

**CHAPTER 1  
SUBDIVISION ORDINANCE**

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10-1-1: TITLE: This Chapter shall be known as the Subdivision Ordinance of the City of Idaho Falls.

10-1-2: PURPOSE: The purpose of this Chapter is to:

- (A) Promote the public health, safety, and welfare;
- (B) Provide guidance for future development and growth to the City in accordance with the comprehensive plan;
- (C) Integrate existing streets and highways with proposed transportation plans and other related development of the City;
- (D) Assure safe and adequate transportation systems, water, sewers, storm drains, parks, school sites, and other public uses and facilities;
- (E) Establish reasonable standards of design and uniform procedures for the subdivision and re-subdivision of land.
- (F) Provide for orderly layout, monumenting and legal description of subdivided lands;
- (G) Provide for an orderly and expeditious method of processing applications for subdivisions and re-subdivisions.

10-1-3: DEFINITIONS: Whenever the following words or terms are used in this Code, they shall have the meanings ascribed below:

**ACCESS PRIVATE:** Any street, road, drive, alley, or other privately-owned way used to obtain direct vehicular access to a public street or alley.

**ACCESS PUBLIC:** Any street, road, highway, alley, or other publicly dedicated and accepted way designed for movement of vehicular traffic.

**ALLEY:** A public way designed to serve as secondary access to the side or rear of lots that have principal access on some other street.

**AGRICULTURAL LAND:** Land used strictly for the cultivation of crops or for animal husbandry and which is held in tracts or parcels no smaller than ten (10) acres in area.

**AMENDED PLAT:** A change in the plat of an approved or recorded subdivision that affects the layout of any street or area reserved for public use or that creates any additional lots.

**AREA OF CITY IMPACT:** The agreement between the City and Bonneville County, as amended, adopted pursuant to Idaho Code 67-6526 and on file with Community Development Services Department.

**BLOCK:** A tract of land bounded by streets, alleys, parks, cemeteries, rights of way, or other public boundary lines.

**BUILDING:** Any structure built for the protection, shelter, or enclosure of persons, animals, chattels, or property of any kind.

**COMMISSION:** The Planning and Zoning Commission of the City.

**COMPREHENSIVE PLAN:** The current, legally adopted and amended Comprehensive Plan of the City.

**CUL-DE-SAC:** A local street with only one (1) outlet and having a safe and convenient circuit for traffic reversal.

**DEDICATION:** The setting apart and acceptance by the Council of land or an interest in land for use by the public.

**DEVELOPER:** A person who subdivides or proposes to subdivide land, whether as an owner or an agent of an owner.

**DEVELOPMENT AGREEMENT:** A contract between the subdivider or developer and the City that sets forth the rights, duties, and obligations of all parties regarding the development of a subdivision or tract of land located within or proposed for annexation into the City.

**DIRECTOR:** The Director of the Community Development Services Department of the City.

EASEMENT: A right of use that is less than ownership, usually for a certain stated purpose.

FRONTAGE: Any side of a lot which abuts a public street.

GRADE: The slope of a road or street expressed as a percentage amount.

IMPROVEMENT: Any alteration to, or construction upon real property, which increases the value or utility of the land.

INDIVIDUAL SEWAGE: A septic tank, seepage tile sewage disposal system, or any other sewage treatment device not connected or intended to serve more than one (1) building, or connected to any other public or private sewage system.

LONG-TERM LEASE: Any transfer of a possessory interest in land for a period greater than thirty-five (35) years, subject to a reversionary interest in the transferor.

LOT: A tract, plot, or portion of a subdivision or other parcel of land of sufficient dimension and area to meet applicable City zoning requirements for lot size.

LOT, CORNER: A lot situated at the intersection of two (2) streets.

MODEL HOME: A dwelling unit used for display purposes which typifies the type of units to be constructed in a subdivision.

OWNER: Any person, group of persons, partnership, association trust, corporation, or other legal entity having legal title to, or an interest in, the land proposed to be subdivided.

PLAT, FINAL: The final drawing of the subdivision, including all dedication and acknowledgments thereon, which conforms to the provisions of this Chapter and to Idaho Code.

PLAT, PRELIMINARY: The preliminary drawing or drawings, indicating the proposed manner or layout of the subdivision, including but not limited to, street and utility layout and design, lots, blocks and proposed zoning.

PLAT, SKETCH: A sketch prior to the preparation of a preliminary plat, or final plat in the case of a short subdivision, used for the purpose of generally discussing the proposed subdivision and any applicable requirements.

PUBLIC IMPROVEMENT: Any drainage system, road, curb, gutter, sidewalk, off-street parking area, sewer or water system, or any other facility for which the City may assume responsibility, or which may affect improvements which are presently the responsibility of the City.

RE-PLAT: A change in the plat of an approved or recorded subdivision that affects the layout of any street or area reserved for public use, or which creates any additional lots.

RE-SUBDIVISION: Same as RE-PLAT.

RECORD OF SURVEY: A field survey and a map that is drawn according to the requirements of Idaho Code, Title 55, Chapter 19, as amended.

RIGHT-OF-WAY: Land occupied or intended to be occupied by a street, sidewalk, railroad, public utility, or other similar public use.

RURAL STREET STANDARD: A typical rural street section as shown in the Engineering Design Policy Manual.

SALE: Any transfer of ownership in land, including a contract of sale, whether by deed, contract, plat, or other agreement.

SETBACK: The minimum distance between a building and a property line.

SPITE STRIP: Any strip of land located within or adjacent to a subdivision the primary purpose of which is to allow the owner or developer of any subdivision to control access to a dedicated street or other public facility.

STREET: The entire width between the boundary lines of a public way.

STREET, DEAD-END: A street or portion thereof, with only one (1) point of ingress and egress.

STREET STANDARDS: The cross sections and construction standards for typical street sections, as set forth in the Engineering Design Policy Manual.

SUBDIVISION: The division of land into two (2) or more lots, for the purpose of sale or development, including any re-subdivision of land.

