

## 7.1 EXECUTIVE SUMMARY

Private property rights encompass not only the right to invest, own, farm, develop, and achieve profit from property, but also the right to hold and enjoy property. As the population is anticipated to increase in the coming decade, a greater number of people living nearer to each other will expand on the potential for land use conflicts. Property rights must balance the individual's desire to "do whatever I want with my land" with a respect for the property rights of neighboring owners, and the community overall.

To prevent property use conflicts, haphazard development of land, or potentially harmful development by adjacent landowners or residents, land use is restricted by public and private land use policies.

Land use policies, restrictions, conditions and fees should not violate private property rights, adversely impact property values or create unnecessary technical limitations on the use of property (as prescribed under the declarations of purpose in Idaho Code §80-67, and its subsequent amendments).



## 7.2 Background

Both the United States and State of Idaho Constitutions establish that property shall not be taken without just compensation as prescribed by law. The Local Land Use Planning Act (Idaho Code §67-6508) requires that the Comprehensive Plan direct the public on where to obtain an analysis of provisions which may be necessary to insure that land use actions through development regulations do not violate constitutional protections. Those steps are as outlined below:

- A review process for evaluating whether proposed land use action results in a taking of private property is outlined in the Idaho Regulatory Takings Act (Idaho Code §67-8001-8003).
- Idaho Code §67-8003 outlines a process whereby a private property owner can request a regulatory taking analysis based on a checklist developed by the Attorney General.

While the enactment of zoning, subdivision and other land use ordinances and regulations inherently impose limitations on the use of property, it also bestows benefits, primarily the protection of health, safety and welfare. In almost every land use decision, the City faces the task of balancing the rights of private property with the needs, desires and protection of the community as a whole.

## 7.3 GOAL 1

**All land use decisions made by the City of Mountain Home shall protect fundamental private property rights.**

- A. Property rights of land owners shall be protected from arbitrary and discriminatory actions.
- B. Private property shall not be taken for public use without just compensation.
- C. Ensure that City actions do not result in physical invasion or occupation of private property.
- D. Ensure that a code, ordinance, restriction or any other sort of regulation imposed upon private property has a reasonable and likely relationship to the impact that is intended to be mitigated.
- E. Ensure that City actions do not effectively eliminate all reasonable use of private property.
- F. Ensure consistency in application and enforcement of City ordinances.
- G. When imposing site specific conditions, make specific findings on the impacts, and the relationship between the impact and the conditions.
- H. In reviewing regulatory actions and as requested by a property owner, follow the guidelines of the Attorney General in evaluating the potential for a taking of private property.
- I. Craft and adopt land use development regulations that protect the health, safety and welfare of the community, and avoid any unnecessary conditions, delays and costs.
- J. Take steps to ensure the protection and preservation of private property rights is a strong consideration in the development of land use policies, implementation standards and regulations as required by law.
- K. Review current policies to ensure they include a method to notice all applicants of their right to request a regulatory taking analysis pursuant to Idaho Code §67-8003.

