

109 S. McKinley Ave.
Emmett, ID 83617
Ph: (208) 365-5144
Fx: (208) 365-2499

GEM COUNTY
Development Services
Department

Memo

To: Gem County Zoning Commission
From: Jennifer Kharri, Planning Director
CC: Tahja Jensen (P.A.'s Office)
Date: 6/1/22
Re: Proposed Zoning and Subdivision Ordinance Amendments – Public Hearing on **6/13/22**

Commissioners,

Attached is a draft amendment to the Zoning Ordinance and Subdivision Ordinance related to the Joint Planning Commission and the Zoning Commission.

The Joint Planning Commission was disbanded in 2021, therefore their duties need to be combined with the Zoning Commission making it the Planning and Zoning Commission once again. The revisions include any section throughout the Zoning and Subdivision Ordinance that referred to the Joint Planning Commission and Zoning Commission.

**GEM COUNTY
ZONING COMMISSION**

**ZONING ORDINANCE AMENDMENTS
TITLE 11 (ZONING)**

**SUBDIVISION ORDINANCE AMENDMENTS
TITLE 12 (SUBDIVISION)**

**VARIOUS SECTIONS PROPOSED FOR AMENDMENT
DRAFT #1 (5/18/22)**

Review Notes:

1. Only the specific ordinance section/paragraph proposed to be amended is included in this draft. If you would like to see the full context of the section or chapter, please refer to Gem County Code.
2. All proposed amendments are **highlighted** and are shown in the legislative format (underline for new additions and ~~strikeouts~~ for deletions of existing text.)

**TITLE 11
GEM COUNTY ZONING ORDINANCE**

TITLE 11 TABLE OF CONTENTS

11-12-1	General.
11-12-2	Administrator.
11-12-3	Planning and Zoning Commission.
11-12-4	Joint Planning Commission.
11-12-5	Conflict of Interest

**TITLE 11 CHAPTER 2
DEFINITION OF TERMS**

11-2-1: GENERAL TERMS:

~~COMMISSION, PLANNING: The Joint Planning Commission of Gem County as appointed by the Board of County Commissioners and the City of Emmett City Council. Primary responsibilities will be to make long term planning decisions for the County.~~

COMMISSION, **PLANNING AND ZONING**: The **Planning and** Zoning Commission of Gem County as appointed by the Board of County Commissioners. Primary responsibilities will be to make zoning decisions **and to make long term planning**

recommendations for the County. The use of the term "Commission" in this ordinance shall refer to the Planning and Zoning Commission unless otherwise noted.

TITLE 11 CHAPTER 4 ZONE USES

11-4-1: A-1 PRIME AGRICULTURAL (PRAG): C. Additional Dwellings: Allow additional dwellings in forty (40) acre agriculture zones for housing hired help for the operation of the farm upon approval of the Zoning Commission by special use.

11-4-6: MX MIXED USE DEVELOPMENT: Any Offices, Light Industrial or Commercial use in this Zone that is adjacent to any residential area must be compatible with, and be screened from that residential area by masonry wall or sight obscuring fence that is sightly and adequate to create a reliable buffer between the two uses and maintained as such. The Zoning Commission shall determine the height of the fence during the Special Use Permit process.

TITLE 11 CHAPTER 6 PERFORMANCE STANDARDS

11-6-5: PROVISIONS FOR UNIQUE LAND USES:

D. Animal Commercial Feedlots, Meatpacking, Processing Plant and Slaughterhouse Facilities:

4. Gem County will comply with the requirements of Idaho Code 67-6529, Subsection (2) regarding the siting of new confined animal feeding operations. Specifically, the Zoning Commission and Board shall each hold at least one (1) public hearing affording the public an opportunity to comment on each proposed site before the siting of such facility. Several sites may be considered at any one (1) public hearing. Only members of the public with their primary residence within a one (1) mile radius of a proposed site may provide comment at the hearing.

TITLE CHAPTER 8 PLANNED UNIT DEVELOPMENTS (PUD)

11-8-17-4: APPLICATION REQUIREMENTS:

F. The Gem County Zoning Commission and the Board will make a determination on whether the proposed planned community, or annexation to an existing planned community, shall necessitate an update to the Gem County transportation plan. The Board may require the applicant to fund the cost of any necessary update to the transportation plan as a regulation of approval.

TITLE 11 CHAPTER 10 SIGNS

11-10-5: PROCEDURES:

- D. Application Review: The sign permit application will be accepted when the completed forms, including a sign plan and fee are submitted to the Planning and Zoning Office. The application will be reviewed by the Administrator within seven (7) working days of acceptance. The permit will be either approved or denied based upon compliance with provisions herein. If the application is denied, the Administrator will include a written statement of the specific reasons for denial. The applicant may correct the application and request another review by the Administrator. The applicant may appeal any action of the Administrator regarding the review of an application to the Zoning Commission.

