

CHAPTER 1– SUBDIVISION REQUIREMENTS AND REGULATIONS

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Section 10-1-1: Purpose:

The purpose of this Chapter is to provide uniform standards for the subdivision of property, to protect property, and to protect the health, safety, and general welfare of the people of Elmore County.

Section 10-1-2: Applicability:

- A. Subdivision in Unincorporated Areas: This Chapter shall apply to the subdivision of all property within the unincorporated area of Elmore County except as may be modified or exempted by this Ordinance.

1. No plat or any instrument passing title to any portion of a plat shall be offered for recording unless approved in accordance with the regulations of this Ordinance; and
 2. Within the General Agriculture/Grazing/Forest (AG), Recreation/Tourism District (Rec), and Rural Residential and Mixed use (RR/MU) the applicant may choose to do a cluster subdivision or standard subdivision; and
 3. Prior to application for a subdivision, a Conditional Use Permit must be approved allowing the division of the parcel.
- B. Unlawful: It shall be unlawful to make a subdivision of property until the requirements of this Ordinance are satisfied.
- C. Exceptions: The following divisions of property shall not constitute a subdivision:
1. A property boundary adjustment in accordance with the provisions and as defined by this Ordinance; and
 2. An approved one-time division in accordance with this Ordinance; and
 3. The division of property as a result of condemnation, as defined and allowed in Idaho Statute; and
 4. The expansion or acquisition of street rights of way by a public highway agency; and
 5. An approved farm development right in accordance with the regulations of this Ordinance; and
 6. Abutting parcels that qualify as an exception to the contiguous parcel regulation as set forth in this Ordinance; and
 7. An approved minor land division of property in accordance with the regulations of this Ordinance; and
 8. Division of property by a natural land break.

Section 10-1-3: Process:

- A. Pre-application Conference: The applicant shall complete a pre-application meeting with the Director prior to submittal of an application for a preliminary plat for the purpose of reviewing the proposed lot layout and discussing the

procedures and requirements of this Ordinance. If the subdivision is under 5 lots with no new streets or public improvements the Director may, in his/her option, determine if Preliminary Plat and Final Plat can be submitted concurrently.

- B. Neighborhood Meeting: The applicant or owner shall conduct a neighborhood meeting according to the regulations outlined in this Ordinance prior to submittal of an application for a preliminary plat.
- C. Application and Fees: All applications and fees, as set forth in this Ordinance, shall be submitted to the Director on forms provided by the Department.
1. The County Surveyor and/or Director may require a digital format of the plat, if requested one shall be provided; and
 2. Preliminary plats shall concurrently submit a natural features analysis as set forth in this Chapter; and
 3. Covenants, Conditions, and Restrictions (CC&Rs), shall be submitted concurrently with the preliminary plat application; and
 4. The preliminary plat application for subdivisions in an overlay district shall contain any additional reports or materials required by this Ordinance; and
 5. If an applicant or owner intends to complete the final platting of the subdivision in phases, the proposed phasing shall be submitted with the application; and
 6. If an irrigation right exists to the property, the applicant shall submit an irrigation plan that is consistent with Idaho Statute § 31-3805.
- D. Natural Features Analysis: The following features shall be mapped, described, or noted as not applicable in the natural feature's analysis:
1. Hydrology: Analysis of natural drainage patterns and water resources including an analysis of streams, natural drainage swales, ponds or lakes, wetlands, floodplain areas or other areas subject to flooding, poorly drained areas, permanent high ground water areas, and seasonal high ground water areas throughout the site; and
 2. Soils: Analysis of types of soils present in the site area including delineation of prime agricultural soil areas, aquifer recharge soil areas, unstable soils most susceptible to erosion, and soils suitable for development. The analysis of soils shall be based on the Elmore County Soils Survey (United States Department of Agriculture, Natural Resources Conservation Service); and

3. Topography: Analysis of the site's terrain including mapping of elevations and delineation of slope areas greater than twenty-five (25%) percent, between fifteen (15%) percent and twenty-five (25%) percent, between eight (8%) percent and fifteen (15%) percent, and less than eight (8%) percent. Contour lines based on a datum with intervals of not more than five (5') feet for properties with a general slope of greater than five (5%) percent, or intervals of not more than two (2') feet for properties with a general slope of less than or equal to five (5%) percent. Contour lines shall extend a minimum of three hundred (300') feet beyond the proposed development boundary. If a drainage channel borders the proposed development, the contour lines shall extend the additional distance necessary to include the entire drainage facility as determined or required by the Director and/or County Engineer; and
4. Vegetation: Analysis of existing vegetation of the site including, but not limited to: dominant tree, plant, and ground cover species; and
5. Sensitive Plant and Wildlife Species: Analysis of sensitive plant and wildlife species of the site including, but not limited to, those species listed in the Idaho Conservation Data Center (State of Idaho Department of Fish and Game); and
6. Historic Resources: Analysis of existing historic resources as identified on the Elmore County historic resources inventory; and
7. Hazardous Areas: Location and identification of all potentially hazardous areas including, but not limited to, land that is unsuitable for development because of flood threat, poorly drained areas, high ground water, steep slopes, rock formation, buried pipelines, or other similar conditions likely to be encountered; and
8. Impact on Natural Features: The applicant shall provide a written statement explaining how the design of the plat protects or mitigates impacts on the natural features of the site; and
9. Map Features: The map shall show important features, including, but not limited to, the following: outline of existing structures, watercourses, wetlands, power lines, telephone lines, railroad lines, airport influence areas, any existing easements, municipal boundaries, and section lines; and
10. Other Supplemental Data: Other supplemental data may be required by the County Engineer including, but not limited to, the following:
 - a. Approximate location of any areas of fill; and/or

