



Idaho Statutes

Idaho Statutes are updated to the website July 1 following the legislative session.

TITLE 50
MUNICIPAL CORPORATIONS
CHAPTER 31

COMMUNITY INFRASTRUCTURE DISTRICT ACT

50-3101. PURPOSE, RELATIONSHIP WITH OTHER LAWS AND SHORT TITLE. (1)

The purpose of this chapter is:

- (a) To encourage the funding and construction of regional community infrastructure in advance of actual developmental growth that creates the need for such additional infrastructure;
- (b) To provide a means for the advance payment of development impact fees established in chapter 82, title 67, Idaho Code, and the community infrastructure that may be financed thereby; and
- (c) To create additional financial tools and financing mechanisms that allow new growth to more expediently pay for itself.

(2) Only community infrastructure to be publicly owned by this state or a political subdivision thereof may be financed pursuant to this chapter.

(3) A community infrastructure district may only be formed pursuant to this chapter by a city in the city's incorporated area, or by a county in an area contained within a city's comprehensive plan with the city's consent.

(4) A community infrastructure district may be formed only after (i) prior review and approval by the governing body of each county or city in which the district is proposed to be located of a petition requesting the formation of the district, and (ii) the necessary approvals for site development under the local land use planning act, sections 67-6501 et seq., Idaho Code, and the planning and zoning ordinances of each county and city in which the district is proposed to be located have been obtained; provided however, that where there will be phased development, approvals obtained for the first phase of site development shall be sufficient for the initial creation and organization of the district. The formation of a district pursuant to this chapter shall not prevent the exercise by a county, city or other political subdivision of any of its powers on the same basis as on all other land within its jurisdiction. Notwithstanding the formation of a district, the development of real property located within the district shall remain subject to the provisions of chapter 65, title 67, Idaho Code, and the applicable planning and zoning ordinances of the counties and cities in which the district is located. The formation of a district pursuant to this chapter shall not prevent the subsequent establishment of other districts or the improvement or assessment of land within the district by a county, city or other political subdivision.

(5) This chapter shall be known and cited as the "Community Infrastructure District Act."

History:

[50-3101, added 2008, ch. 410, sec. 1, p. 1140.]



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COMMUNITY INFRASTRUCTURE DISTRICT ACT

50-3102. **DEFINITIONS.** As used in this chapter, the following terms shall have the meanings as stated:

(1) "Assessment area" means real property within the boundaries of a community infrastructure district that is the subject of a specific special assessment as set forth in this chapter.

(2) "Community infrastructure" means improvements that have a substantial nexus to the district and directly or indirectly benefit the district. Community infrastructure excludes public improvements fronting individual single-family residential lots. Community infrastructure includes planning, design, engineering, construction, acquisition or installation of such infrastructure, including the costs of applications, impact fees and other fees, permits and approvals related to the construction, acquisition or installation of such infrastructure, and incurring expenses incident to and reasonably necessary to carry out the purposes of this chapter. Community infrastructure includes all public facilities as defined in section 67-8203(24), Idaho Code, and, to the extent not already included within the definition in section 67-8203(24), Idaho Code, the following:

(a) Highways, parkways, expressways, interstates, or other such designations, interchanges, bridges, crossing structures, and related appurtenances;

(b) Public parking facilities, including all areas for vehicular use for travel, ingress, egress and parking;

(c) Trails and areas for pedestrian, equestrian, bicycle or other nonmotor vehicle use for travel, ingress, egress and parking;

(d) Public safety facilities;

(e) Acquiring interests in real property for community infrastructure;

(f) Financing costs related to the construction of items listed in this subsection; and

(g) Impact fees.

(3) "Community infrastructure segment" means a separate or a discernible portion of a construction contract attributable to community infrastructure.

(4) "Debt service" means the principal of, interest on and premium, if any, on the bonds when due, whether at maturity or prior redemption, and fees and costs of registrars, trustees, paying agents or other agents necessary to handle the bonds and the costs of credit enhancement or liquidity support.

