

Chapter 1

SUBDIVISIONS

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Sec. 1-1. Definitions.

- A. *Subdivider* includes developer, and may be an individual, corporation, association, firm or group who undertakes the subdividing of a lot, tract, or parcel of land for the purpose of transfer of ownership or the development of lots for residential purposes or for the purpose of commercial development.
- B. *Subdivision.* The division or development of a developed or undeveloped lot, tract, or parcel of land, platted or unplatted and laid out or to be laid out in building lots, for homes or commercial developments which may or may not include streets, highways, alleys, or other portions of the same intended to be dedicated to public use.
- C. *Zoning Code.* The Zoning Code means Title 4 of this Code.

Sec. 1-2. Approval of Plat.

No plat shall be recorded, or offered for record, nor shall any land be offered for sale with reference to such plat, until the said plat has been approved in writing by the Planning and Zoning Commission and Council, which shall ascertain, before approving it, that the said plat has satisfied

all of the requirements of this Chapter and the Zoning Code.

Sec. 1-3. Appeals.

Any aggrieved person whose plat or parcel of land has been rejected or disapproved by the Planning and Zoning Commission may petition the Council for a hearing.

Sec. 1-4. Authority and Permits.

A. 1. Requirements of this Chapter are authorized by Article XII, Section 2 of the Idaho Constitution; Title 50, Chapter 13 of the Idaho Code; Title 67, Chapter 65 of the Idaho Code and by any and all other delegation of State authority relevant to this Chapter, as amended or subsequently codified.

2. Standards for subdivisions required by this Chapter are imposed pursuant to authority in Idaho Code Section 67-6518, as amended or subsequently codified.

(Res. 99-01, 2/16/99)

3. No public improvement(s) required by this Chapter pursuant to Idaho Code Section 67-6513 (including, but not limited to, such subsections 5-1-5(D) and 5-1-5(E) herein) shall be greater than necessary to mitigate the effects of such subdivision development on the ability of the City to deliver services without compromising quality of service delivery or imposing substantial additional costs upon City residents to accommodate the proposed subdivision, as of the time of the application for subdivision development.

B. No permits shall be issued by the City for the construction of any building or other improvement requiring a permit, upon any land for which a plat is required by this Chapter unless and until the requirements hereof shall have been fully complied with.

(Ord. 99-09, 3/1/99)

Sec. 1-5. General Requirements.

The following shall be considered minimum requirements and shall apply except when specifically permitted to deviate by the Planning and Zoning Commission.

- A. **Property Lines:** Blocks shall not be longer than six hundred sixty feet (660') between street intersections, unless, because of some peculiar conditions, a longer block shall be approved by the Planning and Zoning Commission. Side lines of lots shall be at right angles or radial to the street lines, unless a variation from the rule will give a better street and lot plan. Such variation must be approved by the Planning and Zoning Commission. Lots with double frontage shall be avoided where practicable. Building setback lines, if shown, shall show a building setback not less than that required by the zoning provisions of the City. Monuments at lot corners, block corners, points of street intersections, and such other points as may be necessary to make the retracing of the lines as shown on the final plat reasonably convenient; shall be in conformity with the Idaho Code and the standards of the City.
- B. **Streets and Alleys:** All subdivision streets shall conform to the highway plan for the City, both as to location and width. The minimum width of right of way for streets shall be fifty feet (50'). The arrangement of streets in new subdivisions shall make reasonable provision for the continuation of the principal existing streets in adjoining subdivisions, or their proper projections when adjoining property is not subdivided. Insofar as they may be made for new streets of a width deemed advisable by the Planning and Zoning Commission. In general, such streets shall be at least as wide as the existing streets, except that in no case shall the width of the right of way be less than the minimum

