

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

CHAPTER 4 – APPLICATION PROCEDURES AND FEES

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Section 6-4-1: Purpose:

- A. The purpose of this Chapter is to provide procedures for all zoning and related applications covered by this Title and petition to amend the Comprehensive Plan.

Section 6-4-2: Application Requirements and Fees:

- A. **Application Requirements:** All persons making application for permits and other matters herein referred to shall be required to submit to the Director an application on forms provided by the Growth and Development Department and accompanied by an application fee as set forth in subsection E of this section. No application shall be considered as accepted by the Director unless it is complete with all required information.
- B. **Combining of Applications:** Where practical, the Director, Commission, or Board may combine related applications for the convenience of applicants. State and Federal agencies should make every effort to combine or coordinate related permits with Elmore County.
- C. **Date of Application Acceptance:** The date of acceptance of an application shall be the date of the letter sent by the Growth and Development Department notifying the applicant that the Director has received payment of the required fee and all of the

required submittal information pursuant to this Title, excluding Planned Community, Planned Unit Development, and Planned Unit Development District applications as specified in this Title.

- D. Hearings: A public hearing shall be conducted in accordance with Idaho Code and this Title.
- E. Fees: The Board shall, by resolution, establish fees for all zoning applications or petitions authorized by this Title, zoning permits, and Comprehensive Plan amendments.
- F. Re-submittal: No application that has been denied by the Director, the Commission, or the Board shall be resubmitted, in the same form for the same use, within one year from the date of denial. The Director may waive the one (1) year requirement and accept a new application, where the subject property is affected by amendments to the applicable Comprehensive Plan or to this Title.

Section 6-4-3: Neighborhood Meetings:

- A. Applicants shall conduct a neighborhood meeting for Comprehensive Plan amendments, variances, conditional uses, zoning ordinance map amendments, expansions or extensions of nonconforming uses, and subdivisions, excluding Planned Community, Planned Unit Development, and Planned Unit Development District applications as specified in this Title.
- B. It shall be the sole duty of the applicant to provide written notice to all property owners or purchasers of record owning property within the radius required in this Title of the exterior boundary of the application property and to all registered neighborhood associations deemed appropriate by the Director. Notice of a neighborhood meeting shall be in addition to, and not in lieu of, mailed radius notices already required by this Title. Notice of neighborhood meeting must be mailed at least ten (10) days prior to the date of the neighborhood meeting.
- C. The purpose of the neighborhood meeting shall be to review the proposed project.
 - 1. The meeting shall be on a weekend between ten o'clock (10:00) A.M. and seven o'clock (7:00) P.M. or on a weekday between six o'clock (6:00) P.M. and eight o'clock (8:00) P.M. The meeting shall not be on a holiday, a holiday weekend, or the day before a holiday or holiday weekend.
 - 2. The meeting shall be held at one of the following locations, excluding Planned Community, Planned Unit Development, and Planned Unit Development District applications as specified in this Title:
 - a. On the subject property; or

- b. At the nearest available public meeting place including, but not limited to, fire station, library, or community center; or
 - c. At an office space with suitable meeting facilities if such facilities are within a one-mile radius of the nearest public meeting place.
- D. The neighborhood meeting shall be conducted prior to acceptance of the application.
- E. The neighborhood meeting shall not be conducted more than six (6) months prior to acceptance of the application.
- F. The application materials shall include written verification of the neighborhood meeting on the forms provided by the Growth and Development Department.

Section 6-4-4: Notice to Agencies and Political Subdivisions:

- A. The Director shall send a summary of development applications to applicable agencies, as determined by the Director. The notice shall be sent at least fifteen (15) calendar days prior to the public hearing. Planned Community, Planned Unit Development, and Planned Unit Development District applications shall be noticed as directed by this Title.
- B. The Director shall send a summary of petitions for Comprehensive Plan amendments and applications for zoning ordinance amendments to applicable agencies and political subdivisions as referenced in Idaho Code section 67-6509(a). The notice shall be sent at least fifteen (15) calendar days prior to the public hearing. Planned Community, Planned Unit Development, and Planned Unit Development District applications shall have a summary of petitions for Comprehensive Plan amendments noticed as directed by this Title.
- C. Applications within an Area of City Impact shall be noticed in accordance with the regulations of this Title.
- D. Applications for development within five (5) miles of the 115db Mean Noise Line surrounding the Idaho Army National Guard, Orchard Training Range Area will be forwarded to the Idaho Army National Guard for review and comment at least 15 days prior to a hearing before the Planning and Zoning Commission.