(5) "District" means a community infrastructure district formed pursuant to this chapter. A district formed after July 1, 2022, shall not exclude from the district any land that is completely surrounded by

property in the district. A district shall only include contiguous property at the time of formation. Land that is connected by only a shoestring or strip of land that comprises a railroad or highway right-of-way shall not be considered contiguous for the purposes of this chapter. Subsequent to a district's formation, a district may include noncontiguous property but only if specifically determined by the district board to have a substantial nexus to the initial district or to the community infrastructure contemplated by the initial district and then authorized by the district board in its discretion and pursuant to section 50-3106, Idaho Code.

(6) "District board" means the board of directors of the district.

(7) "District development agreement" means an agreement between a property owner or developer, the county or city, any other political subdivision of the state, and/or the district. A district development agreement shall be used to establish obligations of the parties to the agreement relating to district financing and development, including: intergovernmental agreements; the ultimate public ownership of the community infrastructure financed by the district; the understanding of the parties with regard to future annexations of property into the district; the total amount of bonds to be issued by the district and the property taxes and special assessments to be levied and imposed to repay the bonds and the provisions regarding the disbursement of bond proceeds; the financial assurances, if any, to be provided with respect to the bonds; impact and other fees imposed by governmental authorities, including credit, prepayment and/or reimbursement with respect thereto; and other matters relating to the community infrastructure, such as construction, acquisition, planning, design, inspection, ownership and control. A district development agreement shall be in addition to and shall not supplant any development agreement entered into pursuant to section 67-6511A, Idaho Code, pursuant to which a governing body may require or permit as a condition of rezoning that an owner or developer make a written commitment concerning the use or development of the subject parcel.

(8) "General plan" means the general plan described in section 50-3103(1), Idaho Code, as the plan may be amended from time to time.

(9) "Governing body" means the county commissioners or city council that by law is constituted as the governing body of the county or city in which the district is located. Reference in this chapter to "governing body or bodies" shall mean the governing body or bodies of each county and city in which the district is located.

(10) "Owner" means the person listed as the owner of real property within the district or a proposed district on the current property rolls in effect at the time that the action, proceeding, hearing or election has begun; provided however, that if a person listed on the property rolls is no longer the owner of real property within the district or a proposed district and the name of the successor owner becomes known and is verified by recorded deed or other similar evidence of transfer of ownership, the successor owner shall be deemed to be the owner for the purposes of this chapter.

(11) "Market value for assessment purposes" means the amount of the last preceding equalized assessment of all taxable property and excludes all property exempt from taxation pursuant to section 63-602G, Idaho Code, within the community infrastructure district on the tax rolls completed and available as of the date of approval in the district bond issuance.

(12) "Person" means any entity, individual, corporation, partnership, firm, association, limited liability company, limited liability partnership, trust or other such entities as recognized by the state of Idaho. A "person in interest" is any person who is a qualified elector in the district, who is an owner of real property in the district or who is a real property taxpayer in the district.

(13) "Qualified elector" means a person who possesses all of the qualifications required of electors under the general laws of the state of Idaho and:

(a) Resides within the boundaries of a district or a proposed district and who is a qualified elector. For purposes of this chapter, such elector shall also be known as a "resident qualified elector"; or

(b) Is an owner of real property that is located within the district or a proposed district, who is not a resident qualified elector as set forth above. For purposes of this chapter, such elector shall also be known as an "owner qualified elector."

(14) "Special assessment" means an assessment imposed upon real property located within an assessment area for a specific purpose and of a special benefit to the affected property, collected and enforced in the same manner as property taxes, that may be apportioned according to the direct or indirect special benefits conferred upon the affected property, as well as any, or any combination, of the following: acreage, square footage, front footage, the cost of providing community infrastructure for the affected property, or any other reasonable method as determined by the district board.

History:

[50-3102, added 2008, ch. 410, sec. 1, p. 1140; am. 2012, ch. 324, sec. 1, p. 884; am. 2022, ch. 181, sec. 1, p. 585.]

How current is this law?



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TITLE 67

STATE GOVERNMENT AND STATE AFFAIRS

CHAPTER 65

LOCAL LAND USE PLANNING

67-6502. **PURPOSE.** The purpose of this act shall be to promote the health, safety and general welfare of the people of the state of Idaho as follows:

(a) To protect property rights while making accommodations for other necessary types of development such as low-cost housing and mobile home parks.

(b) To ensure that adequate public facilities and services are provided to the people at reasonable cost.

(c) To ensure that the economy of the state and localities is protected.

(d) To ensure that the important environmental features of the state and localities are protected.