specified herein. The street and alley arrangement must also be such as to cause no hardship to owners of adjoining property when they plat their land and seek to provide for convenient access thereto. This arrangement must also provide for continuing a reasonable number of through utility lines. Dead-end streets shall have a turnaround at the end with a minimum radius of forty feet (40') right-of-way unless the street is intended for access, in the future, to adjoining property. Reserve strips on outer boundaries of a subdivision may be established to control access to a partial width street, upon approval of the Planning and Zoning Commission and provided that such subdivision be accompanied by agreement to dedicate such strip or strips when sufficient ground is made available for public use to permit widening of said strip to its normal width. No other reserve strips controlling access to public ways shall be permitted, except when the control and disposition of land comprising such strips are placed within the jurisdiction of the City under conditions specified by the Planning and Zoning Commission and attached to the plat. Streets shall intersect each other as near as practicable to right angles. Street names shall be approved by the Planning and Zoning Commission to conform with the uniform plan for street names heretofore or hereafter adopted by the City. All streets and alleys shall be completed to the grades which have been officially approved or determined, or shown upon approved plans and profiles. The minimum width of any dedicated alley shall be twenty feet (20'). Alleys may be required in all blocks where the lots are less than fifty feet (50') in width, along the rear line of business property, and in the rear of all lots fronting major thoroughfares. Where

alleys are not provided, easements of not less than ten feet (10') in width shall be provided on each side of all rear lot lines and side lines where necessary, for poles, wires, conduits, storm or sanitary sewers, gas and water lines. Easements of greater width may be required along lines across lots or along boundaries where necessary for surface overflow or for the extension of main sewers or other utilities. No irrigation ditches shall be permitted on public roads except where acquired by vested rights or where crossing public roads.

(Res. 99-01, 2/16/99; Ord. 99-25, 7/19/99)

- C. Land Required for Other Public Purposes: Land required for public purposes other than for streets, alleys, or utilities may be dedicated to the City if approved and accepted by the Council.
- D. Utilities: All water mains, valves, hydrants and connections to the City water distribution system, all sewer mains, manholes, appurtenances and connections to the City sewer system, including all storm sewers, inlets, appurtenances, and connections, if necessary, shall be provided and installed by the subdivider. These installations shall all be in accordance with the standards and specifications of the City.
- E. Streets and Alleys:
 - 1. All streets shall be constructed in accordance with the Standard Construction Specifications and Drawings adopted by the Council from time to time. When requested by a developer, the City Engineer shall make specific findings that application to an individual subdivision of the City Standard Construction Specifications and Drawings, in whole or in part, is necessary to mitigate the effects of subdivision development on the ability of the City to deliver services without compromising quality of service delivery or imposing

substantial additional costs upon City residents to accommodate the proposed subdivision development. Such specific findings by City Engineer shall be made prior to approval of any improvements required by Sections 5-1-5(E) and/or (D) of this Code and within forty-five (45) days following the receipt by the City of developer's completed application for the building permit. If the developer fails to request such specific findings before the completion of the application for building permit, such failure to so request shall act as acceptance by the developer of the improvements required by the Standard Construction Specifications and Drawings and shall waive developer's right to object to the required public improvements. Any aggrieved person may appeal such findings of the City Engineer to the Council.

(Res. 97-04, 4/21/97; Res. 99-01, 2/16/99; Ord. 00-11, 6/19/00)

- 2. All costs of the improvements required by this subsection E shall be borne by the owners or subdividers.
- 3. No building permit shall be issued for a principal structure unless improvements required by Section 5-1-5, subsections D and E, have been shown on plans submitted to and approved by the City Engineer and constructed, bonded for, or specifically waived by the Council. These improvements shall be required for all streets adjacent to the lot on which the structure is to be constructed.

Ref. Idaho Code § 67-6513 (Ord. 88-13, 11/21/88; Ord. 97-08, 4/7/97)

- F. Dedication of Parkland:
 - 1. With any subdivision, re-subdivision or lot division filed or applied for after December 15, 1985, lands shall be dedicated, or payment in lieu of dedication shall be paid, to the City in order that adequate sites for

public parks may be properly located and preserved as the City develops, and in order that the cost of providing additional public parkland may be most equitably apportioned on the basis of the additional need created by individual development. This provision shall not apply to any re-subdivision or lot division that would result in the creation of no more than one additional single family residential lot; nor shall it apply to land for which parkland had previously been dedicated to satisfy the requirements of this Section. It is the intention of the City to develop each parcel of land dedicated to meet this requirement for park purposes when the area is occupied by residents.

