

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

**CHAPTER 14 - AREAS OF CRITICAL CONCERN AND HILLSIDE  
DEVELOPMENT REQUIREMENTS**

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**Section 6-14-1: Purpose:**

- A. The purpose of this Ordinance is to protect and enhance the important environmental features of the South Fork of the Boise River, and its tributaries, and to protect fish, wildlife, and recreation resources consistent with the purpose of the "Local Land Use Planning Act", Idaho Code section 67-6501 et seq., or as maybe amended. The purpose of this section is also to protect hillsides from incompatible development or disturbance.

**Section 6-14-2: Applicability:**

- A. The requirements of this Ordinance shall be applicable to those lands situated on hillsides greater than fifteen (15%) percent slope. The requirements of this Ordinance shall also be applicable to those lands between the South Fork of the Boise River and

a line at least one hundred (100') feet outside of, and parallel to, the boundary of the South Fork of the Boise River floodway as defined in this Ordinance.

- B. No hillside work or grading shall be performed without first receiving written approval from the Director, unless specifically exempt by this ordinance.

**Section 6-14-3: Supplemental Standards in Areas of Critical Concern:**

- A. Structures and fences, other than agricultural, shall have a setback of one hundred (100') feet from the floodway boundary.
- B. Development shall minimize the disturbance of natural vegetation within the Boise River floodway.
- C. Development within the Boise River floodway shall incorporate landscaping in all unpaved areas where the natural vegetation has been disturbed or removed.
- D. In addition to the requirements of this chapter, and of this Ordinance, parking areas shall have a minimum five (5') foot screen between the parking area and the Boise River. Screening materials shall be as set forth in this Ordinance.
- E. Additional screening of uses as viewed from the Boise River floodway may be required consistent with the purpose of this Ordinance.

**Section 6-14-4: Hillside Development Requirements:**

- A. To provide the maximum in public safety and welfare in the development and design of building sites, roadways, and other service amenities; and
- B. To preserve and enhance the hillside landscape by encouraging the maximum retention of natural features, such as drainage swales, streams, slopes, ridgelines, crests of hills, rock outcroppings, vistas, and natural formations; and
- C. To provide safe ingress and egress for vehicular, bicycle, and pedestrian traffic to and within the hillside areas, while at the same time minimizing the scarring effects of hillside development; and
- D. To use to the fullest extent the current understanding of the planning, design, and engineering professions and the natural sciences including botany, biology, ecology, soils and geology, to mitigate potential hazards, and to enhance the existing and future appearance and resources of the hillsides.

**Section 6-14-5: Hillside Applicability:**

- A. Trail development that does not exceed five (5') feet in width and that does not exceed two (2') feet cut or two (2') feet fill shall be exempt from the provisions of this Ordinance.

- B. Except for as allowed in subsection 6-14-5 (A) of this Chapter, the regulations of this Ordinance shall apply to any grading, filling, clearing, or excavation of any kind where any of the following is present:
1. Slopes that exceed fifteen (15%) percent; or
  2. Adverse conditions associated with slope stability, erosion, or sedimentation is present as determined by the County Engineer; or
  3. Any grading, filling, clearing, or excavation on those lands between the South Fork of the Boise River and a line at least one hundred (100') feet outside of and parallel to the boundary of the South Fork of the Boise River floodway.
- C. All such grading, filling, clearing, or excavation listed in Subsection 6-14-5 (B), shall be deemed engineered grading subject to the regulations as set forth in this Ordinance.
- D. The County Engineer shall determine when a watercourse shall be classified as major or minor as used in this Ordinance.

**Section 6-14-6: Hillside Application Requirements:**

- A. Application: An application and fee, as set forth in this Ordinance with reports completed by Qualified Engineers of Record, engineers and professionals shall be submitted to the Director on forms provided by the Growth and Development Department. No hillside work or grading shall be performed without first receiving written approval from the Director, unless specifically exempt by this ordinance.
1. Only Engineers of Record in good standing and/or engineer in good standing shall be considered Qualified to participate in the Elmore County Hillside application review and application process. Those not in good standing shall not be considered Qualified. Upon request, the Director shall furnish applicants with a list of Engineers of Record and engineers that are not in good standing with Elmore County.
- B. Preliminary Grading Plan: The preliminary grading plan shall be designed to ensure that the properties within the development are able to conform to the excavation and engineered grading requirements of the Elmore County building code as set forth in this Ordinance, and the requirements for a final grading plan as set forth in this Ordinance. The preliminary grading plans shall be dated, signed, submitted with the development application, and shall include the following information:
1. Contour lines at five (5') foot intervals; and