Section 6-4-5: Notice to Public:

- A. Legal Notice: At least fifteen (15) calendar days prior to the public hearing, the Director shall publish a notice of the time and place and a summary of the application in the official newspaper of general circulation in the county.
- B. Site Notice: At least seven (7) calendar days prior to the public hearing, the Director shall post a notice on the premises of the application, except for zoning ordinance text amendments or Comprehensive Plan amendments.

C. Radius Notice: At least seven (7) calendar days prior to the public hearing, the Director shall send a notice of the time and place, and a summary of the application to property owners or purchasers of record (as listed in the current records of the Elmore County Assessor) owning property within three hundred (300') feet of the property being considered. The Director may determine, or other applications provided for in this Title may require, that notices be sent to property owners or purchasers of record whose properties are further than three hundred (300') feet from the external boundaries of the property upon which the application is located.

1. The following uses shall require notice within one thousand (1,000') feet of the property being considered:

- a. Adult entertainment establishment;
- b. Airport or Aircraft landing field;
- c. Any application located in an Agricultural District;
- d. Bar, brew pub, or nightclub;
- e. Explosive manufacturing or storage
- f. Flammable substance storage;
- g. Foundry;
- h. Junkyard or automobile wrecking yard;
- i. Manufacture or processing of hazardous chemicals or gases;
- j. Meatpacking facility;
- k. Pit, mine, or quarry requiring administrative or conditional use approval;
- l. Power plant
- m. Processing plant for agricultural and dairy products;
- n. Public or quasi-public use - public or private correctional facility;
- o. Racetrack, vehicle or animal;
- p. Sanitary landfill, restricted;
- q. Sawmill or planing mill;
- r. Slaughterhouse
- s. Soil or water remediation;
- t. Tannery;
- u. Tower or antenna structure higher than fifteen (15') feet;
- v. Vehicle impound yard;
- w. Or, any other type of land use that the Director feels warrants a one thousand (1,000')-foot radius notice.

2. Animal Feeding Operations (AFO) and Confined Animal Feeding Operations (CAFO), as defined by this Title shall require notice within two thousand six hundred forty (2,640') feet of the property being considered.
- D. Alternate Forms of Notice: When posted or mailed notice is required of two hundred (200) or more property owners or purchasers of record, alternate forms of notice may be provided as follows:
1. Notice of the time and place of the hearing and summary of the proposal shall be published in a newspaper of general circulation within the county, not less than seven (7) calendar days prior to the hearing.
 2. Multiple site notices, the quantity determined by the Director, shall be posted not less than seven (7) calendar days prior to the hearing, in locations of high public uses within the affected areas of the county including post offices and major retail establishments including all external boundaries of the subject property.
 3. At least seven (7) calendar days prior to the hearing, a notice shall be made available to the local newspapers, radio, and television stations servicing the county for use as a public service announcement.
 4. All non-owner occupied property shall receive written notice at least seven (7) calendar days prior to the hearing.
 5. Animal Feeding Operations (AFO) and Confined Animal Feeding Operations (CAFO), as defined by this Title shall not use an alternate form of notice as herein defined, but shall notice all property owners or purchasers of record, regardless of quantity and as require in Section 6-4-5 C (2).
- E. Public Service Announcement: In the case of amendments to this Title and the Comprehensive Plan, the Director shall issue a notice to other newspapers, radio or televisions stations serving the jurisdiction for use as a public service announcement prior to the public hearing.
- F. Applicants who propose development within five (5) miles of the 115db Mean Noise Line surrounding the Idaho Army National Guard, Orchard Training Range Area will be provided the following notice by the Growth and Development Department:

Applicant is advised that the property may be located near a military installation that conducts flight operations, munitions testing, or military operations that may result in high noise levels, traffic, and dust at all hours of the day throughout the year. Applicant should contact the public affairs office of the nearest military installation to determine whether the property may be impacted by testing or operations at the installation.

Any new deeds resulting from development within five (5) miles of the 115db Mean Noise Line surrounding the Idaho Army National Guard, Orchard Training Range Area shall include the above notice.

