

CHAPTER 1

GENERAL PROVISIONS

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10-1-1: **TITLE:** This title shall be known and entitled as *THE CASSIA COUNTY SUBDIVISION ORDINANCE*, and may be so cited and pleaded.

10-1-2: **PURPOSE:** The purpose and intent of this title is to promote the health, safety, convenience and general welfare of the inhabitants of unincorporated Cassia County in the subdivision of land, construction of streets, sewers, culinary water facilities, storm drains and other improvements.

10-1-3: **DECLARATION:** In establishing the regulations applying to the development of subdivisions, due and careful consideration was given among other things to the suitability of land for dense residential development with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the county.

10-1-4: **INTERPRETATION AND INTENT:** It is the intent of the board of county commissioners of Cassia County that the regulations and restrictions as set forth in this title shall be so interpreted and construed as to further the purpose of this title and the objectives and characteristics of the comprehensive plan.

10-1-5: **CONFLICT:** This title shall not nullify the more restrictive provisions of covenants agreements or other ordinances or laws, but shall prevail notwithstanding such provisions which are less restrictive.

10-1-6: **SCOPE AND APPLICABILITY:**

- A. Compliance Required: No person shall divide any tract of land which is located wholly or in part in the county, outside of incorporated cities or towns, except in compliance with this title and/or title 9, Cassia County Code. No person shall sell or exchange or offer to sell or exchange any parcel of land which is any part of a "subdivision", as defined herein, of a larger tract of land, nor offer for recording in the office of the county recorder any deed conveying such a parcel of land, or any interest therein, unless such subdivision has been created pursuant to and in accordance with the provisions of this title and title 9, Cassia County Code.
- B. Further Division Prohibited: No subdivision plat approved by the board and recorded in the county recorder's office in accordance with the provisions of this title shall be further divided, rearranged, added to or reduced in area, nor shall the boundaries of any lot be altered in any manner so as to create more lots than initially recorded nor create any nonconforming lot without first obtaining the approval of the planning and zoning commission.
- C. **Repealed** [See Section 9-4-16].
- D. **Repealed** [See Section 9-4-16].

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10-1-7:

PERMITS AND LICENSES; COMPLIANCE WITH PROVISIONS:

The building inspector of Cassia County shall not issue any permit or license for the construction, erection, reconstruction, or substantial alteration of any building, structure or land unless it is in full compliance with all the provisions of this title and/or title 9, Cassia County Code. Any license or permit issued in conflict with either title shall be null and void.

10-1-8:

VARIATIONS AND EXCEPTIONS:

- A. Authorization; Conditions: The planning and zoning commission may authorize a variance, as defined in Section 67-6516, Idaho Code, from the provisions of this title when, in its opinion, undue hardship may result from strict compliance. In granting a variance the planning and zoning commission may prescribe conditions that it deems necessary or desirable for the public interest. In making its findings, the planning and zoning commission shall take into account the nature of the proposed and existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance may be granted unless the planning and zoning commission finds:
 - 1. Special Circumstances: That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this title would deprive the applicant of the reasonable use of the land.
 - 2. Property Right: That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.
 - 3. Public Welfare: That the granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which said property is situated.
- B. Application: Application for any such variance shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the planning and zoning commission. The petition shall state fully the grounds for the application and all the facts relied upon by the petitioner, and shall be supplemented with maps, plans or other additional data which may aid the commission in the analysis of the proposed project.

10-1-9: **DEFINITIONS:** The following words and phrases used in this title shall have the respective meanings hereinafter set forth, unless a different meaning clearly appears from the context:

ADMINISTRATIVE LAND DIVISION: **Repealed.** [See Section 9-2 Definitions]

AGRICULTURAL industry, PARCELING: The division of property for agricultural, farm livestock confinement operation or animal keeping purposes and not for the purposes of locating principal buildings now or in the future. See section 10-2-4 of this title.

BLOCK: The land surrounded by streets and other rights of way other than an alley, or land which is designated as a block on any recorded subdivision plat.

BOARD: The board of county commissioners of Cassia County, Idaho.

BOUNDARY LINE ADJUSTMENT: **Repealed.** [See Section 9-2 Definitions]

COMMON OPEN SPACE: A parcel or parcels of land, or an area of water, or a combination of land and water within a planned unit development or subdivision designated and intended for the use or enjoyment of residents of the development. "Common open spaces" may contain complementary structures and improvements as necessary and appropriate for the benefit and enjoyment of occupants of the development.

COMPREHENSIVE PLAN: The Cassia County comprehensive plan.

CONDOMINIUM OR CONDOMINIUM PROJECT: A real estate condominium project; a plan or project whereby two (2) or more apartments or dwelling units in existing or proposed structures are separately offered or proposed to be offered for sale pursuant to the Idaho condominium property ownership act¹.

