

ORDINANCE NO. 70  
Subdivision Regulations for Idaho County  
Effective May 27, 2020

An ordinance providing updated definitions, rules and regulations for a parcel division review process, the approval of plats, subdivisions, dedications and vacations of public right of way and easements; prescribing standards for the design, layout, and development thereof, requiring improvements; providing procedure for the approval or disapproval thereof; providing for the granting of variances and exceptions thereto; providing for revised penalties for the violation thereof, providing for appeal, and providing for revised fees.

Be it ordained by the Board of County Commissioners of Idaho County:

**ARTICLE 1: GENERAL PROVISIONS**

**Section A: Title**

These regulations shall be known and cited as the Idaho County Subdivision Regulations, hereinafter referred to as the "Subdivision Ordinance".

**Section B: Authority**

These regulations are authorized by Title 50 Chapter 13, Title 67 Chapter 65, and Title 31 Chapters 6, 7 and 8 of the Idaho Code, as amended or subsequently codified.

**Section C: Purpose**

The purposes of these regulations are to promote the public health, safety, general welfare, and to provide for:

1. The orderly development of the County consistent with applicable policies and plans adopted by the Board.
2. To achieve well laid-out streets and building sites in accordance with proposed uses and adapted to the terrain and natural setting.
3. To conserve the natural beauty of the County.
4. To provide safe access, adequate drainage and utilities for the proposed sites.
5. The avoidance of scattered subdivision of land as would involve danger of injury to health, safety, or general welfare by reason of the lack of water supply, drainage, transportation, or other public services or the unnecessary imposition of an excessive expenditure of public funds for the supply of such services.
6. The requirements as to the extent and manner in which roads shall be created and improved; water, sewer and other utility mains shall be installed as condition precedent to the approval of a plat.
7. The manner and form of making and filing of any plat.
8. The administration of these regulations by defining the powers and duties of approval authorities including procedures for the equitable review and approval of all plats of subdivisions covered by these provisions.

**Section D: Jurisdiction**

These regulations shall apply to the subdividing of all land within the unincorporated territory of Idaho

County, Idaho, except within any Area of City impact for which the County has adopted regulations for subdivisions within the Area of City impact by separate ordinance pursuant to Title 67, Chapter 65 of the Idaho Code.

#### **Section E: Interpretation**

Any subdivision as herein defined shall be submitted for approval of the Board and shall comply with the provisions of these regulations. These regulations shall supplement all other regulations, and where at variance with other laws, regulations, ordinance, or resolutions, the more restrictive requirements shall apply. It is not intended by this Ordinance to repeal, abrogate, annul or in any way impart or interfere with existing provisions of other laws, ordinances, or regulations, or with private restrictions placed upon property by deed, covenant or other private agreements, or with restrictive covenants running with the land to which the County is a party.

#### **Section F: Administration**

The County Clerk shall receive and process all subdivision applications.

#### **Section G: Severability**

Where any word, phrase, clause, sentence, paragraph or section, or other parts of these regulations are held invalid by a court of competent jurisdiction, such judgment shall affect only that part so held invalid.

### **ARTICLE II**

#### **Section A: Interpretation of Terms or Words**

For the purpose of these regulations, certain terms, or words used herein shall be interpreted as follows:

1. The present tense includes the past or future tense, the singular includes the plural, and the plural includes the singular.
2. The word "shall" is mandatory; "may" is permissive; and the word "should" is preferred; and
3. The masculine shall include the feminine.

#### **Section B: Meaning of Terms or Words**

1. **Area of City Impact (AOI):** A geographical area where a city is expected to grow into and annex at some future time. Idaho Code requires all cities to define an AOI with their respective counties. Besides defining the geographic area for future growth, the AOI also includes an agreement between a city and county about which plans, policies and development standards will apply in the area. All proposed Areas of City Impact must be approved by the Idaho County Board of Commissioners.
2. **Block:** A group of lots, tracts or parcels within well-defined boundaries, usually streets.
3. **Board:** The Idaho County Board of County Commissioners
4. **Building:** A structure designed or used as the living quarters for one or more families, OR the structure designed or used for occupancy by people for commercial, industrial or agricultural uses.
5. **Building Setback Line:** An imaginary line established by subdivision regulations requiring all buildings to be set back a certain distance from lot lines and street rights of way. Subdivision setback lines must meet Idaho Local Highway Technical Assistance Council (LHTAC) standards.

6. **Building Site:** An area proposed or provided and improved by grading, filling, excavation or other means for erecting pads for buildings.
7. **Cemetery:** A lot or subdivision that has been planned for the selling of sites for the burial of animal or human remains.
8. **City:** The incorporated municipality having jurisdiction of the parcel of land under consideration.
9. **County Surveyor:** The registered surveyor appointed by the Board to check plats and make surveys, maps, and plats as ordered by the Board.
10. **Commission:** The Planning and Zoning Commission of Idaho County, being the Idaho County Board of Commissioners, having jurisdiction over the parcel of land under consideration.
11. **County Clerk:** The office of the County Clerk.
12. **Covenant:** A written promise or pledge.
13. **Culvert:** A drain that channels water under a bridge, street, road, or driveway.
14. **Dedication:** The setting apart of land or interest in land for use by the public. Land becomes dedicated when accepted by the County as a public dedication, either by ordinance, resolution, or entry in the official minutes, or by the recording of a plat showing such dedication.
15. **Developer:** Authorized agent(s) of a subdivider or the subdivider himself.
16. **Division(s):** See definition of Splits.
17. **Dwelling Unit (Prefab):** A building or other structure proposed or built for occupancy by people that is designed for initial transportation on streets and highways which arrives at a site where it is installed on a permanent foundation.
18. **Easement:** A grant by a property owner to specific persons or to the public to use and for specific purposes.
19. **Engineer:** Any person who is licensed in Idaho to practice professional engineering.
20. **Flood Plain:** The relatively flat area or low land adjoining the channel of a river, stream, or water course, lake or other body of standing water, which has been or may be covered by water of a flood of one-hundred-year frequency. The flood plain includes the channel, floodway, and floodway fringe.
  - a. "Flood on one-hundred-year frequency" shall mean a flood magnitude which has a one percent (1%) chance of being equaled or exceeded in any given year.
  - b. "Flood" shall mean the temporary inundation of land adjacent to and inundated by overflow from a river, stream, lake or other body of standing water.
  - c. "Channel" shall mean a natural or artificial watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water.
  - d. "Floodway" shall mean the channel of a watercourse and those portions of the flood plain adjoining the channels which are reasonably required to carry and discharge the flood water of any watercourse.
  - e. "Designated floodway" shall mean a floodway whose limits have been designated floodway.
  - f. "Floodway-encroachment lines" shall mean the lines limiting a designated floodway.
  - g. "Floodway fringe" shall mean that part of the flood plain which is beyond the floodway-encroachment lines limiting a designated floodway. Such areas will include those portions of the flood plain which will be inundated by a flood plain of one-hundred-year frequency, but which may be developed for use under land use regulations without material effect upon the flood water carrying capacity of the flood way and the flood water levels. Such areas are characterized by shallow flood depths and low velocities of water flow.

