

Instrument # 465337

REXBURG, MADISON, IDAHO

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KIM H. MUIR Fee: 0.00

Ex-Officio Recorder Deputy



ORDINANCE NO. 491

MADISON COUNTY ORDINANCE 491

AGRICULTURE PROTECTION AREAS

AN ORDINANCE OF MADISON COUNTY, IDAHO, AMENDING THE MADISON COUNTY UNIFIED DEVELOPMENT, CHAPTER 117 ZONING, ADOPTING SECTION 117-65 AGRICULTURE PROTECTION AREA OVERLAY ZONE, TO COMPLY WITH THE AGRICULTURE PROTECTION AREA REQUIREMENTS OF IDAHO STATUTE 67-97; PROVIDING FOR SEVERABILITY, REPEALER, AND AN EFFECTIVE DATE.

WHEREAS Madison County Code Section 101-113 provides procedures for amending the County's Zoning Regulations from time to time to reflect changing needs and compliance with state law; and

WHEREAS, the Idaho Legislature adopted House Bill 473, also known as the Agriculture Protection Area Act, codified as Idaho Statute 67-97, which requires Counties to amend their zoning codes to incorporate provisions for "Agriculture Protection Areas"; and

WHEREAS, the Madison County Planning and Zoning Commission, in collaboration with Planning Staff, developed an amendment to the County Zoning Regulations to bring Madison County Code into compliance with Idaho Statute 67-97; and

WHEREAS, pursuant to Idaho Code Section 67-6509, a duly noticed public hearing was held before the Madison County Planning and Zoning Commission on November 13, 2024, at which time public input on the proposed amendment was received; and

WHEREAS, the Madison County Planning and Zoning Commission approved Findings of Fact on November 20, 2024, recommending the proposed amendment to the Board of County Commissioners; and

WHEREAS, the Board of County Commissioners held a public meeting and accepted and adopted the Findings of Fact from the Planning and Zoning Commission on November 25, 2024; and

WHEREAS, the Board of County Commissioners finds that the proposed amendment is necessary for the health, safety, and welfare of the citizens of Madison County and is consistent with the requirements of Idaho Statute 67-97.

NOW THEREFORE, be it ordained by the Board of the Madison County, in the State of Idaho, as follows:

SECTION 1: ADOPTION

1. "Sec 117-65 Agriculture Protection Area Overlay Zone" of the Madison County Code is hereby *added* as follows:

BEFORE ADOPTION:

Sec 117-65 Agriculture Protection Area Overlay Zone (Non-existent)

AFTER ADOPTION

Sec 117-65 Agriculture Protection Area Overlay Zone (*Added*)

2. Sec 117-65-1 Establishment of The Agriculture Protection Area Zone" of the Madison County Unified Development Code is hereby *added* as follows:

BEFORE ADOPTION

Sec 117-65-1 Establishment of The Agriculture Protection Area Zone (Non-existent)

AFTER ADOPTION

Sec 117-65-1 Establishment of The Agriculture Protection Area Zone (*Added*)

3. "1.1 Purpose and Intent" of the Madison County Code is hereby *added* as follows:

BEFORE ADOPTION

Purpose and Intent (Non-existent)

AFTER ADOPTION

1.1-Purpose and Intent (*Added*)

The Agricultural Protection Area Zone (APA Zone) is established to implement the Idaho Agricultural Protection Area Act, Title 67, Chapter 97, Idaho Code. The purpose of the APA Zone is to protect and preserve agricultural land, ensuring the continuity and viability of agricultural operations. This zone encourages proactive planning to support the economic and cultural benefits of working lands while respecting the property rights of landowners.

4. "1.2 Definitions" of the Madison County Unified Development Code is hereby *added* as follows:

BEFORE ADOPTION

Definitions (Non-existent)

AFTER ADOPTION

1.2-Definitions (*Added*)

For the purposes of this section, the following definitions apply:

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. APA will be considered an overlay on top of zoning classification and may be applied on top of any zone where agriculture is an allowed use.

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

Applicant: means anyone who owns five (5) 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.

Area of City Impact (AOI): area designated by county ordinance where city growth and development are expected to occur.

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.

5. "Sec 117-65-2 Creation and Designation of Agricultural Protection Areas" of the Madison County Unified Development Code is hereby *added* as follows:

BEFORE ADOPTION

Sec 117-65-2 Creation and Designation of Agricultural Protection Areas (Non-existent)

AFTER ADOPTION

Sec 117-65-2 Creation and Designation of Agricultural Protection Areas (*Added*)

6. "2.1 Application Process" of the Madison County Unified Development Code is hereby *added* as follows:

BEFORE ADOPTION

Application Process (Non-existent)

AFTER ADOPTION

Application Process (*Added*)

(a) Eligibility: To be eligible, lands must meet all of the following criteria:

- (1) Any landowner owning five (5) acres or more of land;
- (2) Land has been active agricultural or forest production for the previous three (3) consecutive years; and
- (3) Land is currently zone for agricultural use.

