

PLANNING & ZONING COMMISSION AGENDA
COEUR D'ALENE CITY CALL CONFERENCE ROOM #5
710 E. MULLAN AVENUE

OCTOBER 13, 2026

THE PLANNING & ZONING COMMISSION'S VISION OF ITS ROLE IN THE COMMUNITY

The Planning & Zoning Commission sees its role as the preparation and implementation of the Comprehensive Plan through which the Commission seeks to promote orderly growth, preserve the quality of Coeur d'Alene, protect the environment, promote economic prosperity and foster the safety of its residents.

1:00 P.M. CALL TO ORDER:

ROLL CALL: Messina, Fleming, Ingalls, McCracken, Ward, Jamtaas, Garringer

STAFF COMMENTS:

COMMISSION COMMENTS:

OTHER BUSINESS: ***ITEM BELOW IS CONSIDERED TO BE AN ACTION ITEM.

1. Workshop – Discuss potential Zoning Code amendments related to the new laws on short-term rentals, ADU's, and starter home subdivisions

**Presented by: Hilary Patterson, Community Planning Director, and
Sean Holm, Senior Planner**

ADJOURNMENT/CONTINUATION:

Motion by _____, seconded by _____,
to continue meeting to _____, __, at __ p.m.; motion carried unanimously.
Motion by _____, seconded by _____, to adjourn meeting; motion carried unanimously.

**The City of Coeur d'Alene will make reasonable accommodations for anyone attending this meeting who requires special assistance for hearing, physical or other impairments. Please contact Traci Clark at (208)769-2240 at least 72 hours in advance of the meeting date and time.*

****Please note any final decision made by the Planning & Zoning Commission is appealable within 15 days of the decision pursuant to sections [17.09.705](#) through [17.09.715](#) of Title 17, Zoning.***

PLANNING AND ZONING COMMISSION STAFF REPORT

DATE: October 13, 2026

FROM: Hilary Patterson, Community Planning Director, and
Sean E. Holm, Senior Planner

SUBJECT: Workshop Discussion – Possible Code Amendments to Comply with new Idaho Housing and Short-Term Rental Laws: Senate Bill 1354 (ADUs), Senate Bill 1352 (Starter Home Subdivisions), and House Bill 583 (STRs)

WORKSHOP PURPOSE: The Planning and Zoning Commission is being asked for input on possible code amendments to the Zoning Code for compliance with new housing laws related to Accessory Dwelling Units, Starter Home Subdivisions and Short-Term Rentals. The topics will be taken in the order of accessory dwelling units, starter home subdivisions, and short-term rentals.

HISTORY: Three new housing laws were signed into effect in 2026. These include Senate Bill 1354 (SB 1354) related to Accessory Dwelling Units (ADUs), Senate Bill 1352 (SB 1352) creating Starter Home Subdivisions, and House Bill 583 (HB 583) related to the regulation of Short-Term Rentals (STRs). HB 583 went into effect on July 1, 2026. Since that time, the City has not been enforcing the STR regulations. Amendments are necessary to clarify what rules apply for STRs. The other two bills have a compliance deadline of February 1, 2027 and apply to cities with a population of 10,000 and greater.

COMMISSION'S DIRECTION: Today's discussion and questions will direct staff on how to write those amendments based on the commission's input. Specifically, this workshop is designed to seek input for items the city is allowed to pick. Because there are additional factors and implications of the ADU law (SB 1354), and because the Planning and Zoning Commission and Historic Preservation Commission previously indicated an interest in modifying the ADU code to address neighborhood compatibility issues, staff is seeking that direction today.

REQUEST/NEXT STEPS: Planning staff is requesting input from the Planning and Zoning Commission at the workshop on possible Zoning Code amendments to ensure compliance with the new housing laws. Based on the input, staff will bring forward code amendments and schedule public hearings to meet the February 1, 2027 deadline.

Attachments:

- SB 1354 (See also [Idaho Code § 67-6541](#))
- SB 1352 (See also [Idaho Code § 67-6542](#))
- HB 583 (See also [Idaho Code § 67-6539](#))
- Idaho State Legislative Services Office (LSO) Opinion on SB 1352 and SB 1354
- Summary and Discussion Questions

IN THE SENATE

SENATE BILL NO. 1352, As Amended

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO HOUSING; AMENDING CHAPTER 65, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-6541, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING STARTER HOME SUBDIVISIONS AND TO PROVIDE A DEFINITION; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 65, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-6541, Idaho Code, and to read as follows:

67-6541. STARTER HOME SUBDIVISIONS. (1) No city shall enact or enforce any ordinance within its jurisdiction that bans starter home subdivisions in any residential zoning area. "Starter home subdivision" means a residential subdivision on at least four (4) acres of land that is designed to provide attainable homeownership opportunities with single-family detached dwellings on smaller lots that are no greater than one thousand five hundred (1,500) square feet per lot, have compact home sizes, and have efficient site design that reduces development costs while maintaining compatibility with surrounding neighborhoods.

(2) By February 1, 2027, by resolution or ordinance adopted, amended, or repealed in accordance with the notice and hearing procedures provided in section 67-6509, Idaho Code, each city governing board shall amend its comprehensive plan and land use regulations to allow starter home subdivisions in residential zoning districts, except for lands falling within an area defined as a historic district in section 67-4607, Idaho Code, or designated as a historic property pursuant to section 67-4614, Idaho Code. For starter home subdivisions, a city's comprehensive plan and land use regulations shall be amended to:

(a) Prohibit requiring minimum lot sizes exceeding one thousand five hundred (1,500) square feet for lots located in starter home subdivisions unless infrastructure limitations, lot configuration, or environmental constraints make it unfeasible;

(b) Prohibit requiring front or rear setbacks exceeding fifteen (15) feet or side setbacks exceeding five (5) feet for a primary residential structure on a lot, provided, however, that setbacks along the perimeter of a project may be required to match setbacks of abutting zoning districts;

(c) Prohibit requiring lot front widths exceeding thirty (30) feet for narrow lots;

(d) Prohibit requiring lot depths exceeding seventy (70) feet, unless overall lot shape, topography, or environmental or infrastructure constraints require it; and

1 (e) Prohibit imposing permit fees, development impact fees, or util-
2 ity connection fees for starter home subdivisions exceeding those that
3 would be imposed on other single-family home subdivisions. A local
4 government may provide incentives to builders through fee reductions or
5 waivers for compliance with smaller lot and setback options.

6 (3) The provisions of this section shall not supersede state or local
7 laws that protect public health, safety, and welfare, including:

8 (a) Building codes, fire safety standards, and flood plain regula-
9 tions;

10 (b) Laws regarding water, sewer, storm drainage, road access, roadway
11 classifications or conditions, infrastructure capacity constraints,
12 and utility services necessary to support the required density;

13 (c) Laws regarding environmental hazards, aquifer recharge zones,
14 steep slopes, or critical habitat protections; and

15 (d) Laws and regulations regarding setback requirements for rights-of-
16 way and easements.