TITLE 11 CHAPTER 12 ADMINISTRATION

11-12-1: GENERAL:

For the purpose of carrying out the provisions of this title, an Administrator, Planning Commission and Planning and Zoning Commission have been created.

11-12-2: ADMINISTRATOR:

- A. Appointment: The Board shall appoint an Administrator to administer this title.
- B. Assistants: The Administrator may be provided with the assistance of such other persons as the Board may direct.
- C. Duties: For the purpose of this title, the Administrator shall have the following duties:
1. Advise interested persons of the provisions of this title;
 2. Notify the news media regarding matters of public interest;
 3. Aid applicants in the preparation and expedition of required applications;
 4. Issue zoning permits and building permits, notifications and such similar administrative duties;
 5. Investigate all violations of this title and notify in writing the person responsible for such violations(s), ordering the action necessary to correct such violation; and
 6. Assist the Commissions and Board in carrying out the provisions of this title.

11-12-3: **PLANNING AND ZONING COMMISSION:**

A. Membership:

1. Number; Appointment; Confirmation: The **Planning and** Zoning Commission shall consist of not less than three (3) nor more than twelve (12) voting members. The members shall be appointed by the chairman of the Board of Commissioners and confirmed by majority vote of the Board.

4. Vacancies: Vacancies on the **Planning and** Zoning Commission occurring otherwise than through expiration of terms shall be filled in the same manner as the original appointment. Replacement members shall be selected without respect to political affiliation.

B. Organization:

1. Chairman: The **Planning and** Zoning Commission shall elect a chairman and officers that it may deem necessary.

2. Committees; Advisory Groups: The **Planning and** Zoning Commission may establish subcommittees, advisory committees, hearing examiners, or neighborhood groups to advise and assist in carrying out the responsibilities set out in Section 11-12-4 of this chapter.

3. Ex Officio Advisors: The **Planning and** Zoning Commission may appoint nonvoting ex officio advisors as may be deemed necessary.

C. Rules, Records and Meetings:

1. Bylaws: The **Planning and** Zoning Commission shall develop and adopt written bylaws consistent with this title and other laws of the state governing the transaction of business of the Commission.

2. Records; Open to Public: The **Planning and** Zoning Commission shall provide for the keeping and maintaining of records of meetings, hearings, resolutions, studies, findings, permits and actions taken, which records shall be open to the public.

3. Meetings: The **Planning and** Zoning Commission shall meet in at least one regular meeting each month for not less than nine (9) months in a calendar year. The meeting agenda and notice of any meetings shall comply with the Idaho Open Meetings Act as set out in Idaho Code Section ~~67-2340 through 67-2347~~ **74-1 et.seq.**

D. Expenditures and Staff:

With approval of the Board of Commissioners, the Planning and Zoning Commission may receive and expend funds, goods and services from the federal government or agencies and instrumentalities of state or local government or from civic and private sources and may contract with these entities and provide information and reports as necessary to secure aid.....

E. Duties of Planning and Zoning Commission:

For the purposes of this title, the Planning and Zoning Commission shall have the following duties:

1. Initiate Proposed Amendments; Annual Review: Initiate proposed amendments to this title and conduct an annual review of this title;

2. Review Proposed Amendments: Review all proposed amendments to this title and make recommendations to the Board;

3. Planned Unit Developments; Subdivisions: Review all planned unit developments and subdivisions and make recommendations to the Board;

4. Special Use Permits: Grant special use permits as specified in the official schedule of zoning regulations and under the conditions as herein specified with such additional safeguards as will uphold the intent of this title;

5. Appeals: Hear and decide appeals where it is alleged there is an error in any order, requirement, decision, interpretation or determination made by the Administrator;

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

7. Temporary Hardship Permits; Development Agreements; Rezones: Hear all requests for temporary hardship permits when the administrative application receives public opposition ~~development agreements and rezones;~~; and

8. Temporary Hardship Permits; Development Agreements; Rezones: Hear all requests for temporary hardship permits, development agreements and rezones and make recommendations to the Board;

9. Development Agreements: Review and consider all development agreements provided by the applicant or staff and make recommendations to the Board;

10. Make recommendations to the Board concerning the Comprehensive Plan, planning process, or implementation of the comprehensive plan;

11. In accordance with Idaho Code 67-6508 and 67-6509, hold public hearings on any amendments to the Comprehensive Plan, whether initiated by the Commission or a private party, and make written recommendations on said hearings to the Board.