(Ord. 86-31, 12/15/86; 97-07, 4/7/97; 2007-17, 12/03/2007)

2. Amount of land to be dedicated:

a. The amount of land to be dedicated shall be a portion of the net developable area. The net developable area will be computed by calculating, from the plat or site plan, the land area exclusive of proposed or existing streets and other public lands.

(Ord. 97-09, 4/7/97)

b. The amount of land to be dedicated shall be a percentage of the net developable area, as follows unless the result of applying the percentage is demonstrated by the applicant or developer to be manifestly unjust:

Single Family Residence Zoning Districts (FR, SR, R-1, and R-2)	5%
Two Family Dwelling Zoning Districts (R-3)	7%
Multiple Residence Zoning Districts (R-4, and RO)	9%
Commercial Zoning Districts (NB, RTO, CB, GB, I, and MB)	9%

(Ord. 97-09, 4/7/97; 2007-17, 12/03/2007)

c. An agreement between the City and the applicant or developer may be executed permitting the

payment in lieu of dedication over a period of time for commercial zoning districts (NB, RTO, CB, GB, MB and I) if the City determines such payment in lieu of dedication is in the best interest of the City. Payment in lieu of dedication may be paid as development takes place.

(Ord. 97-09, 4/7/97; 2007-17, 12/03/2007)

d. If the zoning district classification for a parcel of land is subsequently changed at the request of an owner to a zoning district requiring a higher proportion of land for park land purposes, or from a zoning district not requiring dedication to one that does, then dedication of the park land or additional park land required for the subdivision by this Section, or payment in lieu of dedication, becomes due before the zoning district change becomes effective.

(Ord. 2007-17, 12/03/2007)

3. Where private space for park purposes is provided in a proposed subdivision, re-subdivision or lot division, such areas may be credited proportionately against the requirement for park land dedication or payment in lieu of dedication if the Council finds that:

a. Such arrangement will be consistent with the program for development of public park lands in the area; and

b. The proposed park land will provide benefits to the users equivalent to those that would be provided by the credited portion of public park land; and

c. The land is reasonably suitable for the proposed park use; and

d. Adequate written assurances, in the form of the development agreement and a financial commitment, are submitted guaranteeing that the space will be developed in a timely fashion for the park activity for which the land is intended; and

e. The long term preservation of the space, the right of the public to access and to use the space, and its adequate operation and maintenance are provided for in a written agreement enforceable by the City, a copy of which shall be recorded in the office of the Latah County Recorder.

(Ord. 2007-17, 12/03/2007)

4. Land Suitability: Land is acceptable for dedication to meet the requirements of this Section if in the judgment of the Council the land is suitable for beneficial park and open space use considering its location, size, configuration, public access, topography, surroundings, compliance with standards for parks established in the Moscow Parks and Recreation Plan and the Moscow Comprehensive Plan, and the needs of the public in that area. Land acceptable for dedication is not necessarily required to be located within a proposed subdivision; however, the land must conveniently serve park land needs of residents of the subdivision. The Council shall consider recommendations received from the Parks and Recreation Commission on the suitability of a particular parcel of land proposed for dedication.

5. Payment in Lieu of Dedication: In the event that the City determines in good faith that proposed dedication does not meet land suitability standards and that there are no alternative proposals which satisfy the conditions of land suitability, then payment in lieu of the land dedication shall be required for all or any portion of land necessary to meet the requirements of this Section.

(Ord. 2007-17, 12/03/2007)

a. The amount of payment in lieu of dedication shall be the current fair market value of land suitable to meet the parkland dedication requirement of this Section. The payment in lieu of dedication shall be

computed by averaging the value of the land exclusive of improvements, (both public and private), and multiplying by the percent required for park dedication. This value shall be determined prior to granting final approval of the subdivision, resubdivision or lot division.

(Ord. 2007-17, 12/03/2007)

b. If the value of such land cannot be determined satisfactorily by the City and the developer, the following procedure shall determine value:

(1) The parties shall each submit an offer of value to the other, in writing. For ten (10) days thereafter either party may accept the other's offer of value.

(2) If neither offer is accepted, an appraiser, selected jointly by the City and the developer shall determine the value.

