

**ELMORE COUNTY PLANNING AND ZONING COMMISSION**  
**War Memorial (American Legion Hall), 515 East 2<sup>nd</sup> South Street, Mountain Home, ID**  
**83647**

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**Wednesday, November 4, 2015 at 7:00pm**

**Agenda**

**PLEASE SILENCE CELL PHONES**

**CALL TO ORDER**

**ESTABLISH QUORUM**

- |   |   |
|---|---|
| <input type="checkbox"/> Chairperson Patti Osborn       | <input type="checkbox"/> Vice-Chairperson K.C. Duerig |
| <input type="checkbox"/> Dave Holland                   | <input type="checkbox"/> Sue Fish                     |
| <input type="checkbox"/> Ed Oppedyk                     | <input type="checkbox"/> Shane Zenner                 |
| <input type="checkbox"/> Jeff Blanksma                  |   |
| <br>  |   |
| <input type="checkbox"/> Attorney of Record Phil Miller |   |

**PLEDGE OF ALLEGIANCE**

**PUBLIC MEETING**

- Ordinance Work Session

**ITEMS FROM THE PUBLIC**

**MINUTES**

- Minutes from 10-21-2015

**INFORMATION ITEMS**

- Upcoming P & Z Schedule.

**MEETING ADJOURNED**



# Elmore County Land Use and Building Department

520 East 2nd South Street  
Mountain Home, Id. 83647  
Phone: (208) 587-2142 ext. 254  
Fax: (208) 587-2120  
www.elmorecounty.org

Alan Christy  
Director

Tell Riley  
Building Official

Beth Bresnahan  
Planner I

Kacey Ramsauer  
Administrative  
Assistant

## Memorandum

**Date:** November 4, 2015

**To:** Planning and Zoning Commission

**From:** Alan Christy, Director

**Re:** Ordinance Chapters 15 & 16 / Mediation – Revision 2

### Background

The purpose of this memorandum is to give the planning and zoning commission a summary of changes to Chapters 15 and 16 of the zoning and development ordinance for the November 4, 2015 work session. Chapter 13 is still being reviewed by IDWR and FEMA. Chapters 14 and 17 are being reviewed by county consultants.

### Summary of changes Chapter 15

- Consistency in terms and formatting.
- Corrected record date.
- Added section for verification of taxes being paid.
- Moved "Government Action" definition to Chapter 2.
- Added section for required public improvements.

### Summary of Changes Chapter 16

- Consistency in terms and formatting.
- Added section for verification of taxes being paid.
- Added finding for boundary line adjustments and road right-of-ways.

### Other Changes

- Added section for verification of taxes being paid to Chapter 10
- Added mediation section to Chapter 4

### Attachments:

1. Chapters 15-16
2. Chapters 15-16 Redline

**TITLE 6  
ELMORE COUNTY  
ZONING AND DEVELOPMENT ORDINANCE**

**CHAPTER 15 – ONE TIME DIVISION OF PROPERTY**

**Sections:**

- 6-15-1: Purpose**
- 6-15-2: Applicability**
- 6-15-3: Process**
- 6-15-4: Standards**
- 6-15-5: Required Finding**

**Section 6-15-1: Purpose:**

The regulations of this Chapter allow for the one-time division of a parcel into two (2) parcels without being subject to the subdivision regulations as set forth this Ordinance.

**Section 6-15-2: Applicability:**

A. These regulations shall apply to:

1. Parcels created prior to March 14, 1994 that were of record in the Clerk and Recorder's office and the boundaries of which shall not have changed except for one or more of the following:
  - a. The parcel of record was reduced by governmental action as specified in this Ordinance; or
  - b. The parcel of record was reduced by the conveyance of property to a public utility for the purpose of constructing a public utility or infrastructure facility; or
  - c. The parcel of record received approval for a property boundary adjustment as specified in this Ordinance, and where the parcel of record met both the following standards:
    - (1) The parcel of record had sufficient acreage to accomplish the one-time division prior to completion of the property boundary adjustment; and

(2) The property boundary adjustment did not diminish the size of the parcel of record such that it no longer has sufficient acreage to accomplish the one-time division.

B. Recorded platted lots, those recorded lots contained in a subdivision, shall not be eligible for a one-time division of a lot into two (2) lots. Division of subdivided lots shall be subject to the subdivision regulations as set forth this Ordinance.