11-12-4: JOINT PLANNING COMMISSION:

A. Membership:

1. Number; Appointment; Confirmation: The Joint Planning Commission shall consist of not less than six (6) nor more than twelve (12) voting members. Gem County and the City of Emmett shall each appoint the same number of members to the Commission. Members residing outside the Emmett City Limits shall be appointed by majority vote of the Board of County Commissioners. Those members residing within the City Limits shall be nominated by the Mayor and confirmed by a majority of the City Council.

2. Residency: Members appointed by Gem County must have resided in Gem County for at least two (2) years prior to the date of their appointment and must remain a resident of the county during their time as a member. Members appointed by City of Emmett must have resided within the incorporated Emmett City Limits for at least two (2) years prior to the date of their appointment and must remain a resident within the incorporated Emmett City Limits during their time as a member.

3. Term: The term of office for each member shall be six (6) years, except that the initial appointments to the Joint Planning Commission shall be for terms of three, four and six years. The Clerk of each governing body shall keep a record of all appointments and terms of membership.

4. Vacancies: Vacancies on the Joint Planning Commission occurring otherwise than through expiration of terms shall be filled in the same manner as the original appointment. Replacement members shall serve out the original term of the member replaced and then be subject to re-appointment or replacement. Replacement members shall be selected without respect to political affiliation.

5. Removal: Members may be removed for cause by majority vote of the appointing jurisdictions governing body.

6. Compensation: Members shall be entitled to receive reimbursement for mileage and per diem if budgeted funds are available and approved by the Administrator.

B. Organization:

1. Chairman: The Joint Planning Commission shall elect a chairman and officers that it may deem necessary.

2. Committees; Advisory Groups: The Joint Planning Commission may establish subcommittees, advisory committees or neighborhood groups to advise and assist in carrying out the responsibilities set forth below.

3. Ex Officio Advisors: The Joint Planning Commission may appoint nonvoting ex officio advisors as may be deemed necessary.

C. Rules, Records and Meetings:

1. Bylaws: The Joint Planning Commission shall develop and adopt written bylaws consistent with this title and other laws of the State governing the transaction of business of the Joint Planning Commission.

2. Records; Open to Public: The Joint Planning Commission shall provide for the keeping and maintaining of records of meetings, hearings, resolutions, studies, findings, and actions taken, which records shall be open to the public.

3. Meetings: The Joint Planning Commission shall meet in at least one regular meeting each month for not less than nine (9) months in a calendar year. The meeting agenda and notice of any meetings shall comply with the Idaho Open Meetings Act as set out in Idaho Code Section 67-2340 et.al.

4. Quorum: A majority of the appointed members shall constitute a quorum.

D. Expenditures and Staff:

With approval of the Board of Commissioners and the City Council, the Joint Planning Commission may receive and expend funds, goods and services from the Federal Government or agencies and instrumentalities of state or local government or from civic and private sources and may contract with these entities and provide information and reports as necessary to secure aid. Expenditures by the Joint Planning Commission shall be within the amounts appropriated by the Gem County Board of Commissioners and the City Council. Within such limits, the Joint Planning Commission is authorized to hire employees and technical advisors, including, but not limited to, planners, engineers, architects and legal assistants.

E. Allocation of Costs for Activities:

Unless otherwise agreed upon in writing between the governing bodies (City Council and Board of Commissioners), all expenses necessary for the Joint Planning Commission to conduct its business shall be borne equally by the City of Emmett and Gem County.

F. Duties of Joint Planning Commission:

For the purposes of this title, the Joint Planning Commission shall have the following duties:

1. Conduct a comprehensive planning process designed to review and recommend revisions/updates to the Gem Community Joint Comprehensive Plan (Comprehensive Plan) as needed;
2. Review and recommend to the governing bodies of Gem County and/or the City of Emmett amendments to existing ordinances that implement the Comprehensive Plan; review and recommend adoption of new ordinances that implement the Comprehensive Plan; provided, however the Joint Planning Commission shall have no authority to consider rezoning of individual parcels in a quasi-judicial capacity; and also provided that the governing bodies will originate any zoning or subdivision ordinance amendments with their respective Zoning Commissions, in accordance with the adopted statutes and ordinances;
3. Report regularly on the Implementation Chapter of the Comprehensive Plan to help the Board of Commissioners and the City Council identify actions that are needed to effectively implement adopted policies of the Comprehensive Plan;
4. Identify and coordinate a schedule for updating the various land use plans of the community in accordance with the plans or otherwise if not specified in the plans; and
5. In accordance with Idaho Code 67-6508 and 67-6509, hold public hearings on any amendments to the Comprehensive Plan, whether initiated by the Commission or a private party, and make written recommendations on said hearings to the respective governing bodies.

11-12-5: CONFLICT OF INTEREST:

A member or employee of the Board of Commissioners, Planning Commission or the Planning and Zoning Commission shall not participate in any proceeding or action when the member or employee or 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. Any actual or potential interest in any proceeding shall be disclosed at or before any meeting at which the action is being heard or considered. A knowing violation of this section shall be a misdemeanor. Any member removing themselves from any proceeding shall not affect the status of a constituted quorum.

**TITLE 11 CHAPTER 13
APPEAL, VARIANCE AND ACTION BY AFFECTED PERSONS**

11-13-1: APPEALS:

A. Administrative Appeals: Appeals to the Zoning Commission concerning interpretation or administration of this title may be filed by any affected person aggrieved by a written decision of the Administrator.....

b. Effect of Appeal: The filing of a notice of appeal stays all proceedings in furtherance of the decision made by the Zoning Commission until the appeal is finally disposed of.

f. Public Hearing Required: The Board shall not approve an amendment or rezone, grant a special use permit or variance previously rejected by the Zoning Commission unless the Board first holds a public hearing preceded by providing notice as required by Chapter 11-7-6 of this title.

**TITLE 11 CHAPTER 17
HEARING EXAMINERS**

11-17-3: General Regulations:

Hearing Examiners may be appointed by the Board of County Commissioners or by the Zoning Commission for hearing applications.

**TITLE 11 CHAPTER 20
CONFINED ANIMAL FEEDING OPERATIONS (CAFO) ORDINANCE**

11-20-8: APPLICATION PROCESS, NOTICE OF HEARING AND PUBLIC HEARING PROCEDURE

All new CAFOs as defined by this ordinance shall apply for and receive a siting permit prior to commencing construction or operation (see Chapter 7).

- A. The Administrator shall review the application for completeness. (See application requirements in Chapter 9.)
- B. The Administrator shall set the matter for public hearing before the Zoning Commission, who shall make a recommendation to approve or deny the application to the Board. After receipt of the recommendation, the Board shall hold a second public hearing on the application, following the same hearing procedures as the Zoning Commission.
- E Public hearing procedure:
 - 1. The hearing shall be conducted in accordance with the provisions of Gem County Code Title 11, Chapter 7 and per the hearing

procedures used by the Zoning Commission and Board. The hearing shall be recorded.

11-20-9: APPLICATION CRITERIA FOR NEW CAFO PERMIT

8. If, during the course of the public hearing before either the Zoning Commission or Board, it is determined that additional buffering of the CAFO is needed to protect neighboring properties, screening may be made conditions of approval.

11-20-10: REQUIRED FINDINGS FOR APPROVAL

Prior to approval of a new CAFO application, the Zoning Commission and Board must find that the proposed CAFO meets all requirements of this ordinance (except where a waiver has been otherwise approved), including the following findings:

TITLE 12 GEM COUNTY SUBDIVISION ORDINANCE

TITLE 12 TABLE OF CONTENTS

- 12-3- 8-1** Planning and Zoning Commission
Recommendation. .

TITLE 12 CHAPTER 1 AUTHORITY, APPLICABILITY AND AMENDMENTS

The provisions of this title shall be administered to ensure orderly growth and development and shall supplement and implement provisions of the Comprehensive Plan applicable to Gem County and of this code. In accordance with this title, the Board of County Commissioners of Gem County, the Gem County Planning and Zoning Commission, and the Gem County Development Services Department are vested with the authority to review, approve, approve with conditions, or disapprove applications for the creation of subdivisions as set forth in this title.

TITLE 12 CHAPTER 2 DEFINITION OF TERMS

12-2-2: DEFINITIONS:

~~COMMISSION, PLANNING: The Planning Commission of Gem County as appointed by the Board of County Commissioners. Primary responsibilities will be to make long term planning recommendations for the County.~~

COMMISSION, **PLANNING AND ZONING**: The **Planning and Zoning** Commission of Gem County as appointed by the Board of County Commissioners. Primary responsibilities will be to make zoning decisions **and to make long term planning recommendations** for the County. The use of the term "Commission" in this ordinance shall refer to the **Planning and Zoning** Commission unless otherwise noted.

TITLE 12 CHAPTER 3 SUBDIVISION APPLICATION, REVIEW AND APPROVAL

12-3-8-4: **PLANNING AND ZONING COMMISSION RECOMMENDATION**

TITLE 12 CHAPTER 6 SUBDIVISION DESIGN AND IMPROVEMENT STANDARDS

12-6-1.D.2 CENTRAL WATER SYSTEMS:

~~a. Central or community water systems shall be required for subdivisions where any lot is one acre or less in size or in any subdivision located in an R-2 zone.~~

~~a. b.~~ The central water system requirement shall be met by establishment of one of the following: