

Article 1

CALDWELL

09-01-01: TITLE:

This article shall be known as the *CALDWELL AREA OF CITY IMPACT (PLANS AND ORDINANCES/MAP) ORDINANCE*. (Ord. 05-013, 6-1-2005)

09-01-03: STRUCTURE, PURPOSE AND AUTHORITY:

- (1) Structure: Titles and subtitles of this article are only used for organization and structure, and the language in each paragraph of this article should control with regard to determining the legislative intent and meaning of the board of county commissioners.
- (2) Purpose: The purpose of these provisions is to promote the public health, safety, general welfare, peace, good order, comfort and convenience of Canyon County and the inhabitants thereof by establishing regulations for the Caldwell area of city impact, and further, to:
 - A. Facilitate Legal Duties Or Parties: To facilitate the legal duties, responsibilities, and authority of Canyon County, Idaho and city of Caldwell, Idaho as is prescribed and provided by the Idaho legislature regarding impact areas; and
 - B. Processing Of Land Use And Land Division Applications: To provide steps and procedures required for processing zoning applications, comprehensive plan and zoning amendments and subdivision plats and land division within the Caldwell area of city impact in accordance with Idaho Code section 67-6526; and

- C. Economical And Compatible Infrastructure: To identify an urban fringe in the unincorporated area surrounding the city of Caldwell within which there is potential for development or changes in land use that must be planned, designed and constructed in an orderly manner compatible with the city of Caldwell for the city of Caldwell to assure timely and/or economical provision of public services, such as: water supply, sewage and storm water collection and treatment, public safety services, airport, parks, and other community service facilities.
- D. Compatible Land Use And Roads: To promote land use compatibility, maintain consistent and continuous street alignment, and support traffic flow objectives.
- (3) Duration: This article shall be in effect unless amended or otherwise changed in accordance with section 09-01-17 of this article.
- (4) Authority: This article is authorized by Idaho Code sections 31-801, 31-828 and 67-6526.
- (5) No Separate Entity: This article does not create a separate legal entity.
- (6) No Administrative Entity Created: No administrative entity is created as this article only provides for cooperation between the parties using existing agency personnel.
- (7) Real And Personal Property: It is not contemplated, due to the nature of this article, that there will be a need to acquire, hold, and/or dispose of any real or personal property under this article.
- (8) No Administrative Entity Created: No administrative entity is created as this agreement only provides for cooperation between the parties using existing personnel of Canyon County and the city of Caldwell.
- (9) Financing/Budget: Unless otherwise agreed to in writing there shall be no joint financing of activities under this article. No compensation shall be due and owing for services to either party from the other party. Each party agrees to establish its own fees and to be responsible for the collection of said fees from the public and for payment of compensation and benefits for its employees. Each party shall independently budget for expected expenses under this article. (Ord. 05-013, 6-1-2005)

09-01-05: REPEALER:

This article repeals the joint exercise of power agreement for the area of city impact between the city of Caldwell and Canyon County (dated March 3, 1997), Canyon County ordinance re: city of Caldwell, Idaho impact area map (ordinance 00-005, adopted June 14, 2000), and all ordinances, regulations, or parts thereof, in conflict herewith. (Ord. 05-013, 6-1-2005)

09-01-07: SAVING CLAUSE:

Any actions, civil, criminal or administrative, which are pending at the time of the enactment of this article, may be pursued as if this article had not been enacted. (Ord. 05-013, 6-1-2005)

09-01-09: AREA OF CITY IMPACT DEFINED:

The Caldwell area of city impact consists of an area in unincorporated Canyon County where development or use of land affects, or may affect, the city of Caldwell in consideration of trade areas, geographic factors and areas that can reasonably be expected to be annexed to the city of Caldwell in the future. (Ord. 05-013, 6-1-2005)

09-01-11: GEOGRAPHIC AREA OF CITY IMPACT ESTABLISHED:

