

**ORDINANCE NO. 289**

**Case No. OA-89-99**

AN ORDINANCE OF KOOTENAI COUNTY, IDAHO, PURSUANT TO *IDAHO CODE* SECTION 67-6526; DEFINING A PURPOSE; DEFINING AN AREA OF CITY IMPACT FOR THE CITY OF HAUSER, IDAHO; ADOPTING A MAP IDENTIFYING THE AREA OF CITY IMPACT; ADOPTING APPLICABLE PLAN AND DEVELOPMENT STANDARDS; PROVIDING FOR ADMINISTRATION PROCEDURES; PROVIDING FOR ANNEXATION REQUIREMENTS; PROVIDING FOR RENEGOTIATION PROCEDURES; PROVIDING FOR SEVERABILITY; PROVIDING FOR SAVINGS; AND, PROVIDING AN EFFECTIVE DATE HEREOF.

WHEREAS, pursuant to *Idaho Code* Section 67-6526, the City of Hauser, Idaho, and Kootenai County, Idaho, 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, public hearings, pursuant to public notice as required by law, were held by the duly-constituted Planning and Zoning Commission of Kootenai County, Idaho, on July 12, 1999 and September 27, 1999, on the proposed Area of City Impact, following which hearings said Commission made a recommendation to the Board of County Commissioners of Kootenai County, Idaho; and

WHEREAS, a public hearing, pursuant to public notice as required by law, was held by the Kootenai County Board of Commissioners of Kootenai County, Idaho, on October 20, 1999 on the proposed Area of City Impact; and,

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

WHEREAS, the City of Hauser and Kootenai County adopt the following Goals as their intent for the Area of City Impact:

1. The City of Hauser and Kootenai County desire to adopt an Area of City Impact to enhance and encourage planned, orderly growth and development where urban services can be most efficiently and economically provided;
2. The City of Hauser and Kootenai County desire to preserve and enhance the quality of life within the Area of City Impact;
3. The City of Hauser and Kootenai County recognize a mutual intent to protect the Hauser Lake Watershed Area;
4. The City of Hauser and Kootenai County recognize a mutual intent to protect the investments of both present and future property owners in the Area of City Impact and to minimize the disruptive impacts of uncoordinated growth upon those property owners; and,
5. The City of Hauser and Kootenai County recognize a mutual intent to make efficient use of local tax dollars through the policies encouraging development within the Area of City Impact.

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

**Section 1**

**PURPOSE:** The purpose of establishing the Hauser Area of City Impact is to identify an urban fringe area adjoining the City of Hauser, Idaho. The urban fringe area is realizing, or will realize, growth and development pressures that must be planned and managed in an orderly fashion.

**Section 2**

**DEFINING AN AREA OF CITY IMPACT:** Trade area, geographic factors (such as the watershed), and areas that may reasonably be annexed to the City in the near future were factors taken into consideration in defining the Area of City Impact.

**Section 3**

**ADOPTING A MAP IDENTIFYING THE AREA OF CITY IMPACT:** The Hauser Area of City Impact is the area designated on the Hauser Area of City Impact Boundary Map, attached hereto and by this reference fully incorporated herein. The officially-adopted and agreed upon Hauser Area of City Impact Boundary Map is established by City of Hauser Ordinance No. 120, and Kootenai County Ordinance No. 290.

In case a property under single ownership is divided by the boundary line of the Hauser Area of City Impact and the line divides such property so that one or both of the parts has a depth of three hundred feet (300') or less, such part may be included in the jurisdiction within which the remainder and larger portion of the property is located.

**Section 4**

**ADOPTING APPLICABLE PLAN AND DEVELOPMENT STANDARDS:**

- (A) **Comprehensive Plan:** The Hauser Comprehensive Plan and subsequent amendments thereto as officially adopted by the City of Hauser, and the procedures herein shall apply to the Area of City Impact.
- (B) **Development Code:** The City of Hauser Development Code and subsequent amendments thereto as officially adopted by the City and the procedures herein shall apply to all Class II permits, as defined by the City of Hauser Development Code, to all proposals within the Area of City Impact. Application for individual residential building permits for legally created parcels existing at the time of adoption of this ordinance, or exempt by this subsection shall be made to the County. All Class II Permits, as defined by the City of Hauser's Development Code, shall be submitted to the City of Hauser for review in accordance with the procedures established in Section 5 of this Ordinance. The City and the County shall have signature authority on the Plat, with the exception of the following:
  - 1. The division of original parcels of record (parcels created prior to May 14, 1974);
  - 2. Existing approved County subdivisions and plats;

3. Plat amendments to existing approved County subdivisions that do not propose an increase in the number of lots; and,
4. Lot line adjustments within currently approved County subdivisions or plats.

The County's Subdivision Ordinance shall prevail over any City Development Codes or Ordinances pertaining to items 1-4 above and do not require the review or approval of the City.