(3) If the parties cannot agree on selection of an appraiser, the names of two (2) Member Appraisal Institute appraisers, one designated by each party, shall be placed in a container, and one appraiser's name shall be picked at random by the Mayor. This appraiser shall then proceed to determine value.

(4) The party who has submitted the value closest to that ultimately determined to be fair market value by the appraiser shall be considered the prevailing party. The party not prevailing shall pay for the appraisal-related expenses. Either party may appeal the decision of the appraiser to the district court. The court shall consider the matter as a review consistent with the administrative procedures act. The prevailing party shall be paid court costs and reasonable attorney fees by the party not prevailing.

c. Payment in lieu of dedication shall be held by the City in a secure account until it is spent. Payment in

lieu of dedication shall be spent for the acquisition of those new park lands that in the judgment of the Council will most conveniently serve the people who will use the development for which payment in lieu of dedication were collected. If the Council finds that the development is served by an adequate amount of park land, then the payment in lieu of dedication may be used to purchase landscaping materials or for other capital improvements to develop the park lands most conveniently serving the needs of those who will be users of the development.

(Ord. 2007-17, 12/03/2007)

d. The Council may make such arrangements with a subdivider through a contract to permit the payment in lieu of dedication over a period of time.

(Ord. 2007-17, 12/03/2007)

e. Payment in lieu of dedication shall be expended as provided herein within ten (10) years of the last receipt of such payment in lieu of dedication in the development unless such expenditure is impractical or would result in waste.

(Ord. 99-32, 10/4/99; 2007-17, 12/03/2007)

6. Dedicated park land may be sold or traded only if the proceeds are used to acquire other park lands which in the judgment of the Council will better serve those who would be users of the park land sold.

7. Where the Council requires more than single point access to a parcel of land proposed for dedication, the City shall be responsible for a proportional share of the improvements serving the park land beyond those provided at the single access point.

Ref. Idaho Code §67-6513

(Ord. 85-15, 11/18/85)

8. Where Council determines it to be in the best interest of the City, the applicant or developer may execute and file an agreement specifying the

period of time and the conditions pursuant to which a combination of parkland dedication and development of such parkland shall occur.

(Ord. 2007-17, 12/03/2007)

G. Areas of Special Flood Hazard (as defined in Title 4 of this Code):

1. All subdivision proposals shall be consistent with the need to minimize flood damage.

2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

4. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain fifty (50) or more lots or five (5) or more acres.

5. Utilities:

a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

b. New and replacement sanitary sewage systems shall be designed to minimize infiltration of flood waters into the systems and discharge from the systems into flood waters.

(Ord. 86-05, 4/7/86)

H. Stormwater Runoff Control: All subdivisions shall conform to the stormwater runoff control requirements contained in Title 5, Chapter 15 of this Code.

Ref. Idaho Code § 67-6513 (Ord. 99-23, 7/6/99)

Sec. 1-6. Acreage Subdivision.

When a parcel is subdivided into larger tracts than required for individual building lots, such parcel shall be divided so as to allow for the opening of major streets and the ultimate extension of minor streets.

Sec. 1-7. Property Within One Mile of the City.

Property partially or totally within one mile as measured to the nearest recorded city limits line of the City when subdivided, platted, or replatted shall be done as required in the Idaho Code.

Sec. 1-8. Preliminary Plats.

In seeking to subdivide land into building lots and to dedicate streets, alleys or other land for public use, the owner shall submit five (5) copies of a preliminary plat (which plat may be in pencil), so marked, to the Planning and Zoning Commission for its approval, before submitting the final plat. The preliminary plat, along with the required fees and the names and addresses of adjoining property owners, shall be submitted at least fourteen (14) days before the Planning and Zoning Commission hearing date. A public hearing shall be held by the Planning and Zoning Commission which shall act on the application within forty-five (45) days of the hearing date. The Planning and Zoning Commission shall forward its recommendation on the preliminary plat to the Council. The Council shall review the preliminary plat and recommendation, and shall accept or reject the preliminary plat as submitted, accept it with specified changes, or return the matter to the Planning and Zoning Commission for further public hearing and recommendation.

