

**ORDINANCE 2011 - 14**

**AN ORDINANCE OF CITY OF KUNA, IDAHO, AMENDING TITLE 5, "ZONING REGULATIONS" OF CHAPTER 16, "SPECIAL DEVELOPMENTS" AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, staff has had ongoing discussions with the Kuna City Council about keeping the City's zoning regulations current and useful; and

WHEREAS, this text amendment is in agreement with the spirit and intent of Kuna's recently updated comprehensive land use plan [Plan]; and

WHEREAS, it is deemed to be in the best interest of the city of Kuna to amend its Chapter 16 Title 5 zoning code, which had its last major update in 2004; and

WHEREAS, this zoning amendment is pursued in accordance with KCC 5-13, "ZONING AMENDMENTS"; and

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF KUNA, IDAHO that:

**Ordinance Section 1.** Title 5 Chapter 16 entitled, "SPECIAL DEVELOPMENTS" is amended as follows:

CHAPTER 16  
**SPECIAL DEVELOPMENTS**

**SECTIONS**

- 5-16-1: Purpose
- 5-16-2: Lot Line Adjustment
- 5-16-3: Lot Split
- 5-16-4: Septic Tanks/Systems

5-16-1: **PURPOSE**

The purpose of this chapter is to identify special development that normally pose concerns to the Planning and Zoning Commission and elected officials when reviewing and acting upon requests. This chapter outlines the plan submittal requirements and design standards that shall be taken into consideration when acting on special developments. All applications must meet the requirements of this code. **(Ord. 684, 8-3-2004)**

5-16-2: **LOT LINE ADJUSTMENT**

A. *Purpose:* The purpose of these regulations is to allow for the adjustment of property lines between certain existing properties located wholly within the city of Kuna, and to allow for a reduction but not an increase of the number of buildable lots resulting from this action.

A lot line adjustment does not vacate the platted lot lines or easements of a recorded subdivision. A lot line adjustment does not divide lands nor is it a substitute for dividing lands through the City's lot split or subdivision platting procedures. A lot line adjustment action shall be consistent with the City's Comprehensive Plan.

The lot line adjustment process may be used to adjust the City's originally platted lands; original parcels of land according to the City's definition of an original parcel of land; land divided through legal lot split; and lands located within a platted subdivision, provided the action to adjust lands in a final subdivision plat is in accordance with the standards enumerated in subsection C of this section.

A lot line adjustment shall not be relied upon to expand, contract, alter or leave the impression of altering the exterior boundary of a platted subdivision or the exterior boundary of its approved phases. Any modification to a final subdivision plat's exterior boundary or the exterior boundary of its phases shall be accomplished through a subdivision replatting process. A lot line adjustment shall not be relied upon to alter lands located within and outside the city of Kuna.

A lot line adjustment is accomplished through a record of survey process and requires a filing of an affidavit of legal interest with the City by all affected property owners.

A lot line adjustment is not intended as a means to alter a land's zoning or modify zoning boundaries, rather all lands adjusted through the lot line adjusting shall possess the same zoning as they had prior to that zoning action. Thus, a lot line adjustment shall be accompanied by a rezone application in the event the newly adjusted lot's zoning designation is to be altered to include more than one zone on a lot adjusted by this zoning action. Any zoning alteration shall be consistent with the City's Comprehensive Plan Future Land Use Map.

B. *Applicability:* These provisions apply to all existing City properties. A record of survey filed with Ada County by the affected property owners without City Council's approval of that action shall not be recognized and shall cause the City to file a notice of noncompliance violation with the County of that action as it relates to the affected properties.

C. *Standards:*

1. A lot line adjustment shall not reduce the property lot size below the minimum dimensional standards prescribed by this title or title 6, "Subdivision Regulations", of this code; or if one or more of the lot adjusted properties is deemed nonconforming, the lot line adjustment procedure shall not increase the nonconformity. (KCC 5-3-4-9:A)

The affected property owners possessing lands containing dimensional or bulk nonconformities that pose a health or safety concern, as determined by the director, shall make the nonconformity conforming prior to the lot line adjustment.

