



# Bonner County Planning Department

*"Protecting property rights and enhancing property value"*

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## TAKINGS ANALYSIS

Pursuant to Idaho Code §67-8003

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Date: March 25, 2025

To: Board of County Commissioners

From: Bonner County Planning Department

Re: Takings Analysis for the Moratorium on Minor Land Division and Family Exemption Applications

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## INTRODUCTION

Pursuant to Idaho Code §67-8003 and the Idaho Regulatory Takings Act Guidelines, Bonner County has conducted a takings analysis regarding the proposed moratorium on Minor Land Division (MLD) and Family Exemption applications. This analysis assesses whether the moratorium constitutes a regulatory taking under state and federal law.

The temporary moratorium is intended to address regulatory inconsistencies between BCRC 12-600, 12-611, and 12-6.6 that have led to conflicting interpretations and inconsistent enforcement of minor land division procedures. The moratorium will allow the County to review and amend existing land use regulations to ensure consistency with planning goals, infrastructure standards, and public safety requirements.

## ANALYSIS UNDER IDAHO CODE §67-8003

1. *Does the Regulation or Action Result in Either a Permanent or Temporary Physical Occupation of Private Property?*

No. The proposed moratorium does not involve any physical occupation of private property by the government or any other entity.

- What This Means:

- The county is not entering private land, constructing structures, or allowing public use of private land.
- The moratorium does not require property owners to allow access to their land for any purpose.
- There is no eminent domain action associated with this moratorium.

2. *Does the Regulation or Action Condition the Receipt of a Government Benefit on a Property Owner Dedication a Portion of Property, Granting an Easement, or Expending Funds for Items Unrelated to the Impacts of the Proposed Action?*

No. The moratorium does not require property owners to dedicate land for public use or provide easements for roads, utilities, or public access.

- What This Means:
  - No landowner is being forced to give up a portion of their property for public use.
  - The county is not imposing any new easement requirements as a condition of property ownership or development.
  - This moratorium does not impose any dedication requirements and is thus not a taking under this test.

3. *Does the Regulation Deprive the Owner of All Economically Viable Uses of the Property?*

No. The moratorium does not eliminate all economically beneficial or productive use of the property.

- What This Means:
  - Property owners may continue using their land for its current lawful purposes.
  - Existing uses (residential, public, resourced based, commercial, or industrial activities) remain unaffected.
  - Property owners may still sell, lease, or develop their land in accordance with existing zoning and land use laws.
- Additional Details:
  - The moratorium only affects certain land division applications (Minor Land Divisions and Family Exemptions).
  - Development that does not require a land division is still permissible under current zoning regulations.
  - Since property owners retain multiple lawful uses of their land, the moratorium does not constitute a total regulatory taking under this standard.

4. *Does the Regulation Have a Significant Impact on the Landowner's Economic Interest?*

No. While the moratorium may temporarily delay development activity, it does not permanently reduce property values or eliminate all economic benefits.

- What This Means:
  - Any economic impact is short-term and limited in scope.

- The moratorium does not prevent landowners from selling or using their land as currently zoned.
- Future land divisions may still be pursued once the moratorium expires or is lifted.
- Additional Details:
  - Courts generally recognize that temporary restrictions do not amount to a taking unless they impose a severe, long-term economic impact.
  - Property values are unlikely to suffer, as the moratorium is designed to strengthen land use regulations and create long-term clarity and predictability.
  - The temporary nature of this moratorium (182 days) does not create a significant economic burden under this standard.

5. *Does the Regulation Deny a Fundamental Attribute of Ownership?*

No. The moratorium does not strip property owners of fundamental ownership rights, such as possession, use, exclusion, and transfer.

- What This Means:
  - Property owners retain all traditional property rights.
  - They may continue current uses, sell their property, or develop in accordance with zoning laws.
  - There are no restrictions on leasing, financing, or maintaining existing structures.
  - Since the moratorium only pauses a specific land use process (land divisions) without affecting other property rights, it does not amount to a taking under this principle.

Sincerely,



Jake Gabell, Planning Director  
Bonner County Planning Department