

**BOUNDARY COUNTY, IDAHO**  
**ORDINANCE NO. 2023-1**  
**BOUNDARY COUNTY PLANNING & ZONING FILE #22-0216**  
**AMENDMENT TO**  
**BOUNDARY COUNTY ZONING AND SUBDIVISION ORDINANCE 2019-1**  
**REGARDING SUBDIVISION STANDARDS**

AN ORDINANCE OF BOUNDARY COUNTY, IDAHO, AMENDING THE BOUNDARY COUNTY ZONING AND SUBDIVISION ORDINANCE 2019-1 (ALSO KNOWN AS 9B18LOV2), TO PROVIDE DEFINITIONS FOR COMMUNITY WATER, AND WILL-SERVE, AND TO CLARIFY STANDARDS AND PROVISIONS FOR COMMERCIAL/INDUSTRIAL, RURAL, AND URBAN SUBDIVISIONS; AND PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Constitution of the State of Idaho, Article XII, Section 2, the Idaho Local Land Use Planning Act, Title 67, Chapter 65, and Title 31, Chapter 7 provide authority for the Boundary County Board of Commissioners to adopt ordinances establishing land use standards, procedures, and uses; and

WHEREAS, the Idaho Local Land Use Planning Act, Title 67, Chapter 65, sets forth the procedures for the adoption and amendment of land use codes; and

WHEREAS, Section 67-6518 of the Local Land Use Planning Act authorizes each governing board to adopt standards, including building design, yards, and other public and private development; and

WHEREAS, Idaho Code §67-6511 and Boundary County land use codes provide the procedures and authority for the county to amend its land use regulations; and

WHEREAS, Boundary County Planning and Zoning Commission held a duly noticed public hearing on October 27, 2022, at which interested persons had the right to be heard per Idaho Code §65-6509; and recommended approval to the Board of County Commissioners with revisions; and

WHEREAS, the Boundary County Board of Commissioners held a duly noticed public hearing on November 22, 2022, at which interested persons had the right to be heard per Idaho Code §65-6509; and considered the Planning and Zoning Commission recommendation and approved the proposed amendment as recommended; and

WHEREAS, pursuant to Idaho Code §67-6511 and 67-6509, the proposed amendment to the land use regulations was evaluated to determine the extent and nature of the amendment request

with particular consideration given to the effects of delivery of and provisions for public services; and

WHEREAS, as required by Idaho Code §67-6511, the governing board has analyzed the proposed changes to the land use regulations to ensure that they are not in conflict with the policies of the adopted comprehensive plan; and

WHEREAS, the request to amend the land use regulations was approved by the Boundary County Board of Commissioners following public hearings, as evidenced by the Board of Commissioners' decision letter dated May 4, 2020, but an ordinance approving the changes has not been adopted and due to the length of time since the last consideration of this proposal, the county allowed additional time for public notice and comment on the proposed amendment.

NOW THEREFORE,

Be it ordained by the Board of County Commissioners of Boundary County, Idaho that the following ordinance is hereby adopted, as follows:

**Section 1. Adoption of Ordinance: The sections of the Boundary County Zoning and Subdivision Ordinance No. 2019-1 (also known as 9B18LOV2) are hereby amended as follows:**

(Text to be added is shown with underline. Text to be removed is shown with ~~strikeout~~.)

**PART A:** Portions of Section 11.3, Classes of Subdivisions, Section 11.3.2 Commercial/Industrial Subdivisions, Section 11.3.6, Rural Subdivisions, and Section 11.3.7, Urban Subdivision, are hereby amended to read as follows:

**11.3. Classes of Subdivisions:**

**11.3.0. Definitions:**

11.3.0.1 Community Water: Common regulated water source, e.g., association or city water.

11.3.0.2 Sewer: Common regulated sewer service or Panhandle Health approved septic system can serve each lot

11.3.0.3. Will Serve: Letter provided by appropriate utility (septic, water) certifying their resource is available.

**11.3.2. Commercial/Industrial Subdivision:** Subdivisions approved by long plat intended primarily for commercial or industrial development in accordance with zone district standards within the rural community/commercial, commercial/light industrial or industrial zone districts. In commercial/industrial subdivisions, the following standards apply:

~~11.3.2.1. All lots created are served by roads built and surfaced to standards established by current Boundary County Road Standards Manual.~~

11.3.2.1. Roads intended for adoption by Boundary County shall be built and surfaced to standards established by the current Boundary County Road Standards Manual to serve all lots created. Where roads are to remain under private ownership and



maintenance, the subdivision created shall be served by defined access and utility easements to an existing public road, to meet width and slope requirements established by the current Boundary County Road Standards Manual. and All lots shall be served by roads surfaced to a standard sufficient to allow all-weather access by emergency vehicles, actual surface notwithstanding. Where four or fewer lots are proposed, road width and slope requirements may be waived.