- (1) The Caldwell area of city impact is hereby established as described in exhibit A of ordinance 05-013, a map entitled "Caldwell Area Of City Impact", which map is officially made a part hereof by reference. The Caldwell area of city impact being established and map being specifically adopted by city of Caldwell municipal ordinance 2554.
- (2) The Caldwell area of city impact may be reevaluated by the city and Canyon County at such times as they may agree upon, in accordance with Idaho Code section 67-6526, as amended, to consider possible changes in the geographic area affected and/or other provisions of this article. (Ord. 05-013, 6-1-2005)

09-01-13: AREA OF CITY IMPACT MAP:

The Caldwell area of city impact within the unincorporated area of Canyon County is particularly described in section 09-01-11 of this article and also set forth on the map referred to in section 09-01-11 of this article, which map shall be in effect until amended or modified as allowed by law. (Ord. 05-013, 6-1-2005)

09-01-15: ANNEXATION LIMITED:

- (1) **Lands Within Area Of impact:** Annexation by the city of Caldwell shall be limited to lands lying within the area of impact, unless the owner of the land requests that the tract of land be annexed by the city of Caldwell pursuant to Idaho Code, section 50-222 et seq., and the land is contiguous or adjacent to the boundaries of the city of Caldwell.
- (2) **Application Of Provisions Upon Annexation:** Upon annexation, the provisions of this article shall no longer apply to the annexed area.
- (3) **Annexation Notification:** The city of Caldwell shall notify the director of the county's development services department ("director") in writing ten (10) calendar days in advance of the first city public hearing at which each annexation is considered by the city of Caldwell. The city of Caldwell shall notify Canyon County, in writing, within ten (10) calendar days following the effective date of the annexation ordinance. (Ord. 05-013, 6-1-2005)

09-01-17: APPLICABLE COMPREHENSIVE PLAN AND POLICIES:

- (1) **Comprehensive Plan:** The Canyon County comprehensive plan, as amended, shall apply to the Caldwell area of city impact. Canyon County recognizes that the city of Caldwell has also developed a comprehensive plan and accompanying map for the Caldwell area of city impact. Canyon County shall give consideration to the city's comprehensive plan map designations when evaluating development requests with the Caldwell area of city impact.
- (2) **Hearing Participation:** The city of Caldwell may apply at any time to amend Canyon County's comprehensive plan and/or zoning ordinance, as the city of Caldwell deems necessary and appropriate, and shall fully participate in the hearing process. Input from the city of Caldwell will not be binding or controlling on Canyon County, but shall be treated as documentary evidence. The city of Caldwell shall have affected party status pursuant to Idaho Code section 67-6521 of the local land use planning act, and the county shall review and consider the city of Caldwell's planning goals for growth and development in the Caldwell area of city impact when the county considers comprehensive planning and zoning changes affecting the Caldwell area of city impact.

- (3) Comprehensive Plan Amendment Proposals: Notice of all proposals to amend the county comprehensive plan, which may pertain to the Caldwell area of city impact but which do not originate from the city of Caldwell, shall be given to the city of Caldwell community development director at least thirty (30) calendar days prior to the first county public hearing at which such proposal is considered by the county, and the city of Caldwell may make a recommendation before or at said public hearing. After the city receives its initial thirty (30) days' notice, any further notice of proposed changes to the proposal will be provided to the city of Caldwell at least seven (7) days prior to the public hearing. If a recommendation is received by the county from the city of Caldwell, the recommendation shall be given consideration by the county, provided it is factually supported. Such recommendation shall not be binding on the county. If no recommendation is received, Canyon County may proceed without the recommendation of the city of Caldwell.
- (4) Final Document Forwarding: After final action has been taken on any proposed amendments to the county's comprehensive plan and/or zoning ordinance or subdivision regulations, Canyon County shall notify the city of Caldwell of said final action by forwarding a copy to the city of Caldwell of all final documents reflecting the action taken by Canyon County. (Ord. 05-013, 6-1-2005)

09-01-19: APPLICABLE ORDINANCES AND STANDARDS:

Within the Caldwell area of city impact, the following ordinances apply, but the city of Caldwell ordinances are subject to the waiver provisions in subsection (6) of this section:

- (1) Canyon County zoning ordinance, as lawfully amended.
- (2) City of Caldwell's subdivision ordinance, ordinance 1758, in the form existing as of April 1, 2005, except for simple division (lot split) provisions and except for hearing procedures. The county's hearing procedures shall apply.

