

## **CHAPTER 2 – PLANNING AND ZONING COMMISSION/ADMINISTRATOR**

**1.0 Planning and Zoning Commission** - A joint City/County Planning and Zoning Commission (Commission) is established, as authorized by I.C. 67-6504 and 6505.

- A. The commission shall consist of five members appointed by the BOCC and city councils. As required by I.C. 67-6504(a), all commission members shall have resided in Clark County, Idaho for at least two years prior to their appointment.
- B. I.C. 67-6505 allows the composition of a joint planning commission to be determined by the participating counties and cities. The Clark County Joint Planning Commission shall consist of one member appointed by the City of Spencer, two members appointed by the City of Dubois, and two members appointed by Clark County.
- C. Commission members shall serve terms of four years. No member shall serve more than two full consecutive terms. No one individual may serve as Chairman of the Planning and Zoning Commission for more than one consecutive year. i.e., require a new chair each year.
- D. A majority of the Commissioners (3 of 5) must be present to constitute a quorum for the purpose of conducting business and decision making.

**2.0 Duties of the Commission** - The commission shall, as required by I.C. 67-6505, exercise all duties granted it by the Local Planning Act and fulfill all duties required by this ordinance, specifically including:

- A. Reviewing and recommending approval by the BOCC or City Council all zone changes, preliminary and final plats, lot splits, variances, and conditional use permits.
- B. Reviewing and making recommendations on amendments to this ordinance to the BOCC or City Council.

**3.0 Planning and Zoning Administrator** - The BOCC shall appoint a planning and zoning administrator (administrator), who shall perform the following duties:

- A. Assist members of the public in understanding the applicability and requirements of this ordinance.
- B. Review and approving all applications for permitted activities, as defined in Chapter 3 Table 1, and required by this ordinance. Ensuring that all applications for zone changes, preliminary and final plats, lot splits, variances, and conditional use permits are complete prior to being placed on the Commission agenda.
- C. Arrange for the professional and, if appropriate, state and federal agency review of applications for subdivision, planned unit developments, wind energy farms, and floodplain development permits, and subdivision or planned unit development plans and/or agreements;
- D. Raise enforcement provisions of development agreements with the BOCC or the appropriate City Council;
- E. Investigate possible violations of this ordinance;

- F. Coordinate International Building Code (IBC) Permit Inspections with the contracted building code inspector(s). (e.g., an adjacent county building department)
- G. Properly account for all fees collected in the administration of this ordinance and prepare monthly and annual reports of development activity in the county and the cities; and
- H. Perform all other duties assigned by this ordinance and assist the commission in the execution of its duties.

**4.0 Board of County Commissioners (BOCC)/City Council** - The Board of County Commissioners and City Councils shall adopt this ordinance and the Comprehensive Plans it implements. Their duties in the administration of this ordinance shall include:

- A. Appointing the Commission members, as provided;
- B. Appointing the administrator, as provided;
- C. Set Permit Fees by Resolution and provide for annual review of those fees.
- D. Reviewing and approving final subdivision plats, as provided, and accepting required improvements in subdivisions and other developments as provided;
- E. Hearing appeals from decisions of the administrator or commission, as provided;
- F. Approve and adopt proposed amendments to this ordinance; and,
- G. Approving proposed plat vacations.

**5.0 Liability** - No individual, including BOCC, city council, or commission members, the administrator, or other county or city s, who acts in good faith and without malice in the performance of duties assigned by this Ordinance, shall be held liable for errors or omissions in its administration. A suit brought against such an individual shall be defended by the county or city and any judgment resulting from such a suit shall be the liability of the county or city.

