

## CHAPTER 3 – ONE TIME DIVISION OF PROPERTY

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### Section 10-3-1: Purpose:

The regulations of this Ordinance allow for the one-time division of a parcel into two (2) parcels without being subject to the subdivision regulations as set forth in this Ordinance.

### Section 10-3-2: Applicability:

- A. These regulations shall apply to:
  - 1. Lots created prior to January 20, 1994 (hereinafter referred to as the parcel of record); or parcels of land that were of record in the Elmore County recorder's office after January 20, 1994, the boundaries of which shall not have changed except for one or more of the following:
    - a. The parcel of record was reduced by governmental action as specified in this Chapter; or
    - b. The parcel of record was reduced by the conveyance of property to a public utility for the purpose of constructing a public utility or infrastructure facility; or
    - c. The parcel of record received approval for a property boundary adjustment as specified in this Ordinance, and where the parcel of record met both the following standards:
      - (1) The parcel of record had sufficient acreage to accomplish the one-time division prior to completion of the property boundary adjustment; and
      - (2) The property boundary adjustment did not diminish the size of the parcel of record such that it no longer has sufficient acreage to accomplish the one-time division.
  - 2. Recorded platted lots, those recorded lots contained in a subdivision, shall not be eligible for a one-time division of a lot into two (2) lots. Division of subdivided lots shall be subject to the subdivision regulations as set forth this Ordinance and Title.

### **Section 10-3-3: Process:**

- A. Application: An administrative application and fees, as set forth in this ordinance, shall be submitted to the Director on forms provided by the Land Use and Building Department.
- B. Tentative Approval; Requirements: Upon tentative approval of the application by the Director, subject to any applicable conditions of approval and the regulations of this Ordinance, the applicant/owner shall have one year to complete the following tasks:
  - 1. Survey the property and record a record of survey with the Elmore County recorder; and
  - 2. Obtain new tax parcel numbers from the Elmore County assessor; and
  - 3. Provide copies of the recorded record of survey and the new tax parcel numbers to the Director.
- C. Final Approval Requirements: Upon determination by the Director that the one-time division is in conformance with the requirements outlined in the tentative approval letter and that all requirements were satisfied prior to the one (1) year expiration date, then the Director shall issue a letter stating that the one-time division has received final approval.

### **Section 10-3-4: Standards:**

- A. The proposed division shall result in two (2) parcels that are larger than at least one (1) acre each and comply with the design and dimensional standards of this Ordinance, except when the parcel of record has been diminished by governmental action. As a result of governmental action, the Director may approve a reduced property size on one of the resulting parcels, subject to other regulations of this Ordinance rendering the property as a legal non-conforming property.
- B. The proposed division is not a "subdivision" as defined in this Ordinance.

### **Section 10-3-5: Governmental Action Defined:**

- A. A governmental action shall be defined as an acquisition through prescription, purchase, or other means by a County Highway District, Idaho Transportation Department, utility company or corporation under the jurisdiction of the Idaho Public Utilities Commission, or other local, state, or federal agency that reduces an existing property below the required minimum property size.

- B. Any property reduced by governmental action that reduces an existing conforming parcel below the required property size shall be deemed as a conforming property for the purpose of development provided the owner/applicant could provide relevant and factual documentation to the Director indicating that:
1. The property followed the minimum property size requirement of the applicable zoning district and Ordinance prior to the decrease in property size; and
  2. The decrease in property size was caused by acquisition through prescription, purchase, or other means as provided in Section 10-3-5 (A).

**Section 10-3-6: Required Finding:**

- A. Required Findings: In order to grant a one-time division, the Director shall make the following findings:
1. The one-time division created no more than two (2) parcels; and
  2. The one-time division created larger than one (1) acre parcels; and
  3. The parcel or lot being divided was created prior to January 20, 1994, or a parcel of land that was of record in the Elmore County recorder's office after January 20, 1994, and the boundaries of the parcel being divided have not changed except as specified in this Ordinance; and
  4. That if the property was reduced by governmental action that the property was following the minimum property size requirement of the applicable zoning district and Ordinance prior to the decrease in property size; and the decrease in property size was caused by acquisition through prescription, purchase, or other means as provided in Section 10-3-5 (A); and
  5. The subject property requesting a one-time division is not a platted lot within a subdivision.