~~11.3.2.2. All lots created are served by installed electricity and water connections.~~

11.3.2.2. Each lot created is or can be served by a water district association, approved community water system, or by private well.

~~11.3.2.3. All lots created are or can be served by sewer or private septic system.~~

11.3.2.3. A sewer or a Panhandle Health District-approved septic system can serve each lot.

11.3.2.4. Electrical service sufficient for commercial use can be brought to each lot.

11.3.2.5. Will Serve letters are required for each lot for water or sewer service, where required by the State of Idaho.

**11.3.6. Rural Subdivision:** Subdivision by short plat to create lots primarily intended for residential development where each lot meets or exceeds the density of the zone district in which it lies. In a rural subdivision, the following development standards apply:

**11.3.6.1.** Roads intended for adoption by Boundary County shall be built and surfaced to standards established by the current Boundary County Road Standards Manual to serve all lots created. Where roads are to remain under private ownership and maintenance, the subdivision created shall be served by defined access and utility easements to an existing public road, to meet width and slope requirements established by the current Boundary County Road Standards Manual, ~~and~~ All lots shall be served by roads surfaced to a standard sufficient to allow all-weather access by emergency vehicles, actual surface notwithstanding. Where four or fewer lots are proposed, road width and slope requirements may be waived.

~~11.3.6.2. Each lot created is or can be served by a water district association, approved community water system or by private well.~~

11.3.6.2. Each lot created is or can be served by a water district association, approved community water system, or by private well.

~~11.3.6.3. Each lot created is or can be served by sewer or private septic system.~~

11.3.6.3. A sewer or a Panhandle Health District-approved septic system can serve each lot.

~~11.3.6.4. Each lot is or can be served by an electrical utility.~~

11.3.6.4. Electrical service sufficient for residential use can be brought to each lot.

11.3.6.5. Will Serve letters are required for each lot for water or sewer service, where required by the State of Idaho.

**11.3.7. Urban Subdivision:** Subdivision by long plat to create lots intended for residential development in which any lot proposed is less than 2½ acres in size. In an urban subdivision, the following standards apply:

**11.3.7. Urban Subdivision:** Subdivision by long plat to create lots intended primarily for residential development only allowed in accordance with Section 15 zone district specifications within the Residential, Suburban, or Rural Community/Commercial zone districts. In an urban subdivision, the following standards apply:

**11.3.7.1.** Roads intended for adoption by Boundary County shall be built and surfaced to standards established by the current Boundary County Road Standards Manual to serve all lots created. Where roads are to remain under private ownership and maintenance, the subdivision created shall be served by defined access and utility easements to an existing public road, to meet width and slope requirements established by the current Boundary County Road Standards Manual, ~~and~~ All lots shall be served by roads surfaced to a standard sufficient to allow all-weather access by emergency vehicles, actual surface notwithstanding. Where four or fewer lots are proposed, road width and slope requirements may be waived.

~~11.3.7.2. Electrical service sufficient for residential use is brought to each lot.~~

**11.3.7.2.** Each lot created is or can be served by a water district association, approved community water system, or by private well.

~~11.3.7.3. Each lot is or can be served by a water district or association or by private well.~~

**11.3.7.3.** A sewer or a Panhandle Health District-approved septic system can serve each lot.

~~11.3.7.4. A sewer or a Panhandle Health District-approved septic system serves each lot.~~

**11.3.7.4.** Electrical service sufficient for residential use can be brought to each lot.

**11.3.7.5.** Will Serve letters are required for each lot for water or sewer service, where required by the State of Idaho.

**Section 2. Severability:**

The sections of this ordinance are severable. The invalidity of a section shall not affect the validity of the remaining sections.

**Section 3. Effective Date:**

This ordinance shall be in full force and effect upon the passage and publication of the ordinance or ordinance summary in one (1) issue of the official newspaper for Boundary County, in accordance with the Idaho State Code.