17 (4) The provisions of this section shall apply only to cities with a
18 population greater than ten thousand (10,000).

19 (5) Cities may condition or deny approval of a starter home subdivision
20 where the city determines that existing or planned infrastructure is inade-
21 quate to support the subdivision, to the same extent and under the same stan-
22 dards the city applies to other residential subdivisions.

23 (6) Nothing in this section shall prohibit a city from enacting regula-
24 tions, standards, or conditions that are less restrictive than the require-
25 ments provided in this section.

26 SECTION 2. SEVERABILITY. The provisions of this act are hereby declared
27 to be severable and if any provision of this act or the application of such
28 provision to any person or circumstance is declared invalid for any reason,
29 such declaration shall not affect the validity of the remaining portions of
30 this act.

31 SECTION 3. An emergency existing therefor, which emergency is hereby
32 declared to exist, this act shall be in full force and effect on and after
33 July 1, 2026.

IN THE SENATE

SENATE BILL NO. 1352, As Amended

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO HOUSING; AMENDING CHAPTER 65, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-6541, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING STARTER HOME SUBDIVISIONS AND TO PROVIDE A DEFINITION; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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(2) By February 1, 2027, by resolution or ordinance adopted, amended, or repealed in accordance with the notice and hearing procedures provided in section 67-6509, Idaho Code, each city governing board shall amend its comprehensive plan and land use regulations to allow starter home subdivisions in residential zoning districts, except for lands falling within an area defined as a historic district in section 67-4607, Idaho Code, or designated as a historic property pursuant to section 67-4614, Idaho Code. For starter home subdivisions, a city's comprehensive plan and land use regulations shall be amended to:

(a) Prohibit requiring minimum lot sizes exceeding one thousand five hundred (1,500) square feet for lots located in starter home subdivisions unless infrastructure limitations, lot configuration, or environmental constraints make it unfeasible;

(b) Prohibit requiring front or rear setbacks exceeding fifteen (15) feet or side setbacks exceeding five (5) feet for a primary residential structure on a lot, provided, however, that setbacks along the perimeter of a project may be required to match setbacks of abutting zoning districts;

(c) Prohibit requiring lot front widths exceeding thirty (30) feet for narrow lots;

(d) Prohibit requiring lot depths exceeding seventy (70) feet, unless overall lot shape, topography, or environmental or infrastructure constraints require it; and

1 (e) Prohibit imposing permit fees, development impact fees, or util-
2 ity connection fees for starter home subdivisions exceeding those that
3 would be imposed on other single-family home subdivisions. A local
4 government may provide incentives to builders through fee reductions or
5 waivers for compliance with smaller lot and setback options.

6 (3) The provisions of this section shall not supersede state or local
7 laws that protect public health, safety, and welfare, including:

8 (a) Building codes, fire safety standards, and flood plain regula-
9 tions;

10 (b) Laws regarding water, sewer, storm drainage, road access, roadway
11 classifications or conditions, infrastructure capacity constraints,
12 and utility services necessary to support the required density;

13 (c) Laws regarding environmental hazards, aquifer recharge zones,
14 steep slopes, or critical habitat protections; and

15 (d) Laws and regulations regarding setback requirements for rights-of-
16 way and easements.

17 (4) The provisions of this section shall apply only to cities with a
18 population greater than ten thousand (10,000).

19 (5) Cities may condition or deny approval of a starter home subdivision
20 where the city determines that existing or planned infrastructure is inade-
21 quate to support the subdivision, to the same extent and under the same stan-
22 dards the city applies to other residential subdivisions.

23 (6) Nothing in this section shall prohibit a city from enacting regula-
24 tions, standards, or conditions that are less restrictive than the require-
25 ments provided in this section.

26 SECTION 2. SEVERABILITY. The provisions of this act are hereby declared
27 to be severable and if any provision of this act or the application of such
28 provision to any person or circumstance is declared invalid for any reason,
29 such declaration shall not affect the validity of the remaining portions of
30 this act.

31 SECTION 3. An emergency existing therefor, which emergency is hereby
32 declared to exist, this act shall be in full force and effect on and after
33 July 1, 2026.

IN THE SENATE

SENATE BILL NO. 1354, As Amended

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO ACCESSORY DWELLING UNITS; AMENDING SECTION 55-3212, IDAHO CODE, TO REVISE PROVISIONS REGARDING ACCESSORY DWELLING UNITS AND TO REMOVE A DEFINITION; AMENDING CHAPTER 65, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-6541, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING ACCESSORY DWELLING UNITS AND TO PROVIDE A DEFINITION; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 55-3212, Idaho Code, be, and the same is hereby amended to read as follows:

55-3212. INTERNAL PROHIBITED CONDUCT -- RESTRICTIONS ON ACCESSORY DWELLING UNITS. (1) ~~No covenant, condition, or restriction may be added, amended, or enforced by a homeowner's association or any other parties in such a way that strictly prohibits internal accessory dwelling units, as defined in subsection (3) of this section. The provisions of this section shall not be construed to protect more than one (1) internal accessory dwelling unit per homestead. No homeowner's association shall add, amend, or enforce any covenant, condition, or restriction in such a way that limits or prohibits accessory dwelling units, as defined in section 67-6541, Idaho Code, on any property, land, or structure thereon within the jurisdiction of a homeowner's association, unless the owner of the affected property expressly agrees in writing to such addition or amendment of a covenant, condition, or restriction. Nothing in this section shall be construed to prevent the enforcement of valid covenants, conditions, or restrictions limiting or prohibiting a property owner's right to transfer an interest in land or the structures thereon where such covenant, condition, or restriction existed and applied to the property at the time the property owner acquired an interest in the property.~~

(2) Notwithstanding the prohibitions provided in subsection (1) of this section, a homeowner's association may adopt reasonable rules governing the use of ~~internal~~ accessory dwelling units otherwise allowed by law, including but not limited to architectural design consistent with the primary dwelling, size limits, height limits, setback requirements, open space requirements, parking controls, and bedroom requirements.

~~(3)(a) An "internal accessory dwelling unit" means a self-contained living unit that:~~

~~(i) Includes its own cooking, sleeping, and sanitation facilities;~~

~~(ii) Is located within a detached, owner-occupied homestead, as defined in section 63-701, Idaho Code, or such homestead's attached or detached garage; and~~

~~(iii) Is used for the purpose of housing relatives of the owner of the homestead or for the purpose of renting to a residential tenant for a period exceeding thirty (30) days.~~

~~(b) An internal accessory dwelling unit does not include an alternative detached structure, motor home, camper, recreational vehicle, tiny home on wheels, or other such similar dwellings on wheels.~~

~~(4)~~ (3) Nothing in this section shall be construed to restrict a homeowner's association from adopting a less restrictive definition of accessory dwelling units.

~~(5)~~ (4) The provisions of this section do not apply to any rentals defined in section 63-1803(4), Idaho Code.