- 21. Governing Body:** The County Commissioners, Idaho County, Idaho.
- 22. Highway:** The entire width between the boundary lines of every way publicly maintained when any part is open to the use of the public for vehicular travel, with jurisdiction extending to the adjacent property line, including sidewalks, shoulders, berms and public rights-of-way not intended for motorized traffic. The terms "street" or "road" are interchangeable with highway.
- 23. Improvement:** Any alteration to the land or other physical construction associated with subdivision and building site developments.
- 24. Large Scale Development:** A subdivision that has twenty (20) or more lots or dwelling units. It must be declared to the County if there are plans or possibilities for a phased development which results in twenty (20) or more lots by the final phase. If this is the case, and the phases also utilize the same infrastructure, e.g. roads, water, sewer, utility lines, then the subdivision will be treated from the beginning as a Large Scale Development. The Board of Commissioners will make the final determination whether or not a proposal qualifies as a Large Scale Development or not. The determination will be made at the end of the Application for Subdivision.
- 25. Local Health Agency:** North Central Public Health District.
- 26. Lot:** A parcel of land.
- 27. Lot Area:** The area of any lot shall be determined exclusive of a dedicated street, highway, public road, or railroad right-of-way.
- 28. Lot Types:** As used in these regulations, lot types are as follows:
- a. **Corner Lot** is a lot located at the intersection of two or more streets.
  - b. **Interior Lot** is a lot other than a corner lot, with frontage on only one street.
  - c. **Through Lot** is a lot with frontage on more than one street, not a corner lot. Also known as a Double Frontage Lot.
  - d. **Reserved Lot** is a lot with frontage on a side street or other right-of-way other than interior or corner lots.
- 29. Manufactured Home:** A single family dwelling designed for transportation after fabrication on streets and highways on its own wheels, or on a flatbed or other trailer, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor incidental unpacking and assembling operations, location on jacks or other temporary or permanent foundations, connections to utilities, and the like. A prefab dwelling unit or travel trailer is not to be considered as a manufactured home.
- 30. Manufactured Home Subdivision:** A subdivision designed and intended for residential use where residence is in manufactured homes exclusively.
- 31. Monument:** Any permanent marker either of concrete, galvanized iron pipe, or iron or steel rods, used to permanently establish any tract, parcel, lot or street lines, as specified in Section 50-1303, Idaho Code.
- 32. Open Space:** An area open to the sky for outdoor recreation activity. Streets, building, or other covered structures are not included in computing these areas.
- 33. Original Parcel of Land:** A lot as recorded on any subdivision plat or conveyance on file in the office of the Idaho County Recorder, and of record as of May 3, 1983, or:
- a. Any 1/16 of a Section (sectional  $\frac{1}{4}$   $\frac{1}{4}$ );
  - b. Any Government Lot;
  - c. Any Patented Mining Claim or Mineral Survey within a Group Lode Claim;

- d. Any Homestead Entry Survey or any forty (40) acre parcel within a Homestead Entry Survey. In the event there is a remaining parcel of less than forty (40) acres, that parcel will not be considered an original parcel.

**This Ordinance shall not apply to any lot or lots forming a part of any subdivision created or conveyance of real property made and recorded prior to May 3, 1983 unless a split of any such lot or lots already created is/are sought after May 2, 1983.**

- 34. **Owner:** The person or persons, firm, association, syndicate, partnership, corporation, or any other entity capable of holding title under Idaho Statute, having proprietary interest in the land to be subdivided by either holding title by a deed or as vendees under a land contract.
- 35. **Parcel Division:** A recorded conveyance of a portion of a lot.
- 36. **Planned Unit Development:** A use or a combination of residential, commercial, industrial and recreational uses planned for a tract of land to be developed as a unit under single ownership or control, which is developed for the purpose of selling or renting individual lots or estates, whether fronting on private or dedicated streets.
- 37. **Plat:** The drawing, mapping or planning of a subdivision, cemetery, townsite or other tract of land or a re-platting of such including certifications, descriptions and approvals;
  - a. **Preliminary Plat:** The first formal presentation by maps or drawings of a proposed subdivision.
  - b. **Final Plat:** The final and formal presentation by a map drawn as herein set forth of an approved subdivision development, the original and one copy of which is filed with the County Clerk and Recorder.
- 38. **Reserve Strip:** A strip of land between a dedicated street or partial street and adjacent property, in either case, reserved or held in public ownership for future street extension or widening.
- 39. **Right-of-way:** A strip of land dedicated or reserved for use as a public way which may include streets, sidewalks and other public utilities or service areas.
- 40. **Roadway:** That portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of sidewalks, shoulders, berms, and other portions of the public right-of-way.
  - a. **Street:** A right-of-way which provides access to adjacent properties, the dedication of which has been officially accepted. The term "street" also includes the terms highway, thoroughfare, parkway, road, avenue, boulevard, lane, place, and other such terms.
  - b. **Alley:** A public way of limited use intended to provide access to the rear or side of lots or buildings in urban districts.
  - c. **Arterial:** A general term including expressways, major and minor arterial streets and interstate, state or county highways having regional continuity.
  - d. **Collector:** A street or highway that provides for traffic movement within neighborhoods of the Local Highway Jurisdiction and between major streets and local streets and for direct access to abutting property.
  - e. **Commercial:** A street designated for the purpose of providing traffic movement in a commercial area.
  - f. **Culdesac:** A road or street having one end permanently terminated in a vehicular turnaround.
  - g. **Dead End:** A street connecting to another street at one end only and not having provision for vehicular turnaround at its terminus.

