

**Chapter 12-12**

**APPEALS AND AMENDMENTS**

**Sections:**

**12-12-01 APPEALS**

**12-12-02 AMENDMENTS**

**Section 12-12-01 APPEALS**

- A. Right of Appeal: The applicant, or any person having made an objection or filed a protest or other appearance at any hearing held by the Commission, may appeal any order, requirement, decision or determination of the Commission to the applicable governing legislative body.
- B. Time for Filing: An appeal shall be taken by filing with the Administrator and the Clerk of the governing legislative body a written notice of appeal within fifteen (15) days from the date of the rendition of the order, requirement, decision or determination of the Commission.
- C. Notice and Effect of Appeal: The notice of appeal shall specify the grounds thereof and all matters wherein error, illegality or abuse of discretion is claimed. The appeal stays all proceedings in furtherance of the order, requirement, decision or determination appealed from unless the Commission certifies to the Board or Council that a stay would cause imminent peril to life or property. In case of a certification by the Commission, proceedings shall not be stayed unless a restraining order is granted by the Board or Council on application and notice to the Commission.
- D. Action Required by Administrator: Upon notice of appeal, the Administrator shall forthwith transmit to the Clerk of the governing legislative body the original, or certified copies, of all papers, documents, minutes and the order, requirement, decision or determination constituting the record of the case.
- E. Action by Board or Council: Within a reasonable time receipt of the record of the appeal, the Board or Council shall establish the date, time and place for hearing and appeal. At least fifteen (15) days prior to the hearing date notice of the hearing shall be given to the appealing party and all persons having made or filed an appearance in writing or in person at the hearing of the Commission. The notice of such hearing may be given by personal service or by mailing such notice at the address appearing upon the records of the Administrator. The Board or Council in reviewing the order, requirement, decision or determination of the Commission shall consider the record and such additional evidence as may be offered and may sustain, or modify by imposing additional or different conditions and limitations, or reverse the order, requirement, decision or determination of the Commission. Notice of the action of the Board or Council shall be forthwith given to the appealing party and the Commission.

**Section 12-12-02 AMENDMENTS**

- A. Power to Amend: This Ordinance may be amended whenever the Board and Council jointly deem that an amendment is required for public convenience of necessity or for the public health,

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safety or general welfare but the Board and Council shall submit the request amendment to the Commission for recommendation. Any amendment shall be enacted pursuant to this Section and the term "amendment" shall include any measure to change the zones of the Airport District and the regulation thereof, the zoning map or maps, or to add, repeal or amend any other provision of this Ordinance.

- B. **Initiation of Application:** The change, modification and amendment of this Ordinance may be initiated by the Board, the Council, the Commission, or by application of an owner of property lying within a zone sought to be changed, modified and amended. When the application for change, modification and amendment is initiated by a property owner, the procedure herein established shall be followed, except that the Commission may, subject to the provisions for notice and publication of hearing, enlarge, expand and amplify a petition for change and reclassification of a zone or land use classification.
- C. **Application Required:** Any owner or person seeking a change, modification or amendment to a zone and the regulations pertinent thereto shall file with the Administrator an application upon a form prescribed by the Commission accompanied by a filing fee of twenty five dollars (\$25.00).
- D. **Form and Scope of Application:** The Commission shall prescribe the form, scope and content of such application, and the data required to be furnished in connection therewith. Each application shall include a map showing all the lots or parcels of land lying within a zone together with a list of the names and addresses of the last known owners of each lot or parcel situate in a zone insofar as they are of public record.
- E. **Content of Application:** The application shall be submitted in as many copies as required by the Administrator and shall contain the conditions or circumstances alleged to warrant a change, modification or amendment of a zone or the regulations pertinent thereto and such other information, plans and maps necessary to assure a full presentation of all facts and to assist in making a determination in harmony with the objectives of this Ordinance.
- F. **Action by Administrator:** The application shall be submitted to the Administrator, but no application shall be accepted by the Administrator unless the fee required is paid and the application is complete and in compliance with all requirements. The Administrator shall submit copies to the Director of the Idaho Department of Aeronautics and the Adjutant General of the Idaho Military Department, each of whom shall be allowed fifteen (15) days in which to make recommendations for approval, rejection or modification for any change, modification or amendment, and if no recommendations are received, it shall be assumed that neither have any objections to the application.
- G. **Notice and Publication of Hearing:** Upon receipt of the application by the Administrator he shall set the time and place for a hearing. Notice of the time, place and purpose of each public hearing held by the Commission shall be given by one publication in a newspaper of general circulation in the County at least fifteen (15) days, but no more than forty (40) days, prior to such hearing. Notice shall be given by certified U.S. Mail or personal delivery to each property owner whose name and address appears in the list accompanying such application, which notice shall give the date, time and place of hearing, the name of the applicant, the relief sought, an identification of the property, and such other facts as may be prescribed. The failure to mail or the failure of the applicant to submit a complete list shall in no way affect the validity of such proceedings; provided, that such failure shall have occurred in good faith. In the event there are more than fifty (50) property owners within said zone area, the Administrator may in lieu of

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mailing such notice order three (3) additional publications thereof in a daily newspaper of general circulation published in the County at least fifteen (15) days before the date set for a hearing.

- H. Action by Commission: At every hearing the Commission shall hear all persons appearing and interested in the subject matter then pending before it. Not later than ten (10) days after the conclusion of the hearing, the Commission shall file with the Clerk of the Board and Council a written report of the proceedings before and by the Commission at each hearing and its recommendation. Any recommendation of the Commission relating to change, modification and amendment of zones, land use classifications, and the regulations and standards prescribed for each zone shall be in writing and must include findings of fact in support of the recommendation.
- I. Action by Board and Council: Within a reasonable time after the receipt of the recommendation and report of the Commission, the Board and Council shall establish a time, date and place for a joint public hearing and shall publish notice of a hearing in a newspaper of general circulation in the County at least fifteen (15) days, but not more than forty (40) days, prior to the date of the hearing. The Chairman of the Board or the Mayor of the Council, as joint members so decide, shall preside at the hearing and the recommendation of the Commission may be either approved, disapproved or modified. In modifying the recommendation of the Commission, the Board and Council may impose additional conditions or limitations or more restrictive regulations, standards or land use classifications. If the Board and Council conclude that a less restrictive regulation, standard or land use classification would be consistent with the purposes of the Ordinance, in harmony with the purposes and intent of the comprehensive general plan for the development of The Boise Air Terminal (Gowen Field) District, and in the best public interest of the residents of the district, the users of public air transportation and the military users of the airport, the Board and Council shall refer their conclusion to the Commission for its further consideration and recommendation. Upon the receipt of the further recommendation of Commission the Council shall either approve, disapprove or modify the recommendation of the Commission except that the Board and Council are enjoined from granting less restrictive regulations, standards or land use classifications than those applied for and as publicized prior to the public hearing held by the Commission.
- J. Ordinance Required: In the event the Board and Council shall have approved or modified the recommendation of the Commission, the Board and Council without further notice to the public or the applicant, shall cause to be prepared, passed and published an appropriate ordinance of amendment.
- K. Resubmission of Applications: No application for the change or reclassification of any property, zone or land use classification, which has been denied by the Board and the Council, shall be resubmitted in either the same or substantially the same form or with reference to substantially the same land, premises or purposes within a period of one year from the date of denial. (Ord. 3601, 9-23-74)