

CHAPTER 14

LAND DIVISION

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14-1. GENERAL

The provisions of this Chapter are minimum standards, and any more restrictive standards required by other applicable Local, State, and/or Federal laws, rules, codes and/or regulations and ordinances must be complied with. Any action by Jerome County pursuant to this Chapter does not insure that the Applicant is in compliance with any other provisions of applicable Local, State, and/or Federal laws, rules, and/or regulations.

14-2. DEFINITIONS

ALIQUOT PART

The standard subdivisions of a section, such as a half section, quarter section, or quarter-quarter section.

BOUNDARY LINE ADJUSTMENT

The amending of existing property line(s) or boundaries between adjacent Parcels where an equal or lesser number of Parcels are established.

GOVERNMENT LOT

A subpart of a section which is not described as an aliquot part of the section, but which is designated by number, for example, Lot 3. A lot may be regular or irregular in shape, and its acreage may vary from that of regular aliquot parts. These lots frequently border water areas excluded from the PLSS.

LAND DIVISION

The act of recording a deed with a metes and bounds description, or other acceptable legal description, that separates an existing Parcel into two separate and distinct Resulting Parcels.

LAND DIVISION, NON-REGULATED

Divisions of land in which both Resulting Parcels are forty (40) acres or larger.

LAND DIVISION, REGULATED

A Land Division that results in at least one of the two Resulting Parcels being smaller than forty (40) acres.

PARCEL

A single unit of contiguous land that is described on a recorded deed by metes and bounds or other acceptable legal description.

PARCEL, 40-ACRE

A Parcel that is: forty (40) acres by true measurement, an aliquot part (as defined by the public land survey system) that is used as a standard subdivision of a section, such as a quarter-quarter section; or a Government Lot (as defined by the public land survey system) that is designated by a number, may be regular or irregular in shape, whose acreage may vary from that of regular aliquot parts. In no case shall a forty (40) acre Parcel be less than 35 acres.

PARCEL, ORIGINAL

A Parcel as it was legally described on or before September 29, 2008 or Resulting Parcels of Non-Regulated Land Divisions or those Parcels identified in 14-4.01 (F).

PARCEL, RESULTING

One of two separate and distinct Parcels, that together had previously comprised all or a part of the Original Parcel.

SUBDIVISION

Unless otherwise stated in this Ordinance, a Regulated Land Division that: produces one or more Resulting Parcel(s) smaller than one (1) acre; or is the final in a series of such Land Divisions that culminates in the Original Parcel having been separated into five or more Resulting Parcels.

14-3.

APPLICABILITY

- A. Unless otherwise stated, the provisions of this chapter shall apply to Regulated Land Divisions.
- B. The provisions of this chapter shall apply to Boundary Line Adjustments. Unless otherwise stated a permit issued by the Administrator in accordance with the provisions of this chapter shall be required for Regulated Land Divisions or Boundary Line Adjustments.

14-4.

PERMITTING STANDARDS

REGULATED LAND DIVISIONS

A. IN GENERAL

No Regulated Land Division shall be allowed that creates a Parcel smaller than one (1) acre unless the intended use of the Parcel is for: the placement of a utility structure, public road or railway that does not have or require a septic system; or the placement of a residence that will be directly connected to a community water and sewer system.

B. IN A-1 AGRICULTURAL AND A-L AGRICULTURE LIMITED ZONES

1. No Regulated Land Division shall be allowed on any Original Parcel that is eighty (80) acres or more.
2. Except for as outlined in paragraph three (3) below, any Original Parcel less than eighty (80) acres that is not subject to the 40 acre definition regarding aliquot part or government lots shall be allowed one Regulated Land Division. Only one of the Resulting Parcels therefrom shall have a single residence or residential building right. The other Resulting Parcel shall be deemed unbuildable for residential purposes and shall have such "unbuildable" status noted on the recorded Land Division Survey and Deed.
3. An Original Parcel with less than eighty (80) acres that has one or more residential structure(s), one of which existed prior to May 31, 2007, shall be allowed further Land Divisions, provided that such division(s) does not amount to a Subdivision. A Resulting Parcel that does not contain residential structure(s) shall be deemed unbuildable for residential purposes and shall have such "unbuildable" status noted on the recorded Land Division Survey.
4. Any parcel deemed an Original Parcel per the terms of this chapter shall remain subject to the terms of any permit previously issued, regardless of whether such issuance date was prior to September 29, 2008.

