

Valley County Planning and Zoning
Cynda Herrick, Director

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STAFF REPORT: Amendment to the Valley County Code – Title 10 Subdivision Ordinance
HEARING DATE: October 14, 2021
TO: Valley County Planning and Zoning Commission
STAFF: Cynda Herrick, AICP, CFM
REQUEST: Revisions to Valley County Code

The plan and subdivision plat review required by the Valley County Subdivision Ordinance, determines, among other things, that the parcel[s] subject to the proposed subdivision has sufficient depth to groundwater to support septic systems, power is available to provide service to future dwellings, road rights of way exist, and roads are constructed to sufficient standards to provide emergency vehicle access to subdivided parcels.

This proposed ordinance would modify the minimum size of a rural parcel from 20 acres to 160 acres.

Smaller lots would be created through the subdivision plat process.

10-1-3: SCOPE:

- A. The regulations of this title shall apply to the subdivision of all land within the unincorporated territory of Valley County, except for land within impact areas for which different ordinances have been adopted, as defined by the definition of a "subdivision".
- B. It shall be unlawful hereafter to make a subdivision of land, unless it is qualified as an exception in the scope, until plans and a subdivision plat thereof are submitted to and approved by the administrator or the county planning and zoning commission, and by the board of county commissioners.
- C. Exceptions: The following division of land shall not be deemed a subdivision for land use purposes, but must comply with Title 11 of the Valley County Code - Flood Control:
 5. A division of land into parcels (containing) ~~twenty (20)~~ one-hundred sixty (160) acres or more.

10-1-6: DEFINITIONS:

ORIGINAL PARCEL: A lot in a platted subdivision or a tract of land of record at the time of the adoption of the subdivision regulations on April 29, 1970, as evidenced by a parcel number having been assigned by the Valley County assessor, or each one-half (1/2) of a section held in one ownership.

(Ordinance 2022- __ Attached)

FINDINGS:

1. On September 7, 2021, the Valley County Board of Commissioners adopted an Emergency Ordinance (2021-09) which changed minimum size of a split without a subdivision plat to 160 acres. The ordinance is effective for 182 days. Attached is the ordinance and minutes from the Board meeting.
2. Legal notice was posted in the Star News on September 23, 2021, and September 30, 2021. Potentially affected agencies were notified on September 14, 2021. The notice sheet was posted on bulletin boards at post offices and libraries in Cascade, Donnelly, McCall, and Yellow Pine. The notice was posted online at www.co.valley.id.us/public-hearing-information on September 14, 2021.

3. Responses received:

Central District Health responded on September 17, 2021. They have no objections to this proposal.

Wesley Keller, 260 Moonridge Drive, supports the proposal. With Valley County growing, it is wise to ensure that groundwater, septic, power, road rights-of-ways are thought through proactively. (October 28, 2021)

Rem Fox supports the ordinance amendment. He states many wells have dried up this year in the State of Idaho. He has great concerns over supporting conservation practices and land management. He is concerned with overbuilding and balancing agriculture needs in Valley County. (September 15, 2021)

Dwight Jividen, 413 Cabarton Road, is opposed. This ordinance would make land more expensive, and it creates unnecessary technical limitations on the use of property. There is a demand in the marketplace for land that does not support a septic system. There is a demand in the marketplace for land that does not have year-round road access. There is a demand for land that does not have electricity. Why do the commissioners wish to deny these buyers the opportunity to buy land? If this ordinance is approved, developing land will cost more due to cost of building roads. This will result in the creation of smaller parcels. (October 5, 2021)

ATTACHMENTS:

- Proposed Ordinance
- Ordinance No. 2021-09
- Responses

END OF STAFF REPORT

VALLEY COUNTY
ORDINANCE NO: 2022-__
Amendment to Title 10 of the Valley County Code

AN ORDINANCE TO PROVIDE FOR AMENDMENT TO VALLEY COUNTY CODE TITLE 10 PROVIDING FOR A CHANGE TO MODIFY EXCEPTIONS TO THE REQUIREMENTS FOR THE SUBDIVISION OF LAND FROM A 20 ACRE PARCEL TO A 160 ACRE PARCEL; REFINING THE DEFINITION OF ORIGINAL PARCEL; AND, PROVIDING THE EFFECTIVE DATE THEREFORE.

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF VALLEY COUNTY, IDAHO:

10-1-3: SCOPE:

A. The regulations of this title shall apply to the subdivision of all land within the unincorporated territory of Valley County, except for land within impact areas for which different ordinances have been adopted, as defined by the definition of a "subdivision".

