

**Suggested Amendments to Canyon County Zoning Ordinance No. 08-026
By the Coalition for Agriculture's Future
November 17, 2009**

Page 1 – Should we add “EZ” Enterprise Zone? If an Enterprise Zone gets approved then should it be set into this Ordinance or will another one be drafted? This is just a question that we have.

Page 7 – Under (1) Purpose

The purpose of this chapter is to establish specific zones within Canyon County – **Add:** “based on duly recognizing the adopted Comprehensive Plan (the written expression of the will of the people of Canyon County.)” **Remove:** “and define the allowed, permitted and similar/accessory uses within each of the established zones.” **Add:** “This chapter also is established to provide specific zones within Canyon County, while preserving and protecting productive agricultural lands and agricultural operations. Canyon County has a significant agricultural heritage and traditions that have forged the values and character of its people. These values and character have crafted the foundations of responsible stewardship of its lands.”

Reasons for the change: It is very important that the Comprehensive Plan be recognized as the will of the people of Canyon County, therefore, placing it into the Purpose of this Ordinance is vitally important. It is also vitally critical that we try to preserve and protect farming operations and productive agricultural lands to continue to produce food and fiber for our population.

Page 7 – Under Provisions for Official Zoning Maps (3)

Areas are to be classified according to the established zoning requirements and such zoning shall – **Add:** “be followed based on the adopted Comprehensive Plan (the voice of the people of Canyon County) and its stated goals and objectives.” Remove the rest of the sentence after “shall” that states “shall give due consideration to the adopted comprehensive plan and ...”

**Page 9 – Add the Definition of Agricultural Land to state the following:
See definitions of Productive and Non- Productive Agricultural Lands**

Page 9 – Definition of Agriculture

Remove existing definition and replace with:

Growing, raising or producing agricultural, horticultural and viticultural crops and vegetable products of the soil, poultry and poultry products, aquaculture, livestock, field grains, seeds, hay, apiary and dairy products, tillage of soils, and the processing for commercial purposes of livestock or agricultural commodities and seeds, including the processing of such commodities and seeds into food commodities.

Reasons for Change: This is a much more consistent definition with the Right to Farm Statute, Rules from the Idaho State Dept. of Agriculture and is the same definition that was used in the re-write of the Comprehensive Plan.

Page 11 – Definition of Barrier

Includes, but is not limited to, berms, fences, landscaping, trees, shrubs and hedges and the separation of land used by a road, open space, **Add: “agricultural land”**, water course or other boundary whether naturally occurring or built.

Reasons for Change: If open space is considered a Barrier by definition than so should Agricultural Land.

Page 14 – Definition of Conditional Use

A use or occupancy of a structure, or use of land **Add: “(excluding Productive Agricultural Lands)”**, permitted only upon the issuance of a conditional use permit and subject to the limitations and conditions specified therein. See Idaho Code 67-6512.

Reasons for Change: The CUP process has been abused over the last 4-5 years, removing 25% of Canyon County’s productive agricultural lands (based on a study conducted by the Bureau of Reclamation). Our Coalition has met with DSD and the County Commissioners to address removing all CUP language from Productive Ag Lands. There has been agreement to do such verbally.

Agricultural producers and those engaged in Agri-business desire to maintain a viable and growing Industry and pass down agricultural traditions and its heritage in Canyon County. Agricultural producers and Agri-businesses are extremely valuable and vital in producing food and fiber and in contributing to a large portion of Canyon County’s economy. Recognizing that productive Agricultural lands in Canyon County are fragile and capable of producing minor crops not commonly grown in other areas in the United States or outside of the United States, it is equally important that these lands be protected and preserved.

Page 15 – Definition of Confined Animal Feeding Operation

Remove item #2 that states, **“Crops, vegetation, forage growth or post-harvest residues are not sustained in the normal growing season over any portion of the lot of facility; and”**

Reasons for Change: CAFO’s should only apply to animal feeding operations. #2 implies that mint composting, alfalfa seed chaff, corn silage, tassels from sweet corn seed, onions and potatoes left in the field, etc. are all a part of a Confined Animal Feeding Operation (and under County regulation as such). There are plenty of state Rules and Regulations that regulate cull onions and potatoes, odor and Ag Waste. This only unnecessarily duplicates these regulations.