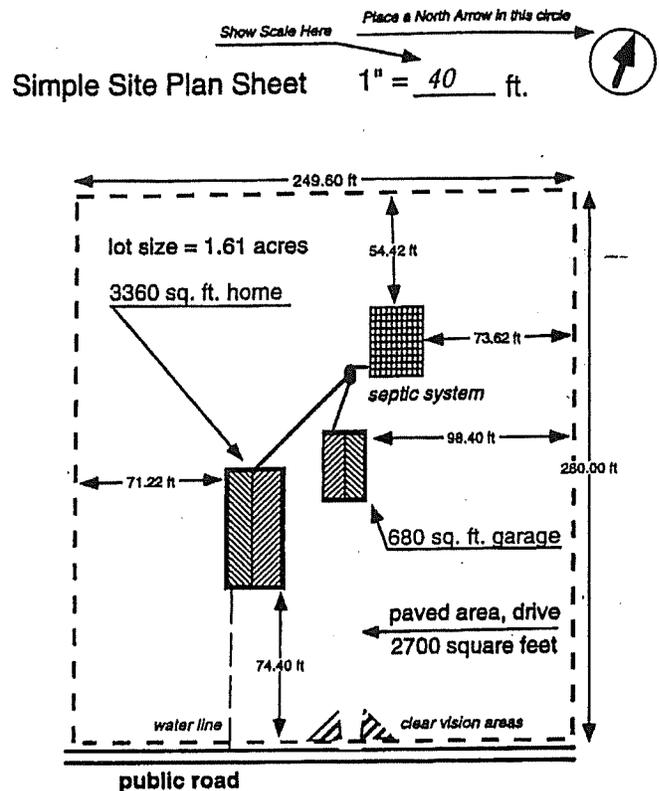
**6.0 Administration and Public Hearing Procedures:**

All permits of for land use shall as a minimum contain the following:

- A. Application and Fee.
  1. Application for an appropriate land use Permit shall be filed with the Planning and Zoning Administrator at least thirty days prior to the public hearing. Scheduling will be determined by the Administrator. The application shall include the following.
  2. Name and address of the owner and applicant.
  3. Address and legal description of the property
  4. If the applicant is not the legal owner of the property, a written statement signed by the owner that the applicant is the authorized agent of the owner of the property.
  5. A statement describing the nature and operating characteristics of the proposed use, including any data pertinent to the findings required for approval of the application. For uses involving public assembly or industrial processing or uses potentially generating high volumes of vehicular traffic, the Administrator may require specific information relative to the anticipated peak loads and peak use periods, relative to

industrial processes and the ability of the use to meet performance standard or substantiating the adequacy of proposed parking, loading, and circulation facilities.

6. Site plan, preliminary building elevations, preliminary improvement plans and such additional maps and drawings, all sufficiently dimensioned, as required to illustrate the following:
  - a. The date, scale, north point, title, name of owner, and name of person preparing the site plan.
  - b. The location and dimensions of boundary lines, with distances and bearings, easements, and required yards and setbacks, water courses, drainage nature and location, and size of existing and proposed roads and natural resource issues.
  - c. The location, height, bulk, general appearance, the intended use of existing and proposed buildings on the site, and the approximate location of existing buildings on abutting sites.
  - d. The location of existing and proposed site improvements including parking and loading areas, pedestrian and vehicular access, landscaped areas, utility or service areas, fencing and screening, signs, and lighting.
  - e. The number of existing and proposed off-street parking and loading spaces and a calculation of applicable minimum requirements.
  - f. For sites with an average slope greater than 8 percent, a plan showing existing and proposed topography and grading and proposed erosion control measures.
  - g. The relationship of the site and the proposed use to surrounding uses, including pedestrian and vehicular circulation, current use of nearby parcels, and any proposed off-site improvements to be made. (See example to the right)



This site plan sheet may be used for simple scaled drawings to accompany permit applications. Please use detailed architect's, engineer's, or builder's drawings wherever possible.

Application of: A&L Builders, Inc.

**SAMPLE**

## Building Permits

Structures Requiring Building Permits: Any owner or authorized agent who intends to construct, enlarge, alter, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by the International Building Code (IBC) as adopted, or to cause any such work to be done, shall first make application to the Planning and Zoning Administrator and obtain the required permit.

Structures Exempt from Permits:

- One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 200 square feet.
- Fences not over 6 feet high.
- Oil derricks.
- Retaining walls that are not over 4 feet in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or IIIA liquids.
- Water tanks supported directly on grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed 2:1.
- Sidewalks and driveways not more than 30 inches above adjacent grade, and not over any basement or story below and are not part of an accessible route.
- Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
- Temporary motion picture, television and theater stage sets and scenery.
- Prefabricated swimming pools accessory to an IBC Group R-3 occupancy that are less than 24 inches deep, do not exceed 5,000 gallons and are installed entirely above ground.
- Shade cloth structures constructed for nursery or agricultural purposes, not including service systems.
- Swings and other playground equipment accessory to detached one- and two-family dwellings.
- Window awnings supported by an exterior wall that do not project more than 54 inches from the exterior wall and do not require additional support of an IBC Group R-3 and U occupancies.
- Nonfixed and movable fixtures, cases, racks, counters and partitions not over 5 feet 9 inches in height.

