


This Guidance Document is not new law but is an agency interpretation of existing law. For more information or to provide input on the document, please contact the Water Right Section Manager at 208-287-4800.

## ADMINISTRATOR'S MEMORANDUM

Application Processing No. 80  
Adjudication No. 62

**To:** Water Allocation Bureau and Regional Offices

**From:** Shelley W. Keen 

**RE:** Guidance for Implementing Revised Statutes for Domestic Uses

**Date:** June 5, 2026

On March 20, 2025, Governor Little signed Senate Bill 1083a, which, among other things, revised certain statutes dealing with ground water wells and domestic uses. The legislation became effective on July 1, 2025. On February 17, 2026, Governor Little signed Senate Bill 1222, which further revised the statutes dealing with ground water wells and domestic uses. This memo summarizes some of the revised statutes and provides guidance to Department staff in determining when a water user is required to complete the statutory permitting and licensing process ("permit process") to establish a water right for a new water use starting on or after July 1, 2025, and when a proposed use is exempt from the permit process.<sup>1</sup> Senate Bills 1083a and 1222 revised several statutes dealing with domestic uses, shared wells, and subdivisions, including statutes outside of the Department's purview. This memo only addresses the revisions to Idaho Code §§ 42-111 and 42-227.

Because Idaho laws do not require a water user to complete the permit process prior to diversion and use for certain domestic uses, the Department does not have an opportunity to review such uses through an application for permit evaluation. The primary role of Department staff related to domestic use is to answer customer questions about when a property owner is required to complete the permit process. To ensure Department staff provide accurate and consistent responses to inquiries across the state, the Department has developed this guidance to assist staff in responding to inquiries about domestic uses. This memo sets forth several fact scenarios, a decision table (Appendix A), and a flow chart (Appendix B) to help Department staff respond to such inquiries.

This memo supersedes the prior version issued on June 25, 2025.

---

<sup>1</sup> The permit process involves filing an application for permit, obtaining an approved permit, developing the authorized beneficial use, and filing a statement of completion for proof of beneficial use. Once proof of beneficial use is filed, the Department conducts a licensing review and issues a final water right license confirming the extent of beneficial use developed under the permit.

As revised by Senate Bill 1222, Idaho Code § 42-111 states:

**42-111. DOMESTIC PURPOSES DEFINED.**

(1) For purposes of sections 42-221, 42-227, 42-230, 42-235, 42-237a, 42-242, 42-243, and 42-1401A, Idaho Code:

(a)(i) "Domestic purposes" or "domestic uses" means:

1. The use of water for homes, organization camps, public campgrounds, livestock, and for any other purpose in connection therewith, including irrigation of up to one-half (1/2) acre of land, if the total use does not exceed thirteen thousand (13,000) gallons per day; or
2. The use of water for any other purpose, if the total use does not exceed a diversion volume of two and eight-tenths (2.8) acre feet per year.

(ii) "Domestic purposes" or "domestic uses" shall not include water for the following purposes, unless the use meets the diversion volume limitations set forth in paragraph (a)(i)2. of this subsection:

1. Mobile home parks or recreational vehicle parks;
2. Apartments, condominiums, and similar developments with multiple dwelling units;
3. Subdivisions, except as provided in subsection (3) of this section; or
4. Commercial or business establishments or mixed-use establishments where the water is used primarily for commercial or business purposes.

(b) "In-home use" means the utilization of water within a residence or household, including all activities that require water, such as drinking, cooking, bathing, and cleaning within and around the household. It does not include irrigation of lawns, gardens, landscaping, pastures, or other open spaces.

(c) "Subdivision" means a tract of land divided into five (5) or more lots, parcels, or sites for the purpose of sale or building development, whether immediate or future; provided that this definition shall not include a bona fide division or partition of agricultural land for agricultural purposes. For purposes of this paragraph, "bona fide division or partition of agricultural land for agricultural purposes" means the division of land into lots, all of which are five (5) acres or larger and maintained as agricultural lands.

(2) Except as provided in subsection (3) of this section, multiple water rights for domestic uses or domestic purposes shall not be established or exercised in a manner to satisfy a single combined water use or purpose that would not itself come within the definition of a domestic use or purpose under this section. The purpose of this limitation is to prohibit the diversion and use of water, under a combination of domestic purposes or domestic uses as defined in this section, to provide a supply of water for a use that does not meet the exemption of section 42-227, Idaho Code, and is required to comply with the mandatory application and permit process for developing a right to the use of water pursuant to chapter 2, title 42, Idaho Code.

