

ORDINANCE 1482

AN ORDINANCE OF THE CITY OF PAYETTE, IDAHO, AMENDING THE PAYETTE MUNICIPAL CODE TITLE 16 SUBDIVISIONS, BY AMENDING CHAPTER 16.04, GENERAL PROVISIONS, TO REFERENCE SHORT PLAT PROVISIONS; AMENDING CHAPTER 16.12 DESIGN STANDARDS, SECTION 16.12.040 (D) STREET REQUIREMENTS TO REDUCE A LOCAL STREET RIGHT OF WAY TO FIFTY FEET UPON SPECIAL EXECPTION BY THE COUNCIL; SECTION 16.12.060 EASEMENTS, TO CHANGE PUBLIC UTILITY EASEMENT DEPTHS AND RESTRICTING PLACEMENT OF STRUCTURES IN SUCH EASEMENTS; SECTION 16.12.070 STREET SIGNS TO REQUIRE COMPLIANCE WITH MUTCD STANDARDS; SECTION 16.12.080 STREETLIGHTS AND POLES TO REFERENCE ADOPTED DESIGN STANDARDS, AND ADDING A NEW SECTION 16.12.100 CONDITION BASED EXCEPTIONS; AMENDING CHAPTER 16.20 PRELIMINARY PLATS, SECTION 16.20.020 (A) CHANGING THE NUMBER OF SUBMITTED COPIES TO THREE; SECTION 16.20.050 FURTHER DEFINING REVIEW BY AGENCIES; ADDING A NEW SECTION 16.20.055 NOTICE OF PUBLIC HEARING; SECTION 16.20.060 PLANNING & ZONING COMMISSION ACTION TO REQUIRE STAFF TO NOTIFY APPLICANT OF COMMISSION RECOMMENDATION; SECTION 16.20.070 CITY COUNCIL ACTION TO ALLOW COUNCIL TO DETERMINE ANOTHER PUBLIC HEARING AND APPLICANT ABILITY TO CONTEST DECISION OF COMMISSION; AMENDING CHAPTER 16.24 FINAL PLATS TO REPEAL SECTION 16.24.030 REVIEW AND RECOMMENDATIONS BY AGENCIES; SETTING AN EFFECTIVE DATE; ALLOWING PUBLICATION IN SUMMARY FORM; ESTABLISHING SEVERABILITY; ESTABLISHING A REPEALER.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF PAYETTE, IDAHO:

**Section 1.** Section 16.04.020 of Chapter 16.04, General Provisions, of Title 16, Subdivisions, of the Payette Municipal Code is hereby amended as follows:

**16.04.020: APPLICABILITY:**

- A. The regulations codified in this title shall apply to all subdivisions and development within the corporate limits of the city, or within the area of city impact as established by ordinance, including the following:
1. The dividing of any lot, tract or parcel of land into two (2) or more tracts, lots or parcels for transfer of ownership or building development that does not meet the criteria for a short plat under Chapter 16.26 of this title;

2. The dedication of any street or alley through or along any tract of land;
3. Any division or resubdivision of a lot or parcel into sublots except as provided in subsection B of this section.

**Section 2.** Sections 16.12.040(D); 16.12.060; 16.12.070; 16.12.080 of Chapter 16.12 Design Standards, of Title 16 Subdivisions, of the Payette Municipal Code are hereby amended and a new Section 16.12.100 is created as follows:

**16.12.040 (D) STREET REQUIREMENTS:**

D. There shall be provided rights of way of such width in no case to be less than those defined in the comprehensive plan for the city; provided, however, that the width of said rights of way shall in no case be less than the following:

1. Regional arterial route: One hundred feet (100') and up.
2. Collector street: Seventy feet (70') to ninety feet (90').
3. Local street: Sixty feet (60'); a local street right of way may be reduced to Fifty feet (50') upon a special exception by the Council.

**16.12.060: EASEMENTS:**

A. Easements shall be provided for drainage, utilities or other public service as follows: front yard, ten feet (10'), side yard, ~~six~~ five feet (~~65~~) and rear yard, ten feet (10'). Rear yard easements may be omitted if an alley of sufficient width to accommodate a utility easement exists in the rear of the lot.