## Agricultural Exemption:

An Agricultural Exemption from building permits is allowed for those structures constructed in the Rural Living Zone which meet the definition of Agricultural Buildings in Chapter 12 however; buildings and structures shall remain subject to placement requirements established by zoning regulations, e.g., road setbacks and utility easements. The filing of an Agricultural Exemption Permit with appropriate documentation of placement compliance is required to receive this allowance. (See Simple Site Plan example above)

## Building Inspections

Construction or work for which a building permit is required shall be subject to an inspection by the contracted building inspector and such construction shall remain accessible and exposed for inspection purpose until approved. Approval as a result of the inspection shall not be construed to be an approval of a violation of the provision of the IBC or other ordinances of Clark County.

It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the contracted inspector nor Clark County shall be liable for expense entailed in removal or replacement of any materials required to permit inspection.

## Temporary Use Permits

The Planning and Zoning Administrator may issue temporary use permits for the following uses:

- A. Temporary structures for the housing of equipment or containing supervisory offices in connection with major construction projects may be erected and maintained during the progress of such construction projects; provided, that such temporary structures may not be maintained for a period exceeding one year except that the Planning and Zoning Administrator may extend this period for one additional year;
- B. Temporary placement of a camping or recreational vehicle to provide temporary housing while working on a construction project within the City of Dubois, City of Spencer or Clark County. The property owner will also be required to obtain an active temporary site permit. Temporary placement of the camping or recreational vehicle may continue through the construction project by must be removed at the end of employment on the project. Temporary housing site permits may be maintained for a period of one year with the option of a one year extension should the specific construction project have a duration of more than one year. The temporary use shall be removed from the property within 30 days of the completion of the specific referenced construction project;
- C. Temporary placement of a camping or recreational vehicle or mobile home to provide temporary housing while constructing a permanent dwelling on the same lot; provided, that the property owner has an active residential building permit. Such temporary use may not be maintained for a period exceeding one year except that the planning and zoning administrator may extend this period for no more than one additional year. The temporary use shall be removed from the property within 30 days of occupancy of the permanent dwelling;
- D. Temporary placement of a camping or recreational vehicle adjacent to an existing residence to provide temporary housing for not more than six months for the care of a terminally ill relative. The medical condition must be documented by a physician or osteopath that the relative is in hospice care and prognosis is terminal. The caregiver shall be related by blood, adoption or marriage to the person in hospice care. A temporary siting permit must be obtained by the property owner, and a placement permit must be obtained with proof of medical condition provided by the owner of the temporary housing.

Temporary permits shall meet all conditions as set by the Planning and Zoning Administrator, including but not limited to:

- Front Yard Set Backs

- Distance between structures and temporary housing vehicles
- Parking
- Utility Services (sufficient electrical, water, and sewer)
- Addressing

Temporary Use Permit applications shall be obtained, reviewed, and approved by the Clark County Planning and Zoning Administrator. Appeals of Conditions shall be made to the Clark County Planning and Zoning Commission. Fees shall be paid as set by Clark County Board of County Commissioners.

### Zone Changes

Any person may submit an application for a reclassification of the zoning district to which property is subject, with or without a development agreement, provided such person is the owner of the property or possesses a legally binding option to purchase such property.

#### A. Procedures for Making Application for a Zoning District Boundary Change.

Either representatives of the County or any person possessing ownership rights or an exclusive contractual right to possession of a parcel of land may make application for a zoning district boundary change (re-zoning). The applicant for a district boundary change shall provide such information as may be required by the Planning and Zoning Administrator in the form desired, at least thirty calendar days in advance of a regularly scheduled meeting of the Planning and Zoning Commission. Upon receipt of all materials required to complete the application, the staff of the Planning and Zoning Commission shall schedule a public hearing concerning the request, providing proper notice as required by the Idaho Code and application portion of this Ordinance.

The Planning and Zoning Commission shall hold a public hearing on each application for a Rezone request. Public hearing and notice shall be in accordance to Idaho Code and this ordinance. At the public hearing, the Planning and Zoning Commission shall review the application and shall receive pertinent evidence concerning the proposed rezone.

Following the public hearing the Planning and Zoning Commission shall make a recommendation regarding the zoning request and forward such recommendation to the Board of County Commissioners or City Council as appropriate.