SUBDIVISION, REGULAR: The subdivision of land into five (5) or more lots.

SUBDIVISION, SHORT: The subdivision of land into four (4) or fewer lots.

VARIANCE: A modification of the strict application of this Chapter.

(Ord. 3181, 04-12-18; Ord. 3186, 5-24-18; Ord. 3332, 09-10-20; Ord. 3412, 9-23-21)

10-1-4: PLATTING:

(A) Platting Required. No person shall subdivide or re-subdivide any piece, parcel, or tract of land, situated within the City's corporate limits or sell or convey any subdivision or portion thereof, within said subdivision, without first filing a plat approved by the City in conformity with the requirements of this Chapter. Notwithstanding the foregoing, any plat situated within the Area of City Impact, shall be subject to the terms and provisions of the Area of Impact Agreement.

(B) Exclusions. Platting shall not be required for:

(1) A bona fide sale, division or partition of land intended strictly for use thereafter as agricultural land. The intent to construct a residence, apartment commercial or industrial building or other nonagricultural building or buildings upon such tract of land, (as evidenced by a request for a building permit) shall be deemed sufficient evidence that the land described in the application for a building permit is no longer agricultural land and therefore immediately subject to the requirements of this Chapter.

(2) An allocation of land in settlement of an estate of a decedent or the subject of a court decree for the distribution of property.

(3) An involuntary sale of land as result of legal condemnation as defined and allowed in the Idaho Code.

(4) Widening of existing streets to conform to the Comprehensive Plan or by authority of the City.

(5) The acquisition of street right of way by a public agency in conformity with the Comprehensive Plan.

(6) An exchange of land for the sole purpose of straightening property boundaries or enlarging any existing lot, and which does not create additional lots. Notwithstanding, when such an exchange of land occurs, a boundary survey shall be performed and staked by an Idaho licensed surveyor and a Record of Survey depicting the exchange shall be filed with the City Surveyor and recorded with Bonneville County pursuant to Idaho Code.

(C) Amended Plat, Re-subdivision or Replat: Whenever a developer proposes to re-subdivide, replat, or amend the plat of an approved preliminary or final plat or a recorded subdivision, the developer shall file a new application for a subdivision and such application shall be processed in the manner set forth in this Chapter.

(D) Plat Specifications: All plats shall comply with Idaho Code and such other regulations established by the City to ascertain compliance with the provisions of this Chapter. The Director shall, upon request, make available a written copy of all such regulations.

#### 10-1-5: GENERAL SUBDIVISION STANDARDS:

(A) Other Laws and Ordinances: All improvements located upon land which is subdivided shall be designed and constructed in compliance with the following laws, rules and regulations, and standards:

(B) Local Ordinances: The Zoning Ordinance of the City, the International Building Code, the International Residential Code, the International Fire Code, the Uniform Plumbing Code, the International Mechanical Code, the National Electric Code, and all other applicable ordinances of the City.

(C) State Laws: All applicable laws of the State, and all rules and regulations, having the force and effect of law promulgated by the State Department of Transportation or Department of Public Health.

(D) Standard Drawings and Specifications: The Standard Drawings and Specifications.

(E) Engineering Design Policy Manual: The Engineering Design Policy Manual, adopted from time to time by Resolution of the Council, a copy of which shall be kept on file with the City Engineer and shall be available to members of the public.

(F) Lot Improvements:

- (1) Each lot shall be arranged so that the lot meets all qualifications necessary to secure a City building permit.
- (2) Lot dimensions shall conform to the minimum standards in the Zoning Ordinance.
- (3) A lot shall have full frontage on, and access to, a dedicated street.
- (4) No residential lot shall have direct access to an arterial street. Direct access to arterial streets from commercial or industrial lots shall be permitted only where it can be demonstrated that:
  - (a) The direct access will not impede the flow of traffic on the arterial street or otherwise create an unsafe condition;
  - (b) There is no reasonable alternative for access to the arterial street from the proposed point of access;
  - (c) There is sufficient sight distance along the arterial street from the proposed point of access;
  - (d) The proposed access is located so as not to interfere with the safe and efficient functioning of any intersection; and
  - (e) The developer agrees to provide all public improvements, such as turning lanes or signals, necessitated for the safe and efficient use of the proposed access as determined by the City Engineer.

- (f) Adequate provisions shall be made for soil preservation, drainage patterns, and debris and waste disposal and collection.
- (g) Side lot lines shall be at, or near, right angles or radial to the street within the required front setback. Corner lot lines intersecting right-of-way lines shall be chamfered by a right-of-way line that is determined by the chord of a minimum twenty foot (20') radius tangent curve.
- (h) All property within the subdivision shall be included within a lot or within an area dedicated for public use.
- (i) All residential corner lots shall be a minimum of ten percent (10%) larger in area than the average of all non-corner lots and non-wedge shaped lots within the plat or subdivision. If fewer than ten (10) such lots are shown in the subdivision or plat under consideration, the Director may use other adjacent plats or subdivisions within the surrounding area to calculate the average area of all similarly zoned lots within the vicinity of the subdivision.

(G) Blocks:

- (1) Blocks shall be designed in accordance with sound engineering practices and standards, taking into consideration such factors as access, circulation, traffic safety and control, topography, utilities, and service easements.
- (2) A residential block length shall not exceed one thousand three hundred feet (1,300'), nor shall it be less than four hundred feet (400') in length. The Planning and Zoning Commission may recommend (and the Council may require) dedication and construction of hard-surfaced pedestrian ways, where necessary, to provide safe and convenient circulation or access to schools, parks, playgrounds, the river and greenbelt, shopping areas, alternate modes of transportation, planned pathways, or any other community facilities.

(H) Street Requirements:

- (1) Every major street in the subdivision shall conform to the major street plan of the City, as set forth in the Comprehensive Plan.
- (2) The alignment and width of a previously platted street shall be preserved unless topographical conditions or existing buildings or structures require otherwise.

(I) Street Classification:

- (1) Roadway classifications shall comply with the Comprehensive Plan and the current Access Management Plan provided by the Bonneville Metropolitan Planning Organization (BMPO).