- A. The preliminary plat shall be drawn to a scale not smaller than one inch (1") equals two hundred feet (200') and shall show:
1. Existing property lines, streets, and alleys with their names, buildings, water courses, other features and section corners.
 2. The title under which the proposed subdivision is to be recorded and the name of the subdivider.
 3. The location of existing sewer and water lines, streets, and other utilities.

4. Date, north point, scale and name of surveyor or engineer.

5. The names of all adjoining subdivisions with lines of abutting lots, the owners and departing property lines of adjoining properties not subdivided, and the locations, names and widths of existing streets and alleys and similar facts regarding property which is immediately adjacent. The Planning and Zoning Commission may require a contour map showing contour intervals consistent with the shape of the ground.

- B. Preliminary plats will be checked for:
1. Conformity to the highway plan of the City and the State.
 2. Conformity to the probable development of adjacent properties.
 3. Conformity to the existing street system of the City.
 4. Lot size and arrangement.
 5. Necessary public utility easements.
 6. Proposed protective covenants.
 7. Conformity to the existing zoning regulations.
 8. Availability of water and sewage facilities.

Names of all proposed streets and alleys must be approved by the Planning and Zoning Commission.

One copy of the approved preliminary plat will be kept on file for public examination and one shall be returned to the owner. Such approval of the preliminary plat shall be valid for a period of twelve (12) months from the date of approval of the preliminary plat by the City Council. Before the expiration of the initial twelve (12) month period of approval, the applicant may request of the Council a one- (1) time extension of the preliminary plat approval for an additional period not to exceed six (6) months (i.e., for a total time period not to exceed eighteen (18) months from the date of the City Council preliminary plat approval).

(Ord. 2010-22, 10/18/2010)

Sec. 1-9. Final Plat.

The final plat including the legal description of the exterior boundaries of the subdivision must be prepared in accordance with the Idaho Code. The original tracing together with four (4) prints shall be submitted to the Planning and Zoning Commission for its approval at least two (2) days before the Planning and Zoning Commission meeting. If approved, the tracing and prints shall have endorsed thereon the approval of the Planning and Zoning Commission, and the acceptance of the Council. Of the prints, so endorsed, one copy shall be retained by the Planning and Zoning Commission; one copy shall be delivered to the Council; and two (2) copies shall be returned to the subdivider along with the original tracing. Approval of the Planning and Zoning Commission shall be void unless the original tracing, bearing the endorsements of the City Engineer and the Council, is offered to the Latah County Clerk and Recorder for filing within one hundred eighty (180) days from the date of the Planning and Zoning Commission's approval. Upon written request by the subdivider, the Planning and Zoning Commission may grant one hundred eighty (180) day extensions if the Planning and Zoning Commission finds conditions in the area have not significantly changed since the Planning and Zoning Commission's original approval. The final plat shall be checked for conformity with the approved preliminary plat, and shall show:

- A. The boundaries of the property, the names and widths of all proposed streets and alleys and the boundaries of all other portions intended to be dedicated to the public use.
- B. The exact length and bearing of the center lines of all streets and rights-of-way and the exterior boundary of the plat.
- C. The angle of departure of adjoining property, street and alley lines.
- D. Widths and names of abutting streets and alleys, the names and boundaries

of all subdivisions which have been previously recorded, and adjacent thereto, must be shown upon the plat offered for record, in dotted lines, to show their relationship to the subdivision offered for record; if adjoining land is unplatted show same as such.

- E. All lot areas and symbols for all lots and blocks. All lots and blocks must be numbered separately.
- F. All dimensions, both linear and angular, for locating boundaries of subdivision, lots, streets, alleys, public easements and private easements. The linear dimensions shall be expressed by bearings. All curves shall be circular arcs and shall be defined by the radius, central angle, tangent, arc and chord distances. The description and location of all monuments shall be shown, and chord bearing, if not tangent. All dimensions, both linear and angular, are to be determined by an accurate control survey in the field which must balance and close within a limit of one in five thousand (5,000). Plat dimensions shall be adjusted to close precisely. The owner shall show that the County has checked the plat as required by the Idaho Code and the owner shall be responsible for any fee imposed therefor.
(Ord. 99-25, 7/19/99)
- G. A definite tie between not less than two (2) prominent points on the exterior boundary of the subdivision and the triangulation system of the County as established by the United States Government and supplemented by the County, either by bearing and distance or by rectangular coordinate. The said tie may be made to a line of a County plat, or a plat of a neighboring subdivision which conforms to the above requirements.
- H. The title under which the subdivision is to be recorded, with the name of the surveyor platting the tract. The surveyor shall in every case have a

valid certificate of registration with the Idaho Board of Registration of Professional Engineers and Professional Land Surveyors. The name and title of the subdivision shall not duplicate the name of any existing subdivision.