B. Structures shall not be placed within an easement. Portable structures, fences and on grade slabs may be placed within an easement, subject to the condition that whenever work is done in the easement, any removal or movement of items placed therein shall be done at the expense and peril of the landholder. A utility doing work shall not be liable for any damage done to anything placed within the easement. Utilities shall have unrestricted access to enter, install, maintain and replace the improvements located in the easements. Portable structures and other features may be removed and not replaced if they interfere with the maintenance or use of the affected utility.

**16.12.070: STREET SIGNS:**

The purchase and installation of all street signs and posts for traffic control, informational purposes and notification to the traveling public shall be the responsibility of the developer. ~~This requirement includes stop signs, street name signs and all other signs required by and in accordance with the standards of the Idaho department of transportation~~ Design and installation of traffic

control devices shall be in accordance with the Manual on Uniform Traffic Control Devices (MUTCD). Street signs and posts shall be approved by the city prior to installation.

**16.12.080: STREETLIGHTS AND POLES:**

- A. As a part of any development or any subdividing, the purchase and installation of streetlights and poles shall be the responsibility of the developer. The streetlights and poles shall conform to city standards and be compatible with Idaho Power Company connection standards. The positioning and placement of the lights shall be determined by the city. The streetlights and poles shall be fully operational before acceptance of these lights by the city. All residents may be subject to a monthly streetlight fee.
- B. Streetlight poles shall be of a metal manufacture and shall meet the requirements of the adopted Public Works Design Standards ASTM standard specifications for structural supports for highway signs, luminaries, and traffic signals as published in 1985 by the American Society for Testing and Materials for loading, wind shear and strength, utilizing one hundred (100) watt high pressure sodium (HPS), General Electric cobra heads and lamps. The mounting height shall be twenty five feet (25') with a minimum burial depth of five feet (5'), making the pole length thirty feet (30') in total. All steel or aluminum seamless poles shall be used and shall meet or exceed the specifications for both pole and accompanying concrete, steel reinforced base as specified in standard drawing number 1. There shall be a six foot (6') mast arm and cobra type fixture for residential street intersections. The developer shall obtain an electrical permit from the state of Idaho and pay all inspection fees. The developer shall indemnify and save harmless the city of Payette from any and all defects that may occur in the materials furnished and the workmanship for a period of one year after the date of acceptance by the city.

**16.12.100: CONDITION BASED EXCEPTIONS:**

- A. Where strict compliance with these regulations and/or the purposes of these regulations may be better served by an alternative proposal, the City Council may approve condition-based exceptions to these regulations. The granting of an exception shall not have the effect of nullifying the intent and purpose of these regulations. The City Council will not permit exceptions to conditions unless it finds, based upon the evidence presented to it in each specific case, that:
1. The granting of the condition-based exception will not be detrimental to the public safety, health or welfare or injurious to other property; and

2. The conditions upon which the condition-based exception request is based are unique to the lands for which the relief is sought and are not applicable generally to other lands; and

3. Because of the particular physical surroundings, shape or topographical conditions of the specific lands involved, a particular and unnecessary hardship to the owner or the public would result if these regulations are strictly applied; and

4. The change sought will not be contrary to the zoning ordinance or comprehensive plan.

B. In approving condition-based exceptions, the City Council may require conditions that will secure the purposes of this title. A condition-based exception is any alternative design, or deviation from subdivision ordinance requirements that is requested by the developer. The exception requested must be in writing and must be included in the notice to be given pursuant to 16.20.055 of this title and reviewed as an integral part of the overall review process as outlined in this title and the recommendation and decision made on the requested exception should be at the time the subdivision is reviewed by the Planning and Zoning Commission.

**Section 3.** Sections 16.20.020, 16.20.050, 16.20.060, 16.20.070, Chapter 16.20 PRELIMINARY PLATS, in Title 16, SUBDIVISIONS, of the Payette Municipal Code are hereby amended and new Sections 16.20.055 and 16.20.090 are hereby added as follows:

**16.20.020: FILING OF COPIES; SUBMITTAL OF TITLE REPORT OR ACCEPTABLE ALTERNATIVE:**

A. Any owner desiring to subdivide land within the city shall ~~file with the city engineer~~ submit a completed application for a subdivision plan approval on a form provided by the city. Along with the application the applicant shall submit three ~~seven~~ (7) copies of the preliminary plat as required, together with a letter requesting that the preliminary plat be placed on the commission's agenda for consideration. Such preliminary plat shall contain preliminary engineering design.