- (C) County approved Conditional Zoning Development Agreements adopted prior to the effective date of this ordinance shall continue as agreed upon by the Agreement signed by the Kootenai County Board of Commissioners. Any proposed amendments to said Development Agreement shall be made to the Joint Planning Commission for compliance to the applicable standards of this Ordinance.

### Section 5

#### **ADMINISTRATION PROCEDURES:**

The Board of County Commissioners and City of Hauser hereby authorize adoption of additional permit procedures incorporated by reference herein.

- (A) Permit Procedures: All development proposals that require a Class II Permit, as defined in the Hauser Development Code, shall first be submitted to the Code Administrator for the City of Hauser for review in accordance to the procedures established in Chapter III, Division 2.J. of the Hauser Development Code, with exceptions related to the composition and appointment of Planning Commission members and appeal procedures specified herein. All required application submittals made to the City will be forwarded to the County by the City Code Administrator within three days of acceptance by the City.
- (B) Planning and Zoning Commission: For proposals within the Hauser Area of City Impact the Planning Commission shall consist of seven (7) members, hereinafter referred to as, Joint Commission. Two (2) members of the Commission shall reside within city limits; three (3) shall reside within the Area of City Impact outside the City of Hauser, and two (2) shall be Planning Commission members from the County. Commissioners that reside outside city limits shall be appointed by consent of the Board of County Commissioners.
- (C) Decision and Appeals; Joint Commission: With the exception of subdivisions of land, as defined by the Hauser Development Code, request for amendments to the Development Code and/or Comprehensive Plan, all decisions related to Class II Permits shall be final, unless otherwise appealed in accordance with this agreement.
- (D) Review and decisions by the Joint Commission relating to subdivisions, request for amendments to the Development Code and/or Comprehensive Plan shall be made in the form of a Recommendation to the BOCC and City Council for a combined review and final decision of the BOCC.
- (E) Decision and Appeals: BOCC and City Council: Decisions relating to subdivisions, as defined by the Hauser Development Code, amendments to the Development Code, and/or Comprehensive Plan amendments situated in the Hauser Area of City Impact require an affirmative decision by the BOCC. The BOCC shall take due notice of the recommendation of the Joint Commission.

- (F) The BOCC and members of the City Council with duties described herein shall act as the appellate body for final decisions rendered by the Joint Commission except those excluded in Section 5, C. of this Ordinance.
- (G) Joint BOCC and City Council Hearings: Appeals of the Commission's Decision, with the exception of subdivisions, request for amendments to the Development Code and/or Comprehensive Plan, shall be made to a joint BOCC and City Council, hereinafter Joint Board.
- (H) Final decisions related to subdivisions, amendments to the Development Code and/or the Comprehensive Plan, in the area of City Impact outside city limits, shall be made by the Board of County Commissioners in accordance with the procedures established in the Hauser Development Code and this Agreement.
- (I) The Joint Board shall consist of the Kootenai Board of County Commissioners (BOCC) and two City Council members which may include the Mayor.

City elected officials, acting in the capacity of members of the Joint Board, shall not have the authority to make motions(s) or vote in regards to the approval/denial of a development proposal, or content of conditions placed upon a project proposal, or amendments to the applicable plan and development standards.

The role of city elected officials is limited to an advisory capacity to the Board of County Commissioners. City members of the Joint Board will have the ability to make inquiries of the project proponents/opponents during the public hearing, confer with the Board of County Commissioners prior to final decisions of the Board of County Commissioners during the public hearing process and provide evidence and testimony to the Board of County Commissioners in relation to compliance/non-compliance of a proposal to the Hauser Comprehensive Plan and Development Code.

### Section 6

**ANNEXATION; AREA OF CITY IMPACT:** Annexation by the City of Hauser shall be limited to those lands lying within the area of impact and being contiguous to the city limits of Hauser.

Upon annexation, the provisions of this ordinance, which is the Agreement between the City of Hauser and Kootenai County, shall no longer apply to the annexed area.

Upon receiving a request for annexation within the Area of City Impact, the City agrees to notify the County and allow the County thirty (30) days to comment on such request prior to any public hearing on the request.

### Section 7

**RENEGOTIATION:** In accordance with *Idaho Code* 67-6526(d), the City of Hauser or Kootenai County may request in writing to renegotiate any provision of this agreement at any time. Within thirty (30) days of receipt of such request by either party, a meeting between the two jurisdictions shall occur. While renegotiation is occurring, all provisions of the adopted Area of City Impact Ordinance shall remain in effect until said adopted Ordinance is amended or a substitute Ordinance is adopted by the City of Hauser and Kootenai County, in accordance with the Notice and Hearing procedures provided in Title 67, Chapter 65 of *Idaho Code* or until a declaratory judgment from the District Court is final. Provided,

however, that the adopted Ordinance or stipulated portions thereof shall be of no further force and effect if both jurisdictions so agree in writing.