- b. The elevations of all corner points on the boundaries of the proposed plat.
- E. Proposed Plat: The Commission shall apply the design standards, required improvements, and findings listed in this Ordinance.
- F. Approved Preliminary Plat: If approved by the Commission, the preliminary plat for a phased subdivision shall include an approval period in which all final plats shall be completed.
- G. Preliminary Plat Final Decision: A decision of the Commission on a preliminary plat shall be final as to all matters set forth in said preliminary plat. This decision may be appealed under the regulations of this Ordinance.
- H. Final Plat Approval: Following Commission approval of a preliminary plat, the owner may cause the subdivision, or any phase thereof, to be surveyed and prepare a final plat for County approval. The Board shall approve a final plat or plats, in the approved preliminary plat boundary within twenty-four (24) months of the Commission's approval of the preliminary plat. Failure to meet this requirement or the approved phasing plan in which the Commission specified a specific date in which the final phase and plat shall be completed shall void and nullify the preliminary plat approval in whole or for partially final platted subdivisions, those portions not final platted.
- I. Recording Final Plat: The owner shall record the final plat and the CC&Rs with the Elmore County Recorder within thirty (30) days of Elmore County Treasurer signing the Final Plat and after the Board has approved and signed, otherwise, the approval shall become null and void. For phased subdivisions, the Board shall approve final plats for the phases of the subdivision in successive one (1) year intervals. The limits of the preliminary and final plat shall encompass the full extent of the owner's lot or "contiguous parcels", as herein defined. If platting in phases, no reserved parcels shall be allowed; all remainder areas shall be platted as lots that meet the minimum dimensional standards for the district in which they are located.
- J. Time Extension: The applicant or owner may apply for a one-time one-year extension, as set forth in this Ordinance, if needed to extend the time allowed to approve the final plat or phase of a final plat, if applicable.
- K. Platted Lot: Any lot created through an approved subdivision application and duly recorded plat shall thereafter be considered a platted lot.
 - 1. No subdivision plat or dedication, or any instrument passing title to any portion thereof, shall be offered for recording unless approved in accordance with the regulations of this Ordinance.

2. No building permit shall be issued on any property being considered in the subdivision process until:
 - a. The final plat has been recorded; and
 - b. Elmore County Assessor's parcel numbers have been assigned; and
 - c. All required public improvements have been constructed and approved by the appropriate authority or a surety agreement and a performance bond has been submitted to and approved by the Director in compliance with the provisions of this Ordinance.

Section 10-1-4: General Design Standards:

- A. These standards shall be followed in all subdivisions regulated by this Ordinance. In addition to these standards, all subdivisions shall meet the design standards of the applicable zoning district.
- B. Any proposed subdivision in areas of the County where topographical slopes are greater than fifteen (15%) percent or where adverse conditions associated with slope stability, erosion, or sedimentation are present, as determined by the County Engineer, shall conform with the additional hillside regulations set forth in this Ordinance.
- C. Adequate means for eliminating unsuitable site conditions shall be approved by the County Engineer in order to develop property that has been designated in the applicable Comprehensive Plan, in the natural features analysis, or elsewhere, as being unsuitable for development because of flood threat, poorly drained areas, high ground water, steep slopes, rock formation, buried pipelines, or other similar conditions likely to be encountered.
- D. The limits of the subdivision shall encompass the full extent of the owner's lot or "contiguous parcels", as herein defined in this Ordinance. If platting in phases, no reserved parcels shall be allowed; all remainder areas shall be platted as lots that meet the minimum dimensional standards for the district in which they are located.
- E. The decision-making body may require modifications to the plat where, in its opinion, believe the proposed site planning has not sufficiently addressed the existing natural features.

