

LEGISLATURE OF THE STATE OF IDAHO
Sixty-first Legislature Second Regular Session - 2012

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 614

BY WAYS AND MEANS COMMITTEE

AN ACT

RELATING TO LOCAL LAND USE PLANNING; AMENDING SECTION 67-6512, IDAHO CODE,
TO ESTABLISH PROVISIONS RELATING TO SPECIAL USE PERMITS; AMENDING SEC-
TION 67-6516, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO SPECIAL
USE PERMITS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICA-
TION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 67-6512, Idaho Code, be, and the same is hereby
amended to read as follows:

67-6512. SPECIAL USE PERMITS, CONDITIONS, AND PROCEDURES. (a) As part
of a zoning ordinance each governing board may provide by ordinance adopted,
amended, or repealed in accordance with the notice and hearing procedures
provided under section 67-6509, Idaho Code, for the processing of appli-
cations for special or conditional use permits. A special use permit may
be granted to an applicant if the proposed use is conditionally permitted
by the terms of the ordinance, subject to conditions pursuant to specific
provisions of the ordinance, subject to the ability of political subdivi-
sions, including school districts, to provide services for the proposed
use, and when it is not in conflict with the plan. Denial of a special use
permit or approval of a special use permit with conditions unacceptable to
the landowner may be subject to the regulatory taking analysis provided for
by section 67-8003, Idaho Code, consistent with requirements established
thereby.

(b) Prior to granting a special use permit, at least one (1) public
hearing in which interested persons shall have an opportunity to be heard
shall be held. At least fifteen (15) days prior to the hearing, notice of
the time and place, and a summary of the proposal shall be published in the
official newspaper or paper of general circulation within the jurisdiction.
Each local government is encouraged to post such notice on its official
websites, if one is maintained. Notice may also be made available to other
newspapers, radio and television stations serving the jurisdiction for use
as a public service announcement. Notice shall be posted on the premises not
less than one (1) week prior to the hearing. Notwithstanding jurisdictional
boundaries, notice shall also be provided to property owners or purchasers
of record within the land being considered, three hundred (300) feet of the
external boundaries of the land being considered, and any additional area
that may be substantially impacted by the proposed special use as determined
by the commission. Any property owner entitled to specific notice pursuant
to the provisions of this subsection shall have a right to participate in
public hearings before a planning commission, planning and zoning commis-
sion or governing board.

(c) When notice is required to two hundred (200) or more property owners or purchasers of record, alternate forms of procedures which would provide adequate notice may be provided by local ordinance in lieu of mailed notice. In the absence of a locally adopted alternative notice procedure, sufficient notice shall be deemed to have been provided if the city or county provides notice through a display advertisement at least four (4) inches by two (2) columns in size in the official newspaper of the city or county at least fifteen (15) days prior to the hearing date, in addition to site posting on all external boundaries of the site.

(d) Upon the granting of a special use permit, conditions may be attached to a special use permit including, but not limited to, those:

- (1) Minimizing adverse impact on other development;
- (2) Controlling the sequence and timing of development;
- (3) Controlling the duration of development;
- (4) Assuring that development is maintained properly;
- (5) Designating the exact location and nature of development;
- (6) Requiring the provision for on-site or off-site public facilities or services;
- (7) Requiring more restrictive standards than those generally required in an ordinance;
- (8) Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction.
- (9) In addition to other processes permitted by this chapter, exceptions or waivers of standards, other than use, in a zoning ordinance may be permitted through issuance of a special use permit or by administrative process specified by ordinance.

(e) Prior to granting a special use permit, studies may be required of the social, economic, fiscal, and environmental effects of the proposed special use. A special use permit shall not be considered as establishing a binding precedent to grant other special use permits. A special use permit is not transferable from one (1) parcel of land to another.

SECTION 2. That Section 67-6516, Idaho Code, be, and the same is hereby amended to read as follows:

67-6516. VARIANCE -- DEFINITION -- APPLICATION -- NOTICE -- HEARING. Each governing board shall provide, as part of the zoning ordinance, for the processing of applications for variance permits. A variance is a form of permit that allows the modification of the bulk and placement requirements of the ordinance as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other ordinance provision affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots. A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of characteristics of the site and that the variance is not in conflict with the public interest. Prior to granting a variance, notice and an opportunity to be heard shall be provided to property owners adjoining the parcel under consideration. Denial of a variance permit or approval of a variance permit with conditions unacceptable to the landowner may be subject to the regulatory taking analysis

1 provided for by section 67-8003, Idaho Code, consistent with the require-
2 ments established thereby. In addition to other processes permitted by this
3 chapter, exceptions or waivers of standards, other than use, in a zoning
4 ordinance also may be permitted through issuance of a special use permit or
5 by administrative process specified by ordinance as set forth in section
6 67-6512, Idaho Code. Nothing in this section shall be construed to prohibit
7 the use of a special use permit for such purposes.

8 SECTION 3. An emergency existing therefor, which emergency is hereby
9 declared to exist, this act shall be in full force and effect on and after its
10 passage and approval, and shall apply to all permits and approvals granted
11 prior to the effective date hereof.