Upon receipt of the recommendation by the Planning and Zoning Commission and a written request by the applicant to go forward, a public hearing may be scheduled before the Board of County Commissioners or appropriate City Council. The notice and hearing procedures before the Board of County Commissioners shall be the same as the public hearing before the Planning and Zoning Commission. A second hearing is optional based on interest before Planning and Zoning Commission.

The decision of the Board of County Commissioners shall be in writing and conform to the requirements of the Local Land Use Planning Act.

Changes in zoning district boundaries may be approved only if they are consistent with the goals and policies adopted in the County Comprehensive Plan.

B. Resubmission of Application.

Rezoning applications which have been rejected may not be re-filed for twelve months following the Board of County Commissioners or City Council action on them unless the re-zoning application was rejected conditionally to permit reapplication.

C. Concurrent applications.

Application for a Conditional Use Permit and for Rezoning for the same property may be made concurrently, subject to the fees applicable to both a Conditional Use Permit and a Rezoning application. The Planning and Zoning Commission may hold the public hearing on the Rezoning and the Conditional Use Permit at the same meeting and may combine the two hearings. This requires two separate decisions. In such cases, the date of the Planning and Zoning Commissions decision on the Conditional Use Permit application shall be deemed to be the same as the effective date by the Board of County Commissioners or City Council of an Ordinance changing the zone boundaries. If the Board of County Commissioners or City Council modifies a recommendation of the Planning and Zoning Commission on a concurrent zoning reclassification, the Conditional Use Permit application shall be reconsidered by the Planning and Zoning Commission in the same manner as a new application; provided no additional fee shall be required.

Conditional Uses

A conditional use may be granted to an applicant if the proposed use is otherwise prohibited by the terms of the Ordinance, but may be allowed with conditions under specific provisions of the Ordinance and when it is not in conflict with the Comprehensive Plan. The allowance of a conditional use is discretionary with the Planning and Zoning Commission and may be granted only in the best interests of the general public. The applicant for a Conditional Use Permit shall carry the burden of proof in showing the proposed use does not conflict with the spirit or purpose of the Comprehensive Plan of the County and the Standards for Conditional Use Permits set forth in this Ordinance.

- A. A completed Conditional Use Application with information as described above.
- B. Public Hearing and Notice.

The Planning and Zoning Commission shall hold a public hearing on each application for a Conditional Use Permit. Public hearing and notice shall be in accordance to Idaho Code and this ordinance. At the public hearing, the Planning and Zoning Commission shall review the application and shall receive pertinent evidence concerning the proposed use and the proposed conditions under which it would be operated or maintained.

C. Conditions of Approval.

A Conditional Use Permit may have conditions of approval for the purpose of:

- 1. Minimizing adverse impact on other developments such as:
  - a. Requirements for special yards, open space, buffers, fences, walls, and screening.
  - b. Requirements for installation and maintenance of landscaping and erosion control measures.

- c. Requirements for road improvements and dedications
- d. Regulation of signs
- e. Regulation of hours or other characteristics of operation
- f. Establishment of development schedules or time limits for performance or completion
- g. Controlling the sequence and timing of development
- h. Controlling the duration of development.
- i. Assuring that development is maintained properly
- j. Designating the exact location and nature of development
- k. Requiring more restrictive standards than those generally required in an Ordinance
- l. Imposing other conditions the Planning and Zoning Commission deems necessary to ensure compatibility with surrounding uses, to preserve the public health, safety and welfare and to ensure protection from adverse impact.

D. Action by the Planning and Zoning Commission.

The Planning and Zoning Commission may grant a Conditional Use Permit as the permit was applied for, in a modified form, or subject to conditions, or may deny the application.

E. Effective Date.

A decision of the Planning and Zoning Commission on a Conditional Use shall be effective fourteen (14) days after the date on which action is announced unless an appeal has been filed.

F. Modification of Conditional Use Permit.

Minor revisions or modifications may be approved by the Planning and Zoning Administrator as long as circumstances or conditions applicable at the time of original approval remain valid and the changes would not affect the findings of or conditions set by the Planning and Zoning Commission.

G. New Applications.

Following the denial of a Conditional Use Permit, no application for a Conditional Use Permit for the same, or substantially the same use, on the same or substantially the same site shall be filed within one year from the date of denial or revocation.