2. A lot line adjustment shall not increase the original number of properties, however, this action may allow a decrease in the original number of properties.
3. A lot line adjustment shall not change or move any public streets or publicly dedicated areas in any manner. The exterior boundary of a final subdivision plat shall be considered a publicly dedicated area for purposes of this chapter.
4. Any private or public easement shall be vacated in accord with the requirements of this title or title 6 of this code.

D. *Submission to City Council:* Upon the director's determination that the lot line adjustment is in compliance with this code and all requirements have been met, the lot line adjustment shall be placed on the Council

agenda within forty-five (45) days from the date that an acceptable lot line adjustment application was received and acknowledged by the director.

E. *Contents of application for lot line adjustment:*

1. An application for lot line adjustment shall be filed with the director by all affected owners of property for which such lot line adjustment is proposed. At a minimum, the application shall contain the following information:
  - a. Name, address and phone number of applicant;
  - b. Legal description of property;
  - c. Description of existing use;
  - d. Zoning district;
  - e. Description of proposed lot line adjustment;
  - f. A site plan accurately depicting the location of all buildings, parking and loading area, traffic access and traffic circulation, public roads, public areas, easements, sewer, water, stormwater, prescribed setbacks, open spaces, landscaping, refuse and service areas, utilities, signs, yards and such other information as the director and City Council may require to determine if the proposed lot line adjustment meets the intent and requirements of this title;
  - g. Affidavits of legal interests; and
  - h. A narrative explaining the purpose of this land use action and expressing how the public is benefited by such action.

F. *Process and fees:*

1. An application and fees, in accordance with chapter 1, article A of this title, shall be submitted to the director on forms provided by the planning department.
2. Upon tentative approval of the application by the director subject to any applicable conditions of approval and the regulations of chapter 1, article A of this title, the applicant or owner shall have one year to complete the following tasks:
  - a. Cause the property to be surveyed and a record of survey recorded;
  - b. Execute and record the necessary deeds to accomplish the property boundary adjustments as approved;
  - c. Obtain new tax parcel numbers from the Ada County Assessor's Office; and
  - d. Provide copies of the recorded record of survey, recorded deeds, and the new tax parcel numbers to the director.

**(Ord. 2009-22, 10-6-2009)**

5-16-3: **LOT SPLIT**

- A. *General:* A lot split is the dividing of the original tract of land to create no more than three (3) parcels. An original tract of land is one existing within the Kuna City limits prior to December 7, 1977, and presently lying wholly within the Kuna City limits. In order for the owner to validate their ability to lot split, they shall provide City staff a deed or legal description of the tract of land demonstrating its existence, as of the above date; and its configuration as of the date of application.
- B. *Compliance:* The owner shall comply with the following conditions:
  1. *Sidewalks:* Sidewalks shall be installed along all street frontages for each parcel created, except those parcels that are greater than five (5) acres in size and/or any street frontage greater than 300 feet in

length. Where sidewalks are required, the owner shall submit engineering drawings, contractor's estimates, and submit for building plan review.

2. *Sewer and water*: Applicant shall extend public sewer and water to each parcel created less than five (5) acres in size. If all of the parcels are a minimum five (5) acres in size, the owner shall agree to connect each parcel to public sewer or water when these public utilities are available within 100 feet of any parcel. Under no circumstance may a tract of land that has been split be further developed until public sewer and water are available, and connected to same prior to occupancy.
3. *Dedication of public right-of-way (ROW)*: The owner shall dedicate public ROW in accordance with the area's identified transportation needs as they may be identified in Ada County Highway District (ACHD) or COMPASS documents, as well as the City's Comprehensive Plan Functionally Classified Roadmap and in its supporting text. The portion of a parcel included within the right-of-way does not constitute a part of the lot split.
4. *Lot split conformity*: Parcels shall be divided, or otherwise configured, to accommodate the City and ACHD's transportation grid, utility layout and connectivity patterns.
5. *Land possessing unique features or topographical constraints*: Land possessing unique features or topographical constraints may be subject to an environmental review at the director's discretion, which, in turn, may require that certain issues be mitigated.
6. *Utilities placed underground*: Utilities shall be placed underground, unless it is determined by the owner of the utility and/or the City Council that such action is not feasible or reasonable. Parcels created that are more than five (5) acres in size shall be subject to this condition on a case by case review basis.
7. *Stormwater drainage*: Any increased stormwater drainage resulting from lot split activity shall be retained on site. The owner shall provide stormwater plans and supporting calculations to the City engineer for their review and approval. Parcels created that are greater than five (5) acres in size shall be subject to this condition on a case by case review basis.
8. *Septic systems and private wells*: Under no circumstance shall septic tanks and private wells be placed on lands that are the subject of a lot split.
9. *Driveway entrances*: Each parcel created through a lot split shall have a driveway entrance(s) connecting to a public street(s) with adequate driveway distance separations as determined by the City and/or ACHD. Where feasible, the driveway entrances shall be designed and constructed as shared driveways. Owner(s) shall develop driveway agreements for shared driveways and these agreements shall be recorded and follow the land. Shared driveway entrances shall have a minimum driveway width of twenty-four feet (24'), unless ACHD requires a different width. The driveway's asphalt apron and entryway shall extend inward a minimum of fifteen feet (15') from the parcel's property line to minimize the tracking of debris onto the roadways. Driveways shall be a maximum 150 feet in length. The driveway plans shall be reviewed and approved by the City engineer.
10. *Fire hydrants and water mains*: Each parcel shall be provided fire protection in accordance with fire district standards as determined by the Fire Chief as a condition of development.
11. *Grading or depositing of soil*: No grading or depositing of soil shall occur on the parcels created without the owner first submitting a grading or land filling/disposal plan to the City engineer for review and approval.
12. *Maximum number of parcels created*: The maximum number of parcels that can be created from contiguous original tracts, held in a related ownership, is five (5). If more splits than this amount are intended from original and contiguous tracts, in any 5-year time period, that action shall occur through the City's subdivision process.

13. *Water rights:* Water rights appurtenant to a tract of land, subject to lot split, shall remain with the land or be dedicated to the City. Water rights for the split parcel may not be sold, abandoned, or transferred off the land (except to the City).
  14. *ACHD requirements:* Prior to construction or installation of any roadway improvements (curb, gutter, sidewalk, pavement widening, driveways, culverts, etc.) a permit or license agreement must be obtained from ACHD.
  15. *Original lot, tract or parcel of land:* A lot or tract as recorded on any plat or record on file in the office of the County Recorder or any unplatted contiguous parcel of land held in one ownership and of record at the effective date hereof, and having remaining lot split capacity.
  16. All parcels resulting from a lot split shall meet area, lot coverage, lot depth, and lot frontage requirements found at KCC 5-1-6-2. (KCC 5-3-4-9:B)
  17. *Lot of record:* A lot which is part of a subdivision recorded in the office of the County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.
  18. *Owner:* The individual, firm, association, syndicate, partnership or corporation having any interest in the land to be subdivided.
- C. *Submission to City Council:* Upon the determination that the lot split is in compliance with this code and all requirements have been met, the director shall place the lot split on the Council agenda within forty-five (45) days from the date that an acceptable lot split application was received and acknowledged by the director.
- D. *Contents of application for lot split:*
1. An application for lot split shall be filed with the director by the owner for which such lot split is proposed. At a minimum, the application shall contain the following information:
    - a. Provide a narrative of the land use action;
    - b. Name, address and phone number of applicant;
    - c. Legal description of property;
    - d. Description of existing land use(s);
    - e. Zoning district; and
    - f. Description of proposed lot split.
    - g. A site plan drawn to a one inch equals one hundred feet (1" = 100') scale on eleven inch by seventeen inch (11" × 17") or greater sheet of paper showing the location of all buildings, parking and loading area, traffic access and traffic circulation, open spaces, landscaping, refuse and service areas, utilities, signs, yards and such other information as the City Council or director may require to determine if the proposed lot split meets the intent and requirements of this title.
- E. *Process:*
1. An application and fees, in accordance with chapter 1, article A, "Application Procedures For All Zoning Applications", of this title, shall be submitted to the director on forms provided by the Planning Department.
  2. Upon tentative approval of the application by the City Council and subject to conditions of approval and applicable city ordinances, the owner shall have one year to complete the following tasks:
    - a. Cause the property to be surveyed and a record of survey recorded;
    - b. Execute and record the necessary deeds to accomplish the property split as approved;
    - c. Obtain new tax parcel numbers from the Ada County Assessor's Office; and
    - d. Provide copies of the recorded record of survey, recorded deeds, and the new tax parcel numbers to the director.

