

CHAPTER 6: ADMINISTRATIVE PROCEDURES

- 1.1 Zoning Administrator
- 1.2 Duties of the Zoning Administrator
- 1.3 Planning and Zoning Commission
- 1.4 Duties of the Planning and Zoning Commission
- 1.5 Membership and Term of the Commission
- 1.6 Organization of the Commission
- 1.7 Meetings of the Commission
- 1.8 Conflict of Interest
- 1.9 Permits Required
- 1.10 Certificate of Occupancy
- 1.11 Variances
- 1.12 Conditional Use Permits
- 1.13 Amendments to this Ordinance
- 1.14 Hearing Procedures
- 1.15 Fees
- 1.16 Appeal relating to area of city impact matter
- 1.17 Enforcement

6.1 Zoning Administrator

There is hereby created the position of City of Rexburg Zoning Administrator. The Zoning Administrator shall be appointed by the Mayor and confirmed by the City Council. The Mayor may appoint another officer of the City, including but not limited to the City Clerk, Community Development Director or the Building Official, to fulfill all or part of the duties of the Zoning Administrator.

6.2 Duties of the Zoning Administrator

The Zoning Administrator shall administer the provisions of this Ordinance, provide assistance to and guidance to the Commission and Council, and have the following duties:

- a. Advise interested persons of the Development Code provisions.
- b. Notify the news media regarding matters of public interest.
- c. Aid and assist applicants in the preparation and processing of applications.
- d. Review and assist the Commission and Council in reviewing applications for home occupations, site plans, variances, conditional use permits, rezoning requests, subdivisions, planned unit developments, and annexations.
- e. In administering this ordinance, the P&Z Administrator may make interpretations of any part of this code, which interpretations are binding but may be appealed to the Community Development Director, the Mayor or the Planning and Zoning Commission.
- f. Shall serve as Chief Enforcement Officer of this Title, and carry out the enforcement authorities of The Commission under section 6.4.6 Duties of The Planning and Zoning Commission.
- g. Investigate violations of this Ordinance and notify in writing the person responsible for such violations, ordering the action necessary to correct such violation. The Zoning Administrator shall direct and administrate the efforts of any, and all, Field Service Officers assigned to the Administrator to assist him in performance of his duties of investigations, process services, and notifications, by The Director of Community Development

6.3 Planning and Zoning Commission

There is hereby created a Planning and Zoning Commission. The Planning & Zoning Commission is referred to in this Ordinance as the Commission. The Commission shall have the authority to consider and recommend to the Council ordinances, amendments thereto, and repeal of ordinances affecting zoning, planning, and building within the City of Rexburg. The Commission shall provide guidance and assistance to the Council, hold public hearings as required by law; shall grant or deny applications presented to the Commission; and shall make timely recommendations to the Council in all matters relating to this Ordinance in which the Council has final decision making powers. Any action taken by the Commission which will be final unless appealed may be reviewed by the Council at their discretion, within twenty (20) days of commission action, if the Council believes there may be significant adverse impact as a result of Commission action.

6.4 Duties of the Planning and Zoning Commission

The Commission shall have the following duties as well as such others prescribed by law or assigned by the Council:

- a. Review all proposed amendments to this Ordinance and make recommendations to the Council. Initiate proposed amendments to this Ordinance.
- b. Conduct a comprehensive planning process designed to prepare, implement, review and update a Comprehensive Plan. Conduct a biannual review of this Ordinance and its implementation of the Comprehensive Plan.
- c. Grant conditional use permits as specified in this Ordinance and make recommendations to the Council on those conditional use permits for which the Council has final decision making powers.
- d. Grant variances as authorized by this Ordinance and Idaho statutes.
- e. Complete site plan and design standard reviews as provided for in this Ordinance.
- f. The commission is authorized by the City of Rexburg and Madison County to administer and enforce all rules and regulations pertaining to the area of the city impact for the City of Rexburg as provided in Chapter 10 hereof.

6.5 Membership and Term of the Commission

The commission shall consist of eleven (11) members, eight (8) of whom shall reside within the city limits of Rexburg and be appointed by the Mayor and confirmed by the Council; three (3) members to be appointed who reside within the area of city impact defined in City Ordinance No. 825. The three residing in the area of impact shall be appointed one by the Mayor and the other two shall be appointed by the Madison County Commissioners. The Mayor shall ask and receive names of persons to serve on the Commission. The length of term is three (3) years. The terms shall be staggered. The eight members residing in the City shall have resided in Rexburg two years prior to appointment and must remain a resident of the City during service on the Commission. Vacancies occurring otherwise than through the expiration of terms must be filled in the same manner as the original appointment. A member appointed and fulfilling an unexpired term shall serve the remainder of the term. Members of the Commission may be removed for good cause by a majority vote of the full council. Members of the Commission may receive such mileage and per diem compensation as provided by the Council.