Section 10-1-5: Blocks:

- A. The length, widths, and shapes of blocks shall be determined with due regard to:

1. Provision of adequate building sites suitable to the special needs of the type of use contemplated including the base zone requirements as to property sizes and dimensions; and
 2. Avoiding double front lots. If unavoidable, one of the frontages shall be restricted from access; and
 3. Needs for convenient access, circulation, control, and safety of street traffic. The number of intersecting streets with arterials of all classes shall be held to a minimum; and
 4. The limitations and opportunities of topography.
- B. Residential block lengths should be between four hundred (400') feet and six hundred (600') feet.
- C. Pedestrian access right-of-way not less than ten (10') feet wide may be required for walkways through or across a block when deemed desirable to provide circulation, or access to schools, playgrounds, shopping centers, transportation, and other community facilities. Said access right-of-way shall be a separate platted lot.

Section 10-1-6: Lots:

- A. The property size, width, depth, shape, and orientation, and the minimum structure setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
- B. The minimum dimensional standards for all lots shall be in accordance with the applicable base zone. Corner lots in residential zoning districts shall be increased five (5%) percent above the minimum property size of the applicable base zone to permit appropriate front and street side setbacks.
- C. For a distance of fifty (50') feet, side property lines originating at the front of the lot shall be within twenty (20) degrees of right angles or radial to the street providing access.
- D. Through lots shall be avoided except to separate developments from arterial streets or to overcome topographic restrictions. A screening easement or common area lot having a minimum width of ten (10') feet shall be provided along the arterial streets. If unavoidable, one of the frontages shall be restricted from access.

- E. Frontage for lots on a cul-de-sac turnaround shall be measured fifty (50') feet back from the front property line along an arc parallel to the right of way of the cul-de-sac.
- F. Frontage for lots on a knuckle with a landscaped street island separating the through traffic, shall be measured fifty (50') feet back from the front property line along the arc parallel to the right of way of the knuckle.

Section 10-1-7: Property and Access:

- A. All lots shall have access that complies with the regulations of this Ordinance. The arrangement, character, extent, and location of all streets shall conform to the Comprehensive Plan or portions thereof, and shall be considered in their relation to existing and planned streets, topographic conditions, and in their appropriate relation to the proposed uses of the property to be served by such streets. All required public street improvements and additional design standards are subject to the jurisdiction of the applicable highway district.
- B. Where a subdivision borders a railroad right-of-way or limited access highway right-of-way, a street approximately parallel to such right-of-way, at a distance suitable for appropriate use of the intervening property may be required.
- C. Street layout shall be planned to facilitate future development of abutting areas and the entire neighborhood, and shall provide for adequate access opportunities to abutting lands.

Section 10-1-8: Alleys, Public and Private:

- A. Alleys may be provided in residential, commercial, and industrial-zoned districts as recommended by the Commission and approved by the Board.
- B. The width of an alley shall be not less than twenty (20') feet and shall be paved its entire width.
- C. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.
- D. Dead-end alleys shall be prohibited.
- E. Private Alleys: Private alleys may provide frontage when:
 - 1. The private alleys are located on a lot; and

2. The lots are owned and maintained by the lot owners whose property accesses and fronts on the private alley; and
 3. The alley access request shall be accompanied with a perpetual ingress/egress access easement which shall include a maintenance agreement, and shall be record prior to the issuance of any building permit for any lot utilizing the private alley; and
 4. The CC&Rs shall also indicate ownership, maintenance, and administrative responsibilities of the private alley, which shall be reviewed and approved by the Director.
- F. When applicable, all private alleys shall comply with the minimum design/construction requirements of the applicable fire district or this Ordinance-whichever is more restrictive where applicable.

Section 10-1-9: Driveways:

All driveways shall comply with the minimum design/construction requirements of this Ordinance.

Section 10-1-10: Public Roads:

- A. All public roads shall comply with the minimum design/construction requirements of this Ordinance. All subdivisions with public road shall plan and construct the public road(s) to Collector or Local Residential Standards as set forth in the current edition of the Jurisdictional Highway District's Highway Standards and Development Procedures Manual and as required in this Ordinance.
- B. The roadway designation of public shall be declared and a typical roadway drawing shall be included on the Preliminary Plat designed to the minimum standards of this Ordinance and the applicable highway district.