SECTION 2. That Chapter 65, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-6541, Idaho Code, and to read as follows:

67-6541. ACCESSORY DWELLING UNITS. (1) No city shall enact or enforce any ordinance, rule, regulation, or policy that bans accessory dwelling units in any residential zoning area within its jurisdiction. An accessory dwelling unit shall be classified as a residential land use for zoning purposes subject to all applicable zoning requirements. "Accessory dwelling unit" means a self-contained living unit that includes its own cooking, sleeping, and sanitation facilities and that is located on the same lot as a single-family primary dwelling. An accessory dwelling unit may be internal, attached, or detached but does not include a motorhome, camper, recreational vehicle, tiny home on wheels, or other such similar dwellings on wheels.

(2) By February 1, 2027, by resolution or ordinance adopted, amended, or repealed in accordance with the notice and hearing procedures provided under section 67-6509, Idaho Code, each city governing board shall amend its comprehensive plan and land use regulations for all land zoned for single-family residential uses, except for lands falling within an area defined as a historic district under section 67-4607, Idaho Code, or designated as a historic property pursuant to section 67-4614, Idaho Code, to:

(a) Allow for either one (1) internal accessory dwelling unit within the single-family dwelling or one (1) detached accessory dwelling unit per lot in the rear yard or subject to setbacks required of the primary dwelling;

(b) Prohibit requiring any off-street parking or guest parking for any accessory dwelling unit unless the principal dwelling unit does not have off-street parking or the street is not paved and designed or constructed for on-street parking or unless the principal dwelling unit is within one-fourth (1/4) mile of transit, an employment area, or commercial services;

(c) Prohibit imposing impact fees or utility connection fees on accessory dwelling units that are greater than those imposed on other single-family dwellings;

(d) Prohibit limiting the size of an accessory dwelling unit to less than one thousand (1000) square feet or seventy-five percent (75%) of the size of the primary dwelling;

(e) Prohibit an owner-occupancy requirement for the primary dwelling or for the accessory dwelling unit;

1 (f) Prohibit imposing a limit on building height that is less than the
2 height of an existing single-family primary dwelling on a lot; and

3 (g) Prohibit restrictions for accessory dwelling units that are more
4 restrictive than restrictions for single-family dwellings within the
5 same zoning district with regard to setbacks, lot size, or coverage or
6 building frontage.

7 (3) Accessory dwelling unit projects that meet the jurisdiction's es-
8 tablished land use requirements shall be approved administratively and as a
9 matter of right, without the need for discretionary approval.

10 (4) Any approval standards, special conditions, and procedures for ap-
11 proval adopted by a local government shall be clear and objective and shall
12 not have the effect, either singularly or cumulatively, of discouraging the
13 development of accessory dwelling units through unreasonable cost or delay.

14 (5) Nothing in this section shall prohibit a city from enacting a reg-
15 ulation, standard, or condition that is less restrictive than the require-
16 ments of this section.

17 (6) The provisions of this section shall apply only to cities with a
18 population greater than ten thousand (10,000).

19 (7) The provisions of this section shall not supersede state or local
20 laws that protect public health, safety, and welfare, including:

21 (a) Building codes, fire safety standards, and flood plain regula-
22 tions;

23 (b) Laws regarding water, sewer, storm drainage, road access, and util-
24 ity services necessary to support the required density;

25 (c) Laws regarding environmental hazards, aquifer recharge zones,
26 steep slopes, and critical habitat protections; and

27 (d) Laws and regulations regarding setback requirements for rights-of-
28 way and easements.

29 SECTION 3. SEVERABILITY. The provisions of this act are hereby declared
30 to be severable and if any provision of this act or the application of such
31 provision to any person or circumstance is declared invalid for any reason,
32 such declaration shall not affect the validity of the remaining portions of
33 this act.

34 SECTION 4. An emergency existing therefor, which emergency is hereby
35 declared to exist, this act shall be in full force and effect on and after
36 July 1, 2026.

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 583

BY BUSINESS COMMITTEE

AN ACT

RELATING TO SHORT-TERM RENTALS; AMENDING SECTION 67-6539, IDAHO CODE, TO
REVISE PROVISIONS REGARDING LIMITATIONS ON REGULATION OF SHORT-TERM
RENTALS; AMENDING SECTION 63-1804, IDAHO CODE, TO REVISE PROVISIONS
REGARDING LIMITING TAX DUTIES OF SHORT-TERM RENTAL MARKETPLACES; AND
DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 67-6539, Idaho Code, be, and the same is hereby
amended to read as follows:

67-6539. LIMITATIONS ON REGULATION OF SHORT-TERM RENTALS ~~AND VACATION~~
~~RENTALS~~. (1) Neither a county nor a city ~~may~~ shall enact or enforce any or-
dinance that has the express or practical effect of prohibiting any type of
short-term rentals or vacation rentals in the county or city. A county or
city may ~~implement~~ enact or enforce such reasonable regulations as ~~it deems~~
are necessary to safeguard the public health, safety and general welfare in
order to protect the integrity of residential neighborhoods in which short-
term rentals or vacation rentals operate and safety as long as the reasonable
regulations do not impose different restrictions or obligations on short-
term rentals than are imposed on single-family dwellings or similar struc-
tures not used as short-term rentals, or unless the regulations are permit-
ted by this section. A short-term rental ~~or vacation rental~~ shall be clas-
sified as a non-transient residential land use for zoning and building code
purposes and be subject to all zoning requirements applicable thereto and
only to building codes adopted by the Idaho building code board.

(2) (a) For purposes of this section, "different restrictions or obli-
gations" means any requirement or regulation that would not be imposed
but for a property's use as a short-term rental and specifically in-
cludes but is not limited to the following:

(i) Requiring owner occupation for any amount of time;

(ii) Requiring professional property management;

(iii) Requiring additional insurance;

(iv) Requiring reporting of use or other statistics;

(v) Requiring additional fire protection or fire sprinklers;

(vi) Requiring additional or improved means of ingress and
egress;

(vii) Requiring additional parking;

(viii) Requiring modification to the physical structure of the
property;

(ix) Requiring inspections;

(x) Requiring internal or external signage, notices, or dia-
grams;

(xi) Imposing a limit on the days a property can be rented;

(xii) Requiring notices to neighboring properties;
 (xiii) Requiring increased sewer or other utility capacity;
 (xiv) Requiring a conditional use permit in a residential zone;
 (xv) Limiting proximity to other short-term rentals;
 (xvi) Restricting the number of short-term rentals in a county or
city; or
 (xvii) Requiring the property to be improved to meet current
building codes unless the same would be required without regard to
the short-term rental use.

(b) The terms defined in section 63-1803, Idaho Code, shall apply to
this section.

