

**ORDINANCE NO. 4**  
**Case No. ORA13-0002**  
**Area of City Impact – City of Hauser**

AN ORDINANCE OF KOOTENAI COUNTY, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, RELATING TO THE AREA OF CITY IMPACT FOR THE CITY OF HAUSER, IDAHO; DEFINING A PURPOSE; DEFINING AND ESTABLISHING A GEOGRAPHICAL AREA OF CITY IMPACT FOR THE CITY OF HAUSER, IDAHO WITHIN THE UNINCORPORATED AREA OF KOOTENAI COUNTY, IDAHO PURSUANT TO SECTION 67-6526, IDAHO CODE; IDENTIFYING THE COMPREHENSIVE PLAN, LAND USE ORDINANCES, ZONING MAP AND BUILDING CODE ORDINANCE THAT SHALL APPLY WITHIN THE ESTABLISHED AREA OF CITY IMPACT; IDENTIFYING METHODS AND PROCEDURES FOR APPLICATION, ADMINISTRATION, AND ENFORCEMENT; PROVIDING FOR RENEGOTIATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR NON-WAIVER OF ACTIONS REGARDING VIOLATIONS OCCURRING WHILE PRIOR ORDINANCES WERE IN EFFECT; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 67-6526, Idaho Code, the City of Hauser, Idaho (“the City”), and Kootenai County, Idaho (“the County”), have conferred and negotiated in good faith upon an Area of City Impact for the City of Hauser within the unincorporated area of Kootenai County; and

WHEREAS, on June 26, 2014, the Kootenai County Planning and Zoning Commission held a public hearing, pursuant to public notice as required by law, on the proposed Area of City Impact for the City of Hauser, and at the conclusion of that hearing, the Commission made a recommendation of approval to the Kootenai County Board of Commissioners; and

WHEREAS, the Kootenai County Board of Commissioners, pursuant to public notice as required by law, held a public hearing on the proposed Area of City Impact for the City of Hauser on June 26, 2014; and

WHEREAS, the City and the County, in accordance with the procedure required by law, have mutually agreed upon an Area of City Impact (ACI) for the City of Hauser within the unincorporated area of Kootenai County, Idaho;

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Kootenai County, Idaho:

**Section 1**

1.01 PURPOSE: The purpose for establishing this ACI is to identify an urban fringe area adjoining the City which has the potential to realize growth and development pressures that must be planned and managed in an orderly and coordinated fashion. In establishing this Area of City Impact, the City and the County have given consideration to trade areas, geographic factors, and those areas that can be reasonably expected to be annexed to the City in the future, as required under section 67-6526, Idaho Code.

1.02 GOALS: The goals related to the establishment of this ACI are:

- a. To provide a framework for the City and County to carry out the statutory purposes of coordinated ACI land use planning, most significantly:
  - I. To protect property rights.
  - II. To ensure adequate public facilities and services are provided at reasonable costs.
  - III. To encourage urban development within the City.
- b. To provide a way for the City to grow in a logical and cost-effective manner.
- c. To provide a way for the City to clearly and publicly communicate with predictability its future vision for the land within the ACI.
- d. To provide a way for the City and County to grow in a manner that maintains the quality of life for current and future residents.
- e. To provide a way for the City and the County to prevent urban sprawl and conserve resources.
- f. To provide a way for the City, County and special districts to anticipate future public service and facility needs, and to coordinate those services effectively.
- g. To provide an opportunity for residents living within the ACI to have a greater voice in both City and County government.

## **Section 2**

2.01 GEOGRAPHIC AREA OF CITY IMPACT: The geographical area to be included within the ACI shall be as set forth in the legal description and map contained in City of Hauser Ordinance No. \_\_\_\_, and in Kootenai County Ordinance No. \_\_\_\_. In the event of any conflict between the geographical area map and the legal description contained in the aforementioned ordinances, the legal description shall take precedence.