This ordinance duly enacted as an ordinance of Boundary County, Idaho on this 28<sup>th</sup> day of November, 2022, upon the following roll call vote:

**ROLL CALL:**

Commissioner Dinning	<u>Aye</u>
Commissioner Cossairt	<u>Aye</u>
Commissioner Bertling	<u>Aye</u>



**APPROVAL OF ORDINANCE SUMMARY**

Publication of the ordinance by summary in the official newspaper is hereby approved by the Boundary County Commissioners on this 28<sup>th</sup> day of November, 2022, upon the following roll call vote:

**ROLL CALL:**

Commissioner Dinning

*Dan Dinning*

Commissioner Cossairt

*Wally Cossairt*

Commissioner Bertling

*Tim Bertling*

**ATTEST:**

*Glenda Poston*

Glenda Poston  
Clerk of the Board of County Commissioners

11-28-2022  
Date



STATE OF IDAHO }  
County of Boundafy } SS.  
Filed by: Commissioner  
on 12-8-2022 at 2:56 pm  
Glenda Poston  
County Recorder M. R. [Signature]  
By Deputy

Fee \$ 0  
Mail to File County Clerk

**BOUNDARY COUNTY, IDAHO**  
**ORDINANCE NO. 2023-2**  
**BOUNDARY COUNTY PLANNING & ZONING FILE # 22-0199**  
**AMENDMENT TO**  
**BOUNDARY COUNTY ZONING AND SUBDIVISION ORDINANCE 2019-1**  
**REGARDING NON-CONFORMING PARCELS & LOTS AND EFFECTIVE DATES**

AN ORDINANCE OF BOUNDARY COUNTY, IDAHO, AMENDING THE BOUNDARY COUNTY ZONING AND SUBDIVISION ORDINANCE 2019-1 (ALSO KNOWN AS 9B18LOV2), TO PROVIDE EFFECTIVE DATES FOR THE OFFICIAL ZONING MAP (BOUNDARY COUNTY ZONE DISTRICT MAP) AND SUBDIVISION STANDARDS FOR THE PURPOSES OF CONFIRMING LOTS AND PARCELS OF RECORD; PROVIDING A REVISION TO THE NON-CONFORMING DEFINITION; CORRECTING A CROSS-REFERENCING ERROR IN DEFINITIONS; AND PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Constitution of the State of Idaho, Article XII, Section 2, the Idaho Local Land Use Planning Act, Title 67, Chapter 65, and Title 31, Chapter 7 provide authority for the Boundary County Board of Commissioners to adopt ordinances establishing land use standards, procedures, and uses; and

WHEREAS, the Idaho Local Land Use Planning Act, Title 67, Chapter 65, sets forth the procedures for the adoption and amendment of land use codes; and

WHEREAS, Section 67-6518 of the Local Land Use Planning Act authorizes each governing board to adopt standards, including building design, yards, and other public and private development; and

WHEREAS, Boundary County Board of County Commissioners on September 6, 2022, initiated an amendment to its land use codes to correct the definition of non-conforming and to clarify the effective dates of the official zoning map and subdivision standards as they relate to land divisions; and

WHEREAS, Idaho Code §67-6511 and Boundary County land use codes provide the procedures and authority for the county to amend its land use regulations; and

WHEREAS, Boundary County Planning and Zoning Commission held a duly noticed public hearing on October 27, 2022, at which interested persons had the right to be heard per Idaho



Code §65-6509; and recommended to the Board of County Commissioners approval, with revisions; and

WHEREAS, the Boundary County Board of Commissioners held a duly noticed public hearing on November 22, 2022, at which interested persons had the right to be heard per Idaho Code §65-6509; and considered the Planning and Zoning Commission recommendation, and approved the proposed amendment; and

WHEREAS, pursuant to Idaho Code §67-6511 and 67-6509, the proposed amendment to the land use regulations was evaluated to determine the extent and nature of the amendment request with particular consideration given to the effects of delivery of and provisions for public services; and

WHEREAS, as required by Idaho Code §67-6511, the governing board has analyzed the proposed changes to the land use regulations to ensure that they are not in conflict with the policies of the adopted comprehensive plan.

NOW THEREFORE,

Be it ordained by the Board of County Commissioners of Boundary County, Idaho that the following ordinance is hereby adopted, as follows:

**Section 1. Adoption of Ordinance: The sections of the Boundary County Zoning and Subdivision Ordinance No. 2019-1 (also known as 9B18LOV2) are hereby amended as follows:**

(Text to be added is shown with underline. Text to be removed is shown with ~~strikeout~~.)

**Part A: Section 2. Definitions:**

Section 2.20 of Definitions, “Conditions of Family Transfer,” is hereby repealed due to its erroneous reference to non-existent sections of ordinance:

~~**2.20. Conditions of Family Transfer Privilege** See Section 2.64 Transfer, and Section 20.9.~~

Section 2.42.5 of Definitions, “Non-Conforming Parcel,” is hereby amended to read as follows:

**2.42.5 Non-conforming Parcel or Lot:** A lot or parcel that was lawfully created under the land use regulations in effect at the time of its creation, but that does not now conform with lot size minimums, designs, or other land use regulation standards.