F. *Fee:* At the time of submission of the lot split application to the City Council for approval, a fee as established by resolution by the City Council shall be paid.

**(Ord. 2008-09, 5-20-2008)**

5-16-4: **SEPTIC TANKS/SYSTEMS**

A. *Use of septic tanks/systems:* Use of septic tanks or septic systems is allowed in the following circumstances:

1. *Septic tank failure:* If an existing residence on a property zoned residential experiences septic system failure, and the closest public sewer connection point is located a distance of more than 300 feet from the property (as measured at the property line), and the city has no plans to extend public sewer to the subject property within ninety (90) days, it is eligible for septic tank replacement. Central District Health Department (CDHD) may grant the property owner a permit for replacement of the septic system.

The separation distance between the replacement septic tank/drain field and an existing on site well shall be according to Central district health guidelines. The separation distance between the replacement septic tank/drain field and existing off site wells shall be 150 feet in accordance with subsection E of this section.

The replacement of a septic system under this circumstance shall not be considered an enlargement or an expansion of a nonconforming use. If, however, public sewer is available within 300 feet distance of the property (as measured at the property line) and capable of serving the residence, the property owner shall immediately dismantle the septic system according to the provisions of subsection C of this section. The property owner shall connect to the City's sewer system according to provisions of subsection A4 of this section.

Potable water issues will be evaluated separate from wastewater issues.

Septic tank failure associated with existing nonresidential properties shall be addressed on a case by case basis.

2. *Constraints make it unlikely the residentially zoned land will be connected to public sewer:* When a property owner applies for permits to construct a single-family residence on a lot, tract or parcel where the City engineer determines it is unlikely the land will ever receive public sewer service due to some extraordinary constraint, the property owner may install a septic system. An example of an extraordinary constraint would be extension of a public sewer line across Indian Creek where benefit is limited to a single-family residential property.

The septic tank installation shall comply with Central District Health Department (CDHD) standards.

The single-family lot shall be of sufficient size to accommodate septic tank placement and the accompanying drainage lines, while also meeting the statutory distance separation requirements for public or private potable water facilities, including future public facilities such as those noted in the City's Water Master Plan.

The separation distance between the new septic tank/drain field and any on or offsite well shall be 150 feet, in accordance with subsection E of this section. The septic system shall not be placed within a 100-

year floodplain. New septic tank/drain field systems shall not be placed within 150 feet of a wellhead - see KCC 8-3-5. (KCC 5-3-4-9:C)

Potable water issues will be evaluated separate from wastewater issues.

3. *Replacement of a single-family dwelling reliant upon a viable septic system:* If a property owner submits an application to replace a single-family dwelling served by an existing septic system with another single-family dwelling that is constructed to City codes, the existing septic system may be relied upon under the following conditions:

The dwelling's replacement does not require additional land use actions.

The property owner shall demonstrate to the City's satisfaction that the septic system is viable and the availability of public sewer is more than 300 feet from the property (as measured at the property line). Additionally, the City engineer shall determine that there are no publicly initiated plans to extend sewer to the property within three (3) years.