2. The location of all proposed or existing structures and roads; and
  3. Any areas of cut or fill; and
  4. Any areas with special environmental issues or critical concerns; and
  5. A narrative indicating how the proposed design complies with the purpose statement of the hillside overlay district.
- C. Slope Stabilization and Re-vegetation Plan and Report: A qualified licensed landscape design professional shall prepare the slope stabilization and re-vegetation plan. The report shall be dated, signed, submitted with the development application, and shall include the following information:
1. A complete description of the existing soils; and
  2. An existing vegetation analysis; and
  3. An analysis of the vegetation to be removed and the method of disposal; and
  4. The vegetation to be planted; and
  5. Any soils amendments and/or pH adjustments; and
  6. Slope stabilization measures to be implemented; and
  7. Analysis of the environmental effects of such operations including the effects on:
    - a. Slope stability; and
    - b. Soil erosion; and
    - c. Water quality; and
    - d. Fish and wildlife.
- D. Engineering Hydrology Report: A qualified professional engineer registered in the State of Idaho shall complete an engineering hydrology investigation and report. This individual shall be Qualified, have experienced, and knowledgeable in the science of hydrology and in the techniques of hydrologic investigation. The report shall be dated, signed, submitted with the development application, and shall include the following information:
1. An adequate description of the hydrology of the site; and

2. Conclusions on the proposed development; and
  3. Opinions and recommendations covering the adequacy of sites to be developed; and
  4. Results of field investigations of the site, unless existing information is determined by the County Engineer to be sufficient to satisfy the purpose of this Ordinance; and
  5. The flood frequency curves, which shall be provided for the area proposed for development.
- E. Soils Engineering Report: Any area proposed for development shall be investigated to determine the soil characteristics. A qualified professional engineer registered in the State of Idaho shall complete a soils investigation and report. The report shall be dated and signed, and shall include the following information:
1. Data regarding the nature, distribution, strength, pH, and nutrients of the soils; and
  2. Conclusions and recommendations for grading procedures; and
  3. Design criteria for corrective measures; and
  4. Professional opinion and recommendations covering the adequacy of sites to be developed; and
  5. The report shall include results of field investigations of the site, unless existing information is determined by the County Engineer to be sufficient to satisfy the purpose of this Ordinance; and
  6. All recommendations included in the report shall be incorporated into the design plan and specifications.
- F. Engineering Geology Report: Any area proposed for development shall be investigated to determine its geological characteristics. A qualified professional geologist or a professional engineer, whom is registered in the State of Idaho, experienced and knowledgeable in the principles and practices of engineering geology, shall complete the geological characteristics investigation and report. The report shall be dated, signed, submitted with the development application, and shall include the following information:
1. A description of the geology of the site; and

2. Any conclusions and recommendations regarding the effect of geologic conditions on the proposed development; and
  3. Professional opinions and recommendations covering the adequacy of sites to be developed; and
  4. The report shall include results of field investigations of the site, unless existing information is determined by the County Engineer to be sufficient to satisfy the purpose of this Ordinance; and
  5. Recommendations included in the report shall be incorporated into the design plan and specifications; and
  6. Any area identified in the report, in which the investigation indicates geologic hazards, shall not be developed unless the project engineer can demonstrate conclusively to the County Engineer, based on the required engineering reports, that these hazards can be overcome in such a manner as to prevent hazard to life or limb, hazard to property, adverse effects on the safety, use or stability of a public way or waterway, and adverse impacts on the natural environment.
- G. Visual Impact Report: A visual impact report shall be prepared by a qualified design professional, signed and dated, and shall be submitted with the development application. The report shall include the following information:
1. The view from key vantage points along public roadways or public viewing areas that depict the existing view (prior to development) and the proposed view (after development); and
  2. The proposed screening methods which shall include, but not be limited to: architectural design designated building envelopes, height restrictions, landscaping, fencing, construction materials, and colors; and
  3. The existing vegetation and the proposed method of preserving and/or replacing such vegetation; and
  4. A statement detailing how the proposed development or subdivision minimizes grading through careful site and roadway design.
- H. Other Pertinent Data: Any other pertinent data deemed necessary by the Engineer of Record, or County Engineer, or the Director, after consulting with the County Engineer or Engineer of Record, to satisfy the stated purpose of this Ordinance and that is reasonably related to the health, safety, and welfare of the general public and persons who might purchase the property being developed shall be required.

