

ELMORE COUNTY ORDINANCE NO 2000-1

AN ORDINANCE AMENDING THE ELMORE COUNTY ZONING AND DEVELOPMENT ORDINANCE - CHAPTER 1, ARTICLE II-1, SECTION B.2-1, THE DEFINITION OF JUNKYARD; CHAPTER 1, ARTICLE II-1, SECTION B.2-1, THE DEFINITION OF WRECKING YARD AND CHAPTER 1, ARTICLE VIII-1, SECTION 1.E.8-1.1 SUBSECTION 1 AND SUBSECTION 5.

WHEREAS, a public hearing was held on the 10th day of April, 2000, by the Elmore County Commissioners to hear public comment on the proposed amendment;

WHEREAS, the Elmore County Zoning and Development Ordinance of 1994, as amended in 1995, was adopted for the public health, safety and general welfare as authorized by Title 67 Chapter 65 of the Idaho Code and Article 12, Section 2 of the Idaho Constitution; and

WHEREAS, the Ordinance provided for certain land use regulations and restrictions governing the placement and operation of junkyards, salvage yards and wrecking yards; and

WHEREAS, the Idaho Court of Appeals in *Ada County v. Gibson*, 126 Idaho 854 (1995) issued an opinion ruling that a zoning ordinance provision with language identical to Elmore County's was unenforceable in certain circumstances; and

WHEREAS, Chapter 1, Article XXII-1 of the Elmore County Zoning and Development Ordinance and Idaho Code § 67-6509 provide procedures for amendment of the Ordinance; and

WHEREAS, a public hearing was held on the proposed amendment on the 19th day of January, 2000, and the Planning and Zoning Commission approved the proposed amendment by a vote of 8 (eight) to 0 (zero);

THEREFORE, it is **RESOLVED**, that the Planning and Zoning Commission of Elmore County **MOVES** that the Board of Commissioners for Elmore County amend the Elmore County Planning and Zoning Ordinance as follows:

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ELMORE COUNTY, IDAHO, IN LAWFUL MEETING ASSEMBLED:

That in Chapter 1, Article II-1, Section B.2-1, the definition of junkyard be changed to read:

JUNKYARD. An outdoor space where waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled, stored, or handled. Materials may be present for commercial or non-commercial purposes, for the use of the owner or occupier of property, or storage by or for the owner or occupier of their property. The material may be stored by the owner and occupier for use by a third party. The material may be stored by a third party on the property owned by another. Junk yard also includes house-wrecking and structural steel materials and equipment, but does not include such places where such uses are conducted entirely within a completely enclosed building such as pawn shops and establishments for the sale, purchase or storage of used furniture and household equipment or for used cars in operable condition, or salvaged material which are incidental to manufacturing operations. Neither does junkyard include a piece of property of five (5) acres or more which meets the definition of land actively devoted to agriculture contained in Idaho Code § 63-604 and is taxed as agricultural land by Elmore County.

That in Chapter 1, Article 11-1, Section B.2-1, the definition of wrecking yard be changed to read:

WRECKING YARD: Premises on which three (3) or more non-licensed or non-operative vehicles or pieces of equipment are standing more than thirty (30) days and are dismantled or stored. Fully enclosed buildings which completely contain vehicles or equipment are exempt from this definition. The vehicles or equipment may be present for commercial or non-commercial purposes, for the use of the owner or occupier of the property, storage by or for the owner or occupier of the property. The vehicles or equipment may be stored by the owner and occupier for use by a third party. The vehicles or equipment may be stored by a third party on the property owned by another. Wrecking yard does not include a piece of property of five (5) acres or more, which meets the definition of land actively devoted to agriculture contained in Idaho Code § 63-604 and is taxed as such in Elmore County.

That Chapter 1, Article VIII-1, Section 1.E.8-1.1 Subsection 1) be changed to read:

- 1) Materials collected or stored for personal use, resale, or repair constitutes a junkyard, wrecking and/or salvage yard.

That Chapter 1, Article VIII-1, Section 1.E.8-1.1, Subsection 5) be changed to read:

- 5) Existing junk, wrecking, and salvage yards shall come into compliance within twelve (12) months from the effective date of this amendment of the Ordinance. Effective date of this amendment of the Elmore County Zoning and Development Ordinance is May 10, 2000. Effective date of compliance for Junk, Wrecking, and Salvage Yards is May 10, 2001. (SEE NOTICE OF VIOLATION - ARTICLE XXI Section L.)

This Ordinance shall be in full force and effect from and after its passage, approval, and publication.

DATED this 8th day of May, 2000.



Gail L. Best

GAIL L. BEST
Clerk of the Board of County Commissioners

Larry E. Rose

Larry E. Rose, Chairman
Fred Prouty

Fred Prouty, Commissioner
Craig McCurry

Craig McCurry, Commissioner