the applicants rather than the general taxpaying public.
2. The Board is charged with the fiscal management of the planning department.
3. Fees and the process for charging those fees are authorized by Idaho Code at 31-870, 63-1311, and 67-9704; Idaho Code, and pursuant to the procedural requirements contained at Sections 63-1311A, Idaho Code.

The complete file is available for review in the Planning Department, 1500 Highway 2, Suite #208, Sandpoint, ID. Staff reports are available online prior to the scheduled hearing at www.bonnercountyid.gov Bonner County Revised Code (BCRC) is available at the Planning Department or online.

Annex A – Notice of Public Hearing Record of Mailing



NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Board of County Commissioners will hold a public hearing beginning at **1:30 p.m.** on **Monday, February 3, 2025**, in the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho, by Zoom teleconference, and YouTube Livestream to consider the following requests:

File AM0009-24 – Addition of Title 16, Agricultural Protection Area

The Board of County Commissioner has drafted Title 16, Agricultural Protection Areas, as mandated by and in accordance with Idaho Code 67-97. This new title contains three chapters: Chapter 1: Purpose, Application, and Procedures; Chapter 2: Agricultural Protection Area Commission and Meetings; and Chapter 3: Definitions.

**** Written statements must be submitted to the planning department record no later than seven (7) days prior to the public hearing.** Written statements not exceeding one standard letter sized, single spaced page may be submitted at the public hearing. Comments can be sent to the Bonner County Planning Department at 1500 Highway 2, Suite 208, Sandpoint, Idaho 83864; faxed to (208) 265-1463 or e-mailed to planning@bonnercountyid.gov. Additional information is available at the planning department. Staff reports are available at the planning department or may be viewed at www.bonnercountyid.gov prior to the scheduled hearing.

During the hearing for this application, the public will be given an opportunity to provide testimony and/or evidence regarding how the proposal does or does not comply with the applicable approval criteria of the Bonner County Revised Code. At the close of the public hearing, the Board of County Commissioners will make a decision on the application that may include, but is not limited to, approval, denial, remand, or continuance of the public hearing.

If interested in participating, please visit our website for details at: bonnercountyid.gov/departments/planning/public-hearings/meetings

Please be advised the referenced start time stated above reflects the beginning of the hearings. File start times and hearing durations will vary.

Any person needing special accommodations to participate in the public hearing should contact the Bonner County Planning Department at (208) 265-1458 at least 48 hours prior to the scheduled hearing.

I hereby certify that a true and correct copy of the foregoing "Notice of Public Hearing" was mailed (postage prepaid) on this **13th day of January 2024.**

A handwritten signature in cursive script that reads "Jessica Montgomery".