¹ IC Title 55, Chapter 15.

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- COUNTY: Cassia County, Idaho or any of its officials or employees functioning in an official capacity.
- COUNTY ATTORNEY: The Cassia County attorney or a deputy attorney functioning under his/her direction.
- COUNTY RECORDER: Cassia County recorder.
- CUL-DE-SAC: A vehicle turnaround at the end of a terminal street with a minimum right of way of a seventy foot (70') radius, with at least a sixty foot (60') radius driving surface.
- DEVELOPER: Any person, including corporations and subdividers, that may undertake the development of land.
- ENFORCEMENT OFFICER: That county official or officials designated by the board of county commissioners as the official responsible for accepting, reviewing and approving or rejecting plans for buildings and applications for building permits and for interpretations and enforcement of ordinances related thereto.
- LOT: A parcel or plat of land shown as a separate unit of ownership on the most recent plat of record.
- LOT, BUILDING: A parcel of land legally divided and approved which is of such dimensions as to comply with the minimum requirements of this title and the zoning ordinance for area and width and depth, where applicable, in the zone in which it is located, and having frontage on a public street or approved private street. Where land is subdivided for building purposes and there are property remnants not included in designated proposed building lots, those property remnants shall be considered proposed building lots if they contain less than five (5) acres.
- PARCEL: A single unit of contiguous land that is described on a recorded deed by metes and bounds or other acceptable legal description.
- PLANNED UNIT DEVELOPMENT: An area of land in which a variety of residential, commercial and industrial uses developed under

single ownership or control are accommodated in a preplanned environment with more flexible standards, such as lot sizes and setbacks, than those restrictions that would normally apply under these regulations.

**PLANNING AND
ZONING COMMISSION:**

The Cassia County, Idaho planning and zoning commission, as appointed by the board of county commissioners of Cassia County, Idaho.

**PLANNING
DEPARTMENT:**

The Cassia County zoning administrator, building inspector(s), and staff.

PLAT:

A map or depiction of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks and streets or other divisions and dedications.

**PRIVATE RIGHT
OF WAY:**

A thoroughfare which by easement or by ownership has been reserved for a lot owner(s) to be used as private access to serve the lot(s). No public entity shall have responsibility for maintenance or improvements to private rights of way.

STREETS:

- A. Street: A thoroughfare which has been dedicated or abandoned to the public and accepted by proper public authority, or a thoroughfare not less than fifty feet (50') wide which has been made public by right of use and which affords the principal access to the abutting property and/or provides vehicular circulation.
- B. Street, Major Arterial: An existing or proposed street which is intended to serve as a major trafficway with controlled access.
- C. Street, Minor Arterial: An existing or proposed street which is intended to serve as a major trafficway, with direct access from lots discouraged.
- D. Street, Major Collector: An existing or proposed street which is mainly intended to provide transportation routes to major destination areas or to arterial streets.

- E. Street, Minor Collector: A street which is intended to provide some access to lots and mainly to provide transportation routes from local streets to major collectors or arterials.
- F. Street, Local: A street which is intended to provide access to lots and serve the needs of a neighborhood.
- G. Street, Marginal Access: A street which is parallel to and adjacent to a major arterial street which provides access to abutting properties and protection from through traffic.
- H. Street, Minor Terminal: A local street which is terminated with a cul-de-sac and which is not intended to go through to connect with other streets.

SUBDIVIDER:

Any person, partnership or corporation who undertakes to create a subdivision.

SUBDIVISION:

The result of an act of division of a tract of land into five (5) or more lots, parcels, sites or other divisions of land for the purpose, whether immediate or future, of sale, lease, or of building development from the time of adoption of a subdivision ordinance (April 29, 1978). However, this Title shall not apply to any of the following:

- A. An adjustment of lot lines as shown on a recorded plat which does not reduce the area, frontage, width, depth or building setback lines of each building site below the minimum zoning requirements, and does not change the original number of lots in any block of the recorded plat.
- B. An allocation of land in the settlement of an estate of a decedent or a court decree for the distribution of property. However, no development shall proceed or building permit shall be issued on any such lots, unless the applicable subdivision regulations are complied with.

- C. The unwilling sale of land as a result of legal condemnation as defined and allowed in the Idaho Code.
- D. Widening of existing streets to conform to a comprehensive plan.
- E. The acquisition of street rights of way by a public agency in conformance with a comprehensive plan.
- F. The exchange of land for the purpose of straightening property boundaries which does not result in the change of the present land use.
- G. The bona fide division or partition of agricultural land of five (5) acres or larger, for agricultural purposes.
- H. A lot or parcel created for the exclusive use of a public or private school, other political subdivisions, or public or private utility facilities.

ZONING ORDINANCE: The Cassia County zoning ordinance, also, title 9, Cassia County Code.