## **Section 3**

3.01 DEVELOPMENT STANDARDS: The plans, ordinances, and regulations duly adopted by the County shall apply within this ACI, including, without limitation, the following:

- a. Comprehensive Plan: The Kootenai County Comprehensive Plan duly adopted by the County, and all subsequent amendments thereto or replacements thereof, shall apply within the ACI.

- b. Land Use Regulations: All regulations duly adopted by the County pertaining to land use, including, without limitation, those contained in Titles 9, 10, and 11, Kootenai County Code, and all subsequent amendments thereto or replacements thereof, shall apply within the ACI.
- c. Zoning Map: The Official Zoning Map of Kootenai County, including all subsequent amendments thereto or replacements thereof, shall govern the zoning of all properties within the ACI.
- d. Building Ordinance: The Kootenai County Building Code Ordinance duly adopted by the County, Title 7, Chapter 1, Kootenai County Code, including all building codes adopted thereby, and all subsequent amendments thereto or replacements thereof, shall apply within the ACI.

#### Section 4

4.01 ADMINISTRATION AND ENFORCEMENT: The County shall be responsible for the administration and enforcement of the Plan and Ordinances listed in Section 3 herein, and shall receive all permit fees associated therewith in accordance with the then-current fee resolution adopted by the Kootenai County Board of Commissioners.

4.02 COORDINATION AND NOTIFICATION REQUIREMENTS FOR DEVELOPMENT APPLICATIONS: The County shall be required to provide notice to the City as follows:

- a. Land Use Permits and Plan Amendments: The County shall provide the City with notice and an opportunity to comment on all complete applications for conditional use permits, special notice permits, major subdivisions, minor subdivisions, changes in zoning, and any amendments to County land use plans or regulations that govern or relate to real property located within the ACI. The County shall provide the City with the following:
  - I. A written notice which identifies the pending application and the property which is the subject of the application, or which identifies the proposed amendment and the affected section(s) of existing County land use plans or regulations;
  - II. A copy of the application materials or the proposed amendment, as appropriate; and
  - III. A request for the City to review the application or amendment and provide comments.
  - IV. A comment period of at least twenty-one (21) days on such application or amendment, beginning on the date on which notice was received by the City. If no comment is received within the comment period, the County may presume that the City has no comment on the application or amendment, and may continue to process the proposal. The City shall not charge the County for review and comment on such proposals.

- b. Building and Development Permits: The County shall provide the City with notice and an opportunity to comment on all complete building and site disturbance permit applications pertaining to real property located within the ACI. The County shall provide the City with the following:
  - I. A copy of the permit application materials, as appropriate (building plans may be requested by the City on a case-by-case basis); and
  - II. A request for the City to review the application and provide comments.
  - III. A comment period of at least fourteen (14) days on such application, beginning on the date on which notice was received by the City. If no comment is received within the comment period, the County may presume that the City has no comment on the application or amendment, and may continue to process the proposal. The City shall not charge the County for review and comment on such proposals.
  - IV. Building permit applications for minor activities such as mechanical work, re-roofing, window and/or siding installation, etc., shall be exempt from the notice requirements set forth herein.

#### 4.03 COORDINATION OF CITY PLANNING:

- a. Future City ACI Planning: In order to further the goals of this agreement and the ACI goals and implementation strategies of the City of Hauser Comprehensive Plan, the City shall first develop future land use plans, capacity and needs analysis, and utility infrastructure plans, including, without limitation, comprehensive plans, land use plans, and infrastructure master plans such as roadway plans, utility extension plans, level of service plans, etc., for all areas within the ACI.
- b. Requirements for the City to Provide Notice: Prior to the adoption or amendment of City land use plans or utility infrastructure plans, including, without limitation, comprehensive plans, land use plans, capacity and needs analysis and infrastructure master plans such as roadway plans, utility extension plans, level of service plans, etc., for areas within the ACI, the City shall notify all owners of property located within the ACI of such proposal at least twenty-eight (28) days prior to conducting any public meeting or public hearing related to the matter. Such notice shall provide information as to how interested persons may participate in the proceedings and submit comments. The City shall also provide the County with a comment period of at least twenty-eight (28) days on such proposal, beginning on the date on which notice was received by the County. If the City does not receive a comment from the County during the comment period, the City may presume that the County has no comment and may proceed with consideration of the proposal. The County shall not charge the City for review and comment on such proposals.