- h. **Frontage:** A minor street, parallel to and adjacent to an arterial street, which has the primary purpose of providing access to abutting properties.
  - i. **Half Street:** A portion of the width of a street, usually along the edge of a subdivision where the remaining portion of the street could be provided in an adjoining subdivision.
  - j. **Highway:** A street designated as a State or Federal Highway by the state or federal agency responsible therefore.
  - k. **Industrial:** A street designated for the purpose of providing traffic movement in an industrial area.
  - l. **Loop:** A minor street with both terminal points on the same street of origin.
  - m. **Minor Street:** A street which has the primary purpose of providing access to abutting properties.
  - n. **Partial Street:** A dedicated right-of-way providing only a portion of the required street width, usually along the edge of a subdivision or tract of land.
  - o. **Private Street:** A street which provides vehicular and pedestrian access to one or more properties, however not accepted for public dedication or maintenance.
  - p. **Side Street:** A secondary street that provides access to a corner lot of which the principal building is not oriented toward.
41. **Sidewalk:** That portion of the street right-of-way outside the street pavement which is improved for pedestrian use (also known as Walkway).
42. **Split:** The creation of two or more parcels from an existing parcel.
43. **State:** State of Idaho.
44. **State Health Agency:** The State of Idaho, Department of Health & Welfare, Division of Environmental Quality.
45. **Subdivider:** A subdivider shall be deemed to be the individual, firm, corporation, partnership, association, syndicate, trust, or other legal entity that executes the application and initiates proceedings for the subdivision of land in accordance with the provisions of this Ordinance; or who subdivides land without going through the application process. The subdivider need not be the owner of the property; however, he shall be an agent of the owner or have sufficient proprietary rights in the property to represent the owner.
46. **Subdivision:** Effective May 3, 1983, the division of any original parcel of land into five (5) or more parts for the purpose of transfer of ownership or development or the division of any original parcel of land of five (5) acres or less in which any parcel is less than one acre. However, this ordinance shall not apply to any of the following:
- a. The exchange of land for the purpose of adjusting property boundaries between two existing lots.
  - b. An allocation of land in the settlement of an estate of a decedent or a court decree for the distribution of property.
  - c. The unwilling sale of land as a result of legal condemnation as defined and allowed in the Idaho Code.
  - d. Widening of existing street.
  - e. The acquisition of collector and arterial street rights-of-way by a public agency.

### **ARTICLE III: PROCEDURE FOR PROPERTY DIVISION APPROVAL**

#### **Section A: Parcel Division Review Procedure for Parcels Outside Recorded Subdivisions**

As of the date of this ordinance, any property owner desiring to divide a parcel of land not in a recorded

subdivision may voluntarily submit an APPLICATION FOR PARCEL DIVISION REVIEW to the Idaho County Assessor's Deed Processor, along with a \$25.00 application fee. The application initiates a review of the number of divisions within the original parcel of land after May 3, 1983. If the review determines that a violation would NOT occur from another parcel division, a PARCEL DIVISION APPROVAL will be recorded and sent to the subdivider. The PARCEL DIVISION APPROVAL is only valid for the current property owner at the time it is issued. If the review determines that the original parcel of land has had four (4) or more divisions since May 3, 1983, a PARCEL DIVISION DENIAL will be recorded and sent to the applicant. If an applicant still desires to divide a parcel of land after receiving a PARCEL DIVISION DENIAL, he must either obtain a Variance from the Board pursuant to Article VIII of this ordinance or record a Subdivision Plat that has been approved by the Board pursuant to Article IV of this ordinance. Parcel divisions excepted from this ordinance are parcels within incorporated City Limit boundaries.

#### **Section B: Parcels Within an Officially Recorded Platted Subdivision**

As of the date of this ordinance, whenever a property owner proposes to re-subdivide, replat, or amend the plat of an approved preliminary or final plat or a recorded subdivision, the developer shall file a new application for a subdivision and such application shall be processed in the manner set forth in the procedure for subdivision approval or apply for a variance.

### **ARTICLE IV: PROCEDURE FOR SUBDIVISION APPROVAL**

#### **Section A: Subdivision Required**

Any person desiring to create a subdivision as herein defined shall submit all necessary applications to the County Clerk. No final plat shall be filed with the County Clerk until the plat has been approved by the Board. **No lots shall be sold from any plat until it has been recorded in the office of the County Clerk.** This section shall not be used to prevent the recording of a drawing or map of parcels of land that are specifically excluded from the definition of "subdivision" as listed in Article II, Section B, Subsection 46 a. through e.

#### **Section B: Application Phase**

- 1. Application:** Any person interested in subdividing any parcel of land within Idaho County must fill out an Idaho County Application for Subdivision and submit a fee equal to \$100 per proposed lot in the subdivision. The subdivider will then be placed on the agenda of the Board at its next available regular meeting as approved by the Chairman. At that meeting the subdivider should provide a general outline of his plan to the Board, during which time there shall be a discussion about: the checklist for subdivision approval; any unique environmental or hazardous concerns that may be directly or indirectly associated with the subject property; any known special permits required; whether the subdivision is in an Area of City Impact or in a flood plain; whether it is a Large Scale Development (more than twenty (20) lots); whether it is a Manufactured Home Subdivision; whether any subsequent developments are planned; whether any variances are being sought, and what the fees and costs are expected to be.
- 2. Action:** Once the subdivider has made his intentions known to the Board as described above, the Board may grant or deny approval for proceeding. Approval is granted by a motion of the Board and is recorded in the minutes along with a signed Application for Subdivision. Once the subdivider has received approval for proceeding, he can file a preliminary plat.

