

Canyon County Agricultural Protection Act (APA) DRAFT ORDINANCE
10/17/24

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS:

Chapter 7, Article 9 Agriculture Protection Act

Section 1: Purpose

The purpose of this ordinance is to comply with an Idaho state law passed during the 2024 legislative session- Title 67- Chapter 97, Agricultural Protection Act.

Section 2:

The County Code of Canyon County Idaho is hereby amended to add the following new Article to Chapter 7 and shall be further known as the Chapter 7 Article 9 Agricultural Protection Act

Section 3: Definitions

For the purpose of this Chapter and Article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Agriculture Production: means activities or conditions conducted on land actively devoted to agriculture as defined in section 63-604, Idaho Code, or on forest land as defined in section 63-1701, Idaho Code.

Agriculture Protection Area (APA): means specific parcels of land in a designated geographic area voluntarily created under the authority of this chapter for the purpose of protecting and preserving agricultural land.

Agriculture Protection Area Commission: means the advisory board to the governing body created pursuant to section 67-9705, Idaho Code.

Agriculture Protection Area Applicant: means anyone who owns five (5) contiguous acres or more of land that has been in active agricultural or forest production for the previous three (3) consecutive years, consistent with the provisions of sections 63-604 and 63-1701, Idaho Code, and who voluntarily applies for that land to be part of an agricultural protection area.

Hardship: means a situation or circumstance over which a landowner in an agricultural protection area has no control and can then petition for removal for reasons that include but are not limited to an adverse result in litigation against the farm or landowner, death of a close family member that would lead to unanticipated financial hardships, significant tax liabilities, bankruptcy due to another person's fraud, or any other illegal activity.

Proposal: means written documents submitted to a governing body or agricultural protection area commission from a landowner regarding his property.

Section 4: Creation and Designation of APA

An APA designation is a voluntary land use designation available to landowners who wish to protect their agricultural land from future nonagricultural development. To qualify for an APA designation, the land must be:

- a) At least five (5) contiguous acres, and
- b) Actively devoted to an agricultural production as defined in Canyon County code, and
- c) Appraised as agriculture land, with a current agricultural exemption, and
- d) Designated as "Agriculture" on the County Comprehensive Plan, and
- e) Zoned as "Agriculture" on the County Zoning map, and
- f) Not located in, or within ½ mile, of a city of area impact, and
- g) Under one ownership

Landowners wishing to establish an APA must provide a completed application to the County Development Services Department in a format and content prescribed by DSD.

At a minimum, the application shall include the following:

- a) Name, phone number, email, and mailing address of the land owner;
- b) Affidavit of legal land ownership;
- c) A legal description of the parcels, structures, and facilities proposed to be included in the APA;
- d) A map showing the proposed boundaries of the proposed APA;
- e) History of ownership, the number of years the land has been in agricultural production, the types of agricultural commodities produced, and the applicant's plan to continue using the land for agricultural purposes;
- f) A letter of intent addressing all application criteria, reasons for seeking an APA designation, the current contiguous acreages of land, land use, agricultural productivity, other relevant characteristics of the land to be included in the APA, the number of years the land has been in agricultural production, the types of agricultural commodities produced, and the applicant's plan to continue using the land for agricultural purposes; and
- g) Soil surveys, documentation of water rights, flood plain designation, and any other relevant environmental assessments.

Section 5: Review Process

Complete Applications: DSD shall perform a completeness review prior to the official acceptance of an application by the County to determine if the application meets the minimum application requirements of the County. In the event that it is determined that an application is incomplete, the applicant will be notified regarding what is necessary to complete the application and the application returned. In the event that an incomplete application is returned more than two (2) times, additional application fees may be required according to the County's fee schedule. All plans, ordinances or processes in place at the time of the application passes its completeness review and application fees are paid, will apply.

Upon acceptance of the complete application by the County and payment of fees, DSD shall have

up to forty-five (45) days for review, provide notification to cities if applicable, compilation and posting of application materials, and scheduling of the APA Commission meeting. If the proposed APA is within one mile of a city's area of impact boundary, that city or cities shall be notified of the application and be given a minimum of fourteen (14) days to provide comment. Comments from a city or cities shall be considered in context of the below listed criteria.

Once received by the APA Commission, they shall review the proposal and make a recommendation in the form of proposed findings of facts and conclusions of law to the Board of County Commissioners within sixty (60) days.

The application shall be evaluated on the following criteria:

- a) The total contiguous acreage of the land is at least five (5) acres in size and is actively devoted to agricultural production,
- b) Proximity to an area of city impact,
- c) Potential of conflict with city annexation, development plans, or agreements,
- d) Proximity to existing public rights of way,
- e) Proximity to planned transportation corridors, improvements, or future public rights of way,
- f) Proximity to existing or planned utility locations,
- g) Proximity to planned airport expansion or development,
- h) Proximity to any planned improvements described in the County Parks Plan
- i) Compatibility and consistency with existing development patterns, Comprehensive Plan designations, zoning designations, or planned development with land use entitlements,
- j) Degree of transition of the land use in the proximity of the proposed APA
- k) Agricultural production capability of the land within the proposed APA,
- l) Soil classification, water rights and usage, and any effect on provision of essential services to the requested APA land or nearby land, and
- m) Other local impacts relevant to the proposed APA.