Section 6-4-6: Decision by the Director:

- A. Following the acceptance of an application, the Director shall act upon the application. Failure of the Director to act upon an application shall be deemed a denial of the application.
- B. The Director may defer a decision if additional information is required to make a decision.
- C. The Director may require conditions of approval that are deemed necessary to protect the public health, safety, and welfare and prevent undue adverse impacts on surrounding properties.
- D. The Director shall provide the applicant written findings of fact and conclusions of law in accordance with Idaho Code section 67-6519 stating the reasons for the decision reached. All conditions of approval shall be attached to the written decision.

Section 6-4-7: Decision by the Hearings Examiner:

- A. The Director shall schedule a hearing before the Hearings Examiner after the Director accepts an application. Prior to the public hearing, public notice shall be provided as set forth in this Title.
- B. The Hearings Examiner shall conduct the public hearing in accordance with the procedures of this Title.
- C. The Hearings Examiner may require conditions of approval that he or she deems necessary to protect the public health, safety, and welfare and/or to prevent undue adverse impacts on surrounding properties.
- D. The Hearings Examiner shall provide the applicant a written decision in accordance with Idaho Code sections 67-6520 and 67-6535 stating the reasons for the decision. Conditions of approval, if any, shall be attached to the written decision.

Section 6-4-8: Decision by the Commission:

- A. The Director shall schedule a hearing before the Commission after the Director accepts an application, excluding Planned Community, Planned Unit Development, and Planned Unit Development District applications as specified in this Title. Prior to the public hearing, public notice shall be provided as set forth in this Title.

- B. The Commission shall conduct the public hearing in accordance with the procedures of this Title. The Commission may continue the hearing if it determines in its discretion that additional hearings are necessary. The Commission, however, must issue a decision or recommendation as is applicable no later than one hundred twenty (120) days after the closing of the public hearing, excluding Planned Community, Planned Unit Development, and Planned Unit Development District applications as specified in this Title, which the Commission must issue a recommendation no later than one hundred twenty (120) days after the decision has been made. Failure of the Commission to issue a decision or recommendation shall be deemed a denial or a recommendation of denial of the application.
- C. Following the public hearing, if the Commission makes a material change to any application, further notice and hearing shall be provided in accordance with the regulations of this Title.
- D. The Commission may require or recommend conditions of approval that it deems necessary to protect the public health, safety, and welfare and/or to prevent undue adverse impacts on surrounding properties.
- E. The Commission shall provide the applicant written findings of fact and conclusions of law in accordance with Idaho Code sections 67-6519 and 67-6535 stating the reasons for the decision or recommendation reached. Conditions of approval shall be attached to the written decision or recommendation. For applications where the Commission is acting as a recommending body, the Commission shall forward their recommendation to the Board.
- F. For applications where a decision or recommendation from the Commission is required by this Title, the Commission shall file a written report with the Clerk of the Board stating the findings and action taken by the Commission.

Section 6-4-9: Decision by the Board:

- A. The Director shall schedule a hearing before the Board after the Director accepts an application or after the Commission makes a recommendation (if applicable). Prior to the public hearing, public notice shall be provided as set forth in this Title and state law.
- B. The Board shall conduct the public hearing in accordance with the procedures of this Title.
- C. Following the public hearing, if the Board makes a material change to a Comprehensive Plan amendment application or zoning ordinance amendment application, further notice and hearing shall be provided in accordance with the regulations of this Title.
- D. The Board may require conditions of approval that it deems necessary to protect the public health, safety, and welfare and/or to prevent undue adverse impacts on

surrounding properties. This regulation shall not apply to applications for Comprehensive Plan amendments or zoning ordinance text amendments.

- E. The Board shall provide the applicant written findings of fact and conclusions of law in accordance with Idaho Code sections 67-6519 and 67-6535 stating the reasons for the decision. Conditions of approval, if any, shall be attached to the written decision.
- F. Following the approval of a Comprehensive Plan amendment; the Board shall adopt a resolution adopting the amendment to the Comprehensive Plan.
- G. Following the approval of a zoning ordinance amendment, the Board shall adopt an ordinance and, within thirty (30) calendar days, publish a summary of the ordinance in the official newspaper of general circulation in the county.