- I. Date, north point, scale. Minimum scale shall be one inch equals one hundred feet (1"=100'). Street profiles showing continuity to adjoining property shall be required where the contour of the surface warrants such consideration.
(Ord. 99-25, 7/19/99)

Sec. 1-10. Subdivision Improvements; Agreement and Security.

- A. Before the final subdivision plat is signed by the Mayor, all Developers shall be required to complete all of the improvement work required under Sections 5-1-5(D) and (E) of this Chapter. Such Developer shall dedicate said public improvements and property to the City free and clear of all liens and encumbrances on the dedicated property and public improvements.
- B. In lieu of completing all of the required public improvements, before approval of the final site plan by the Council the Developer may execute and file an agreement with the City specifying the period of time within which the Developer shall complete all improvement work required under Sections 5-1-5(D) and (E) of this Chapter, and providing that if the Developer shall fail to complete such work within the specified period or fail to maintain such improvements and correct deficiencies therein as may be directed by the Council or the Director of Public Works during a period of one year following completion and acceptance of such improvements, the City may, at its option, direct the completion of such

work and recover the full cost and expense thereof from the Developer. The agreement may also provide for:

- 1. Construction of the improvement in units;
- 2. An extension of time under conditions therein specified;
- 3. The termination of the agreement upon the completion of proceedings under a local improvement district for the construction of improvements deemed by the Council to be at least the equivalent of the improvements specified in said agreement and required to be constructed by the Developer; and/or
- 4. Proportional refund or release of security for completed improvements to the Developer from any Developer security which is set forth in Section 5-1-5(C) of this Chapter and filed with the agreement.
(Ord. 99-25, 7/19/99)

- C. 1. To assure such Developer's full and faithful performance of the agreement set forth at 5-1-10(B) of this Chapter, the Developer shall also file with the agreement one of the following forms of security:
 - a. certified check,
 - b. cashier's check,
 - c. cash,
 - d. irrevocable letter of credit from a certified bank or financial institution,
 - e. any other form of security which is approved by the Council.
- 2. Any form of security as set forth at 5-1-10(C)(1)(a through e) of this Chapter shall be in an amount as determined by the City, sufficient to cover the cost of said public improvements which are required by the Council and the maintenance, corrections, and inspections, engineering and administration thereof. The amount of the security shall be the City Engineer's estimated cost of the work to be completed plus ten percent (10%) contingency plus

twelve percent (12%) engineering and administration costs.

(Ord. 99-25, 7/19/99)

3. The City may accept cash in the amount of the City Engineer's estimated cost of the required public improvements plus ten percent (10%) contingency plus twelve percent (12%) Engineering and Administration costs in lieu of the security required in this subsection C if the City Engineer determines it to be in the best interest of the City to do so. Cash paid to the City pursuant to this subsection shall be utilized to pay the cost of completing said public improvements and shall relieve Developer from any further payment and/or expense regarding said public improvements.
- D. In the event the Developer shall fail to complete all improvement work in accordance with the provisions of this Chapter and Title and in accordance with the agreement and the City shall have completed same, the City may utilize the security to pay costs of completing said public improvements, including construction, engineering, and administration.
(Ord. 99-25, 7/19/99)
- E. No extension of time, or releases of any form of security required herein shall be made except upon certification by the City Engineer that work covered Hereby has been satisfactorily completed.
(Ord 98-.32, 9-8-98; Ord. 99-25, 7/19/99; Ord. 2001-09, 05/07/01)

Sec. 1-11. Subdivision Development Fee Schedule.

The Council shall, from time to time, adopt and amend subdivision fees by resolution.