**Section 8**

**SEVERABILITY:** The provisions of this Ordinance are severable and if any provision, clause, sentence, subsection, word, or part thereof is held illegal, invalid, or unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity, or unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words, or parts of this Ordinance or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word, or part had not been included therein, and if such person or circumstance to which the Ordinance or part thereof is held inapplicable had been specifically exempt therefrom.

**Section 9**


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 Mayor and City Council of Hauser, Idaho, or the validity of any such action to be taken by the Board of County Commissioners.

**Section 10**

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*, a newspaper of general circulation within Kootenai County, Idaho.

DATED this 27<sup>th</sup> day of October, 1999.

**BY ORDER OF THE KOOTENAI COUNTY  
BOARD OF COMMISSIONERS**

  
Richard Panabaker, Chairman

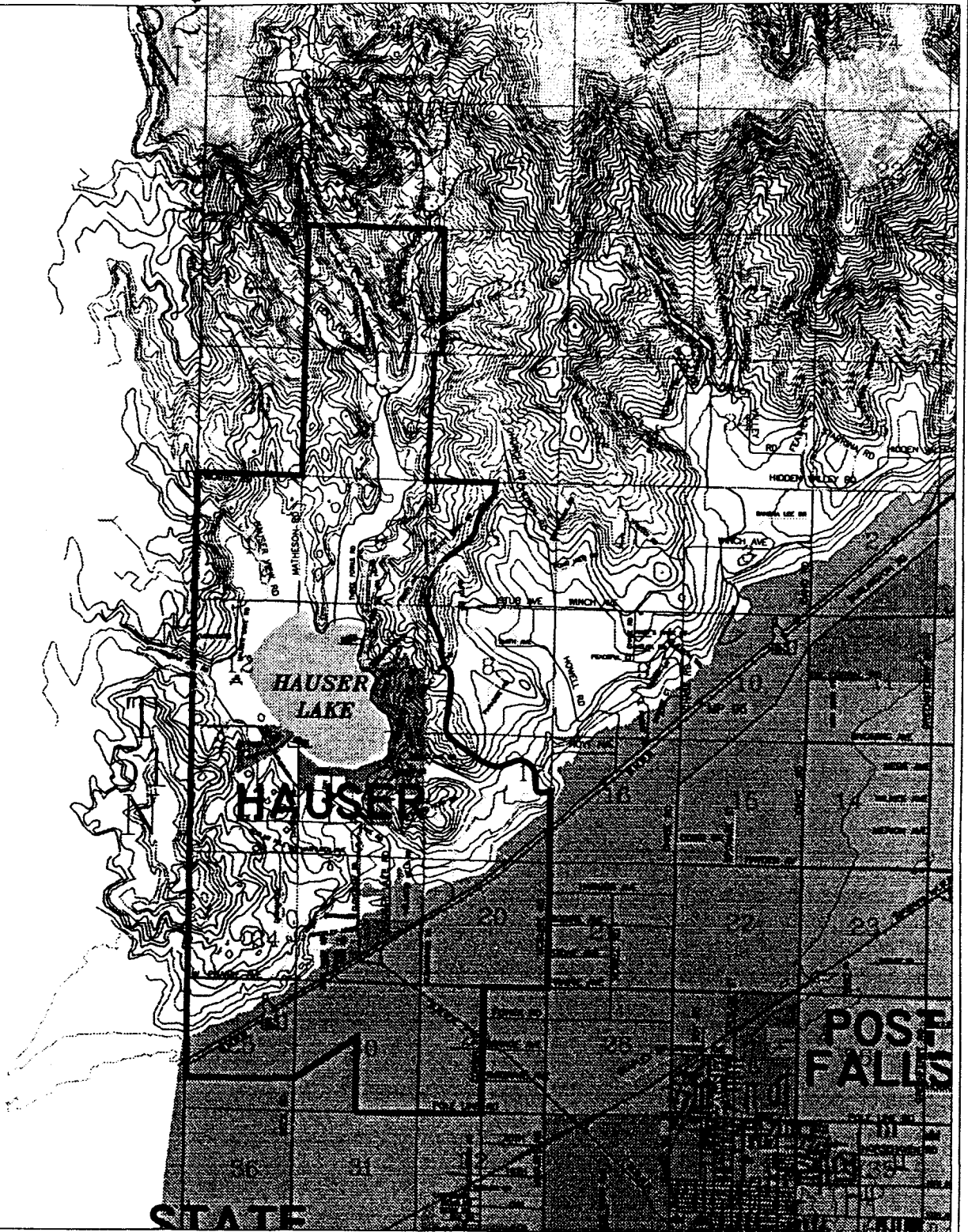
ATTEST:  
DANIEL J. ENGLISH, CLERK

  
Deputy Clerk

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Dick Compton, Commissioner

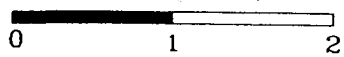
  
Ronald D. Rankin, Commissioner

Publication Date: November 1, 1999



PROPOSED AREA OF CITY IMPACT  
CITY OF HAUSER

Scale (miles):



For presentation purposes only