(b) Application Requirements: Applications must include:

- (1) Name, Phone Number, Email, and Mailing Address of the Land Owner;
- (2) Proof of land ownership;
- (3) A legal description of the parcels, structures, and facilities proposed to be included in the APA;
- (4) A map showing the boundaries of the proposed APA;
- (5) A statement outlining the current contiguous acreages of land, land use, agricultural productivity, and other relevant characteristics of the land to be included in the APA;
- (6) The number of years the land has been in agricultural or forest production; and
- (7) Applicant's plan to continue using the land for agricultural or forest purposes.

(c) Application Fee: An application fee shall be required to cover administrative costs, including reviewing materials, conducting public meetings and hearings, and updating land use maps. The fee shall not exceed the actual cost of processing the application.

7. "2.2 Review and Approval Process" of the Madison County Unified Development Code is hereby added as follows:

BEFORE ADOPTION

Review And Approval Process (Non-existent)

AFTER ADOPTION

Review And Approval Process (*Added*)

- (a) Agricultural Protection Area Commission Review:** The Agricultural Protection Area Commission shall review applications within sixty (60) days of receipt and make a recommendation to the Board of County Commissioners (the "Board").

- (b) Public Hearing:** Within sixty (60) days of receiving the Commission's recommendation, the Board shall hold a public hearing in accordance with Section 67- 6509, Idaho Code.

(c) **Board Decision:** The Board may approve or deny the application based on the recommendation and public input. If the Board fails to take action within sixty (60) days, the recommendation of the Commission becomes final. Criteria for consideration should include the following:

- (1) The total contiguous acreage of the land is at least five (5) acres in size and is actively devoted to agricultural or forest production;
- (2) Sufficient water rights to enable the land to continue in active agriculture or forest production for a minimum of twenty (20) years;
- (3) Proximity to an adopted area of city impact;
- (4) Possible conflict with existing city annexation or development plans or agreements;
- (5) Proximity to existing public rights of way;
- (6) Proximity to planned transportation corridors or future public rights of way as identified in the currently adopted County Transportation Plan;
- (7) Proximity to planned airport expansion or development;
- (8) Proximity to planned development with existing entitlements;
- (9) Agricultural production capability of the land within the proposed APA; and
- (10) Other local impacts relevant to the proposed APA.

8. “Sec 117-65-3 Allowed and Prohibited Land Uses” of the Madison County Unified Development Code is hereby *added* as follows:

BEFORE ADOPTION

Sec 117-65-3 Allowed And Prohibited Land Uses (Non-existent)

AFTER ADOPTION

Sec 117-65-3 Allowed And Prohibited Land Uses(*Added*)

9. “3.1 Allowed Land Uses” of the Madison County Unified Development Code is hereby *added* as follows:

BEFORE ADOPTION

Allowed Land Uses (Non-existent)

AFTER ADOPTION

Allowed Land Uses (*Added*)

The following land uses are permitted within the Agricultural Protection Area Zone, provided they support the primary purpose of agricultural production and are consistent with generally recognized farming practices:

Agricultural Production: Including the cultivation of crops, livestock grazing, dairy operations, and horticulture. **Agricultural Support Structures:** Barns, silos, greenhouses, equipment sheds, and other structures directly supporting agricultural activities.

Agricultural Processing Facilities: Small-scale facilities for processing farm products grown within the Agricultural Protection Area, such as grain mills, dairies, and meat processing.

Farm Markets and Roadside Stands: Direct sale of farm products to the public, provided the majority of goods sold are produced within the Agricultural Protection Area.

Agritourism Activities: Educational tours, farm stays, and other activities that promote agricultural awareness and support farm income, provided they do not significantly interfere with farming operations. **Forestry Operations:** Sustainable timber harvesting and forest management activities.

10. “3.2 Prohibited Land Uses” of the Madison County Unified Development Code is hereby *added* as follows:

BEFORE ADOPTION

Prohibited Land Uses (Non-existent)

AFTER ADOPTION

Prohibited Land Uses (*Added*)

The following land uses are prohibited within the Agricultural Protection Area Zone to maintain the integrity of agricultural operations and prevent conflicts with the zone's primary purpose:

Residential Subdivisions: Development of residential neighborhoods, except for farm labor housing directly related to agricultural production.

Industrial and Commercial Development: Any industrial or large-scale commercial enterprises not directly related to agricultural production or processing.

Large-Scale Confined Animal Feeding Operations (CAFOs): Facilities exceeding a specified threshold of animal units, as determined by county regulations, that may cause environmental impacts inconsistent with the goals of the APA Zone.

Mining and Resource Extraction: Surface mining, gravel pits, and other extractive industries.

Utility-Scale Energy Production: Large solar farms, wind turbines, and other energy infrastructure not directly supporting agricultural operations within the Agricultural Protection Area. *Non-*

Agricultural Waste Disposal: Landfills, hazardous waste disposal, and other activities that do not support or are detrimental to agricultural production.