Jessica Montgomery, Hearing Coordinator

RECORD OF MAILING

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| PEND OREILLE HOSPITAL DISTRICT 520 NORTH 3RD. AVENUE SANDPOINT, IDAHO 83864 | LAKE PEND OREILLE SCHOOL DISTRICT #84 ADMINISTRATION OFFICE 901 TRIANGLE DRIVE PONDERAY, IDAHO 83852 | WEST BONNER WATER & SEWER DISTRICT 215 N. WASHINGTON AVE. OLDTOWN, IDAHO 83822 | SPIRIT LAKE FIRE DISTRICT POST OFFICE BOX 116 SPIRIT LAKE, IDAHO 83869 |
| TRESTLE CREEK SEWER DISTRICT 298 TRAILER HAVEN ROAD HOPE, IDAHO 83836 | BOTTLE BAY WATER & SEWER DISTRICT POST OFFICE BOX 304 SAGLE, IDAHO 83860 | DRAINAGE DISTRICT #7 c/o John Simpson Post Office Box 722 Spirit Lake, IDAHO 83869 | GARFIELD BAY WATER & SEWER DISTRICT POST OFFICE BOX 27 PONDERAY, IDAHO 83852 |
| SPOKESMAN-REVIEW 999 W RIVERSIDE AVENUE SPOKANE, WASHINGTON 99201 | GEM STATE MINER 421 S. SPOKANE AVENUE NEWPORT, WASHINGTON 99156 | SAGLE VALLEY WATER & SEWER POST OFFICE BOX 2402 SANDPOINT, IDAHO 83864 | KOOTENAI-PONDERAY SEWER DISTRICT POST OFFICE BOX 562 KOOTENAI, IDAHO 83840-0562 |
| NORTH OF THE NARROWS FIRE DISTRICT 14374 EASTSHORE ROAD COOLIN, IDAHO 83821 | CITY OF DOVER POST OFFICE BOX 115 DOVER, IDAHO 83825-0115 | CITY OF PRIEST RIVER POST OFFICE BOX 415 PRIEST RIVER, IDAHO 83856 | SWAN SHORES SEWER DISTRICT c/o LARRY DALKE 135 SWAN SHORES DRIVE SAGLE, IDAHO 83860 |
| BAYVIEW WATER & SEWER POST OFFICE BOX 637 BAYVIEW, IDAHO 83803 | SELKIRK RECREATION DISTRICT 7100 SCHWEITZER MTN. RD. SANDPOINT, IDAHO 83864 | PRIEST LAKE TRANSLATOR POST OFFICE BOX 53 COOLIN, IDAHO 83821 | OUTLET BAY SEWER DISTRICT 149 OUTLET BAY ROAD PRIEST LAKE, IDAHO 83856 |
| WEST BONNER COUNTY SCHOOL DISTRICT #83 134 MAIN STREET PRIEST RIVER, IDAHO 83856 | SOUTHSIDE WATER & SEWER DISTRICT POST OFFICE BOX D SANDPOINT, IDAHO 83864 | WEST BONNER LIBRARY 118 MAIN STREET PRIEST RIVER, IDAHO 83856 | WEST BONNER COUNTY CEMETERY DISTRICT ATTN: FONDA JOVICK 50 MAIN STREET, STE. 201 PRIEST RIVER, IDAHO 83856 |
| WEST PEND OREILLE FIRE DISTRICT POST OFFICE BOX 1267 PRIEST RIVER, IDAHO 83856 | COOLIN SEWER DISTRICT POST OFFICE BOX 86 COOLIN, IDAHO 83821 | EAST BONNER LIBRARY 1407 W. CEDAR STREET SANDPOINT, IDAHO 83864 | LACLEDE WATER DISTRICT POST OFFICE BOX 222 LACLEDE, IDAHO 83841 |
| KSPT-KPND-KIBR RADIO 327 MARION SANDPOINT, IDAHO 83864 | US FOREST SERVICE PRIEST LAKE AIRPORT 32203 HIGHWAY 57 PRIEST RIVER, IDAHO 83865 | SELKIRK ASSOCIATION OF REALTORS 325 S. MARION SANDPOINT, IDAHO 83864 | KALISPELL BAY SEWER & WATER POST OFFICE BOX 517 NORDMAN, IDAHO 83848 |
| CITY OF CLARK FORK POST OFFICE BOX 10 CLARK FORK, IDAHO 83811 | CITY OF HOPE POST OFFICE BOX 277 HOPE, IDAHO 83836 | CITY OF KOOTENAI POST OFFICE BOX 566 KOOTENAI, IDAHO 83840 | CITY OF SANDPOINT 1123 LAKE STREET SANDPOINT, IDAHO 83864 |
| CITY OF PONDERAY POST OFFICE BOX 500 PONDERAY, IDAHO 83852 | SAM OWEN FIRE DISTRICT POST OFFICE BOX 344 HOPE, IDAHO 83836 | LITTLE BLACKTAIL RANCH WATER POST OFFICE BOX 2788 HAYDEN, IDAHO 83835 | WEST PRIEST LAKE FIRE DISTRICT POST OFFICE BOX 450 NORDMAN, IDAHO 83848 |
| SCHWEITZER FIRE DISTRICT 7094 SCHWEITZER MOUNTAIN ROAD SANDPOINT, IDAHO 83864 | WESTSIDE FIRE DISTRICT 1123 LAKE STREET SANDPOINT, IDAHO 83864 | SELKIRK FIRE, RESCUE & EMS 1123 LAKE STREET SANDPOINT, IDAHO 83864 | NORTHLAND CABLE TV POST OFFICE BOX 1488 SANDPOINT, IDAHO 83864 |
| COOLIN-CAVANAUGH BAY FIRE DISTRICT POST OFFICE BOX 6 COOLIN, IDAHO 83821 | ELLISPORT BAY SEWER POST OFFICE BOX 455 HOPE, IDAHO 83836 | NORTHSIDE FIRE DISTRICT POST OFFICE BOX 181 PONDERAY, IDAHO 83852 | INDEPENDENT HIGHWAY DISTRICT POST OFFICE BOX 1047 SANDPOINT, IDAHO 83864 |
| BONNER COUNTY DAILY BEE POST OFFICE BOX 159 SANDPOINT, IDAHO 83864 | KPBX-FM 91 SPOKANE PUBLIC RADIO 1229 NORTH MONROE SPOKANE, WASHINGTON 99205 | GRANITE REEDER SEWER & WATER DISTRICT POST OFFICE BOX 456 NORDMAN, IDAHO 83848 | PRIEST LAKE PUBLIC LIBRARY DISTRICT 28769 HIGHWAY 57 PRIEST LAKE, IDAHO 83856 |
| CITY OF OLDTOWN 215 N. WASHINGTON AVE. OLDTOWN, IDAHO 83822 | CITY OF EAST HOPE POST OFFICE BOX 186 HOPE, IDAHO 83836 | TIMBER LAKE FIRE DISTRICT POST OFFICE BOX 810 ATHOL, IDAHO 83801 | PANHANDLE HEALTH DISTRICT 2101 PINE STREET SANDPOINT, IDAHO 83864 |
| LAKELAND JT SHCOOL DISTRICT #272 15506 N. WASHINGTON STREET RATHDRUM, IDAHO 83858 | BAY DRIVE RECREATION DISTRICT 100 BAY DRIVE SAGLE, IDAHO 83860 | BONNER COUNTY AMBULANCE 521 N 3RD AVENUE SANDPOINT, IDAHO 83864 | SANDPOINT AIRPORT 100 AIRPORT WAY SANDPOINT, IDAHO 83864 |
| PRIEST RIVER AIRPORT 15396 HIGHWAY 57 PRIEST RIVER, IDAHO 83856 | STATE OF IDAHO TRANSPORTATION DEPARTMENT AERONAUTICE POST OFFICE BOX 7129 BOISE, IDAHO 83707-1129 | BONNER COUNTY ROAD DEPARTMENT | IDAHO TRANSPORTATION DEPARTMENT 600 WEST PRAIRIE AVENUE COEUR D'ALENE, IDAHO |
| EAST PRIEST LAKE FIRE DISTRICT 48 E. LAKE TROUT LN COOLIN, ID 83821 | | | |

