

ORDINANCE NO. 2010-02

AN ORDINANCE OF ELMORE COUNTY, IDAHO SETTING FORTH PURPOSES, ESTABLISHING APPLICABILITY OF PLANNING AND ZONING REQUIREMENTS TO THE DESIGNATED MOUNTAIN HOME AREA OF CITY IMPACT, SETTING FORTH RESPONSIBILITY FOR IMPLEMENTATION, ESTABLISHING PROCEDURAL STANDARDS FOR MODIFICATION OF THE REQUIREMENTS GOVERNING THE MOUNTAIN HOME AREA OF CITY IMPACT, PROVIDING FOR ENFORCEMENT, REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Idaho Code §67-6526 allows the establishment of an Area of City Impact to accomplish coordinated planning between city and county governments and to provide for management of land use in areas surrounding municipalities; and

WHEREAS, the Planning and Zoning Commissions and Governing Bodies of both the City of Mountain Home (“City”) and Elmore County (“County”) have conducted public hearings concerning the proposed regulations to be made effective within the Mountain Home Area of City Impact in accordance with the Local Land Use Planning Act; and

WHEREAS, the Governing Bodies of the City of Mountain Home and Elmore County have each enacted ordinances to establish the boundaries of an Area of City Impact for the City of Mountain Home; and

WHEREAS, the Governing Bodies of the City of Mountain Home and Elmore County have determined that the establishment of coordinated planning and land use regulations in the designated Mountain Home Area of City Impact will benefit the health, safety and welfare of their respective constituencies.

WHEREAS, the Governing Bodies of the City of Mountain Home and Elmore County have agreed that the property located south of Hamilton Road has been included to ensure that conflicts between agricultural uses (including the City of Mountain Home’s farm where waste water is used for crop irrigation) and residential development are minimized. It is not the intent of the City of Mountain Home to provide city services for residential development in the Mountain Home Area of City Impact south of Hamilton Road.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE ELMORE COUNTY BOARD OF COMMISSIONERS:

SECTION 1. Section 7-1-1, entitled, City Of Mountain Home Area Of City Impact Boundary, under the Elmore County Zoning and Development Ordinance, adopted May 13, 2009, as Elmore County Ordinance No. 2009-03 (“Elmore County Zoning Ordinance”) is hereby deleted and replaced in its entirety with the following:

“Section 7-1-1: City of Mountain Home Area of City Impact Boundary:

A. Mountain Home City Area of City Impact Boundary Map:

1. The Mountain Home Area of City Impact is the area designated on the Mountain Home Area of City Impact Boundary Map, hereby fully incorporated by reference, copies of which are available for inspection at the Elmore County Growth and Development department.

2. The Mountain Home Area of City Impact map was adopted as follows:

a. Ordinance No. 2010-01, November 22, 2010.”

SECTION 2. Section 7-1-2, entitled, **Statement of Purpose**, under the Elmore County Zoning Ordinance is hereby deleted and replaced in its entirety with the following:

“Section 7-1-2: Statement of Purpose:

The purpose of establishing an Area of City Impact for the City of Mountain Home is to identify a logical urban fringe area adjoining the City of Mountain Home. The urban fringe area is realizing, or will realize, development pressure that must be planned for in an orderly manner. Idaho Code § 67-6526 requires that cities and counties negotiate an Area of City Impact as well as the regulations to be effective within the Area of City Impact.

It is the goal of these two governing bodies to come to an agreement whereby growth and development within the Area of City Impact can be assessed and coordinated and whereby the City of Mountain Home can be an active participant in the approval process due to the significant impact that development in the Area of City Impact will ultimately have on the City.”

SECTION 3. Section 7-1-3, entitled, **Consideration**, under the Elmore County Zoning Ordinance is hereby deleted and replaced in its entirety with the following:

“Section 7-1-3: Consideration:

The following factors were considered by the Planning and Zoning Commissions and Governing Bodies of the City of Mountain Home and Elmore County in establishing the Area of City Impact.

- A. Trade area; and
- B. Geographic factors; and,
- C. Areas that can reasonably be expected to be annexed in the future.
- D. Further considerations include:

- 1. Most efficient use of utilities;
- 2. Best possible land use and growth patterns;
- 3. Protect the environment, particularly ground water quality;

4. Limit conflicts with airport, transportation corridors, wastewater disposal facilities, flood plain, and old landfill properties;
5. Promote infill development and urban renewal;
6. Preserve areas for industrial and commercial development with highway, rail, and airport access;
7. Address geographic factors and topographical features which influence the direction of development, i.e., soil suitability and topography suitable for development of streets and extension of public services;
8. Account for man-made barriers which may influence the direction of development, the limited access to development, or the type of development, i.e., railroad tracks, Interstate 84, and the municipal airport;
9. Protect the Mountain Home Air Force Base from future encroachment issues.”

SECTION 4. Section 7-1-4, entitled, Ordinances And Comprehensive Planning Provisions Governing The Area Of City Impact, under the Elmore County Zoning Ordinance is hereby deleted and replaced in its entirety with the following:

“Section 7-1-4: Ordinances and Comprehensive Planning Provisions Governing the Area of City Impact:

The Area of City Impact defined by the boundaries established in Elmore County Ordinance No. 2010-01 and Ordinance No. 1556 of the City of Mountain Home, or that area redefined by mutual agreement pursuant to the procedures set forth in said ordinances establishing boundaries shall be governed by the following ordinances and as authorized by Title 67, Chapter 65, and Title 50, Chapter 13, of the Idaho Code.