**Section 6-14-7: Hillside Application Process:**

- A. The preliminary grading plan shall be prepared by a qualified professional engineer registered in the State of Idaho, which shall be the Engineer of Record, shall be submitted with the development application. The Director shall forward the preliminary grading plan and other documents required by this Ordinance to the County Engineer for review and recommendation.
- B. Upon review of the study, the County Engineer shall forward a recommendation on the grading plan to the Director. The Director shall apply the standards listed this Ordinance and the required findings listed in this Ordinance to determine whether or not to approve, approve with conditions, or deny the preliminary grading plan.
- C. No grading, filling, clearing, or excavation of any kind shall be initiated until the preliminary grading plan is approved by the Building Official, an engineered grading permit is obtained from the Elmore County building official, and the development has received final approval from the Director.
- D. When required by the Director, other special inspections, reports and/or special testing shall be performed to verify conformance with this Ordinance. The cost of such special inspections and special testing shall be borne by the applicant.

**Section 6-14-8: Hillside Standards:**

**A. General Standards:**

- 1. Construction grading, cuts and fills during the months of December 1 through April 15 should be scheduled to minimize soil disturbance.
- 2. The County Engineer may require the grading operation and/or project schedule be modified if delays occur which result in weather-generated problems not anticipated at the time approval was granted.
- 3. All development shall take into account land use planning, soil mechanics, engineering geology, hydrology, civil engineering, the environment, architectural and landscape design, and related disciplines as applied to hillside areas.

**B. Development of Special Hazard Areas:** Any area that presents one or more of the following limiting factors shall not be permitted to develop unless the engineer of record can demonstrate to the County Engineer, based on the required engineering reports, that these limitations can be overcome in such a manner as to prevent hazard to life, hazard to property, adverse effects on the safety, use or stability of a public way or drainage channel, and adverse impact on the natural environment:

- 1. Landslide areas or scarps, or areas of active landslides; or
- 2. Lines of active faults; or

3. Soils with a high shrinkage-expansion potential and hydro-compactable soils, or
4. Natural slopes greater than fifteen (15%) percent; or
5. Water table within six (6') feet of the surface at any time of the year; or
6. Any area of hydrologic or soil hazard as determined by the engineering hydrology or soils report.

C. Vegetation:

1. Vegetation shall only be removed when absolutely necessary, such as for the construction of structures, filled areas, roadways, firebreaks, or as required by this Ordinance.
2. The applicant shall conserve and retain topsoil that is removed during construction for later use on areas requiring re-vegetation or landscaping, e.g., cut and fill slopes.
3. A sufficient stabilization method, such as vegetation, and/or chemical, and/or mechanical shall be used that would sufficiently stabilize the soil. These methods shall be established on all disturbed areas, except for proposed rights of way, as each stage of grading is completed. Areas not contained within property boundaries shall be protected with adapted, fire-resistant species of perennial vegetative cover after all construction is completed.
4. New plantings shall be protected with organic cover unless determined not to be necessary in the slope stabilization and re-vegetation plan and report.

D. Grading and Stabilization:

1. All retaining walls with a total vertical height of four (4') feet or more, including footing, shall be designed in accordance with the regulations of the Elmore County building code as set forth in this Ordinance.
2. All slopes that are stabilized by mechanical or chemical means shall conform to the surrounding terrain and shall be given aesthetic treatment that is consistent with the purpose of this Ordinance.
3. Large tracts shall be divided into smaller workable units on which construction can be completed within one construction season so that large areas are not left bare and exposed during the winter-spring runoff period.

4. All disturbed soil surfaces shall be stabilized or covered prior to December 1<sup>st</sup>. If the planned impervious surfaces (e.g., roadways, driveways, etc.) cannot be established prior to December 1<sup>st</sup>, a temporary treatment adequate to prevent erosion shall be installed on those surfaces.