(J) Cross Sections:

- (1) Final geometric design of street sections shall be approved at the time improvement drawings are submitted for approval by the City. Traffic counts and traffic impact studies, when required, shall be performed by the developer and submitted to the City for review and approval.

(K) Right-of-way Width:

- (1) Right-of-way width within a subdivision shall comply with the following:
  - (a) For residential and commercial zones and adjacent to institutional uses in any zone, a sixty foot (60') minimum right-of-way width is required.
  - (b) For a residential collector a minimum seventy foot (70') right-of-way width is required.
  - (c) For industrial zones a minimum seventy foot (70') right-of-way width is required.
  - (d) For arterials and collectors the minimum a right-of-way width required shall be as identified in the Comprehensive Plan.
- (2) Every residential lot adjoining an arterial street shall comply with the following requirements:
  - (a) Such lots shall have reverse frontage on the arterial streets.
  - (b) Such lots shall be buffered from the arterial street by an effective combination of the following: lot depth, earth berms, vegetation, walls or fences, and structural soundproofing.
  - (c) The minimum lot depth shall be one hundred fifty feet (150') except where the use of berms, vegetation, and structures are demonstrated to constitute an effective buffer for a dwelling on a lot less than one hundred fifty feet (150') in depth.
  - (d) Whenever practical, existing roadside trees shall be saved and used in the arterial buffer.
  - (e) Parking areas may be used to buffer arterial streets from high density residential uses except that a parking area shall not extend into a required landscape buffer.



- (f) Development agreements shall include provisions for installation and continued maintenance of arterial buffers.
- (g) No residential lot shall have individual access to an arterial street.
- (h) All public streets and alley rights of way shall be measured from property line to property line. The minimum width of street and alley rights of way shall conform to the typical cross sections and street standards approved by the City, for the street classification designated by the Director and as set forth in the Comprehensive Plan. In determining the street classification, the Director shall take into consideration all of the following factors:
  - (i) Zoning and land usage of the area in which the street is located.
  - (ii) Anticipated traffic volume and character of traffic use.
  - (iii) Character or function of the street.
  - (iv) Vehicular and pedestrian safety.
  - (v) Anticipated future growth in the area served by the street.
  - (vi) Population density in the area served by the street.
- (i) Local streets or minor collector streets serving residentially-zoned areas may be developed to rural street standards (fifty foot (50') right-of-way) only upon the following conditions and only if approved by the City:
  - (i) All residential lots bordering such streets have frontage lengths of at least two hundred ten feet (210'); or
  - (ii) The gross average density of the development served by the street is equal to, or less than, one (1) single-family unit per acre.
- (j) A permanent dead-end street shall not be longer than four hundred feet (400'), provided, however, if all lots fronting upon such street are zoned RE, RP, R-1, R-2, or TN, then the street may be constructed to a length not to exceed six hundred feet (600'). Notwithstanding the foregoing, no conditional use or building permit shall be issued for the construction of a school, church, day care center, or multi-family dwelling unit with more than two (2) units, where the primary vehicular access for such use is upon a permanent dead-end street having a length in excess of four hundred feet (400'). Every permanent dead-end street shall have a closed end with a turn-around

with a street right-of-way line diameter of at least ninety feet (90') minimum or as required by the Fire Marshal.

- (k) Streets that temporarily dead-end may be permitted with a distance of greater than four hundred feet (400') in length, provided the developer files a preliminary plat depicting a through street connecting to such temporary dead-end street, as part of another phase within that preliminary plat, and provided further the Council may order the developer to file a final plat for such phase of the preliminary plat, at any time at the expiration of three (3) years after the date the plat showing the temporary dead-end street was approved.
- (l) Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than eighty degrees (80°) or greater than one hundred degrees (100°).
- (m) Minor streets shall be so laid out in a manner as will discourage their use by through traffic.
- (n) Streets in subdivisions shall continue the alignment of existing streets in adjoining subdivisions (or their proper projections when adjoining property is not subdivided). Streets, alleys, and utility lines shall be arranged in a manner which will facilitate convenient street extension and connection to future streets, alleys, and utility lines developed by the owners of adjoining.
- (o) Minimum street grades of four-tenths percent (0.4%) and corner radius of six-tenths percent (0.6%) shall be required with the maximum grade being seven percent (7%) for secondary and major streets and ten percent (10%) for local or minor streets.
- (p) All streets and alleys shall be completed to the grades approved by the City.
- (q) Where street lines within a block deflect from each other at any one point more than ten degrees (10°), there shall be a connecting curve. The radius of the curve for the inner right-of-way line shall be not less than seven hundred fifty feet (750') for a major street, three hundred feet (300') for a collector or secondary street, and one hundred seventy feet (170') for local or minor streets.
- (r) Back of curbs at street intersections shall be rounded with curves with a minimum radius of twenty-five feet (25').

- (s) No plat shall be laid out in any manner for the purpose of creating a Spite Strip within or adjacent to the subdivision.
- (t) Street name signs shall be erected by the developer in accordance with Standard Drawings and Specifications and this Code.
- (u) All streets and alleys within the subdivision shall be dedicated for public use. The dedication of one-half (1/2) streets in a subdivision is prohibited except where essential to the reasonable development of the subdivision in conformity with other requirements of this Chapter and where it will be practicable to require the dedication of the other one-half (1/2) when the adjoining property is platted, all as determined by the Director. Wherever a one-half (1/2) street is situated adjacent to a parcel of land to be subdivided, the other one-half (1/2) shall be platted within such parcel.
- (v) All street sections, curbs, gutters, and sidewalks shall be constructed in accordance with the Standard Drawings and Specifications. Curbs, gutters, and sidewalks shall be constructed on each side of all public streets, unless otherwise approved in writing by the Director. (Ord. 3186, 5-24-18)

(L) Alleys and Easements:

- (1) The minimum width of any dedicated alley shall be twenty feet (20'), unless otherwise approved by the Public Works Department and Community Development Services Department. Alleys may be required along the rear line of business property, and in the rear of all lots fronting major thoroughfares, as determined by the Director.
- (2) Where alleys are not provided, public utility easements of not less than eight feet (8') in width may be dedicated on each side of all rear lot lines and six feet (6') on side lot lines, where necessary, for poles, wires, conduits, storm or sanitary sewers, and gas and water lines. Easements of greater width may be required by the City Engineer along lines across lots or along boundaries where necessary for surface drainage or for the extension of main sewers or other utilities.
- (3) Alley intersections and sharp changes in alignment shall be avoided, but where necessary and when allowed by the City Engineer, corners shall be of sufficient radius to permit safe vehicular movement.
- (4) Dead-end alleys shall be avoided. If unavoidable, such alleys shall be provided with adequate turn-around facilities at the dead-end.