Page 17 – Add a new Definition of “Economic Impact Study”

Economic Impact Study – Study of the economic effects of the “shocks” to productive agricultural land and farm operations caused by physical, environmental and other changes. This study attempts to stimulate these impacts with sound scientific data and mathematical equations (such as input and output models) and shows linkages to other industries, economic sectors and external factors.

Reasons for Addition of Definition: Many times decisions are made without sound scientific data or evidence as to the impact of a particular sector or industry. Adding this definition will ensure that an Economic Impact Study will be needed to help protect existing farming operations and productive agricultural lands in Canyon County.

Page 18 – Add a new Definition of “Farm”

Farm - An area of land (from a fraction of an acre to several thousand acres) that may include various structures, devoted primarily to the practice of producing and managing food and fiber. Farms may be owned and operated by a single individual, family, community, corporation or a company.

Reasons for Addition of Definition: A Farm is an actual thing and is a part of Agriculture. Therefore, it should have its own definition.

Page 18 – Add new definition of “Farming Operation”

Farming Operation – An area of land (from a fraction of an acre to several thousand acres) that may include various structures, devoted primarily to the practice of producing and managing food and fiber. These lands are capable of growing, raising or producing agricultural, horticultural and viticultural crops and vegetable products of the soil, poultry and poultry products, aquaculture, livestock, field grains, seeds, hay, apiary and dairy products, tillage of soils, and the processing for commercial purposes of livestock or agricultural commodities and seeds, including the processing of such commodities and seeds into food commodities.

Reasons for Addition of Definition: A Farming Operation is a thing and should have its own definition, especially when it is referenced in the Ordinance.

Page 21 – Definition of “Hillside Development”

Any subdivision, or that portion of a subdivision in terrain having a maximum slope exceeding fifteen (15) percent except where evidence is provided that no construction or development shall take place on slopes greater than fifteen (15) percent **Add: with the exception of agricultural lands or farming operations.**

Reasons for Change in Definition: We need to ensure that producers can still grow grapes or have a winery on these slopes as they are ideal for grape and wine production.

Page 26 – Add a new definition of “Non-Productive Agricultural Land”

NON- PRODUCTIVE AGRICULTURAL LANDS - Lands incapable of growing, raising or producing agricultural, horticultural and viticultural crops and vegetable products of the soil, poultry and poultry products, aquaculture, livestock, field grains, seeds, hay, apiary and dairy products, tillage of soils, and the processing for commercial purposes of livestock or agricultural commodities and seeds, including the processing of such commodities and seeds into food commodities. Such lands contain high alkaloid soils and alluvial sands and gravels.

Reason for addition of definition: It replaces Non-Viable Agricultural Land with a better definition and one that the Ag Sector can relate more with through definition.

Page 26 – Under the definition of “Nuisance”

A condition or use of property which is harmful or injurious to, or creates a danger of harm or injury to the health, safety, or welfare of the neighborhood, **Add: “farming operations”**, community, or members of the public, or which is so offensive to the senses or such an obstruction of the free use of property as to interfere with the comfortable enjoyment of life and property by the neighborhood, community, or members of the public. **Add: Agriculture and Farming Operations shall be exempt from nuisance in Canyon County pertaining to Idaho Code 22-4501-4505 in Idaho’s Right to Farm Statute.**

Reasons for changes: Farming Operations can also be subject to Nuisance by other members of the public (e.g. a subdivision is placed next to an existing dairy. Members of the subdivision complain, etc. about the odor, etc.) This is a nuisance to that dairy (farming operation). For the 2nd part, Idaho’s Right to Farm Statute also protects Agricultural Operations from nuisance.

Pages 26-27 – Under the Definition of “Open Space Land”

Under Page 27 **Add: “G. Open Space land does not include Agricultural Lands.”**

Reasons for addition: We don’t want anyone to think that open space lands are the same as agricultural lands and treated as such.