E. Hydrologic Controls:

1. Curb and gutter, pavement, and appurtenant roadway drainage facilities shall be designed to control roadway runoff to such a point that it is contained within the natural watercourse system.
2. Watercourses shall be rip rapped or otherwise stabilized below drainage and culvert discharge points for a distance sufficient to convey the discharge without channel erosion.
3. Any material from construction, including soil and other material, shall not be deposited within any floodway or watercourse.
4. Hydraulic structures in major watercourses shall be designed for the 100-year flood. In minor watercourses, such structures shall be designed for the 50-year flood.
5. With the exception of roadway crossings, approved drainage structures, and recreation and open space uses that do not involve the destruction of vegetative cover, development shall be prohibited within the 100-year flood plain for major watercourses, and the 50-year flood plain for minor watercourses.

F. Sediment:

1. Sediment catchment ponds shall be constructed and maintained by the owner at the downstream property line of each development or at other appropriate locations to protect downstream properties and watercourses from the adverse impacts of sediment generated on-site due to development construction work. All sediment catchment ponds shall be designed to provide a minimum of forty-five (45) minutes detention time at a velocity not greater than two (2') feet per second and shall provide for the removal of surface debris and surface contaminants.
2. The overall drainage system shall be completed and made operational at the earliest possible time during construction. No certificate of occupancy shall be issued on the property until the drainage system is complete.
3. Alterations of major watercourses shall be prohibited, except for approved roadway crossings and drainage structures.

4. Natural or improved open channels shall be preserved, or provided for, in watercourses, except that at roadway crossings, conduits may be permitted.

G. Roadways and Circulation:

1. Roadway alignments shall be designed to create the minimum feasible amounts of land coverage and the minimum feasible disturbance of the soil.
2. Roadway alignments shall be designed to minimize removal of existing deep-rooted perennial vegetation.
3. Roadway alignments shall be designed to follow natural terrain.
4. The width of the graded section shall extend five (5') feet beyond the travel right-of-way line on both the cut and fill sides of the roadway for slope-rounding purposes. If a sidewalk is to be installed parallel to the roadway, the graded section shall be increased by the width of the sidewalk plus five (5') feet beyond the sidewalk.
5. Combinations of collective private driveways, cluster parking areas, and on-street parallel parking bays shall be used where possible to attempt to optimize the objectives of minimum soil disturbance and minimum impervious cover.
6. Approval of the applicable transportation authority is required for publicly dedicated streets.
7. Paving shall commence within ninety (90) calendar days of grading permit approval and shall be completed within thirty (30) calendar days of any building permit being issued.

H. Alternatives: The Director may approve, or recommend approval of, an alternative development proposal when the overall design, as proposed by the applicant, meets or exceeds the intent and the requirements of this Ordinance and shall not be detrimental to the public health, safety, or welfare.

I. Maintenance: The owner of any private property on which grading or other work has been performed pursuant to a grading plan approved subject to the regulations of this Ordinance, or a grading permit granted by the Elmore County building official, shall maintain in perpetuity and repair all graded surfaces and erosion-prevention devices, retaining walls, drainage structures, means, and devices not subject to the jurisdiction of the applicable transportation authority, and plantings and ground cover installed or completed. Such requirements shall be incorporated into the protective covenants for a subdivision and the conditions of approval for development applications.

**Section 6-14-9: Hillside Required Findings:**

A. Required Findings:

1. The site, as determined by the engineering reports, the Engineer of Record and the County Engineer is physically suitable for the design and siting of the proposed development; and
2. The proposed development was designed in a manner that shall result in minimum disturbance of hillside areas; and
3. The grading and excavation proposed in connection with the development shall not result in soil erosion, silting of lower slopes, slide damage, flooding, severe scarring, or any other geological instability or fire hazard that would adversely affect the public health, safety, and welfare; and
4. Areas not suited for development, as identified in the reports submitted because of soil, geology, vegetation, or hydrology limitations shall be designated as open space use; and
5. Disruption of existing native vegetation and wildlife habitat has been minimized or mitigated; and
6. The proposal and engineering reports sets forth sufficient and adequate mitigation for the identified visual impacts beyond the normally expected impact of hillside development.

**Section 6-14-10: Waiver of Hillside Standards:**

- A. The Director, upon the recommendation of the County Engineer, has the authority to grant a waiver if the Engineer of Record can demonstrate conclusively that any of the standards required by this Ordinance are not necessary in the proposed development, and that the omission of such requirements would not result in any of the following:
1. Hazard to life or limb; or
  2. Hazard to property; or
  3. Adverse effects on the safety, use, or stability of a public way or drainage channel; or
  4. Adverse impact on the natural environment.