- (M) Access Coordination: The access location of a lot to the public right-of-way shall be coordinated so it does not interfere with another lot's access or the safety and efficiency of the transportation system. Lot access should comply with the City's adopted Access Management Plan. A subdivision may be required to provide shared access with adjacent subdivisions. Subdivisions required to have shared access shall execute the necessary cross-access agreements or easements to facilitate the shared access and provide copies of the executed documents to the City prior to the recording of the final plat.
- (N) Sidewalks: Sidewalks shall be provided in all residential and commercial subdivisions unless developed according to rural street standards identified in this Chapter.
- (O) Water and Sewage Facilities: The developer shall ensure that utility improvements and extensions are made to provide sufficient sanitary sewage disposal, storm drainage and water quality and water flow, and pressure for domestic use and fire protection. All water, sewage, and storm drainage utility systems shall be designed and constructed in accordance with the Standard Drawings and Specifications, and the rules and regulations of the Department of Environmental Quality for the State. No construction on such utility systems may be commenced until the City Engineer and the Department of Environmental Quality have approved the design of such system in writing. No plat shall be recorded by the developer or accepted by the City unless the plat bears the necessary water and sanitary certificates required by Idaho Code. (Ord. 3186, 5-24-18)
- (P) Flood Plain Areas: The City may prohibit the subdivision of any portion of land which lies within the flood plain of any body of water as designated by the Federal Emergency Management Agency (FEMA) for the public health, safety and welfare, if it is determined that construction of the subdivision creates a potential hazard to the health or safety of the occupants of the subdivision.

(Ord. 3181, 04-12-18; Ord. 3412, 9-23-21).

#### 10-1-6 APPLICATION FOR SUBDIVISION APPROVAL:

- (A) Application for Approval: No plat shall be recorded until an application for subdivision has been filed by the developer or developers and approved in accordance with the provisions of this Chapter.
- (B) Plat Procedures: The preparation, submittal, review, and approval or denial of all subdivision plats shall proceed through a Regular Subdivision plat procedure (for subdivisions with five (5) or more lots) or a Short Subdivision plat procedure (for subdivision with four (4) or fewer lots).
- (C) Plat Approval Process: Applications seeking approval for regular subdivision shall comply with the preliminary plat and final plat approval process set forth hereafter.

Applications for a short subdivision may follow the sketch plat and final plat approval process, if prior approval to so proceed is given by the Director.

- (D) **Application and Fees:** Whenever a developer requests approval of a sketch plat, preliminary plat, or final plat, such plat shall be accompanied by an application form provided by the City. All applications shall be accompanied with the associated filing fees in an amount set by Resolution of the Council.
- (E) **Application Deemed Complete:** An application for plat approval shall be deemed to be filed with the Director's office upon payment of all fees required by this Chapter and receipt of the application and plat, complete with all required contents.

10-1-7 **SKETCH PLAT APPROVAL PROCESS:** Where a sketch plat is filed, the applicant shall discuss with the Director the requirements of this Chapter, and if the sketch plat appears to be in conformity therewith, the Director shall approve the same or advise the applicant of specific changes, additions, or recommendations which will be likely required to obtain final plat approval. Such approval or recommendations from the Director shall constitute authorization to prepare and submit a final plat. Approval or recommendations for approval shall be given by the Director within twenty (20) days following the date the plat is filed with the Director's office.

10-1-8 **PRELIMINARY PLAT APPROVAL PROCESS:**

- (A) **Preliminary plat approval to subdivide land shall be required when a proposed subdivision includes multiple phases of development, when the subdivision will be divided into several lots and blocks, when the application involves adjustments or realignments to the layout of existing public streets, when the plat proposes the dedication of new public rights-of-way or public facilities, and when directed by the Director. Approval of a preliminary does not constitute approval of the final plat. Actual subdivision does not occur until the final plat is approved and recorded with the Bonneville County Recorder.**
- (B) **Submittal and City Staff Review Process:**
  - (1) **Pre-application Meeting.** Prior to submitting an application for a Preliminary Plat, the developer shall request a pre-application meeting with City staff. The Community Development Services Department shall schedule and conduct a pre-application meeting within three (3) business days following receipt of a request from a developer. The developer shall provide either a sketch plat or a copy of the proposed preliminary plat prior to the pre-application meeting.
  - (2) **Application and Contents of Preliminary Plats.** The application and plat shall accurately and fairly describe and depict all improvements, structures, boundary lines, lot configurations, area to be developed, existing and

proposed land use and zoning, grades, land contour, recreational and public use area, utilities, water works, topography, streets, alleys, easements, and shall contain such other information as may be necessary to determine if the proposed subdivision complies with the requirements of this Chapter. Proof of compliance with the Neighborhood Meeting requirements of the Zoning Code shall be submitted as part of a complete application. The plat shall be drawn in accordance with generally accepted engineering standards and practices and shall be drawn in such a manner as will assure legibility, clarity, reproducibility, accuracy, uniformity, and neatness of the plat.

(3) A complete application shall be submitted to the Community Development Services Department on a form provided by the City and accompanied by a filing fee as set by Resolution of the Council. The application shall be submitted at least five (5) weeks prior to the regularly scheduled Planning and Zoning Commission meeting, or as otherwise approved by the Director.