- (3) The following city of Caldwell ordinances apply, even when in conflict with otherwise applicable county provisions:
- A. City road widths and profiles found in subsections 11-03-03(2), (3), (4), and (5) of the city of Caldwell municipal code, in the form existing as of April 1, 2005;
 - B. Caldwell city ordinance 2541, and all standards and specifications adopted thereby, in the form existing as of April 1, 2005.
 - C. Caldwell city ordinance 2548, in the form existing as of April 1, 2005.
 - D. Municipal code of the city of Caldwell, chapter 10, article 7, "Caldwell Landscape Ordinance", in the form existing as of April 1, 2005.
 - E. Municipal code of the city of Caldwell, chapter 10, article 8, "Caldwell Tree Ordinance", in the form existing as of April 1, 2005.
 - F. Municipal code of the city of Caldwell, chapter 10, article 10, "Transportation Policies And Practices", in the form existing as of April 1, 2005.
 - G. Municipal code of the city of Caldwell, chapter 4, article 17, "Caldwell Irrigation Utility Ordinance", in the form existing as of April 1, 2005.
- (4) Except as set forth above, all other standards of applicable Canyon County codes and ordinances; and
- (5) For subdivisions and planned unit developments applied for in the Caldwell area of city impact, Canyon County will require on the face of each final plat a certification line for execution by the city of Caldwell engineer attesting to the plat's conformance with the city standards set forth above. Also, Canyon County will not sign a final plat, or authorize the plat to be recorded, prior to the city engineer's signing the plat.
- (6) Waiver Of City Of Caldwell Ordinance Provisions: The requirements listed in the Caldwell ordinances, identified in subsections (2) and (3) of this section, may be waived by the Canyon County board of commissioners in its discretion. An applicant for such waiver bears the burden of persuasion and must specifically state the reasons why a waiver is necessary and prove said waiver will not cause an adverse effect to the health, safety and welfare of the community and that the requirements sought to be waived constitute an undue hardship. For the purpose of this section, increased financial expense associated with a requirement, by itself, does not constitute an undue hardship. Notice of the requested waiver must be given to the city of Caldwell not less than thirty (30) days prior to the hearing on the waiver application. Any further notice on the proposed waiver will be provided to the city of Caldwell at least seven (7) days prior to any public hearing. Written objections from the city of Caldwell will be considered by the Canyon County commissioners. The application for waiver must show that prior to filing the

application, the applicant first sought consent from the city of Caldwell to the waiver, indicating the date of the request and the response, if any, from the city of Caldwell. In granting any waiver, the county may impose any conditions the county deems necessary to help mitigate any adverse effect to the health, safety and welfare of the community. The application for waiver will first be considered by the Canyon County planning and zoning commission at a public hearing, which shall make recommendations to the Canyon County board of commissioners for their consideration at a public hearing. The public hearings held before the Canyon County planning and zoning commission and the Canyon County board of commissioners will be conducted in accordance with the notice and hearing procedures provided by subsections 07-17-09(4) and (5) of this code. (Ord. 05-013, 6-1-2005)

09-01-21: ZONING ORDINANCE AMENDMENT PROPOSALS:

All proposed amendments to the text and/or map of the Canyon County zoning ordinance or subdivision regulations, which may relate to the Caldwell area of city impact, shall be referred by the county to the city of Caldwell in the same manner as provided for in subsection 09-01-17(3) of this article. Any recommendation of the city of Caldwell shall be considered in the same manner as provided for in subsection 09-01-17(3) of this article. (Ord. 05-013, 6-1-2005)

09-01-23: AMENDMENT OF COUNTY AND CITY ORDINANCES RELATING TO AREA OF CITY IMPACT AND NOTICE:

- (1) Subject to subsection 09-01-17(3) of this article, prior to amendment by the county of any Canyon County ordinance applicable in the Caldwell area of city impact as set forth in section 09-01-19 of this article, Canyon County shall forward the proposed change(s) to the city of Caldwell for review and comment at least thirty (30) calendar days prior to the first Canyon County public hearing at which such amendment(s) will be considered. Any further notice of proposed changes to the proposal will be provided to the city of Caldwell at least seven (7)

days prior to the public hearing.

