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## SHOSHONE COUNTY PLANNING ADMINISTRATION

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### SHOSHONE COUNTY, IDAHO PLANNING & ZONING COMMISSION

#### NOTICE OF PUBLIC HEARING PROPOSED AGRICULTURAL PROTECTION AREA ORDINANCE

PUBLIC NOTICE IS HEREBY GIVEN, that the **Planning and Zoning Commission** of Shoshone County, Idaho will hold a public hearing on **THURSDAY, FEBRUARY 6, 2025 at 6:30pm** in the Shoshone County Public Safety Building at 717 Bank Street, Wallace, Idaho 83873 to consider a new Title 9 Chapter 20 of the Shoshone County Code, to be known as the Agricultural Protection Area (APA) as required in Chapter 97 Title 67, Idaho Code to be established by each board of county commissioners which provides for a voluntary process to allow agricultural and timber producers of Shoshone County to commit lands actively devoted to agriculture or forestry uses for those same uses to protect productive farmland, rangeland and forest land; promote farm viability; support the local agricultural and timber economy; and provide for long-term planning stability.

Written testimony expressing support, opposition, or neutrality towards this proposal(s) or other information will be accepted until 5:00pm (PST) on Wednesday, February 5, 2025; all other materials must be presented at the public hearing. For all submissions greater than two (2) pages, the submitter shall provide eight (8) copies. All information submitted shall become the property of Shoshone County and will be on file at the Planning Administration office.

Additional information concerning the above item(s) may be obtained from the Shoshone County Planning Administration, County Courthouse, 700 Bank Street, Suite 25, Wallace, Idaho 83873; Phone: (208) 752-8891 or E-mail: [pz@co.shoshone.id.us](mailto:pz@co.shoshone.id.us). Those with disabilities requiring special assistance in order to attend or participate in the public meeting must contact the Planning Administration Office twenty-four (24) hours prior to the public meeting.

S/Dan Martinsen

Dan Martinsen, Administrator Pro-Tem

ORDINANCE NO.

**AN ORDINANCE OF THE COUNTY OF SHOSHONE, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, ESTABLISHING A NEW TITLE 9, CHAPTER 20 OF THE SHOSHONE COUNTY CODE, TO BE KNOWN AS AGRICULTURAL PROTECTION AREA TO BE IN EFFECT WITHIN THE UNINCORPORATED AREAS OF SHOSHONE COUNTY; PROVIDING A PURPOSE AND DEFINING TERMS; ESTABLISHING THE AGRICULTURAL PROTECTION AREA COMMISSION; PROVIDING FOR THE CREATION AND DESIGNATION OF AGRICULTURAL PROTECTION AREAS; ESTABLISHING APPLICATION AND REVIEW PROCESS; PROVIDING FOR MANAGEMENT AND REGULATION; PROVIDING FOR LAND USE AND REGULATORY LIMITATIONS AND ENFORCEMENT AND PENALTIES; REPEALING ANY CONFLICTING ORDINANCE PROVISIONS; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

WHEREAS, the Board of County Commissioners is tasked with providing for the health, safety, and general welfare of the citizens of Shoshone County; and

WHEREAS, one of the primary and essential services provided by Shoshone County is the power to enact licensing and zoning ordinances; and

WHEREAS, during the 2024 Legislative Session, the Idaho State Legislature enacted House Bill 608, adding a new Chapter 97, Title 67, Idaho Code (“Agricultural Protection Area Act” or “the Act”) which establishes a new agricultural protection area (“APA”) designation through which farmers, ranchers, and forest landowners may apply to the County to voluntarily set their lands aside for future agricultural use for 20 years; and

WHEREAS, each county in Idaho is required by the Act to adopt an agricultural protection area ordinance and application process for the establishment of agricultural protection areas; and

WHEREAS, the Board of County Commissioners has determined that passage of this Ordinance is in conformance with the requirements of the new law;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS, SHOSHONE COUNTY, STATE OF IDAHO:

AMENDMENT OF SHOSHONE COUNTY CODE

Shoshone County hereby amends Shoshone county Code by adding Chapter 20 to Title 9, Agricultural Protection Areas to hereinafter read as follows:

**SECTIONS:****9-20-1: Purpose****9-20-2: Definitions****9-20-3: Agricultural Protection Area Commission****9-20-4: Creation and Designation of Agricultural Protection Areas****9-20-5: Application and Review Process****9-20-6: Management and Regulation of Agricultural Protection Areas****9-20-7: Land Use and Regulatory Limitations****9-20-8: Enforcement and Penalties****9-20-9: Amendment of Code and Repeal of Conflicting Ordinances****9-20-10: Severability****9-20-11: Effective Date**

These regulations apply to the area within the unincorporated areas of Shoshone County, unless otherwise specified by an Area of City Impact ordinance adopted pursuant to Idaho Code §67-6526.