(4) Following receipt of a complete application and all applicable fees, the Community Development Services Department shall distribute copies of the Preliminary Plat and other application materials to appropriate reviewing agencies for review and comment.

(5) The City will return redlined documents to the applicant or the applicant's agent detailing any changes requested by the reviewing agencies.

(6) Preliminary Plat Public Hearing.

a. After the review of City staff comments and recommendations have been addressed and resubmitted to the Community Development Services Department, a public hearing at a regularly scheduled meeting with the Planning and Zoning Commission shall be scheduled to consider the preliminary plat. Notice of the preliminary plat hearing shall be pursuant to requirements of the Idaho Local Land Use Planning Act. Within sixty (60) days following the date of the Commission meeting at which the plat and application were first submitted, the Commission shall complete its review and shall approve, conditionally approve, or disapprove of the preliminary plat and application, unless an extension of time is agreed to by the Commission and the developer.

(C) Planning and Zoning Commission Review.

(1) When acting on a preliminary plat application, the Planning and Zoning Commission shall review the preliminary plat to determine that the preliminary plat is consistent with the principles contained within the Comprehensive Plan and is in compliance with this Chapter and all

applicable Federal, State, or local laws. In conducting such reviews, the Commission may recess such hearing for good cause and may solicit information, data, studies, or comments necessary to determine such compliance. In the event the Commission conditionally approves the preliminary plat, it shall advise the developer in writing of the conditions under which the approval is granted, and upon developer's compliance with such conditions and the Director's written certification thereof, the preliminary plat shall be deemed approved. If approval of the plat is denied, the Commission shall advise the developer, in writing, of the reasons for denial of the preliminary plat application.

(2) Model Homes. The Council shall allow no more than two (2) model homes to be built in a subdivision after preliminary plat approval, but before final plat approval, provided the lots to be developed have frontage upon an existing public street. (Ord. 3300, 2-13-20)

(D) Appeal of Preliminary Plat. Any person aggrieved by the Planning and Zoning Commission decision on the preliminary plat may appeal the Planning and Zoning Commission's decision to the Council. Such appeal shall be submitted with the appeal fee to the Community Development Services Department within fourteen (14) days from the Planning and Zoning Commission's written decision and shall list the specific Code provisions or other reasons that the appellant believes comprise error. The appeal is on the record that was produced in the preliminary plat process. The appeal shall be scheduled for consideration at a Council meeting and shall occur within sixty (60) days following receipt of the appeal. Upon considering the preliminary plat appeal, the Council may uphold the appeal, deny the appeal, or remand the appeal to the Planning and Zoning Commission for further action, including direction to reopen the public hearing to receive further information. (Ord. 3300, 2-13-20)

(E) Preliminary Plat Expiration: The approval of a preliminary plat shall expire twenty-four (24) months following the date of approval unless a final plat has been approved by the Commission. If the plat is being phased, the preliminary plat shall expire twenty-four (24) months following the date of approval of the final plat for the previous phase. The Planning and Zoning Commission may grant one (1) written twenty-four (24) month extension upon finding good cause. (Ord. 3300, 2-13-20)

#### 10-1-9 FINAL PLAT APPROVAL PROCESS:

(A) Submittal and Review Process:

(1) Following the approval of the sketch plat or preliminary plat, as the case may be, the developer may file an application for final approval of the subdivision plat. Subdivisions that include public improvements shall submit improvement drawings as required by this Chapter. Submittal of

improvement drawings shall run concurrently with the submittal of the final plat. All applications shall be made on a form provided by the City and shall be accompanied by a filing fee as set by Resolution of the Council.

- (2) A complete application shall be submitted to the Community and Development Services Department. Application shall be submitted at least five (5) weeks prior to the scheduled Planning and Zoning Commission meeting where the application will be considered.
- (3) In addition to the application forms required by the Community Development Services Department, the application shall show that the Final Plat is consistent with the approved Preliminary Plat.
- (4) If the number of residential buildable lots has increased more than five percent (5%) within any proposed division or if roadway patterns have been modified within the preliminary plat, the Final Plat shall be determined not to be consistent with the Preliminary Plat. If the Director determines that the Final Plat is not consistent with the Preliminary Plat or that conditions of the Preliminary Plat approval have not been met, a new Preliminary Plat shall be submitted and processed according to the requirements of this Chapter.
- (5) All development shall comply with the Plat Phasing Sequence shown and approved on the Preliminary Plat. Any variation of sequence shall be re-approved following a full staff review and subsequent re-approval by the Director.
- (6) When review comments and recommendations have been satisfactorily addressed by the applicant and resubmitted to the Community Development Services Department, the Planning and Zoning Commission shall consider the Final Plat at a regular scheduled meeting of the Commission. Within sixty (60) days after the meeting of the Commission at which the request for approval of the Final Plat is considered, the Commission shall recommend to the Council approval or denial of the Final Plat. However, the developer may request that the matter be recessed, and in such event, the sixty (60) day period for initial decision making shall not commence until the matter is again considered by the Commission. The Commission shall provide the applicant with written certification of its decision as required by Idaho Code. Whenever the Commission recommends denial of the final plat, it shall specify the ordinances and standards used in evaluating the application, and its reasons for denial thereof and the actions, if any, that the applicant may take to obtain their approval. If the Planning and Zoning Commission denies the Final Plat, or if substantial changes are required, the plat shall be resubmitted.