FILE NO.: AM0009-24

HEARING DATE: February 3, 2025

PAGE 1 OF 1

RECORD OF MAILING APPROVED BY: _____

I hereby certify that a true and correct copy of the "Notice of Public Hearing" was mailed to the entities listed above (postage prepaid), on this 13th day of January 2025.



Jessica Montgomery, Hearing Coordinator



Jessica Montgomery <jessica.montgomery@bonnercountyid.gov>

Notice of Public Hearing - File AM0009-24 - Text Amendment

1 message

Bonner County Planning Department <planning@bonnercountyid.gov> Mon, Jan 13, 2025 at 11:48 AM
 To: Army Corps of Engineers <CENWW-RD-CDA@usace.army.mil>, Assessors Office Group <assessorsgroup@bonnercountyid.gov>, Avista Copr - Jay West <jay.west@avistacorp.com>, Bay Drive Recreation District <kirbymc45@gmail.com>, Bayview Water & Sewer <bwsd637@gmail.com>, BC Airport Manager Dave Schuck <dave.schuck@bonnercountyid.gov>, BC EMS Jeff Lindsey <jeff.lindsey@bonnercountyid.gov>, Bonner Sheriff <bonnersheriff@bonnerso.org>, Brenna Garro <Brenna.Garro@oer.idaho.gov>, Bryan Quayle <quaylelanduseconsulting@gmail.com>, City of Clark Fork <city@clarkforkidaho.org>, City of Dover <cityclerk@cityofdoveridaho.org>, City of East Hope <easthope.city@gmail.com>, City of Hope <hopecityclerk@gmail.com>, City of Kootenai - Ronda Whittaker <cityclerk@cityofkootenai.org>, City of Oldtown <cityofoldtown@hotmail.com>, City of Ponderay KayLeigh Miller <klmiller@ponderay.org>, City of Priest River <layers@priestriver-id.gov>, City of Sandpoint <cityplanning@sandpointidaho.gov>, City of Spirit Lake <cityclerk@spiritleakeid.gov>, Coolin Sewer <coolinsewer@gmail.com>, Coolin-Cavanaugh Bay Fire District <coolinfirechief@gmail.com>, DEQ <deqcomments@deq.idaho.gov>, Drainage District #7 Kim Hoodenpyle <kjh5345@gmail.com>, East Bonner Library <vanessa@ebonnerlibrary.org>, East Priest Lake Fire Chief Tom Renzi <epfldchief@gmail.com>, Ellisport Bay Sewer District <clerk@ebsewerdistrict.com>, Facilities Director LPOSD #84 <matt.diel@lposd.org>, Garfield Bay Water and Sewer District Clerk <garfieldbaywsd@hotmail.com>, Granite Reeder Sewer District <granitereeder@gmail.com>, ID State Historical Society - Dave Everhart <dan.everhart@ishs.idaho.gov>, Idaho Department of Fish & Game <merritt.horsmon@idfg.idaho.gov>, IDL - Mike Ahmer <mahmer@idl.idaho.gov>, "IDL - Nav. Waters Ryan Zandhuisen" <RZandhuisen@idl.idaho.gov>, IDL - Pend Oreille Lake Supervisory <esjoquist@idl.idaho.gov>, IDL - Priest Lake Supervisory Area <dbrown@idl.idaho.gov>, IDWR Chase Bell <chase.bell@idwr.idaho.gov>, Independent Hwy Dist - Julie Bishop <ihdclerk@gmail.com>, ITD <D1Permits@itd.idaho.gov>, Jack Schenck Vyve/Northland Cable <Jack.schenck@vyvebb.com>, Jason Johnson <jason.johnson@bonnercountyid.gov>, Kenny Huston <kenny.huston@oer.idaho.gov>, Kootenai Ponderay Sewer District <CJohnson@kootenaiponderaysewerdistrict.org>, Laclede Water District <LWdistrict@frontier.com>, Lakeland Joint School District #272 <cpursley@lakeland272.org>, Lakeland Joint School District #272 Jessica Grantham <jessica.grantham@lakeland272.org>, Lisa Rosa <hr@ebonnerlibrary.org>, North of the Narrows Fire Dept <Huckbay2501@gmail.com>, Northern Lights - Kristin Mettke <kristin.mettke@nli.coop>, Northside Fire District - Karen Quenell <kquenell@northsidefire.org>, Outlet Bay Sewer District <outletbaysewer@gmail.com>, Pend Orielle Hospital District <kim.kichenmaster@bonnergeneral.org>, PHD <EHapplications@phd1.idaho.gov>, Priest Lake Public Library District <plplibrary@hotmail.com>, Priest Lake Translator District - Frankie Dunn <Frankiejdunn@hotmail.com>, Road & Bridge - Matt Mulder <matt.mulder@bonnercountyid.gov>, Ruen Yeager <planning@ruenyaeager.com>, Sagle Valley Water & Sewer District <saglewatersewer@gmail.com>, Sam Owen Fire Rescue Sam Owen Fire Rescue <sofd@wow-tel.net>, School District #83 - Joseph Kren <joekren@sd83.org>, School District 84 Transportation - James Koehler <james.koehler@lposd.org>, "Schweitzer Fire, Spencer Newton" <firedistrict@msn.com>, Selkirk Association of Realtors Danielle <danielle@selkirkaor.com>, Selkirk Fire Gavin Gilcrease <ggilcrease@sandpointidaho.gov>, Selkirk Recreation District <selgar@mac.com>, Southside Water and Sewer <southsidewaterandsewer@swsdidaho.org>, "Spirit Lake Fire Dept. (Debbie Carpenter)" <chief@spiritleakefire.com>, "Superintendent No. 84 Becky Meyer" <becky.meyer@lposd.org>, Superintendent School Dist 84 <kelly.fisher@lposd.org>, Syringa Heights Water <allwater49@outlook.com>, Timberlake Fire <kwright@timberlakefire.com>, Trestle Creek Sewer District Janice Best <janicesb@televar.com>, US Fish & Wildlife Services - Christy Johnson Hughes <FW1idahoconsultationrequests@fws.gov>, West Bonner Library <meagan@westbonnerlibrary.org>, West Pend Oreille Fire District <wpofd1@gmail.com>, West Priest Lake Fire Josh Gilbert <WPLFD.Chief@gmail.com>
 Cc: Alexander Feyen <alexander.feyen@bonnercountyid.gov>, Jacob Gabell <jake.gabell@bonnercountyid.gov>

