



**BOISE COUNTY
SUBDIVISION ORDINANCE**

**Ordinance 2002-01
MAY 1, 2002**

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CHAPTER 1

GENERAL PROVISIONS

Section I. SHORT TITLE. This ordinance shall be known and may be cited as the Boise County Subdivision Ordinance.

Section II. AUTHORITY. This ordinance and any regulations duly promulgated thereunder are authorized by Title 50, Chapter 13, Idaho Code; Title 67, Chapter 65, Idaho Code, and Article 12, Section 2 of the Idaho Constitution, as amended or subsequently codified.

Section III. PURPOSE. The purpose of this ordinance is to promote the public health, safety and general welfare, and to provide for:

- A) The harmonious development of Boise County including any areas of impact existing pursuant to Sections 50-1306 and 67-6526, Idaho Code, or created by written agreement between Boise County and any municipality within Boise County;
- B) The coordination of streets and roads within a subdivision with other existing or planned streets and roads;
- C) Adequate open space for travel, light, air and recreation;
- D) Adequate water supply, sewage disposal systems, drainage, transportation or other public services; with no unnecessary imposition of an excessive expenditure of public funds for the supply of such services;
- E) The requirements as to the extent and the manner in which:
 - 1) Roads shall be created, improved and maintained, as set forth in detail in Boise County Road Standards Ordinance;
 - 2) Water and sewer and other utility mains, piping connections, or other facilities shall be installed;
- F) Mitigation of effects on political subdivisions and school districts to deliver services without compromising the quality of service delivery to current residents or imposing substantial additional costs upon current residents to accommodate the proposed subdivision;
- G) The manner and form of making and filing of any plat and record of survey; and
- H) The administration of this ordinance by defining the powers and duties of Boise County.

Section IV. JURISDICTION. This ordinance shall apply to the subdivision of land within Boise County, including the property within Boise County as may be agreed upon by Boise County and any municipality within Boise County governed by the provisions of Sections 50-1306 and 67-6526, Idaho Code.

Section V. INTERPRETATION. All subdivision proposals as herein defined shall be submitted for review by the Board and shall comply with the provisions of this ordinance. This ordinance shall supplement all other ordinances, and where at variance with other laws, regulations, ordinances, or resolutions, the more restrictive requirements shall apply.

Section VI. ADMINISTRATION. The Board shall appoint an administrator, who shall serve at the pleasure of the Board and who shall receive and process all subdivision applications.

CHAPTER 2

DEFINITIONS

Section I. INTERPRETATION OF TERMS OR WORDS. Terms or words used herein shall be interpreted as follows:

- A) The present tense includes the past or future tense, the singular includes the plural and the plural includes the singular;
- B) The word "shall" is mandatory; "may" is permissive; and the word "should" is preferred; and the masculine shall include the feminine.

Section II. DEFINITIONS. As used in this ordinance:

- A) "Administrator" means an official or their designee appointed by the Board, who shall serve at the pleasure of the Board, and shall receive and process all subdivision applications.
- B) "Alley" means minor way which is used primarily for vehicular service access to the back or side properties usually abutting on a street.
- C) "Applicant" means the person who executes the application and initiates proceedings for the subdivision of land in accordance with the provisions of this ordinance. The applicant 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. The Board in its discretion may require written proof of an applicant's agency status to act on behalf of an owner.
- D) "Board" means the Boise County Board of Commissioners.
- E) "Commission" means the Boise County Planning and Zoning Commission.
- F) "Dedication" means the setting apart of land or interest in real property for use by the public. Real property becomes dedicated only when accepted by the Board as a public dedication, either by the passage of a county ordinance, or by entry of a resolution of approval in the official minutes of the Board.
- G) "Easement" means the grant of a right for the public or other persons to use a parcel of real property for specifically stated purposes.
- H) "County Engineer or Surveyor" means that person appointed by the Board, who is responsible for the administration of engineering or surveying matters for the County of Boise and shall be a licensed engineer and/or surveyor in the State of Idaho, as required by Idaho law. All duties of the County Engineer or Surveyor

shall be as set forth herein, by resolution of the Board or as otherwise set by Idaho law.

