

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 491

BY LOCAL GOVERNMENT COMMITTEE

AN ACT

1 RELATING TO MUNICIPAL CORPORATIONS; AMENDING SECTION 50-1306A, IDAHO CODE,
2 TO PROVIDE THAT CERTAIN NOTICE MAY BE GIVEN BY FIRST CLASS OR CERTIFIED
3 MAIL, TO PROVIDE FOR PROOF OF MAILING, AND TO MAKE TECHNICAL CORREC-
4 TIONS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
5

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

7 SECTION 1. That Section 50-1306A, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 50-1306A. VACATION OF PLATS -- PROCEDURE. (1) Any person, persons,
10 firm, association, corporation or other legally recognized form of business
11 desiring to vacate a plat or any part thereof must petition the city council
12 if it is located within the boundaries of a city, or the county commissioners
13 if it is located within the unincorporated area of the county. Such petition
14 shall set forth particular circumstances of the requests to vacate; contain
15 a legal description of the platted area or property to be vacated; the names
16 of the persons affected thereby, and said petition shall be filed with the
17 city clerk.

18 (2) Written notice of public hearing on said petition shall be given, by
19 first class mail, certified mail, or certified mail with return receipt, at
20 least ten (10) days prior to the date of public hearing to all property owners
21 within three hundred (300) feet of the boundaries of the area described in
22 the petition. Such notice of public hearing shall also be published once a
23 week for two (2) successive weeks in the official newspaper of the city, the
24 last of which shall be not less than seven (7) days prior to the date of said
25 hearing; provided, however, that in a proceeding as to the vacation of all or
26 a portion of a cemetery plat where there has been no interment, or in the case
27 of a cemetery being within three hundred (300) feet of another plat for which
28 a vacation is sought, publication of the notice of hearing shall be the only
29 required notice as to the property owners in the cemetery.

30 (3) When the procedures set forth herein have been fulfilled, the city
31 council may grant the request to vacate with such restrictions as they deem
32 necessary in the public interest.

33 (4) If a petition to vacate is brought before county commissioners, and
34 the plat or part thereof ~~which~~ that is the subject of the petition is located
35 within one (1) mile of the boundaries of any city, the county commissioners
36 shall cause written notice of the public hearing on the petition to be given
37 to the mayor or chief administrative officer of the city by regular mail at
38 least thirty (30) days prior to the date of public hearing.

39 (5) In the case of easements granted for gas, sewer, water, telephone,
40 cable television, power, drainage, and slope purposes, public notice of in-
41 tent to vacate is not required. Vacation of these easements shall occur upon
42 the recording of the new or amended plat, provided that all affected easement

1 holders have been notified by first class mail, certified mail, or certi-
2 fied mail, with return receipt requested, of the proposed vacation and have
3 agreed to the same in writing.

4 (6) When public streets or public rights-of-way are located within the
5 boundary of a highway district, the highway district commissioners shall as-
6 sume the authority to vacate said public streets and public rights-of-way as
7 provided in section 40-203, Idaho Code.

8 (7) All publication costs shall be at the expense of the petitioner.

9 (8) Public highway agencies acquiring real property within a platted
10 subdivision for highway right-of-way purposes shall be exempt from the pro-
11 visions of this section.

12 (9) Land exclusive of public right-of-way that has been subdivided and
13 platted in accordance with this chapter need not be vacated in order to be
14 replatted.

15 (10) Any sender of a written notice by first class mail, certified mail,
16 or certified mail with return receipt sent pursuant to this section shall re-
17 tain proof of mailing such notice, to be produced upon request.

18 SECTION 2. An emergency existing therefor, which emergency is hereby
19 declared to exist, this act shall be in full force and effect on and after
20 July 1, 2024.