(3) Multiple water rights for domestic purposes or uses may be established and exercised from the same point or points of diversion if the use is limited to residential, in-home use. This subsection does not affect any other permitting requirement or other requirement that may apply to the use of water within a subdivision.

As revised by Senate Bill 1222, Idaho Code § 42-227 states:

**42-227. DRILLING AND USE OF WELLS FOR DOMESTIC PURPOSES EXCEPTED.**

(1) Except as provided in subsection (4) of this section, excavation and opening of wells and the withdrawal of water therefrom for domestic purposes or uses as defined in section 42-111, Idaho Code, shall not be subject to permit requirements under section 42-229, Idaho Code. Rights to ground water for such domestic purposes may be acquired by withdrawal and use.

(2) Wells and withdrawal devices for domestic purposes or uses shall be subject to inspection by the department of water resources and the department of environmental quality.

(3) Well drillers shall be licensed pursuant to the licensing provisions of section 42-238, Idaho Code.

(4) For purposes of new diversions for use within subdivisions, as defined in section 42-111, Idaho Code, where the completed application to develop the subdivision is filed pursuant to chapter 65, title 67, Idaho Code, on or after July 1, 2025, in any area where the director of the department of water resources has issued a moratorium order on the development of new water rights or has designated a critical ground water area or ground water management area, a permit pursuant to section 42-229, Idaho Code, shall be required for the diversion of water for any new domestic purposes or uses, as defined in section 42-111, Idaho Code, other than for in-home uses, as defined in section 42-111, Idaho Code, or watering livestock.

## Domestic Exemption – General Principles

For most beneficial uses, prior to diverting and using water in Idaho, a person must acquire or establish a water right authorizing such use. See Idaho Code § 42-201. IDWR administers the statutory permitting and licensing process for establishing new water rights. See Idaho Code § 42-202. Idaho Code § 42-227 states that, with some exceptions, the diversion of water from a ground water well for domestic purposes does not require a water user to go through the permitting process. Instead, water rights for domestic purposes may be established by withdrawal and use. Idaho Code § 42-111 defines the term “domestic purposes.” Therefore, Idaho Code §§ 42-111 and 42-227 work together to designate certain domestic uses of ground water that may occur without a recorded water right.<sup>2</sup> This combined effect of Idaho Code §§ 42-111 and 42-227 is commonly referred to as the “domestic exemption” because qualifying diversions are exempt from needing a recorded water right.

Senate Bills 1083a and 1222 did not change the basic elements of the standard domestic exemption. Idaho Code § 42-111(1)(a)(i)1 confirms that the term “domestic purposes” still includes water for homes, organization camps, public campgrounds, livestock and any other purposes in connection with those uses, including irrigation of up to ½ acre of land, as long as the total use does not exceed 13,000 gallons per day.

Idaho Code § 42-111(1)(a)(i)2 states that the term “domestic purposes” also includes the use of water for any purpose, other than those set forth in Idaho Code § 42-111(1)(a)(i)1, if the total use does not exceed 2.8 acre-feet per year. This constitutes a slight expansion of the domestic exemption. Prior to Senate Bill 1083a, this part of Idaho Code § 42-111 limited other types of domestic use to 2,500 gallons per day and 0.04 cubic feet per second (approximately 18 gallons per minute). Now, the domestic exemption is available to uses that exceed these limits, as long as the total diversion does not exceed 2.8 acre-feet per year (approximately 912,000 gallons per year). Therefore, uses of ground water that have a high daily or instantaneous water demand, but an annual water demand of less than 2.8 acre-feet, now qualify for the domestic exemption.

It is important to note that the phrases “domestic uses” or “domestic purposes” can be misleading. There is a common misconception that domestic use must be associated with a home or some type of culinary use. However, the definition of domestic purposes in Idaho Code § 42-111(1)(a)(i)1 includes campgrounds and stock watering. Also, as noted in Idaho Code § 42-111(1)(a)(i)2, domestic use can be for “any other purpose.” Therefore, the domestic definition in Idaho Code § 42-111(1)(a)(i)2 may include water diverted for uses like dust abatement, cleaning, humidifiers, industrial applications, mining exploration, etc. There is no limit on what water may be used for under Idaho Code § 42-111(1)(a)(i)2 as long as the total use does not exceed 2.8 acre-feet per year.

---

<sup>2</sup> The term “recorded water right” means a permit, license, or decree.