B. In making application, the owner shall submit the current title report or such other evidence as is acceptable to the city engineer. If the applicant is other than the owner, a notarized letter of agreement signed by the owner approving the application shall be required in addition to the current title report.

**16.20.050: REVIEW AND RECOMMENDATIONS BY AGENCIES:**

A. Upon acceptance of a proposed subdivision plan for processing, the applicant city shall transmit one copy each of the preliminary plat on eight and one half by eleven inch (8.5''x11'') paper provided by

the applicant to the following agencies with a letter of transmittal requesting the agency to review and return to the city engineer with comments and recommendations no later than fifteen (15) days prior to the scheduled public hearing. ~~The applicant shall provide verification of delivery of the plat to each agency.~~ The city engineer may request recommendations from such other agencies as he may deem necessary:

1. ~~Payette Independent~~ School District in which the subdivision is located;
- ~~2. Payette county zoning commission;~~
- ~~3. Electric company;~~
- ~~4. Gas company;~~
- ~~5. Communications companies;~~
- ~~6~~2. Irrigation district appropriate to area being platted;
- ~~7~~3. Southwest ~~d~~District 3 ~~h~~Health ~~department;~~
- ~~8. Cable television company;~~
- ~~9~~4. State highway (if said plat abuts);
- ~~10~~5. Fire chief;
6. Other public agencies or public service providers.
- ~~11. Natural resources conservation service;~~
- ~~12. Post office.~~

B. If no written recommendation from any agency listed in subsection A of this section is received within fifteen (15) days after such notification, the approval of the preliminary plat by such agency will be considered to be granted.

#### 16.20.055: NOTICE OF PUBLIC HEARING

A. At least fifteen (15) days prior to the date of a public hearing, notice of the time and place and a summary of the proposal, including any proposed exceptions, shall be published in the official newspaper of the City. Additional notice shall be provided by mail to property owners of record within three hundred feet (300') of the external boundaries of the land being planned for subdivision and any additional land may be substantially impacted by the proposed subdivision as determined by the Planning and Zoning Commission, City Council or City staff. When notice is required to

two hundred (200) or more property owners or purchasers of record, extraordinary notice may be given as provided by state law. Notice will also be posted by the City on the property in accordance with posting standards concerning land use matters. The applicant shall be responsible for all costs of publication and mailing of notices and posting on property.

- B. At, or prior to, the public hearing, the City staff will provide a report for the Planning and Zoning Commission providing information about materials received into the record from interested parties and public agencies. The public hearing shall follow the rules of procedure as adopted by the City Council.

**16.20.060: PLANNING AND ZONING COMMISSION ACTION:**

- A. The ~~p~~Planning and ~~z~~Zoning ~~e~~Commission shall approve, approve conditionally or disapprove the preliminary plat within forty five (45) days of the date of the regular meeting at which said plat is first considered. If the ~~e~~Commission makes an unfavorable recommendation, or recommends conditional approval, the reasons for such action shall be provided in writing, ~~signed by the chairman of the pPlanning and zZoning eCommission,~~ and shall be attached to one copy of the plat and transmitted to the applicant.
- B. If no action is taken by the ~~e~~Commission at the end of said forty-five (45) days, a favorable recommendation shall be forwarded to the ~~e~~Council unless stipulation for additional time is agreed to by the applicant.
- C. ~~Upon the planning and zoning commission's recommendation, the plat, together with a complete copy of commission findings, shall be transmitted to the city council and notice of this action shall be sent to developer.~~ The City staff shall notify the applicant, in writing, of the recommendation of the Commission and an recommended conditions or changes requested and shall advise the applicant that the subdivision will be scheduled for consideration by the Council only after a written request has been filed by the applicant.