(e) To encourage the protection of prime agricultural, forestry and mining lands and land uses for production of food, fiber and minerals, as well as the economic benefits they provide to the community.

(f) To encourage urban and urban-type development within incorporated cities.

(g) To avoid undue concentration of population and overcrowding of land.

(h) To ensure that the development on land is commensurate with the physical characteristics of the land.

(i) To protect life and property in areas subject to natural hazards and disasters.

(j) To protect fish, wildlife and recreation resources.

(k) To avoid undue water and air pollution.

(l) To allow local school districts to participate in the community planning and development process so as to address public school needs and impacts on an ongoing basis.

(m) To protect public airports as essential community facilities that provide safe transportation alternatives and contribute to the economy of the state.

History:

[67-6502, added 1975, ch. 188, sec. 2, p. 515; am. 1992, ch. 269, sec. 1, p. 831; am. 1994, ch. 245, sec. 1, p. 764; am. 1999, ch. 396, sec. 2, p. 1100; am. 2011, ch. 89, sec. 1, p. 192; am. 2014, ch. 93, sec. 3, p. 254.]

How current is this law?



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TITLE 67

STATE GOVERNMENT AND STATE AFFAIRS

CHAPTER 65

LOCAL LAND USE PLANNING

67-6506. **CONFLICT OF INTEREST PROHIBITED.** A governing board creating a planning, zoning, or planning and zoning commission, or joint commission shall provide that the area and interests within its jurisdiction are broadly represented on the commission. A member or employee of a governing board, commission, or joint 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. For purposes of this section the term "participation" means engaging in activities which constitute deliberations pursuant to the open meeting act. No member of a governing board or a planning and zoning commission with a conflict of interest shall participate in any aspect of the decision-making process concerning a matter involving the conflict of interest. A knowing violation of this section shall be a misdemeanor.

History:

[67-6506, as added by 1975, ch. 188, sec. 2, p. 515; am. 1999, ch. 396, sec. 4, p. 1102; am. 2006, ch. 213, sec. 1, p. 644.]

How current is this law?



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TITLE 67

STATE GOVERNMENT AND STATE AFFAIRS

CHAPTER 65

LOCAL LAND USE PLANNING

67-6512. SPECIAL USE PERMITS, CONDITIONS, AND PROCEDURES. (a) As part of a zoning ordinance each governing board may provide by ordinance adopted, amended, or repealed in accordance with the notice and hearing procedures provided under section 67-6509, Idaho Code, for the processing of applications for special or conditional use permits. A special use permit may be granted to an applicant if the proposed use is conditionally permitted by the terms of the ordinance, subject to conditions pursuant to specific provisions of the ordinance, subject to the ability of political subdivisions, including school districts, to provide services for the proposed use, and when it is not in conflict with the plan. Denial of a special use permit or approval of a special use permit with conditions unacceptable to the landowner may be subject to the regulatory taking analysis provided for by section 67-8003, Idaho Code, consistent with requirements established thereby.

(b) Prior to granting a special use permit, at least one (1) public hearing in which interested persons shall have an opportunity to be heard shall be held. At least fifteen (15) days prior to the hearing, notice of the time and place, and a summary of the proposal shall be published in the official newspaper or paper of general circulation within the jurisdiction. Each local government is encouraged to post such notice on its official websites, if one is maintained. Notice may also be made available to other newspapers, radio and television stations serving the jurisdiction for use as a public service announcement. Notice shall be posted on the premises not less than one (1) week prior to the hearing. Notwithstanding jurisdictional boundaries, notice shall also be provided to property owners or purchasers of record within the land being considered, three hundred (300) feet of the external boundaries of the land being considered, and any additional area that may be substantially impacted by the proposed special use as determined by the commission, provided that in all cases notice shall be provided individually by mail to property owners or purchasers of record within the land being considered and within three hundred (300) feet of the external boundaries of the land being considered and provided further that where a special use permit is requested by reason of height allowance that notice shall be provided individually by mail to property owners or purchasers of record within no less than three (3) times the distance of the height of the allowed height of a structure when more than one hundred (100) feet and within no less than one (1) mile when the peak height of a structure in an unincorporated area is four hundred (400) feet or more and, when four hundred (400) feet or more, the structure's proposed location and height shall be stated in the notice. Any property owner entitled to specific notice pursuant to the provisions of this subsection

shall have a right to participate in public hearings before a planning commission, planning and zoning commission or governing board.