- I) "Health Authority" means the Central District Health Department, or such agency or unit of government which may succeed in the powers, duties and responsibilities of said authority.
- J) "Highway" means a street so designated as a county, state or federal highway by the governmental entity responsible therefor.
- K) "Lot" means a portion of a subdivision intended as a unit for transfer of ownership or for development.
- L) "Original Parcel" means a lot or tract of land as recorded on any plat or deed on file in the Office of the County Recorder, or any unplatted contiguous parcel of land held in one ownership of forty (40) acres or more, in existence as of December 28, 1978.
 - 1) If an original parcel is now of record but has been divided prior to December 28, 1978, and sold on an installment contract of sale where the deeds or other instruments of conveyance are not of record, each parcel shall be separately considered as an original parcel and this ordinance shall apply only to the further subdivision of each of those parcels which occurs after December 28, 1978, with each separate parcel being defined as an original parcel, and
 - 2) That original parcels lying contiguous to one another acquired separately by the same owner, prior to December 28, 1978, may be conveyed separately if conveyed using the same description by which the parcel was acquired and without the parcel being subject to servient easements, created by the owner since the original acquisition.
- M) "Owner" means the individual, partnership, association, trustee, corporation, firm, entity or syndication having a proprietary interest in the real property to be subdivided.
- N) "Person" means any person, individual, firm, partnership, trustee, entity, corporation or syndication.
- O) "Plat" means the drawing, map or plan of a subdivision, cemetery, townsite or other tract of land, or a replatting of such, including certifications, descriptions and approvals.
 - 1) "Plat, Minor Subdivision" means that drawing for a Minor Subdivision of land containing not more than four lots, parcels or tracts.
 - 2) "Plat, Full Subdivision" means that drawing for a subdivision of land containing more than four lots, parcels or tracts.

- 3) "Plat, Preliminary Subdivision" means that drawing for a full subdivision which meets the requirements of this ordinance, but has not yet been accepted by the Board.
 - 4) "Plat, Final Subdivision" means that drawing and plan for a full subdivision prepared for filing and recording and containing those elements and meeting those requirements set forth in this ordinance and which has been approved by the Boise County Commissioners and filed with the Boise County Recorder.
- P) "Record of Survey" means that map filed as a result of a land survey by a licensed surveyor, in accordance with requirements of Title 85, Chapter 16, and Title, 55, Chapter 19, Idaho Code, governing records of survey.
- Q) "Street" means a right-of-way which provides vehicular and pedestrian access to adjacent properties. It shall include the terms, street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place and other such terms. No street shown on any preliminary or final plat shall be dedicated for public use pursuant to this ordinance or pursuant to the provisions of Idaho law without a separate endorsement thereon, signed by the Chairman of the Board indicating that such streets have been accepted by the county by express resolution of the Board.
- R) "Subdivision" means the division of any original parcel of land of whatever size into two or more parts for the purpose of transfer of ownership or development either by deeds, mortgages, deeds of trust or contracts of sale of portions thereof. A division of any original parcel which is accomplished by any of the following shall not be considered as a division or subdivision within the meaning of this ordinance, provided that such division does not restrict access to the parcels created thereby:
- 1) An adjustment of lot lines as shown on a recorded plat which does not reduce the area, frontage, width, depth, or building set back lines of each building site below the minimum zoning requirements, if any, and does not increase the original number of lots in any block of a recorded plat; Such adjustments requiring combinations of parcels shall not be able to be rescinded (or un-combined) without going through the proper division of land procedures.
 - 2) An allocation of land in the settlement of an estate of a decedent or a court decree for the distribution of property;
 - 3) The sale of land as a result of legal condemnation as allowed by law;
 - 4) Widening of existing streets;
 - 5) The acquisition of right-of-way by a public agency;

- 6) A bona fide division of agricultural land for agricultural purpose. A bona fide division of agricultural land for agricultural purpose shall mean the division of land into lots, all of which are ten (10) acres or larger, and maintained as agricultural lands. For purpose of this ordinance, bona fide agricultural purpose shall mean that the land is actively devoted to agriculture, meaning it is used for grazing or to produce field crops, including but not limited to grains, feed crops, fruits and vegetables; or it is in a crop-land retirement or rotation program. Proof of agricultural productivity may be required by the Board at its discretion.
- 7) The exchange of land for the purpose of straightening property boundaries which does not result in the change of the present land usage of the properties involved.
- 8) The division of an original parcel of land with each resulting parcel consisting of 40 or more acres, so long as adequate access is provided.
- 9) The division of an original parcel of land into no more than four (4) parcels for the purpose of transferring ownership to an immediate family member for use by that family member. For purposes of this exception immediate family member refers to a Grandmother, Grandfather, Mother, Father, Daughter, Son, Granddaughter or Grandson by blood, marriage or adoption. All parcels shall have recorded access through a legal easement or other legal access.

Such divisions of land listed above require a letter of application filed with the Planning and Zoning Department and appropriate fee paid as set by County resolution to insure the criteria is met which allows the exemption from the subdivision process.

Before any parcel which was once part of an original parcel may be divided again, it must fall within one of the exceptions outlined above. Any further division of a portion of the original parcel must be accomplished by the filing of a Minor subdivision plat or a full subdivision plat as provided in this ordinance or as may be further permitted under any other exemption to this ordinance.

