

AN ORDINANCE AMENDING ADA COUNTY CODE TITLE 8: TO AMEND SECTION 8-1-4 TO DELETE PARAGRAPH F PERTAINING TO APPROVED PROJECT WITH PENDING REQUEST FOR A TIME EXTENSION; TO AMEND SECTION 8-5B-3 TO ALLOW CONDITIONAL USES 2 YEARS IN WHICH TO RECEIVE ALL NECESSARY APPROVALS AND ZONING CERTIFICATE; TO AMEND SECTION 8-7-2 TO DELETE CHANGE IN OWNERSHIP OF AN APPROVED CONDITIONAL USE AS AN APPLICATION ACTED ON BY THE DIRECTOR, TO ADD ADMINISTRATIVE TIME EXTENSIONS AS AN APPLICATION ACTED ON BY THE DIRECTOR; TO DELETE EXPANSION OR EXTENSION OF A NONCONFORMING USE AS AN APPLICATION ACTED ON BY THE BOARD AND TO ADD TIME EXTENSIONS AS AN APPLICATION ACTED ON BY THE BOARD; TO AMEND SECTION 8-7-6 TO PROVIDE FOR NEW PROCESS AND FINDINGS FOR ADMINISTRATIVE AND BOARD-GRANTED TIME EXTENSIONS.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ADA COUNTY, IDAHO, THAT ADA COUNTY CODE, TITLE 8 BE AMENDED AS FOLLOWS:

Section 1: Ada County Code Section 8-1-4 is amended as follows:

8-1-4: APPLICABILITY:

The regulations of this title shall apply to all unincorporated properties within Ada County and shall govern development and use of those properties.

A. Compliance; Approval Required: No person or public agency shall construct, alter, move, or change the use of a structure or undertake any development unless:

1. The proposed use, structure, or division of property complies with this title.
2. Any required approval is first obtained as provided by chapter 7 of this title, and any applicable conditions of approval are met.

B. Permits Required: Nothing in this title shall eliminate the need for obtaining any other required permits, including, but not limited to, building permits, plumbing, electrical, or mechanical permits, grading permits, or any permit, approval, or entitlement required by other titles of this code, other political subdivisions of the state of Idaho, or agencies of the state of Idaho.

C. Unincorporated County Properties: All properties in unincorporated Ada County shall comply with the regulations of this title unless otherwise preempted by federal statute or local ordinance.

D. Previous Violations: The prosecution of violations that occurred under previous land use regulations and that remain a violation under this title shall continue until resolved.

E. Project With Pending Application: All applications shall be processed according to the ordinances and comprehensive plans in effect as of the date of application submittal. An application accepted as complete, as provided in subsection 8-7A-2C of this title, will be scheduled for hearing or decision. An

application that has been submitted but has been deemed incomplete may be supplemented or corrected by the applicant within one hundred fifty (150) days following the date of application submittal. Following a second review by development services, if the application has not been accepted as complete, the application shall be scheduled for hearing or decision and shall be denied or recommended for denial. Denial shall require submittal of a new application that complies with applicable ordinances and comprehensive plans at the time of application submittal of the new application.

~~F. Approved Project With Pending Request For A Time Extension: Time extension requests shall be consistent with the requirements that are in effect when the original application was approved.~~

~~G. E. Approved Projects Not Yet Completed: Any approved application may still be completed as provided by the approval.~~

Section 2: Ada County Code Section 8-5B-3 is amended as follows:

8-5B-3: PROCESS:

A conditional use shall be subject to a public hearing, review, and approval subject to the regulations of subsection 8-7-2D of this title. The approval process shall be as follows:

A. An application and fees, as set forth in chapter 7, article A of this title, shall be submitted to the director on forms provided by the development services department.

B. The applicant shall concurrently submit and obtain approval for a master site plan subject to the regulations of chapter 4, article E of this title, unless specifically exempt under the regulations of that article. Any accessory buildings or facilities and any outdoor storage areas shall be noted on the master site plan and reviewed as part of the conditional use.

C. The decision making body shall apply the specific use standards listed in section 8-5-3 of this chapter, the general conditional use standards in section 8-5B-4 of this article, and the findings listed in section 8-5B-5 of this article to review the conditional use.

D. Prior to issuance of a zoning certificate, the applicant shall provide written documentation indicating the facility has been approved by all applicable public agencies.

E. The approval shall be limited to a ~~one~~ two-year period in which the applicant or owner must obtain all necessary permits and obtain a zoning certificate.

F. Upon determination by the director that all conditions of approval have been met and the conditional use is in conformance with this section, a zoning certificate shall be issued.

G. The minor modification provisions set forth for approved master site plans in sections 8-4E-3(F)(G) of this title shall also apply to approved conditional uses.

H. All other modifications to an approved conditional use shall be considered in accordance with section 8-5B-2 of this article.