(c) When notice is required to two hundred (200) or more property owners or purchasers of record, alternate forms of procedures which would provide adequate notice may be provided by local ordinance in lieu of mailed notice. In the absence of a locally adopted alternative notice procedure, sufficient notice shall be deemed to have been provided if the city or county provides notice through a display advertisement at least four (4) inches by two (2) columns in size in the official newspaper of the city or county at least fifteen (15) days prior to the hearing date, in addition to site posting on all external boundaries of the site.

(d) Upon the granting of a special use permit, conditions may be attached to a special use permit including, but not limited to, those:

- (1) Minimizing adverse impact on other development;
- (2) Controlling the sequence and timing of development;
- (3) Controlling the duration of development;
- (4) Assuring that development is maintained properly;
- (5) Designating the exact location and nature of development;
- (6) Requiring the provision for on-site or off-site public facilities or services;
- (7) Requiring more restrictive standards than those generally required in an ordinance;
- (8) Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction.

(e) Prior to granting a special use permit, studies may be required of the social, economic, fiscal, and environmental effects and any aviation hazard as defined in section 21-501(2), Idaho Code, of the proposed special use. A special use permit shall not be considered as establishing a binding precedent to grant other special use permits. A special use permit is not transferable from one (1) parcel of land to another.

(f) In addition to other processes permitted by this chapter, exceptions or waivers of standards, other than use, inclusive of the subject matter addressed by section 67-6516, Idaho Code, in a zoning ordinance may be permitted through issuance of a special use permit or by administrative process specified by ordinance, subject to such conditions as may be imposed pursuant to a local ordinance drafted to implement subsection (d) of this section.

History:

[67-6512, added 1975, ch. 188, sec. 2, p. 515; am. 1985, ch. 141, sec. 2, p. 385; am. 1992, ch. 269, sec. 5, p. 835; am. 1999, ch. 396, sec. 10, p. 1107; am. 2003, ch. 142, sec. 2, p. 412; am. 2011, ch. 89, sec. 4, p. 195; am. 2012, ch. 334, sec. 1, p. 926; am. 2012, ch. 334, sec. 2, p. 928; am. 2014, ch. 93, sec. 6, p. 257.]

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LOCAL LAND USE PLANNING

67-6515. **PLANNED UNIT DEVELOPMENTS.** As part of or separate from the zoning ordinance, each governing board may provide, by ordinance adopted, amended, or repealed in accordance with the notice and hearing procedures provided under section 67-6509, Idaho Code, for the processing of applications for planned unit development permits.

A planned unit development may be defined in a local ordinance as an area of land in which a variety of residential, commercial, industrial, and other land uses are provided for under single ownership or control. Planned unit development ordinances may include, but are not limited to, requirements for minimum area, permitted uses, ownership, common open space, utilities, density, arrangements of land uses on a site, and permit processing. Planned unit developments may be permitted pursuant to the procedures for processing applications for special use permits following the notice and hearing procedures provided in section 67-6512, Idaho Code. Denial of a planned unit development permit or approval of a planned unit development permit with conditions unacceptable to the landowner may be subject to the regulatory taking analysis provided for by section 67-8003, Idaho Code, consistent with the requirements established thereby.

History:

[67-6515, added I.C., sec. 67-6515, as added by 1975, ch. 188, sec. 2, p. 515; am. 1999, ch. 396, sec. 12, p. 1109; am. 2003, ch. 142, sec. 4, p. 414.]

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TITLE 67

STATE GOVERNMENT AND STATE AFFAIRS

CHAPTER 65

LOCAL LAND USE PLANNING

67-6535. APPROVAL OR DENIAL OF ANY APPLICATION TO BE BASED UPON EXPRESS STANDARDS AND TO BE IN WRITING. (1) The approval or denial of any application required or authorized pursuant to this chapter shall be based upon standards and criteria which shall be set forth in the comprehensive plan, zoning ordinance or other appropriate ordinance or regulation of the city or county. Such approval standards and criteria shall be set forth in express terms in land use ordinances in order that permit applicants, interested residents and decision makers alike may know the express standards that must be met in order to obtain a requested permit or approval. Whenever the nature of any decision standard or criterion allows, the decision shall identify aspects of compliance or noncompliance with relevant approval standards and criteria in the written decision.

