

ARTICLE XIV AMENDMENT

14.1 Introduction.

Whenever the public necessity, convenience, general welfare, or good zoning practices require, the Council may, by ordinance, amend the provisions of this Ordinance in accordance with the procedures of this Article. An amendment to this Ordinance may involve either or both of the following:

14.1.1 Zoning Ordinance Text Amendment - an amendment, supplement, or repeal of the text of this Ordinance.

14.1.2 Zoning Ordinance Map Amendment - a change in the zoning district boundaries as shown on the Official Zoning Map.

14.2 Initiation of Amendment.

Text amendments may be initiated by City Staff, adoption of a motion by the Commission or the Council, or by the filing of an application with the Administrator. Map Amendment may be initiated by City Staff, adoption of a motion by the Commission or the Council, or by the filing of an application by the owner of a property.

14.3 Application.

14.3.1 Applications for text amendments as described in Section 14.1.1 of this Ordinance shall contain the following information:

- a. Name, address, and phone number of applicant.
- b. Proposed amendment and summary of the specific objective of any proposed change in text.
- c. A statement of how the proposed amendment relates to the Comprehensive Plan.
- d. A fee established in a separate ordinance approved by the Council.

14.3.2 Applications for map amendments as described in Section 14.1.2 of this Ordinance shall contain the following information:

- a. Name, address, and phone number of applicant.
- b. Proof of interest in the subject property by the applicant, such as a deed, contract of sale, or option to purchase.
- c. Existing and proposed uses of subject land.
- d. Existing and proposed zoning district of subject land.
- e. Vicinity map at a scale approved by the Administrator showing property lines, thoroughfares, existing and proposed zoning and such other items as the Administrator may require.
- f. A list of all property owners and their mailing addresses within three hundred (300) feet of the external boundaries of the land being considered.

14.3.3 An application for amendment under this Article shall follow the procedures and be subject to the requirements of Section 3.8 of this Ordinance.

14.4 Action by Commission or Hearing Examiner -Procedure.

14.4.1 Hearing and Notice. The Commission or Hearing Examiner, prior to making any recommendations to the Council on any proposed amendment, shall hold at least one (1) public hearing in which all interested persons shall have an opportunity to speak. At least fifteen (15) days prior to the hearing, the Administrator shall publish a notice of time, place, and the amendment in a newspaper of general circulation within the City of Hailey. In addition, if the amendment involves a change in district boundaries or land use designation, notice shall be provided by mail to property owners and residents within three hundred (300) feet of the external boundaries of the land being considered, and any additional area that may be affected by the proposed amendment as specifically designated by the Commission or Hearing Examiner. When notice is required to two hundred (200) or more property owners or purchasers of record, alternate forms of notice may be provided in lieu of mailed notice. Sufficient notice shall be deemed to have been provided if the City provides notice through a display advertisement at least four (4) inches by two (2) columns in size in the official newspaper of the City at least fifteen (15) days prior to the hearing date, in addition to site posting on all external boundaries of the site.

14.4.2 Recommendation.

- a. Following the hearing, if the Commission or Hearing Examiner makes a substantial change from what was presented at the hearing, the Commission or Hearing Examiner may either conduct a further hearing after providing notice of its recommendation, or make its recommendations to the Council, provided the notice of the Commission's or Hearing Examiner's recommendation shall be included in the notice of the hearing to be conducted by the Council.
- b. The Commission or Hearing Examiner shall recommend, with reasons therefore, to the Council that the proposed amendment be granted or denied, or that a modified amendment be granted.
- c. If the proposal initiated by an applicant is not in accordance with the Comprehensive Plan, the Commission or Hearing Examiner shall notify the applicant of this finding and inform the applicant that the applicant must apply for an amendment to the Comprehensive Plan before the Zoning Ordinance or Zoning Map can be amended.