In matters pertaining to the area of city impact, a vote of the three members residing in the area of city impact, in the aggregate, shall have the same weight as the vote of the remaining seven members of the Commission residing in the City of Rexburg, in the aggregate.

6.6 Organization of the Commission

The Commission shall elect a chairman and may create and fill any other office it deems necessary. The Commission may establish subcommittees, advisory committees or neighborhood groups to advise and assist in carrying out its responsibilities under this Ordinance. The Commission may appoint non-voting ex-officio advisors as deemed necessary.

6.7 Meetings of the Commission

The Chair presides at all regular meetings of the Commission which may be scheduled on the first and third Thursday of each month for no less than nine (9) months in a year. All meetings and records shall be open to the public and a record of all meetings, hearings, resolutions, studies, findings, permits, recommendations, and actions shall be maintained by the Commission. A quorum of the Commission shall consist of six (6) members.

6.8 Conflict of Interest

A member of the Commission shall not participate in any proceeding or action when the member, his employer, business partner, business associate, or any person related to him by affinity or consanguinity within the second degree has an economic interest in the procedure or action. An actual or potential interest in any proceeding shall be disclosed at or before any meeting at which the action is being heard or considered. Such disclosure shall be recorded in the minutes.

6.9 Permits Required

No person shall erect, construct, enlarge, alter, repair, move, convert, or demolish any building, sidewalk, driveway, carport, parking area or any other structure, without first obtaining a building permit for each building, sidewalk, driveway, carport, parking area or any other structure from the City. To apply for a permit, the applicant shall file an application with the Community Development Department.

To provide the information necessary to determine compliance with the provisions of this Ordinance, the application shall require the following:

- a. Name, address, and phone number of applicant.
- b. Name, address, and phone number of owners of the property, if owner is not the applicant.
- c. Legal description of the property.
- d. Existing use.
- e. Proposed use.
- f. Zoning district.
- g. A site plan drawn to scale showing the actual dimensions and the shape of the lot to be built upon; the exact size and location of existing buildings on the lot, if any; the exact location and dimensions of the proposed building, sidewalk, driveway, carport, parking area or any other structure or alteration; the location, layout, and access of proposed on-site parking; and the location and type of landscaping, fencing, and screening proposed on the lot.
- h. Building heights.
- i. Number and dimensions of off-street parking spaces and loading berths.

- j. Proposed water and sewer facilities.
- k. Existing and proposed easements.
- l. Proposed storm drainage for multi-family and commercial and industrial developments.
- m. Applications subject to site plan review as described in Section 6.11 shall also include detailed drawings of all elevations (front, rear and sides) in order to demonstrate compliance with Section 4.13 of this Ordinance.
- n. Such other matters as may be necessary to determine compliance with City ordinances.

6.10 Certificate of Occupancy

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, enlarged, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Certificate of Occupancy has been issued by the Building Official. The Certificate should state that the proposed use of the building or land conforms to the requirements of this Ordinance and with all conditional provisions that may have been imposed.

6.11 Variances

The Planning and Zoning Commission may authorize variances or modifications from the provisions of this Ordinance as to lot size, lot coverage, width, depth front yard, side yard, rear yard, setbacks, parking spaces, height of buildings, or other regulations of this Ordinance affecting the size and shape of a structure or placement of a structure upon the lot, pursuant to Idaho Code Section 67-6516.