**SECTION 9-20-1: PURPOSE**

The purpose of this ordinance is to provide for a voluntary process to allow agricultural and timber producers of Shoshone County to commit lands actively devoted to agriculture, or forestry uses for those same uses. This designation aims to protect productive farmland, rangeland and forest land; promote farm viability; support the local agricultural and timber economy; and provide for long-term planning stability. This ordinance sets out the process for creation of Agriculture Protection Areas.

**SECTION 9-20-2: DEFINITIONS**

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 Idaho Code §63-604, or on forest land as defined in Idaho Code §63-1701.

**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 Idaho Code §67-9705.

**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 Idaho Code §63-604 and §63-1701, 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 9-20-3: AGRICULTURAL PROTECTION AREA COMMISSION**

An Agricultural Protection Area Commission is hereby created and when convened shall consist of at least three (3) but no more than five (5) members actively appointed to the Shoshone County Planning & Zoning Commission that meet the criteria set forth in Idaho Code §67-9705. Commission members shall automatically be appointed to serve on the Agricultural Protection Area Commission for Shoshone County; their terms shall run with their appointment to the Planning & Zoning Commission which are six (6) year cycles. If there are fewer than three (3) people that meet the criteria, the Board of Commissioners shall find volunteers that meet the criteria to fill the spots and those terms for a period of not less than three (3) but no more than six (6) years. Staff from the Shoshone County Planning Department shall poll eligible members prior to any consideration and, of the individuals that are available, establish who will sit as the three members for any given consideration. The Board of Commissioners reserves the right to dismiss anyone from this Commission.

### **SECTION 9-20-4: CREATION AND DESIGNATION OF AGRICULTURAL PROTECTION AREAS**

**Eligibility:** To qualify for an APA designation, the land must be:

- a) At least five (5) contiguous acres; and
- b) Actively devoted to an agricultural or forest purpose for the previous three (3) consecutive years; and
- c) Assessed as agriculture or forest land; and
- d) Located within a zone that allows for agricultural or forest use; and
- e) Located outside any Area of City Impact;
- f) Or at least one mile outside of the boundaries of any city without an Area of City Impact agreement; and
- g) Located outside of any current or planned public right of ways or transportation corridors.

## **SECTION 9-20-5: APPLICATION AND REVIEW PROCESS**

### **5.1 Application Process**

- 1) **Application Requirements:** Landowners wishing to establish an APA must submit an application to the Shoshone County Planning and Zoning Department. At a minimum, the application shall include the following:
  - a) Name, phone number, email, and mailing address of the landowner;
  - b) Proof of land ownership;
  - c) A legal description of the parcels, and a description of the structures and facilities and uses proposed to be included in the APA;
  - d) A map showing the boundaries of the proposed APA;
  - e) A statement outlining the current contiguous acreages of land, land use, agricultural or forest productivity, and other relevant characteristics of the land to be included in the APA;
  - f) The number of years the land has been in agricultural or forest production, the types of agricultural or forest commodities produced, and the applicant's plan to continue using the land for agricultural or forest purposes;
  - g) The stated reasons for seeking an APA designation;
  - h) A copy of any easements on the property;
  - i) Approval from applicable Area of City Impact;
  - j) Approval from state / local highway districts, U. S. Forest Service and/or private owner(s);
  - k) Soil information, water rights, or any other relevant environmental assessments on the property.
- 2) **Fees:** An application and ancillary fees shall be required to cover administrative costs, including, but not limited to, reviewing materials, conducting public meetings and hearings, noticing, processing and recording documents, and updating county land use maps.
- 3) If an application is determined by Planning Department staff to not meet the criteria above or is in any other way incomplete, it cannot be accepted by the Planning Department.

### **5.2 Review and Approval Process**

- 1) **Agricultural Protection Area Commission Review:** Upon receiving a complete application, the Planning Administrator shall schedule a Hearing with the Agricultural Protection Area Commission within 60 days, said hearing shall follow the notice and hearing procedures of Idaho Code §67-6509. The APA Commission shall review completed applications and make a recommendation to the Board of County Commissioners (the "Board").

The application shall be evaluated on the following criteria:

- a) The total contiguous acreage of land is at least five (5) acres in size and is actively devoted to agricultural or forest production;
  - b) Possible negative impact / conflicts with any nearby city, an area of city impact, with city annexation or development plans, or agreements;
  - c) Proximity to existing public rights of way;
  - d) Proximity to planned transportation corridors, future public rights of way, and considered public rights of way including public trails;
  - e) Proximity to planned airport expansion or development;
  - f) Proximity to planned development with existing entitlements;
  - g) Agricultural or forest production capability of the land within the proposed APA;
  - h) Other local impacts relevant to the proposed Agricultural Protection Area.
- 2) **Board Decision:** The Board may approve or deny the application based on the recommendation and public input. Notwithstanding the criteria and review process outlined in this code, the board of county commissioners may place additional conditions on lands designated as an APA, including, but not limited to, setbacks from existing public rights of way, setbacks from existing public structures, 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 and issue its decision within 60 days. Failure to make a decision shall render the APA commission's recommendation final. 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 the designation of an APA, a legal description of the area, and any findings and facts with the county recorder within ten (10) days,
- b) 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 9-20-6: MANAGEMENT AND REGULATION OF AGRICULTURAL PROTECTION AREAS**