~~**2.42.5. Non-conforming Parcel:** A parcel created and conveyed which is not in conformance with the provisions established herein, or that was created prior to the adoption of this ordinance in a manner not conforming to subdivision provisions in effect at the time of partition. No development permit required by this ordinance can be issued to allow development on a non-conforming parcel.~~

**Part B: Section 17. Non-Conformance:**

Section 17.1, “Applicability,” is hereby amended to read as follows:

**17.1. Applicability:** On the effective date of this ordinance, certain parcels, lots, buildings, structures and uses of land existed that were lawfully established but established lawfully, exist that do not conform to the requirements of this the current ordinance. It is the intent of This ordinance establishes a method to allow the continuation of such non-conformances and to establish a method by which such non-conformance may and to be legally recognized and regulated them.

Section 17.2, "Types of Non-Conformance," is hereby amended to read as follows:

**17.2.Types of Non-Conformance:**

**17.2.1 Parcels and Lots of Record:**

**17.2.1.1:** In any zone district, where a parcel or ~~lot tract of land~~ can be verified to have been lawfully ~~partitioned~~ created and described on a recorded legal instrument of conveyance in accord with the applicable provisions of Boundary County land use code in effect at the time of the division, prior to the effective date of this ordinance and such parcel or ~~lot tract~~ is smaller than the minimum parcel size required for the zone district in which it lies, a parcel or lot of record is deemed to exist. The administrator shall use January 27, 2022, as the effective date of the official zoning map to determine compliance with applicable laws relating to lot or parcel size.

**17.2.1.2:** For the purpose of establishing a parcel or lot of record, the administrator ~~will~~ may examine planning office, assessor's and/or clerk's records or may request of the landowner provide legal documentation verifying the date and ~~for~~ method of conveyance by which the parcel or lot tract was partitioned. The administrator shall use July 20, 2017, as the effective date for subdivision law to determine compliance with applicable county laws relating to land divisions. In addition, any lot or parcel for which a placement permit for development of a structure has been granted by the County and where such development has occurred in reliance upon such permit shall be considered compliant for that particular parcel/lot.

**17.2.1.3:** The landowner may apply for a certificate of compliance requesting the County determine whether a parcel or lot is compliant with the applicable land use laws in effect at the time of creation and the effective dates identified in this section. Upon receipt of sufficient documentation to prove that the parcel or lot was lawfully established, the zoning administrator will, at no fee to the property owner, issue a certificate of compliance identifying the tract as a parcel or lot of record. The administrator may request the applicant provide a chain of title report if there is insufficient documentation. If the administrator determines the land is not compliant with the applicable provisions of code, the administrator shall identify actions necessary to bring the land into compliance. The required actions shall be limited to only those laws in effect at the time of the land division.

**17.2.1.4:** Parcels or lots of record shall enjoy the benefits and privileges of a parcel or ~~tract~~ lot meeting the standards established within the zone district, subject to the availability of services, but may not be further divided nor adjusted so as to increase the non-conformity, except as allowed pursuant to Section 11 or Section 20 of this ordinance.



**Section 2. Severability:**

The sections of this ordinance are severable. The invalidity of a section shall not affect the validity of the remaining sections.

**Section 3. Effective Date:**

This ordinance shall be in full force and effect upon the passage and publication of the ordinance or ordinance summary in one (1) issue of the official newspaper for Boundary County, in accordance with the Idaho State Code.

This ordinance duly enacted as an ordinance of Boundary County, Idaho on this 28<sup>th</sup> day of November, 2022, upon the following roll call vote:

**ROLL CALL:**

Commissioner Dinning

[Signature]

Commissioner Cossairt

[Signature]

Commissioner Bertling

[Signature]

**APPROVAL OF ORDINANCE SUMMARY**

Publication of the ordinance by summary in the official newspaper is hereby approved by the Boundary County Commissioners on this 28<sup>th</sup> day of November, 2022, upon the following roll call vote:

**ROLL CALL:**

Commissioner Dinning

[Signature]

Commissioner Cossairt

[Signature]

Commissioner Bertling

[Signature]



**ATTEST:**

[Signature]

Glenda Poston  
Clerk of the Board of County Commissioners

11-28-2022  
Date

STATE OF IDAHO }  
County of Boundary } SS.

Filed by: [Signature]  
on 12-8-2022 at 2:50pm  
Glenda Poston

County Recorder [Signature]  
By Deputy

Fee \$ 0  
Mail to file County Clerk