Section 3: Ada County Code Section 8-7-2 is amended as follows:

8-7-2: JURISDICTION AND AUTHORITY:

A. Director of Development Services: It shall be the duty of the director, or his or her authorized agent, to administer the regulations of this title.

1. The director shall be responsible for the enforcement and administration of this title including, but not limited to, those in section 8-1-5 of this title and the following:

a. The director shall conduct investigations of structures and use of property as are necessary to determine compliance with the regulations of this title;

b. Order the abatement of violations of the zoning ordinance and aid in prosecuting such violations;

c. Withhold any zoning certificates on any property where structures or uses are in violation of the zoning ordinance; and

d. Enforce penalties for violations as set forth in section 8-7-8 of this chapter.

2. The director shall provide information to the public on planning, zoning, building, and engineering matters.

3. The director shall have authority to receive and examine applications including, but not limited to, the following:

a. Enter upon any property (with the consent of the owner) to: 1) make examinations and surveys, and 2) place and maintain necessary monuments and marks;

b. Maintain records of all materials and correspondence related to land use applications;

c. Transmit to outside agencies and provide written notice to surrounding property owners on all commission and board hearings;

d. Maintain records of the commission and board hearings and actions thereon;

e. Transmit to the commission or board all applications, petitions, and other communications upon which the commission or board is required to act; and

f. Issue zoning certificates.

4. The director shall act on the following applications that do not require transmittal to outside agencies or notice to surrounding property owners:

Accessory use approval, zoning certificate required (chapter 5, article A of this title).

~~Change in ownership of an approved conditional use (section 8-5B-2 of this title).~~

Farm development right (section 8-2A-5 of this title).

Floodplain permit (chapter 3, article F of this title).

Landscape and screening plan (chapter 4, article F of this title).

Lighting plan (chapter 4, article H of this title).

Modification or expansion to an approved conditional use (section 8-5B-3 of this title).

Modification or expansion to an approved master site plan (section 8-4E-3 of this title).

One time division of a property (chapter 4, article B of this title).

Property boundary adjustment (chapter 4, article C of this title).

Sign plan (chapter 4, article I of this title).

Temporary use approval, zoning certificate required (chapter 4, article L of this title).

Time extension, administrative (section 8-7-6A2) of this title.

Zoning certificate (section 8-7-1 of this chapter).

5. The director shall transmit to outside agencies, provide written notice to surrounding property owners, and act on the following applications:

Accessory use approval, zoning certificate and administrative approval required (chapter 5, article A of this title).

Expansion or extension of nonconforming use or structure (section 8-7-5 of this chapter).

Joint applications with items listed in subsection A4 of this section.

Master site plan (chapter 4, article E of this title).

Private road (chapter 4, article D of this title).

Temporary use approval, zoning certificate and administrative approval required (chapter 4, article L of this title).

B. Prosecuting Attorney: The prosecuting attorney of Ada County shall have the authority to enforce this title as set forth in Idaho Code and this code.

C. Sheriff: The Ada County sheriff, and his or her authorized representatives, shall have the authority to enforce this title as set forth in Idaho Code and this code.

D. Planning And Zoning Commission:

1. The commission shall have jurisdiction and authority to:
 - a. Provide for citizen meetings, hearings, surveys, or other methods to obtain advice on the planning process, comprehensive plan, and implementation;
 - b. Conduct informational meetings and consult with public officials and agencies, public utility companies, and civic, educational, professional, or other organizations;
 - c. Promote a public interest in and understanding of the commission's activities;
 - d. Make recommendations to the board concerning the comprehensive plan, planning process, or implementation of the comprehensive plan;
 - e. Enter upon any property (with the consent of the owner) to: 1) make examinations and surveys, and 2) place and maintain necessary monuments and marks; and
 - f. Hear applications under the authority of the hearings examiner (see subsection F of this section) if a hearings examiner has not been appointed by the board. Final plats reviewed by the commission shall be heard at an open meeting of the commission.

2. The commission shall have the authority to act on the following applications, all of which require transmittals to agencies, notice to the public, and a public hearing before the commission:

Conditional use (chapter 5, article B of this title).

Joint applications with items listed in subsections A4 and/or A5 of this section.

Subdivision, sketch plat (chapter 6 of this title).

3. The commission shall have the authority to make a recommendation to the board on the following applications or petitions, all of which shall require transmittals to agencies and cities, notice to the public, and a public hearing before the commission:

Amendment to an area of city impact agreement (title 9 of this code).

Amendment to the comprehensive plan (text or map) (subsection 8-7B-1A of this chapter).

Amendment to the zoning ordinance (text or map) (section 8-7-3 of this chapter).

Development agreement (article C of this chapter).

Joint applications with items listed in subsections A4, A5, and/or D2 of this section.