**Section 6-15-3: Process:**

- A. Application: An application and fees, as set forth in this Ordinance, shall be submitted to the Director on forms provided by the Department.
- B. Tentative Approval Requirements: Upon tentative approval of the application by the Director subject to any applicable conditions of approval and the regulations of this Ordinance, the applicant/owner shall have one year to complete the following tasks:
1. Survey the property and record a record of survey with the Elmore County recorder; and
  2. Obtain new tax parcel numbers from the Assessor; and
  3. Verify taxes have been paid from the Treasurer; and
  4. Provide copies of the recorded record of survey and the new tax parcel numbers to the Director.
- C. Final Approval Requirements: Upon determination by the Director that the one-time division is in conformance with the requirements outlined in the tentative approval letter and that all requirements and conditions were satisfied prior to the one (1) year expiration date, then the Director shall issue a letter stating that the one-time division has received final approval.

**Section 6-15-4: Standards:**

- A. The proposed division shall result in two (2) parcels that comply with the design and dimensional standards of this Ordinance, except when the parcel of record has been diminished by governmental action. As a result of governmental action, the Director may approve a reduced property size on one of the resulting parcels, subject to other regulations of this Ordinance rendering the property as a legal non-conforming property.
- B. The proposed division is not a "subdivision" as defined in this Ordinance.

- C. If public improvements are required all improvements shall be completed prior to the Director issuing final approval.

**Section 6-15-5: Required Finding:**

- A. Required Findings: In order to grant a one-time division, the Director shall make the following findings:
  - 1. The one-time division created no more than two (2) parcels; and
  - 2. The parcel or lot being divided was created prior to March 14, 1994 and was of record in the Clerk's office.
  - 3. The boundaries of the parcel or lot being divided have not changed except as specified in this Ordinance; and
  - 4. That if the property was reduced by governmental action that the property was in compliance with the minimum property size requirement of the applicable zoning district, overlay district and/or Ordinance prior to the decrease in property size; and the decrease in property size was caused by acquisition through prescription, purchase, or other means as defined by this Ordinance; and
  - 5. The subject property requesting a one-time division is not a platted lot within a subdivision.
  - 6. The two (2) resulting parcels shall have the required frontage to an approved County road.

**TITLE 6  
ELMORE COUNTY  
ZONING AND DEVELOPMENT ORDINANCE**

**CHAPTER 16 - PROPERTY BOUNDARY ADJUSTMENTS**

**Sections:**

- 6-16-1: Purpose**
- 6-16-2: Applicability**
- 6-16-3: Process**
- 6-16-4: Standards**
- 6-16-5: Required Finding**

**Section 6-16-1: Purpose:**

- A. The regulations of this Chapter allow for the adjustment of parcel lines or platted lot lines between existing legal, or nonconforming properties. A property boundary adjustment does not vacate the platted lot lines of a recorded subdivision.

**Section 6-16-2: Applicability:**

- A. These regulations apply to existing lots and parcels in Elmore County.

**Section 6-16-3: Process:**

- A. Application: An application and fees, as set forth in this Ordinance, shall be submitted to the Director on forms provided by the Department.
- B. Tentative Approval Requirements: Upon tentative approval of the application by the Director subject to any applicable conditions of approval and the regulations of this Ordinance, the applicant or owner shall have one (1) year to complete the following tasks:
  - 1. Cause the property to be surveyed and a record of survey recorded; and
  - 2. Execute and record the necessary deeds to accomplish the property boundary adjustments as approved; and
  - 3. Obtain new tax parcel numbers from the Assessor; and

4. Verify taxes have been paid for both properties from the Treasurer; and
  5. Provide copies of the recorded record of survey, recorded deeds, and the new tax parcel numbers to the Director.
- C. Issuance of Approval Letter: Upon determination by the Director that the final property boundary adjustment is in conformance with this Ordinance, the Director shall issue a letter stating that the property boundary adjustment has received final approval.

**Section 6-16-4: Standards:**

- A. A property boundary adjustment shall not reduce the property size below the minimum dimensional standards prescribed by this Ordinance including regulations for individual wastewater treatment systems and wells as set forth this Ordinance and Idaho Code respectively.
- B. If one or more of the properties is nonconforming as to the minimum dimensional standards prescribed by this Ordinance; the property boundary adjustment shall not increase the nonconformity.
- C. A property boundary adjustment shall not increase the original number of properties.
- D. A property boundary adjustment shall not change or move any public streets, private roads, easements, or publicly dedicated areas in any manner.
- E. The property boundary adjustment shall not constitute a relocation of a property. For the purpose of this Chapter, the “relocation of a property” shall be defined as relocating any property line greater than sixty (60%) percent of the properties width or length whichever is less restrictive as recorded or documented prior to the property boundary adjustment. Property line adjustments greater than sixty (60%) percent of the property width or length are only allowed to make nonconforming parcels conforming to dimensional standards of this Ordinance. Subsequent boundary requests shall be held to this standard as originally recorded or documented prior to the first property boundary adjustment.
- F. For platted lots, the property boundary adjustment shall be in substantial conformance to the recorded plat.