### **6.1 Duration and Renewal**

- 1) **Initial Duration:** An Agricultural Protection Area shall be designated for a period of twenty (20) years.
- 2) **Automatic Renewal:** Upon expiration, the designation shall automatically renew for another twenty (20) years unless the landowner provides written notice of termination

- 3) to the Board of County Commissioners and Planning Administrator at least ninety (90) days before expiration. Failure of the landowner to notify the county, or failure of the county to review the APA terms, will result in the APA designation continuing for another twenty (20) years.
- 4) **Recording:** The renewal of an Agricultural Protection Area shall be recorded with the county recorder in accordance with Idaho Code §67-9707.

## 6.2 Addition and Removal of Land

- 1) **Addition of Land:** Landowners may apply to add parcels to an existing APA by following the same application, review and hearing process outlined in this code. Any expansion of an APA shall be contiguous to the APA.
- 2) **Voluntary Removal:** Landowners may petition to remove any or all land from the APA by filing a petition for removal 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.
- 3) **Hardship Removal:** A landowner wishing to terminate any or all land from the APA must request in writing a meeting with the Board of County Commissioners. The meeting request shall include a proof of hardship; the request and proof of hardship should be submitted to both the County Clerk and Planning and Zoning Department. Early termination of the APA shall only occur if the landowner is able to establish a undue hardship as defined Idaho Code §67-9703. The landowner seeking to terminate an APA bears the burden of proof in demonstrating hardship. Early termination of an APA is not taken lightly and will be carefully considered.

## SECTION 9-20-7: LAND USE AND REGULATORY LIMITATIONS

### 7.1 Protection of Agricultural Use

- 1) **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 farm structure or land use is in conflict with the current agricultural land use classification or agricultural zoning designation of the area.
- 2) **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.

### 3) **Allowed Land Uses**

The following land uses are permitted within the Agricultural Protection Area, provided they support the primary purpose and consistent of agricultural and forest production:

- Farming Practices as defined in Idaho Code §22-4502 (Right to Farm);
- Forestry Operations as defined in Idaho Code §38-1303 (Forest Practices Act).

### 4) **Prohibited Land Uses**

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:

- a. The siting of large, confined animal feeding operations (CAFO) as outlined in Idaho Code §67-6529;
- b. Development of residential neighborhoods, except for farm labor housing directly related to agricultural production;
- c. Any industrial, manufacturing or large-scale commercial enterprises not directly related to agricultural production or processing;
- d. Utility-Scale Energy Production: Large solar farms, wind turbines, and other energy infrastructure not directly supporting agricultural operations within the Agricultural Protection Area.
- e. Non-Agricultural Waste Disposal, landfills, hazardous waste disposal, and other activities that do not support or are detrimental to agricultural production;
- f. Other nonagricultural land uses on lands included within an agricultural protection area.

## **7.2 Exemptions and Limitations**

- 1) **Nuisance Protections:** Agricultural activities within an Agricultural Protection Area are protected from nuisance actions in accordance with Idaho Code §67-9711.
- 2) **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 in accordance with Idaho Code §67-9712.

## **SECTION 9-20-8: ENFORCEMENT AND PENALTIES**

The code enforcement officer, Planning Administrator or other designee shall be responsible for enforcing the provisions of this Ordinance. Any person found to be in violation of this Ordinance shall be guilty of a misdemeanor and punishable as provided in Idaho Code §18-113.



**SECTION 9-20-9: AMENDMENT OF CODE AND REPEAL OF CONFLICTING ORDINANCES**

Shoshone County Code, Title 9-ZONING REGULATIONS, is hereby amended, along with any associated ordinance. Any other such ordinances of Shoshone County in conflict with this ordinance are hereby repealed to the extent of such conflict.

If any conflict occurs between provisions of this title, and a provision of this code, the more restrictive provision shall take precedence.

**SECTION 9-20-10: SEVERABILITY**

The provisions of this ordinance are declared to be severable. If any section, sentence, clause, or phrase of the ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance, but they shall remain in effect, it being the legislative intent that this ordinance shall remain in effect notwithstanding the invalidity of any part.

**SECTION 9-20-11: EFFECTIVE DATE**

This ordinance shall be effective immediately upon passage and publication as required by law.

PASSED under suspension of the rules upon which a roll call vote was duly taken and enacted as an ordinance of the County of Shoshone at an open meeting of the Shoshone County Board of County Commissioners held on the \_\_\_\_ day of \_\_\_\_\_, 2025.

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Jeff Zimmerman, Chairman

\_\_\_\_\_  
Dave Dose, Commissioner

Attested to by:

\_\_\_\_\_  
Sydney Millard, Deputy Clerk

\_\_\_\_\_  
Melissa Cowles, Commissioner