

CHAPTER 5

ENFORCEMENT AND ADMINISTRATION

SECTION:

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9-5-1: **ZONING ADMINISTRATOR, BUILDING INSPECTOR, AND COMPLIANCE OFFICER:** There is hereby established in Cassia County, state of Idaho, the offices of zoning administrator, building inspector, and compliance officer which shall be under the jurisdiction of the board of county commissioners of Cassia County, state of Idaho. The board of county commissioners shall appoint the officers who shall be charged with the administration and enforcement of this title, but the board of county commissioners may from time to time entrust the administration and enforcement, in whole or in part, to any other officer of the county. (Ord. 93-6-1, 6-28-1993; amd Ord. 2006-11-01, 11-07-6)

9-5-2: **PERMIT MODIFICATIONS; ZONING ADMINISTRATOR AUTHORITY:**

- A. Any permit issued under Title 9, Cassia County Code may be administratively reviewed and amended regarding minor changes or amendments to permits issued under said Title 9 by the Cassia County Planning and Zoning Commission subject to guidelines set out hereafter, and as may be issued by the Commission or Board hereafter. (Ord. 2011-08-01, 8-25-2011.)
- B. The Zoning Administrator shall have discretion to determine those proposed changes or amendments that are considered to be of minor nature for this administrative review process, subject to guidelines set forth in section 9-5-2. (Ord. 2011-08-01, 8-25-2011.)

- C. Any change or amendment that would alter the external boundary of a permitted use or permitted site; or that would increase total animal units or animal unit density previously approved; or that is proposed to meet federal, state or regulatory agency requirements; or that are proposed or is likely to affect air quality or water quality shall be brought before the Commission for further review and consideration. Such review hearing shall be conducted under notice and hearing provisions as set forth within applicable county code, or if no applicable code, then as directed and determined by the Commission. (Ord. 2011-08-01, 8-25-2011.)
- D. Re-inspection Costs/Duplicate Inspection Cards: Upon appointment being set by owner or contractor of any permitted development, and building inspector's attendance at the site for purposes of conducting such inspection, and the purpose for the inspection not being completed, then owner or contractor shall pay a re-inspection fee to the County, as set by resolution of the Board, before any further inspection shall take place by the building inspector. If the Inspection Card is not readily available to the building inspector at such time as the inspection is requested, then Inspector shall cease inspection and owner or contractor shall pay for a re-inspection fee and a duplicate inspection card fee, at such rates as determined by the Board and thereafter set by resolution.
- E. Agricultural Building Siting Permit: The County shall regulate and ensure compliance with road setbacks and utility easements with respect to agricultural buildings. These buildings shall otherwise be exempt from building codes. Applicants for Agricultural Building Siting Permits shall file an application for such permit, on a form approved by the County, with the County Building Department, and pay such fee as is determined by the Board for said permit. [Amd. Ord. 2009-04-01, 4-14-2009.]

9-5-3:

POWERS AND DUTIES:

- A. Compliance With Provisions Required: The zoning administrator and/or the building inspector shall not grant a permit for the construction of any building or structure, or for the moving of the building into a lot, or for the change in any use of land, building or structure if such construction, alteration, moving or change in use would be in violation of any of the provisions of this title, nor shall any other officer of the county grant any permit or license for the use of any building or land if such would be in violation of this title. (amd. Ord. 2011-08-01, 8-25-2011.)
- B. Business Licenses: No business license or permit shall be issued by an officer or employee of Cassia County, state of Idaho, until the application for the permit

or license has been first reviewed by the zoning administrator as to conformance with the provisions of this title. A permit or license, if issued in conflict with the provisions of this title, shall be null and void. (amd. reletter only by Ord. 2011-08-01, 8-25-2011.)

- C. Notice Of Violation: Whenever the zoning administrator, building inspector, or the compliance officer shall observe any apparent violation or infraction of this title, they shall send a notice to the property owner on whose land the apparent violation occurs, setting forth the nature of the alleged violation, and a statement that said alleged violation must be corrected within a reasonable time to be specified in the notice. (Ord. 93-6-1, 6-28-1993; amd. reletter only by Ord. 2011-08-01, 8-25-2011.)
- D. Multiple Applications: Multiple applications under this title on the same premises, e.g., conditional use permit and variance, may be made at the same time, and upon payment of only one application fee, plus the additional advertising costs, if any. (Ord. 99-1-1, 1-4-1999; amd. reletter only by Ord. 2011-08-01, 8-25-2011.)