- S) "Utilities" means facilities, whether existing or not which would provide to owners of property within a subdivision such normal household services as water, sewer, telephone, power, natural gas, etc.
- T) "Performance Bond" means an amount of money or other negotiable security paid by the developer or his surety to the County Treasurer, which guarantees that the subdivider will perform all action required by the governing body regarding an approved plat, and provides that if the developer default and fails to comply with the provisions of an approved plat, the subdivider or his surety will provide funds to the County up to the limit of the bond, or the surety will itself complete the requirements of the approved plat.

CHAPTER 3
RESTRICTIONS

Section I. GENERAL. The following restrictions shall be incorporated in any plat, subdivision or dedication and each of the requirements hereinafter set forth shall be considered mandatory unless otherwise indicated.

- A) Land which the Board has found to be unsuitable for subdivision because of flooding, poor drainage, steep slopes, rock formations, or other features likely to be harmful to the safety and general health of the future residents and which the Board considers inappropriate for subdivision shall not be subdivided unless adequate methods approved by the Board are included for overcoming these conditions.
- B) In making its determination regarding unsuitability, the Board shall use as a guide, those standards for flood plain, hillside development, and other topographical features adopted by resolution of the Board.
- C) Determination by the Board of unsuitability can be made at any time during the platting process.

CHAPTER 4

MINOR SUBDIVISION PLATS

Section I. LOT, PARCEL OR TRACT SPLITS. The minor subdivision procedure applies to lots, parcels or tracts which will be divided into no more than four parcels or lots. Any greater number of parcels, tracts or lot splits requires the subdivider or person responsible for such change to submit a preliminary plat of the entire subdivision and follow the requirements for full subdivision plat review as further delineated by this ordinance.

Section II. REVIEW PROCEDURE FOR MINOR SUBDIVISION PLAT.

- A) **PRE-APPLICATION CONFERENCE.** Prior to submittal of a minor subdivision plan application, the applicant shall have completed a pre-application conference with the Administrator to discuss the scope and objectives of the proposal, the overall design possibilities, the character of building sites to be created, the availability and adequacy of public services, and the standards and development criteria applicable to the proposal
- B) **APPLICATION.** Applicant shall file all necessary applications with the Administrator along with the required fee. These applications shall be accompanied by the minor subdivision plat. No minor subdivision plat shall be approved unless the following conditions have been met:
- 1) The health department has reviewed and provided a letter approving the subdivision and/or has certified by an approval signature on the plat.
 - 2) The County Treasurer has certified by an approval signature on the plat, that all taxes have been paid on the parcel identified therein.
 - 3) The County Assessor has certified by signature on the plat that platting is acceptable for assessing and tax purposes.
 - 4) The County Engineer has certified by signature on the plat that platting complies with Title 50, Chapter 13, Idaho Code relating to plats and surveys, and is also in compliance with this Ordinance.
 - 5) Where said minor subdivision parcel lies within an incorporated city's impact area, approval of the city council shall be required on said plat.
 - 6) No other State, Federal or Local agency has raised an unresolved objection.
 - 7) In those areas of Boise County where approved central sewer and central domestic water facilities acceptable under the standards of this

ordinance are not available, where individual wells and/or individual on site sewage disposal facilities on each lot would be necessary, the minimum lot size shall be in accordance with the following, which may be subject to upward or downward adjustment upon a determination by other reviewing agencies, that such adjustment either will or will not affect the public health, safety and welfare:

- a) Individual water and individual sewage disposal: Two (2) acres
 - b) Central water and individual sewage disposal: One (1) acre
 - c) Individual water and central sewage disposal: One (1) acre
- C) **FEE:** As set by the Board. To be paid by the applicant to the Administrator or other designated county official appointed by the Board. The Board has the power to assess any additional fees that are necessitated by additional services required of the County Surveyor and/or Engineer as the circumstances warrant.
- D) **COUNTY RESPONSIBILITY:** Within thirty (30) days of receipt of the application and filing fee, the Administrator shall notify by first class mail at the last known address as disclosed by the current tax rolls, all property owners whose property lies within 600 feet of the boundaries of the original parcel being divided, and all property owners of land upon which any access easement to the proposed subdivision sets. Any affected property owner may submit objections, concerns and comments regarding the proposed lot, parcel or tract changes to the County within 30 days of the posting of the above notice. The Commission shall order a public hearing to resolve all disputes before final review. Further, the Administrator shall forward copies of the minor subdivision plat and applications to the Treasurer and Assessor for review, and other State, Federal and Local agencies deemed appropriate by the administrator.
- E) **SIGNATURES SECURED:** Applicant shall secure the appropriate approval signatures on the plat in accordance with Idaho law and this ordinance.
- F) **FACE NOTES:** Face notes will be specified in the final decision of the Board.
- G) **NOTIFICATION FOR FINAL REVIEW:** The Administrator shall notify the Applicant when all requirements have been met. The Administrator shall schedule the matter for hearing by the Commission at the earliest possible meeting the Commission's schedule can accommodate. If the applicant and the Administrator disagree as to whether all requirements have been met, the applicant on his own volition can request a hearing before the Commission at the next available meeting the Commission's schedule can accommodate.
- H) **PROCEDURES:** Following conclusion of all comment periods and review, the Commission shall provide the Board of County Commissioners with a written recommendation for approval, conditional approval, denial, or return of the minor subdivision plan to the applicant for modification. The recommendation to the