- a. Required Findings. To approve a variance, the Commission must find, in writing, that the application for a variance fulfills all of the following conditions:
 - i. The need for a variance results from physical limitations of the lot upon which the variance is requested which are not generally applicable to other properties in the same zone;
 - ii. Failure to approve a variance will result in undue hardship;
 - iii. The alleged hardship has not been created by the action of the applicant or the property owner; and
 - iv. Approval of the variance is not in conflict with public interest.
- b. Public Hearing. Prior to granting a variance, at least one public hearing shall be held to give interested persons an opportunity to be heard. At least fifteen (15) days prior to the hearing, notice of the time and place and a summary of the request shall be published in the official newspaper or paper of general circulation within the jurisdiction of the City. Written notice shall also be given to property owners adjoining the parcel under consideration.
- c. Supplementary Conditions and Safeguards. In granting any appeal or variance, the Commission may prescribe appropriate conditions and safeguards. The Commission may not grant a variance to permit a use not authorized under the terms of this Ordinance.
- d. Action by the Commission. Within sixty (60) days after the public hearing, the Commission shall either approve, conditionally approve, or disapprove the application for a variance. Upon granting or denying the permit, the Commission shall specify:
 - i. The provisions of this Ordinance and Standards used in evaluating the application.
 - ii. The reasons for approval or denial.
 - iii. The actions, if any, the applicant should take to obtain a variance.

- e. Appeals. The applicant or any affected person may appeal the decision of the Commission to the Council by submitting a written appeal to the City Clerk within fifteen (15) days of the decision of the Commission.
- f. Application for a Variance. In addition to the information required under Section 6.9 above, the Commission may also require a narrative statement documenting that the request for a variance conforms to the standards of Section 6.12.A. above.

6.12 Conditional Use Permits

Pursuant to Idaho Code Section 67-6512, the Council and Commission may issue conditional use permits. Prior to issuing a conditional use permit, at least one public hearing shall be held. At least fifteen (15) days prior to the hearing, notice of the time and place and a summary of the application shall be published in the official newspaper or paper of general circulation with the City of Rexburg. Notice shall be posted on the premises not less than one (1) week prior to the hearing. Notice shall also be provided to property owners within three hundred feet (300') of the boundaries of the property and any others that the Commission determines shall be substantially impacted by the proposed development.

- a. Application. In addition to the information required under Section 6.9 above, the Administrator may require a narrative statement discussing the general compatibility of the proposed development with adjacent properties and the neighborhood, the relationship of the proposed use to the Comprehensive Plan, and the effects of the following on the adjoining property: noise, glare, traffic generated, vibration, odor, fumes, drainage, building height, massing, and solid waste.

The Commission or Council may require that the applicant conduct studies of the social, economic, fiscal, and environmental effects of the proposed use.

- b. Standards Applicable to Conditional Use Permits. The approving body shall review the particular facts and circumstances of each proposed conditional use and shall find adequate evidence to show that the proposed use will:
 - i. Constitute a conditional use as established in Table 1, Zoning Districts, and Table 2, Land Use Schedule.
 - ii. Be in accordance with a specific or general objective of the City's Comprehensive Plan and the regulations of this Ordinance.
 - iii. Be designed and constructed in a manner to be harmonious with the existing character of the neighborhood and the zone in which the property is located.
 - iv. Not create a nuisance or safety hazard for neighboring properties in terms of excessive noise or vibration, improperly directed glare or heat, electrical interference, odors, dust or air pollutants, solid waste generation and storage, hazardous materials or waste, excessive traffic generation, or interference with pedestrian traffic.
 - v. Be adequately served by essential public facilities and services such as access streets, police and fire protection, drainage structures, refuse disposal, water and sewer service, and schools. If existing facilities are not adequate, the developer shall show that such facilities shall be upgraded sufficiently to serve the proposed use.
 - vi. Not generate traffic in excess of the capacity of public streets or access points serving the proposed use and will assure adequate visibility at traffic access points.
 - vii. Be effectively buffered to screen adjoining properties from adverse impacts of noise, building size and resulting shadow, traffic, and parking.
 - viii. Be compatible with the slope of the site and the capacity of the soils and will not be in an area of natural