9-5-4: **PLANNING AND ZONING COMMISSION:**

- A. Creation: There is hereby created a planning and zoning commission to administer this title with powers and duties as hereinafter set forth. Said commission shall consist of seven (7) members appointed by resolution of the board of county commissioners.
- B. Duties: For the purpose of this title, the planning and zoning commission shall have the following duties:
1. Future Development; Comprehensive Plan: To plan for the future growth and development of the county and to fulfill the mandates for the implementation, review and updating of the county's comprehensive plan pursuant to Idaho Code sections 67-6507 and 67-6508; (Ord. 99-1-1, 1-4-1999)
 2. Amendments: Initiate proposed amendments to this title and conduct a biennial review of the complete zoning and subdivision ordinances; (Ord. 99-1-1, 1-4-1999; amd. 2003 Code)
 3. Review Of Amendments: Review all proposed amendments to this title, the subdivision ordinance, or other related ordinances;
 4. PUD Review: Review all planned unit developments;
 5. Conditional Use Permits: Grant conditional use permits as specified in this

title and under the conditions as herein specified with such additional safeguards as will uphold the intent of this title;

6. Appeals: Hear and decide appeals where it is alleged there is an error in any order, requirement, decision, interpretation or determination made by the zoning administrator, building inspector, and/or the compliance officer;

7. Variances: Authorize such variances from the terms of the zoning and subdivision ordinances as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of such ordinances will result in unnecessary hardship, and so that the intent of the ordinances shall be observed and substantial justice done; and

8. Rules Of Procedure: Adopt rules of procedure not inconsistent with the provisions of this title or state law for the conduct of its business and procedures.

- C. Conflict Of Interests ¹: A member or employee of the planning and zoning commission shall not participate in any proceedings or action when the member or his employer, or employee, business partner, business associate or any person related to him by blood or marriage within the second degree has an economic interest in the procedure or action. Any actual or potential interest in any proceedings shall be disclosed at or before any meeting at which the action is being heard or considered. (Ord. 99-1-1, 1-4-1999)

9-5-5: **APPEALS, VARIANCES AND REQUESTS FOR HEARINGS:**

A. General: The planning and zoning commission shall consider administrative appeals where it is alleged that an error has been made by the zoning administrator or building inspector, variances from the terms of the zoning and subdivision ordinances and requests for hearings from affected persons. (Ord. 99-1-1, 1-4-1999)

B. Administrative Appeals: Appeals to the planning and zoning commission concerning interpretation or administration of this title may be taken by any person aggrieved or by any officer or bureau of the county affected by any decision of the zoning administrator. Such appeal shall be taken within twenty eight (28) days after the decision of the zoning administrator by filing with the zoning administrator and with the planning and zoning commission a notice of appeal specifying the grounds upon which the appeal is being taken and payment of a fee as set by the county. The zoning administrator shall transmit to the commission all the papers constituting the record upon which the appeal is based. (Ord. 99-10-2, 10-18-1999; amd. 2003 Code)

¹ IC § 67-6506

C. Stay Of Proceedings: An appeal stays all proceedings in furtherance of the action taken unless the zoning administrator certifies to the planning and zoning commission after the notice of appeal is filed with him that by reason of facts stated in the application, a stay would, in his opinion, cause imminent peril of life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by a court based upon an application, with notice to the zoning administrator showing due cause.

D. Variance: The planning and zoning commission may authorize in specific cases such variance from the terms of the zoning and subdivision ordinances as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of such ordinances would result in unnecessary hardship. No nonconforming use of neighboring lands, structures or buildings in other districts shall be considered grounds for issuance of a variance. Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the provisions of this title would result in unnecessary hardship.