Section 10-1-11: Drainage:

- A. All drainage studies and drainage plans as herein required shall be required and shall be with the preliminary plat.
- B. The drainage study shall be based upon estimates of peak and total discharges and shall provide the following:
 1. The drainage study shall identify the essential elements, alignments, and functions of a drainage system; and

2. The drainage study shall show the following site conditions:
 - a. Details of existing site drainage and/or irrigation features including, but not limited to, ditches, watercourses, and drainage structures; and
 - b. The permeability and types of soils and geologic materials; and
 - c. The size of the drainage basin upstream; and
 - d. The topography, slope, and geometry of the site; and
 - e. The proximity of surface water within one hundred (100') feet; and
 - f. The proximity of potable water supply wells within one hundred (100') feet; and
 - g. The proposed use and potential contaminants; and
 - h. The past use and possible soil and/or ground water contamination.
 3. Other supplemental data as required by the Director and/or County Engineer.
- C. Drainage Plan: Unless otherwise exempt, or not required as evidenced by a signed document from the County Engineer indicating the reasons a drainage plan is not required, a drainage plan shall be submitted to the Director for design approval by the County Engineer and Commission with the preliminary plat application and shall include the following:
1. The required drainage plan shall be drawn to scale and shall include, but not be limited to, the following:
 - a. All proposed grading to be done on the property; and
 - b. Essential elements, alignments, and functions of the proposed drainage system including, but not limited to, septic, sewers, storm drains, catch basins, pumps, and seepage beds; and
 - c. The drainage plan shall indicate by flow arrows, contours, spot elevations, or some other acceptable manner, where storm water will be routed for the property. It must show the location and size of any flows onto the site from outside the property boundaries as well as any discharges leaving the site; and
 - d. The proposed use and potential contaminants; and

- e. When drainage courses and irrigation facilities exist on site, the owner and/or applicant shall provide documentary evidence of consent to rerouting by all interested landowners and drainage and irrigation entities affected and having rights to, and in, such facilities; and
- f. Other supplemental required by the Director or County Engineer.

Section 10-1-12: Easements:

- A. There shall be easements provided for utilities, drainage, and irrigation abutting to all public street right-of-way and subdivision boundaries, and other easements when considered necessary as determined by the Director or Commission. Easements, shall where considered necessary be centered on the interior property lines. Said easements shall have a minimum width of six (6') feet or greater as determined by the Director or Commission. There shall be a ten (10') foot in width easement from the exterior of the property line for all property lines fronting a public or private road, street or prescriptive easement.
- B. Where a subdivision is traversed by a watercourse, appropriate easements shall be provided.
- C. Appropriate easements shall be provided for access to parks, trails, trail head parking shared driveways, private alleys and other easements when considered necessary as determined by the Director or Commission.

Section 10-1-13: Watercourses:

- A. There shall be a minimum structural setback of thirty (30') feet from the normal high-water line of all watercourses, whether covered or uncovered. For open watercourses, normal high-water line shall be as determined by a licensed surveyor or engineer.
- B. Only when required by the Commission or Board shall watercourses within an urban setting or district be covered or fenced, agricultural uses shall be exempt from this requirement. Fencing shall meet the following requirements:
 - 1. Proposed fences in a designated flood hazard area shall comply with the regulations of this Ordinance.
 - 2. Unless otherwise specified by this Ordinance, fences shall be a three (3') foot barrier that meets the barrier requirements for swimming pools as set forth in this Ordinance.

3. Proposed covers or fences involving an irrigation distribution system shall have the prior approval of the affected irrigation district.

Section 10-1-14: Flood Hazard Overlay:

All proposed subdivisions in a flood hazard overlay shall comply with the requirements of Title 8 Chapter 2.

Section 10-1-15: Required Improvements and Owner's Responsibility:

The owner is responsible to complete the improvements required by this Ordinance and any additional improvements that may be required as a condition of approval.

Section 10-1-16: Monument Requirements:

The owner shall comply with the requirements of Idaho Statute §§ 50-1302, 50-1303, 54-1227, and 55-1608, and any work required shall be verified by the County Surveyor prior to certification of the plat. Monuments in the field shall agree with those shown on the plat at the time of inspection. The regulations of such Sections as to monuments, stakes, and other markings shall be considered minimum requirements, and the County Surveyor may establish higher standards.

Section 10-1-17: Streets and Other Improvements:

- A. Prior to acceptance and signing of any final plat the following requirements shall be satisfied as applicable:
 1. Public streets shall be accepted by the applicable highway district.
 2. All new developments shall have adequate sewage facilities as required and provided for in this Ordinance and Idaho Statute.
 3. Storm water facilities and drainage improvements shall be constructed by the applicant or owner and approved by the County Engineer or Highway District, whichever is applicable.
 4. Streetlights shall comply with the lighting regulations set forth in this Ordinance or as may be required by the Director or Commission.