Page 29 – Add a new definition of “Productive Agricultural Land”

Productive Agricultural Land - Land capable of growing, raising or producing agricultural, horticultural and viticultural crops and vegetable products of the soil, poultry and poultry products, aquaculture, livestock, field grains, seeds, hay, apiary and dairy products, tillage of soils, and the processing for commercial purposes of livestock or agricultural commodities and seeds, including the processing of such commodities and seeds into food commodities.

Reason for new definition: Agricultural lands that are productive need to be defined as such, especially when non-productive agricultural lands are defined in the Ordinance.

Page 37 – Remove the definition of Viable Farm Land.

This has been replaced with Productive Agricultural Land (a better definition for our Industry).

Page 46 – (2) Appeal Procedures

B. The appeal shall be noticed and heard as a conditional use permit **Add:** “with the exception of productive agricultural lands on an Agricultural Zone. For non-productive agricultural lands, the appeal for a conditional use permit shall be noticed and heard. The entity requesting the appeal shall file a written statement accompanied with an Economic Impact Study and scientific proof that productive agricultural lands and farming operations will not be negatively impacted or minimized.”

Reasoning: With Conditional Use Permits being eliminated from Agricultural zones, there is not need for a CUP to be granted with an appeal.

Page 48 – 07-06-01 (1)

Under F. Conditional Rezones **Add:** “(excluding productive agricultural lands)”

Reasoning: Same as above.

Page 49 – Comprehensive Plan Amendment Criteria 07-06-03

Add to B at the end of the sentence “; and”

Add “C. What are the negative impacts to productive agricultural lands and farming operations.”

Reasoning: This needs to be known so that it does not impact current farming operations and productive Ag lands.

Pages 49-50 – Zoning Amendment Criteria For Requesting Zoning District Boundary Change

Page 50 – **Add** “F. Will the proposed be injurious to farming operations or negatively change the essential character of productive agricultural lands in the area.”

Reasoning: Same as above.

Page 50 – 07-06-07 Conditional Rezone

Under (1) Restrictions – Before the last sentence starting with “When the presiding are necessary, land may be rezoned upon a condition that if the land is not used as approved, or if an approved use ends, the land use will revert back to the zone applicable to the land immediately prior to the conditional rezone action”, **Add:** “Rezones shall not be approved for productive agricultural lands.”

Reasoning: Same as above.

Pages 50-51 – Conditional Rezoning Designation

Under Page 51 **Add:** “f. Will the proposed rezone be injurious to farming operations or negatively change the essential character of productive agricultural lands in the area.”

Reasoning: Same as above.

Page 51 – Conditional Rezoning Designation

Under 2. **Add** “d. The proposed conditional rezone will not be injurious to farming operations or negatively change the essential character of productive agricultural lands in the area.”

Reasoning: Same as above.

Page 57 – Conditional Use Permits 07-07-01

Under Purpose at the end of the paragraph **Add:** “Conditional Use Permits shall not be authorized for productive agricultural lands or if they will negatively impact farming operations in that area.”

Reasoning: Same as above.

Page 58 – Special Conditions 07-07-07

Add: “H. No special conditions for a conditional use permit shall be authorized for productive agricultural lands or if it will negatively impact farming operations in that area.”

Reasoning: Same as above.

Page 58 – Additional Studies 07-07-09

Prior to making a decision concerning a conditional use permit request, the presiding party – remove “may” and **Add:** “shall” require studies at the applicant’s expense of the social, economic, fiscal, **Add:** “agricultural”, and environmental effects of the proposed conditional use.

Reasoning: Costs should not be incurred to anyone but the applicant. Also, there needs to be an assessment whether or not the CUP will harm farming operations and productive agricultural lands.

Page 66 – Article 10 Zones

Should “EZ” Enterprise Zone be added? Or is this going to take place in another Ordinance?

Page 67 – Zones Enumerated 07-10-01

Should “EZ” Enterprise Zone be added? Or is this going to take place in another Ordinance?

Page 79 – Minimum Parcel or Lot Size

Under Table 3 under Agricultural Zone “A” – Lot size is subject to Administrative Land Division requirements – **remove the rest of the sentence that states, “and all other lot size requests are subject to approval of a Conditional Use Permit.”**

Reasoning: we have asked for CUP’s to be removed with regard to Ag Zones. This language does this.

