

**PLANNING DEPARTMENT
PUBLIC HEARING DECISION MINUTES
WEDNESDAY, OCTOBER 23, 2019**

CALL TO ORDER: Chair Connolly called the Bonner County Commissioners' hearing to order at 1:30 p.m. in the 3rd floor meeting room, Suite 338 of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho.

PRESENT: Commissioners Chair Jeff Connolly; Vice Chair Dan McDonald; and Steve Bradshaw

ABSENT: None

ALSO PRESENT: Planning Director Milton Ollerton; Planning I Halee Sabourin; Emily Aerni Administrative Assistant II; and Administrative Manager Jeannie Welter

PUBLIC HEARING:

AMENDMENT

CALL FOR VISUAL, HEARING OR OTHER IMPAIRMENT REQUIRING ASSISTANCE: The Chair asked whether anyone needed special assistance to hear, see or participate in these proceedings. Hearing no response, the Chair continued with the public hearing.

File AM0004-19 – Amendment to Text – Bonner County Revised Code - Title 12 – Bonner County is initiating a text amendment to Bonner County Revised Code – Title 12 to include the following proposed changes. At their September 19, 2019 public hearing the Planning & Zoning Commission unanimously recommended approval further adding number 3 below:

- 1) Amend Chapter 6 Subdivisions to separate the minor land division and short plat subchapters into individual subchapters.
- 2) Amend the minor land division section to include all the currently referenced sections and make changes to further clarify and address inconsistencies.
- 3) Amend BCRC 12-611 Definitions: The term subdivision shall not include

ADD: I. Minor Land Divisions.

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: The Chair requested the Commissioners declare any conflicts of interest or disclosures. The Chair noted that there were no disclosures or conflicts.

STAFF/APPLICANT PRESENTATION: Planning Director Milton Ollerton presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

PUBLIC/AGENCY TESTIMONY: Josh Pilch spoke on the record in favor of the text amendment.

APPLICANT REBUTTAL: None.

BOARD DELIBERATION: The Chair closed the hearing to public testimony. The Board discussed Findings and Conclusions.

Motion by the governing body:

MOTION: Commissioner McDonald moved to APPROVE this FILE AM0004-19, amending the sections of Title 12, Bonner County Revised Code, as presented or amended in this hearing, based upon the evidence submitted up to the time the Staff Report was prepared, and testimony received at this hearing. This action does not result in a taking of private property. Commissioner Bradshaw seconded the motion.

VOTED upon and the Chair declared the motion carried, unanimously.

Text Amendment Ordinance Adoption:

MOTION TO ADOPT ORDINANCE: Commissioner McDonald moved to adopt an Ordinance of Bonner County, Idaho, the number to be assigned, citing its authority, and providing for the amendment of Title 12, Bonner County Revised Code, Section 12-611 adding letter I and Sections 12-650 through 680, providing for publication and an effective date. Commissioner Bradshaw seconded the motion.

ROLL CALL VOTE

Commissioner McDonald	AYE
Commissioner Connolly	AYE
Commissioner Bradshaw	AYE

VOTED upon and the Chair declared the motion carried, unanimously.

Project Authority

Bonner County initiated an amendment to Title 12. Under the proposed amendment (File #AM0004-19), these amendments are to provide for clarification and address inconsistencies.

This is a continuation of the fine-tuning of the code. Below are the proposed amendments to each specific section and the description of the changes. The language in **red and underlined** is recommended as additions to the existing code. Those words in **red** and strike through would be deleted from the ordinance.

Retitle Subchapter 6.5 Short Plats, Procedures
Move Subchapter 6.5 Minor Land Division to Section 6.6
Move Subchapter 6.6 Lot Line Adjustments to Section 6.7

Move Subchapter 6.7 Condominium Projects to Section 6.8
Including all associated subchapter sub headings
Amend Minor Land Division Section

Subchapter 6.5 - ~~Minor Land Divisions And~~ Short Plats, Procedures
Subchapter 6.65 - ~~Minor Land Divisions Lot Line Adjustments~~
Subchapter 6.76 - ~~Lot Line Adjustments Condominium Projects~~
Subchapter 6.87 - ~~Condominium Projects~~

12-611 DEFINITIONS

The term subdivision shall not include:

ADD: I. Minor Land Divisions

12-~~650~~ MINOR LAND DIVISION PROCEDURE:

- A. Purpose: To ensure that land divisions comply with the applicable zoning regulations; to establish a ministerial review of all land divisions; and to expedite the process for those small divisions of land that conform to the existing zone regulations in which the division lies. (Ord. 557, 11-10-2016)
- B. Procedure: Applications for a minor land division which contain four (4) or fewer contiguous lots under common ownership may be processed as "minor land divisions" as set forth in this section and section ~~12-651~~ of this subchapter; provided, that no planned unit development is requested to accommodate the proposed lot sizes. (Ord. 581, 10-24-2018)
- C. Permit Required: Lots created by a minor land division, shall only be eligible for one minor land division for a period of not less than two (2) years. Land divisions done prior to the end of the two (2) year period shall be processed as a subdivision or short plat.
- D. Application: The application for a minor land division shall include:
 1. Application: Prior to recordation of a deed or MLD plat, each application for a minor land division shall be submitted on a form provided by the Planning Department with appropriate fees approved by the Board of County Commissioners.
 2. Design Criteria: The MLD shall conform to the following design criteria:
 - a. Any new and existing easements or roads showing access to each property, considering alignment with existing or planned roads.
 - b. ~~The parcels created shall conform to the following design criteria: set forth in sections 12-621 and 12-622 and subsection 12-626A of this chapter.~~
 - b. All proposed lots which are three hundred feet (300') or less in width shall maintain a depth to width ratio of not greater than three to one (3:1); and lots which are more than three hundred feet (300') in width shall maintain a depth to width ratio of not greater

than four to one (4:1). All proposed lots one hundred feet (100') or less in width shall be designed so that the angle of intersection of the side lot lines with the fronting road is between eighty five (85) and ninety five degrees (95), for a distance of not less than fifty feet (50') from the point of intersection. Submerged lands are exempt from the requirements herein. (Ord. 501, 11-18-2008)