Section 10-1-18: Preliminary Plat Specifications:

- A. Drawing Specifications: All mapped information shall be prepared in a neat and legible manner and drawn to a scale of not more than one hundred (100') feet to the inch or as directed by the Director or County Engineer. A smaller scale or different size may be used for large developments with prior written approval from the Director.
- B. Drawing Continents and Limits: Limits of the drawing shall include an area not less than three hundred (300') feet beyond boundaries of the proposed development, and shall show:
1. The subdivision boundary shall be based on an actual field survey, and shall include the stamp and signature of a licensed professional land surveyor certifying that the boundary survey shown on the plan is accurate and correct. Boundary problems shall be resolved prior to submission and non-buildable remnant properties shall be prohibited. The certification, signature, and stamping of the plan by the professional land surveyor is intended to pertain only to the boundary survey; and
 2. The name of the owner; and
 3. The name of the person or firm responsible for the drawing; and
 4. The name of the proposed subdivision in accordance with Idaho Statute § 50-1307; and
 5. The date, graphic scale, true north arrow, vicinity map, Section, Township, and Range; and
 6. Ties to all controlling corners; and
 7. The names of neighboring subdivisions; and
 8. The names of owners of neighboring properties as listed in the Assessor's files, and the boundaries of all neighboring properties; and
 9. The name, location, width, direction of slope, centerline and right of way of all existing and proposed public streets and private roads; and
 10. The proposed offsite improvements pertaining to streets, water supply, sanitary sewer systems, storm water systems, fire protection facilities, and proposed utilities; and
 11. The lot layout with lot and block numbers, lot dimensions, and lot area in square feet; and
 12. The minimum setbacks from the front, the side, and the rear property

lines; and

13. Areas of special use, such as parks and schools, shall be appropriately labeled; and
 14. Other appropriate elements as required by the Director on a case-by-case basis.
- C. Separation of Information: Information may be combined if the Director determines the information is legible. The Director may require separation of information to a separate drawing(s) to assist in delineation of specific information.

Section 10-1-19: Final Plat Specifications:

- A. The final plat shall be prepared as provided by, and include the items required by, Idaho Statute § 50, Chapter 13 and related State law, and the following additional requirements:
1. The final plats shall be eighteen (18") inches by twenty-seven (27") inches in size, with a three and one-half (3 ½") inch margin at the left end for binding and a one-half (1/2") inch margin on all other edges. No part of the drawing or certificates shall encroach upon the margins. Signatures shall be in reproducible black ink. The sheet or sheets which contain the drawing or diagram representing the survey of the subdivision shall be drawn at a scale suitable to insure the clarity of all lines, bearings and dimensions. In the event that any subdivision is of such magnitude that the drawing or diagram cannot be placed on a single sheet, serially numbered sheets shall be prepared and match lines shall be indicated on the drawing or diagram with appropriate references to other sheets. The required dedications, acknowledgements and certifications shall appear on any of the serially numbered sheets. The letters, numbers, and notes shall be of such size and scale to clearly show on microfilm copies, reproducible copies, and prints of the recorded documents.
 2. The drawing page(s) shall show exterior boundary and property lines, right of way lines, streets, street islands, existing and new easements, all accurately dimensioned with bearings to the nearest one second and distances to the nearest one-hundredth (1/100') of a foot. The dimensions shall provide a minimum lot and boundary survey closure of one to ten thousand (1:10,000). The drawing page(s) and owner's certificate shall show or contain all related curve data including radius, length, central angle, long chord, and long chord bearing.
 3. Permanent monuments, magnetically detectable, marked with the license number of the surveyor, shall be set for all the following:

- a. All lot corners and exterior boundary corners; and
 - b. Street centerline angle points, point of curvatures, point of tangencies, intersecting street centerlines, and places where street centerline changes directions; and
 - c. Street islands, radius points for cul-de-sacs, and lot controlling corners that control the location of the boundary.
4. In places that are impossible or impractical to set the monument, a witness corner or reference monument shall be set and dimensioned accordingly. Such monument shall be of the same size and marking required for the monument it is replacing. A witness corner monument shall be set on the lot line or property line. A reference monument shall be set with a bearing and distance tie to the actual corner.
 5. All monuments found, existing or accepted and used in the survey shall be marked with the license number of the surveyor.
 6. Digital format may be required by the County Surveyor.
 7. The final plat shall show:
 - a. Primary Control Points: At least two (2) primary control points, officially recognized by the County Surveyor and ties to such control points. Primary control points must be public land survey corners or officially recognized corners. Corner perpetuation and filing recording instrument numbers shall be shown; and
 - b. Approved Street Names: Street names shall be shown and approved by the Elmore County Street Naming Committee or their designee; and
 - c. Easements: Location, dimensions, and purpose of any easements; and
 - d. Monuments: Location, description, and size of monuments that are found; and
 - e. Ordinance, Subdivision Name, Description and Date: Ordinance, including subdivision name in accordance with Idaho Statute § 50-1307, and general location description and date; and
 - f. Owner's Certificate: Owner's certificate containing a statement of reservation of easements and private roads. Private roads may be shown as a lot or an easement; and

- g. Right-of-Way Width: The right of way width from centerline of each street or other right of way; and
 - h. Abutting Subdivisions: Name and location of abutting subdivisions. All other abutting properties shall be shown as "un-platted".
8. The following certificates and approvals shall appear on the final plat:
- a. Owner's certificate; and
 - b. Licensed land surveyor's certificate; and
 - c. Applicable highway district (if required); and
 - d. Central District Health Department; and
 - e. Engineer (if applicable); and
 - f. City approval certificate (if applicable); and
 - g. County surveyor's certificate; and
 - h. Commission; and
 - i. County Assessor; and
 - j. County Treasurer; and
 - k. Board of County Commissioners; and
 - l. County Clerk; and
 - m. Fire District, if applicable.