Page 80 Table 4 Height Regulations

Under Exceptions A. Accessory agricultural structures in an “A” Agricultural Zone shall not exceed feet in height – **remove, “unless a greater height is approved by a conditional use permit or variance.”**

Reasoning: we have asked for CUP’s to be removed with regard to Ag Zones. This language does this.

Page 81

Add 4. (under E.) Enterprise Zone (if applicable)

Page 81 – Regulations for the “A” (Agricultural) Zone:

Under Purpose: A. Promote the public health, safety, and welfare of the people of the county,

Add: “while preserving and protecting productive agricultural land and farming operations.”

Remove “encouraging the protection of viable farm land.”

Under Purpose D. Protect Add: “Protect and preserve productive agricultural lands, agricultural operations, range land uses and wildlife management areas from the adverse impacts from development; and” Remove the sentence as it was written in the existing Ordinance.

Pages 81-82 – (2) Uses Allowed

Under B. on page 82 after Agriculture **remove, “except those agricultural uses subject to a conditional use permit in this zone.”**

Reasoning: we have asked for CUP’s to be removed with regard to Ag Zones. This language does this.

Pages 82-90 – Remove all pages as they pertain to CUP language.

Reasoning: we have asked for CUP's to be removed with regard to Ag Zones. This language does this.

Page 91 – Administrative Land Division of Original Parcels (5)

Before the sentence starting with, “An administrative land division of an original parcel is allowed in accordance with the following:” **Add:** “**The director shall approve all land divisions while minimizing the removal of productive agricultural lands and the negative impacts to farming operations.**”

Page 95 – B. Administrative Land Division of Platted or Unplatted Land Which is – remove “Non-Viable” and **Add: “Non-Productive” Farm Land.**

Page 95 – 1. The Application Process

The director may approve the administrative land division or division of portions of the land which are – remove “not viable” and **Add:** “non productive” farm land up to a maximum of four (4) parcels including the original parcel.

Page 96 – 4. Application and Administrative Requirements

The director shall approve the land division – remove, “in such a manner” to minimize the – remove “removal from” and **Add:** “negative impacts to farming operations and removal of productive agricultural lands”. Remove “farm production of agriculturally productive and viable farm land.”

Page 96-97 – a. Applications:

On page 97 i. A full statement of the basis for the applicant’s contention that the land is – remove “not viable” and **add:** “non productive farm land with written scientific evidence and an economic study to show how development would impact farming operations and productive agricultural lands;”

Page 97 – b. Burden of Proof:

The applicant requesting the land division pursuant to this section has the burden of proving that the land to be divided is - remove “not viable farm” and **add:** “non productive agricultural” land and shall comply with all frontage, right of way, setback and all other provisions of this chapter, and that the proposed land division shall be consistent with the Comprehensive Plan.

Page 99 – 5. Evaluation and Determination of Application

- b.** – The – remove “non viable farm” and **add:** “non productive agricultural” land administrative division must demonstrate at least one (1) of the following:
 - b. i.** Clustering of structures on – remove “non viable” and **add:** “non productive” portions of the parcel; or
 - b. ii.** Remove “non viable farm” and **add:** “non productive agricultural” land.

Page 103

- e. i.** Conservation of productive – remove “farm ground” and **add:** “agricultural land”.

e. iv. Remove “non viable farm ground” and add: “non productive agricultural land”;

Page 106 – Regulations for the “R-R” (Rural Residential) Zone: 07-10-27

Under (1) Purpose: The purpose of the “R-R” (rural residential) zone is to encourage and guide growth in areas where a rural lifestyle may be determined to be suitable. Add: “Growth areas will be determined to be suitable if these areas do not negatively impact farming operations or jeopardize productive agricultural lands.”

Page 110 – Uses permitted by Conditional Use Permit for “R-R” Zones

Add: “Airport” (it was removed under Agricultural Zone under Uses permitted by Conditional Use Permit).

Add: “Enterprise Zone” if applicable.