

**BONNER COUNTY PLANNING DEPARTMENT
BOARD OF COUNTY COMMISSIONERS
STAFF REPORT FOR September 11, 2019**



Amendment Title **Amendment to Bonner County Revised Code (BCRC), Title 12, Sections 315 J. RULES FOR INTERPRETATION OF ZONING DISTRICT BOUNDARIES 247 B. & C. PROCEDURE FOR REVIEW OF A SPECIAL USE PERMIT 263 C.1. & C.2. RECONSIDERATION 643 D. SUBDIVISIONS, PROCEDURE FOR PROCESSING PRELIMINARY PLAT**

File Number, Type: **AM0003-19, Text amendment to BCRC Title 12**

Proposal: To consider a recommendation from the Planning Commission to amend BCRC Title 12.

Applicant: Bonner County
1500 Highway 2, Suite 208
Sandpoint, ID 83864

Notice provided: Mailed: August 13, 2019
Published in newspaper: August 13, 2019

Project Authority

Bonner County initiated an amendment to Title 12. Under the proposed amendment (File #AM0003-19), these amendments are to provide for clarifications resulting from questions that occur as the ordinances are being applied.

This is a continuation of the fine-tuning of the code. 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.

12-315: RULES FOR INTERPRETATION OF ZONING DISTRICT BOUNDARIES:  
Add letter J.

J. Where a zone boundary line divides the parcel/lot, upon review, the director may permit the entire parcel/lot to be included in one of the zones, and its associated land use designation, that then apply to the parcel/lot so that only one zone and its associated regulations will apply to the parcel/lot.

STAFF: Throughout the County are numerous parcels/lots that are split zoned. This is a result of the zoning being applied to section lines versus property lines. This creates the potential for limited uses because two sets of zoning rules apply to the property.

The review would be triggered by the owner of a property that has a zone boundary line division. The review would consider the standards of the zone as described in BRCR 12-3.2 Zoning Districts Established. The resolution shall only exist in the two zones applying to the property.

12-247 PROCEDURE FOR REVIEW OF A SPECIAL USE PERMIT

Amend only B & C

B. 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 ~~twenty-two (22) 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 ~~twenty-two (22) 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.

12-263 RECONSIDERATION

Amend only C1 & C2

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 ~~twenty-two (22) 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 ~~twenty-two (22) 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.

12-643 SUBDIVISIONS, PROCEDURE FOR PROCESSING PRELIMINARY PLAT

Amend only D

D. Upon receipt of the commission recommendation, the planning director shall proceed to schedule the application for preliminary plat for the next available public hearing date before the board, allowing sufficient time for published public notice at least ~~twenty-two (22) fifteen (15)~~ days prior to the date of the public hearing in one issue of the official county newspaper, and mailed notification to landowners as required at section [12-217](#) of this title. Such notices shall contain the applicant's name, a description of the proposed subdivision, its general location and the date, time and place of the public hearing.

STAFF: The above changes will further make the code consistent with itself from the last update of the ordinance. This further clarifies the notice period extended to 22 days to justify the already approved comment period ending seven (7) days prior to the hearing.

Public Comment:

At the time of the staff report, there is one public comment and several agencies responses. Bottle Bay Sewer & Water, ITD and IHD each provided a no comment response. The cities of Dover and Kootenai provided a letter of concern over the proposed change in BCRC 12-315 adding letter J.

Authority

The ordinance amendment is proposed under the authority granted at Idaho Code, Chapter 7, Title 31; Chapter 8, Title 31; and Chapter 65, Title 67; and Article XII, Section 2, of the Idaho Constitution.

Staff analysis:

The proposed change in BCRC 12-315 adding letter J. will affect those property owners who have acquired or own one of the numerous split zoned properties in the County. This is not a taking of property rights and further extends those rights to now offer the opportunity for one of the applied zones to now apply to an entire parcel or lot giving the right to exercise the standards of a single zone on the property. Currently, the only way to zone a parcel/lot so one zone applies is to go through a rezone and possibly a land use change. The cost of these two files together, from the County, is nearly \$1500 and may take up to 6 months. This will simplify this issue for those property owners.

The other recommended changes to the code are based on the previous changes made and will make the code consistent with itself.

Findings of Fact:

1. The Planning and Zoning Commission, per Idaho Code Chapter 65, Title 67, held a public hearing on August 1, 2019 and unanimously recommended this amendment to the zoning ordinance.
2. The Board of County Commissioners held a public hearing, published per I.C. 67-6509.
3. The Bonner County Planning Department has reviewed the proposed changes against Idaho Code and made amendments to better comply with the Idaho Code, specifically Title 67 Chapter 65.
4. The Board of County Commissioners is authorized by Idaho Code, Chapter 7, Title 31, to adopt ordinances, rules and regulations "...not repugnant to law, necessary for carrying into effect or discharging the powers and duties conferred by the laws of the state of Idaho, and such as are necessary or proper to provide for the safety, promote the health and prosperity, improve the morals, peace and good order, comfort and convenience of the county and the inhabitants thereof, and for the protection of property therein..."

The proposed ordinance making the above changes adds to the clarity intended in the interpretation of the Bonner County Revised Code and Bonner County Comprehensive Plan. These actions will further balance the provision of safety, health and prosperity while maintaining the protection of property, peace, good order, comfort and convenience of the county and its inhabitants

5. Further clarifying standards enable the public and the staff to achieve the best results leading to greater understanding and use of the zoning ordinance.

Conclusions of Law:

1. The proposed amendments to Title 12 **IS** in accord with Idaho Code, Chapter 7, Title 31.
2. The proposed amendments to Title 12 **IS** in accord with Idaho Code Chapter 67 Title 65.

Motion by the governing body:

BOARD OF COUNTY COMMISSIONERS

MOTION TO APPROVE: I move to APPROVE this FILE AM0003-19, amending the sections of Title 12, Bonner County Revised Code, as presented or amended in this hearing, based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. This action does not result in a taking of private property.

BOARD MOTION TO ADOPT ORDINANCE: I move to adopt an Ordinance of Bonner County, Idaho, the number to be assigned, citing its authority, and providing for the amendment of Title 12, Bonner County Revised Code, Sections 315 J., 247 B. & C., 263 C.1. & C.2., and 643 D., providing for publication and an effective date.

MOTION TO DENY: I move to DENY this FILE AM0003-19, amending the sections of Title 12, Bonner County Revised Code, as presented or amended in this hearing, based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. This action does not result in a taking of private property.

Supporting file documentation is available on the web at www.bonnercountyid.gov

The complete file is available for review in the Planning Department, 1500 Highway 2, Suite #208, Sandpoint, ID. Staff reports are available online one week before the hearing at www.co.bonner.id.us Bonner County Revised Code (BCRC) is available at the Planning Department or online.