The above-named application has been submitted to the Bonner County Planning Department for processing.

Please review the application relative to your agency's area of expertise and include any recommended conditions of approval and supporting code sections. Please see attached for details.

Thank you,

Jessica Montgomery, Hearing Coordinator

Bonner County Planning Department
(208) 265-1458 x1277



Notice - TEXT Notice BOCC.pdf
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NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Board of County Commissioners will hold a public hearing beginning at **1:30 p.m. on Monday, February 3, 2025**, in the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho, by Zoom teleconference, and YouTube Livestream to consider the following requests:

File AM0009-24 – Title 16, Agricultural Protection Area (APA) Fee Schedule

Bonner County is proposing a fee scheduled for the proposed Title 16 of Bonner County Revised Code. The proposed fees are to cover the actual cost of reviewing projects and administering requirements of the code.

**** Written statements must be submitted to the planning department record no later than seven (7) days prior to the public hearing.** Written statements not exceeding one standard letter sized, single spaced page may be submitted at the public hearing. Comments can be sent to the Bonner County Planning Department at 1500 Highway 2, Suite 208, Sandpoint, Idaho 83864; faxed to (208) 265-1463 or e-mailed to planning@bonnercountyid.gov. Additional information is available at the planning department. Staff reports are available at the planning department or may be viewed at www.bonnercountyid.gov prior to the scheduled hearing.

During the hearing for this application, the public will be given an opportunity to provide testimony and/or evidence regarding how the proposal does or does not comply with Idaho Code. At the close of the public hearing, the Board of County Commissioners will make a decision on the application that may include, but is not limited to, approval, denial, remand, or continuance of the public hearing.

If interested in participating, please visit our website for details at: bonnercountyid.gov/departments/planning/public-hearings/meetings

Please be advised the referenced start time stated above reflects the beginning of the hearings. File start times and hearing durations will vary.

Any person needing special accommodations to participate in the public hearing should contact the Bonner County Planning Department at (208) 265-1458 at least 48 hours prior to the scheduled hearing.

I hereby certify that a true and correct copy of the foregoing "Notice of Public Hearing" was mailed (postage prepaid) on this **13th day of January 2024**.

