

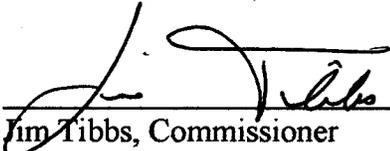
**SUMMARY OF ADA COUNTY ORDINANCE NO. 843**

AN ORDINANCE AMENDING ADA COUNTY CODE SECTION 8-7-7A(2) TO AMEND THE PROCESS FOR JUDICIAL REVIEW TO COMPLY WITH STATE LAW AND AMENDING ADA COUNTY CODE SECTION 8-7E-5 TO ADDRESS RECONSIDERATIONS REQUIRED BY IDAHO CODE § 67-6535 AS A PRECURSOR TO A PETITION FOR JUDICIAL REVIEW.

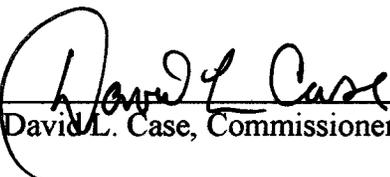
ORDINANCE NO.      SHALL BE EFFECTIVE UPON PUBLICATION. A FULL TEXT OF THE ORDINANCE IS AVAILABLE FOR PUBLIC INSPECTION AT THE OFFICE OF THE ADA COUNTY CLERK, 200 W. FRONT STREET, BOISE, IDAHO.

APPROVED BY THE BOARD OF ADA COUNTY COMMISSIONERS THIS  
3rd DAY OF June, 2015.

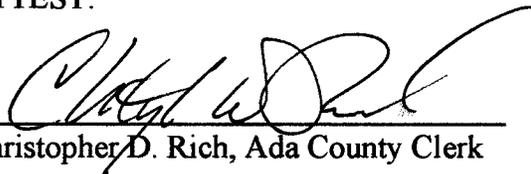
**Board of Ada County Commissioners**

By:   
Jim Tibbs, Commissioner

By:   
Rick Yzaguirre, Commissioner

By:   
David L. Case, Commissioner

ATTEST:

  
Christopher D. Rich, Ada County Clerk

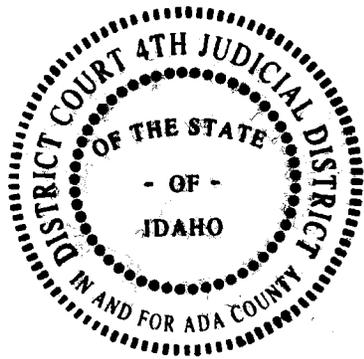
PUBLISHED: 6/15/2015

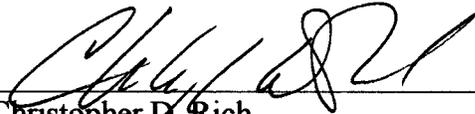
SUMMARY OF ADA COUNTY ORDINANCE NO. 843  
n:\ordinances\2015\summary of reconsideration ordinance 8-7-7a(2) and 8-7e-5.doc

STATEMENT OF APPROVAL

I, Christopher D. Rich, Ada County Clerk, do hereby declare that the attached summary of the Ada County Ordinance No. 843 is true and complete and provides adequate notice to the public, pursuant to Idaho Code § 31-715A.

[SEAL]



  
\_\_\_\_\_  
Christopher D. Rich  
Ada County Clerk

STATEMENT OF APPROVAL

n:\ordinances\2015\summary of reconsideration ordinance 8-7-7a(2) and 8-7e-5.doc

AN ORDINANCE AMENDING ADA COUNTY CODE SECTION 8-7-7A(2) TO AMEND PROCESS FOR JUDICIAL REVIEW; AND AMENDING ADA COUNTY CODE 8-7E-5 TO ADDRESS RECONSIDERATIONS REQUIRED AS A PRECURSOR TO A PETITION FOR JUDICIAL REVIEW.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ADA COUNTY, IDAHO, THAT ADA COUNTY CODE, TITLE 8, CHAPTER 7, ARTICLE 7A AND TITLE 8, CHAPTER 7, ARTICLE 7E BE AMENDED AS FOLLOWS:

SECTION 1: Amending Ada County Code Section 8-7-7A(2) to amend the process for judicial review to comply with state law.