B. It shall be unlawful hereafter to make a subdivision of land, unless it is qualified as an exception in the scope, until plans and a subdivision plat thereof are submitted to and approved by the administrator or the county planning and zoning commission, and by the board of county commissioners.

C. Exceptions: The following division of land shall not be deemed a subdivision for land use purposes, but must comply with Title 11 of the Valley County Code - Flood Control:

5. A division of land into parcels (containing) ~~twenty-(20)~~ one-hundred sixty (160) acres or more.

10-1-6: DEFINITIONS:

ORIGINAL PARCEL: A lot in a platted subdivision or a tract of land of record at the time of the adoption of the subdivision regulations on April 29, 1970, as evidenced by a parcel number having been assigned by the Valley County assessor, or each one-half (1/2) of a section held in one ownership.

NOW, THEREFORE, BE IT ORDAINED AND APPROVED by the Valley County Board of Commissioners, Idaho this ___ day of _____ 2021, with an effective date being the date of publication.

Elting Hasbrouck, Chairman

Attest:

Douglas A. Miller
Valley County Clerk

**VALLEY COUNTY
ORDINANCE NO: 2021-09
Emergency Ordinance**

AN EMERGENCY ORDINANCE TO PROVIDE FOR AMENDMENT TO VALLEY COUNTY CODE TITLE 10 PROVIDING FOR A CHANGE TO MODIFY EXCEPTIONS TO THE REQUIREMENTS FOR THE SUBDIVISION OF LAND FROM A 20 ACRE PARCEL TO A 40 ACRE PARCEL; PROVIDING THAT THE ORDINANCE IS ENACTED ON AN EMERGENCY BASIS; AND, PROVIDING THE EFFECTIVE AND SUNSET DATES THEREFORE.

WHEREAS, the Board of County Commissioners is empowered, pursuant to Idaho Code § 31-714, to pass all ordinances and rules and make regulations, not repugnant to law, necessary for the carrying into effect or discharging the powers and duties conferred by the laws of the state of Idaho, and such as are necessary or proper to provide for the safety, promote the health and prosperity, improve the peace and good order, comfort and convenience of the county and the inhabitants thereof, and for the protection of property therein; and

WHEREAS, the Board of County Commissioners is empowered, pursuant to Idaho Code § 67-6523, to enact an emergency ordinance if it finds that an imminent peril to the public health, safety, or welfare requires adoption of ordinances under the Local Land Use Planning Act; and

WHEREAS, the current Valley County Subdivision Ordinance, Valley County Code 10-1-1 *et seq.*, makes it unlawful to make a subdivision of land without the prior approval of plans and a subdivision plat by the Administrator or the county planning and zoning commission, and by the board of county commissioners; and

WHEREAS, one of the enumerated exceptions to the plan and subdivision plat approval is for the division of land into parcels of twenty (20) acres or more; and

WHEREAS, the plan and subdivision plat review required by the Valley County Subdivision Ordinance, determines, among other things, that the parcel[s] subject to the proposed subdivision has sufficient depth to groundwater to support septic systems, power is available to provide service to future dwellings, road rights of way exist and roads are constructed to sufficient standards to provide emergency vehicle access to subdivided parcels; and

WHEREAS, subdivisions of land into twenty (20) acre parcels without plan and subdivision plat review is increasing in Valley County; and

WHEREAS, twenty (20) acre parcels that do not have sufficient depth to groundwater to safely construct a septic system, power is not available to support future dwellings, or no road right of way exists or existing roads will not accommodate emergency vehicle access are not eligible for a building permit; and

WHEREAS, unbuildable parcels are more likely to contain illegally installed septic systems or other methods for disposal of human waste and black water and these unbuildable parcels are also more likely to accumulate construction debris, abandoned or non-running vehicles or other forms of solid waste posing an increased threat to the environment and a blight on surrounding properties; and

WHEREAS, it has been determined that the splitting of large parcels of land into twenty (20) acre parcels without adequate analysis concerning road circulation and roads that are not built to a standard that can be accessed by emergency vehicles such as fire and ambulance service presents and increased risk of safety to citizens of Valley County and its first responders; and

WHEREAS, it has been determined that there is an increased risk to public health due to the degradation of groundwater quality as a result of splitting large parcels of land into twenty (20) acre parcels without adequate ground water analyses or sanitary restrictions for the safe removal of human waste, black water and solid waste on parcels that are 20 acres; and

WHEREAS, the accumulation of construction debris, abandoned or non-running vehicles or other forms of solid waste has a negative effect on the welfare of Valley County citizens negatively impacting the aesthetic and economic value of neighboring properties; and

WHEREAS, the Board finds that these measures must be enacted on an emergency basis due to the imminent peril to the public health, safety and welfare of the citizens of Valley County.