**Section 6-16-5: Required Finding:**

- A. In order to approve the application, the Director shall find that the proposed property boundary adjustment complies with the standards below:

1. The property boundary adjustment does not reduce the property size below the minimum dimensional standards prescribed by this Ordinance including regulations for individual wastewater treatment systems and wells as required by this Ordinance; and
2. The property boundary adjustment does not further increase the nonconformity of any nonconforming property; and
3. The property boundary adjustment does not diminish the minimum dimensional standards prescribed by this Ordinance or create a nonconforming property; and
4. The property boundary adjustment did not increase the original number of properties or lots; and
5. The property boundary adjustment did not change or move any public streets, private roads, easements, or publicly dedicated areas in any manner unless approved by the applicable highway district; and
6. The property boundary adjustment did not constitute a relocation of a property; and
7. For platted lots, the property boundary adjustment was in substantial conformance to the recorded plat, in terms of plan notes, setbacks, minimum lot sizes, easements, or any other specific plat requirement.

TITLE 6  
ELMORE COUNTY  
ZONING ~~and~~ **AND** DEVELOPMENT ORDINANCE

CHAPTER 15 – ONE TIME DIVISION OF PROPERTY

Sections:

- 6-15-1: Purpose
- 6-15-2: Applicability
- 6-15-3: Process
- 6-15-4: Standards
- 6-15-5: ~~Governmental Action Defined~~
- 6-15-6: Required Finding

Section 6-15-1: Purpose:

The regulations of this ~~ordinance~~ **Chapter** allow for the one-time division of a parcel into two (2) parcels without being subject to the subdivision regulations as set forth this Ordinance.

Section 6-15-2: Applicability:

A. ~~These~~ These regulations shall apply to:

1. ~~Lots~~ **Parcels** created prior to ~~January 1, 1974 (hereinafter referred to as the parcel of record); or parcels of land~~ **March 14, 1994** that were of record in the ~~Elmore County recorder's Clerk and Recorder's~~ **Elmore County Recorder's** office ~~prior to July 7, 1999; and~~ the boundaries of which shall not have changed except for one or more of the following:
  - a. The parcel of record was reduced by governmental action as specified in this ~~Chapter~~ **Ordinance**; or
  - b. The parcel of record was reduced by the conveyance of property to a public utility for the purpose of constructing a public utility or infrastructure facility; or

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c. The parcel of record received approval for a property boundary adjustment as specified in this Ordinance, and where the parcel of record met both the following standards:

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~~1.)~~ 1.) The parcel of record had sufficient acreage to accomplish the one-time division prior to completion of the property boundary adjustment; and

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~~2.)~~ 2.) The property boundary adjustment did not diminish the size of the parcel of record such that it no longer has sufficient acreage to accomplish the one-time division.

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B. Recorded platted lots, those recorded lots contained in a subdivision, shall not be eligible for a one-time division of a lot into two (2) lots. Division of subdivided lots shall be subject to the subdivision regulations as set forth this Ordinance ~~and Title~~.

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**Section 6-15-3: Process:**

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A. Application: An application and fees, as set forth in this ~~ordinance~~ Ordinance, shall be submitted to the Director on forms provided by the ~~Growth and Development~~ Department.

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B. Tentative Approval Requirements: Upon tentative approval of the application by the Director subject to any applicable conditions of approval and the regulations of this Ordinance, the applicant/owner shall have one year to complete the following tasks:

1. Survey the property and record a record of survey with the Elmore County recorder; and

2. Obtain new tax parcel numbers from the ~~Elmore County assessor~~ Assessor; and

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~~3.~~ 3. Verify taxes have been paid from the Treasurer; and

4. Provide copies of the recorded record of survey and the new tax parcel numbers to the Director.

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C. Final Approval Requirements: Upon determination by the Director that the one-time division is in conformance with the requirements outlined in the tentative approval letter and that all requirements ~~and conditions~~ were satisfied prior to the one (1) year expiration date, then the Director shall issue a letter stating that the one-time division has received final approval.