A handwritten signature in cursive script that reads "Jessica Montgomery".

Jessica Montgomery, Hearing Coordinator

Annex B – Agency Comments



Janna Brown <janna.brown@bonnercountyid.gov>

[EXT SENDER] RE: Notice of Public Hearing - File AM0009-24 - Text Amendment

1 message

Horsmon, Merritt <merritt.horsmon@idfg.idaho.gov>
To: Bonner County Planning Department <planning@bonnercountyid.gov>

Wed, Jan 15, 2025 at 2:13 PM

Hi Jessica,

The Idaho Department of Fish and Game does not have any comments to submit for this application.

Thank you for the opportunity to review and comment,

Merritt Horsmon

Regional Technical Assistance Manager

Panhandle Region

2885 W. Kathleen Ave.

[Coeur d'Alene, ID 83815](#)

208.769.1414 office

208.251.4509 mobile

merritt.horsmon@idfg.idaho.gov**From:** Bonner County Planning Department <planning@bonnercountyid.gov>**Sent:** Monday, January 13, 2025 11:48 AM**To:** Army Corps of Engineers <CENWW-RD-CDA@usace.army.mil>; Assessors Office Group <assessorsgroup@bonnercountyid.gov>; Avista Copr - Jay West <jay.west@avistacorp.com>; Bay Drive Recreation District <kirbymc45@gmail.com>; Bayview Water & Sewer <bwsd637@gmail.com>; BC Airport Manager Dave Schuck <dave.schuck@bonnercountyid.gov>; BC EMS Jeff Lindsey <jeff.lindsey@bonnercountyid.gov>; Bonner Sheriff <bonnersheriff@bonnerso.org>; Brenna Garro <Brenna.Garro@oer.idaho.gov>; Bryan Quayle <quaylelanduseconsulting@gmail.com>; City of Clark Fork <city@clarkforkidaho.org>; City of Dover

<cityclerk@cityofdoveryidaho.org>; City of East Hope <easthope.city@gmail.com>; City of Hope <hopecityclerk@gmail.com>; City of Kootenai - Ronda Whittaker <cityclerk@cityofkootenai.org>; City of Oldtown <cityofoldtown@hotmail.com>; City of Ponderay KayLeigh Miller <klmiller@ponderay.org>; City of Priest River <layers@priestriver-id.gov>; City of Sandpoint <cityplanning@sandpointidaho.gov>; cityclerk@spiritlakeid.gov; Coolin Sewer <coolinsewer@gmail.com>; Coolin-Cavanaugh Bay Fire District <coolinfirechief@gmail.com>; DEQ Comments <deqcomments@deq.idaho.gov>; Drainage District #7 Kim Hoodenpyle <kjh5345@gmail.com>; East Bonner Library <vanessa@ebonnerlibrary.org>; East Priest Lake Fire Chief Tom Renzi <epfldchief@gmail.com>; Ellisport Bay Sewer District <clerk@ebsewerdistrict.com>; Facilities Director LPOSD #84 <matt.diel@lposd.org>; Garfield Bay Water and Sewer District Clerk <garfieldbaywsd@hotmail.com>; Granite Reeder Sewer District <granitereeder@gmail.com>; Dan Everhart <Dan.Everhart@ishs.idaho.gov>; Horsmon, Merritt <merritt.horsmon@idfg.idaho.gov>; Mike Ahmer <mahmer@idl.idaho.gov>; IDL - Nav. Waters Ryan Zandhuisen <RZandhuisen@idl.idaho.gov>; IDL - Pend Oreille Lake Supervisory <esjoquist@idl.idaho.gov>; dbrown@idl.idaho.gov; IDWR Chase Bell <chase.bell@idwr.idaho.gov>; Independent Hwy Dist - Julie Bishop <ihdclerk@gmail.com>; ITD <D1Permits@itd.idaho.gov>; Jack Schenck Vyve/Northland Cable <Jack.schenck@vyvebb.com>; Jason Johnson <jason.johnson@bonnercountyid.gov>; Kenny Huston <kenny.huston@oer.idaho.gov>; Kootenai Ponderay Sewer District <CJohnson@kootenaiponderaysewerdistrict.org>; Laclede Water District <LWDistrict@frontier.com>; Lakeland Joint School District #272 <cpursley@lakeland272.org>; Lakeland Joint School District #272 Jessica Grantham <jessica.grantham@lakeland272.org>; Lisa Rosa <hr@ebonnerlibrary.org>; North of the Narrows Fire Dept <Huckbay2501@gmail.com>; Northern Lights - Kristin Mettke <kristin.mettke@nli.coop>; Northside Fire District - Karen Quenell <kquenell@northsidefire.org>; Outlet Bay Sewer District <outletbaysewer@gmail.com>; Pend Orielle Hospital District <kim.kichenmaster@bonnergeneral.org>; PHD <EHApplications@phd1.idaho.gov>; Priest Lake Public Library District <plplibrary@hotmail.com>; Priest Lake Translator District - Frankie Dunn <Frankiejdunn@hotmail.com>; Road & Bridge - Matt Mulder <matt.mulder@bonnercountyid.gov>; Ruen Yeager <planning@ruenyeager.com>; Sagle Valley Water & Sewer District <saglewatersewer@gmail.com>; Sam Owen Fire Rescue Sam Owen Fire Rescue <sofd@wow-tel.net>; joekren@sd83.org; School District 84 Transportation - James Koehler <james.koehler@lposd.org>; Schweitzer Fire, Spencer Newton <firedistrict@msn.com>; Selkirk Association of Realtors Danielle <danielle@selkirkaor.com>; Selkirk Fire Gavin Gilcrease <ggilcrease@sandpointidaho.gov>; Selkirk Recreation District <selgar@mac.com>; Southside Water and Sewer <southsidewaterandsewer@swsdidaho.org>; Spirit Lake Fire Dept. (Debbie Carpenter) <chief@spiritlakefire.com>; Superintendent No. 84 Becky Meyer <becky.meyer@lposd.org>; Superintendent School Dist 84 <kelly.fisher@lposd.org>; Syringa Heights Water <allwater49@outlook.com>; Timberlake Fire <kwright@timberlakefire.com>; Trestle Creek Sewer District Janice Best <janicesb@televar.com>; US Fish & Wildlife Services - Christy Johnson Hughes <FW1idahoconsultationrequests@fws.gov>; West Bonner Library <meagan@westbonnerlibrary.org>; West Pend Oreille Fire District <wpofd1@gmail.com>; West Priest Lake Fire Josh Gilbert <WPLFD.Chief@gmail.com>