(3) A county or city may, by ordinance, require an owner of a short-term
rental to implement the following requirements only:

(a) That all sleeping areas in a short-term rental, including when ap-
plicable, basements, living rooms, and family rooms, be equipped with
functioning smoke alarms;

(b) That the short-term rental be equipped with a functioning fire ex-
tinguisher and a functioning carbon monoxide detector on each floor;

(c) That removable escape ladders be available in all sleeping areas
with a window that are located above the ground floor;

(d) That maximum occupancy limits for short-term rentals do not exceed
those non-transient residential limits as contained in the interna-
tional building codes as adopted by the Idaho building code board; and

(e) That an easily accessible informational handout be available to
tenants describing the location of exits, the location of fire ex-
tinguishers, the location of any supplied first aid kits, and a phone
number to contact the owner or manager of the short-term rental in the
case of an emergency.

(4) No county or city shall enact or enforce any covenant, condition,
restriction, or contract that regulates a short-term rental except as al-
lowed in this section.

(5) No county or city shall require a license, fee, permit, certifica-
tion, or registration to operate a short-term rental.

(6) All short-term rental properties along with their owners and ten-
ants shall be subject to all other county and city ordinances and penalties
that apply to other non-short-term rental residential uses, including but
not limited to noise, parking, nuisance, curfew, and traffic regulations.

~~(2)~~ (7) Neither a county nor a city ~~can~~ shall regulate the operation of
a short-term rental marketplace in accordance with the provisions of chapter
18, title 63, Idaho Code.

SECTION 2. That Section 63-1804, Idaho Code, be, and the same is hereby
 amended to read as follows:

63-1804. LIMITING TAX DUTIES OF SHORT-TERM RENTAL MARKETPLACES AND
OWNERS -- COLLECTION OF TAX. (1) A local government may not levy a sales,
use, franchise, receipts, or other similar tax or fee on the business of
operating a short-term rental marketplace.

(2) A short-term rental marketplace shall register with the state
tax commission for collection, reporting, and payment of sales and use and
travel and convention taxes levied by this state and any applicable local

1 government taxes administered by the state tax commission on short-term
 2 rentals and vacation rentals due from a lodging operator on any lodging
 3 transaction facilitated by the short-term rental marketplace.

4 (3) A short-term rental marketplace shall collect, report, and pay
 5 taxes imposed on the lodging operator or occupant of a short-term rental or
 6 vacation rental by any local government.

7 (4) Any local government that has levied a tax pursuant to statutory au-
 8 thorization, may contract with the state tax commission for the collection
 9 and administration of such taxes in like manner and under definitions and
 10 rules of the state tax commission for the collection and administration of
 11 the state sales or use tax under chapter 36, title 63, Idaho Code. Alterna-
 12 tively, such local government shall have authority to administer and collect
 13 such tax. All revenues collected on behalf of the local governments by the
 14 state tax commission pursuant to this chapter shall be distributed as fol-
 15 lows: An amount of money shall be distributed to the state refund fund suffi-
 16 cient to pay current refund claims. All refunds authorized by the commission
 17 to be paid shall be paid through the state refund fund and those moneys are
 18 continuously appropriated. The state tax commission may retain an amount
 19 of money equal to such fee as may be agreed upon between the state tax com-
 20 mission and such local government for the actual cost of the collection and
 21 administration of the tax. The amount retained by the commission shall not
 22 exceed the amount authorized to be expended by appropriation by the legis-
 23 lature. Any unencumbered balance in excess of the actual cost at the end of
 24 each fiscal year shall be distributed as provided in this section. All re-
 25 maining moneys received pursuant to this chapter shall be placed in a fund
 26 designated by the state controller and remitted monthly to the local govern-
 27 ment levying such tax.

28 (5) If an owner of a short-term rental offers a short-term rental or va-
 29 cation rental directly to an occupant without the use of a short-term rental
 30 marketplace, such owner shall comply with all the requirements provided in
 31 this section applicable to a short-term rental marketplace.

32 ~~(5)~~ (6) A short-term rental marketplace that has not facilitated a
 33 lodging transaction in Idaho shall have forty-five (45) days to comply with
 34 this section upon completion of their first lodging transaction in Idaho.

35 SECTION 3. An emergency existing therefor, which emergency is hereby
 36 declared to exist, this act shall be in full force and effect on and after
 37 July 1, 2026.



Terri Kondeff
Director

Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

July 29, 2026

The Hon. Ben Toews
Senator, District 4
Idaho Legislature

RE: Senate Bills 1352 and 1354

Dear Senator Toews:

You requested my opinion on several questions relating to Senate Bills 1352 and 1354. I understand these questions have arisen in conversations you've had with third parties about how these bills should be interpreted. To be clear, these third parties are not my clients, and this letter should not be considered legal advice to them. Nor should any third party treat this letter as formal guidance from the State. This letter is merely my opinion as to what the law says.

1. Under Senate Bill 1352, is 1,500 square feet the maximum lot size a city may require or a minimum floor below which cities cannot go?

Enacted at Chapter 264 of the 2026 Idaho Session Laws, S.B. 1352: (1) prohibits certain cities from banning starter home subdivisions; and (2) requires the cities to allow starter home subdivisions in residential zoning districts, with some exceptions.¹ A starter home subdivision is defined as a "residential subdivision on at least four (4) acres of land that is designed to provide attainable homeownership opportunities with single-family detached dwellings on smaller lots that are no greater than one thousand five hundred (1,500) square feet per lot[.]"²

The phrase "greater than" means "larger in number or amount than."³ A lot that is "greater than" 1,500 square feet is, quite simply, a lot that is 1,501 square feet or more, whereas a lot that is no greater than 1,500 square feet is one that is equal to or smaller than 1,500 square feet.

This would seem to indicate that the lot size in a starter home subdivision may, at maximum, be 1,500 square feet. However, subsequent language in the bill provides that a city may not require "*minimum* lot sizes exceeding one thousand five hundred (1,500) square feet for lots located in starter home

¹ S.B. 1352 (2026) at p.1, ll. 11-13 and 20-26.

² *Id.* at ll. 13-17.

³ Definition of "greater than," Cambridge Dictionary, <https://dictionary.cambridge.org/us/dictionary/english/greater-than> (last accessed July 29, 2026).

subdivisions[.]”⁴ Such a prohibition would not be necessary if lot sizes in starter home subdivisions could not exceed 1,500 square feet, and readers of the law should never presume that the Legislature performed an “idle act” by including a superfluous provision in a statute.⁵

Both the definition of “starter home subdivision” and the subsequent language relating to minimum lot size are applicable provisions of law that appear to be in tension with each other. Given this tension, I believe the bill’s language is ambiguous. Language is ambiguous when reasonable minds might differ or be uncertain as to its meaning.⁶ In my opinion, it is reasonable to read the bill as either (1) setting 1,500 square feet as the *maximum* lot size in a starter home subdivision, or (2) setting 1,500 square feet as the largest potential *minimum* lot size in a starter home subdivision.

