

**DRAFT AREA OF IMPACT AGREEMENT  
CITY OF DONNELLY**

Draft date: February, 2008  
Revised: May 6, 2008  
Revised by Donnelly P&Z, June 2, 2008  
Revised by Donnelly P&Z May 4, 2009  
Revised by Donnelly P&Z June 1, 2009  
Revised by Donnelly P&Z July 22, 2009  
Revised by Donnelly P&Z August 10, 2009  
Revised by Donnelly P&Z December 7, 2009  
Revised by Donnelly P&Z January 11, 2010  
Revised by Donnelly P&Z February 1, 2010  
Revised by Donnelly P&Z March 1, 2010  
Revised by Donnelly P&Z August 2, 2010  
Revised by City Council October 12, 2011  
Revised by City Council November 21, 2011  
Revised by Donnelly P&Z January 9, 2012

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**SECTION 1.- PURPOSE AND INTENT:**

The purpose for establishing this Area of City Impact is to identify a logical urban fringe area adjoining the City of Donnelly, Idaho. The urban fringe area is experiencing growth and development pressures that must be managed in order to provide for planned, orderly, and efficient growth. The governing bodies of the City of Donnelly and Valley County recognize the importance of planning for future growth in the Area of City Impact, and desire to enter into this AGREEMENT in order to do so jointly and as partners. This AGREEMENT recognizes the actual and potential delivery of most public services as being associated with the City of Donnelly, and therefore, the Area of City Impact is comprised of areas that may reasonably be annexed in the City in the near or distant future. Furthermore, it is the intent of this Agreement to:

- Set forth a formal mechanism for joint planning and growth management.
- To consider the interests of both the City of Donnelly and Valley County in planning and land use decision making.
- To engage, involve, and consider the interests of those most impacted by land use decisions, regardless of the jurisdiction in which they may reside.

**SECTION 2.- GEOGRAPHIC AREA OF CITY IMPACT**

The officially adopted and agreed upon "Area of City Impact for Donnelly, Idaho" is established by Donnelly Ordinance No. XXX, and by Valley County Ordinance No. ZZ, and is set forth herein on the map titled City of Donnelly Impact Area, [currently Figure 9 in 2011 Draft City of Donnelly Comp Plan.] The Donnelly Impact Area is defined as that unincorporated land mass which lies contiguous to the City of Donnelly, Idaho, having as its closest boundary to the City, the limits of said City, as they now exist or as they may be altered by future annexation of land to the City of Donnelly, and having as its outmost boundary an imaginary line positioned and described in Exhibit "A", which exhibit is incorporated into this agreement by reference.

Deleted: dated January 28, 2010 [and hand edited after the 3/1/10 Donnelly P&Z meeting and public workshop to decrease the Eastern proposed AOI boundary back to Farm to Market Road.]

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**SECTION 3.- CHANGES IN AREA OF IMPACT OUTERMOST BOUNDARIES:**

In the event the City of Donnelly or the County of Valley desires to alter the outermost boundaries of the City Impact Area, or to change the jurisdiction over said areas, it shall do so by renegotiation in accordance with the Idaho Code and Section 14 of this ordinance.

**SECTION 4.- JURISDICTION AND DEVELOPMENT REVIEW:**

For all permit applications within the City of Donnelly corporate limits, including projects that propose annexation by the City of Donnelly, the Donnelly Planning and Zoning Commission shall conduct the required hearings and make a recommendation to the Donnelly City Council, who shall have final authority. The Donnelly Planning and Zoning Commission shall consist of five (5) members and comprised as follows:

- Two members who reside within the City of Donnelly, which are appointed by the Donnelly City Council.
- Two members who reside within the AOI, one of which is appointed by the Donnelly City Council and the other by the Valley County Board of Commissioners (VCBC).
- One member who may reside either within the city limits or in the AOI which is appointed by the Donnelly City Council.