- (7) Consideration of the request for final plat approval may be conducted simultaneously with hearings for annexation, initial zoning, rezoning, or amendment of the Comprehensive Plan relating to the same property.
- (8) Upon the developer's written request, the Commission shall forward its recommendation to the Council, provided, however, if such request is not physically filed with the Director within one (1) year following the date the Commission issues its recommendation, then the application shall become void. Within forty-five (45) days after the developer's written request, the Council shall hear the request for approval of the final plat to determine if the same complies with the provisions of this Chapter.
- (9) If the final plat conforms to the provisions of this Chapter and all other applicable State or Federal laws, or local ordinances, the Council shall approve the final plat and authorize the Mayor and Clerk to sign the original plat. In granting or denying the application for approval of the final plat, the Council shall specify the ordinance and standards used in evaluating the application, and reasons for approval or denial, and the actions, if any, that the applicant may take to obtain approval. The Council shall provide the applicant with written approval of the final plat decision as required by Idaho Code. The City shall publish notice of the Council's final decision in the City's official newspaper within ten (10) days.
- (10) Proof of payment of all engineering, hook-up, water and sewer, road and bridge, and surface drainage fees and all other fees prescribed by City ordinance. (Ord. 3300, 2-13-20)

(B) Final Plat Requirements:

- (1) Boundary Resolution: The boundary lines and corners of any property being surveyed as part of a Subdivision Plat shall be established and/or retraced in accordance with appropriate boundary law principles governed by the set of facts and evidence found in the course of performing the research and survey.
- (2) Measurement Standards: The following measurement standards for Relative Positional Precision for the monuments or witnesses marking the corners of the surveyed property shall be followed in creation of the final plat:
  - (a) "Relative Positional Precision" means the length of the semi-major axis, expressed in feet, of the error ellipse representing the uncertainty due to random errors in measurements in the location of the monument, or witness, marking any corner of the surveyed property relative to the monument, or witness, marking any other corner of the surveyed property at the ninety-five percent (95%)

confidence level (two (2) standard deviations). Relative Positional Precision is estimated by the results of a correctly weighted least-squares adjustment of the survey.

- (b) Any boundary lines and corners established or retraced may have uncertainties in location resulting from (1) the availability, condition, history, and integrity of reference or controlling monuments, (2) ambiguities in the record descriptions or plats of the surveyed property or its adjoiners, (3) occupation or possession lines as they may differ from the written title lines, and (4) Relative Positional Precision. Of these four (4) sources of uncertainty, only Relative Positional Precision is controllable, although due to the inherent errors in any measurement, it cannot be eliminated. The magnitude of the first three (3) uncertainties can be projected based on evidence. The surveyor in responsible charge shall evaluate and make determinations using sound survey practices for the first three uncertainties. Relative Positional Precision is estimated using statistical means (see Section 2a above and Section 2e below).
- (c) The first three (3) of these sources of uncertainty shall be weighed as part of the evidence in the determination of where, in the surveyor's opinion, the boundary lines and corners of the surveyed property should be located (see Section 2b above). Relative Positional Precision is a measure of how precisely the surveyor is able to monument and report those positions; it is not a substitute for the application of proper boundary law principles. The surveyor shall use sound principles in evaluating position and also meet the requirements of the Relative Positional Precision.
- (d) For any measurement technology or procedure used on a Subdivision Plat, the surveyor shall (1) use appropriately trained personnel, (2) compensate for systematic errors, including those associated with instrument calibration, and (3) use appropriate error propagation and measurement design theory (selecting the proper instruments, geometric layouts, and field and computational procedures) to control random errors such that the maximum allowable Relative Positional Precision outlined in Section 2e below is not exceeded.
- (e) The maximum allowable Relative Positional Precision for monumentation of a Subdivision Plat is one-tenth of one foot (0.10') plus fifty parts per million (50ppm) (based on the direct distance between the two (2) corners being tested). In certain circumstances, the size or configuration of the surveyed property, or the relief, vegetation, or improvements on the surveyed property may result in survey measurements for which the maximum allowable Relative

Positional Precision may be exceeded. If the maximum allowable Relative Positional Precision is exceeded, the surveyor shall note the reason as required in Section 3a below.

- (3) Final Plat or Map Document Accuracy Requirements:
  - (a) A note on the face of the plat or map shall explain the site conditions that resulted in a Relative Positional Precision that exceeds the maximum allowed under Section 2e of these standards.
  - (b) Each of the subdivision boundaries and individual lot boundaries shown on the plat shall have a maximum mathematical closure of 0.01 feet plus ten parts per million (10 ppm).
  - (c) A note on the face of the plat or map shall describe the location and description of any monuments, lines, or other evidence that control the boundaries of the surveyed property or that were otherwise relied upon in establishing or retracing the boundaries of the surveyed property, and the relationship of that evidence to the surveyed boundary.
  - (d) An explanation of the boundary description of the subdivision, if it differs from the original deed for the property, shall be made on the face of the plat or map in a surveyor's note. Where a measured or calculated dimension differs from the record by an amount deemed significant by the surveyor, such dimension shall be shown in addition to, and differentiated from, the corresponding record dimension.
  - (e) When the results of the survey differ significantly from the record, or if a fundamental decision related to the boundary Resolution is not clearly reflected on the plat or map, the surveyor shall explain this information with notes on the face of the plat or map.
- (4) Subdivision Title Guarantee and Report: Proof of ownership and authority of the property owner to legally plat the property shall be demonstrated, prior to recording the final plat, in the form of a title insurance product, approved by the City and set forth in the Final Plat application. The title insurance product shall include, but may not be limited to, proof of ownership and authority to bind the property and sign the "Owner's Dedication" and the "Drinking Water System Certificate".
- (5) Recording the Final Plat:
  - (a) The applicant shall provide three (3) reproducibles of the executed Final Plat to the Public Works Department in accordance with

Section 50-1304, Idaho Code. Signatures shall be in reproducible black ink.