#### **Section C: Preliminary Plat**

1. **Application:** Any subdivider must file with the County Clerk a preliminary plat and preliminary plat data as required by this ordinance in such form and content as is hereinafter required.
2. **Requirements for Preliminary Plats:**
  - a. **Technical Requirements for Preliminary Plats:** The following technical information shall be provided in the preliminary plat:
    1. The name of the proposed subdivision. The name shall not duplicate, or be deceptively similar to, an existing subdivision name.
    2. The names, addresses and telephone numbers of the subdivider or subdividers and the engineer or surveyor who prepared the plat.
    3. The legal description of the subdivision.
    4. A statement of the intended use of the proposed subdivision, such as, residential single family, two family and multiple housing, commercial, industrial, recreational, or agricultural, and a showing of any sites proposed for parks, playgrounds, schools, churches, or other public uses.
    5. A map of the entire area scheduled for development if the proposed subdivision is a portion of a larger holding intended for subsequent development.
    6. A vicinity map showing the relationship of the proposed plat to the surrounding area (1/2-mile minimum radius, scale optional).
    7. Streets, street names, rights-of-way and roadway widths, including adjoining streets or roadways.
    8. Lot lines, dimensions and numbers, and the total number of lots by blocks.
    9. Contours, shown at 5-foot intervals where land slope is greater than ten percent (10%) and at 2-foot intervals where land slope is 10% or less, with an established benchmark including location and elevation.
    10. A proposed method of sewage disposal and domestic water supply and any additional supporting data as may be required by the local and/or state health agencies.
    11. Any proposed or existing utilities, including, but not limited to, storm and sanitary sewers, irrigation laterals, ditches, drainages, bridges, culverts, water mains, fire hydrants, and their respective profiles or indicated alternative methods.
    12. A copy of any proposed restrictive covenants and/or deed restrictions or, if none, a statement that none are proposed.
    13. Any dedication to the public and/or easements, together with a statement of locations, dimensions, and purpose of such.
    14. Any additional required information for special developments as specified in Article VII of this ordinance.
    15. A statement as to whether or not a variance will be requested with respect to any provision of this ordinance describing the particular provision, the variance requested, and the reasons therefore.
    16. Engineering plans for streets, water, sewers, sidewalks and other required public improvements. Said plans shall be submitted and bear a stamp of a licensed professional engineer.
  - b. **Further Documentation to Accompany the Preliminary Plat:**
    1. Application for Subdivision/Land Development Review with the North Central Public Health District must be made and completed. The subdivider must provide the Board



with a copy of the letter from Public Health stating that the sanitary restrictions have been satisfied.

2. A letter from the public road jurisdiction (which may be the U.S. Forest Service in some cases) stating: a) approval of the subdivision roads; b) approval and grant of Approach Permits for any connections between subdivision roads and public roads, as well as, c) acknowledgement that subdivision roads do indeed connect to a public road with adequate easements.
3. Documentation/evidence of legal access to all lots within the subdivision.

**c. Method of Submission**

Two copies of the preliminary plat of the proposed subdivision along with further documentation, now in accordance with the requirements hereinabove stated, shall be given to the County Clerk; each copy of said plat shall be on good quality paper, shall have dimensions of not less than 18 inches by 27 inches, shall be drawn to scale of not less than 1 inch to 100 feet, shall show the drafting date, and shall indicate thereon by arrow the generally northerly direction of the land depicted.

**Section D: Review**

When the subdivider files a preliminary plat and further documentation in accordance with the provisions of this ordinance, the plat upon its filing with the County Clerk may be submitted to the County Surveyor and/or Engineer as determined by the Board, and subsequently given to the County Surveyor and/or Engineer within five (5) business days. The County Surveyor and/or Engineer shall make a recommendation to the Board concerning the technical appropriateness of the content of the plat and shall recommend how deficiencies or shortcomings of the preliminary plat might be overcome.

Once the Board has received the review of the preliminary plat by the County Surveyor and/or Engineer, or the Board has sufficiently reviewed the preliminary plat by themselves, then consideration of the preliminary plat by the Board can be placed on the agenda of the Board.

1. **Board Action:** The Board may approve, disapprove, or table the preliminary plat pending additional information or necessary modifications. The action and reason for such action shall be stated in writing by the Board to the subdivider, including any necessary modifications for approval.
2. **Additional Review If Necessary:** If necessary, modifications are required of the preliminary plat before approval, the subdivider must resubmit the preliminary plat with the changes completed. The resubmitted preliminary plat may again be submitted to the County Surveyor and/or Engineer for review and recommendation to the Board. Once the recommendation of the County Surveyor and/or Engineer is received by the Board, or the Board has sufficiently reviewed the preliminary plat by themselves, the consideration of the preliminary plat can once again be placed on the agenda of the Board, and the Board can take the same actions as stated above. The subdivider or property owner must pay the County clerk for the cost of the additional review by the County Surveyor and/or Engineer before the consideration of the resubmitted plat can be placed on the agenda, if indeed the cost of additional review(s) has exceeded the \$100 per proposed lot fee already collected in the application process.
3. **Approval of Preliminary Plat:** If the Board's conclusion is approval of the preliminary plat, the subdivider shall, at that time, proceed to comply with the balance of the requirements of this ordinance concerning final plats.