## Section 5

5.01 ANNEXATION: Except for Category A annexations as defined in section 50-222, Idaho Code, the City agrees not to annex any property located outside of the ACI boundary then in existence, but reserves the right to renegotiate the ACI boundary in the future in accordance with section 7 herein.

5.02 NOTICE TO COUNTY: Upon receipt of a petition for annexation within the ACI, the City agrees to notify the County and provide the County with a comment period of at least twenty-one (21) days on such petition, beginning on the date on which notice was received by the County. If the City does not receive a comment from the County during the comment period, the City may presume that the County has no comment and may continue to process the petition. The County shall not charge the City for review and comment on such petitions.

## Section 6

6.01 CITY PLANNING AND ZONING COMMISSION: The City shall appoint a person residing within the Area of City Impact to the City Planning and Zoning Commission. This representative shall be reappointed upon any vacancy.

## Section 7

7.01 RENEGOTIATION: This Area of City Impact Agreement shall be reviewed by the City and the County at least once every ten (10) years and shall be renegotiated at any time upon the request by either party. Renegotiation shall begin thirty (30) days after written request by either the City or County and shall follow the procedures of the original negotiation, as set forth in Section 67-6526, Idaho Code.

7.02 PLANNED RENEGOTIATION: The parties recognize that the County is currently engaged in the process of adopting land use and development codes which will apply within the unincorporated area of the County, including the ACI established pursuant to this Agreement. Therefore, in addition to the renegotiation process set forth in subsection 7.01 herein, it is mutually agreed that it will be necessary to renegotiate and update this Agreement, including both the text of this Ordinance and the geographical area of the ACI set forth in the contemporaneously adopted ordinance referred to in subsection 2.01 herein, in conjunction with that process. The renegotiation process shall follow the procedures as set forth in Section 67-6526, Idaho Code. This process may parallel the County's land use and development code adoption process, but shall in no case begin more than thirty (30) days after County adoption of new or amended land use development regulations.

## Section 8

8.01 SEVERABILITY: If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this code or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this code, or any part thereof. The Kootenai County

Board of Commissioners hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

8.02 SAVING CLAUSE: Neither the adoption of this Ordinance nor the repeal of any Ordinance shall, in any manner, affect the prosecution for violation of such Ordinance committed prior to the effective date of this ordinance or be construed as a waiver of any license or penalty due under any such Ordinance or in any manner affect the validity of any action heretofore taken by the Kootenai County Board of Commissioners, or the validity of any such action to be taken upon matters pending before the Kootenai County Board of Commissioners on the effective date of this Ordinance.

8.03 REPEAL OF PRIOR ORDINANCES: All Ordinances and parts of Ordinances in conflict with this Ordinance, including, without limitation, Kootenai County Ordinance Nos. 289, 290, 372, and 385, are hereby repealed.

8.04 EFFECTIVE DATE: This Ordinance shall take effect and be in full force upon its passage, approval and publication in one (1) issue of the *Coeur d'Alene Press*.

Dated this \_\_\_\_\_ day of July, 2014 by the following vote:

BY ORDER OF THE KOOTENAI COUNTY  
BOARD OF COMMISSIONERS

Yea    Nay

       \_\_\_\_\_  
W. Todd Tondee, Chairman

       \_\_\_\_\_  
Daniel H. Green, Commissioner

       \_\_\_\_\_  
Jai Nelson, Commissioner

ATTEST:  
JIM BRANNON, CLERK

BY: \_\_\_\_\_  
DEPUTY CLERK

C: City of Hauser, Community Development, Prosecuting Attorney (Civil Division), Ordinance File