- c. Lands below the applicable natural or ordinary water mark, or the applicable artificial high water mark, of any lake, river, stream, channel or other body of public water shall not be counted in the calculations for determining the maximum density for a subdivision. For example, if a forty (40) acre parcel in the R-5 zoning district contains thirty (30) acres submerged under Lake Pend Oreille's artificial high water mark, then the parcel contains ten (10) "usable" acres for the purpose of determining the maximum density in a subdivision. (Ord. 501, 11-18-2008)
- d. The division shall be designed around identified natural hazards (highly erosive soils on steep slopes, landslide areas, rock falls, areas of subsidence, floodplains) to protect building sites and roads from damage from such hazards.
- e. All ~~plots~~lots shall include the sanitary restriction or the sanitary restriction lift per Idaho Code 50-1326.
- f. The lot size minimum shall be appropriate for the zone in which the division is located ~~and the use thereof~~.
- g. Resulting lots shall not be divided by boundary of any city, county, zoning designation, railroad right of way, or public right of way. (Ord. 557, 11-10-2016)
3. MLD Plat: The legal descriptions and MLD plat shall be prepared by an Idaho State registered land surveyor and shall include the plat certifications, descriptions, approvals and comments as set forth in sections 12-646, and 12-647 and 12-649 of this chapter. ~~with the following exceptions and inclusions:~~

12-~~651~~ ADMINISTRATIVE REVIEW OF MINOR LAND DIVISION:

Upon receipt and review of completeness, the planning and zoning department shall:

- A. Review the MLD plat and supplemental information to determine compliance with these ordinances and prepare its report, which shall include comments received from other departments.
- B. Distribute the application to the county surveyor, the Assessor treasurer, the road and bridge department, GIS and floodplain administrator for review and compliance.
- C. Based on the above findings, the planning director shall approve,

conditionally approve, or deny the application within thirty (30) days, ~~forty-five (45) days in an area of city impact (ACI)~~; from the date a completed application was stamped received.

- D. Once the director has made a recommendation, the MLD plat map and the legal descriptions shall be signed as approved and transmitted to the board of county commissioners at the next business meeting for review and possible approval. (Ord. 557, 11-10-2016)

STAFF:

The purpose of this ordinance amendment is to separate the minor land division into its own subchapter while also correcting minor inconsistencies in the code. For example, the ordinance states that only a sanitary restriction shall be in place. The change allows the restriction lift to also be in place.

A part of the proposed change is removing the ACI review on the minor land division application. The intent is not to leave the cities out of the review process, the change simply follows the agreement already in place. The MLD was designed to not be considered a subdivision by definition of the State and the County. As the County has now processed over 100 MLD's, there are a couple cities who have responded that the MLD does not meet the definition of a subdivision and provide no comment. The MLD results only in a division of land. There are no roads, septic systems or wells installed as a result of the application. Those things come later with the building permit. The only requirement is that easements are in place to provide access to each lot. The ACI agreement allows for comment from the city but does not require the comments become conditions of approval.

The State Statute definition of a subdivision is below. The County ordinance technically defines a subdivision as 11 or more lots. However, the short plat does follow the regular subdivision process and requirements including addressing roads, sewer and water. The minor land division requires no development of any sort. There are no requirements for roads, sewer or water. The minor land division is simply a division of land that follows the platting requirements. To clarify the definition even further, The Planning Commission included in their motion to add a letter I. Minor Land Divisions to Section 12-611 Definitions under the statement "The term 'subdivision' shall not include:".

I.C.50-1301 (17) Subdivision: A tract of land divided into five (5) or more lots, parcels, or sites for the purpose of sale or building development, whether immediate or future; provided that this definition shall not include a bona fide division or partition of agricultural land for agricultural purposes. A bona fide division or partition of agricultural land for agricultural purposes shall mean the division of land into lots, all of which are five (5) acres or larger, and maintained as agricultural lands. Cities or counties may adopt their own definition of subdivision in lieu of this definition;

Public Comment:

There have been several "no comments" received from agencies. The City of Kootenai provided comment asking that the ACI comment period for Minor Land Divisions be left in place.

Authority

The ordinance amendment is proposed under the authority granted at Idaho Code, Chapter 7, Title 31; Chapter 8, Title 31; and Chapter 65, Title 67; and Article XII, Section 2, of the Idaho Constitution.

Findings of Fact:

1. The Planning and Zoning Commission, per Idaho Code Chapter 65, Title 67, has recommended approval at their September 19, 2019 hearing.
2. The Bonner County Planning Department has reviewed the proposed changes against Idaho Code and made amendments to better comply with the Idaho Code, specifically Title 67 Chapter 65.
3. Further clarifying standards enabling the public and the staff to achieve the best results leading to greater understanding and use of the zoning ordinance.

Conclusions of Law:

1. The proposed amendments to Title 12 **IS** in accord with Idaho Code, Chapter 7, Title 31.
2. The proposed amendments to Title 12 **IS** in accord with Idaho Code, Chapter 50 Title 13.
3. The proposed amendments to Title 12 **IS** in accord with Idaho Code Chapter 67 Title 65.

The Chair declared the hearing adjourned at 1:46 p.m.

Respectfully submitted, this 23rd day of October, 2019.



Milton Ollerton, Planning Director