- hazards unless suitably designed to protect lives and property.
- ix. Not result in the destruction, loss or damage of a historic feature of significance to the community of Rexburg.
- c. Supplementary Conditions and Safeguards. In granting a conditional use permit, the approving body may prescribe appropriate conditions and safeguards. Such conditions to be attached to the permit may include but not be limited to:
- i. Minimizing adverse impact on other developments.
 - ii. Controlling the sequence and timing of development.
 - iii. Controlling the duration of development.
 - iv. Assuring the development is properly maintained.
 - v. Designating the exact location and nature of development.
 - vi. Requiring the provision for on-site or off-site public facilities of services;
 - vii. Requiring more restrictive standards than those generally required in this Ordinance.
- d. Action by the Commission/Council. Within sixty (60) days after the public hearing, the approving body shall either approve, conditionally approve, or disapprove the application. Upon granting or denying the permit, the approving body shall specify:
- i. The provisions of this Ordinance and standards used in evaluating the application.
 - ii. The reasons for approval or denial.
 - iii. The actions, if any, the applicant should take to obtain a conditional use permit.
- e. Appeals. The applicant or any affected person may appeal a final decision of the Commission on a conditional use permit application to the Council by submitting a written appeal to the City Clerk within fifteen (15) days of the decision of the Commission. Decisions of the Council may be appealed as provided in Idaho Code Section 67-6521.
- f. Authority of Commission to Review Conditional Use Permits. The Planning and Zoning Commission may, without approval of the Council, grant the following conditional use permits:
- i. Permits for parks.
 - ii. Permits for nursery schools, day care centers.
 - iii. Permits for churches, synagogues, and temples.
 - iv. Permits for funeral and crematory services.
 - v. Permits for boarding houses.
 - vi. Permits for home occupations under Section 4.10 B.
 - vii. Permits for developments with four or less dwelling units.

- viii. Permits for government buildings.
- ix. Permits for household goods warehousing and storage.
- x. Permits for reduced parking space size in parking structures.

All other conditional use permits may only be granted after review and recommendation by the Commission and approval by the City Council. Formal notice will be sent to applicant after approval of a Conditional Use Permit. Notice will state the conditions of the permit. If conditions are violated or not met there will be a 90-day period to cure the problem. Failure to comply with the terms may result in revocation of the Conditional Use Permit.

6.13 Amendments to this Ordinance

The Council may, by ordinance, after receipt of recommendation from the Commission and subject to procedures provided by law, amend, supplement, change, or repeal the regulations, restrictions and boundaries or classifications of property. Such amendments may include text amendments or map revisions.

- a. Initiation of Zoning Amendments. Amendments to this Ordinance may be initiated in one of the following ways:
 - i. By adoption of a motion by the Commission.
 - ii. By adoption of a motion by the Council.
 - iii. By the filing of an application by a property owner or authorized agent within the area proposed to be changed by the amendment.
- b. Application for Rezoning. In addition to the information required under Section 6.9 above, the applicant shall provide the Zoning Administrator with the following information:
 - i. Proposed zoning district.
 - ii. For map revisions, vicinity map showing the property lines, thoroughfares, existing and proposed zoning, existing land uses.
 - iii. A statement on how the proposed amendment relates to the Comprehensive Plan, availability of public facilities, and compatibility with the surrounding area and zoning.
 - iv. In the event an application for rezoning received by the Commission requests a rezoning of any lands that lie within one quarter (1/4) mile of any boundary of the Sugar City Area of City Impact, the Commission shall provide the City of Sugar City written notice of the application for rezoning.
- c. Comprehensive Plan Amendment. If the request for zoning amendment is not in accordance with the Comprehensive Plan, the Commission shall consider and the Council may adopt or reject an amendment to the comprehensive plan after notice and hearings as provided in Section 67-6509, Idaho Code.
- d. Public Hearings. The Commission, prior to acting on a request for an amendment, shall hold at least one public hearing. At least fifteen (15) days prior to the hearing, notice of the time and place and a summary of the amendment shall be published in the official newspaper or paper of general circulation within the jurisdiction of Rexburg. If the amendment is a map revision, additional notice shall be provided by mail to property owners or purchasers of record of land within three hundred feet (300') of the external boundaries of land being considered. Notice shall also be posted on the property to be rezoned not less than one (1) week prior to the hearing.

When notice is required to two hundred (200) or more property owners or residents, notice of the proposed change and the hearing shall be published in the official newspaper once a week for two (2) consecutive weeks, with at least one of the publications being fifteen (15) days prior to the date set for hearing on the proposed change.

- e. Recommendation of the Commission. Within sixty (60) days of the public hearing, the Commission shall transmit its recommendation to the Council. The Commission may recommend that the amendment be granted as requested, that it be modified, or that it be denied. In evaluating requests for amendments, the Commission shall consider, in addition to conformance with the Comprehensive Plan as required by Section 67-6511, Idaho code, the following:
 - i. The capacity of existing public streets, water and sewer facilities, storm drainage facilities, solid waste collection and disposal, and other utilities.
 - ii. The capacity of existing public services, including but not limited to, public safety services, public emergency services, schools, and parks and recreational services.
 - iii. The potential for nuisances or health and safety hazards that may adversely affect adjoining properties.
 - iv. Recent changes in land use on adjoining properties or in the neighborhood of the map revision.
- f. Action by Council. Upon granting, modifying, or denying a request for amendment, the Council shall specify:
 - i. The provisions of this Ordinance and the Comprehensive Plan and other standards used in evaluating the application.
 - ii. The reasons for approval or denial.
 - iii. The actions, if any, the applicant should take to obtain an amendment of the Ordinance.