## Revised Quantity Restrictions

Idaho Code § 42-111(1)(a)(ii) states that the term “domestic purposes” does not include water for mobile home parks, RV parks, apartments, condominiums, developments with multiple dwelling units, business establishments, or commercial establishments unless the total use meets the diversion volume limitations set forth in Idaho Code § 42-111(1)(a)(i)2. If a water user proposes to divert water for any of the uses listed in Idaho Code § 42-111(1)(a)(i)2, and the proposed use would exceed 2.8 acre-feet per year, the water user must apply for a permit or otherwise acquire a recorded water right for the full proposed use.

## Subdivisions

Idaho Code § 42-227 states that if a proposed domestic use is (1) within a subdivision, as defined in Idaho Code § 42-111(1)(c), and (2) the completed application to develop the subdivision is filed on or after July 1, 2025, and (3) the subdivision is within an area where ground water development is restricted (moratorium area, GWMA, CGWA), the domestic exemption is limited to in-home use. If a property owner intends to use ground water for irrigation of lawn, garden, landscaping, etc., the property owner must obtain a recorded water right authorizing such use. If a proposed domestic use is from an individual well for one lot within a subdivision where the completed application to develop the subdivision was filed before July 1, 2025, domestic use for that lot is not limited to in-home use but may include the full amount described in Idaho Code § 42-111(1)(a)(i)1.

The term “subdivision” is defined in Idaho Code § 42-111(1)(c) as follows:

A tract of land divided into five (5) or more lots, parcels, or sites for the purpose of sale or building development, whether immediate or future; provided that this definition shall not include a bona fide division or partition of agricultural land for agricultural purposes. For purposes of this paragraph, “bona fide division or partition of agricultural land for agricultural purposes” means the division of land into lots, all of which are five (5) acres or larger and maintained as agricultural lands.

To determine whether a parcel is within a subdivision for purposes of applying Idaho Code §§ 42-111(1)(a)(ii) and 42-227, Department staff should rely on the definition of “subdivision” as provided by Idaho Code § 42-111(1)(c), not the definitions employed by cities or counties.

## Common Wells

Previously, Idaho Code § 42-111 stated that the term “domestic purposes” did not include water diverted from a common well (or shared well) for multiple ownership subdivisions. This meant that two homes on separately owned parcels served by a common well could not each qualify as a distinct exempt domestic use. This restriction

has been removed from the statute. Now, exempt domestic uses may be developed on multiple, separately owned parcels served by a common well. There are, however, restrictions on such exempt domestic uses.

Idaho Code § 42-111(3) states: "*Multiple* water rights for domestic purposes or uses may be established and exercised from the same point or points of diversion *if the use is limited to residential, in-home use*" (emphasis added). When determining whether multiple water rights for domestic purposes are being diverted from the same well, Department staff should rely on the definition of domestic purposes or domestic uses in Idaho Code § 42-111(1), rather than the beneficial use listed on the face of a water right. A recorded water right that authorizes the beneficial use of "domestic" does not necessarily satisfy the definition of "domestic purposes."

There is a difference between the beneficial use "domestic," and the terms "domestic uses" and "domestic purposes" set forth in Idaho Code § 42-111. As noted in the opening sentence of Idaho Code § 42-111, the definition of domestic uses and domestic purposes only applies to Idaho Code §§ 42-221, 42-227, 42-230, 42-235, 42-237a, 42-242, 42-243, and 42-1401A. It does not necessarily apply to Idaho Code § 42-203A, which describes the process for acquiring a new water right.

Many Idaho water rights list domestic as an authorized beneficial use, where the authorized use does not satisfy the definition of domestic purposes set forth in Idaho Code § 42-111. For example, a fifty-lot subdivision may hold a water right for domestic use, which allows for in-home use and outside irrigation, all occurring under the domestic beneficial use. This type of domestic use does not satisfy the definition of domestic purposes set forth in Idaho Code § 42-111.

Therefore, when applying Idaho Code § 42-111(3), Department staff should only consider exempt domestic uses. If the only water diverted from a well is diverted pursuant to a recorded water right, regardless of the authorized use, then one exempt domestic use may be developed from the same well without violating the restriction on multiple exempt water rights set forth in Idaho Code § 42-111.

Because the language about multiple ownership subdivisions has been removed from Idaho Code § 42-111, separately owned parcels can now be supplied water under a single domestic exemption. Idaho Code § 42-111(1)(a)(i)1 states that the use of water for homes meets the definition of domestic purposes as long as the total use does not exceed 13,000 gallons per day and ½ acre of irrigation. Therefore, two or more homes on separately owned parcels could divert water from a common well for domestic use under a single domestic exemption as long as the total combined use for all the homes does not exceed 13,000 gallons per day and ½ acre of combined irrigation.