Central District Health Department (CDHD) shall qualify the continuance of the septic system does not pose a health concern.

The separation distance between the existing septic tank/drain field and any onsite well shall be according to CDHD guidelines. The separation distance between the septic tank/drain field and existing off-site wells shall be 150 feet in accordance with subsection E of this section.

Only one residence may be connected to a septic tank system per lot, tract or parcel and/or only one septic system is allowed per lot, tract or parcel.

The replacement of a septic system under this circumstance shall not be considered an enlargement of an expansion of a nonconforming use.

Potable water issues will be evaluated separate from wastewater issues.

4. *A single-family dwelling constructed on vacant land zoned residential and not requiring other land use actions:* A property owner possessing a vacant land parcel that is zoned and Comprehensive Plan Map designated for single-family use may install a septic tank system where the closest public sewer connection point is more than 300 feet from the property (as measured at the property line) and the City engineer determines there are no publicly initiated plans to extend public sewer to the property contemplated within three (3) years.

Septic tank installation shall be limited to a single-family lot, tract or parcel, not a part of an existing subdivision, where the installation does not require additional land use actions. Only one residence may be connected to a septic tank system per lot, tract or parcel and only one septic system is allowed per lot, tract or parcel. The septic tank installation shall be according to Central District Health Department standards.

The septic system shall not be placed within a 100-year floodplain. The single-family lot shall be of a size and configuration to accommodate septic tank placement and accompanying drainage lines. The separation distance between the new septic tank/drain field and any on or off site well shall be 150 feet in accordance with subsection E of this section.

The single-family residence shall be installed according to all applicable zoning, building and other statutory requirements.

The property owner shall pay the City's standard wastewater treatment and sewer interceptor fees at time of building permit application. These fees are fixed in time and therefore not subject to inflation or other monetary adjustments regardless when the subject property is connected to public sewer, unless the use or volumes increased beyond one EDU (equivalent dwelling unit). The property owner shall also enter into an agreement to connect to public sewer when it becomes available within 300 feet of property (as measured at the property line). This agreement will be recorded and run with the land. The City engineer may require the residence to be double plumbed to facilitate future public sewer connection, participate in an LID petition and provide necessary easements.

At time of public sewer availability, the property owner shall immediately dismantle the septic system according to the provisions of subsection C of this section.

Potable water issues will be evaluated separate from wastewater issues.

The property owner shall acknowledge that in the event they do not connect to public sewer when it is available and within ninety (90) days of being informed of that fact in writing, the City shall designate the land and structure as nonconforming and file a notice of sewer connection noncompliance violation with the Ada County Recorder's Office. This enforcement document will be recorded and follow the land until public sewer is installed according to the provisions of this section.

Septic system installation in Kuna is subject to a City-wide septic tank threshold limit, whereby no more than two (2) single-family septic systems shall be installed and functioning, at any given time, from the date of adoption hereof within each of Kuna's township quarter sections. Accordingly, septic tanks will be allowed within each township quarter section on a first come, first served basis until the two (2) dwelling threshold is achieved; the area septic tank limitation shall apply only to this subsection.

The City's planning staff shall be responsible for monitoring septic tank replacement processes. Septic tanks in current use will not be included as part of this quarter section septic tank limitation unless they experience failure and are replaced with another septic system according to the provisions of subsection A1 of this section.

The intent of the cap is to minimize contamination of groundwater, lessen the formation of septic system enclaves that may discourage future public sewer installation and to protect the City's public sewer rate base.

5. *Public and quasi-public uses:* A property owner possessing a vacant land parcel that is zoned to allow and is intended to construct a public or quasi-public use such as a school, administrative, public safety, cultural, church, college, hospital or similar type building or structure may install a septic tank system on

the parcel where the closest public sewer connection point is more than 300 feet from the property (as measured at the property line) and the City engineer determines the cost of providing a public sewer extension from its present location(s) would be prohibitive and provided there are no immediate plans to publicly extend sewer to within 300 feet of the property.