E. Application And Standards For Variances: A variance from the terms of this title shall not be granted by the planning and zoning commission unless and until a written application for a variance is submitted to the zoning administrator and the planning and zoning commission containing: (Ord. 99-1-1, 1-4-1999)

1. Fee: A fee per application as set by the county; (Ord. 99-1-1, 1-4-1999; amd. 2003 Code)

2. Personal Information: Name, address and phone number of applicant(s);

3. Legal Description: Legal description of property; (Ord. 99-1-1, 1-4-1999)

4. Nature Of Variance: Description of nature of variance requested and the specific section of this title that relates to the requested variance; and (Ord. 99-10-2, 10-18-1999)

5. Statement Of Conformity: A narrative statement demonstrating that the requested variance conforms to the following standards:

a. Special Circumstances: That special conditions and circumstances exist which are not applicable to other lands, structures or buildings in the same district;

b. Deprivation Of Rights: That a literal interpretation of the provisions of the title would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the title;

c. Circumstances Unavoidable: That such special conditions and circumstances do not result from the actions of the applicant;

d. Not A Special Privilege: That granting of the variance requested will not confer on the applicant any special privilege that is denied by this title to other lands, structures or buildings in the same district; and

e. Minimum Change: That the variance requested is the minimum change necessary to alleviate the hardship. A variance shall not be granted unless the planning and zoning commission makes specific findings of fact based directly on the particular evidence presented to it which support conclusions that the above mentioned standards and conditions have been met by the applicant.

F. Supplementary Conditions And Safeguards: Under no circumstances shall the planning and zoning commission grant an appeal or variance to allow a use not permissible under the terms of this title in the zone involved, or any use expressly or by implication prohibited by the terms of this title in said zone. In granting any appeal or variance, the planning and zoning commission may prescribe appropriate conditions and safeguards in conformity with the title. Violation of such conditions and safeguards, when made a part of the terms under which the appeal or variance is granted, shall be deemed a violation of this title. (Ord. 99-1-1,1-4-1999)

G. Public Hearing: Upon receipt of the application for an appeal or a variance, the planning and zoning commission shall schedule a public hearing. The applicant shall publish a notice thereof in a newspaper and *give* written notice to all parties as required for conditional use permits, and file proof of giving such notice with the zoning administrator. (Ord. 99-10-2,10-18-1999)

H. Action By Planning and zoning commission: Within sixty (60) days after the public hearing, the planning and zoning commission shall either approve, conditionally approve, or disapprove the request for appeal or variance. Upon granting or denying an application the planning and zoning commission shall specify:

1. Evaluation Standards: The ordinance and standards used in evaluating the application;

2. Reasons: The reasons for approval or denial; and (Ord. 99-1-1, 1-4- 1999)

3. Actions To Grant Appeal Or Variance: The actions, if any, that the applicant could take to obtain a variance or be granted an administrative appeal.

- I. Notification Of Applicant: Within twenty (20) days after a decision has been rendered, the zoning administrator shall provide the applicant with written notice of the action on the request to:
1. Grant or deny a variance or an administrative appeal; or
 2. Delay such a decision for a definite period of time. (Ord. 99-1-1, 1-4-1999; amd. 2003 Code)
- J. Appeal: Appeals from the decisions of the planning and zoning commission may be taken by any person whose substantial rights are affected by the decision, or by officers of any department, board or bureau of the county affected by any decision of the commission. A notice of such appeal shall be filed within twenty eight (28) days after the date of the decision from which the appeal is taken, by filing with the county clerk a notice of appeal specifying the grounds therefor and paying a fee as set by the county. The planning and zoning commission shall forthwith transmit to the board of county commissioners all of the documents, exhibits in the file and the tape recordings of the hearing, etc., which constitute the record upon which the action appealed from was taken. The filing of the notice of appeal stays all proceedings in the matter appealed from, unless the planning and zoning commission certifies to the board of county commissioners that, by reason of the facts stated in the certificate, a stay would, in its opinion, cause imminent peril to life or property. In such case, the proceedings shall not be stayed, except by a restraining order granted by the board of county commissioners or by a court of competent jurisdiction on application and notice to all parties. The board of county commissioners shall fix a reasonable time for a hearing on the appeal to be held not less than thirty (30) nor more than sixty (60) days from the filing of the notice of appeal and give notice thereof to the parties in interest. Such appeals to the board of county commissioners shall be held and decided pursuant to the procedures and standards of review of the Idaho administrative procedures act². (Ord. 99-10-2, 10-18-1999; amd. 2003 Code)

² IC Title 67, chapter 52