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**Section 6-15-4: Standards:**

- A. The proposed division shall result in two (2) parcels that comply with the design and dimensional standards of this Ordinance, except when the parcel of record has been diminished by governmental action. As a result of governmental action, the Director may approve a reduced property size on one of the resulting parcels, subject to other regulations of this Ordinance rendering the property as a legal non-conforming property.
- B. The proposed division is not a "subdivision" as defined in this Ordinance.

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**Section 6-15-5: Governmental Action Defined:**

- ~~A. A governmental action shall be defined as an acquisition through prescription, purchase, or other means by a County Highway District, Idaho Transportation Department, utility company or corporation under the jurisdiction of the Idaho Public Utilities Commission, or other local, state, or federal agency that reduces an existing property below the required minimum property size.~~
- ~~B. Any property reduced by governmental action that reduces an existing conforming parcel below the required property size shall be deemed as a conforming property for the purpose of development provided the owner/applicant could provide relevant and factual documentation to the Director indicating that:
  - ~~1. The property was in compliance with the minimum property size requirement of the applicable zoning district and Ordinance prior to the decrease in property size and~~
  - ~~2. The decrease in property size was caused by acquisition through prescription, purchase, or other means as provided in Section 6-15-5 (A).~~~~

*Section 6-15-6*

- ~~C. If public improvements are required all improvements shall be completed prior to the Director issuing final approval.~~

**Section 6-15-5: Required Finding:**

- A. Required Findings: In order to grant a one-time division, the Director shall make the following findings:
  - 1. The one-time division created no more than two (2) parcels; and

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2. The parcel or lot being divided was created prior to ~~January 1, 1974, or a parcel of land that~~March 14, 1994 and was of record in the ~~Elmore County recorder's Clerk's office prior to July 7, 1999; and~~
3. The boundaries of the parcel or lot being divided have not changed except as specified in this Ordinance; and
4. That if the property was reduced by governmental action that the property was in compliance with the minimum property size requirement of the applicable zoning district, overlay district and/or Ordinance prior to the decrease in property size; and the decrease in property size was caused by acquisition through prescription, purchase, or other means as ~~provided in Section 6-15-5 (A); defined by this Ordinance;~~ and
5. The subject property requesting a one-time division is not a platted lot within a subdivision.
6. The two (2) resulting parcels shall have the required frontage to an approved County road.

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**TITLE 6  
ELMORE COUNTY  
ZONING and ~~AND~~ DEVELOPMENT ORDINANCE**

**CHAPTER 16 - PROPERTY BOUNDARY ADJUSTMENTS**

**Sections:**

- 6-16-1: Purpose**
- 6-16-2: Applicability**
- 6-16-3: Process**
- 6-16-4: Standards**
- 6-16-5: Required Finding**

**Section 6-16-1: Purpose:**

- A. The regulations of this ~~ordinance~~ **Chapter** allow for the adjustment of parcel lines or platted lot lines between existing legal, or nonconforming properties. A property boundary adjustment does not vacate the platted lot lines of a recorded subdivision.

**Section 6-16-2: Applicability:**

- A. These regulations apply to existing lots and parcels in Elmore County.

**Section 6-16-3: Process:**

- A. Application: An application and fees, as set forth in this ~~ordinance~~ **Ordinance**, shall be submitted to the Director on forms provided by the ~~Growth and Development~~ Department.
- B. Tentative Approval Requirements: Upon tentative approval of the application by the Director subject to any applicable conditions of approval and the regulations of this ~~ordinance~~ **Ordinance**, the applicant or owner shall have one (1) year to complete the following tasks:
  - 1. Cause the property to be surveyed and a record of survey recorded; and
  - 2. Execute and record the necessary deeds to accomplish the property boundary adjustments as approved; and

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3. Obtain new tax parcel numbers from the ~~Elmore County assessor~~ Assessor; and

~~4.~~  
4. Verify taxes have been paid for both properties from the Treasurer; and

5. Provide copies of the recorded record of survey, recorded deeds, and the new tax parcel numbers to the Director.

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C. Issuance of Approval Letter: Upon determination by the Director that the final property boundary adjustment is in conformance with this ~~ordinance~~ Ordinance, the Director shall issue a letter stating that the property boundary adjustment has received final approval.

#### Section 6-16-4: Standards:

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A. A property boundary adjustment shall not reduce the property size below the minimum dimensional standards prescribed by this ~~ordinance~~ Ordinance including regulations for individual wastewater treatment systems and wells as set forth this ~~chapter~~ Ordinance and Idaho Code respectively.