C. INCLUDED IN SUBDIVISION DETERMINATION

1. Except as outlined in section 14-3.(B) above, all Regulated Land Divisions of an Original Parcel shall be counted for the purpose of determining if a subsequent division to such a Parcel shall cause the Original Parcel to become a Subdivision, thereby subjecting it to the requirements of Chapter 8 of this ordinance.

D. SETBACKS

1. No Land Division shall be allowed that causes any existing structure to be in violation of Chapter 6 and/or Chapter 13 of this Ordinance.
2. A Resulting Parcel that is unbuildable due to any local, state, or federal setback requirements shall be deemed as such on the recorded Deed and Survey.

E. PUBLIC AGENCIES

1. Resulting and amended Parcels must be able to be adequately served by Public Agencies.

F. EXCEPTIONS

1. A Resulting Parcel that is smaller than one (1) acre and is created for the placement of a utility structure, public road or railway as described in section 14-4.01(A) above, shall be considered an Original Parcel and shall have an origination date equal to that of the Land Division that created the Parcel in the first place.

2. If a regulated Land Division is approved either simultaneously or following a request to rezone one or more of the Resulting Parcels, then each Resulting Parcel shall be deemed an Original Parcel and have an origination date equal to the effective date of the Land Division.
3. When an Original Parcel is divided as a result of some kind of governmental action (*e.g.* the construction of a road or railway through a Parcel, thereby dividing it), each of the two Resulting Parcels shall be deemed Original Parcels and shall have an origination date equal to that of the governmental action. Any existing use on either of the Resulting Parcels shall not be deemed a Non-Conforming Use. A Land Division permit shall not be required.
4. When a subdivision is proposed for a Resulting Parcel, the other Resulting Parcel(s) from a prior Regulated Land Division(s) may be excluded from the proposed subdivision provided the owner(s) of the nonparticipating Parcel and the subdivider are not the same person(s) or entity. Further, unless written consent to do so has been obtained from all affected parties, the proposed subdivision shall not eliminate or amend any existing easements or maintenance agreements that affect the nonparticipating Parcel(s).
5. TEMPORARY FOR FINANCING
 - a. A temporary Regulated Land Division that divides a parcel for financing purposes shall be allowed without a Land Division Permit, provided that the two Resulting Parcels never come under separate ownership and such restriction shall be duly noted on corresponding deed(s). The property shall be surveyed and the proposed legal description(s) shall be submitted to the Administrator for review.
 - b. When a parcel is temporarily divided in an A1 or AL zone, only one (1) resulting parcel shall be entitled a residential use. When there is an established residential use (dwelling or dwellings) the resulting parcel that does not contain the dwelling(s) shall be deemed “unbuildable for residential purposes” and such restriction shall be duly noted on the recorded Deed(s). A temporary Regulated Land Division shall not be allowed when such division would cause two or more existing residential uses to be placed on separate Resulting Parcels.
 - c. A copy of the recorded Deed with deed restrictions requiring single ownership of Resulting Parcels, the unbuildable notation if required, and a Record of Survey shall be submitted to the Planning and Zoning office with an Application for a Zoning Permit.
 - d. The temporary Regulated Land Division shall expire with the two temporary Resulting Parcels coming back together upon sale of the original property or otherwise combining back the Resulting Parcels.
 - e. A temporary Regulated Land Division shall only become permanent upon all conditions of the JCZO being met and a Land Division Permit obtained.

14-4.02 BOUNDARY LINE ADJUSTMENTS

- A. A Boundary Line Adjustment shall “amend” existing Parcels only; it shall not create any new, Resulting Parcels.
- B. Parcels amended by a Boundary Line Adjustment must be in the same zone.
- C. Parcels amended by a Boundary Line Adjustment shall comply with all applicable standards of the JCZO.
- D. The amended Parcels of a Boundary Line Adjustment shall be surveyed and shall have their respective, amended legal descriptions recorded by deed. A Boundary Line Adjustment shall have no effect on the origination of the amended Parcels.

14-5. ACQUIRING A LAND DIVISION AND BOUNDARY LINE ADJUSTMENT PERMIT

14-5.01 APPLICATIONS TO BE COMPLETED

To obtain a Land Division Permit or a Boundary Line Adjustment Permit, an applicant must complete the respective application form available at the office of the Administrator. A request for multiple divisions or multiple Boundary Line Adjustments of the same Parcel may be made on a single application.

14-5.02 APPLICATIONS FOR LAND DIVISION PERMITS

An application for a Land Division Permit shall be filed with the Administrator by the owner(s) or agent(s) of the real property for which the Land Division is proposed. A complete application shall provide the following:

- 1. The name, complete address, and telephone number of the Applicant(s).
- 2. The legal address and/or common directions from the center of Jerome, Idaho.
- 3. A full description of the present use of the property.
- 4. A real property summary sheet and Parcel map.
- 5. The present zoning of the property.
- 6. A full description of the proposed land use, including number and type of structures, setbacks, covenants and other pertinent information.
- 7. A complete site plan of the proposed site, minimum size 8 1/2" x 11". Minimum site plan drawing scale shall be 1" = 400'. The site plan shall include, but not be limited to, location of all existing and proposed setbacks, structures, wells, easements, canals, ditches, injection wells, utilities, rock outcroppings, sink holes, traffic access, and public thoroughfares.
- 8. Document(s) to show Title and Legal Description. (Property Deed)
- 9. A topographical map and soils map of the proposed site.
- 10. Documentation from applicable public agencies indicating response to the proposed land use. Applicable public agencies may include, but are not limited to:
 - a. Department of Water Resources
 - b. Appropriate Fire District
 - c. Health Authority
 - d. Appropriate Highway District
 - e. Appropriate Irrigation District
 - f. Appropriate School District

- g. Utility Departments
 - h. Idaho Fish and Game
 - i. Appropriate City if within the Area of City Impact.
11. If applicable, a plan for all community ditches that ensures the delivery of water from the head gate through those Resulting Parcels entitled to receive water. Also, if necessary to ensure water delivery or for safety reasons, the applicant may be required to install community ditches underground by pipe, tile, culvert, etc., with the location of such underground ditches being recorded.

14-5.03 APPLICATIONS FOR BOUNDARY LINE ADJUSTMENT PERMITS

- A. A completed Boundary Line Adjustment application shall be filed with the Administrator by the owner(s) and or agent(s) of the real property.
- B. A complete application shall provide the following:
 - 1. The name, complete address, and telephone number of the applicant(s).
 - 2. The legal description, address and/or common directions from the center of Jerome, Idaho.
 - 3. A full description of the present use of the property.
 - 4. Real property summary sheet(s) and Parcel map.
 - 5. The present zoning of the property.
 - 6. Document(s) to show Title and Legal Description. (Property Deed)
 - 7. A full description of the proposed land use, including number and type of structures, setbacks, covenants and other pertinent information.
 - 8. A Parcel map from the Jerome County Assessor's Office showing the approximate location of the new lot lines.
 - 9. A complete site plan of the proposed site, minimum size 8 1/2" x 11". Minimum site plan drawing scale shall be 1" = 400'. The site plan shall include, but not be limited to: location of all existing and proposed setbacks, structures, wells, canals, easements, ditches, injection wells, utilities, rock outcroppings, sink holes, traffic access, public thoroughfares and residences of property owners adjoining the Parcel under consideration.
 - 10. Documentation from applicable public agencies indicating response to the proposed land use. Applicable public agencies may include, but are not limited to:
 - a. Health Authority
 - b. Highway District
 - c. Irrigation District
 - 11. If applicable, a plan for all community ditches that ensures the delivery of water from the head gate through those Resulting Parcels entitled to receive water. Also, if necessary to ensure water delivery or for safety reasons, the applicant may be required to install community ditches underground by pipe, tile, culvert, etc., with the location of such underground ditches being recorded.

14-5.04 CRITERIA FOR APPROVAL OF A LAND DIVISION OR BOUNDARY LINE ADJUSTMENT APPLICATION

- A. A permit shall be granted if the application for the proposed Land Division or Boundary

Line Adjustment is complete, and complies with the standards of this chapter and other relevant ordinances.

- B. A permit shall not be granted if the application for the proposed Land Division or Boundary Line Adjustment fails to comply with section 14-4.

14-5.05 CONDITIONS AND SAFEGUARDS

In granting any permit provided for in this chapter, the Administrator may prescribe, require and/or attach appropriate conditions or safeguards to the permit. All imposed conditions shall be identified in the written decision and notification requirements of this chapter.

14-5.06 RECORD OF DECISION

The Administrator shall issue a written decision that conforms to the standards and criteria set forth in Idaho Code Section 67-6535. A copy of such written decision shall be sent to the applicant(s) or the designated agent(s).

14-5.07 NOTIFICATION

If a Land Division or Boundary Line Adjustment application is approved, the Administrator shall send notice of the approval accordingly:

- A. Approval of a Land Division Permit shall be mailed to all property owners within one-quarter ($\frac{1}{4}$) mile of the divided Parcel(s).
- B. Approval of a Boundary Line Adjustment Permit shall be mailed to all property owners adjacent to the amended Parcel(s).

14-5.08 EFFECTIVE DATE OF PERMIT

- A. Land Division permits shall be effective when a recorded copy of the Land Division Survey is presented to the Planning & Zoning office.
- B. Boundary Line Adjustment permits shall be effective when a recorded copy of the Record of Survey is presented to the Planning & Zoning office.

14-6. SURVEY REQUIREMENTS

- A. A record of survey for Land Divisions and Boundary Line Adjustments shall be recorded with Jerome County. Such record of survey shall be completed per the requirements of Chapter 19, Title 55, of the Idaho Code. A recorded copy of the Record of Survey shall be provided to the Planning and Zoning Office for Boundary Line Adjustments.
- B. An additional "Land Division Survey" shall be prepared on all Regulated Land Divisions and specifically shall:
 - 1. Clearly label and show all Resulting Parcels with the area in acreage and a Parcel number or letter.
 - 2. Clearly label and show the location of any easement that exists or that will be created.
 - 3. Clearly label adjacent thoroughfares.
 - 4. Land Divisions Surveys shall conform to the provisions of Idaho Code Section 31-3805 with appropriate certification.

5. Include the dated signature and seal of an Idaho licensed professional land surveyor. This affixing of the professional land surveyor's seal certifies that the survey conforms to requirements of the Idaho Code and this Ordinance.
6. Include a health certificate(s) for sanitary restrictions.
7. Include a signature block for the approval of the Jerome County Planning and Zoning Administrator.
8. Jerome County Assessor's Office shall verify the survey for accuracy.

14-7. LEGAL DESCRIPTION AND PROPERTY DEED

- A. Upon approval of a Land Division Permit Application or a Boundary Line Adjustment Permit Application the property owner(s) or agent(s) shall provide a legal description for each Resulting Parcel from a Land Division, or amended Parcel from a Boundary Line Adjustment. The Jerome County Assessor's Office or Administrator shall verify the legal description for accuracy.
- B. A Land Division or Boundary Line Adjustment is not complete until a property deed is recorded.
- C. A property deed prepared and filed with the County Recorder shall describe all newly created easements.
- D. For Boundary Line Adjustments the property deed prepared and filed with the County Recorder shall state at the beginning of the legal description that it is a Lot (or Boundary) Line Adjustment.

14-8. BUILDING PERMITS

No building permit shall be issued and no structure shall be built upon any Resulting Parcel that does not meet the requirements of this Chapter.

14-9. APPEAL PROCEDURE

Any party aggrieved by the decision of the Administrator may appeal that decision according to the provisions of Chapter 23 of the JCZO or other applicable provisions of law.

14-10. FEES

- A. A non-refundable fee shall be payable to the Administrator before review, verification, or recording a survey or deed. Such fee shall be established by County Commissioners and posted in the Office of the Administrator.
- B. Approved Land Divisions and Boundary Line Adjustments shall be developed according to the site plans and proposed use description submitted to the Administrator. Deviation from the proposal shall require re-application.

14-11. VIOLATIONS AND PENALTIES

14-11.01 VIOLATIONS

- A. Failure to comply with any of the conditions upon which the Land Division Permit or Boundary Line Adjustment Permit was granted shall be deemed a violation of the Permit and of this Ordinance.

- B. An owner with a Parcel of land that was divided or reconfigured without the appropriate permit may cure the Violation without the property reverting to the original configuration by filing the appropriate application.

14-11.02 PENALTIES

- A. Any violation of this Chapter shall subject the property owner(s) to the penalties prescribed in Chapter 20 of this Ordinance and is punishable as a misdemeanor as provided in Section 18-113 Idaho Code as it may be amended from time to time.