When language is ambiguous, it must be construed to mean what the Legislature intended for it to mean.⁷ Courts consider legislative history when determining legislative intent.⁸ Statements of a bill’s sponsor in floor debate are evidence of legislative intent.⁹

You sponsored S.B. 1352, and in floor debate, while describing starter home subdivisions, you stated, “Minimum lot sizes in these subdivisions cannot be more than 1,500 square feet.”¹⁰ You confirmed this understanding of the bill in a memorandum you wrote to me on July 27, 2026, and declared your intent to introduce a bill amending the definition of “starter home subdivision” so that the definition is consistent with S.B. 1352’s other provisions.¹¹

Having reviewed the entire legislative history of S.B. 1352, including the committee hearings and floor debates on the bill, as well as your memorandum, it is my opinion that the Legislature intended 1,500 square feet to be a “maximum-minimum” lot size. That is, the Legislature intended to prohibit cities from establishing a *minimum* lot size larger than 1,500 square feet but did not intend to prevent cities from setting a minimum lot size that is smaller than 1,500 square feet. There is, in other words, no floor “below which cities cannot go,” but there is a ceiling on what the minimum lot size can be, and that ceiling is 1,500 square feet.

2. Under Senate Bill 1354, may a city cap an alternative dwelling unit (ADU) at 75% of the primary dwelling even if that would be less than 1,000 square feet?

Senate Bill 1354, enacted at Chapter 265 of the 2026 Idaho Session Laws, prohibits certain cities from

⁴ S.B. 1352 at p. 1, ll. 29-31.

⁵ See *Brown v. Caldwell School District No. 132*, 127 Idaho 112, 117 (1995).

⁶ *Stonebrook Construction, LLC v. Chase Home Finance, LLC*, 152 Idaho 927, 931 (2012).

⁷ *State v. Olivas*, 158 Idaho 375, 379 (2015).

⁸ *Id.*

⁹ See *In re Ionosphere Clubs, Inc.*, 922 F.2d 984, 990 (2d Cir. 1990).

¹⁰ Senate Floor Debate, 68th Idaho Leg., 2d Reg. Sess. (March 19, 2026) (Idaho Legislature Digital Media Archive, Legislative Session 2026 – Senate Chambers, Legislative Session Day 67, 3:12:42 – 3:12:46), <https://lso.legislature.idaho.gov/MediaArchive/ShowCommitteeOrMedia.do?jsessionid=55EDBF1F6C9A027483321027E3EA4C20> (last accessed July 29, 2026).

¹¹ Memorandum from Senator Ben Toews to Elizabeth Bowen, *Statement of Legislative Intent regarding Senate Bill 1352 — Starter Home Subdivisions* 1, 3 (July 27, 2026) (copy on file with the Legislative Services Office).

banning accessory dwelling units in residential zoning areas, with some exceptions.¹² An accessory dwelling unit (ADU) is a “self-contained living unit that includes its own cooking, sleeping, and sanitation facilities and that is located on the same lot as a single-family primary dwelling.”¹³

The bill further prohibits limiting the size of an ADU to “less than one thousand (1000) square feet *or* seventy-five percent (75%) of the size of the primary dwelling[.]”¹⁴ The word “or” is “used as a function word to indicate an alternative[.]”¹⁵ In the bill, two potential alternatives are presented: (1) limiting the size of an ADU to less than 1,000 square feet; or (2) limiting the size of an ADU to less than 75% of the size of the primary dwelling. Both alternatives are prohibited; that is, a city may neither limit the size of an ADU to less than 1,000 square feet nor limit the size of an ADU to less than 75% of the size of the primary dwelling. Therefore, a city ***may not*** cap an ADU at 75% of the primary dwelling if that would be smaller than 1,000 square feet.

3. If a detached ADU is placed in the rear yard, can its side yard setbacks be less than what the primary dwelling would require, given that primary dwellings aren’t permitted in the rear yard?

Under S.B. 1354, a city must allow for: (1) an internal ADU within a single-family dwelling; (2) a detached ADU per lot in the rear yard; or (3) a detached ADU per lot subject to setbacks required of the primary dwelling.¹⁶ As mentioned above, the word “or” is a function word used to indicate an alternative. That is, the bill requires cities to allow for at least one of three alternatives: an internal ADU, a detached ADU in the rear yard, or a detached ADU subject to the same setback requirements as the primary dwelling.

If the city chooses to allow alternative no. 2 — ADUs in the rear yard — then any setback requirements may be less than those required for the primary dwelling. A city that wants ADUs to satisfy the same setback requirements as the primary dwelling could choose alternative no. 3 instead.

4. The final language of S.B. 1354 appears to contain a drafting error. The ability to require parking was apparently intended to apply when a property is further than 1/4 mile from transit, but the enrolled language reads “within” 1/4 mile. How should cities handle this in the meantime while waiting for a potential correction?

This question appears to be soliciting legal advice, in that it is asking what cities “should” do, and it is therefore inappropriate for me to answer it. Parties should seek legal advice from their own counsel.

I would note, however, that the deadline for cities to comply with S.B. 1354 is February 1, 2027.¹⁷ The Legislature will convene in regular session on January 11, 2027. If there is an error in the law, then the

¹² S.B. 1354 (2026) at p. 2, ll. 15-17.

¹³ *Id.* at ll. 19-22.

¹⁴ *Id.* at ll. 45-47 (emphasis added).

¹⁵ Definition of “or,” Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/or> (last accessed July 29, 2026).

¹⁶ S.B. 1354 at p. 2, ll. 32-25.

¹⁷ *Id.* at l. 25.

Legislature may correct it before the deadline, and if the cities believe it necessary, they may request that any bill correcting the error also provide an extended deadline.

If it is their preference to act well in advance of the deadline, cities may enact ordinances that do not conflict with the existing language in S.B. 1354.

5. Can a jurisdiction have different height standards for an ADU in the rear yard?

S.B. 1354 prohibits any height limit that is “less than the height of an *existing* single-family primary dwelling on a lot.”¹⁸ If there is already a single-family primary dwelling on a lot, there cannot be height limits for a rear-yard ADU that are lower than those for the primary dwelling.

S.B. 1354 is otherwise silent on whether height limits may be imposed by cities, and where there is not yet a primary dwelling on a lot, I believe S.B. 1354 would allow for height limits, with one caveat: the limit cannot render the law a nullity. S.B. 1354 was enacted to allow for ADUs. Any height limit that would effectively make it impossible to build a rear-yard ADU where rear-yard ADUs are otherwise allowed would be impermissible.

Sincerely,



Elizabeth Bowen
Legislative Legal Counsel

¹⁸ *Id.* at p. 3, ll. 1-2 (emphasis added).

1. ACCESSORY DWELLING UNITS

SB 1354 (2026)

The state bans cities with a population of 10,000+ from prohibiting ADUs and gives the city a choice of which arrangement to allow (internal or detached ADU in the rear yard).