Section 10-1-20: Required Findings:

A. Preliminary Plat:

- 1. The design conforms to the standards established in this Ordinance; and
- 2. The design complies with the required improvements established in this Ordinance; and
- 3. If applicable, the proposed subdivision complies with the standards of an applicable overlay district as set forth in this Ordinance; and

4. The design conforms to the topography and natural landscape features analysis as required by this Chapter and the master site plan, where the design demonstrates consideration for the location and function of land uses and structures to achieve this purpose; and
5. The development would not cause undue damage, hazard, or nuisance to persons or property in the vicinity; and
6. The internal street system is designed for the efficient and safe flow of vehicles and pedestrians without having a disruptive influence upon the activities and functions contained within the proposed subdivision, nor placing an undue burden upon existing transportation and other public services in the surrounding area; and
7. Community facilities such as parks, recreational, and dedicated open space areas are functionally related to all dwelling units and are easily accessible via pedestrian and/or bicycle pathways; and
8. The proposal complies with the dimension standards set forth in this Ordinance for the applicable zoning district; and
9. The overall plan is in conformance with:
 - a. The applicable Comprehensive Plan(s); and
 - b. The future acquisition maps; and
 - c. Any applicable Area of City Impact Ordinances including applicable subdivision regulations; and
 - d. Other pertinent Ordinances as applicable.

B. Final Plat:

1. The final plat is in substantial conformance with the preliminary plat; and
2. All conditions of the approved preliminary plat have been satisfied.

Section 10-1-21: Vacation, Total or Partial, of a Recorded Subdivision Plat:

An applicant or owner may petition the Board for a total or partial vacation of a recorded subdivision plat, including platted easements. Vacation shall be processed in accordance with the regulations set forth in Idaho Statute § 50-1306A and recorded in accordance with the regulations set forth in Idaho Statute § 50-1324.

Section 10-1-22: Surety and Surety Agreement:

- A. In lieu of completion of the required minimum street and other improvements required by this Ordinance or any portion thereof, the owner may deposit a surety and surety agreement for completion of such improvements with the Director on forms provided by the Department and as specified in this Ordinance.
- B. Bonds for wastewater collection, wastewater treatment systems, and/or community water systems shall be deposited with the appropriate health authority in accordance with Idaho Statute § 50-1326.

Section 10-1-23: Land Divided by Judicial Court Division (Court Order):

- A. Land divided by a judicial order shall be considered an authorized land division.
- B. If the parcel being divided by court order has an administrative land available, the division by the court is the same as if the Department had approved it with an administrative land division, even if the resulting parcel sizes are not consistent with normal land division provisions. No application for an administrative land division is required.
- C. If the parcel being divided is eligible for a residential building permit, but does not have an administrative land available, the court order division creates a building permit for each parcel, but does not render any of the new parcels eligible for an administrative land division.
- D. If the parcel being divided does not have any building permits or administrative land divisions available, the parcels created by court order will not be eligible for building permits or administrative land divisions unless land use approval is granted in accordance with the provisions of this Ordinance.
- E. If the land division does not qualify as an exception under the subdivision standards of this chapter, then all regulations of this section shall apply.

Section 10-1-24: Minor Replats and Amendments:

- A. This section establishes the procedure and requirements for making minor modifications to a previously recorded subdivision plat or portion of a plat, when the modification cannot be accomplished as a simple change to a recorded plat in accordance with Title 10 Chapter 1 Section 25. A minor correction on a final plat or an amendment that does not create a new lot or

alter the character or purpose of a subdivision, may be made by application to the director who shall determine the validity of the requested correction and record, at the applicant's expense, any approved change. A new mylar and signature page reflecting the correction or amendment shall be required. Minor modifications include insignificant changes in wording, correct icons, adjustments between platted and unplatted parcels, consolidations and lot line adjustments for up to five lots where easements not utilized are adjusted with the lot line.

- B. Substantial changes to a recorded plat must comply with the requirements of Title 10 Chapter 1 Section 19, and may not be accomplished through the provisions of this section. Substantial changes include those that would affect the location of public or private roads, septic systems, easements or utilities that are currently utilized; adjustments that would create additional lots; adjustments that would affect more than five lots; or significant changes in plat language that might affect a property owner's use of their land, or of commonly held land or easements.