- (2) Prior to amendment by the city of any city of Caldwell ordinance applicable in the Caldwell area of city impact as set forth in section 09-01-19 of this article, the city of Caldwell shall forward the proposed change(s) to Canyon County for review and comment at least thirty (30) days prior to the first city of Caldwell public hearing at which such amendment(s) will be considered. Any further notice of proposed changes to the proposal will be provided to Canyon County at least seven (7) days prior to the public hearing. (Ord. 05-013, 6-1-2005)

09-01-25: APPLICATION PROCEDURES:

The following procedures shall be adhered to in processing applications within the Caldwell area of city impact:

- (1) Land Use Applications: All land use applications submitted to Canyon County including, but not limited to, conditional use permits, variances and land divisions requiring notification of a public hearing, shall be referred to the city of Caldwell in the manner as provided for in subsection 09-01-17(3) of this article.
- (2) Planned Unit Developments: All planned unit developments shall be processed as provided for in this code, and as provided for in subsection 09-01-17(3) of this article.
- (3) Subdivision Plat Applications: All subdivision plat applications shall be processed as provided for in this code, and as provided for in subsection 09-01-17(3) of this article.
- (4) Building Permit Applications: All building permit applications shall be processed as provided for in this code. Owners of properties connecting to city of Caldwell water and/or sewer must obtain a certificate of acceptance from the authorized city of Caldwell official as a condition precedent to obtaining the building permit.

- (5) Notice Contents: The county's notice to the city of Caldwell, as provided for by subsection 09-01-17(3) of this article, shall include with the notice a copy of the application and concept plan or plat and irrigation plan, and any other relevant information submitted by the applicant.
- (6) City Impact Area Representation: Recommendations for city impact area representation on the county planning and zoning commission may be made by the city of Caldwell to the board of county commissioners at any time and will be acted upon by said board as the need arises and as the board of county commissioners deems appropriate.
- (7) City/County Internal Procedures: Each party shall determine its own internal procedures as may be deemed appropriate and adequate for making recommendations to the other party on proposed actions and on its handling of proposed amendments to its own plan and/or ordinances. An appeal made by the city of Caldwell, or by the county to the city, shall be processed by the nonappealing party in accordance with the internal procedures of the nonappealing party. (Ord. 05-013, 6-1-2005)

09-01-27: AMENDMENT OF CALDWELL AREA OF CITY IMPACT (PLANS AND ORDINANCES) ORDINANCE:

- (1) In accordance with Idaho Code section 67-6526(d), the city of Caldwell or the board of county commissioners may request, in writing, the renegotiation of any provision of this article at any time. Within thirty (30) days of receipt of such written request by either party, an initial meeting between the two (2) jurisdictions should occur. If the parties agree to amend this article, hearings to enact such amendments shall be scheduled before the parties' respective planning and zoning commissioners or the hearing examiners with ultimate approval resting with the board of county commissioners and the Caldwell city council. If the parties are unable to agree to amend this article, either party may elect to submit the issues to a committee of nine (9) as described in the local land use planning act, Idaho Code section 67-6526(b).
- (2) During renegotiation, all provisions of this article shall remain in effect until this article is

amended or a substitute ordinance is adopted by both the city of Caldwell and Canyon County, in accordance with the notice and hearing procedures provided in title 67, chapter 65 of Idaho Code, or until a declaratory judgment from district court is final.

- (3) Amendments to this article shall be processed using the notice and hearing requirements of Idaho Code section 67-6509. (Ord. 05-013, 6-1-2005)

09-01-29: SEVERABILITY:

Should any action or provision of this article be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or a part thereof other than the part declared to be unconstitutional or invalid. (Ord. 05-013, 6-1-2005)

09-01-31: EFFECTIVE DATE:

This article shall be in full force and effect upon its passage, approval, and publication. (Ord. 05-013, 6-1-2005)