BEAR LAKE COUNTY ORDINANCE NO. 2025-01

AN ORDINANCE ESTABLISHING A PROCEDURE TO ESTABLISH AGRICULTURE PROTECTION AREAS WITHIN THE GEOGRAPHICAL BOUNDARIES OF BEAR LAKE COUNTY IN ACCORDANCE WITH TITLE 67 CHAPTER 97 OF THE IDAHO CODE; ALSO PROVIDING A MEANS TO TERMINATE ANY ESTABLISHED AGRICULTURE PROTECTION AREA; ALSO PROVIDING FOR AN EFFECTIVE DATE UPON PUBLICATION PURSUANT TO IDAHO LAW.

WHEREAS, Bear Lake County is dependent upon agricultural uses for the production of food, fiber, and income to support residents; and

WHEREAS, agriculture is an essential part of life in Bear Lake County and is residents; and

WHEREAS, Bear Lake County seeks to preserve agricultural lands to maintain agrarian lifestyles and preserve open space from commercial, industrial, and residential development and

WHEREAS, Title 67, Chapter 97 of the Idaho Code provides that Bear Lake County review and adopt an ordinance establishing procedures and methods for establishing Agriculture Protection Area.

NOW, THEREFORE, BE IT ORDAINED BY THE BEAR LAKE COUNTY COMMISSIONERS AS FOLLOWS:

Section 1: Adoption of New Chapter 14 to Zoning Ordinance: The BEAR LAKE COUNTY LAND USE ORDINANCE is hereby amended to add the following new Chapter 14 AGRICULTURE PROTECTION AREA as follows:

Section 2: Purpose: The purpose of this ordinance is to provide for a voluntary process through which agricultural and timber producers of BEAR LAKE COUNTY may make application to commit lands actively devoted to agriculture for future agricultural use. An Agricultural Protection Area (hereinafter "APA") designation aims to protect productive farmland, rangeland, and forest land; promote farm viability; support the local agricultural economy; and provide for long-term planning and stability. This ordinance sets out the process for creation of Agriculture Protection Areas.

Section 3: Definitions: For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Agriculture Production: means activities or conditions conducted on land actively devoted to agriculture as defined in section 63-604, Idaho Code, or on forest land as defined in section 63-1701, Idaho Code.

Agriculture Protection Area (APA): means specific parcels of land in a designated geographic area voluntarily created under the authority of this chapter for the purpose of protecting and preserving agricultural land.

Agriculture Protection Area Commission: means the Bear Lake County Commissioners with the duties set forth in Section 67-9705, Idaho Code.

Applicant: means anyone who owns five (5) contiguous acres or more of land that has been in active agricultural or forest production for the previous three (3) consecutive years, consistent with the provisions of Sections 63-604 and 63-1701, Idaho Code, and who voluntarily applies for that land to be part of an agricultural protection area.

Area of City Impact (AOI): area designated by county ordinance where city growth and development are expected to occur.

Hardship: means a situation or circumstance over which a landowner in an agricultural protection area has no control and can then petition for removal for reasons that include but are not limited to an adverse result in litigation against the farm or landowner, death of a close family member that would lead to unanticipated financial hardships, significant tax liabilities, bankruptcy due to another person, fraud, or any other illegal activity.

Proposal: means written documents submitted to a governing body or agricultural protection area commission from a landowner regarding his property.

Section 4: Creation and Designation of APA: An Agriculture Protection Area shall be designated as an "APA." An APA designation is a voluntary land use designation available to landowners who wish to protect their agricultural land from future nonagricultural development. To qualify for an APA designation, the land must be:

a) At least five (5) contiguous acres,

b) Actively devoted to an agricultural or forest purpose,

c) Assessed as agriculture or forest land, and

d) Located within the agriculture zone which are all lands within the jurisdiction of Bear Lake County that are not part of another zoning designation.