8-7-7A(2): APPEALS:

A. Application: Any decision or action may be appealed as set forth in this chapter. The appellant shall be an affected person as defined in Idaho Code section 67-6521(1)(a).

1. A person aggrieved by a final decision or action within the jurisdiction and authority of the director (see subsection 8-7-2A of this chapter), the hearings examiner (see subsection 8-7-2F of this chapter, or the commission (see subsection 8-7-2D of this chapter) may appeal to the board.

2. A person aggrieved by a final decision or action of the board may seek judicial review as provided by Idaho Code section 67-6521(1)(d) and section 67-6535, as they may be amended from time to time, and this Code.

SECTION 2: Amending Ada County Code Section 8-7E-5 to address reconsiderations required as a precursor to a petition for judicial review of a board decision.

8-7E-1: PURPOSE:

The purpose of this article shall be to provide a procedure by which the board or the commission shall conduct hearings in land use which, by federal, state, or county law, require the receipt of evidence, whether testimony, documents, or otherwise, and a response from the board in the form of a written decision, or a decision or recommendation from the commission, based on the record.

8-7E-2: DEFINITIONS:

For the purposes of this title, the following terms shall have the following meanings:

APPLICANT/APPELLANT: The person or entity seeking a decision from the board, or a decision or recommendation from the commission.

STAFF: Any Ada County officer or employee present during the hearing.

#### 8-7E-3: CONDUCT OF HEARING:

Hearings before the board or the commission shall be conducted in general conformance with the following procedure:

- A. **Generally:** The board or the commission may require any person who will testify at a hearing to be sworn in before testifying. The board or the commission may place a time limit on verbal testimony. If there will be a time limitation, the limitation shall be announced at the beginning of the hearing.
- B. **Overview of the Application:** Hearings before the board or the commission shall commence with a very brief overview from staff and staff's submission of the written report to the board or the commission.
- C. **Applicant/Appellant Presentation of Application:** The applicant/appellant presents his or her application and shall be allowed an opportunity to present testimony, documents, and other evidence which supports the application.
- D. **Public Testimony:** The board or the commission shall take comments from the public. Those providing public testimony shall be provided an opportunity to present testimony, documents, or other evidence. In its discretion, the board or the commission may alternate between those supporting and those opposing a particular application.
- E. **Applicant/Appellant Rebuttal:** The applicant/appellant shall be allowed the opportunity for rebuttal. Such rebuttal shall be limited to responding to testimony, documents, or other evidence provided during the public testimony.
- F. **Clarification of Factual Questions:** When statements of fact in the written record appear to be in dispute from all of the testimony given, the board or the commission may ask the staff and/or the applicant/appellant to clarify whether the written record is in error.
- G. **Close Record:** After the board or the commission closes the record and begins its deliberation, no further comments or testimony may be taken from the applicant/appellant, staff or the public.

#### 8-7E-4: RECORD:

The staff report shall automatically become part of the record as shall any documents submitted by the applicant/appellant and the public, as shall all testimony given at the hearing. At the conclusion of the hearing, the board or the commission shall close the record unless the board or the commission determines, in its discretion, additional evidence is required, in which event, it may proceed as follows: Close the record with the exception of allowing the submission of specifically requested information, leave the entire record open for the submission of additional evidence to a date certain at which time it will automatically be closed without further action of the board or the commission, or continue the hearing to a date certain for the purpose of

receiving additional evidence and conducting such further proceedings as may, in its discretion, be advisable.

**8-7E-5: ~~REOPENING THE RECORD BY THE BOARD~~RECONSIDERATION:**

~~Prior to the board issuing a written decision, the board may, for good cause demonstrated, reopen the record for the purpose of receiving additional evidence. An interested party may seek to reopen the record by filing a motion to reopen the proceedings within five (5) days of the date on the board's written decision. Said motion shall contain information demonstrating good cause to reopen the record and any costs which will be incurred by the county to comply with applicable law shall be paid concurrently with the filing of the motion. The board shall decide an applicant's/appellant's motion to reopen the record within five (5) days of the receipt thereof. The board may, within five (5) days of the date of its written decision, reopen the record for good cause on its own motion. If the board determines to reopen the record, it shall thereafter comply with applicable law, if any, governing notice and hearings.~~

A. Every applicant or affected person seeking judicial review of the board's final decision must first file with the board a motion for reconsideration of the board's decision, specifying deficiencies in the decision within fourteen (14) days of the date of the decision, along with the applicable fee.