Cc: Alexander Feyen <alexander.feyen@bonnercountyid.gov>; Jacob Gabell <jake.gabell@bonnercountyid.gov>

Subject: Notice of Public Hearing - File AM0009-24 - Text Amendment

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

The above-named application has been submitted to the Bonner County Planning Department for processing.

Please review the application relative to your agency's area of expertise and include any recommended conditions of approval and supporting code sections. Please see attached for details.

Thank you,

Jessica Montgomery, Hearing Coordinator

Bonner County Planning Department

(208) 265-1458 x1277

**Annex C – Idaho Code 67-97, Agriculture Protection
Area Act**

TITLE 67
STATE GOVERNMENT AND STATE AFFAIRS

CHAPTER 97
AGRICULTURAL PROTECTION AREA ACT

67-9701. SHORT TITLE. This chapter shall be known and may be cited as the "Agricultural Protection Area Act."

[67-9701, added 2024, ch. 215, sec. 1, p. 762.]

67-9702. LEGISLATIVE INTENT. (1) It is hereby declared by the legislature of the state of Idaho that:

(a) Working farms, ranches, and forests provide important benefits to all Idahoans by sustaining: Idaho's economy; food and fiber production; the cultural heritage of local communities; habitat for wildlife; intact watersheds for clean water; and opportunities to hunt, fish, and enjoy the outdoors with landowner permission;

(b) Working farms, ranches, and forests and the benefits they provide to Idahoans are being lost to rapid population growth, conversion to development, and other uses in recent decades;

(c) Many of Idaho's rural working landowners are deeply committed to maintaining agricultural and forestry traditions and to serving as stewards of natural resources and wildlife; and

(d) Idaho deeply respects the property rights of individual landowners and seeks to minimize the government's control over a landowner's decisions regarding the use of his property.

(2) It is hereby declared as the purpose of this chapter to provide an opportunity to protect and enhance the economic and cultural benefits that working lands provide to Idahoans by promoting proactive planning tools for working landowners and governing bodies to maintain and enhance the economic value of working lands without impacting the property of those that elect not to participate in this opportunity.

[67-9702, added 2024, ch. 215, sec. 1, p. 762.]

67-9703. DEFINITIONS. As used in this chapter:

(1) "Agricultural production" means activities or conditions conducted on land actively devoted to agriculture as defined in section [63-604](#), Idaho Code, or on forest land as defined in section [63-1701](#), Idaho Code.

(2) "Agricultural protection area" means specific parcels of land in a designated geographic area voluntarily created under the authority of this chapter for the purpose of protecting and preserving agricultural land.

(3) "Agricultural protection area commission" means the advisory board to the governing body created pursuant to section [67-9705](#), Idaho Code.

(4) "Applicant" means anyone who owns five (5) acres or more of land that has been in active agricultural or forest production for the previous three (3) consecutive years, consistent with the provisions of sections [63-604](#) and [63-1701](#), Idaho Code, and who voluntarily applies for that land to be part of an agricultural protection area.