All permit applications within the AOI for projects that require a public hearing and discretionary review shall be submitted to the City of Donnelly. The Donnelly Planning & Zoning Commission shall hold required public hearings and make a recommendation to the VCBC, who shall have final authority. . The VCBC may, at its discretion, ratify the findings and recommendation of the Planning and Zoning Commission, modify the findings and recommendation, impose additional conditions, delete conditions, or offer entirely new findings in rendering their final decision on the application. Such projects include:

- Conditional Use Permits
- Planned Unit Developments
- Variances
- Zone Changes
- Subdivisions where variances and/or deviations from standards are proposed

Applications for subdivisions within the AOI that conform to adopted zoning and do not propose variances and/or deviations from standards shall be submitted to Valley County. The Valley County Planning & Zoning Commission shall conduct the required public hearings, and make a recommendation to the VCBC who shall have final authority. A copy of the complete permit application and copies of all review materials generated by Valley County shall be provided to the City of Donnelly Planning & Zoning Commission at least 15 days prior to any public hearing conducted by Valley County.

For zoning variances and administrative appeals, applications shall be filed with the Valley County Planning Department and heard and decided by the Valley County P&Z. (BH Note: This is the procedure currently spelled out in the City of Donnelly zoning code, and I think it probably needs to stay this way in order to be consistent with *Blaha v. Ada County*.)

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**Deleted:** All matters within the Donnelly Area of Impact concerning zoning and subdivisions shall be under the auspices of the City of Donnelly Planning and Zoning Commission.

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**Deleted:** Of the five city appointees, one shall reside within the City of Donnelly. The remaining four members **may** reside within the Impact Area with a minimum of 2 members being in the Impact Area. **One member of Impact Area Planning and Zoning Commission Board members shall be appointed by the Valley County Board of Commissioners.**

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**SECTION 5.- COMPREHENSIVE PLAN:**

The Comprehensive Plan and subsequent amendments thereto as officially adopted by the City of Donnelly shall apply within the Donnelly corporate limits. The Comprehensive Plan shall also encompass the Donnelly Impact Area, and shall, therefore, also be adopted by the Valley County Board of Commissioners for applicability to the Impact Area. The Comprehensive Plan and subsequent amendments thereto shall be formulated and adopted by the Donnelly Planning and Zoning Commission as set forth in Title 67, Chapter 65, Idaho Code.

**Deleted:** Permit applications within the Donnelly Impact Area shall be submitted to the City of Donnelly, who shall take the lead in project review and processing. The City of Donnelly shall retain professional staff for this purpose. The Donnelly Planning and Zoning Commission and the Valley County Board of Commissioners (VCBC) shall conduct the required hearings. A copy of the completed application will be on file with the VCBC. The VCBC may, at its discretion, ratify the findings and recommendation of the Planning and Zoning Commission, modify the findings and recommendation, impose additional conditions, delete conditions, or offer entirely new findings in rendering their final decision on the application.

**SECTION 6.- ZONING:**

Zoning ordinances and subsequent amendments thereto, as officially adopted by the City of Donnelly, shall also be adopted by the Valley County Board of Commissioners, and therefore, shall apply within the City of Donnelly Impact Area. All zoning administration and enforcement within the Impact Area shall be carried out by the City of Donnelly, who shall retain professional staff for this purpose. All zoning permits, including but not necessarily limited to, zone changes, conditional use permits, and planned unit developments, in addition to variances and administrative appeals, shall be reviewed and decisions rendered in accordance with the procedure set forth in Section 4 of this AGREEMENT.

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**SECTION 7.- SUBDIVISION:**

Subdivision regulations and subsequent amendments thereto, as officially adopted by the City of Donnelly, shall also be adopted by the Valley County Board of Commissioners, and therefore, shall apply within the City of Donnelly Impact Area. All administration and enforcement within the Donnelly Impact Area shall be carried out by the City of Donnelly, who shall retain professional services for that purpose. All subdivision permits, including but not necessarily limited to, preliminary and final plats and waivers, shall be reviewed and decisions rendered in accordance with the procedure set forth in Section 4 of this AGREEMENT. Applicants who hold approved preliminary plats or portions of approved preliminary plats for which a final plat has not yet been approved, and said preliminary plats are nearing expiration, the applicant shall follow the procedure set forth in Section 4 of this AGREEMENT for an extension of the preliminary plat. Likewise, any amendment to an existing approved preliminary plat shall follow the process set forth in Section 4.