H. Approval to run with the Land.

A Conditional Use Permit granted pursuant to these provisions shall run with the land and shall continue to be valid upon a change of ownership of the site or structure.

I. Appeals.

Appeals may be filed according to the procedures.

## Variances

A variance shall not be considered a right but may be granted to an applicant upon a showing of undue hardship related to physical characteristics of the site, not created by the owner of the property, and then only if the proposal is not in conflict with the public interest.

### A. Application and Fee.

1. Application for a variance shall be filed by the owner of the subject property with the Planning and Zoning Administrator at least 30 days prior to the public hearing. The application shall include the information necessary to enable the Planning and Zoning Administrator to make a complete analysis of the variance request.
2. The Planning and Zoning Administrator may request additional information necessary to enable a complete analysis and evaluation of the variance request and a determination as to whether the circumstances prescribed for the granting of a variance exist.
3. The application shall be accompanied by a fee established by the Board of County Commissioners. A single application may include requests for variances from more than one regulation applicable to the same site or for similar variances on two or more adjacent parcels with similar characteristic.

### B. Public Hearing.

The Planning and Zoning Commission shall hold a public hearing on each application for a variance. Public hearing and notice shall be in accordance with Idaho Code this ordinance. At the public hearing, the Planning and Zoning Commission shall review the application and receive pertinent evidence concerning the proposed variance.

### C. Appeals.

Appeals may be filed according to the procedure described herein.

## Permit/Project Review and Inspection Fees

The developer shall pay to the County, by depositing \$3,000 into a revolving fund with the County administrator, certain fees and costs associated with the review of the Development Applications, Preliminary Plats, Final Plats, Ordinance Compliance Inspections, and other documentation and services. The deposit shall be maintained at the \$3,000 level until the Final Plat is recorded.

There shall also be a permit application fee. At the time of submission of an application for a plat, the applicant shall pay a processing fee in accordance with the fee schedule established by the County Commissioners. The County Commissioners shall establish the amount of the said fees and shall include pertinent engineering, legal, planning, postage, publication, copying fees and all other costs incurred by the County in processing the application. Such cost reimbursement may exceed the initial estimate as described above. All outstanding fees and cost must be paid before a plat application will be approved. Fees shall be set by resolution.

## Public Hearings

Public hearings before the Planning and Zoning Commission shall provide opportunities for all interested parties to testify in support of their points of view in accord with procedures and rules

established by the Planning and Zoning Commission. Written testimony may be accepted prior to a public hearing or during the public hearing.

Notice of public hearing shall be provided in accordance with requirements of the Idaho Code and such other standards as this Ordinance may require. As a general rule property owners within 300 feet of the proposed land use change will be notified. Notice of the public hearing shall be posted on the premises not less than one (1) week prior to the hearing. For those public hearings held to consider Large Scale Wind Farms applications, as defined in Chapter 9, notification is required for all property owners within 1 mile of the proposed Wind Farm site. Where the names of landowners must be provided for mailing public hearing notices, the records of the county assessor's office shall serve as the official source.

Names of parties to receive notice concerning applications made pursuant to provisions of this Ordinance shall be provided by applicants seeking a change in zoning district boundaries. All responsibility for provision of accurate mailing lists shall rest with the applicant. Notification shall be provided by the applicant and shall be by certified mail with return receipt requested. The applicant shall have the responsibility to provide the correct notice and verification by sworn affidavit that property owners as identified as per Idaho Code were properly notified. If improper notice occurs, the permit shall be denied or invalidated.

Notices of public hearing shall be prepared and mailed under supervision of the staff of the Planning and Zoning Commission.

Public hearings required pursuant to this ordinance shall be preceded by notice to affected public service providers. The provision of notice shall conform to and be identical to the notice provided landowners. Public service providers shall have the same standing, in relation to the hearings process, as afforded landowners.

#### Amendments

Any person may petition for the amendment of the Clark County Comprehensive Plan or Development Code. The amendment procedure shall be as described here and in I.C. 67-6509 or I.C. 67-65 f I, respectively.