(5) "Hardship" means a situation or circumstance over which a landowner in an agricultural protection area has no control and can then petition for removal for reasons that include but are not limited to an adverse result in litigation against the farm or landowner, death of a close family member that

would lead to unanticipated financial hardships, significant tax liabilities, bankruptcy due to another person's fraud, or any other illegal activity.

(6) "Proposal" means written documents submitted to a governing body or agricultural protection area commission from a landowner regarding his property.

[67-9703, added 2024, ch. 215, sec. 1, p. 762.]

67-9704. AGRICULTURAL PROTECTION AREAS. (1) No later than January 1, 2025, each board of county commissioners shall establish an agricultural protection area ordinance in accordance with the notice and hearing procedures in section [67-6509](#), Idaho Code. At a minimum, the ordinance shall:

(a) Establish a process through which agricultural lands may be placed in agricultural protection areas for a minimum of twenty (20) years;

(b) Establish the application requirements, including but not limited to information about the landowner; a description of the parcels, structures, and facilities proposed to be included in an agricultural protection area; and the current uses of lands proposed to be included in an agricultural protection area;

(c) Establish clear and objective standards for evaluating applications for inclusion in an agricultural protection area;

(d) Establish the timeline for reviewing and making decisions on agricultural protection area applications; and

(e) Establish an application fee to cover the administrative costs of processing applications, including but not limited to reviewing application materials, holding public meetings and hearings, providing public notice, recording applicable documents, and updating county land use maps, provided that such fee shall not exceed the actual costs of processing the application.

(2) No later than January 1, 2025, each board of county commissioners shall establish by resolution or ordinance an agricultural protection area commission pursuant to section [67-9705](#), Idaho Code.

(3) Agricultural protection areas shall be designated on future land use planning maps to serve as a voluntary and expeditious tool for working landowners while also informing planners, commissions, county officials, and citizens at large on how to proactively plan for agriculture.

(4) The designations of specific parcels of land as agricultural protection areas shall not impact other parcels of land not designated as agricultural protection areas.

[67-9704, added 2024, ch. 215, sec. 1, p. 763.]

67-9705. AGRICULTURAL PROTECTION AREA COMMISSION. (1) The board of county commissioners shall appoint at least three (3) and no more than five (5) members actively employed by or supporting production agriculture in the county, which members may include representatives from the local soil and water conservation district board of supervisors, the local cattlemen's association board, the county farm bureau board, an irrigation district or water users association board, or a grower/commodity association or commission board, to serve as the agricultural protection area commission for the county.

(2) The terms of agricultural protection area commissioners shall be established by resolution or ordinance, but in no case shall be less than three (3) years or more than six (6) years.

(3) As part of its duties, the commission shall provide for meetings and hearings to obtain advice on the agricultural needs of the county. The commission may also conduct informal meetings with public officials and agencies, agricultural professionals, educational professionals, and other organizations to evaluate the agricultural needs of the county.

(4) The commission may make recommendations to the board of county commissioners concerning the process by which the agricultural protection area commission will accept, review, and offer recommendations regarding agricultural protection area proposals to the board of county commissioners, including the nature and type of information provided by applicants and the evaluation criteria required to review agricultural protection area applications.

(5) The commission shall review applications for inclusion in an agricultural protection area pursuant to the county agricultural protection area ordinance and make recommendations to the board of county commissioners regarding such applications.

(6) The commission shall review applications to include eligible land in an agricultural protection area and make recommendations to the board of county commissioners within sixty (60) days of receiving such applications.

[67-9705, added 2024, ch. 215, sec. 1, p. 763.]

67-9706. REVIEW AND ACTION ON AGRICULTURAL PROTECTION AREA APPLICATION. (1) Within sixty (60) days of receiving a recommendation from the agricultural protection area commission to support or reject an application, the board of county commissioners shall hold a public hearing regarding the application in accordance with the notice and hearing procedures pursuant to section [67-6509](#), Idaho Code. The board of county commissioners may approve or deny an application to include land in an agricultural protection area. If approved, the creation of an agricultural protection area shall be effective upon final action of the board of county commissioners.

(2) If the board of county commissioners fails to take action on the recommendation of the agricultural protection commission within sixty (60) days of receiving such recommendation, the recommendation of the agricultural protection area becomes final. A decision to approve or deny an agricultural protection area shall be subject to judicial review.

[67-9706, added 2024, ch. 215, sec. 1, p. 764.]

67-9707. RECORDING OF AGRICULTURAL PROTECTION AREAS. (1) In order to give constructive notice of the existence of an agricultural protection area designation to all persons who have, may acquire, or may seek to acquire an interest in land in or adjacent to the agricultural protection area, within ten (10) days of the creation of the agricultural protection area, the applicable clerk of the board of county commissioners shall file an executed document with the county recorder containing:

(a) The date of creation or dissolution of the agricultural protection area by the board of county commissioners;

(b) A legal description of the parcel or parcels of real property to be included in the agricultural protection area that is available through the county recorder's office; and

(c) A record of the findings of the agricultural protection area commission and decision of the board of county commissioners.