**16.20.070: CITY COUNCIL ACTION:**

- A. Upon receipt of a written request that the subdivision be placed on the Council agenda, the subdivision request will be placed on the next available Council agenda. The eCity eCouncil, upon receipt of recommendations from the Planning and Zoning Commission, and after opportunity to review the file and minutes from the public hearing, may act upon the request ~~planning and zoning commission recommendation at its next regular meeting following receipt of the recommendation report~~ based upon the compiled record or may schedule a subsequent public hearing if it deems such hearing to be necessary. Procedures for any such hearing shall follow the rules of procedure as adopted by the City Council. The developer, at his

request, shall be entitled to at least one continuance of consideration until the next regular meeting of the eCity eCouncil.

- B. ~~At the city council hearing, the city council shall hear testimony of the developer and any witnesses appearing on his behalf, and the testimony of representatives of the planning and zoning commission and any witnesses in its behalf, and any person who approves the developer's proposal.~~ Should the applicant wish to contest the recommendations of the Planning and Zoning Commission, the applicant may provide a written statement of their objections regarding the Planning Commission recommendations for inclusion in the City Council deliberations on the subdivision request. Such written statements must be received at least five (5) days prior to the scheduled City Council meeting.
- C. ~~Upon conclusion of the hearing, tThe eCity eCouncil shall base its findings upon the testimony produced before it and, within fifteen (15) days, declare, its findings. It~~ may sustain, modify, reject or overrule any recommendations of the pPlanning and zZoning eCommission, or may remand the matter back to the pPlanning and zZoning eCommission for further study. The eCity eCouncil may make such findings as are not consistent with the provisions of state law and/or of this code. City staff will notify the developer in writing of the decision of the City Council.
- D. The time limits for acting on the preliminary plat, as specified in this section and section 16.20.060 of this chapter, may be extended by mutual consent of the developer and the eCity eCouncil or pPlanning and zZoning eCommission, as the case may be.

#### 16.20.090: COMMENCEMENT OF CONSTRUCTION:

- A. Upon approval by the Council and subsequent review and approval of the final construction plans by the City Engineer which substantially conform to the subdivision plans approved by the Council, the applicant may proceed with construction of the subdivision. No construction of any kind, other than removal or stripping of topsoil, shall take place on the site prior to those approvals.
- B. After approval of the preliminary plan and before submission of a final subdivision plat, the City Engineer may, in writing, approve minor changes of the plan. If the amendment is major or involves a substantial change in the conditions of approval, the same procedures for a public hearing for subdivision plan approval must be followed to address the requested amendment.

**Section 4.** Sections 16.24.030 of Chapter 16.24 FINAL PLATS, in Title 16, SUBDIVISIONS, of the Payette Municipal Code is hereby repealed as follows:

~~16.24.030: REVIEW AND RECOMMENDATIONS BY AGENCIES:~~

- ~~A. To ensure that the final plat is consistent with the preliminary plat, the applicant shall transmit one copy of the final plat to each of the agencies listed in section 16.20.050 of this title with a letter of transmittal requesting the agency to review and return to the city engineer with comments and recommendations no later than twenty (20) days prior to the scheduled public hearing. The applicant shall provide verification of delivery of the plat to each agency. The city engineer may request review by such other agencies as he may deem necessary.~~
- ~~B. If no written recommendation from any agency to which a copy is transmitted is received within ten (10) days, the approval of the final plat by such agency will be considered to be granted.~~

**Section 5.** This Ordinance may be published in summary form allowed by Idaho Code.

**Section 6.** This Ordinance shall be in full force and effect immediately upon passage and publication as required by the laws of the State of Idaho.

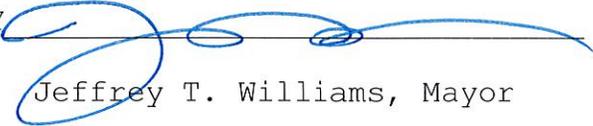
**Section 7.** Any ordinances or resolutions which are in conflict with this Ordinance are hereby repealed, but only insofar as the conflict exists.

**Section 8.** If any portion of this Ordinance should be found to be unconstitutional or unenforceable for any reason, the remainder of the Ordinance shall be applied to effectuate the purposes of this Ordinance.

PASSED and APPROVED by the Mayor and City Council of the City of Payette, Idaho this 8th day of September, 2020.

CITY OF PAYETTE, IDAHO

BY

  
Jeffrey T. Williams, Mayor

ATTEST:

  
City Clerk