Section 10-1-25: Simple Changes to Recorded Plat:

- A. This section establishes the procedure and requirements for making simple changes to a recorded plat when not involving a vacation or dedication of a public street right of way or private road easement.
 - 1) Application for Change:
 - a) The person seeking a change must file an application on a form provided by the director, and the fees. The application must demonstrate full compliance with all requirements established by the Board as prerequisites for making a change to a plat.
 - b) When the application is filed, the director shall have a period of fourteen (14) calendar days from the time of receipt of the application to determine whether the application is complete.
 - c) If the director determines that the application is not complete, the application shall be returned to the applicant with written instructions as to what deficiencies must be satisfied. No further consideration until be given to the application until it is returned by the applicant and determined by the director to be complete.
 - d) When a fully completed application has been filed and the fees paid, the director shall conduct a review. The burden of proof is on the applicant to show compliance with the requirements for a simple change to a recorded plat. The director may grant the application only if the changed plat can meet all requirements of the zone in which it is located.

2) Approval or Denial:

- a) If the director denies the application, he/she shall state his/her reasons in written findings within fourteen (14) calendar days of the denial. A copy shall be forwarded by mail to the applicant at the address given on the application.
- b) If the director grants the application, the applicant must submit a record of survey showing the plat change pertaining to the request and metes and bounds description of all changed lots. The record of survey must bear in the title or in a side note on the record of survey that the purpose of the record of survey is to change the specific plat, stating the name of the plat, with affected lots and blocks. The written decision of the director and a copy of the record of survey must be recorded at the applicant's expense.
- c) Any affected person who is aggrieved by the director's decision may file a written notice of appeal in accordance with Title 7 Chapter 3 Section 7 "Appeal of Director Administrative Decision."

Section 10-1-26: Cluster Subdivision:

- A. The purpose of cluster subdivision development is to provide limited clustered urban type subdivision development and lots where it will be compatible with existing uses in the vicinity. Cluster development also allows for orderly infill development as urban services become available. The cluster development will provide a means of preserving prime agriculture ground, preserving open space, protecting critical areas and reducing the extension of roads and utilities to serve the residential development. The cluster subdivision development will give landowners the option to consider cluster subdivision development when subdividing land into parcels in a manner that constitutes an alternative to the zone base densities identified in this title.
- B. Cluster development shall apply to any property that meets the following criteria:
 1. Property is located within an Ag, Rec or RR/MU zoning district; and
 2. The property is a minimum of five (5) acres of contiguous land; and
 3. Is located outside of a negotiated area of city impact.
- C. All cluster subdivision development shall follow the subdivision process and regulations of this Ordinance.

D. Base Density: The residential density identified in Title 7 Chapter 2 of this Title. A zoning map amendment (rezone) may be considered where appropriate and in conformance with this Ordinance and the Comprehensive Plan.

E. Cluster Subdivision Density: A density of twice the base district may be approved for cluster developments (example, an Ag district allows one (1) dwelling unit per five (5) acres the Cluster Subdivision Density would allow two (2) dwelling units in lieu of one (1) dwelling unit.)

F. Density Bonus: A density bonus of four times the base district may be approved for a cluster development provided that: (example, an Ag district allows one (1) dwelling unit per five (5) acres the Cluster Subdivision Density Bonus would allow four (4) dwelling units in lieu of one (1) dwelling unit.)

1. Connect to a community water and sewage disposal system.
2. Buildable lots will not reduce the open space requirements of this chapter.

G. Buildable Lot Configuration:

1. All buildable lots shall meet the dimensional standards as shown in Table 10-1-26 as established by this Chapter.
2. The balance of the property shall be platted as a lot used as open space.

H. Open Space Requirements:

1. The cluster subdivision development requires that a minimum of seventy-five (75%) percent of the total area of the cluster development be designated as set aside land to preserve open space, prime farm ground, protect wildlife habitat and/or critical areas. The required open space may not be developed until urban services become available.
2. The required open space shall either have a deed restriction, dedication, reservation, conveyance, association or another legal instrument. The mean by which open space is preserved shall be approved by the Commission.
3. Open space shall be contiguous and should attempt to interconnect with adjacent lands open space or critical areas.
4. New residential building permits shall not be allowed on the open space lots. Existing and agriculture structures shall be allowed on open space lots.

I. Access and Roads:

1. Each lot shall have the required access as required by this Ordinance and Table 10-1-26 of this Chapter.
2. All roads shall comply with Title 10 Chapter 5 of this Ordinance.
3. Roads shall either be dedicated to applicable highway district or placed within a platted lot. Road lots and/or road dedication shall not be counted towards the required open space.

J. Use Exception: A use exception for C1 commercial uses and development may be requested for all cluster development when appropriate for needed services. A use exception request shall not exceed twenty (20%) percent of the proposed developed area, excluding open space and shall have adequate water and sewer facilities available and capable of supporting C1 uses.

