

ARTICLE XII. BOARD REVIEW IN CASES OF COMPELLING PUBLIC INTEREST

SECTION 1201. STANDARDS FOR DETERMINING PUBLIC INTEREST -- As the governing body of Clearwater County, the Board of Commissioners is hereby authorized to overturn any Commission action judged by the Board to be contrary to the public interest of the citizens of Clearwater County in the following instances:

1. When the action of the Commission is judged by the Board to be detrimental to the stated purpose or intent of this or any other Ordinance;
2. When the action of the Commission is judged by the Board to have violated any State or Federal Law;
3. When the action of the Commission is judged by the Board to be a potential cause of litigation against the County;
4. When the action of the Commission is judged by the Board to be a potential *regulatory taking* as defined by Idaho Statute;
5. When the action of the Commission is judged by the Board to be detrimental to the public good due to potentially adverse impact on the local economy, environment, infrastructure, health or safety, property values, or due to the creation of a *public nuisance*, as defined by Idaho Statute.

SECTION 1202. INITIATION OF BOARD REVIEW -- The Board of County Commissioners may determine to review any decision of the Commission which is considered by the Board, or by any agent of the Board, or by any affected County official or County agency to have created any of the conditions enumerated in Section 1201. Any request for Board Review must be filed with the Board Chairman within fifteen (15) days of the Commission action.

1. If Board review is initiated at the request of a member of the Board, the member shall transmit to the Board Chairman, in writing, the specific reason(s) for said review;
2. If Board review is initiated at the request of any other agent of the County, the affected party or, in the case of an agency, the Department Head, shall transmit to the Board Chairman, in writing and on Clearwater County letterhead, the specific reason(s) for said review;
3. If Board review is initiated within fifteen (15) days of the Commission action due to deliberations or conversations of the Board at any public meeting, the reasons for said review shall be entered in the record of said meeting, and written communication to the Chairman shall not be required;
4. Board review as provided for in this Article may not be initiated by private citizens, applicants, Commission members, or agencies other than constituted County agencies. Affected parties who are not Elected Officials or Employees of Clearwater County shall utilize the appeals process outlined in Article XIII of this Ordinance;
5. The Board shall decide by majority vote of the full Board, or by unanimous consent, if Board review of the Commission action is warranted within ten (10) days of the Chair's receipt of the request for said review;
6. A Board vote to review the Commission action, stays all proceedings in furtherance of the action, until such time as Board Review and all subsequent hearings have been disposed.

SECTION 1203. BOARD ACTION -- Upon determination by the full Board that Board Review of a Commission action is necessary the Board shall:

1. Within thirty (30) days of the disputed Commission action, and prior to review hearing, notify the Commission of the Board's intent to review said action;
2. Within sixty (60) days of the disputed Commission action establish a time and date for public hearing of the matter, as provided in Article XV;
3. No less than fifteen (15) days prior to the hearing date established, the Board shall notify affected persons, observing notification procedures as provided in Article XV;
4. Compel such respondents (to include the initiating party) as are necessary to the disposition of the matter to appear before the Board for the purpose of providing testimony;
5. Review the factual basis of the Commission action, as well as the reasoned basis for the review, and consult with such County personnel and agencies as are necessary to determine the legal and factual basis for the review;
6. Decide to uphold or overturn the decision by the Commission. The Board shall only overturn the Commission's decision by majority vote of the full Board, at which time the application shall be referred to the Commission, with instructions, for a new hearing;
7. Within ten (10) days of Board action, notify all parties, in writing, of the decision of the Board specifying:
 - a. The Ordinance and Statutory standards used in evaluating the request;
 - b. The reasons for action taken.

SECTION 1204. APPEAL -- An affected party aggrieved by a decision may within sixty (60) days after all remedies have been exhausted under local Ordinances, seek judicial review under the procedures provided by § 67-5215 (b)-(g), and § 67-5216, Idaho Code.