- (b) Upon approval and execution of the final plat, the City Surveyor shall file the plat with the Bonneville County Recorder's office. All approved final plats shall be offered for record within one hundred and eighty (180) days following approval by the Council, unless an extension of time for filing is granted by the Council.
- (c) If the final plat is not offered for record within one hundred and eighty (180) days, or other time period granted by the Council, because of the applicant's failure to meet the requirements specified herein, the Council may rescind its approval of the plat.
- (d) No plat shall be recorded or offered for record nor shall any land be recorded or offered for sale with reference to such a plat until said plat has been duly approved by Council and signed.
- (e) If a fully executed Final Plat has been offered for record by the property owner and has been delayed for any reason, the order to record may come from the Director regardless of the wishes of the owner of the land platted. (Ord. 3003, 4-23-15; Ord. 3129, 8-10-2017)

10-1-10 ENGINEERING IMPROVEMENT DRAWINGS:

- (A) Any person who requests acceptance by the City of any street, utility line, or other public improvement shall first submit improvement plans profiles and specifications for such improvements to the Community Development Services Department. Improvement drawings submitted shall be prepared, signed, and stamped by a licensed professional engineer. Construction of said public improvements shall not be commenced until the City Engineer has certified that such plans are in accordance with the Standard Drawing and Specifications and that the developer has paid the associated fee. Final approval of and signature on the improvement drawings by the City must be obtained prior to the associated Final Plat being submitted to the Council for approval. (Ord. 3186, 5-24-18)
- (B) Acceptance: If improvement plans sealed by a professional engineer licensed in Idaho comply with all state and local laws and ordinances and any development agreement executed or to be executed between the City and the applicant, the City Engineer shall endorse the improvement plans and shall cause a notice to be imprinted upon the improvement drawings stating that the City will not accept ownership or maintenance of such public improvements until a professional engineer licensed in the State of Idaho has inspected the construction of such public improvements and has delivered written certification to the City Engineer that such inspection was made and that construction of such improvements meets or exceeds

the minimum standards set forth in the Standard Drawings and Specifications. (Ord. 3186, 5-24-18)

- (C) As-built Drawings: As-built drawings and construction materials testing documentation of such public improvements shall be prepared, sealed by a professional Engineer licensed in Idaho, and submitted to the City Public Works Department. Following submittal, the City Engineer shall then review the sealed “as-built” drawings, together with the certification of the professional engineer, for acceptance. Public improvements which have been accepted by the City shall result in a “Notice of Public Acceptance of Street and Utilities” to be recorded in the Bonneville County Recorder’s office.

10-1-11 ANNEXATION AND INITIAL ZONING IN CONJUNCTION WITH A PLAT:

- (A) Cities may annex unincorporated territory contiguous to the municipal boundaries provided it complies with Idaho Code. Annexation and Initial Zoning may be done concurrent with a Final Plat.

- (B) Submittal and Review Process:

- (1) A Complete Application shall be submitted to the Community Development Services Department. Applications shall be submitted at least five (5) weeks prior to a regularly scheduled Planning and Zoning Commission meeting where the matter is to be considered.
- (2) Upon receipt of an annexation petition and the required fee, the Community Development Services Department shall schedule a hearing before the Planning and Zoning Commission on the proposed amendment.

- (C) Development Agreement:

- (1) The development agreement shall be prepared by the developer on a form provided by the City and submitted to the City for review. Review and recommendations will then be made by the City and returned to the developer. Final approval by the City and signatures by the developer shall be obtained before the final plat being submitted to the Council.

10-1-12 GUARANTEE OF COMPLETION:

- (A) The developer of a subdivision within the City shall be required to construct and install all public improvements as required by this Code and Idaho Code and the approved improvement drawings for each subdivision or phase thereof prior to the issuance of any building permit for said subdivision. Guarantee of completion shall be provided in lieu of completing all infrastructure improvements prior to issuance of building permits within a subdivision.

(B) Financial Guarantee Arrangements: Prior to commencing construction on any public improvements, the final plat and development agreement shall be approved and recorded. The City shall require the developer to provide a financial guarantee of performance in one (1) or a combination of the following arrangements which shall be in addition to the requirements of any other agency responsible for the administration, operation and maintenance of the applicable public improvement. Public improvements shall include but not be limited to: roads, electric, public water, public sewer, fire protection, lighting, required landscaping, curb, gutter, sidewalks, and drainage systems.

(C) Surety Bond:

- (1) Accrual: The bond shall accrue to the City covering all costs of construction of the specific public improvements.
- (2) Amount: The bond shall be in the amount equal to the one hundred fifty percent (150%) of the total estimated costs based on the development cost in this Section, for completing construction of the specific public improvement, as recommended and approved by the City Engineer.
- (3) Term Length: The bond shall be in force for a period of at least twelve (12) months, with automatic renewals until such time as the public improvements are completed and accepted by the City and shall further continue until all warranty periods are completed.
- (4) Bonding for Surety Company: The bond shall be with a surety company authorized to do business in the State of Idaho and acceptable to the Council.
- (5) Development Cost Estimate: The development cost estimate shall be provided by the developers engineer for review and approval by the City Engineer. Said estimate shall reflect the nearest similar City project bid cost estimates plus ten percent (10%) of the improvement needed to complete the subdivision.

(D) Cash Deposit, Certified Check, Negotiable Bond or Irrevocable Bank Letter of Credit:

- (1) Treasurer, Escrow Agent, or Trust Company: A cash deposit, certified check, negotiable bond, or an irrevocable bank letter of credit, such surety acceptable to the City, shall be deposited with an escrow agent City Treasurer, or trust company;
- (2) Dollar Value: The dollar value of the cash deposit, certified check, negotiable bond or an irrevocable bank letter of credit shall be equal to one

hundred fifty percent (150%) of the estimated cost based on the development cost agreement in this Section, for completing construction of the specific public improvement, as recommended and approved by the City Engineer.

- (3) Escrow Time: The escrow time for the cash deposit, certified check, negotiable bond, or irrevocable bank letter of credit, shall be for a period of a least twelve (12) months, with automatic renewals until such time as the public improvements are completed and accepted by the City and shall further continue until all warranty periods are completed.
- (4) Development Cost Estimate: The Development cost estimate shall be provided by the developers engineer for review and approval by the City Engineer. Said estimate shall reflect nearest similar City project bid cost estimates plus ten percent (10%) of the improvements needed to complete subdivision.
- (5) Other Security: Other security for public improvements may be accepted upon a specific finding by the Council that such security is in an amount and of a type that guarantees installation of public improvements required by this Code.
- (6) Approval of As-Built Site Improvements: With respect to financial guarantees, the approval of all as-built site improvements within a subdivision shall be conditioned on the accomplishment of the following:
  - (a) The public improvements as required in the construction improvement drawings required by this Code have been completed by the developer and approved by the City.
  - (b) All completed public improvements shall be approved by the developer's engineer with an acknowledged/notarized letter.
- (7) Inspection of Public Improvements Under Construction:
  - (a) Before recording of a final plat an agreement shall be made in writing between the developer and the City to provide for the inspection and the construction and conformity of public improvements to the approved construction plans. The inspection fee shall be in an amount set from time to time by Council based on a percentage of the estimated total public improvement construction costs. Materials testing, per the frequency specified in the City's standards, shall be provided by the developer at no cost to the City.
  - (b) Prior to construction of public improvements, a pre-construction meeting shall be held with the appropriate City staff, the project

engineer, and the contractor or the contractor's designated representative.