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF VALLEY COUNTY, IDAHO:

10-1-3: SCOPE:

A. The regulations of this title shall apply to the subdivision of all land within the unincorporated territory of Valley County, except for land within impact areas for which different ordinances have been adopted, as defined by the definition of a "subdivision".

B. It shall be unlawful hereafter to make a subdivision of land, unless it is qualified as an exception in the scope, until plans and a subdivision plat thereof are submitted to and approved by the administrator or the county planning and zoning commission, and by the board of county commissioners.

C. Exceptions: The following division of land shall not be deemed a subdivision for land use purposes, but must comply with Title 11 of the Valley County Code - Flood Control:

5. A division of land into parcels (containing) ~~twenty (20)~~ one-hundred sixty (160) acres or more.

10-1-6: DEFINITIONS:

ORIGINAL PARCEL: A lot in a platted subdivision or a tract of land of record at the time of the adoption of the subdivision regulations on April 29, 1970, as evidenced by a parcel number

having been assigned by the Valley County assessor, or each one-fourth (1/4) of a section held in one ownership.

The Board of County Commissioners hereby finds that imminent peril to the public health, safety, or welfare exists due to the increasing trend of subdividing larger parcels of land into twenty (20) acre parcels without plan and subdivision plat review by Valley County, resulting in an emergency necessitating the immediate implementation of this Ordinance upon its passage. This Ordinance shall remain in effect for one hundred and eighty-two (182) days or until it is repealed by the Board of County Commissioners.

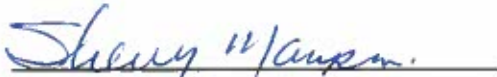
NOW, THEREFORE, BE IT ORDAINED AND APPROVED by the Valley County Board of Commissioners, Idaho this 7th day of September, 2021, with an effective date being the 7th day of September, 2021, at 10:30 am.



Elting Hasbrouck, Chairman



Dave Bingaman, Commissioner



Sherry Maupin, Commissioner

Attest:



Douglas A. Miller
Valley County Clerk



Valley County Transmittal
Division of Community and Environmental Health

Return to:

- Cascade
- Donnelly
- McCall
- McCall Impact
- Valley County

Rezone # Ordinance Amendment

Conditional Use # Revision to Title 10 Valley County Code

Preliminary / Final / Short Plat _____

- 1. We have No Objections to this Proposal.
- 2. We recommend Denial of this Proposal.
- 3. Specific knowledge as to the exact type of use must be provided before we can comment on this Proposal.
- 4. We will require more data concerning soil conditions on this Proposal before we can comment.
- 5. Before we can comment concerning individual sewage disposal, we will require more data concerning the depth of:
 - high seasonal ground water
 - bedrock from original grade
 - waste flow characteristics
 - other _____
- 6. This office may require a study to assess the impact of nutrients and pathogens to receiving ground waters and surface waters.
- 7. This project shall be reviewed by the Idaho Department of Water Resources concerning well construction and water availability.
- 8. After written approvals from appropriate entities are submitted, we can approve this proposal for:
 - central sewage
 - interim sewage
 - individual sewage
 - community sewage system
 - central water
 - individual water
 - community water well
- 9. The following plan(s) must be submitted to and approved by the Idaho Department of Environmental Quality:
 - central sewage
 - sewage dry lines
 - community sewage system
 - central water
 - community water
- 10. Run-off is not to create a mosquito breeding problem
- 11. This Department would recommend deferral until high seasonal ground water can be determined if other considerations indicate approval.
- 12. If restroom facilities are to be installed, then a sewage system MUST be installed to meet Idaho State Sewage Regulations.
- 13. We will require plans be submitted for a plan review for any:
 - food establishment
 - beverage establishment
 - swimming pools or spas
 - grocery store
 - child care center
- 14. _____

Reviewed By: [Signature]

Date: 9/17/21

October 28th, 2021

Wesley Keller wkwesleykeller@gmail.com
260 Moonridge Drive
McCall, ID 83638

Dear Valley County Planning & Zoning Commission,

Thank you for the opportunity to provide comments on the **Ordinance Amendment Revision to Title 10 Valley County Code**. I support your decision to modify the minimum size of a rural parcel from 20 acres to 160 acres. With Valley County growing and being developed at its current rate, it is wise to ensure that groundwater, septic, power, road rights of way are thought through proactively rather than reactively. With outside developers moving in I have witnessed 20 acre lots being developed, without much planning, that will likely bring about issues in the future. I think the County is doing the right thing with this Ordinance Amendment so thoughtful development and protection of open space continues to exist in Valley County.