### Common Wells in Subdivisions

Although not very common, Department staff occasionally receive inquiries about shared wells within subdivisions. Pursuant Idaho Code § 42-111(1)(a)(ii), when a single

well is used to supply water to two or more homes on separately owned parcels within a subdivision, as that term is defined in Idaho Code § 42-111(1)(c), the terms “domestic uses” and “domestic purposes” do not include water for subdivisions unless the use is limited to 2.8 acre-feet per year. Idaho Code §§ 42-111(1)(a)(ii)3 and 42-111(3) further clarify that the terms “domestic uses” and “domestic purposes” may include water for a subdivision if the use is limited to in-home use. Therefore, any person proposing to connect homes on separately owned subdivision parcels to a common well under the domestic exemption must either (1) limit the diversion to 2.8 acre-feet per year or (2) limit the diversion to in-home use. Further, if the proposed well is in a subdivision where the completed application to develop the subdivision was filed on or after July 1, 2025, and the subdivision is in an area where ground water development is restricted, Idaho Code § 42-227 states that the exempt domestic use from the common well is limited to in-home use.

### Prohibition on Stacking Domestic Exemptions

Idaho Code § 42-111 continues to prohibit the stacking of domestic exemptions to satisfy a single combined water use that would exceed the thresholds for an exempt domestic use. Drilling multiple ground water wells on a single parcel of land does not create separate exempt domestic uses for each well. A property owner may develop multiple wells on their property, but the property owner may only develop a single exempt domestic use for the property. When the ground water use on the property exceeds the limits established in Idaho Code § 42-111, a recorded water is required.

### Applying Amended Domestic Use Laws to Common Fact Scenarios

As stated above, because exempt domestic uses do not require water rights, the Department does not have an opportunity to review such uses through an application for permit evaluation. Department staff are often asked to answer customer questions about the domestic exemption and about when the exemption applies. To ensure that Department staff provide accurate information and that responses to inquiries are consistent across the state, staff are encouraged to review and understand the following hypothetical scenarios and to use the decision table (Appendix A) and a flow chart (Appendix B) to respond to customer inquiries.

**Scenario 1:** Sunbeam Subdivision is in Jefferson County, which is within the Amended Snake River Moratorium area. The subdivision plat was approved in 2015 for 100 lots, each lot encompassing one acre of land. The developer expected each lot owner to drill their own individual domestic well and develop their own exempt domestic use. On August 1, 2026, Curry drills a domestic well for a home on his lot in the subdivision. Curry intends to irrigate ½ acre of landscaping from his domestic well. Does Curry’s proposed use require a recorded water right?

**Response 1:** Curry’s proposed well site is in a subdivision and is within an area with restrictions on ground water development. However, a completed application to develop the Sunbeam Subdivision was filed with Jefferson County prior to July 1, 2025, so the

use of water for domestic purposes within the subdivision is not restricted to in-home use (Idaho Code § 42-227(4)). Pursuant to Idaho Code § 42-227, Curry may divert water for domestic use from the well without applying for a water right. Consistent with Idaho Code § 42-111(1)(a)(i)1, the exempt domestic use would be limited to 13,000 gpd and no more than ½ acre of irrigation. Any use beyond those limits would require a recorded water right.

**Scenario 2:** Williams owns a 50-acre tract of land in Bingham County, which is within the Amended Snake River Moratorium area. Williams proposes to drill a well for domestic use on her property. The domestic use would include water for a home, a small, lined pond and irrigation of ½ acre of landscaping. Does Williams' proposed use require a recorded water right?

**Response 2:** Even though Williams' property is within an area with restrictions on new ground water development, her property is not in a subdivision, as that term is defined in Idaho Code § 42-111(1)(c). Therefore, Williams may divert water from her well for domestic purposes without applying for a water right. Consistent with Idaho Code § 42-111(1)(a)(i)1, the exempt domestic use would be limited to 13,000 gpd and no more than ½ acre of irrigation. This means that the total combined use for all the domestic needs (in-home use, irrigation, pond) cannot exceed 13,000 gpd. Any use beyond that limit would require a recorded water right.

**Scenario 3:** Crosby owns a property in Cassia County, which is within the Amended Snake River Moratorium area. The property includes a home and a domestic well that were constructed in 1958. There is no recorded water right associated with the 1958 domestic use. Crosby diverts 1,000 gallons per day on average and irrigates 0.3 acres from his domestic well. Crosby's daughter, Vonn purchases an adjacent property and wants to build a home and connect to Crosby's domestic well. Vonn will irrigate a small lawn and garden next to the home. The property owned by Vonn is not in a subdivision. Does Vonn's proposed use require a recorded water right?