The septic tank system installation shall be according to Central District Health Department standards or other regulatory agencies with oversight control.

Once public sewer is available within 300 feet distance of the property (as measured at the property line) and capable of serving the public or quasi-public use, the property owner shall immediately extend the public sewer to the site, dismantle the onsite septic system and connect to the City's sewer system according to the provisions of the regulatory agencies with oversight control. The property owner shall pay the City's standard wastewater treatment and sewer interceptor fees at time of building permit application according to the EDU assignment for that type of use as identified in the City's sewer fee resolution. Should there be uncertainty about the EDU assignment and associated costs, the City engineer shall interpret the City's sewer fee resolution.

The property owner shall acknowledge that in the event they do not connect to public sewer when it is available and within ninety (90) days of being informed of that fact in writing, the City shall designate the land and structure as nonconforming and file a notice of sewer connection noncompliance violation with the Ada County Recorder's Office. This enforcement document will be recorded and follow the land until public sewer is installed according to the provisions of this section. If the property owner has entered into a development agreement with the City concerning the subject property, the agreement shall be amended to include provisions for sewer connection compliances.

The septic system shall not be placed within a 100-year floodplain. The land parcel shall be of a size and configuration to accommodate the septic system placement. The separation distance between the septic system and any on or off-site well shall be 150 feet in accordance with subsection E of this section.

- B. *Existing septic tanks/systems failure:* Septic tanks or septic systems that fail are subject to the regulations of all agencies with oversight authority.
- C. *Removal or abandonment of failed septic tanks/systems:* The property owner shall dismantle the septic system, by pumping the tank, collapsing the lid, backfilling and compacting it with earth according to the state of Idaho plumbing bureau inspection processes and in compliance with Central District Health Department requirements. Septic systems that accommodate more than one household or nonresidential septic systems shall be abandoned as determined by the City engineer in consultation with Central District Health Department.
- D. *Water Discharge:* No person shall discharge or cause to be discharged any stormwater, surface water, runoff, subsurface drainage, cooling water, heating water, water from swimming pools, or industrial process water through a septic system.
- E. *Placement:* New septic tank/drain field systems shall not be placed within 150 feet of a wellhead (see section 8-3-5 of this code). The separation distance between a preexisting or replacement septic tank/drain field (due

to failure) and an existing onsite well as noted in subsections A1 and A3 of this section, may be according to Central District Health Department guidelines.

- F. *Prohibited*: Septic tanks are not to be permitted in manufactured home parks, recreation vehicle (RV) parks or campgrounds. (See KCC 4-2A-25 and 4-2B-11)
- G. *Temporary Dwellings*: An RV or trailer used as a temporary dwelling must be placed on private property and cannot be connected to a septic system.
- H. *Setbacks*: Septic tank setbacks shall be in accordance with DEQ setback standards found on their website.
- I. *Replacement system area*: Where individual septic tanks are authorized, sufficient area shall be provided for a replacement sewage disposal system.

**(Ord. 2008-23A, 8-4-2009)**

**Ordinance Section 2. Higher Standard.** Should this Chapter contain language that suggests different standards of application or competing assessments; the more restrictive language shall be relied upon for interpretive purpose.

**Ordinance Section 3. Severability.** If some provision of the law or certain application of these provisions are found to be unconstitutional. The remaining provisions, or the remaining applications of these provisions, will, nonetheless, continue in force as law.

**Ordinance Section 4. Full Force and Effect.** This Ordinance shall be in full force and effective from and after its passage, approval and publication as required by law.

CITY OF KUNA

ADOPTED this 20<sup>th</sup> day of December, 2011

CITY COUNCIL OF THE CITY OF KUNA  
Ada County, Idaho

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J. SCOTT DOWDY, MAYOR  
CITY OF KUNA

ATTEST:

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BRENDA BINGHAM, CITY CLERK  
CITY OF KUNA