6.14 Hearing Procedures

The following shall be observed in the conduct of public hearings before the Planning and Zoning Commission and the Council:

- a. Each person testifying shall be asked to state his/her name and address in such a manner as to assure that it will be recorded by electronic means. The Administrator may require that those who wish to testify complete a sign-up sheet with name and address prior to giving testimony.
- b. No person shall be permitted to speak until such person has been officially recognized by the presiding officer.
- c. All public hearings shall be recorded electronically or steno-graphically and all persons testifying shall speak in such a manner to assure that the recorded testimony or remarks will be accurate and trustworthy.
- d. The hearing body may establish a time limit to be observed by all speakers, depending upon the number of those who wish to testify. Such a time limitation shall apply to all **speakers'** comments.
- e. At the conclusion of a speaker's comments, each member of the hearing body may address questions to the speaker. If a time limit has been set, such questions and answers shall not be included in the time limit.
- f. The presiding officer may ask if any members of the hearing body have a conflict of interest prior to the conduct of the hearing and excuse those who have such a conflict.
- g. The presiding officer may note, prior to opening the public hearing that testimony should relate to whether

the proposal before the hearing body is in accordance with the Comprehensive Plan, the Development Code, and other standards of the City.

- h. The following are the steps in the hearing procedure:
 - i. The chairperson shall announce the purpose and subject of the hearing.
 - ii. The chairperson may ask if any members have a conflict of interest and wish to be excused from this portion of the meeting.
 - iii. The chairperson shall ask the applicant to explain the proposal being considered.
 - iv. The chairperson shall ask the Community Development Director or Designee if there is any additional discussion needed for clarification.
 - v. The chairperson shall entertain questions from the Commission members regarding the proposal.
 - vi. The chairperson shall ask for statements from others in the audience.
 - vii. After each statement, the chairperson shall ask for any questions from the Commission members.
 - viii. When all statements have been given, the chairperson shall afford anyone who has previously given a statement to speak in rebuttal or clarify his/her earlier statement.
 - ix. After such rebuttal and clarification, the chairperson shall close the public hearing and ask for comments from the Commission members. Such discussion shall lead to action by the Commission.
 - x. When the City Council rejects a Comprehensive Plan Map or a Zone Change Recommendation from a Public Hearing that was held at a Planning and Zoning Commission meeting, another Public Hearing shall be required to be held at the next available City Council meeting.
 - xi. During a Comprehensive Plan Map or a Zone Change Hearing, the Planning and Zoning Commission at their discretion can request an additional Public Hearing be held at a future City Council meeting.

6.15 Fees

Fees for permits issued under this Ordinance and requests for amendments to this Ordinance shall be set by the Mayor and City Council by resolution. In the area of city impact, all administrative fees shall be established by the City and paid to the City. In the event costs are incurred by the City of Rexburg as a result of the administration or enforcement of area of city impact matters, the City of Rexburg and County agree to share equally such expenses.

6.16 Appeal relating to area of city impact matter

Any affected person may appeal a final decision of the Commission relating to matters arising within the area of city impact. Said appeal shall be heard by a board of appeals consisting of two members appointed by the county and two members appointed by the city. Any appeal from a decision pertaining to the area of city impact must be submitted by written notice to the Clerk of Commission within fifteen (15) days of the decision of the commission. The Planning or Zoning Administrator shall receive and direct, all appellate matters to the appellate authority of jurisdiction. Furthermore, the Administrator shall schedule and coordinate all appeals hearings in regard to this Title.

6.17 Enforcement

The City of Rexburg and Madison County authorize the Rexburg Planning and Zoning commission to be the enforcing agency responsible for enforcing compliance with the provisions of this ordinance within the area of impact.

6.18.1 Enforcement policies and procedures shall be in compliance with the authorities and duties of The Planning and Zoning Administrator, acting as Chief Enforcement Officer for the Commission as provided by 6.2.6 and 6.2.7 of this title and chapter.