Landowners wishing to establish an APA shall submit an application to the Bear Lake County Planning and Zoning Department. At a minimum, the application shall include the following:

a) Name, phone number, email, and mailing address of the land owner;

b) Proof of land ownership;

c) A legal description of the parcels, structures, and facilities proposed to be included in the APA;

d) A map showing the boundaries of the proposed APA;

e) A statement outlining the current contiguous acreages of land, land use, agricultural productivity, and other relevant characteristics of the land to be included in the APA;

f) The number of years the land has been in agricultural or forest production, the types of agricultural or forest commodities produced, and the applicant's plan to continue using the land for agricultural or forest purposes;

g) The stated reasons for seeking an APA designation;

h) Soil surveys, water rights, and any other relevant environmental assessments.

Section 5: Review Process: Upon receipt of a completed application, the Agriculture Protection Area Commission shall review the application, which shall be evaluated on the following criteria:

a) The total contiguous acreage of the land is at least five (5) acres in size and is actively devoted to agricultural or forest production,

b) Adjacence to an existing area of city impact,

c) Possible conflict with existing city annexation or development plans or agreements,

d) Proximity to existing public rights of way,

e) Proximity to planned transportation corridors or future public rights of way,

f) Proximity to planned airport expansion or development,

g) Proximity to planned development with existing entitlements,

h) Agricultural production capability of the land within the proposed APA, and

i) Other local impacts relevant to the proposed APA.

Notwithstanding the criteria and review process outlined in this code, the Board of County

Commissioners may place additional conditions on lands designated as an APA, including, but not limited to, setbacks from existing public rights of way, setbacks from existing public structures, and a review of the land's APA designation after twenty (20) years.

The Board of County Commissioners, the board of county commissioners shall hold a public hearing and issue its decision within 60 days. Board of County Commissioner's decision shall include findings and facts supporting its decision. Upon making its decision, the Board of County Commissioners shall:

a) Record the designation of an APA, a legal description of the area, and any findings and facts with the county recorder within ten (10) days;

b) Amend County land use planning maps to reflect the boundaries of the APA; and

c) Notify relevant public officials and agencies of the designation.

Section 6: Expansion or Modification of an APA: An expansion, modification, or removal of an existing APA shall follow the same application, review, and hearing procedures outlined in this code. Any expansion of an APA shall be contiguous to the APA.

Section 7: Termination of an APA: A landowner wishing to terminate an APA must request in writing a meeting with the board of county commissioners. The meeting request shall include a proof of hardship. Applications will be submitted to the Bear Lake County Planning and Zoning Department. Early termination of the APA shall only occur upon the proving by the land owner of an undue hardship as defined in this code. The landowner seeking to terminate an APA bears the burden of proof in demonstrating the hardship. Early termination of an APA is not taken lightly, and will be carefully considered.

Section 8: Enrollment Duration and Review: Lands designated as an APA will remain so designated for a period of twenty (20) years. A landowner wishing to end an approved APA designation after twenty (20) years must notify the board of county commissioners in writing of their desire not to renew the land's APA designation. Failure of the landowner to notify the county, or failure of the county to review the APA terms, will result in the APA designation continuing for another twenty (20) years.

Section 9: Fees: An application fee shall be required to cover administrative costs, including, but not limited to, reviewing materials, conducting public meetings and hearings, processing and

recording documents, and updating county land use maps. The fees shall be set and amended form time to time by resolution.

Section 10: Enforcement, Prohibitions, and Penalties: Unless otherwise approved by the Board of County Commissioners, the following land uses are not allowed within an APA:

a) The siting of large confined animal feeding operations (CAFO);

b) The siting of residential, commercial, manufacturing, industrial, solar energy, wind energy, or battery storage structures; or

c) Any other nonagricultural land uses.

The Board of County Commissioners or acting code enforcement officer shall be responsible for enforcing the provisions of this ordinance. Any person found to be in violation of this code shall be guilty of a misdemeanor and punishable as provided in Section 18-113, Idaho Code.

Section 11: Severability: If any section, subsection, sentence, clause, or phrase of this title is held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this title and they shall remain in full force and effect.

Section 12: Effective Date: This ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

PASSED and APPROVED by the Bear Lake County Board of County Commissioners on this 27 day of May 2025

REX PAYNE, Chair

AUDITOR AND RECORDER BEAR LAKE COUNTY STATE OF IDAHO

ATTEST:

AMY BISHOP, County Clerk