Thanks for your consideration.

Sincerely,

Wesley Keller

From: Rem Fox <rem@madfoxfarms.com>
Sent: Wednesday, September 15, 2021 10:37 AM
To: Valley County Commissioners <commissioners@co.valley.id.us>
Subject: Thank you

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

I read in the Star news that you supported the 20 acre subdividing moratorium. I want to thank you for considering the over building in Valley County without the substantial process of services, septic and water table studies. We have reached a time period where water resource mgmt. is not an option but rather a factual outcome in the decision of permitting builds. I can only assume you are aware of how many wells have dried up this year in the State of Idaho and I have great concerns over this supporting conservation practices and land mgmt.. I just wanted to say thank you for effort here. I have great concerns for overbuilding and balancing agriculture needs in valley county.

Thank you,

Rem Fox
Mad Fox Farms
Cascade, Id 83611
425-315-2617



October 5, 2021

Valley County Commissioners

Regarding the 160 acre "emergency" ordinance

Our Valley County Commissioners have discovered an emergency where there is no emergency at all. You have enacted an ill-thought out ordinance that in the end, does not really help anybody.

Idaho Code section 67-6508(a) says you must Implement your development plan, in order: "...to ensure that land use policies, restrictions, conditions and fees do not violate private property rights, adversely impact property values or create unnecessary technical limitations on the use of property...

This 160 acre ordinance will clearly make land more expensive, and it clearly creates unnecessary technical limitations on the use of property.

The ordinance wants 20 acre parcels to qualify for septic systems.....

There is definitely a demand in the marketplace for land that does not support a septic system. The demand exists because land is expensive, and if no septic is possible, it means that particular piece of land is cheaper. As a real estate agent I have sold many lots that would not support a septic system. None of the buyers have complained. Why do the commissioners wish to deny these buyers the opportunity to buy land here?

The ordinance wants 20 acre parcels to have year round access.....

There is definitely a demand in the marketplace for land that does not have year round road access. The demand exists because land is expensive, and no winter access means that particular piece of land is cheaper. Again, I have sold many lots that do not have year round access. None of the buyers have complained. Why do the commissioners wish to deny these buyers the opportunity to buy land here?

The ordinance wants 20 acre parcels to have electricity.....

There is also definitely a demand in the marketplace for land that does not have electricity. The demand exists for a couple of reasons. Yes, one is because land is expensive and no electricity means that particular piece of land is cheaper. Again, as a real estate agent I have sold many lots that do not have electricity. None of the buyers have complained. There is currently a pretty big movement to build off the grid. There is even a TV show. People want that place with no electricity, that place that is typically 'way out' and difficult to get to, in order to build their really secluded off the grid cabin. Why do the commissioners wish to deny these buyers the opportunity to buy land here?

These potential buyers are the people who are denied opportunities to buy in Valley County because the Commissioners think these potential buyers should be protected..... from themselves.

But what about us landowners / sellers?

You and I had a deal that said we could easily make 20 acre parcels. Toward that end, companies that I am part of have spent over \$100K getting ready to make some of those 20 acre parcels. This 160 acre non-emergency ordinance does not make me happy.

One project will merely be delayed and cost more money. Because it costs more, we will go to smaller parcels. The other project will require the building of a multi-hundred thousand dollar road and that will in essence ruin the potential 20 acre parcels. Building that expensive road means that we would absolutely need to make smaller parcels to cost justify the project.

So the commissioners have enacted an ordinance that denies many buyers the possibility of buying land in Valley County, which would in turn increase the tax base. WHY?

Moreover, the commissioners have enacted an ordinance that in some cases ruins the possibility of making 20 acre parcels, and definitely forces the creation of smaller parcels. WHY?

This is a bad ordinance, please rescind it. And do not try to compromise at 40 acre parcels, that did not fly before and it should not fly now.

Dwight Jividen
413 Cabarton Road
Cascade, ID 83611
208-315-3034