

OWYHEE COUNTY AGRICULTURAL PROTECTION AREA ORDINANCE

ORDINANCE: 2025-

AUTHORITY

This ordinance is adopted pursuant to the authority granted by Idaho Code §67-9701, et seq creating a new chapter 18 in Owyhee County Zoning Code Title 9, and renumbering the current Chapter 18 to 19.

PURPOSE The purpose of this ordinance is to provide for a voluntary process through which agricultural and timber producers of Owyhee County may make application to commit lands actively devoted to agriculture for future agricultural use. An APA designation aims to protect productive farmland, rangeland, and forest land; encourage best farming practices; support the local agricultural economy; and provide for long-term planning stability. This ordinance sets out the process for creation of Agriculture Protection Areas.

DEFINITIONS:

As used in this chapter:

"Agricultural 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.

"Agricultural protection area" 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.

"Agricultural 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.

"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.

AGRICULTURAL PROTECTION AREA COMMISSION :

The Agricultural Protection Area Commission is created pursuant to Idaho Code §67-9705. Members shall be appointed in accordance with that section, which requires representation from those actively engaged in or supportive of production agriculture. Terms of appointment shall follow the requirements of state law.

An Agricultural Protection Area Commission is hereby created and when convened shall consist of three members of the Owyhee County Planning and Zoning Commission that meet the criteria set forth in Idaho Code 67-9705. Such Commission shall be automatically appointed to serve on the three member Agricultural Protection Area Commission for Owyhee County. If there are more than three (3) members that meet the criteria, the Board of Commissioners shall choose which three (3) will serve. Their terms shall run with their appointment to the Planning or the Zoning Commission when consistent with the provisions in 67-9705. If there are fewer than three people that meet the criteria, the Board of Commissioners shall find volunteers that meet the criteria to fill the spots and those terms shall be for three years.

DESIGNATION:

- A. The designation for Agricultural Protections Areas shall be designated "APA".
- B. APAs may be applied for in the following zones: Multiuse, Agricultural, and Historic, however the proposed APA must consist of:
 - a) At least five (5) contiguous acres,
 - b) Actively devoted to an agricultural or forest purpose for the duration of the designation,
 - c) meet the requirements to be assessed as agriculture or forest land for the duration of the designation, and
 - d) Located within a zone that allows for agricultural or forest use.

C. Application Process: Landowners wishing to establish an APA must submit an application to the Planning Department. Planning staff will then notify the APA Commission and set the matter on an agenda for review. The application and required submittals may be updated over time but shall require at least the following information:

1. Name, phone number, email, and mailing address of land owner.
2. Proof of ownership
3. A legal description of the land proposed to be included in the APA
4. A map showing the boundaries of the proposed APA.
5. A statement outlining the current use of the land, a description of the parcel characteristics, agricultural uses, facilities, and structures to be included in the APA.
6. The reasons for seeking APA designation.
7. Soil surveys, water rights, and any relevant environmental assessments.

REVIEW PROCESS:

The review and action on applications shall be conducted consistent with Idaho Code §67-9706, including requirements for written findings, timelines, and the right of appeal to the Board of County Commissioners. Appeals shall be heard in accordance with the procedures set forth in §67-9706(4), Idaho Code.

- A. Upon receipt of a complete application, the APA Commission shall review the proposal and make a recommendation to the Administrator within 60 days of receiving the application.
- B. The request will be evaluated on the following criteria: Proximity to city limits and possible conflict with existing city expansion plans, planned transportation corridors, existing zoning designations, planned developments with existing entitlements, proximity to areas of city impact, other local knowledge that is relevant to the subject land.
- C. Once the APA Commission makes its recommendation to the Administrator, A written decision shall be issued within 60 days. Failure to issue such written decision will render the APA Commissions recommendation final.
- D. Upon approval, the APA will be established for a term of 20 years which will automatically renew if no further action by the land owner is initiated. Termination, and adding land to the APA will be controlled by the provisions of 67-9709 and the requirements of this ordinance.

CREATION AND DESIGN:

A fee shall be set to recover the costs incurred by the county for administering the process. Additional fees may be required if an appeal is filed pursuant to section 67-9706, Idaho Code, provided that such additional fees shall not exceed the actual cost of holding a public hearing.

- A. A landowner may combine contiguous parcels to achieve the minimum acreage requirement of 5 acres dedicated to agriculture.
- B. If approved, the APA will be documented through recording of an executed written decision of the Administrator which includes the ordinance and standards used in evaluating the application, the recommendation of the APA Commission, a reasoned explanation for the decision reached by the administrator, the actions, if any, the applicant could take to obtain approval, the date of creation, and a legal description of the land in the APA. Said recorded decision shall be binding on successors, heirs, and assigns for 20 years.
- C. Once created, APAs shall be designated and depicted on land use maps available to the public. Such map designation shall not require a rezone, comprehensive plan amendment, or amendments to other comprehensive planning maps. At such time that the comprehensive plan and associated land use maps are updated, APAs shall be included.
- D. Agricultural Protection Areas shall be designated for a term of twenty (20) years. Renewal and termination shall be governed by Idaho Code §67-9708. A landowner who desires termination shall provide written notice at least ninety (90) days prior to expiration in accordance with §67-9708(2).

EXPANSION:

- A. Expansion of an existing APA shall follow the same application process outlined above for creation of an APA

TERMINATION:

- A. Removal of land from an APA may occur for hardship as defined in this ordinance, or as otherwise provided in Idaho Code §67-9709. Landowners may also petition for removal pursuant to §67-9709(2), which establishes timelines for removal not to exceed ten (10) years, unless hardship is proven. The Clerk shall record renewals and removals consistent with state law.
- B. For termination of the APA under the hardship provision, such termination can shall only occur upon the proving by the land owner of an undue hardship as defined in this code. The landowner seeking removal bears the burden of proof in demonstrating the hardship. Early termination of an APA is not taken lightly, and will be carefully considered. Termination can be sought through a written request along with proof of the undue hardship.

FEE:

- A. An application fee shall be required to cover administrative costs, including, but not limited to, reviewing materials, , processing and recording documents, and updating or creating a map of the Agricultural Protection Areas map.

ENFORCEMENT AND PENALTIES:

- A. Enforcement: The Board of County Commissioners or acting Code Enforcement Officer shall be responsible for enforcing the provisions of this ordinance.
- B. Penalties: Any person found to be in violation of this code shall be guilty of a misdemeanor and punishable as provided in Section 18-113, Idaho Code. Any person or entity found to be in violation of this ordinance shall be subject to fines, stop-work orders, or other penalties as determined by the County Commission. Each day a violation continues shall constitute a separate offense.
- C. Appeals: Any decision made under this ordinance may be appealed to the County Commission within 30 days of the decision in accordance with the provisions if Idaho Code 67-9706 (4).

EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

This Ordinance is enacted, approved and adopted by the Owyhee County Board of County Commissioners as an ordinance on this ____ day of ____ 2025.