Notwithstanding the criteria and review process outlined in this code, the Board of County Commissioners may place additional conditions on lands approved to be designated as an APA, including, but not limited to, setbacks from existing public rights of way, setbacks from existing public structures, improvements to promote compatibility with surrounding land uses, and a review of the land's APA designation after twenty (20) years.

Once the APA Commission makes its recommendation to the Board of County Commissioners, the Board of County Commissioners shall hold a public hearing in compliance with Idaho State Code 67-6509 and Canyon County Code 01-17, and issue its decision, within 60 days. Failure to make a decision shall render the APA Commission's recommendation final.

The Board of County Commissioners may remand an application/appeal back to the APA Commission for reconsideration of their recommendation if the Board determines that the official record is incomplete, or that the application has had substantial additions, amendments or modifications from the application presented to the APA Commission, or that procedural steps required were not followed.

The taking of additional testimony and evidence on remand shall be limited to those issues stated by the Board as per its written directive. Additional notice shall be required. Additional remand fees shall be paid by the applicant according to the County's fee schedule. Remand fees may be waived for good cause.

If after hearing the new testimony or evidence as directed by the Board, the APA Commission's recommendation is changed, new proposed findings of fact and conclusions of law shall be sent to the Board for further action. If the APA Commission's recommendation is not changed, supplemental explanation and/or expanded proposed findings of fact and conclusions of law shall be sent back to the Board for further action.

The Board of County Commissioner's decision shall include findings and facts supporting its decision.

Upon making its decision, the Board of County Commissioners shall:

- a) Record of the designation of an APA, a legal description of the area, and approved findings and facts related to the APA with the County Recorder within ten (10) days from the date of its final decision;
- b) After following public hearing requirements in Idaho Code 67-6509, and Canyon County ordinance, amend county land use planning maps to reflect the boundaries of the APA; and,
- c) Notify relevant public officials and agencies of the designation.

Section 6: Expansion or Modification of an APA

An expansion, modification, or removal of an existing APA shall follow the same application, review, and hearing procedures outlined in this code. Any expansion of an APA shall be contiguous to the existing APA.

Section 7: Early Termination for Undue Hardship

A landowner wishing to terminate an APA must request in writing a meeting with the Board of County Commissioners. The Board of County Commissioners shall acknowledge receipt of the petition for removal in writing and confirm the removal date as ten (10) years from the date of petition for removal, or upon expiration of the designation, whichever is sooner. Early termination of the APA shall only occur upon the proving by the land owner of an undue hardship. The landowner seeking to terminate an APA bears the burden of proof in demonstrating the undue hardship.

Section 8: Enrollment Duration, Review and Termination

Per Idaho State code, lands designated as an APA will remain so designated for a period of twenty (20) years. If the landowner desires to continue with the APA, no action on the part of the landowner is necessary and the board of county commissioners shall automatically renew the APA for another twenty years. The clerk of the board of county commissioners shall record the renewal of the APA pursuant to Idaho Code Section 67-9707.

If the landowner desires to terminate the APA, written notice to the board of county commissioners is required at least ninety (90) days prior to the expiration of the APA before the board of county commissioners terminates the designation.

Section 9: Fees

Fee amounts are established and periodically updated by the Board of County Commissioner’s approval of the DSD fee schedule. A completeness review fee will be required if submitted materials require more than two (2) staff reviews prior to acceptance. Upon acceptance by DSD, an application fee shall be required to cover administrative costs, including, but not limited to, reviewing materials, processing and recording documents, and conducting public meetings. In addition, if the APA is approved by the Board of County Commissioners, all applicable fees associated with a Comprehensive Plan map amendment shall be required. Any application for changes to an APA shall be the same as the fees requesting establishment.

Section 10: Enforcement, Prohibitions, and Penalties

Unless otherwise approved by the Board of County Commissioners, the following land uses are prohibited within an APA:

- a) The siting of residential, commercial, manufacturing, industrial, solar energy, wind energy, or battery storage structures; or
- b) Any other use not explicitly allowed in an agricultural zone in the Canyon County land use matrix.

The Development Services Director or his/her designee shall be responsible for enforcing the provisions of this ordinance. Any person found to be in violation of this code shall be guilty of a misdemeanor and punishable as provided in Section 18-113, Idaho Code.

Section 11: Severability

If any section, subsection, sentence, clause, or phrase of this title is held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this title and they shall remain in full force and effect.

Section 12: Effective Date

This ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

PASSED and APPROVED by the Canyon County Board of County Commissioners on this _____ day of _____, 2024