**Response 3:** Even though Vonn's property is within an area with restrictions on ground water development, her property is not in a subdivision, so the in-home restriction set forth in Idaho Code § 42-227(4) would not apply. Idaho Code § 42-111(1)(a)(i)1 states that the term "domestic purposes" includes the use of water for homes. This allows a single domestic exemption to cover more than one home. The language about multiple ownership subdivisions has been removed from Idaho Code § 42-111, so the term "homes" may now include homes on separately owned parcels. The combined domestic use for Crosby and Vonn could qualify as an exempt use, as long as the combined domestic use on their properties does not exceed 13,000 gallons per day or ½ acre of irrigation. Vonn would be able to irrigate 0.2 acres around her home and divert a volume of water, in combination with Crosby, that does not exceed 13,000 gallons per day. Even more homes could be connected to the Crosby well under an exempt domestic use as long as the combined domestic use for all the homes from the Crosby well is less than 13,000 gallons per day and no more than ½ acre is irrigated from the well.

**Scenario 4:** Starlight Subdivision, whose completed application was filed with Valley County on November 1, 2025, is comprised of thirty 2.0-acre lots. The Department has not imposed any restrictions on ground water development in Valley County. Rodman owns a lot in Starlight Subdivision and proposes to drill an individual domestic well to serve one home on her property and to irrigate  $\frac{1}{4}$  acre around the home. Does Rodman's proposed use require a recorded water right?

**Response 4:** Idaho Code § 42-227(4) states that a permit is required for new domestic use, other than for in-home uses, within subdivisions where a completed application to create the subdivision was filed with the county after July 1, 2025, in any area with restrictions on ground water development. Because there are no restrictions on groundwater development in Valley County, the in-home restriction does not apply. Rodman can drill a well and divert up to 13,000 gallons per day and irrigate up to  $\frac{1}{2}$  acre under Idaho Code § 42-111(1)(a)(i)1 without filing an application for a water right.

**Scenario 5:** Galaxy Subdivision is a ten-lot subdivision in Franklin County, which is within the Bear River GWMA. The completed application for Galaxy Subdivision was filed with Franklin County on January 15, 2026. The developer proposes to provide water to the lots from a community well. One of the lot owners, McDavid, proposes to irrigate his property from an individual domestic well to be constructed on his property. McDavid assures the Department that he will not divert more than 2.8 acre-feet per year from the well. Does Galaxy Subdivision need a water right to supply water for in-home use for the ten homes in the subdivision? Does McDavid's proposed use for irrigation around his home require a recorded water right?

**Response 5:** Pursuant to Idaho Code § 42-111(1)(a)(ii)3, the term "domestic purposes" does not include subdivisions with completed applications filed with the county after July 1, 2025, unless the proposed use is limited to in-home use. Further, Idaho Code § 42-111(3) states multiple domestic exempt uses may be developed from the same well if the use is only for in-home use. Therefore, the developer of Galaxy Subdivision does not need a recorded water right to provide water for in-home use to the ten lots in the subdivision. Each lot owner would develop their own unrecorded, exempt domestic use at the time they connect to the community system and begin to use water. McDavid's proposal to divert water for irrigation use from a separate well on his lot without filing for a water right is not consistent with the law. Because McDavid's property is in a subdivision where the completed application was filed after July 1, 2025, and is within an area with restrictions on ground water development, the only exempt use that can be developed from a well on McDavid's lot is water for in-home domestic use or stockwater. Furthermore, establishing a second exempt domestic water right on McDavid's property would be inconsistent with the Idaho Code § 42-111(2) prohibition on stacking multiple exempt water rights. If McDavid intends to irrigate from a well on his property, he would need to obtain a ground water right for irrigation use prior to diversion.

**Scenario 6:** Morgan owns a ten-acre parcel in Bear Lake County, which is within the Bear River GWMA. Morgan wants to develop an RV park which will include rows of trees between the RV sites, a shower and laundry facility, and a large common area

with irrigated lawn. Morgan proposes to drill a well for domestic purposes under the domestic exemption. Does Morgan's proposed use require a recorded water right?

**Response 6:** Pursuant to Idaho Code § 42-111(1)(a)(ii)1, the term "domestic purposes" does not include RV parks unless the total use meets the diversion and volume limitations set forth in Idaho Code § 42-111(1)(a)(i)2. If Morgan intends to divert from her well without a water right, she would be limited to 2.8 acre-feet per year for all uses from her well. If her proposed use exceeds 2.8 acre-feet per year, Morgan must obtain a recorded water right prior to diversion.