Subdivision, preliminary plat (chapter 6 of this title).

E. Board Of County Commissioners:

1. The board shall have the authority to act on the following applications and petitions, all of which shall require a recommendation from the commission, transmittals to agencies and cities, notice to the public, and public hearing:

Amendment to an area of city impact agreement (title 9 of this code).

Amendment to the comprehensive plan (text or map) (subsection 8-7B-1A of this chapter).

Amendment to the zoning ordinance (text or map) (section 8-7-3 of this chapter).

Development agreement (article C of this chapter).

Joint applications with items listed in subsections A4, A5, D2, D3 of this section.

Subdivision, preliminary plat (chapter 6 of this title).

2. The board shall have the authority to act on the following applications, all of which require transmittals to agencies, notice to the public, and a public hearing by the board:

Appeal (section 8-7-7 of this chapter).

~~Expansion or extension of a nonconforming use (section 8-7-5 of this chapter).~~

Joint applications with items listed in subsections A4, A5, D2, D3, and/or E1 of this section.

Time extension (section 8-7-6A3 of this chapter).

Variance (section 8-7-4 of this chapter).

3. The board shall have the authority to act on the following applications or petitions at an open meeting of the board:

Subdivision, final plat (chapter 6 of this title).

4. The board shall have the authority to appoint a hearings examiner, in accordance with Idaho Code section 67-6520.

F. Hearings Examiner:

1. The hearings examiner shall have the authority to act on the following applications, all of which require transmittals to agencies, notice to the public, and a public hearing before the hearings examiner:

Subdivision, final plat (chapter 6 of this title).

Section 4: Ada County Code Section 8-7-6 is amended as follows:

8-7-6: TIME EXTENSIONS OF AN APPROVED DEVELOPMENT APPLICATION:

~~An application for a time extension shall be reviewed by the director. The time extension shall commence from the date of expiration of the previous approval, except in the case of an appeal of a board approval, when the time extension shall commence from the final resolution of such appeal.~~

~~A. Process:~~

~~1. An application and fees, as set forth in article A of this chapter, shall be submitted to the director on forms provided by the development services department.~~

~~a. The application shall include a written request indicating the need for a time extension.~~

~~b. The application shall be filed at least thirty (30) days prior to expiration date of the original approval.~~

~~2. At the discretion of the director, other agencies may be notified of the time extension request in order to solicit their comments and recommendations for consideration.~~

~~3. The director shall apply the standards listed in subsection B of this section and the findings listed in subsection C of this section to review the time extension. The director may impose additional conditions in an approval of a time extension for an approved development (excluding final plats).~~

~~B. Standards:~~

~~1. The applicant or owner for an approved development (excluding final plats) may apply for one (and only 1) time extension for a period not to exceed one year.~~

~~2. The applicant or owner for an approved final plat may apply for one (and only 1) time extension for each phase of the final plat. The time extension shall be for a period not to exceed one year.~~

~~C. Required Findings: In order to grant a time extension, the director shall make the following findings:~~

~~1. The time extension meets the standards listed in subsection B of this section; and~~

~~2. The applicant and/or owner have adequately justified the need for a time extension.~~

A. Process:

1. An application and fees, as set forth in article A of this chapter, shall be submitted to the director on forms provided by the development services department.

a. The application shall include a letter from the applicant or owner describing the reasons for the time extension request. Such reasons may include, but are not limited to: (1) Current and/or forecasted economic conditions that make it impracticable to finish the development within the time allotted; or (2) Delays that are beyond the control of the applicant or owner that make it impracticable to meet the conditions of approval and/or development requirements within the time allotted.

b. The application shall be filed prior to the expiration date of the development approval or previously granted time extension.

c. A development application shall only be eligible to apply for and receive 2 time extensions (1 administratively granted and 1 granted by the board.)

2. The first application for a time extension shall be administrative. An administratively granted time extension shall be valid for 1 year from the date of the original expiration date of the development application.

3. The second application for a time extension shall require a public hearing in front of the board. The public hearing shall be conducted in accordance with the notice and hearing procedures provided under Idaho Code section 67-6509. The board may grant a time extension for any period of time up to but not to exceed 2 years from the date of the expiration of the administratively granted time extension. The board in granting a time extension may, in its discretion, amend, delete, and/or add conditions of approval/development requirements as necessary.

B. Findings: In order to grant a time extension the director or board shall make the following findings:

1. The application was submitted in a timely manner; and

2. The applicant has submitted reasons that justify the granting of the time extension.

ADOPTED this _____ day of _____, 2009.

Board of Ada County Commissioners

By: _____
Fred Tilman, Chairman

By: _____
Sharon M. Ullman, Commissioner

By: _____
Rick Yzaguirre, Commissioner

ATTEST:

J. David Navarro, Ada County Clerk