- (8) **Penalty in Case of Failure to Complete Construction of Public Improvements:** In the event the developer fails to complete construction of public improvements within the period of time required by the conditions of the guarantee for the completion of public improvements the Council may proceed to have such work completed. The Council may determine and take necessary action in order to accomplish completion of the required public improvement. The Council may reimburse itself for the cost and expense thereof by appropriating the cash deposit, certified check, negotiable bond, irrevocable letter of credit, or other acceptable security which the developer deposited in lieu of the surety bond. The City may take any steps necessary to require performance by the bonding or surety company, and as included in a development agreement between the Council and the developer.
- (9) **Reduction and Release of Guarantee:**
  - (a) Following completion of a portion of the public improvement (such as a structure or a section of road), the developer may submit a written request to the City Engineer for final inspection of that portion. To receive partial acceptance the public improvement must be functional and able to be utilized by the public with or without restrictions as determined by the City Engineer. If the City Engineer determines that the developer completed the portion of work in accordance with the development agreement requirements, the City Engineer may consider the inspection a final inspection for that completed portion and relieve the contractor of construction site responsibilities for that portion. If the inspection discloses work not completed in accordance with the requirements of the development agreement, the City Engineer shall not declare that portion of the project complete until the developer addresses the noncompliant work to the satisfaction of the City Engineer.
  - (b) Partial acceptance by the City occurs only after the developer executes and submits all documents, certificates, and proofs of compliance for that portion. When the developer submits (and the City Engineer accepts) all contract required project documentation, the City Engineer will make the partial acceptance for that portion and notify the developer in writing of this acceptance. Bond release shall be proportionate to the cost of construction of the public improvement accepted. If after partial completion, the developer or a subcontractor damages that partial completion, the developer shall repair or replace the damaged work to the satisfaction of the City Engineer at no additional costs to the City.



- (c) Final acceptance by the City occurs only after the inspecting engineer certifies that all of the public improvements are complete and free from defect, after receipt of a notarized statement and itemized bill, and with approval of the City Engineer. The City shall then release the developer from the development agreement upon completion of all warranty periods.
- (10) Exception: For subdivisions where the City determines it to be in the best interest of the property owners to install sidewalks at the time of building rather than at the time of subdivision development, the following procedure will be followed regarding the installation of sidewalks:
- (a) Building Permit/Certificate of Occupancy: A building permit may be issued on a building occupying a lot when the required sidewalk has not been installed under the following conditions:
    - (i) On the building permit it is clearly noted that the sidewalks shall be installed prior to the receipt of a final Certificate of Occupancy.
    - (ii) Prior to the issuance of a temporary Certificate of Occupancy at least one (1) of the following shall be in force:
      - (aa) A cash deposit or certified check in the amount approved by the City Engineer pursuant to this Section shall be deposited and held in escrow by the City until such time as the sidewalks are installed. It shall be the responsibility of the property owner to request an inspection of the installation and request a refund of the escrowed funds from the City. All refunds of such escrowed funds shall be subject to the accounts-payable cycle of the City. An inspection by the City Engineer showing acceptance and compliance of sidewalks shall be completed prior to any request for a refund of the escrowed funds.
      - (bb) A letter from a title company certifying that funds in the amount approved by the City Engineer pursuant to this section shall be held in escrow until such time as the sidewalks have been installed and an inspection by the City Engineer showing acceptance and compliance of sidewalks has been completed.

10-1-13 ADMINISTRATION – WARIANCES – APPEALS:

- (A) Director: The Director shall administer the terms and provision of this Chapter and received and process all subdivision applications.
- (B) Variances: The Council may, upon recommendation from the Commission, grant a variance to the terms and provision of this Chapter. A variance may be granted only upon an express finding that all of the following conditions exist:
- (1) There are special circumstances or conditions affecting the property being platted such that a strict application of this Chapter would clearly be impracticable or unreasonable.
  - (2) Strict compliance with this Chapter would result in extraordinary hardship, as distinguished from mere inconvenience, to the developer because of the particular physical surroundings, shape, or unusual topography of the developer's property, and will substantially preclude development of the property.
  - (3) The circumstances for which the variance is sought are unique to the property and are not applicable to other properties similarly situated.
  - (4) The variance is the least deviation from this Chapter necessary to mitigate the hardship.
  - (5) The granting of the variance is not likely to be substantially detrimental to the public safety, health, and welfare or will not substantially injure other property adjoining the property for which the variance is sought.
  - (6) The variance is not otherwise contrary to law.
  - (7) The conditions necessitating the variance were not caused or exacerbated by or in any way arise from the actions of the developer.
- (C) Petition for Public Hearing: In the event that a hearing has not been held or scheduled for any application or authorization required under this chapter, any affected person may petition the City in writing to hold a hearing prior to final action on an application or authorization. The petition shall be filed with the Community Development Services Department. The City may use its discretion to approve the petition. However, if twenty (20) or more affected persons petition for a hearing, the City shall be required to hold the hearing.
- (D) Appeals of Final Decisions: Any person denied a permit or aggrieved by a final decision of the City, may, within sixty (60) days after all remedies have been exhausted under this Code, seek judicial review pursuant to the judicial review procedures set forth in Title 67, Chapter 65 Idaho Code.