B. The board will consider the reconsideration motion as scheduled on an open business meeting agenda and determine whether to grant or deny the request. If the board grants reconsideration in whole or in part, a hearing before the board will be scheduled to address the specific deficiencies identified by the applicant or affected person and to allow interested persons to have an opportunity to be heard.

C. Notice of the public hearing on the reconsideration, identifying the specific deficiencies alleged in the reconsideration request, will be provided as follows, including:

1. Notice to Agencies and Political Subdivisions: At least fifteen (15) days prior to the public hearing, the director shall send notice to all political subdivisions providing services with the planning jurisdiction, including school districts and the manager or person in charge of the local public airport.
2. Legal Notice: At least fifteen (15) days prior to the public hearing, the director shall publish a notice of the time and place in the official newspaper or paper of general circulation in the county.
3. Radius Notice will be provided in the same manner as originally provided on the application.
4. Public Service Announcement: the director shall issue a notice to other papers, radio and television stations serving the jurisdiction for use as a public service announcement.

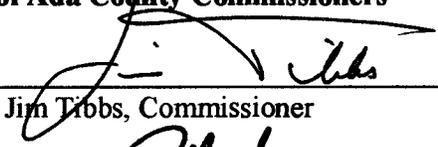
D. Following the hearing on the reconsideration, the board may affirm, reverse or modify its prior decision and shall provide a written decision to the applicant and the affected person(s)

within sixty (60) days of receipt of the request for reconsideration. If the board fails to timely decide, the request for reconsideration is deemed denied.

ADOPTED this 3rd day of June, 2015.

**Board of Ada County Commissioners**

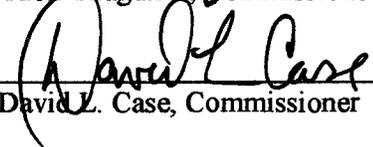
By:

  
Jim Tibbs, Commissioner

By:

  
Rick Yzaguirre, Commissioner

By:

  
David L. Case, Commissioner

ATTEST:

  
Christopher D. Rich, Ada County Clerk

PUBLISHED: 6/15 2015

LEGAL NOTICE SUMMARY OF ADA COUNTY ORDINANCE NO. 843 AN ORDINANCE AMENDING ADA COUNTY CODE SECTION 8-7-7A(2) TO AMEND THE PROCESS FOR JUDICIAL REVIEW TO COMPLY WITH STATE LAW AND AMENDING ADA COUNTY CODE SECTION 8-7E-5 TO ADDRESS RE-CONSIDERATIONS REQUIRED BY IDAHO CODE § 67-6535 AS A PRECURSOR TO A PETITION FOR JUDICIAL REVIEW. ORDINANCE NO.843 SHALL BE EFFECTIVE UPON PUBLICATION. A FULL TEXT OF THE ORDINANCE IS AVAILABLE FOR PUBLIC INSPECTION AT THE OFFICE OF THE ADA COUNTY CLERK, 200 W. FRONT STREET, BOISE, IDAHO. APPROVED BY THE BOARD OF ADA COUNTY COMMISSIONERS THIS 3rd DAY OF JUNE, 2015. Board of Ada County Commissioners By: Jim Tibbs, Commissioner By: Rick Yzaguirre, Commissioner By: David L. Case, Commissioner ATTEST: Christopher D. Rich, Ada County Clerk STATEMENT OF APPROVAL I, Christopher D. Rich, Ada County Clerk, do hereby declare that the attached summary of the Ada County Ordinance No. 843 is true and complete and provides adequate notice to the public, pursuant to Idaho Code § 31-715A. Christopher D. Rich Ada County Clerk [SEAL] Pub. June 15, 2015 **Publish Dates: 6/15/2015 -6/29/2015**