## Section E. Final Plat

1. **Application:** Once the preliminary plat has been approved by the Board, the subdivider shall cause the subdivision, or any part thereof, to be surveyed and a formal plat prepared in accordance with the approved preliminary plat.
  - a. The subdivider shall submit to the County Clerk four (4) copies of the final plat and four (4) copies of the final engineering construction drawings, for example, streets, water, sewers, sidewalks, and other public improvements.
  - b. The content of any final plat shall include all of the technical details set forth for preliminary plats earlier referred to in Article IV, Section C, Subsection 2(a), excepting Subsection 10 of the Technical Requirements—Contours, and shall, in addition, be in complete compliance with all of the items required under Title 50, Chapter 13 of the Idaho Code, and shall be drawn at such a scale and contain lettering of such size as to enable the same to be placed on one or more sheets of 18" x 27" drawing paper with no part of the drawing nearer to the edge than one inch (1"). The reverse of said sheet shall not be used for any portion of the drawing, written matter as to dedications, certifications of various county officers or other similar information. Language and certifications on the final plat shall contain, at a minimum, that language and those sections set forth in Appendix A.
  - c. The final plat submittal shall also include the following:
    1. A written request for approval of the final plat submitted from the owner and developer that includes a) a request for approval, b) a statement of conformance to all requirements and provisions of the subdivision ordinance, excepting any variances granted, c) a statement that any plat requirements that were deemed necessary by the Board have been satisfied and met in all respects, d) a statement of conformance with the recommendations of the County Surveyor and/or Engineer, if a County Surveyor and/or Engineer was employed by the County for review, e) acknowledgment and assurance that construction will be done according to the engineering and survey plans submitted to the Board, f) statement that the owner, developer and developer's engineer assume liability for quality control and quality assurance.
    2. A written statement from the developer's engineer to the Board which states that: a) all aspects of the plat that were engineered were done so according to acceptable engineering practices and standards and b) the engineer assumes liability for quality control and quality assurance.
    3. A certification by the owner that they hold fee title to all the property within the boundaries of the subdivision.
    4. A certification by the Idaho County Recorder that the plat is technically correct for recording purposes.
    5. A certification by the Idaho County Assessor that the proposed lots and other graphic subdivisions within the plat are technically correct for ad valorem taxation purposes.
    6. A certification by the County Surveyor that all technical requirements of this ordinance and the technical requirements of Title 50, Chapter 13, Idaho Code, have been met.

7. A certification by the Idaho County Treasurer that all ad valorem property taxes concerning the property described within the plat have been paid.
8. A certification of the public road jurisdiction approving the final plat concerning all roadways and approach permits involved and acknowledging that the subdivision's roadways connect to a public roadway, with adequate easements. The public road jurisdiction further certifies the dedication of the roadway, whether public or private, and where the responsibility of maintenance lies.
9. A certification that sanitary restrictions have been met.

## **2. Final Approval**

Upon the receipt of the required numbers of copies of the final plat and the required numbers of copies of the final engineering construction drawings as are hereunder required, and upon receipt of all other written certifications hereinabove set forth (some are contained on the plat itself, see Appendix A), the County Clerk shall place review the final plat on the agenda of the Board at the next available regularly scheduled meeting upon approval of the Chairman, and the Board, if it shall find that all certifications are proper and that the plat is in conformance with the terms of this ordinance, and the modifications of the preliminary plat earlier were satisfied and approved, approve the final plat. Otherwise, the Board will put in writing to the subdivider its reason for disapproving or tabling the final plat.

## **3. Method of Recording**

Upon the approval of the final plat by the Board, the subdivider shall submit the final plat to the County Clerk for recording.

- a. **Recording Period:** Final plat and covenants (if any) shall be filed with the County Recorder within ninety (90) days after written approval by the Board has been had, otherwise, such approval shall become null and void unless, prior to the said expiration date an extension of time is applied for and granted by the Board. This extension of time is applied for by a written letter to the Board. The letter must arrive to the county Clerk before the 90 days, referenced above, have passed. The letter must state the request, the reason for the need of an extension and the anticipated recording date. The maximum extension is one year from the date of the approval of the final plat.

# **ARTICLE V: DESIGN STANDARDS**

## **Section A: Minimum Design Standards Required**

All plats submitted pursuant to the provisions of this Ordinance and all subdivision improvements and facilities done, constructed or made in accordance with said provisions shall fully comply with the minimum design standards set forth hereinafter in this Article, provided, however, that any higher standards adopted by any Highway District, State Highway Department, or Health agency shall prevail over those set forth herein.

## **Section B: Dedication**

All streets may be dedicated to the public. Streets may be dedicated as private or to a homeowner's association. No matter the specific dedication, all streets must meet the standards put forth by the public road jurisdiction.

## **Section C: Street and Road Location**

Street and road location shall conform to the following:

1. **Street Location and Arrangements:** When a major street plan or comprehensive development plan has been adopted, subdivision streets shall conform to such plans.
2. **Local or Minor Streets:** Shall be so arranged as to discourage their use by through traffic.
3. **Street Continuation and Extension:** The arrangement of streets shall provide for the continuation of existing streets from adjoining areas into new subdivisions unless otherwise approved by the Board and the Highway District or Department having jurisdiction over such streets.
4. **Stub Streets:** Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall be such that said streets extend to the boundary line of the tract to make provisions for the future extension of said streets into adjacent areas. A reserve strip may be required and held in public ownership.
5. **Relation to Topography:** Streets shall be arranged in proper relation to topography so as to result in usable lots, safe streets and acceptable gradients.
6. **Alleys:** Alleys shall be provided in multiple dwelling or commercial subdivisions unless other provisions are made for service access and off-street loading and parking. Dead end alleys shall be prohibited in all cases.
7. **Culdesac Streets:** In any case where a proposed culdesac street exceeds nine hundred feet (900') in length, the Board may require, based upon safety considerations, that said culdesac street not exceed nine hundred feet (900'). Furthermore, any culdesac street shall have an adequate turn-around area at its terminating end, having a minimum radius of sixty feet (60') for right-of-way.
8. **Half Streets:** Half streets shall be prohibited except where unusual circumstances make such necessary to the reasonable development of a tract in conformance with this Ordinance and where satisfactory assurance for dedication of the remaining part of the street is provided. Whenever a tract to be subdivided borders on an existing half or partial street, the other part of the street shall be dedicated within such tracts.