- A. The applicant shall file a properly completed application form, the required supporting materials, and the required application fee with the Administrator.
- B. The Administrator shall place notice of a hearing on the application on the next regular commission meeting for which the notice requirements can be met and at which time will allow for proper consideration. Notice requirements for an amendment shall be as set by I.C. 67-6509 or I.C. 67-6522(b).
- C. The Administrator may contract a professional review of the application, with the cost of that review being added to the application fee. Such reviews shall be prepared in the form of a written report submitted to the administrator for use at the hearing. The Administrator shall, upon its receipt, provide a copy of the report to the applicant and place in on the file for public review with other application materials.
- D. The Commission shall conduct a public hearing on the proposed amendment. No application for an amendment shall be reviewed if the applicant or a representative is not present.

- E. In the case of a proposed amendment, the commission shall determine whether the proposed amendment is consistent with the public interest, then recommend to the Clark County Board of County Commissioners and/or the City Councils to approve or disapprove it accordingly. In the case of proposed development code amendment, the commission shall determine whether the proposed amendment is consistent with the comprehensive plan, then recommend that the County Commission and/or the City Councils approve or disapprove it accordingly.
- F. The Administrator shall convey the Commission's recommendations to the Clark County Board of County Commissioners and/or the City Council's and, unless it is withdrawn, place a hearing, if necessary, on the agenda of the next regular Clark County Board of County Commissioners and/or City Council meeting for which notice requirements can be met and at which time will allow its proper consideration. For minor changes to the Development Code, the Clark County Board of County Commissioners and/or City Councils may waive the requirement for a public hearing if not public comment was provided during the hearing conducted by the Commission.
- G. The Clark County Board of Commission and/or the City Councils shall determine whether the proposed amendment is consistent with the public interest and, in the case of changes to the Development Code, the Comprehensive Plan and approve or disapprove it accordingly.
- H. The Administrator shall notify the applicant and interested parties of the Clark County Board of Commissioners and/or City Councils decision within 10 business days. No amendment to the Comprehensive Plan or Development Code shall become effective until that amendment has been adopted and published as required by law.

Amendments Required for Annexation

Proposals for annexation shall be processed as proposals for the amendment to the City's official zoning map, as provided in I.C. 67-6525. Upon approval, a copy of the annexation ordinance and annexation plat shall be filed with the County assessor, auditor, and treasurer, and the Idaho State Tax Commission.

Vacation of Plats

Vacation of any plat, or any portion of a plat, may be proposed following the procedure below and according to I.C. 50-1306tA. Note that the County may take no action on a proposed vacation within one mile of an incorporated City until the vacation has been approved by that City.

- A. An application for vacation and the required fee shall be filed with the Administrator, who shall place consideration of that petition on the agenda for the next regular commission meeting at which time will permit its proper review.
- B. The Commission shall review the proposed vacation and recommend that the vacation either be accepted or denied by the Clark County Board of County Commissions and/or the City Council.
- C. The Administrator shall notify the Clark County Board of County Commissioners and/or the City Council and the applicant of the Commission's recommendation within 10 business days, and unless the applicant withdraws the application, place a hearing on the

proposed vacation on the agenda of the next regular Board of County Commissioners or City Council meeting for which notice requirements can be met, and at which time permits its proper review.

- D. Notice of the hearing shall be provided as follows: a) by certified mail: to all owners of record of property within, and within 300 feet of, the boundaries of the plat proposed to be vacated, at least 10 days before the hearing, and b) by newspaper publication: one legal notice in the official newspaper, with that notice at least 7 days prior to the hearing.
- E. The Clark County Board of County Commissioners and/or the City Council shall conduct a hearing on the proposed vacation. No application shall be reviewed if the applicant or a representative is not present.
- F. The Clark County Board of County Commissioners and/or the City Council shall accept or reject the application, with acceptance based on findings, that; a) the vacation will not eliminate safe road access to any lot or parcel that is in separate ownership and was formerly included in, or is adjacent to the plat, b) the vacation will not eliminate easements or rights-of-way used for utilities serving any lot or parcel that is in separate ownership and was formerly included in, or is adjacent to the plat, c) all owners of record of property or property interests within the plat proposed to be vacated have consented, in writing, to the vacation.
- G. The Administrator shall notify the applicant and interested parties of the Board of County Commissioners and/or the City Council decision within 10 business days.

#### Appeals of Planning and Zoning Commission Decisions

The Board of County Commissioners or appropriate City Council shall serve as the decision-making body for appeals of decisions of the Planning and Zoning Commission.