**Scenario 7:** Quasar Subdivision is a thirty-lot subdivision located in the City of Pocatello, which is within the ESPA GWMA. Quasar Subdivision has been fully built out for fifty years. A home has been constructed on every subdivision lot. All homes are supplied with water for inside and outside use from the City of Pocatello municipal system. Sanders owns a lot in Quasar Subdivision and proposes to construct an individual domestic well on his property to water the lawn and trees. Does Sanders' proposed use require a recorded water right?

**Response 7:** Sanders proposed use would not require a water right. Although Sanders property is in a subdivision and within an area with restrictions on ground water development, the subdivision was proposed and approved by the county long before July 1, 2025. Pursuant to Idaho Code § 42-227, Sanders could acquire a water right for domestic purposes by withdrawal and use, as long as the use does not exceed 13,000 gallons per day or ½ acre of irrigation.

**Scenario 8:** Pedri owns a 20-acre tract of land in Bingham County, which is within the Amended Snake River Moratorium area. There is no home on Pedri's land. Pedri proposes to drill a well for stockwater use and intends to irrigate up to ½ acre of pasture grass around the stockwater trough. Does Pedri's proposed use require a recorded water right?

**Response 8:** Pursuant to Idaho Code § 42-111(1)(a)(i)1, the phrase "domestic use" includes water for livestock, including irrigation of up to ½ acre of land. Pedri's property is not in a subdivision. Therefore, Pedri may divert water from the well for stockwater and up to ½ acre of irrigation, as long as the total use does not exceed 13,000 gallons per day. If the proposed use exceeds 13,000 gallons per day or ½ acre of irrigation, Pedri must obtain a recorded water right.

**Scenario 9:** Nebula Subdivision is in Fremont County, which is within the Amended Snake River Moratorium Area. A completed application for Nebula Subdivision was submitted to Fremont County on June 30, 2025, and the subdivision was approved on January 1, 2026. Makar wants to build a home for himself and to build nine other homes on separately owned lots. The ten homes would share the well located on Makar's lot. Makar estimates that each home, including his home, would use 500 gallons of water per day (5,000 gallons per day total) and that each home would have a 0.05-acre garden, for a total irrigated area of ½ acre among the ten homes. The total

irrigation use from the well would not exceed 4,000 gallons per day. Does Makar's proposed use require a recorded water right?

**Response 9:** Even though Nebula Subdivision is in an area with restrictions on groundwater development, a completed application for creating the subdivision was submitted prior to July 1, 2025, so the in-home restriction set forth in Idaho Code § 42-227(4) would not apply. Pursuant to Idaho Code § 42-111(1)(a)(ii)3, however, the term "domestic purposes" does not include uses for subdivisions, unless the total use is limited to 2.8 acre-feet per year, except as provided in Idaho Code § 42-111(3), which states: "Multiple water rights for domestic purposes or uses may be established and exercised from the same point or points of diversion if the use is limited to residential, in-home use." Because Makar proposes to supply water from a common well to homes on separately owned parcels in the subdivision, the water use is for a subdivision. Therefore, Makar has two options to stay within the domestic exemption: (1) Limit the total use from the common well to 2.8 acre-feet per year, or (2) limit the domestic use from the common well to in-home use. If the total proposed use, including any irrigation, exceeds 2.8 acre-feet per year, the proposed use would require a recorded water right.

**Scenario 10:** In 1995, Bellingham drilled a domestic well to supply water to one home on a property he owns in a remote area of Butte County. Bellingham's property is not in a subdivision. Bellingham uses the well to irrigate 0.1 acres around his home and never diverts more than 6,000 gallons per day. Bellingham now proposes to create a small RV park in a corner of his property and wants to use his domestic well to supply water for the RV park. Bellingham estimates that the total annual water use for his home, landscaping, and the RV Park would be 2.2 acre-feet. Does Bellingham's proposed use require a recorded water right?

**Response 10:** A water user can add uses to an exempt domestic use without needing a recorded water right, as long as the total combined use still falls within one of the categories of the domestic exemption. In this case, because Bellingham's proposed water use is primarily commercial and fits within the limits of Idaho Code § 42-111(1)(a)(i)2, it would still be considered an exempt use and could be developed without a recorded water right.

## APPENDIX A

### **DOMESTIC EXEMPTION DECISION TABLE**

Application of the domestic exemption after updates to  
Idaho Code §§ 42-111 and 42-227, effective February 17, 2026.