- B. The request for a waiver of standards shall be in writing and shall state the reason for the request. The justification for the waiver shall be based on the engineering reports required in this Ordinance.

**Section 6-14-11: Engineer of Record Responsibilities on Projects Involving Hillsides:**

- A. To ensure that the intent of this Ordinance is attained through the principles and practices of civil engineering, the applicant shall retain a professional engineer currently registered in the state of Idaho to serve as the Engineer of Record.
- B. The Engineer of Record shall:
  - 1. Prepare the preliminary grading plan and engineered grading permit application.
  - 2. Incorporate into the grading plans, all recommendations contained in the soils, geology and hydrology reports, and the slope stabilization and revegetation plan and other reports as required in this Ordinance or Director.
  - 3. To inspect and certify all work within the project.
  - 4. To act as coordinating agent for liaison between other professionals, the owner or applicant, and the Director.
  - 5. Prior to and during grading operations, the engineer of record shall submit all necessary reports, compaction data, soils, and geology and hydrology recommendations to the Director, failure to comply with this requirement may result in the Engineer of Record losing all privileges within Elmore County and said Engineer shall not participate or be considered as an eligible Engineer of Record or an engineer in good standing for a period of twenty-four months from the date of non-compliance as determined by the Director or this Ordinance.
- C. The Engineer of Record shall:
  - 1. In the course of fulfilling their responsibilities report any discoveries or discrepancies where the quality of work being accomplished was performed to a substantially lesser standard than required by this Ordinance. Any substandard work or noncompliance with this Ordinance or approval granted shall be reported in writing to the Director within three (3) working days with recommendations for corrective measures, if applicable. Failure of the Engineer of Record to make the required report shall result in the Engineer of Record losing all privileges within Elmore County and said Engineer shall not participate or be considered as an eligible Engineer of Record or Engineer in good standing for a period of twenty-

four (24) months. The Director may require corrective action within a specified period of time. Any deficiency deemed by the Director to be an imminent threat to the public health, safety, or welfare, shall be stopped immediately until such deficiencies are corrected.

- D. If the Engineer of Record, the soils engineer, the geologist, the professional landscape architect, or the hydrologist of record is replaced during the course of work, the work shall be stopped until the requirements of this subsection are satisfied and the owner/applicant or Engineer of Record have received a letter from the Director granting permission to proceed with work. It shall be the responsibility of the Engineer of Record, or in his replacement the applicant to notify the Director of any professional replacements. Work may resume only when the replacement individual(s) have agreed to accept the responsibility for certifications of the work within the areas of their individual technical competence, and have submitted a dated and signed letter stating their acceptance of these requirements, their responsibilities, along with proof of their qualification. This letter and applicable documents shall be submitted to the Director for approval, prior to commencement of work. Any engineer not in good standing with Elmore County as defined in Subsection 6-14-11 (E) shall not be considered as a suitable replacement and shall be rejected by the Director.
- E. In the event work is stopped during inclement weather, all open, and/or unfinished work on the project shall be protected to the satisfaction of the Director.
- F. At the conclusion of the approved work, the Engineer of Record shall submit a report to the Director stating that the work has been executed in compliance with the approved plans. The report shall have the signature and professional seal of the Engineer of Record. Conclusion of approved work shall be defined as the day in which the grading, as permitted was completed or as determined by the Elmore County Building Department, or the Director, or upon expiration of the grading permit.
  - 1. The Engineer of Record shall also provide the following for all work that deviated from the original grading and hillside permit or plan that was altered or redirected by the Engineer of Record or other professional during the course of work:
    - a. Submit revised as-built plans to the Director within ninety (90) calendar days of the conclusion of work.
    - b. Failure by the Engineer of Record to submit as-built drawings shall as required by this Ordinance shall result in a daily fine of twenty (\$20) dollars commencing upon the ninety-first (91st) calendar day.

- c. Failure to submit as-built drawings and/or pay any fines as required by this Ordinance shall result in that Engineer of Record losing all privileges within Elmore County and said Engineer shall not participate or be considered as an eligible engineer or Engineer of Record not in good standing until all fines are paid and as-built drawings submitted as required by this Ordinance. The Ultimate responsibility to ensure that the Engineer of Record submits as-built drawings shall be borne by the owner/applicant. The Director may withhold building permits or take any other actions as necessary to obtain as-built drawings and fines as required by this Ordinance.