(2) The applicable governing body's failure to record the agricultural protection area does not invalidate the decision to create or dissolve an agricultural protection area.

[67-9707, added 2024, ch. 215, sec. 1, p. 764.]

67-9708. RENEWAL OF AGRICULTURAL PROTECTION AREAS. (1) Twenty (20) years after the creation of an agricultural protection area, if the landowner desires to continue with the agricultural protection area, no action on the part of the landowner is necessary and the board of county commissioners shall automatically renew the agricultural protection area for another twenty (20) years.

(2) If the landowner desires to terminate the agricultural protection area, written notice to the board of county commissioners is required at least ninety (90) days prior to the expiration of the agricultural protection area before the board of county commissioners terminates the designation.

(3) The clerk of the board of county commissioners shall record the renewal of an agricultural protection area pursuant to section [67-9707](#), Idaho Code.

[67-9708, added 2024, ch. 215, sec. 1, p. 764.]

67-9709. ADDING LAND TO AND REMOVING LAND FROM AN AGRICULTURAL PROTECTION AREA. (1) A landowner may add land to an existing agricultural protection area by filing an application with the board of county commissioners. The board of county commissioners shall review an application to add land to an existing agricultural protection area in accordance with section [67-9706](#), Idaho Code.

(2) An owner of land within an agricultural protection area may remove any or all of the land from the agricultural protection area by filing a petition for removal with the board of county commissioners.

(a) The board of county commissioners shall acknowledge receipt of the petition for removal in writing; and

(b) Confirm the removal date as ten (10) years from the date of petition for removal, or upon expiration of the designation, whichever is sooner.

(3) The board of county commissioners shall establish a process by which an owner of land within an agricultural protection area may remove any or all of the land from the agricultural protection area for reasons of hardship, as defined in this chapter.

(4) The board of county commissioners may charge an administrative fee to cover administrative costs associated with processing changes to an agricultural protection area, including but not limited to updating land use maps, recording documents, and reasonable staff time for processing the request, provided that such administrative fee shall not exceed the actual cost of processing changes to an agricultural protection area. The clerk of the board of county commissioners shall record the renewal of an agricultural protection area pursuant to section [67-9708](#), Idaho Code.

[67-9709, added 2024, ch. 215, sec. 1, p. 765.]

67-9710. LIMITATIONS ON LOCAL REGULATIONS. (1) A board of county commissioners having created an agricultural protection area shall encourage the continuity, development, and viability of agricultural use within the specific boundaries designated in the agricultural protection area by not enacting a local law, ordinance, or regulation that would restrict a farm structure or farming practice within the boundaries of the agricultural protection area, unless such farm structure or farming practice does not comply with generally recognized farming practices or the farm structure or land use is in conflict with the current agricultural land use classification or agricultural zoning designation of the area.

(2) The board of county commissioners shall not change the current agricultural land use classification or agricultural zoning designation for parcels of land within an agricultural protection area without written permission from the landowner.

(3) The board of county commissioners shall amend applicable land use planning maps to reflect the boundaries of designated agricultural protection areas and their benefits as provided in sections [67-9711](#) and [67-9712](#), Idaho Code, and shall comply with the provisions of section [67-6508](#), Idaho Code.

(4) Nothing in this section shall prevent a board of county commissioners from regulating the siting of large confined animal feeding operations and facilities pursuant to section [67-6529](#), Idaho Code; the siting of residential, commercial, manufacturing, industrial, solar energy, or wind energy structures; or other nonagricultural land uses on lands included within an agricultural protection area.

[67-9710, added 2024, ch. 215, sec. 1, p. 765.]

67-9711. NUISANCES. (1) Recognizing that Idaho is a right-to-farm state and that agricultural operations and agricultural facilities pursuant to [chapter 45, title 22](#), Idaho Code, are protected from nuisance actions if they follow generally recognized farming practices, a political subdivision shall ensure that any of its laws or ordinances that define or prohibit a public nuisance shall exclude agricultural protection areas from its definition or from any prohibition for any agricultural activity or operation within an agricultural protection area as long as those agricultural activities or operations follow generally recognized farming practices.

(2) In a civil action for nuisance or criminal action for public nuisance, it is a complete defense if the action involves otherwise lawful agricultural activities that were:

(a) Conducted within an agricultural protection area; and

(b) Not in violation of any federal, state, or local law or regulation relating to the alleged nuisance and were conducted using generally recognized farming practices.

[67-9711, added 2024, ch. 215, sec. 1, p. 766.]

67-9712. EMINENT DOMAIN. A political subdivision having or exercising eminent domain powers may not condemn for any purpose any land within an agricultural protection area that is being used for production agriculture except for the expansion or maintenance of an existing highway right-of-way

or as granted in section 14, article I and section 8, article XI of the constitution of the state of Idaho.

[67-9712, added 2024, ch. 215, sec. 1, p. 766.]