WHAT THE NEW LAW DOES

- It requires cities of a certain size to allow ADUs by right in any residential zoning area on the same lot as a single-family dwelling (did not specify single-family detached).
- It sets a deadline. By February 1, 2027 the city must amend its comprehensive plan and its land use rules, following the necessary public hearing process.
- It requires the city to allow at least one of three arrangements: one internal ADU inside the single-family dwelling; or one detached ADU per lot in the rear yard; or one detached ADU built to the setbacks required of the primary dwelling. The Legislative Services Office opinion reads the word or as the city's choice, so we must allow at least one of the three options.
- It bars requiring off-street or guest parking for an ADU, except in three situations.
- It bars size caps below 1,000 square feet and below 75 percent of the primary dwelling. The LSO opinion reads that as the larger of the two: we may not cap an ADU at 75 percent of the primary dwelling when that number is less than 1,000 square feet.
- It bars owner-occupancy requirements, and bars height limits lower than the height of an existing single-family primary dwelling on the lot.
- It bars rules for ADUs that are stricter than the rules for single-family homes in the same district, on setbacks*, lot size, coverage and building frontage. Qualifying ADUs are approved administratively, as a matter of right, and our standards must be clear and objective. *Except that the LSO clearly notes that an ADU in the rear yard may have different setbacks than the primary dwelling.
- It does not override health and safety law: building, fire, floodplain, water, sewer, storm drainage, road access, utility services needed to support the density, environmental hazards, aquifer recharge, steep slopes, critical habitat, and right-of-way or easement setbacks.
- Historic districts and historic properties are exempt and may have different standards, and HOA law changed with it: an association may not strictly prohibit internal ADUs.

WHAT IT MEANS FOR OUR CODE

- The city picks which arrangement(s) it allows.
- Height of ADU to match existing dwelling unit. – DISCUSSION NEEDED
- The parking requirement must be modified to match the new law, or the off-street parking requirement could be eliminated. – DISCUSSION NEEDED
- Coverage and impervious surface rules cannot be stricter for an ADU than for the primary dwelling, so the answer is either the same rule for the house or a shift to setbacks. – PRIOR DISCUSSION
- The second-story step back must be removed or replaced. – PRIOR DISCUSSION
- Historic Districts and Historic Properties may be exempt. – DISCUSSION NEEDED
- Fees must match the single-family schedule. – ALREADY IN COMPLIANCE
- Remove owner occupancy restriction. – CODE ONLY APPLIED TO STRs AND WILL BE REMOVED

Citations: SB 1354 (2026), adding Idaho Code section 67-6541 and amending section 55-3212. Effective July 1, 2026; compliance deadline February 1, 2027. The three arrangements and the parking, size, occupancy and height provisions are in section 67-6541(2); administrative approval is (3). Legislative Services Office opinion, July 29, 2026. Cite the bill number with the section, because SB 1352 adds a different section with the same number.

DISCUSSION

1. Which arrangement do we allow: internal only, detached in rear yard, detached or attached in principal building envelope, or a combination of the three?

2. Do we want to limit height of ADUs in principal building envelope to match principal dwelling or continue to allow 32 feet?

3. If fire safety limits the ability for the Fire Department to fight fires for ADUs taller than 24' in the rear yard, should we keep the height of ADU in rear yard at 24' over a garage and clearly note that limitation as part of code adoption? Conversely, ADUs could be restricted in the rear yard until the state fixes the law.

3. Parking: require a stall per state code, or no stall at all?

The state bars an ADU parking requirement except in three situations. Do we require a stall where the street cannot handle on-street parking and if other conditions are not met, or write the code with no ADU parking requirement at all? The statute's own wording on this is a drafting error that LSO declined to advise cities on, and the Legislature may correct it in January.

4. Coverage and pervious surface: same rule for the principal dwelling, or drop it and use setbacks, and what are the unintended consequences?

The commission supported pervious surface requirements in 2025. We can no longer hold an ADU to a stricter coverage standard than the principal dwelling, so the choice is to apply the same coverage or pervious rule to the house as well, or to control bulk with setbacks instead.

4. Should setbacks for ADUs in rear yard be adjusted to remove 2nd story step back, and what are the unintended consequences?

The commission supported removing 2nd story step back requirements in favor of increased setbacks in 2025. Does the commission still support this?

5. Historic properties: do we use the exemption the state gives us?

Historic districts and historic properties are exempt from the ADU rules. One neighborhood in Coeur d'Alene is exploring the formation of a local historic district with a historic zoning overlay and certain performance standards that may apply to ADUs. Should we wait for that neighborhood to come forward, or should this code amendment address a historic exemption for properties in historic districts and individually-listed historic properties?

Citations: SB 1354 (2026), adding Idaho Code section 67-6541. The three arrangements, the parking limitation and the size, occupancy and height bars are in section 67-6541(2); the fee bar is (2)(c); administrative approval is (3). The Legislative Services Office opinion of July 29, 2026 answers the size cap (question 2), rear-yard setbacks (question 3), the parking drafting error (question 4) and height (question 5).

2. STARTER HOME SUBDIVISIONS

SB 1352 (2026)

The state caps how big a lot we can require and how deep the setbacks can be, so small-lot subdivisions can pencil. Everything else about how they look and where they connect is still ours.

WHAT THE NEW LAW DOES

- No city over 10,000 in population may ban starter home subdivisions in any residential zoning area.
- A starter home subdivision is a subdivision of at least four acres, designed for attainable homeownership, with single-family detached homes on lots no greater than 1,500 square feet, compact homes and efficient site design.
- It sets a deadline. By February 1, 2027 the city must update its comprehensive plan and its land use rules to allow starter home subdivisions in residential zoning districts, following the public hearing process.
- It caps what we can require: no minimum lot size above 1,500 square feet and no lots larger than 2,500 square feet*; no front or rear setback above 15 feet and no side setback above 5 feet for the primary structure; no lot front width above 30 feet on narrow lots; and no lot depth above 70 feet unless the lot shape, topography or environment requires it.
- It caps fees. Permit fees, development impact fees and utility connection fees for a starter home subdivision cannot exceed what we charge other single-family subdivisions, and the city may offer reductions or waivers as an incentive.
- It keeps our health and safety rules intact: building, fire, floodplain, water, sewer, storm drainage, road access, roadway classification and condition, infrastructure capacity, utility services needed to support the density, environmental hazards, aquifer recharge, steep slopes, critical habitat, and right-of-way or easement setbacks.
- It lets the city condition or deny approval when infrastructure is inadequate, on the same standards used for any other residential subdivision.
- Perimeter setbacks may be matched to the abutting zoning districts, the city may be less restrictive, and historic districts and historic properties are exempt.
- * One ambiguity, already answered. The definition says lots of no greater than 1,500 square feet, while the operative provision bars a required minimum lot size above 1,500 square feet. The Legislative Services Office opinion concludes 1,500 square feet is a ceiling on the minimum we may require, not a maximum lot size, and the sponsor intends a bill to fix the definition.
- Historic exemption.

WHAT IT MEANS FOR OUR CODE

- The subdivision code needs a starter home subdivision section whose dimensional standards sit inside the state's caps. The four-acre threshold comes from the state definition. We can opt to allow this type of subdivision on smaller lots.
- We can allow lot sizes larger than 1,500 square feet, but we need to be specific.
- Infrastructure review stays ours: we may condition or deny on inadequate infrastructure, on the same terms as any other subdivision.

Citations: SB 1352 (2026), adding Idaho Code section 67-6541. Effective July 1, 2026; compliance deadline February 1, 2027. The four-acre definition is in section 67-6541(1); the dimensional caps are (2)(a) through (d); the fee cap is (2)(e); the infrastructure provision is (5). Legislative Services Office opinion, July 29, 2026, on the 1,500 square foot language. Cite the bill number with the section, because SB 1354 adds a different section with the same number.

DISCUSSION

1. Should minimum lot size be limited to 1,500 square feet?

2. Do we set a maximum lot size?

Staff has put 2,500 square feet on the table for discussion. A cap keeps the product genuinely attainable and keeps the houses compact; no cap lets the market decide what a starter home lot is.

3. Should we allow for a minimum width of 25 feet?

4. Do we allow the joint approach and the rear-yard garage bay?

The drawings show two 25-foot lots sharing one approach that straddles the common lot line, with the garages 5 feet off that line so the buildings sit 10 feet apart, and a one-story garage bay taking five feet of the rear yard. The 50-foot-deep lot closes only with that bay. Confirm we write both into the article.

5. Do we match perimeter setbacks to the abutting zoning districts?

The state allows it. If we do, the setbacks along the edge of a starter home project match the neighbors, which softens the transition. The question is whether we use it, and how the perimeter is defined.

Citations: SB 1352 (2026), adding Idaho Code section 67-6541. The dimensional caps are in section 67-6541(2)(a) through (d); the fee cap is (2)(e); the perimeter setback allowance is in (2)(b); the authority to be less restrictive is (6).

3. SHORT-TERM RENTALS

HB 583 (2026)

The state took away our ability to prohibit short-term rentals and left a short list of safety items we may require. Everything else in our article that treats them specially comes out.

WHAT THE NEW LAW DOES

- Short-term rentals are to be considered as non-transient residential land uses.
- Allowed in single-family dwellings and similar structures.
- It takes away our ability to regulate short-term rentals or require permitting/licensing/registration.
- It lists seventeen things we may not require of a short-term rental if we would not require them of an ordinary home. Owner occupancy, professional property management, extra insurance, inspections, extra parking, extra fire protection and sprinklers, signage, notices to neighbors, limits on rental days, citywide caps on the number of rentals, and a conditional use permit in a residential zone are all on that list.
- There are five things that may be required: working smoke alarms in every sleeping area, including basements, living rooms and family rooms; a working fire extinguisher and carbon monoxide detector on each floor; removable escape ladders in every sleeping area with a window above the ground floor; occupancy no higher than the residential limits in the adopted building code; and an easy-to-read handout for tenants on the exits, the fire extinguishers, the first aid kits and how to reach the owner or manager.
- It bars licenses, fees, permits, certificates and registrations to operate a short-term rental.
- It leaves the ordinary rules alone and keeps the city out of the booking platforms.
- Noise, parking, nuisance, curfew and traffic rules apply to a rental exactly as they apply to any home.
- Communities may not regulate or tax how a platform does business.
- Allows for informational handout for

WHAT IT MEANS FOR OUR CODE

- The code has to say plainly that a short-term rental is allowed where dwellings are allowed.
- It removes the requirement for a permit.
- It removes the owner occupancy requirement when there is an ADU on the property or limitation to only one STR on a property.
- It removes the Good Neighbor Policy, but allows for an informational handout for renters.
- It clarifies what constitutes a legal dwelling unit and defines single-family dwelling and similar structures as single-family dwellings, duplexes, condominiums, townhouses, multifamily dwellings, ADUs, etc. where a short-term rental is permitted.
- We can clarify what does not constitute a similar structure or guarantee the right to use a transient residential use for short-term rentals (e.g., recreational vehicles, campers, tiny houses on wheels, yurts, tents, or similar units designed for transient residential use).
- It clarifies what City Ordinances apply such as noise, odors, glare, dust, smoke, parking, garbage, open burning, etc.
- It clarifies the five safety provisions allowed by the new law.

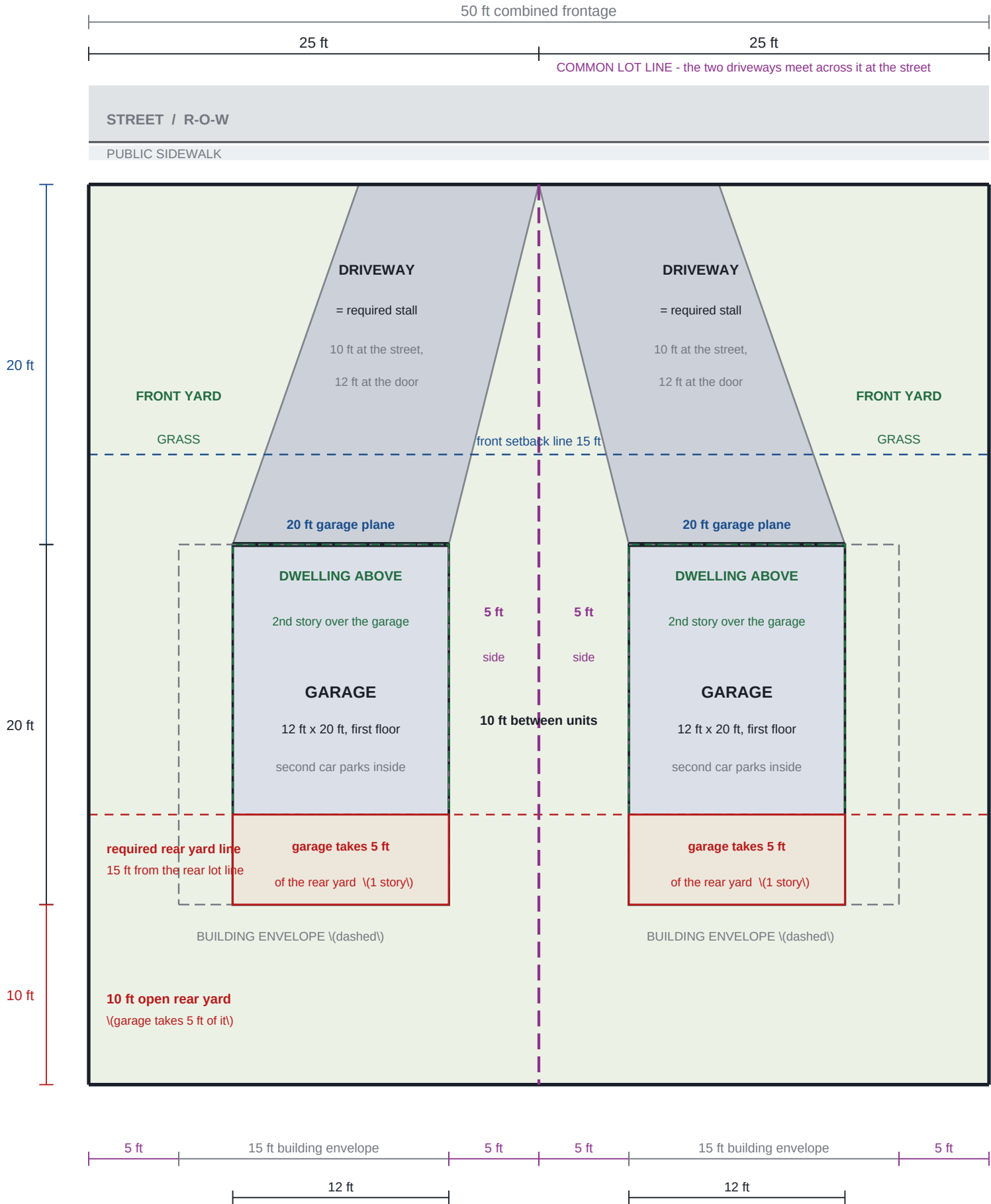
DISCUSSION/QUESTIONS?

