

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 136

BY LOCAL GOVERNMENT COMMITTEE

AN ACT

1 RELATING TO LOCAL LAND USE PLANNING; AMENDING SECTION 67-6503, IDAHO CODE,  
2 TO PROVIDE THAT EXERCISING POWERS UNDER THE LOCAL LAND USE PLANNING ACT  
3 SHALL BE DISCRETIONARY, TO PROVIDE THAT MANDATORY PROVISIONS OF SPECI-  
4 FIED LAW SHALL ONLY APPLY TO CITIES AND COUNTIES THAT ELECT TO EXERCISE  
5 THE POWERS CONFERRED BY THE LAND USE PLANNING ACT AS EVIDENCED BY THE  
6 PASSAGE OF A RESOLUTION OR ORDINANCE AND TO PROVIDE THAT ANY CHANGES  
7 TO A COMPREHENSIVE PLAN, RESOLUTION OR ORDINANCE PROPOSED TO BE EN-  
8 FORCED COUNTYWIDE SHALL FIRST, PRIOR TO ENFORCEMENT, BE SUBMITTED FOR  
9 APPROVAL TO THE VOTERS UPON WHOM SUCH REGULATIONS ARE INTENDED TO BE  
10 IMPOSED; AMENDING SECTION 67-6508, IDAHO CODE, TO PROVIDE THAT CITIES  
11 AND COUNTIES THAT ELECT TO EXERCISE THE POWERS CONFERRED BY THE LAND USE  
12 PLANNING ACT SHALL ESTABLISH A PROPERTY RIGHTS COUNCIL, TO PROVIDE FOR  
13 MEMBERSHIP OF SUCH COUNCIL AND TO PROVIDE FOR DUTIES OF SUCH COUNCIL;  
14 AND DECLARING AN EMERGENCY.  
15

16 Be It Enacted by the Legislature of the State of Idaho:

17 SECTION 1. That Section 67-6503, Idaho Code, be, and the same is hereby  
18 amended to read as follows:

19 67-6503. PARTICIPATION OF LOCAL GOVERNMENTS. Every city and county  
20 ~~shall~~ may exercise the powers conferred by this chapter.

21 (1) Any mandatory provisions within this chapter shall only apply to a  
22 city or county in the event the city or county elects to exercise the powers  
23 conferred by this chapter, as evidenced by passage of a resolution or ordi-  
24 nance so reflecting.

25 (2) Any changes to a comprehensive plan proposed to be enforced coun-  
26 tywide, or any changes to a resolution or ordinance proposed to be enforced  
27 countywide, shall first prior to enforcement thereof, be submitted for ap-  
28 proval to the voters upon whom such regulations are intended to be imposed  
29 during the next general election.

30 SECTION 2. That Section 67-6508, Idaho Code, be, and the same is hereby  
31 amended to read as follows:

32 67-6508. PLANNING DUTIES. It shall be the duty of the planning or plan-  
33 ning and zoning commission to conduct a comprehensive planning process de-  
34 signed to prepare, implement, and review and update a comprehensive plan,  
35 hereafter referred to as the plan. The plan shall include all land within the  
36 jurisdiction of the governing board. The plan shall consider previous and  
37 existing conditions, trends, compatibility of land uses, desirable goals  
38 and objectives, or desirable future situations for each planning component.  
39 The plan with maps, charts, and reports shall be based on the following com-

1 ponents as they may apply to land use regulations and actions unless the plan  
2 specifies reasons why a particular component is unneeded.

3 (a) Property Rights -- An analysis of provisions which may be necessary  
4 to ensure that land use policies, restrictions, conditions and fees do not  
5 violate private property rights, adversely impact property values or cre-  
6 ate unnecessary technical limitations on the use of property and analysis as  
7 prescribed under the declarations of purpose in chapter 80, title 67, Idaho  
8 Code. In the event a local government elects to exercise the powers con-  
9 ferred by the local land use planning act pursuant to the provisions of sec-  
10 tion 67-6503, Idaho Code, it shall establish a property rights council of  
11 five (5) members appointed by the governing body of the city or county to in-  
12 clude: One (1) member who is a commercial property owner within the jurisdic-  
13 tion; one (1) member who is a retail property owner within the jurisdic-  
14 tion; one (1) member who is a residential property owner within the jurisdic-  
15 tion; and two (2) members who reside within the jurisdiction. The council  
16 shall review and provide recommendations relating to the plan to the govern-  
17 ing board of the local government prior to adoption of the plan. The property  
18 rights council shall also review and provide recommendations to the govern-  
19 ing board relating to all legislative planning and zoning commission deci-  
20 sions and recommendations.

21 (b) Population -- A population analysis of past, present, and future  
22 trends in population including such characteristics as total population,  
23 age, sex, and income.

24 (c) School Facilities and Transportation -- An analysis of public  
25 school capacity and transportation considerations associated with future  
26 development.

27 (d) Economic Development -- An analysis of the economic base of the area  
28 including employment, industries, economies, jobs, and income levels.

29 (e) Land Use -- An analysis of natural land types, existing land covers  
30 and uses, and the intrinsic suitability of lands for uses such as agricul-  
31 ture, forestry, mineral exploration and extraction, preservation, recre-  
32 ation, housing, commerce, industry, and public facilities. A map shall be  
33 prepared indicating suitable projected land uses for the jurisdiction.

34 (f) Natural Resources -- An analysis of the uses of rivers and other wa-  
35 ters, forests, range, soils, harbors, fisheries, wildlife, minerals, ther-  
36 mal waters, beaches, watersheds, and shorelines.

37 (g) Hazardous Areas -- An analysis of known hazards as may result from  
38 susceptibility to surface ruptures from faulting, ground shaking, ground  
39 failure, landslides or mudslides; avalanche hazards resulting from de-  
40 velopment in the known or probable path of snowslides and avalanches, and  
41 floodplain hazards.

42 (h) Public Services, Facilities, and Utilities -- An analysis showing  
43 general plans for sewage, drainage, power plant sites, utility transmission  
44 corridors, water supply, fire stations and fire fighting equipment, health  
45 and welfare facilities, libraries, solid waste disposal sites, schools,  
46 public safety facilities and related services. The plan may also show loca-  
47 tions of civic centers and public buildings.

48 (i) Transportation -- An analysis, prepared in coordination with  
49 the local jurisdiction(s) having authority over the public highways and  
50 streets, showing the general locations and widths of a system of major traf-

1 fic thoroughfares and other traffic ways, and of streets and the recommended  
2 treatment thereof. This component may also make recommendations on build-  
3 ing line setbacks, control of access, street naming and numbering, and a  
4 proposed system of public or other transit lines and related facilities  
5 including rights-of-way, terminals, future corridors, viaducts and grade  
6 separations. The component may also include port, harbor, aviation, and  
7 other related transportation facilities.

8 (j) Recreation -- An analysis showing a system of recreation areas, in-  
9 cluding parks, parkways, trailways, river bank greenbelts, beaches, play-  
10 grounds, and other recreation areas and programs.

11 (k) Special Areas or Sites -- An analysis of areas, sites, or struc-  
12 tures of historical, archeological, architectural, ecological, wildlife,  
13 or scenic significance.

14 (l) Housing -- An analysis of housing conditions and needs; plans for  
15 improvement of housing standards; and plans for the provision of safe, san-  
16 itary, and adequate housing, including the provision for low-cost conven-  
17 tional housing, the siting of manufactured housing and mobile homes in sub-  
18 divisions and parks and on individual lots which are sufficient to maintain  
19 a competitive market for each of those housing types and to address the needs  
20 of the community.

21 (m) Community Design -- An analysis of needs for governing landscaping,  
22 building design, tree planting, signs, and suggested patterns and standards  
23 for community design, development, and beautification.

24 (n) Agriculture -- An analysis of the agricultural base of the area in-  
25 cluding agricultural lands, farming activities, farming-related businesses  
26 and the role of agriculture and agricultural uses in the community.

27 (o) Implementation -- An analysis to determine actions, programs, bud-  
28 gets, ordinances, or other methods including scheduling of public expendi-  
29 tures to provide for the timely execution of the various components of the  
30 plan.

31 (p) National Interest Electric Transmission Corridors -- After noti-  
32 fication by the public utilities commission concerning the likelihood of  
33 a federally designated national interest electric transmission corridor,  
34 prepare an analysis showing the existing location and possible routing  
35 of high voltage transmission lines, including national interest electric  
36 transmission corridors based upon the United States department of energy's  
37 most recent national electric transmission congestion study pursuant to  
38 sections 368 and 1221 of the energy policy act of 2005. "High-voltage trans-  
39 mission lines" means lines with a capacity of one hundred fifteen thousand  
40 (115,000) volts or more supported by structures of forty (40) feet or more in  
41 height.

42 Nothing herein shall preclude the consideration of additional planning  
43 components or subject matter.

44 SECTION 3. An emergency existing therefor, which emergency is hereby  
45 declared to exist, this act shall be in full force and effect on and after its  
46 passage and approval.