

CHAPTER 1: TITLE, AUTHORITY, PURPOSE, INTENT

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1.1 Title

This Ordinance shall be known and entitled as “The City of Rexburg Development Code” and may be so cited and pleaded.

1.2 Authority

This Ordinance is adopted pursuant to authority granted by Title 67, Chapter 65 of the Idaho Code, and Article 12, Section 2 of the Idaho Constitution, as amended.

1.3 Purpose

- a. **Purpose.** The purpose of this Ordinance shall be to promote the health, safety, and welfare of the residents of the City of Rexburg as follows:
 - i. To protect property rights and enhance property values.
 - ii. To provide for the protection and enhancement of the local economy.
 - iii. To ensure that important environmental features are protected and enhanced.
 - iv. To encourage the protection of prime agricultural lands for the production of food.
 - v. To encourage concentration of population in urban areas with the goal of enhancing the quality of life for the community.
 - vi. To ensure that development is commensurate with the physical characteristics of the land.
 - vii. To protect life and property in areas subject to natural hazards and disasters.
 - viii. To protect recreation resources.
 - ix. To avoid undue water and air pollution.
 - x. To maximize use of existing infrastructure including roads, utilities, sewers and water facilities.
 - xi. To secure safety from fire and provide adequate open spaces for light and air.
 - xii. To implement the comprehensive plan.

1.4 Intent

It is the intent of the governing body of the City of Rexburg that this Ordinance be interpreted and construed to further the purposes of this Ordinance and the objectives and characteristics of the zoning districts.

1.5 Applicability

The provisions of this Ordinance are applicable not only to private persons, agencies and organizations but also to all public agencies and organizations to the full extent that they may be enforceable.

1.6 Previous Ordinances and Maps

The existing ordinances covering the zoning of the property within the limits of the City of Rexburg together with all maps which are part of such ordinances are hereby superseded. Any illegal or unauthorized use of land, buildings or structures shall remain illegal and unauthorized unless specifically authorized under this Ordinance.

1.7 Severability

If any portion of this Ordinance or its application to specific circumstances shall be held invalid by a court of competent jurisdiction, the remainder of this Ordinance and its application to other circumstances shall be unaffected.

1.8 Relationship to other laws

If State or federal law or regulations or other City ordinances impose additional or duplicative standards on development or buildings regulated by this Ordinance, the more restrictive standard shall apply.

1.9 Violation and Penalties

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a complaint with the Zoning Administrator. The Administrator or his agent shall record such complaint, investigate the same, and take such action or cause such action to be taken as provided by this Ordinance. The City Attorney may, in addition to taking whatever criminal action is deemed necessary, take steps to civilly enjoin any violation of this Ordinance. Any violation of the provisions of this Ordinance or any failure to comply with any of its requirements shall constitute a misdemeanor. Each day such violation continues beyond notice shall be considered a separate violation. Any person convicted of violating the provisions of this Ordinance shall be punishable by imprisonment for a term not to exceed thirty (30) days, a fine not to exceed three hundred dollars (\$300), or by both such fine and imprisonment.

1.10 Development Review Committee and Design Review Board

- a. **Purpose.** The Development Review Committee and the Design Review Board are established to coordinate, expedite and assure fair and equitable implementation of this title.

The objective, to be implemented through their procedures and deliberations, shall be to encourage development quality that will enhance both the natural and built environments, with consideration to present and future property values, and to carry out the purposes of this title. All bodies authorized under this chapter may call upon any City staff or other persons with technical expertise, and may testify before any board, commission or other body upon the subjects for which they have responsibility.

- i. **Development Review Committee.** The Development Review Committee is established to evaluate all proposals subject to the provisions of this title. The Development Review Committee is the body charged with reviewing items relating to public health and safety.
 1. The Development Review Committee shall act as an advisory body to the Planning Director for site plans when no variance or deviation is requested; and
 2. The Development Review Committee shall act as an advisory body to the City Council for larger and more complex proposals including conditional use permits, planned unit developments, all site plans involving variances or deviations, divisions of land, zone map amendments, annexations and other actions as requested by staff or the City Council.
- ii. **Design Review Board.** The Design Review Board is established to review design standards, landscaping and site plans when requested by either the Community Development Director or a designee or by the applicant. The applicant may request that the Design Review Board meet and overrule the findings of the Community Development Director or a designee.

1. ORGANIZATION

- a. The Design Review Committee is made up of three (3) pools of individuals from:
 - i. The Planning and Zoning Commission (pool of all members)
 - ii. The City Council and Mayor (pool of all members)

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- iii. Professional Group (group of ten)
- b. Three (3) members of the committee should be present for project design review. The Planning and Zoning Assistant shall attempt to build a three member committee by calling one member from each pool. If the attempt is not successful, then the group may consist of three members of any combination of the pools. If at the time of the meeting some or all of the members of the committee do not show, then two of the remaining members and/or City of Rexburg Staff may act as the committee.
- c. The Community Development Director shall recommend potential members from the private sector for inclusion into the Professional Group to the Mayor. The Mayor shall make the final decision on the body.

2. MEETINGS

- a. The Community Development Director or a designee will review all plans and applications for compliance to the Design Standards as set forth in the City of Rexburg Development Code.
- b. If the Community Development Director or a designee performing the design review feels that input is required from the Design Review Committee, he/she can request that the Design Review Committee meet and discuss the proposal.
- c. If at any time the person submitting the plans does not agree with the review performed by the Community Development Director or a designee, he/she may request a hearing by the Design Review Committee.

3. AUTHORITY

- a. The Planning and Zoning Commission delegates the authority required to make a best effort design review to the Community Development Director or a designee. It is the intent that the Community Development Director or a designee reviews the submitted plans for compliance to the ideals and spirit of the design review requirements of the Rexburg Development Code.
- b. The Planning and Zoning Commission at any time may request that a Design Review Committee be called together for certain project review or as a re-review on a project completed by the Community Development Director or a designee.

- b. Development Review Committee Procedures Established (City and EMS Staff).** To implement this purpose, certain procedures shall be adopted to include, but not be limited to, a regularly scheduled weekly or biweekly meeting attended by representatives of each of the City departments charged with development review. Each department shall have the ability and authority to require the Development Review Committee to make a recommendation of denial when in their view the project cannot meet the requirements and review criteria of this title and acceptable conditions do not exist to cure the identified failings of the project. Written meeting reviews, in the form of staff reports or summary reviews, shall be made setting forth the Development Review Committee's recommendation to the Planning Director or City Commission and reasons for requiring such conditions as may be deemed necessary by the Development Review Committee. Each of the Development Review Committee Members will input their reviews and comments into the City Permitting System following the project review meeting. These records shall be preserved as part of the official file for each development proposal.

Lastly, the Development Review Committee shall generally follow "Robert's Rules of Order" and may prepare and adopt supplemental procedural rules that will assure the accomplishment of the stated purpose and promote the efficiency and effectiveness of the developmental review process.

The Development Review Committee shall at a minimum be composed of the following personnel: City Engineer or designee, Fire Marshal or designee, the Public Works Director, the Planning Director or designee and the Building Official or designee.

- i. Including Members of the Committee.** When necessary, other members of the committee may be included at the Planning Director's or other Development Review Committee Members request.
- ii. Soliciting input.** When applicable, the Development Review Committee may solicit the input of non-City agencies and persons including, but not limited to, the County Subdivision Review Officer or Designee, the County Sanitarian or designee, the County Road Superintendent or designee, and state or federal agencies, with other individuals to be included as necessary.

- c. **Design Review Board Procedures Established.** To implement this purpose, certain procedures shall be adopted to include, but not be limited to, meetings attended by members of the Design Review Board. Written meeting reviews setting forth decisions and findings shall be made. These records shall be preserved as part of the official proceedings for each developmental proposal.

Lastly, the Design Review Board shall generally follow “Robert’s Rules of Order” and may prepare and adopt supplemental procedural rules, upon the approval of the City Council, that will assure the accomplishment of the stated purpose and promote the efficiency and effectiveness of the design review process.

1.11 General Procedures, Notice and Timing

- a. **Informal Advice and Direction.** A person or organization considering any construction, building or site alteration, rezoning or other development activity, may approach the Development Review Committee or Design Review Board for informal advice and direction. Such discussion shall be treated as advisory by both parties and shall record only the fact that contact had been made. An informal review by the Development Review Committee and/or Design Review Board may be requested by submitting a completed application form provided by the Planning Director along with any schematic development plans or written narrative at least one week prior to the next Development Review Committee and/or Design Review Board meeting.

The initial informal review by an applicant or owner for a specific parcel shall be conducted without a fee. A fee, set in accordance with the fee resolution adopted by the City Council, shall be charged for a second or subsequent informal review requested by the same applicant and/or owner for the same real property as a prior informal review. No application is required for informal review or advice by the Development Review Committee staff.

- b. **Application.** An application for **consideration** of a development proposal must be submitted utilizing a form available from the Planning Director. Material to be submitted with the application shall include the elements set forth within the requirements for the type of proposal to be considered, i.e., sketch plan, site plan, conditional use permit, certificate of appropriateness, planned unit development, divisions of land, etc. as outlined in this title. It is recommended that the applicant discuss the application informally with the Development Review Committee prior to formal submission to help expedite the process. Depending upon the size of the proposed project, its location and type, the applicant may be directed to one or more agencies of the City for processing.
- c. **Development Review Committee or Design Review Board Action.** By no later than 30 working days from the date of the first regularly scheduled Development Review Committee and/or Design Review Board meeting, at which the applicants’ proposal was initially reviewed, the Development Review Committee, or Design Review Board shall take action to recommend approval, approval with conditions, table pending submission of revised or additional materials or recommend denial of the applicant’s proposal, unless the applicant grants a written extension to the review period.

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