Citations: HB 583 (2026), amending Idaho Code sections 67-6539 and 63-1804. Effective July 1, 2026. The seventeen prohibited restrictions are listed in section 67-6539(2)(a); the five permitted requirements are in section 67-6539(3). A rental offered for a fee for thirty days or less is a short-term rental (section 63-1803(4)); a tenancy longer than thirty days is not. The city may not require a license, fee, permit, certification or registration (section 67-6539(5)).

STARTER HOME SUBDIVISION - SHARED APPROACH CONCEPT

Driveways connect at the street, then shift outward to meet each garage door. Garages 5 ft off each side of the common line, so 10 ft between units.

SCALE: 1 in = 10 ft approx. Depth dimensions at left; width dimensions below.



THE ARRANGEMENT, IN WORDS

Each lot is 25 ft wide with a 5 ft side yard on BOTH sides, so the building envelope is 15 ft.

Each garage is 12 ft wide, set 5 ft off the common lot line - which puts 10 ft between the two units.

The two driveways are joined at the street (20 ft of pavement, one shared approach), then each shifts outward to line up with its own garage door.

The driveway IS the required parking stall. The rest of the front yard is grass.

WHERE EACH NUMBER COMES FROM

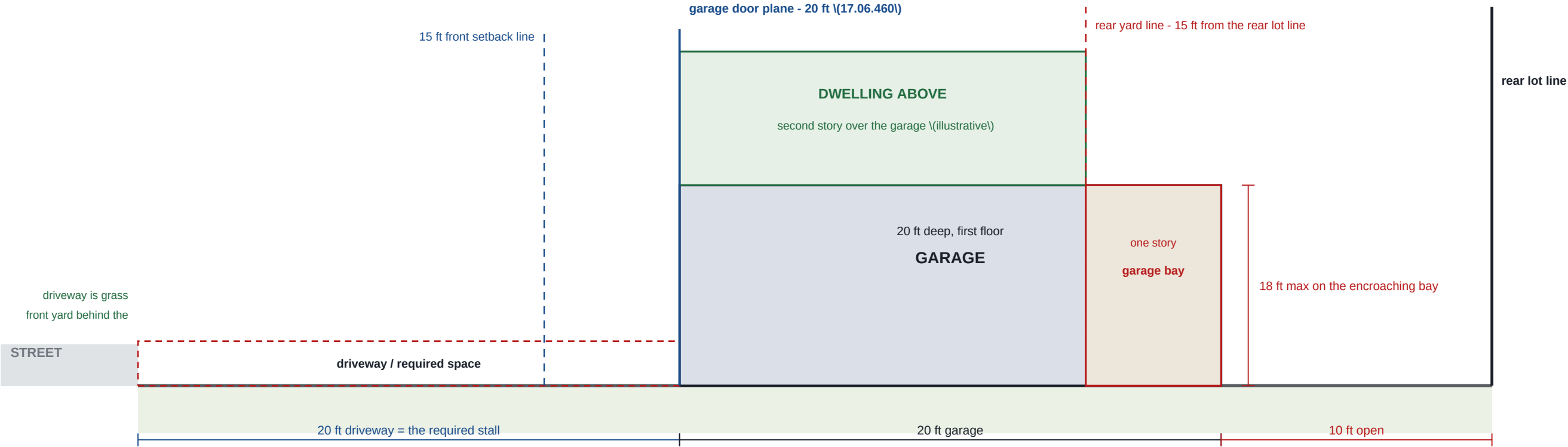
25 ft width	17.07.1020(D) minimum lot width
5 ft side yards	17.07.1020(F)(3) interior side setback - applies to the common line as well, which is what forces the 10 ft separation
15 ft envelope	25 ft less 5 ft each side
12 ft garage	17.44.240(A) space 9 ft wide; (D) adds 2 ft where a space abuts a wall
10 x 20 stall	17.44.030(A) 2 spaces per dwelling; 17.44.240(A) 9 ft x 20 ft minimum
20 ft plane	17.06.460 - street-accessed garage set back 20 ft from the property line or the public sidewalk, whichever is greater
20 ft pavement	17.44.280(C)(1) 16 ft minimum residential approach; 20 ft of 50 ft frontage = 40 percent, under the 50 percent cap
tandem	17.44.170(B) - no-crossing rule does not apply to single-family parking
5 ft rear encroachment	17.06.425(B) accessory structure 3-5 ft off the rear line, 18 ft cap; 17.07.1025(D)(1) 5 ft clearance for alley garages

STILL TO BE WRITTEN

- Express authority for one joint approach straddling a common lot line, with the 5 ft side-line setback applied to the OUTER side lines of the lots served.
- 17.06.460 stated expressly so the 15 ft front setback cannot displace the 20 ft garage plane.
- Rear-yard encroachment limited to the garage bay, one story, 18 ft maximum.
- Reciprocal access easement and maintenance agreement recorded with the plat (16.15.160).

SECTION A-A - WHY THE 50 FT DEPTH WORKS

Through one lot's garage and the dwelling over it. Vertical scale exaggerated; heights illustrative.



READ IT THIS WAY

The garage cannot come nearer the street than 20 ft - 17.06.460, measured from the property line or the sidewalk, whichever is greater. The driveway in that strip is the first required space.

The second required space is inside the garage. Together they form a tandem pair, which 17.44.170(B) allows for single-family parking.

20 ft of driveway plus 20 ft of garage = 40 ft. On a 50 ft lot that leaves 10 ft open behind the garage, so the garage takes 5 ft of the 15 ft rear yard.

The height cap attaches to that encroaching 5 ft of garage bay only, one story. The second story stops at the rear yard line.