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**SECTION 8.- ANNEXATION:**

Petitions for annexation to the City of Donnelly shall be submitted and reviewed according to Sec. 50-222, Idaho Statutes, and applicable ordinances and procedures of the City of Donnelly. All petitioned annexations shall be subject to applicable City of Donnelly annexation fees.

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**SECTION 9.- PUBLIC IMPROVEMENT STANDARDS:**

All public improvements within the City of Donnelly Impact Area shall be designed and constructed according to the standards adopted by the City of Donnelly. The Valley County Board of Commissioners shall adopt the City Donnelly standards for applicability within the Donnelly Impact Area. All administration, inspection, bonding, and acceptance of City of Donnelly owned improvements shall be carried out by the City of Donnelly. Inspection, bonding,

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and acceptance of streets and any other public improvements to be owned by Valley County may also be carried out by the City of Donnelly subject to separate agreements with Valley County.

**SECTION 10.- BUILDING CODES AND PERMIT REQUIREMENTS:**

Within the City of Donnelly Impact Area, building codes and building permit requirements as officially adopted by the Valley County Board of Commissioners shall apply. All building code administration and enforcement shall be conducted by Valley County.

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**SECTION 11.- FLOODPLAIN ORDINANCE:**

The Floodplain Ordinance for Valley County shall apply within the City of Donnelly Impact Area and shall be administered by a certified Floodplain Manager retained by the City of Donnelly.

**SECTION 12.- PUBLIC STREET MAINTENANCE:**

Maintenance of public streets within the City of Donnelly Impact Area shall be the responsibility of Valley County, unless otherwise stipulated by written agreement between the Valley County and City of Donnelly.

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**SECTION 13.- LAW ENFORCEMENT AND FIRE SERVICES:**

Law enforcement and fire suppression and prevention services shall be the responsibility of Valley County and the Donnelly Rural Fire District.

**SECTION 14.- RENEGOTIATION:**

The City of Donnelly Impact Area Agreement shall be reviewed by the City of Donnelly and Valley County periodically as set forth in the Idaho Code. In accordance with Idaho Code, the Donnelly City Council or the Valley County Board of Commissioners may request, in writing, to renegotiate any provision of this ordinance at any time. Within forty-five (45) days of receipt of such written request by either party, a meeting between the two parties shall occur.

While renegotiation is occurring, all provisions of this Ordinance shall remain in effect until this Ordinance is amended or a substitute ordinance is adopted by the City of Donnelly and Valley County, in accordance with the notice and hearing procedures set forth in Title 67, Chapter 65, Idaho Code, or until a declaratory judgment from the District Court is final. Provided, however, that this Ordinance or stipulated portions thereof, shall be of no further force and effect if both jurisdictions so agree by mutually adopted resolution.

**SECTION 15.- AMENDMENTS:**

This Ordinance shall not be amended, supplanted or repealed except pursuant to Section 14 above, which requires the renegotiation of the terms of this Ordinance with Valley County, pursuant to the Idaho Code.

**SECTION 16.- SEVERABILITY:**

Should any Section, clause, or provision of this Ordinance be declared by the courts to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

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**SECTION 17.- ENFORCEMENT:**

The provisions of this Ordinance may be enforced by either the City of Donnelly or Valley County by virtue of legal action initiated to require specific performance with the terms of this Ordinance.

**SECTION 18.- EFFECTIVE DATE:**

This ordinance shall be effective upon its passage and publication according to law.

**SECTION 19.- CONFLICT WITH OTHER ORDINANCES:**

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 such action to be taken upon matters pending before the Donnelly City Council or Donnelly Planning and Zoning on the effective date of this Ordinance. All Ordinances and part of Ordinances in conflict with the terms of this Ordinance are hereby repealed to the extent of such conflict.

**SECTION 20.- SUMMARY:**

A summary of this Ordinance shall be published on one (1) issue of the Donnelly (official newspaper), a newspaper of general circulation published in Valley County, Idaho, and the official newspaper thereof.

This Ordinance passed upon motion made and unanimously passed to suspend the rules and approve.....

APPROVED by the Mayor and City Council of the City of Donnelly, on this \_\_\_\_ day of ~~April~~, 2012.

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