Board shall also contain the reasons for approval, conditional approval, denial or referral for modification in accordance with the requirements of Idaho law, including Findings , Conclusions , and appropriate conditions, if applicable.

I) **FINAL REVIEW:** At any final consideration meeting the Board shall review all the comments and recommendations. All Board decisions shall be by majority vote and shall state the reasons for its determination to approve, conditionally approve, or disapprove of the minor subdivision plan, or refer it for reevaluation or modification, in accordance with requirements of Idaho law, inclusive of Findings, Conclusions and appropriate conditions, when applicable. Copies of the Board's determination shall be promptly furnished to the applicant and to the project surveyor or engineer of record. A copy thereof shall also be furnished to any other person upon request in accordance with open records requirements.

J) **RECORDING OF MINOR SUBDIVISION PLAT:**

- 1) The minor subdivision plat shall be recorded in accordance with Title 50, Chapter 13, Idaho Code.
- 2) Any tax parcel which is subsequently subdivided shall have any and all taxes due on that parcel paid in full prior to the County Treasurer placing his/her signature on the minor subdivision plat.
- 3) The minor subdivision plat shall be recorded within thirty(30) days of signing by the Chairman of the Board.
- 4) Minor subdivision plat recording and copy fees shall be paid by the applicant to the Boise County Planning and Zoning Department at the time of presentation for recording.
- 5) Applicant has one year after final approval to present plat for recordation to the Planning and Zoning Department.

The applicant shall submit the following to the Planning and Zoning Administrator prior to recordation:

- 1 silver image cronoflex transparency copies (mylars)
- 1 blue line copy
- 1 Plat Map in digital format on disk for inclusion in the county GIS System

After signatures have been acquired, the Planning and Zoning Department shall have a second mylar and 1- 8 ½ X 11 reduced copy made for submittal to the recorder for recordation.

CHAPTER 5

FULL AND LARGE SCALE SUBDIVISION PLATS

Section I. GENERAL. The full subdivision procedure applies to original parcels or existing platted lots which will be divided into more than four lots, parcels or tracts. Road rights of way shall not be tabulated in the lot count. Every person proposing a subdivision shall cause the same, and each lot or tract contained therein to be surveyed and a preliminary and final plat made thereof. The plat shall meet all requirements of this ordinance, of Title 50, Chapter 13, Idaho Code, and shall describe and set forth all of the streets, easements, utilities, restrictions, block and lot (including the acreage and dimension of each lot contained therein) and shall be duly subscribed by a surveyor licensed by the State of Idaho. The plat shall also include adequate provisions for the access of utility lines either by easement across the individual lots or in street rights-of-way, or a combination of both.

Section II. SIGNATURES. The plat shall be signed by all persons holding a recorded ownership interest and/or contract purchaser's interest in the property. An affidavit or other written proof of ownership shall be required in the event that an applicant claims an unrecorded ownership interest.

Section III. SUBDIVISION REVIEW REQUIRED. Any person desiring to create a subdivision as herein defined shall submit all necessary applications to the Administrator. No final plat shall be filed with the County Recorder until the plat has been acted upon and approved by the Board. No lots shall be offered for sale until the final plat has been recorded in the office of the County Recorder.

Section IV. PRELIMINARY PLAT REVIEW PROCEDURE

- A) **PRE-APPLICATION CONFERENCE:** Prior to submittal of a full subdivision plan application, the applicant shall have completed a pre-application conference with the Administrator to discuss the scope and objectives of the proposal, the overall design possibilities, the character of building sites to be created, the availability and adequacy of public services, and the standards and development criteria applicable to the proposal.
- B) **APPLICATION.** The applicant shall file with the Administrator, an application for review of a preliminary subdivision plat and cause to be prepared a preliminary plat as set forth in this ordinance. The application shall not be deemed accepted for filing nor shall the time limits hereinafter set forth for action commence to run, until the preliminary plat and all supplementary material required and application fee have been received by the Administrator. When all required material in acceptable form has been received, the Administrator shall sign and date the application.