# DOMESTIC EXEMPTION DECISION TABLE

Effective February 17, 2026

Within "Regulated Area" <sup>1</sup>	Shared Well(s) - No			Shared Well(s) - Yes			
	Not in a Subdivision <sup>2</sup>	Use is within a Subdivision		Not in a Subdivision		Use is within a Subdivision	
	In-home use &/or domestic irrigation	In-home use <sup>3</sup> only	Domestic Irrigation <sup>4</sup> included	In-home use only	Domestic Irrigation included	In-home use only	Domestic Irrigation included
No	<b>Exempt<sup>5</sup></b> 42-111(1)(a)(i), 42-227(1)	<b>Exempt</b> 42-111(1)(a)(i), 42-227(1)	<b>Exempt</b> 42-111(1)(a)(i), 42-227(1)	<b>Exempt</b> 42-111(1)(a)(i), 42-111(3), 42-227(1)	<b>Permit required if collective use exceeds ½ acre of irrigation or diversion of more than 13,000 gpd.</b>  42-111(1)(a)(ii)3	<b>Exempt</b> 42-111(1)(a)(i), 42-111(3), 42-227(1)	<b>Permit Required</b> 42-111(1)(a)(ii)3, 42-111(3)
Yes	<b>Exempt</b> 42-111(1)(a)(i), 42-227(1)	<b>Exempt</b> 42-111(1)(a)(i), 42-227(4)	<b>Permit Required<sup>6</sup></b> 42-111(1)(a)(i), 42-227(4)  <i>If subdivision application was filed before 7/1/2025<sup>7</sup>, use is Exempt.</i>	<b>Exempt</b> 42-111(1)(a)(i), 42-111(3), 42-227(1)	<b>Permit required if collective use exceeds ½ acre of irrigation or diversion of more than 13,000 gpd.</b>  42-111(1)(a)(ii)3	<b>Exempt</b> 42-111(1)(a)(i), 42-111(3), 42-227(1)	<b>Permit Required</b> 42-111(1)(a)(ii)3, 42-111(3)  <i>If total use, including irrigation, doesn't exceed 2.8 AFY, use is Exempt.</i>

<sup>1</sup> **Regulated Area** - An area where the Director of the Department of Water Resources ("IDWR") has issued a moratorium order on the development of new water rights or has designated a critical ground water area or ground water management area.

<sup>2</sup> **Subdivision** – Per Idaho Code § 42-111(1)(c), "Subdivision" means a tract of land divided into five (5) or more lots, parcels, or sites for the purpose of sale or building development, whether immediate or future; provided that this definition shall not include a bona fide division or partition of agricultural land for agricultural purposes. For purposes of this paragraph, "bona fide division or partition of agricultural land for agricultural purposes" means the division of land into lots, all of which are five (5) acres or larger and maintained as agricultural lands. "

<sup>3</sup> **In-home use** – Per Idaho Code § 42-111(1)(b), "In-home use" means the utilization of water within a residence or household, including all activities that require water, such as drinking, cooking, bathing, and cleaning within and around the household. It does not include irrigation of lawns, gardens, landscaping, pastures, or other open spaces.

<sup>4</sup> **Domestic Irrigation** - Total irrigation use does not exceed 1/2 acre. Pursuant to Section 42-111(1)(a)(i)1, the phrase "domestic use" includes water for homes, organization camps, public campgrounds, livestock, and for any other purpose in connection therewith, including irrigation of up to one-half (1/2) acre of land . This means use could include stock water with up to 1/2 acre of irrigation even if there is no home on the property.

<sup>5</sup> **Exempt** – A water right permit is not required to divert and use water.

<sup>6</sup> **Permit Required** - A water right permit issued by IDWR is required to divert and use water.