(2) The approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record.

(a) Failure to identify the nature of compliance or noncompliance with express approval standards or failure to explain compliance or noncompliance with relevant decision criteria shall be grounds for invalidation of an approved permit or site-specific authorization, or denial of same, on appeal.

(b) Any applicant or affected person seeking judicial review of compliance with the provisions of this section must first seek reconsideration of the final decision within fourteen (14) days. Such written request must identify specific deficiencies in the decision for which reconsideration is sought. Upon reconsideration, the decision may be affirmed, reversed or modified after compliance with applicable procedural standards. A written decision shall be provided to the applicant or affected person within sixty (60) days of receipt of the request for reconsideration or the request is deemed denied. A decision shall not be deemed final for purposes of judicial review unless the process required in this subsection has been followed. The twenty-eight (28) day time frame for seeking judicial review is tolled until the date of the written decision regarding reconsideration or the expiration of the sixty (60) day reconsideration period, whichever occurs first.

(3) It is the intent of the legislature that decisions made pursuant to this chapter should be founded upon sound reason and practical application of recognized principles of law. In reviewing such decisions,

the courts of the state are directed to consider the proceedings as a whole and to evaluate the adequacy of procedures and resultant decisions in light of practical considerations with an emphasis on fundamental fairness and the essentials of reasoned decision making. Only those whose challenge to a decision demonstrates actual harm or violation of fundamental rights, not the mere possibility thereof, shall be entitled to a remedy or reversal of a decision. Every final decision rendered concerning a site-specific land use request shall provide or be accompanied by notice to the applicant regarding the applicant's right to request a regulatory taking analysis pursuant to section 67-8003, Idaho Code. An applicant denied an application or aggrieved by a final decision concerning matters identified in section 67-6521(1)(a), Idaho Code, may, within twenty-eight (28) days after all remedies have been exhausted under local ordinance, seek judicial review under the procedures provided by chapter 52, title 67, Idaho Code. An appeal shall be from the final decision and not limited to issues raised in the request for reconsideration.

History:

[67-6535, added 1982, ch. 129, sec. 2, p. 371; am. 1999, ch. 396, sec. 17, p. 1111; am. 2003, ch. 142, sec. 8, p. 416; am. 2010, ch. 175, sec. 4, p. 362; am. 2013, ch. 216, sec. 3, p. 509.]

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TITLE 67

STATE GOVERNMENT AND STATE AFFAIRS

CHAPTER 65

LOCAL LAND USE PLANNING

67-6537. **USE OF SURFACE AND GROUND WATER.** (1) The intent of this section is to encourage the use of surface water for irrigation. All applicants proposing to make land use changes shall be required to use surface water, where reasonably available, as the primary water source for irrigation. Surface water shall be deemed reasonably available if:

(a) A surface water right is, or reasonably can be made, appurtenant to the land;

(b) The land is entitled to distribution of surface water from an irrigation district, canal company, ditch users association, or other irrigation delivery entity, and the entity's distribution system is capable of delivering the water to the land; or

(c) An irrigation district, canal company, or other irrigation delivery entity has sufficient available surface water rights to apportion or allocate to the land and has a distribution system capable of delivering the water to the land.

(2) Consistent with sections 42-108 and 42-222, Idaho Code, any change in the nature of use of surface water provided by an irrigation delivery entity must be authorized by the entity holding the water right(s) for the available surface water. Nothing in this section shall alter the authority and discretion of irrigation delivery entities to apportion, allocate and distribute surface water, or for municipalities, counties, or water and sewer districts to pass ordinances or regulations to promote the use of surface water for irrigation.

(3) Nothing in this section shall be construed to override or amend any provision of title 42 or 43, Idaho Code, or impair any rights acquired thereunder.

(4) When considering amending, repealing or adopting a comprehensive plan, the local governing board shall consider the effect the proposed amendment, repeal or adoption of the comprehensive plan would have on the source, quantity and quality of ground water in the area.

History:

[67-6537, added 1989, ch. 421, sec. 3, p. 1033; am. 2005, ch. 338, sec. 1, p. 1056.]

How current is this law?