K. Other Cluster Development Requirements:

1. Where prime agricultural soils are present on the property, the applicant shall designate the prime agricultural lands in the required open space; and
2. All hazardous areas including but not limited to steep unstable slopes, riparian areas and flood zones shall not be used for residential purposes but can be used in the required open space.
3. The clustered subdivision development design shall locate all developable lots in one (1) general location and developable lots shall be contiguous on the subject property; and
4. The proposed cluster subdivision development shall protect all existing gravity flow irrigation systems and drainage systems; and
5. Sewage disposal systems shall comply with local and state individual sewage disposal regulations; and
6. If the cluster subdivision is located with an agriculture zone a note shall be placed on the plat and on each deed recognizing the Idaho Right to Farm Act; and
7. A note shall be placed on the plat and on each deed indicating that the individual lot owner shall connect to a municipal sewage collection and treatment facility when available or requested to connect. If a Membrane Bio-reactor (MBR) or Sequencing Batch Reactor (SBR) type of system with filtration is incorporated into the development connection may not be

necessary and exempt from this regulation a determined by the Director or Commission; and

8. All required improvements must be completed or bonded in compliance with this Chapter and Title prior to the sale of lots.

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**Table 10-1-26
Cluster Development Setbacks, Lot, Frontage, and Height Requirements**

BUILDING SETBACKS IN FEET						LOT, FRONTAGE, AND HEIGHT					
Zoning District/ Cluster Development	Minimum Front Yard	Minimum Rear Yard	Minimum Side Yard	Minimum Street Side	Minimum and Maximum Lot Size Ranges ⁽³⁾	Minimum Lot Frontage in Feet	Minimum Lot Width	Maximum Building Height in Feet	Minimum Lot Width to Depth Ratio		
Ag/Cluster Development	15	15	6	12	Min. 6,500 sq. ft.	30	70	35	1W to 3D ⁽⁵⁾		
Rec./Cluster Development	15	15	6	12	Min. 5,500 sq. ft.	30	60	35	1W to 3D ⁽⁵⁾		
Atlanta (4) Single story Two story	10 10	5 5	5 5	5 5	N/A	N/A	N/A	N/A	1W to 3D ⁽⁵⁾ 1W to 3D ⁽⁵⁾		
RR/MU/ Cluster Development	15	15	6	12	Min. 4,500 sq. ft.	30	50	35	1W to 3D ⁽⁵⁾		
C1/Cluster Development Mixed Use or Commercial Use Exception	20	20	0 or 10 ⁽¹⁾	20	Min. 1,000 ⁽²⁾ sq. ft.	30	30	35	1W to 3D ⁽⁵⁾		

(1) The side yard setback shall be ten (10) feet when abutting a residential use or district.

(2) The lot size shall be appropriately sized and configured to meet setback requirements and to provide for required off-street parking.

(3) The required open space lot shall be configured as one (1) lot making up the balance of the parcel not being developed. Maximum lot sizes may vary

(4) 20' for parking. Outbuilding/Accessory Structures Single story 200 sq. ft or less 3' setback from rear, side and side yard.

(5) The Director may approve alternate width to depth ratios based on parcel configuration, but long "rifle lots" shall be prohibited.

10-1-27: Natural Land Break:

- A. When a parcel of land is divided and each lot or parcel is completely independent from the other by a river, stream, creek (wet or dry), public road, railroad, or irrigation canal and both parcels are under the same ownership, each parcel can be considered as an original lot. This is considered a "natural break". Natural breaks shall be measured to the center of the break to establish a method of measuring. Farm roads, access roads, easements, railroad spurs, or irrigation ditches do not cause a natural break.
- B. Application and fess shall be submitted to the Director on forms provided by the Department.
- C. Standards: A natural break shall meet the following minimum standards:
- 1) The parcel(s) is a minimum of one (1) acre in size and meets the other required dimensional standards established by this Ordinance; and
 - 2) Parcel must have adequate access and frontage as required by this Ordinance; and
 - 3) The parcel can only have one (1) permanent dwelling.
- D. Required Findings: In order to grant a division of property for a natural break, the Director shall make the following findings:
- 1) The division creates no more than two (2) parcels; and
 - 2) The parcel being divided was created prior to May 1, 2009 and was of record in the Clerk's office; and
 - 3) The boundaries of the parcel being divided have not changed except as specified in this Ordinance; and
 - 4) The subject property requesting a division is not a platted lot within a subdivision; and
 - 5) The resulting two (2) parcels shall have the required frontage to an approved road; and
 - 6) Record of Survey will be recorded at the Clerk's office; and
 - 7) New deeds will be recorded at the Clerk's office; and
 - 8) Taxes will be paid in full at the Treasurer's office.