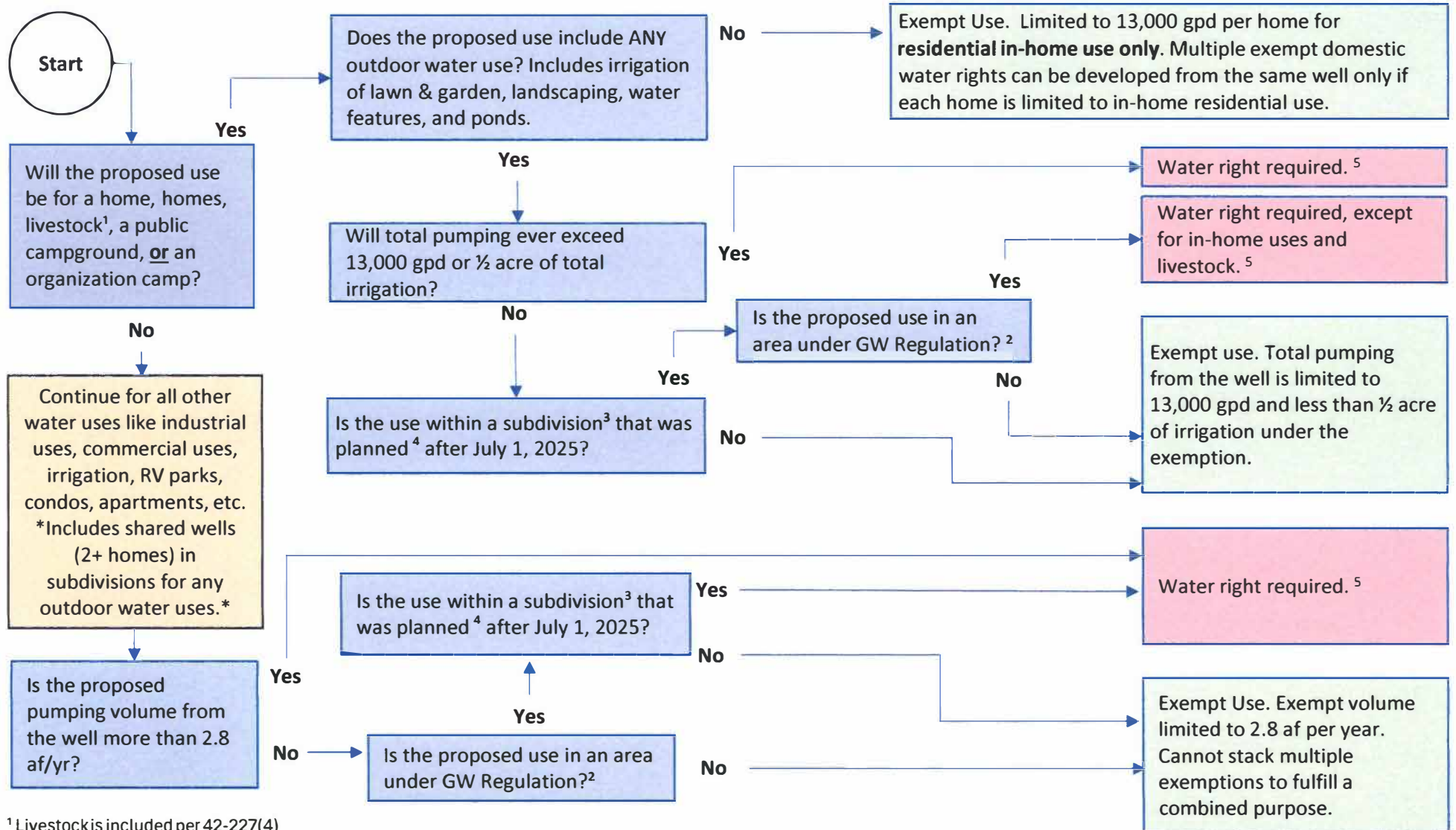
<sup>7</sup> Where the completed application to develop the subdivision is filed pursuant to chapter 65, title 67, Idaho Code, prior to July 1, 2025.

## APPENDIX B

### **DOMESTIC EXEMPTION FLOW CHART**

Application of the domestic exemption after updates to  
Idaho Code §§ 42-111 and 42-227, effective February 17, 2026.

# Groundwater Domestic Exemption Flow Chart



<sup>1</sup> Livestock is included per 42-227(4)

<sup>2</sup> **Areas Under GW Regulation** - An area where the director of the department of water resources has issued a moratorium order on the development of new water rights or has designated a critical ground water area or a ground water management area.

<sup>3</sup> **Subdivision** - Idaho Code § 42-111(1)(c), "Subdivision" means a tract of land divided into five (5) or more lots, parcels, or sites for the purpose of sale or building development, whether immediate or future; provided that this definition shall not include a bona fide division or partition of agricultural land for agricultural purposes. For purposes of this paragraph, "bona fide division or partition of agricultural land for agricultural purposes" means the division of land into lots, all of which are five (5) acres or larger and maintained as agricultural lands.

<sup>4</sup> **Planned after July 1, 2025** - The parcel exists in a subdivision where the completed subdivision application was filed on or after July 1, 2025, pursuant to chapter 65, title 67, Idaho Code.

<sup>5</sup> **Water Right Required** - Obtain a new water right or transfer an existing water right. Applications for Permit will require mitigation for new consumptive uses such as irrigation.