- A. The Planning and Zoning Commission's decision may be appealed to the Board of County Commissioners or appropriate City Council by the applicant or any other aggrieved person within fourteen (14) days after the date on which the decision is made. Written notice of the appeal shall be filed with the Planning and Zoning Administrator.
- B. Within reasonable time following the preparation of transcripts, the Board of County Commissioners or appropriate City Council shall consider the appeal. When meeting to consider the appeal, the meeting shall not be a public hearing but shall be open to the public. During the meeting, County staff shall be available to present the application and answer questions. The Board of County Commissioners or appropriate City Council shall consider such findings, reports, minutes, comments, and recommendations as are forwarded to them by the Planning and Zoning Commission.
- C. The decision of the Board of County Commissioners shall be final.

#### Reconsideration of a Decision of the Board of County Commissioners or City Council

The Board of County Commissioners or appropriate City Council may elect to reconsider or rehear a land use request within a reasonable time period; however, the district Court appeal period shall continue to run from the date of the Board of County Commissioners' or appropriate City Council's initial decision unless they vote to reconsider that decision. The Board of County Commissioners or appropriate City Council shall decide whether or not to reconsider a request within ten days after receiving a reconsideration request. No decision by the Board of County

Commissioners or appropriate City Council shall be the same as a decision not to rehear the request.

### Mediation Provisions

Upon the written request of the applicant, an affected person, Planning and Zoning Commission, Board or Council, mediation may occur at any point during the decision-making process or after a final decision has been made. If mediation occurs after a final decision, any resolution of differences through mediation must be the subject of another public hearing before the decision-making body. Mediation shall take place following the procedures set out in Title 67 Chapter 65 of the Idaho Code relating to mediation of land use issues.

### Enforcement

- A. Building permit to comply with ordinance. From the effective date of this ordinance, no permit shall be granted for the construction or placement of any building, structure or mobile home, or for the moving of a building, structure or mobile home onto a lot for the change of use of any land, building or structure if such construction, alteration, moving or change of use would be a violation of any of the provisions of this ordinance.
- B. Construction and use to comply with permit. Permits issued on the basis of plans and specifications approved by the Building Permit Administrator, the Planning Commission, the Board of County Commissioners, and/or the appropriate City Council authorize only the use, arrangement, and construction set forth in such approved application. Any use, arrangement, or construction at variance with that authorized shall be deemed to be a violation of this Ordinance.
- C. Permits Granted Prior to this Ordinance. Authorization granted by the County or appropriate City to construct a building or structure, or to change the use of land shall not be denied or abridged in the event that construction has taken place thereon to the extent of one thousand (\$1,000) or more in replaceable value by the date on which this ordinance or an amendment thereto shall become effective. Provided, however, that such authorization to construct a building or structure shall be denied if construction would not have complied with all applicable laws and ordinances existing prior to the effective date of this Ordinance. Replaceable value shall be construed to mean the expenditure necessary to duplicate the material and labor at market prices.
- D. Responsibility for Violation. It shall be the responsibility of the owner and all builders, contractors, sub-contractors, real estate agents and any other persons having to do with the establishment of any use of land or erection, altering or relocation of any building and/or structure to make sure that a proper permit has been obtained before work is begun. Any person doing any work on a project for which a proper permit has not been obtained shall be deemed guilty of a violation of this Ordinance.
- E. Injured Person May Recover Damages – County Not Liable. Any person purchasing a lot or parcel of land who may be injured as the consequence of a denial of a building permit, which purchase was made pursuant to inaccurate, incorrect, untrue or fraudulent information on the part of the seller or his agent may recover damages from the seller or his agent by civil action. However, the County or appropriate City shall not be civilly liable for any damages that may occur as a consequence of the denial of a building permit based upon such information.

- F. Violation and Penalty. Where any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or where any building, structure or land is used or where a parcel of land is subdivided in violation of this Ordinance, the County or appropriate City may institute any appropriate action or procedure to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate such violation, to prevent any illegal act, business conduct, or use and such other remedy allowed by law.
- G. Each Day a Separate Violation. Each person, firm or corporation found guilty of violation shall be deemed guilty of a separate offense for each day during which violation of any provision of this Ordinance is committed, continued, or permitted by such person, firm or corporation and shall be punished as provided by law as a separate offense.
- H. Any person, firm, association, or corporation that fails to comply with or violates any of these regulations shall be subject to a fine not more than three hundred dollars (\$300.00), an/d or imprisonment for a period not exceeding six months, or both. Each day that said violation continues shall be considered a separate offense.