#### **Section D: Road Specifications**

Road specifications must meet the standards of the public road jurisdiction. Approach permits must be obtained by the subdivider from the public road jurisdiction. The public road jurisdiction may require additional road work be done by the subdivider upon adjoining roads that are impacted by a Large Scale Development, e. g. requiring a left hand turn lane, if required for traffic safety and the reasonable maintenance of the road.

1. If the public road jurisdiction is the Idaho County Road and Bridge Department, the following road standards must be met:
  - a. Idaho Local Highway Technical Assistance Council ("LHTAC") standards **shall be used** in the design and construction, **except:**
    1. Plant mix pavement is not required by this Ordinance. Two inches (2") of top course of one inch (1") minus crushed rock material may be substituted for the plant mix pavement and this in addition to the four inches (4") of base material, where the owner, developer and engineer have assumed liability for quality control and assurance of the final product.

2. Gradation and compaction of sub-base or ballast may be modified where the owner, developer and engineer have assumed liability for quality control and assurance of the final product.
3. Compaction of subgrade may be modified where the owner, developer and engineer have assumed liability for quality control and assurance of the final product.

#### **Section E: Street Names**

The naming of streets shall conform to the following:

1. Street names shall not duplicate any existing street name, or be deceptively similar, within Idaho County, except where a new street is a continuation of an existing street.

#### **Section F: Intersection Specifications**

Intersection specifications must meet the standards put forth by the public road jurisdiction. If the public road jurisdiction is the Idaho County Road and Bridge Department, intersection specifications must meet LHTAC standards.

#### **Section G: Easements**

Unobstructed utility easements shall be provided according to state law and the serving utility. Total easement width shall be not less than twelve feet (12') where lots adjoin. Unobstructed drainage way easements shall be provided.

#### **Section H: Blocks**

Every block shall be so designed as to provide two (2) tiers of lots, except where lots back onto an arterial street, natural topographic feature, or subdivision boundary. Block lengths shall be three hundred feet (300') or greater.

#### **Section I: Lots**

1. **Minimum Lot Sizes:** The Board may approve minimum lot sizes for the area to be served as follows:
  - a. Public water and public sewage disposal service according to North Central Public Health District Standards.
  - b. Individual well and individual sub-surface sewage disposal service according to North Central Public Health District and Idaho Department of Water Resources standards.
2. **Zoning:** The lot width, depth and total area shall not be less than the requirements of any applicable zoning ordinance.
3. **Lot Lines:** Side lot lines should be within 30 degrees of perpendicular to straight streets and shall be within 30 degrees of radial to curved streets.
4. **Width Related to Length:** Narrow, deep lots should be avoided.
5. **Corner Lots:** Corner lots shall have sufficient extra width to permit appropriate building setback from both streets or orientation to both streets pursuant Idaho Local Highway Technical Assistance Council (LHTAC) standards.
6. **Uninhabitable Areas:** Land subject to flooding or which shall be otherwise deemed to be uninhabitable shall not be platted for residential purposes or for any other uses that may increase or create a danger to health, life or property or which may increase or create a flood

hazard. Such land within a subdivision shall be set aside for other uses such as parks or other open spaces.

7. **Lot Frontage:** All rectangular lots shall have at least twenty-five feet (25') of frontage upon a publicly dedicated street. Variances may be permitted for an approved planned development.
8. **Existing Lots:** If existing lots are included in a subdivision plat and owned by someone else other than the owner of the rest of the lots, the other owners shall sign the Ownership Certifications on the final plat.

## **ARTICLE VI: IMPROVEMENT STANDARDS**

### **Section A: Purpose**

It is the purpose of this Article to establish and define the public improvements which will be required to be constructed by the subdivider as conditions for final plat approval and also to outline the procedures and responsibilities of the subdivider and the various public officials and agencies concerned with the administrations, planning, design, construction, and financing of public facilities, and to further establish procedures for assuring compliance with these requirements.

### **Section B: Responsibility for Plans**

It shall be the responsibility of the subdivider of every proposed subdivision to have prepared by a registered engineer, a complete set of construction plans, including profiles cross section specifications, and other supporting data, for all required public streets, utilities and other facilities. All construction plans hereunder required shall be prepared in accordance with the public agency's standards or specifications.

### **Section C: Required Public Improvements**

Every subdivider shall be required to install the following public and other improvements in accordance with the conditions and specifications as follows:

1. **Monuments:** Monuments shall be set in accordance with Section 50-1303, Idaho Code. In addition, permanent monumentation shall be required on the centerline of all roads at the point of intersection, point of terminus, or the point of curvature on all curves.
2. **Streets and Alleys:** All streets and alleys shall be constructed in accordance with the standards put forth by the public road jurisdiction. In addition, all streets and alleys on an approved plat shall be under the jurisdictions of the particular public road jurisdiction that have the proposed subdivisions within its boundaries.
3. **Installation of Public Utilities:** Underground utilities are recommended and may be required by the Board in areas where overhead facilities would not be compatible with the surrounding properties. However, in areas where underground facilities would be impracticable or unreasonably costly, a subdivider may apply to the Board for a determination of the issue prior to the submission of any final plat.
4. **Storm Drainage:** Prior to the submission of any final plat, the developer's engineer shall certify that the proposed plat has an adequate storm drainage system based upon appropriate engineering standards for the removal of the surface water (needs to be on the preliminary plat or during the preliminary plat process).
5. **Water Supply System:** When a proposed subdivision is to be serviced by a public water supply system, fire hydrants and other required water system appurtenances shall be provided by the subdivider. If there is no existing or accessible public water supply system, the subdivider may

be required to install a water supply system for the common use of the lots within the subdivision as approved by the North Central Public Health District. Individual wells may be permitted in accordance with the requirements of the Idaho Department of Water Resources and North Central Public Health District. The subdivider shall be required to provide a written statement from North Central Public Health District approving any proposed water system. Failure on the part of the subdivider to provide approval of the water system by North Central Public Health District shall be grounds for denial of the subdivision.

**6. Sanitary Sewer Systems:** Must meet Public Health Standards.

**Section D: Guarantee of Completion of Improvements**

**Only lots with a completed road according to the public road jurisdiction's requirements can be sold.**

The Board must receive a Notarized Affidavit of Road Completion from the developer/subdivider's engineer stating that the road is finished to said lots in question from which the developer/subdivider would like to sell, before those lots can be sold. This letter must be signed and agreed to by the Chairman or Supervisor of the public road jurisdiction, and it must contain the instrument number of the recorded Subdivision Plat.

If the subdivider wants to sell lots to which the road has not been completed, the subdivider must submit a bond to the public road jurisdiction in such amount as agreed to by the public road jurisdiction. The agreement may include some compensation for costs incurred in this case by the public road jurisdiction in dealing with the bond and inspections. The maximum amount of time given to the developer/subdivider to complete the road is five (5) years.

**ARTICLE VII: SPECIAL DEVELOPMENTS**

**Section A: Purpose**

The purpose of this Article is to identify the various types of special developments that normally pose special concerns to the Board and elected officials when reviewing and acting upon subdivision requests. Therefore, this Article outlines the general plan submittal requirements and design standards that shall be taken into consideration when acting on special developments. The provisions of this Article are in addition to the plan requirements and design standards that are required by Article IV and Article V. The required information shall be submitted to the County Clerk with the preliminary plat.

**Section B: Planned Unit Development**

- 1. Site Development Plan:** The developer shall provide the Board with a drawing or map of adequate scale to show the completed development and will include at least the following:
  - a. The exterior boundary of the site; and,
  - b. A topographic map showing contour lines at an adequate interval for the site, any major natural features such as large rock outcroppings, streams, lakes etc. with existing natural ground cover of the area such as trees, meadows, cropland, sage, etc.

**Section C: Flood Plains**

1. **Flood Areas:** For any proposed subdivision that is located or partially located within a flood plain, the developer shall provide the Board with a development plan of adequate scale and supporting documentation that will show and explain at least the following:
  - a. Location of all planned improvement;
  - b. The location of the flood way and the flood way fringe per engineering practices as specified by the Army Corps of Engineers;
  - c. Any planned rerouting of water channels;
  - d. All major drainage ways;
  - e. Areas of frequent flooding; and,
  - f. Means of flood proofing buildings.
2. **Justifications of development:** Upon the determination that buildings are planned within the flood plain or that alterations of any kind are anticipated within the flood plain area that will alter the flow of water, the developer shall, through design, demonstrate conclusively to the Board that such development will not present a hazard to life or limb, hazard to property, adverse effects on the safety, use or stability of a public way or drainage channel.
3. **Board's Findings:** In determining the appropriateness of a subdivision for land located within a flood plain, the Board shall consider the objectives of this Ordinance, and at least the following:
  - a. The danger to life and property due to the increased risk of flood;
  - b. The danger that improvements may be swept on to other lands or downstream to the injury of others;
  - c. The adequacy of proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary condition under flood conditions;
  - d. The susceptibility of the proposed facility and its contents to flood damage;
  - e. The compatibility of the proposed uses with existing development and development anticipated in the foreseeable future;
  - f. The relationship of the proposed subdivision to the flood plain management program for the area;
  - g. The safety of access to the property for emergency vehicles;
  - h. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site; and,
  - i. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas electrical and water systems, and streets and bridges. No subdivision or part thereof shall be approved if levees, fills, structures or other features within the proposed subdivision will individually or collectively significantly increase flood-flows, heights, or damages. If only part of a proposed subdivision can be developed, the Board shall limit development to that part and shall require the developer to proceed consistent with that determination.
4. **Final Plat:** Any subdivision lying within the boundaries of any flood plain shall clearly show on the final plat said flood plain boundaries.

#### **Section D: Cemeteries**



1. **Function:** The developer shall provide the Board with written documentation that will sufficiently explain if the proposed cemetery will be used for either human or animal remains or the functions that are anticipated on the property.
2. **Compliance with Idaho Code:** The developer shall submit a written statement that has been prepared by an attorney that adequately assures the compliance of the proposed cemetery with the procedural platting requirements and management requirements that are outlined in Title 27, Idaho Code.

**Section E: Manufactured Home Subdivisions:** Density in the subdivision will be so limited as to not create a substantial fire risk.

#### **Section F: Large Scale Developments**

1. **Required Information:** Due to the impact that a Large Scale Development would have on public utilities and services, the developer shall submit the following information along with the preliminary plat:
  - a. Identification of all public services that would be provided to the development that will occur as a result of the subdivision (re: fire protection, police protection, central water, central sewer, road construction, recreation, maintenance, schools and other).
  - b. Estimate the public service costs to provide adequate service to the development.
  - c. Estimate the tax revenue that will be generated from the development.
  - d. Public means of financing the services for the development if any public services would not be offset by tax revenue received from the development.

### **ARTICLE VIII: VARIANCES**

#### **Section A: Purpose**

Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this Ordinance would result in extraordinary hardship to the subdivider because of unusual topography, other physical conditions, or other such conditions which are not self-inflicted, or that these conditions would result in inhibiting the achievement of the objectives of this Ordinance, the Board may grant a variance, modification, or waiver of certain requirements. No variance shall be granted unless the Board finds, after a public hearing:

1. That there are such special circumstances or conditions affecting said property that the strict application of the provisions of this Ordinance would clearly be impracticable, or unreasonable;
2. That the granting of the specified variance will not be detrimental to the real value of other property in the area in which said property is situated;
3. That such variance will not violate the provisions of Idaho Code;
4. That such variance will not have the effect of nullifying the interest and purpose of this Ordinance;
5. The public hearing required before the Board shall be after at least fifteen (15) days' notice to adjoining property owners, or if in an existing subdivision, to all subdivision owners, and at least fifteen (15) days after one (1) publication in the Idaho County Free Press. Furthermore, the Board shall not disapprove any variance unless the same notice requirements have been met, and a public hearing is held before the Board in relation to the sought-after variance; and,
6. The subdivider shall be required to pay a filing fee of \$400 for the costs of publication and notice of hearing that shall be incurred by the Board in processing an application for a variance.

### **Section B: Planned Unit Development**

If a developer intends to develop an area as a Planned Unit Development, it shall be so stated as part of the presentation to the Board concerning preliminary plats and, as such, shall be considered automatically at variance with portions of this ordinance. Special permission from the Board to proceed in this manner shall be obtained at the next regularly scheduled meeting after the preliminary plat has been submitted. In considering this request, the Board shall take into account the nature of the proposed use of land and the existing land use in the vicinity, number of persons to reside or work in the proposed subdivision.

### **Section C: Board Approval**

When a request is made for a variance, modification, or waiver of a portion of the Ordinance, the Board shall approve or disapprove the request. This action may be taken before or at the time of the Preliminary Plat approval.

## **ARTICLE IX: ENFORCEMENT AND PENALTIES**

### **Section A: Civil Enforcement**

Appropriate actions and proceedings may be taken at law or in equity to prevent any violation of these regulations, to prevent unlawful land division, to recover damages, to restrain, correct, or abate a violation, to prevent illegal divisions of land for development purposes and these remedies may be in place of or in addition to the other penalties described in this section.

### **Section B: Penalty for Sale of Unplatted Lots**

1. In accordance with section 50-1316, Idaho Code, any person who shall dispose of or offer for sale any lots prior to recordation of a plat, as provided in sections 50-1301 through 50-1325, Idaho Code, shall pay \$100.00 (one hundred dollars) for each lot and part of a lot sold or disposed of or offered for sale. There will also be a SUBDIVISION ORDINANCE VIOLATION recorded against the grantor's and the grantees' parcels of land involved in the non-conforming conveyance.
2. Notice of Penalty and Appeal.
  - a. A person upon whom a penalty is imposed shall receive written notice of intent to assess the penalty provided in this section, including the factual basis supporting the imposition of the penalty. Before any action may be taken, the Board shall give the property owner written notice via certified mail. Any notice sent via certified mail which is returned to the Board shall be re-sent via first class mail.
  - b. The penalty may be appealed to the Board. Notice of appeal request must be submitted in writing to the Board within thirty (30) days from the mailing of the written notice of intent.
3. If the Board finds that a violation of this section occurred, or if the alleged violator fails to appear at the appeal hearing or fails to request a hearing, the violation shall be deemed to have been conclusively established, and the appropriate penalty shall be applied. A person upon whom a penalty is imposed and for whom the appeal period has expired, or for whom an appeal is denied by the Board, shall receive written demand to remit payment for the penalty within thirty (30) days of the mailing of the demand.

Enforcement of the penalty provided in this section shall not preclude the Board from taking additional enforcement action as otherwise authorized by law, including, but not limited to, enjoining such action from continuing further.

4. Further, and in addition to the injunctive powers set forth herein, should the Board determine that an illegal subdivision has already occurred in any particular instance after May 3, 1983, the Board may notify the subdivider and all current record owners of the land within the subdivision, of the existing violations. The subdividers and the landowners shall then, within thirty (30) days of the receipt of notice, provide evidence to the Board of their intention to properly plat the existing ground in conformance with the requirements in each detail.
5. In no event, without the express written consent of the Board, should longer than six (6) months be allowed for completion of the platting process if this method is followed. In the event that evidence of the intent to plat is not submitted as hereunder required, the Board may contract to plat the property.
6. The County shall have the right to cause the necessary required public improvements, including streets of proper width, to be reflected on the plat and no claim shall be made by either the subdivider or a then existing landowner or contract purchaser of the County's assumption of additional property concerning public improvements that might be necessary to comply with the terms of this Ordinance. Should the County proceed by this method, the subdivider and the landowners should be jointly and severally liable to the County for all costs incurred by the County and any other incidental costs to produce the plat in conformity with the requirements hereof. Upon the determination of all such costs, the County shall be entitled to claim a lien back against all property within the subdivision upon a duly recorded lien, which lien must be foreclosed by a lawsuit of the District Court of the Second Judicial District of the State of Idaho within six (6) months of the recording of the lien. Should this method be chosen as a separate portion of the claim against the landowners and the subdividers, the District Court shall impose a civil penalty of \$500 per lot for each lot sold prior to the recording of the final plat.

#### **Section C: Effect of Sale of Property on Application**

If a portion of the property that is the subject of a subdivision application is divided prior to recordation of the plat, the application shall become null and void, and the owner will be required to submit a new application to the Board. If the property is not divided, but is sold in its entirety, a new application shall not be required, and the new owner may proceed through the applicable subdivision approval process with the existing application.

#### **Section D: Unlawful Subdivision, Recordation of Plats, and Site Work**

As provided for in sections 67-6518 and 67-6527, Idaho Code, it shall be unlawful for any person, firm or corporation, or their agent, to knowingly and willfully cause a subdivision plat to be recorded, or to knowingly and willfully participate in constructing a road, installing utilities or otherwise developing a subdivision, except in conformance with this chapter. Any subdivision plat which is recorded in violation of the provisions of this chapter, or of Title 50, Chapter 13, Idaho Code, shall be deemed void ab initio. In addition to actions and penalties provided in Title 50, Chapter 13, Idaho Code, any person, firm, or corporation, or their agent, who knowingly and willfully commits, participates in, assists in or maintains any violation of this chapter may be subject to civil and criminal enforcement actions.

#### **ARTICLE XI: AMENDMENT PROCEDURES**

The Board, may, from time to time, amend, supplement, or repeal the regulations and provisions of this Ordinance in the manner prescribed by Idaho Code (Section 31-715). A proposed amendment, supplement or repeal may be originated by the Board or by petition.

**ARTICLE XII: EFFECTIVE DATE**

This Ordinance shall be in full force and effect on May 27, 2020.

Regularly passed and adopted by unanimous vote on this 19th day of May, 2020.

This Ordinance revises and replaces Ordinance 59.

**BOARD OF COUNTY COMMISSIONERS**



R. Skipper Brandt, Chairman



Mark Frei



Denis B. Duman

ATTEST:

  
KATHY M. ACKERMAN,  
IDAHO COUNTY CLERK