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B. If one or more of the properties is nonconforming as to the minimum dimensional standards prescribed by this ~~ordinance~~ Ordinance; the property boundary adjustment shall not increase the nonconformity.

C. A property boundary adjustment shall not increase the original number of properties.

D. A property boundary adjustment shall not change or move any public streets, private roads, easements, or publicly dedicated areas in any manner.

E. The property boundary adjustment shall not constitute a relocation of a property. For the purpose of this Chapter, the "relocation of a property" shall be defined as relocating any property line greater than sixty (60%) percent of the properties width or length whichever is less restrictive as recorded or documented prior to the property boundary adjustment. Property line adjustments greater than sixty (60%) percent of the property width or length are only allowed to make nonconforming parcels conforming to dimensional standards of this ~~Title~~ Ordinance. Subsequent boundary requests shall be held to this standard as originally recorded or documented prior to the first property boundary adjustment.

F. For platted lots, the property boundary adjustment shall be in substantial conformance to the recorded plat.

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**Section 6-16-5: Required Finding:**

- A. In order to approve the application, the Director shall find that the proposed property boundary adjustment complies with the standards below:
1. The property boundary adjustment does not reduce the property size below the minimum dimensional standards prescribed by this Ordinance including regulations for individual wastewater treatment systems and wells as required by this Ordinance; and
  2. The property boundary adjustment does not further increase the nonconformity of any nonconforming property; and
  3. The property boundary adjustment does not diminish the minimum dimensional standards prescribed by this Ordinance or create a nonconforming property; and
  4. The property boundary adjustment did not increase the original number of properties or lots; and
  5. The property boundary adjustment did not change or move any public streets, private roads, easements, or publicly dedicated areas in any manner unless approved by the applicable highway district; and
  6. The property boundary adjustment did not constitute a relocation of a property; and
  7. For platted lots, the property boundary adjustment was in substantial conformance to the recorded plat, in terms of plan notes, setbacks, minimum lot sizes, easements, or any other specific ~~plan~~ plat requirement.

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**ELMORE COUNTY  
PLANNING AND ZONING COMMISSION**

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**MINUTES  
Wednesday, October 21, 2015 at 7:00 pm**

Chairperson Osborn called the meeting to order. Members of the Elmore County Planning and Zoning Commission present were Vice Chairman K.C. Duerig, Jeff Blanksma, Ed Oppedyk, Shane Zenner and Dave Holland. Also present were Director Alan Christy and staff member Kacey Ramsauer.

**PLEDGE OF ALLEGIANCE**

**PUBLIC MEETING**

Ordinance Work Session

Christy stated that he provided changes for chapters 12. He stated that like the other chapters this is to get more consistency in terms and moving definitions to chapter 2 and enforcement procedures to chapter 3. He stated that this will remove some of the redundancy and help to consolidate everything so it can all be found in one place. He stated that chapter 12 deals with fire safety and standards for building. He stated wildfires are a major problem in the county.

Christy stated that he printed off a section of Idaho Code regarding mediation. He stated that the county commissioners are willing to use this more. They have had appeals that have come before them within the last 2 years and this is an option for resolution.

Oppedyk asked if there were a possibility that mediation would not result in a resolution.

Christy stated that this is a possibility. He stated that it is his understanding that whatever comes out of mediation comes back before the commission would have to be agreed to by both parties.

**NEW BUSINESS**

**FCO and MINUTES**

FCO for Case Number: CUP 2015-13 Dan and Kimberlee Jo West

Oppedyk moved to approve.

Duerig seconded.

Motion carried with Blanksma abstaining as he was not present for this public hearing.

Minutes from 10-07-2015

Duerig moved to approve.

Oppedyk seconded.

Motion carried with Blanksma abstaining as he was not present for this public hearing.

**INFORMATION ITEMS****Upcoming P&Z Schedule**

Christy stated that there would be another work session scheduled on November 4<sup>th</sup>, 2015. He stated that are two public hearings scheduled on November 18<sup>th</sup>, 2015. He stated that this is also the annual meeting for the commission so they will have to vote on Chairperson and Vice Chairperson at that time. He stated that Phil Miller will be doing a presentation on ex parte communication as well.

**MEETING ADJOURNED at 7:09 pm.**

Approved

Approved

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Patti Osborn, Chairperson

Date:

Attest: \_\_\_\_\_  
Alan Christy, Director

Date: