

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 450

BY LOCAL GOVERNMENT COMMITTEE

AN ACT

1 RELATING TO PLANNING AND ZONING; AMENDING SECTION 67-6511, IDAHO CODE, TO
2 PROVIDE THAT REQUESTS FOR AMENDMENT TO A ZONING ORDINANCE SHALL BE SUB-
3 MITTED TO A GOVERNING BOARD, TO PROVIDE THAT CERTAIN REQUESTS FOR AMEND-
4 MENT MAY BE SENT TO A CERTAIN COMMISSION, AND TO PROVIDE FOR THE ADOPTION
5 OR REJECTION OF AN AMENDMENT; AND AMENDING SECTION 67-6525, IDAHO CODE,
6 TO PROVIDE THAT RECOMMENDATIONS ON PROPOSED PLAN AND ZONING ORDINANCE
7 CHANGES FOR UNINCORPORATED AREAS ARE NOT REQUIRED UNDER CERTAIN CIRCUM-
8 STANCES.
9

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

11 SECTION 1. That Section 67-6511, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 67-6511. ZONING ORDINANCE. (1) Each governing board shall, by ordi-
14 nance adopted, amended, or repealed in accordance with the notice and hear-
15 ing procedures provided under section 67-6509, Idaho Code, establish within
16 its jurisdiction one (1) or more zones or zoning districts where appropri-
17 ate. The zoning districts shall be in accordance with the policies set forth
18 in the adopted comprehensive plan.

19 (a) Within a zoning district, the governing board shall where appro-
20 priate establish standards to regulate and restrict the height, number
21 of stories, size, construction, reconstruction, alteration, repair or
22 use of buildings and structures; percentage of lot occupancy, size of
23 courts, yards, and open spaces; density of population; and the location
24 and use of buildings and structures. All standards shall be uniform for
25 each class or kind of buildings throughout each district, but the stan-
26 dards in one (1) district may differ from those in another district.

27 (b) Within an overlay zoning district, the governing board shall es-
28 tablish clear and objective standards for the overlay zoning district
29 while ensuring that application of such standards does not constitute a
30 regulatory taking pursuant to Idaho or federal law.

31 (2) Ordinances establishing zoning districts shall be amended as fol-
32 lows:

33 (a) Requests for an amendment to the zoning ordinance shall be submit-
34 ted to the ~~zoning or planning and zoning commission~~ governing board,
35 which shall evaluate the request to determine the extent and nature of
36 the amendment requested. The local jurisdiction may, at its own dis-
37 cretion, submit the amendment request to the zoning or planning and
38 zoning commission prior to the governing board for a recommendation.
39 Particular consideration shall be given to the effects of any proposed
40 zone change upon the delivery of services by any political subdivi-
41 sion providing public services, including school districts, within the
42 planning jurisdiction. An amendment of a zoning ordinance applicable

1 to an owner's lands or approval of conditional rezoning or denial of a
2 request for rezoning may be subject to the regulatory taking analysis
3 provided for by section 67-8003, Idaho Code, consistent with the re-
4 quirements established thereby.

5 (b) After considering the comprehensive plan and other evidence gath-
6 ered through the public hearing process, the governing board may adopt
7 or reject an ordinance amendment. If the local jurisdiction requires
8 the amendment to be reviewed by the zoning or planning and zoning com-
9 mission prior to the governing board, the zoning or planning and zoning
10 commission may recommend and the governing board may adopt or reject
11 an ordinance amendment pursuant to the notice and hearing procedures
12 provided in section 67-6509, Idaho Code, provided that in the case of
13 a zoning district boundary change, and notwithstanding jurisdictional
14 boundaries, additional notice shall be provided by mail to property
15 owners or purchasers of record within the land being considered, and
16 within three hundred (300) feet of the external boundaries of the land
17 being considered, and any additional area that may be impacted by the
18 proposed change as determined by the commission. Notice shall also be
19 posted on the premises not less than one (1) week prior to the hearing.
20 When notice is required to two hundred (200) or more property owners or
21 purchasers of record, alternate forms of procedures which would provide
22 adequate notice may be provided by local ordinance in lieu of posted or
23 mailed notice. In the absence of a locally adopted alternative notice
24 procedure, sufficient notice shall be deemed to have been provided if
25 the city or county provides notice through a display advertisement at
26 least four (4) inches by two (2) columns in size in the official news-
27 paper of the city or county at least fifteen (15) days prior to the
28 hearing date, in addition to site posting on all external boundaries of
29 the site. Any property owner entitled to specific notice pursuant to
30 the provisions of this subsection shall have a right to participate in
31 public hearings before a planning commission, planning and zoning com-
32 mission or governing board subject to applicable procedures.

33 (c) The governing board shall analyze proposed changes to zoning or-
34 dinances to ensure that they are not in conflict with the policies of
35 the adopted comprehensive plan. If the request is found by the govern-
36 ing board to be in conflict with the adopted plan, or would result in
37 demonstrable adverse impacts upon the delivery of services by any po-
38 litical subdivision providing public services, including school dis-
39 tricts, within the planning jurisdiction, the governing board may re-
40 quire the request to be submitted to the planning or planning and zoning
41 commission or, in absence of a commission, the governing board may con-
42 sider an amendment to the comprehensive plan pursuant to the notice and
43 hearing procedures provided in section 67-6509, Idaho Code. After the
44 plan has been amended, the zoning ordinance may then be considered for
45 amendment pursuant to paragraph (b) of this subsection.

46 (d) If a governing board adopts a zoning classification pursuant to a
47 request by a property owner based upon a valid, existing comprehensive
48 plan and zoning ordinance, the governing board shall not subsequently
49 reverse its action or otherwise change the zoning classification of
50 said property without the consent in writing of the current property

1 owner for a period of four (4) years from the date the governing board
2 adopted said individual property owner's request for a zoning clas-
3 sification change. If the governing body does reverse its action or
4 otherwise change the zoning classification of said property during the
5 above four (4) year period without the current property owner's consent
6 in writing, the current property owner shall have standing in a court of
7 competent jurisdiction to enforce the provisions of this section.

8 SECTION 2. That Section 67-6525, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 67-6525. PLAN AND ZONING ORDINANCE CHANGES UPON ANNEXATION OF UNIN-
11 CORPORATED AREA. Prior to annexation of an unincorporated area, a city coun-
12 cil ~~shall~~ may request and receive a recommendation from the planning and zon-
13 ing commission, or the planning commission and the zoning commission, on the
14 proposed plan and zoning ordinance changes for the unincorporated area. A
15 city council is not required to receive a recommendation from the planning
16 and zoning commission, or the planning commission and the zoning commission,
17 prior to annexation of an unincorporated area and may render a final decision
18 in regard to annexation without said recommendation. If city ordinance does
19 not clearly delineate whether a recommendation from the planning and zoning
20 commission, or from the planning commission and the zoning commission, is
21 required, then such recommendation shall be considered required. Each com-
22 mission and the city council shall follow the notice and hearing procedures
23 provided in section 67-6509, Idaho Code. Concurrently or immediately fol-
24 lowing the adoption of an ordinance of annexation, the city council shall
25 amend the plan and zoning ordinance.