

CHAPTER 2

ADMINISTRATION AND ENFORCEMENT

SECTION:

- 10-2- 1: Compliance Required
- 10-2- 2: Fees
- 10-2- 3: Licenses And Permits
- 10-2- 4: Inspections
- 10-2- 5: Vacations And Dedications
- 10-2- 6: Waivers
- 10-2- 7: Amendments
- 10-2- 8: Conflicting Provisions
- 10-2- 9: Severability
- 10-2-10: Violation; Penalties

10-2-1: **COMPLIANCE REQUIRED:**

- A. No person shall subdivide any tract or parcel of land located wholly or in part in the city except in compliance with the provisions of this title.
- B. No person shall purchase, sell or exchange any parcel of land which is part of a subdivision or a proposed subdivision submitted to the commission, nor offer for recording in the office of the county clerk any deed conveying such parcel of land or any fee interest therein, unless such subdivision has been created pursuant to and in accordance with the provisions of this title. (Ord. 259-05, 10-4-2005)

10-2-2: **FEES:** Persons filing a subdivision plat within the city shall first have paid all fees as established by resolution of the council. Such fees may be reviewed and changed by resolution of the council at such times as the council deems necessary. A fee may be assessed for any service, including, but not limited to, the following:

- A. Office checking and field engineering.

- B. Subdivision plat filing.
- C. Construction inspection.
- D. Legal review. (Ord. 259-05, 10-4-2005)

10-2-3: **LICENSES AND PERMITS:** From the effective date hereof, no building permits shall be issued in violation hereof, nor shall any city officer grant any license or permit for the use of any land or the construction or alteration of any building or structure on a lot which would be in violation of any provision of this title. Any license or permit issued in conflict with such provisions shall be void. (Ord. 259-05, 10-4-2005)

10-2-4: **INSPECTIONS:**

- A. Appropriate agencies and departments shall inspect (or cause to be inspected) the improvements for compliance with approved plans and specifications and applicable codes such as buildings, fire hydrants, water supply, sewage disposal systems, etc., in the course of construction, installation or repair.
- B. Excavations for fire hydrants and water and sewer mains and laterals shall not be covered or backfilled until such installations shall have been approved by the city. If any such installation is covered before being inspected and approved, it shall be uncovered after notice to uncover has been issued by the city to the responsible person. (Ord. 259-05, 10-4-2005)

10-2-5: **VACATIONS AND DEDICATIONS:**

- A. Application Procedure: Any property owner desiring to have an existing subdivision, public right of way or easement vacated, or desiring to dedicate a street right of way or easement shall complete and file an application with the city and also file such other applications as are otherwise required by law. Upon receipt of the completed application and other information as may be required, the city shall affix the date of application acceptance thereon. Said application shall then be placed on the agenda for consideration at the next regular meeting of the commission which is held not less than thirty (30) days from application submittal. Various city

departments shall submit comments on the vacating or dedicating application prior to the commission meeting. (Ord. 259-05, 10-4-2005; amd. 2010 Code)

B. Action:

1. Commission Recommendation: The commission shall review the request and any agency response and make a recommendation to the council for approval, conditional approval or denial.

2. Council Action:

a. When considering an application for vacation procedures, the council shall establish a date for a public hearing and give such public notice as required by law. The council may approve or deny the application. Whenever public rights of way or lands are vacated, the council shall provide adjacent property owners with deeds for said vacated rights of way in such proportions as are prescribed by law.

b. When considering an application for dedication, the council may approve or deny the application. When a dedication is approved, any required street improvements shall be constructed or a bond furnished assuring construction prior to acceptance of the dedication. To complete the acceptance of any dedication of land, the owner shall furnish to the council a deed describing and conveying such lands to be recorded with the county recorder. (Ord. 259-05, 10-4-2005)

10-2-6: **WAIVERS:** Where the council finds that extraordinary hardships may result from strict compliance with this title, it may waive specific regulations so that substantial justice may be done and the public interest secured; provided, that such waiver will neither have the effect of nullifying the intent and purpose of the comprehensive plan nor this title. The fact that an owner could realize a greater financial return from his property by subdividing said property contrary to this title is not a sufficient reason for hardship. Hardship cannot be proved where it can be shown that property was purchased with the knowledge of existing restrictions, nor can hardship be claimed in terms of prospective sales or potential customers. (Ord. 259-05, 10-4-2005)

10-2-7: **AMENDMENTS:** The council, after recommendation from the commission, may, from time to time, amend, supplement, or repeal the regulations, procedures and provisions of this title in the following manner:

- A. The commission, prior to recommending an amendment, supplement or repeal of this title, shall conduct at least one public hearing in which interested persons shall have an opportunity to be heard. At least fifteen (15) days prior to the hearing, notice of the time and place and a summary of the proposed amendment, supplement or repeal to be discussed shall be published in the official newspaper or paper of general circulation within the jurisdiction. The commission shall also make available a notice to other papers and radio and television stations serving the jurisdiction for use as a public service announcement. Following the commission hearing, if the commission makes a material change in this title, other than that published for the present hearing, further notice and hearings shall be provided before the commission forwards its recommendation to the council. A record of the hearings, findings made, and actions taken shall be maintained.
- B. The council, prior to adoption of an amendment, supplement or repeal of this title, shall hold at least one public hearing using the same notice and hearing procedures as the commission. The council shall not hold a public hearing, give notice of a proposed hearing, or take action on a proposed amendment until recommendations have been received from the commission. Following the hearing of the council, if the council makes a material change in this title, other than that published for the present hearing, further notice and hearings shall be provided before the council adopts the amendment, supplement or repeal. (Ord. 259-05, 10-4-2005)

10-2-8: **CONFLICTING PROVISIONS:** It is not intended that this title shall impair or interfere with other regulations of state or local law, or with private restrictions on the use of land, improvements, and structures. Where this title imposes greater restriction than that imposed by other laws or private restrictions, this title shall prevail. (Ord. 259-05, 10-4-2005)

10-2-9: **SEVERABILITY:** If any provision of this title is held to be invalid, such invalidity shall not affect other provisions which can be given effect without the invalid provisions, and to this end, the

provisions of this title are declared to be severable. (Ord. 259-05, 10-4-2005)

10-2-10: **VIOLATION; PENALTIES:** Penalties for failure to comply with the provisions of this title shall be as follows:

- A. Violation of any of the provisions of this title or failure to comply with any of its requirements shall constitute a misdemeanor. Each day such violation continues shall be considered a separate offense.
- B. The landowner, tenant, subdivider, builder, public official or any other person who commits, participates in, assists in, or maintains such violations may each be found guilty of a separate offense.
- C. Nothing herein contained shall prevent the council or any other public official or private citizen from taking such lawful action as is necessary to restrain or prevent any violation of this title or of Idaho Code. (Ord. 259-05, 10-4-2005)