11. “Sec 117-65-4 Management And Regulation Of Agricultural Protection Areas” of the Madison County Unified Development Code is hereby *added* as follows:

BEFORE ADOPTION

Sec 117-65-4 Management and Regulation of Agricultural Protection Areas (Non-existent)

AFTER ADOPTION

Sec 117-65-4 Management and Regulation of Agricultural Protection Areas (*Added*)

12. “4.1 Duration and Renewal” of the Madison County Unified Development Code is hereby *added* as follows:

BEFORE ADOPTION

Duration and Renewal (Non-existent)

AFTER ADOPTION

Duration and Renewal (*Added*)

- (a) **Initial Duration:** An Agricultural Protection Area shall be designated for a period of twenty (20) years.
- (b) **Automatic Renewal:** Upon expiration, the designation shall automatically renew for another twenty (20) years unless the landowner provides written notice of termination at least ninety (90) days before expiration.
- (c) **Depiction on Future Land Use and Zoning Maps:** Designation of an APA shall include the year the APA is eligible for renewal or withdrawal from such designation. For example, APA-2045.
- (d) **Recording:** The renewal of an Agricultural Protection Area shall be recorded with the county recorder in accordance with Section 67-9707, Idaho Code.

13. “4.2 Addition and Removal of Land” of the Madison County Unified Development Code is hereby *added* as follows:

BEFORE ADOPTION

Addition And Removal of Land (Non-existent)

AFTER ADOPTION

Addition And Removal of Land (*Added*)

- (a) **Addition of Land:** Landowners may apply to add parcels to an existing Agricultural Protection Area by following the same application and review process outlined in Section 2.
- (b) **Voluntary Removal:** Landowners may petition to remove land from the Agricultural Protection Area. The removal will take effect ten (10) years from the date of the petition or upon expiration of the current designation, whichever is sooner.
- (c) **Hardship Removal:** Landowners may petition for the removal of land due to hardship. The Board shall establish a process for reviewing and approving such requests.

14. “Sec 117-65-5 Land Use and Regulatory Limitations” of the Madison County Unified Development Code is hereby *added* as follows:

BEFORE ADOPTION

Sec 117-65-5 Land Use and Regulatory Limitations (Non-existent)

AFTER ADOPTION

Sec 117-65-5 Land Use and Regulatory Limitations (*Added*)

15. “5.1 Protection of Agricultural Use” of the Madison County Unified Development Code is hereby *added* as follows:

BEFORE ADOPTION

Protection Of Agricultural Use (Non-existent)

AFTER ADOPTION

Protection Of Agricultural Use (*Added*)

(a) **Continuity of Agricultural Operations:** The Board shall not enact local laws, ordinances, or regulations that restrict farm structures or practices within an Agricultural Protection Area unless they conflict with recognized farming practices or the current agricultural zoning designation.

(b) **Zoning Changes:** The Board shall not change the agricultural zoning designation for land within an Agricultural Protection Area without the written permission of the landowner.

16. "5.2 Exemptions and Limitations" of the Madison County Unified Development Code is hereby *added* as follows:

BEFORE ADOPTION

Exemptions And Limitations (Non-existent)

AFTER ADOPTION

Exemptions And Limitations (*Added*)

(a) **Nuisance Protections:** Agricultural activities within an Agricultural Protection Area are exempt from local nuisance laws if conducted in accordance with generally recognized farming practices.

(b) **Eminent Domain:** Land within an Agricultural Protection Area is protected from condemnation except for the expansion or maintenance of existing highway rights-of-way or as otherwise provided by state law.

17. "Sec 117-65-6 Recording And Notification" of the Madison County Unified Development Code is hereby *added* as follows:

BEFORE ADOPTION

Sec 117-65-6 Recording and Notification (Non-existent)

AFTER ADOPTION

Sec 117-65-6 Recording and Notification (*Added*)

18. "6.1 Recording of Designation" of the Madison County Unified Development Code is hereby *added* as follows:

BEFORE ADOPTION

Recording of Designation (Non-existent)

AFTER ADOPTION

Recording of Designation (*Added*)

(a) Within ten (10) days of the designation of an Agricultural Protection Area, the Board shall record the designation with the county recorder, including a legal description of the area and the Board's findings.

19. "6.2 Public Notification" of the Madison County Unified Development Code is hereby *added* as follows:

BEFORE ADOPTION

Public Notification (Non-existent)

AFTER ADOPTION

Public Notification (*Added*)

(a) The Board shall amend land use planning maps to reflect the boundaries of Agricultural Protection Areas and shall notify relevant public officials and agencies of the designation.

SECTION 2: REPEALER CLAUSE

All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 3: SEVERABILITY CLAUSE

Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 4: EFFECTIVE DATE

This Ordinance shall be in full force and effect from _ and after the required approval and publication according to law.

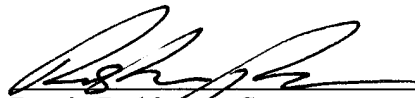
PASSED AND ADOPTED BY THE MADISON COUNTY BOARD
THIS 25th DAY OF November, 2024.



Todd Smith, *Chairman*

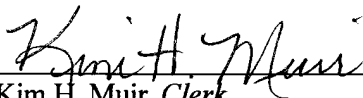


Brent Mendenhall, *Commissioner*



Dustin Parkinson, *Commissioner*

ATTEST:



Kim H. Muir, *Clerk*