14.5 Action by the Council - Procedure.

- a. The Council, prior to adopting, modifying or rejecting the amendment as recommended by the Commission or Hearing Examiner, shall conduct at least one (1) public hearing using notice procedures as set forth in Section 14.4.1 of this Ordinance. The Council shall not hold a public hearing, give notice of proposed hearing, nor take action upon the amendment until a recommendation has been received from the Commission or Hearing Examiner.
- b. If forty percent (40%) or more of the property owners within three hundred (300) feet of the subject property and any additional lands designated by the Commission or Hearing Examiner pursuant to Section 14.4.1 protest against the proposed amendment, such amendment shall become effective only if three fourths (3/4) of the entire Council votes in favor of the amendment.
- c. Following the hearing, if the Council makes a substantial change from what was presented at the hearing, further notice and hearing shall be provided before the Council makes its final action.
- d. Upon approval of an amendment, the Council shall pass an ordinance making the amendment part of this Ordinance.
- e. There is no right to an appeal for a zoning ordinance text amendment as defined by Section 14.1.1 of this Ordinance.

14.6 Criteria for Review. When evaluating any proposed amendment under this Article, the Hearing Examiner or Commission and Council shall make findings of fact on the following criteria:

- a. The proposed amendment is in accordance with the Comprehensive Plan;
- b. Essential public facilities and services are available to support the full range of proposed uses without creating excessive additional requirements at public cost for the public facilities and services;
- c. The proposed uses are compatible with the surrounding area; and
- d. The proposed amendment will promote the public health, safety and general welfare.

14.6.1 When evaluating any proposed Zoning Ordinance Map Amendment to rezone property to Business (B) Zoning District, Limited Business (LB) Zoning District or Transitional (T) Zoning District, the Hearing Examiner or Commission and Council shall consider the following:

- a. Vacancy rates of existing buildings and land within the existing Business (B), Limited Business (LB) or Transitional (T) Zoning Districts. A lower vacancy rate will favor a rezone, while a higher vacancy rate will not favor a rezone.
- b. The distance of the parcel proposed for rezone from the Central Core Overlay District boundary. A shorter distance from the Central Core Overlay District boundary will favor a rezone, while a longer distance from the Central Core Overlay District boundary will not favor a rezone.

(Ord. 1023, §1, 01/14/2009)

14.7 Resubmission of Application.

No application for amendment which has been denied by the Council shall be resubmitted in either substantially the same form or with reference to substantially the same land for the same purposes within one (1) year from the date of such final action, unless an amendment to the Comprehensive Plan has been made which has resulted in a change in conditions applying to the specific land under consideration.

14.8 Zoning Ordinance Map Amendment Pursuant to Development Agreement.

14.8.1 A zoning ordinance map amendment, as defined in Section 14.1.2 of this Ordinance, may be made conditional upon the owner or developer of the property to be rezoned making a commitment concerning the use or development of the subject parcel. Any such written commitment shall be made in accordance with Idaho Code §67-6511A and may be made as part of a development agreement entered into between the City and the owner or developer.

14.8.2 Commitments, whether part of a development agreement or not, shall be recorded in the office of the Blaine County Recorder and shall take effect upon the adoption of the zoning ordinance map amendment. Unless modified or terminated by the Council, any such commitment shall be binding upon the owner of the property, each subsequent owner, and each other person acquiring an interest in the subject property.

14.8.3 A commitment may be modified only by permission of the Council after compliance with the notice and hearing requirements of Idaho Code §67-6509, as amended. A commitment may be terminated, and the zoning designation upon which it was based reversed, upon failure of the requirements in the commitment after a reasonable time as determined by the Council, or upon failure of the owner or developer, each subsequent owner, or each other person acquiring an interest in the subject property to comply with the conditions in the commitment, and after the Council complies with the notice and hearing provisions of Idaho Code §67-6509, as amended. A written commitment shall be deemed written consent to reverse the zoning designation upon the failure of conditions imposed by the commitment in accordance with Idaho Code §67-6511A, as amended, and this Section 14.8.