- A. **COMPREHENSIVE PLAN.** Within the Area of City Impact all zoning, subdivision review, consideration of permits, and regulation of development in special areas shall be evaluated in accordance with the Comprehensive Plan of the City of Mountain Home, which is hereby adopted as the comprehensive planning document which shall govern the designated Area of City Impact.
- B. **ZONING.** The Zoning Ordinances of Elmore County applying the zoning requirements in effect at the time of adoption of this Ordinance, or as subsequently modified in accordance with this ordinance, shall govern land use within the Area of City Impact. The County’s zoning requirements, within the Mountain Home Area of City Impact, shall be based upon the Comprehensive Plan of the City of Mountain Home, in effect at the time of adoption of this Ordinance, or as subsequently modified. A copy of the sections of the Elmore County official zoning map to which this Area of City Impact Agreement refers, and the City of Mountain Home Comprehensive Plan are attached to this Ordinance as Exhibits A and B, respectively, and are incorporated herein by reference as if set forth in their entirety.

C. SUBDIVISION REQUIREMENTS. The subdivision of land within the Area of City Impact shall occur only in conformance with the subdivision ordinance deemed applicable by virtue of provisions of the Area of City Impact Ordinance and state law.

1. Except as otherwise provided by this Ordinance, within the Area of City Impact the Subdivision Ordinance of the City of Mountain Home, as such now exists or as later amended, shall apply in accordance with provisions of this Ordinance. The City of Mountain Home shall be used as the review consultant and will be reimbursed for their review time as though they were any other outside consultant.

D. CHANGES OF ZONING, CONDITIONAL USE PERMITS, VARIANCES, PLANNED UNIT DEVELOPMENTS, AND OTHER PERMITS. Within the designated Area of City Impact, jurisdiction for issuance of any Changes of Zoning, Special Use (Conditional Use) Permits, Variances, Planned Unit Developments, or any other land use permits or authorizations, shall be vested in Elmore County. Elmore County shall notify the City of Mountain Home of all meetings, work sessions and any other activities concerning these types of applications other than building permits. City representatives will be active participants in the process.

For PUD and PUD(D) applications the City of Mountain Home will participate in all meetings and project reviews for these applications that are within the Area of City Impact. The ordinance requirements and the development standards for these applications will be those set forth in the Elmore County Zoning Ordinance. Given the proximity to City services and infrastructure, both the City of Mountain Home and Elmore County will review the applications to ensure the best possible infrastructure connections (if possible) are made. The City of Mountain Home shall be used as one of the review consultants and will be reimbursed for their review time as though they were any other outside consultant.

E. SPECIAL AREAS. In addition to the foregoing provisions, any request for permission to build or develop in the area of influence of the Mountain Home Waste Water Treatment Plant, the Mountain Home Municipal Airport, and within six hundred (600') feet of City water towers/tanks, said areas being designated upon those sections of the Elmore County Zoning Map attached as Exhibit D, or any request to construct structures or develop other land uses in the designated Special Areas shall be referred to the City of Mountain Home for review and comment at least thirty (30) days prior to the issuance of any permit or development authorization. Notwithstanding any provisions of the Elmore County Zoning Ordinance or Subdivision Ordinance to the contrary, no construction, development, or establishment of any use which would impair the usefulness, or materially harm the operating environment, of the Mountain Home Waste Water Treatment Plant or the Mountain Home Municipal Airport shall hereafter be permitted.

In the event that a residence is developed within 600' of the City of Mountain Home's Waste Water Treatment Plant a note shall be placed on the deed for disclosure of the property's proximity and potential effects this facility may have on the property.

In the event that a residence is developed within the airport overlay zone a note shall be placed on the deed for disclosure of the property's proximity and potential effects this facility may have on the property.

F. MOUNTAIN HOME AQUIFER COMMUNITY DEVELOPMENT OVERLAY ZONE. The Area of City Impact is reliant upon the Mountain Home Aquifer Community Development Overlay (CDO) requirement included in Article VII of the Elmore County Zoning Ordinance. Essential parts of that CDO include the following requirements:

1. Minimum 5-acre lot size per single family dwelling unit in the Mountain Home Aquifer Recharge CDO zone, and;

2. Any development in the CDO with a density of greater than 1 dwelling unit per 5 acres shall be connected to an approved central sewer system as a condition of approval, and;

3. All subdivision and other development proposals in the CDO will be subject to Conditional Use Permit review procedures which will evaluate whether the proposed development would have adverse impacts on ground or surface water quality or quantity. The City will be entitled to notice of any such proceedings and Elmore County shall notify the City of Mountain Home of all meetings, work sessions and any other activities concerning these types of applications. City representatives will be active participants in the process. If the County Zoning Administrator or the City Engineer believe in their professional opinion that the proposed development would have adverse impacts on ground or surface water quality or quantity or that the information submitted is inadequate to properly assess impacts upon groundwater or surface water resources or that the characterization of the impact is incorrect, the County Zoning Administrator or the City Engineer may request that permit issuance or development authorization be delayed until the matter can be reviewed by the appropriate Elmore County Planning and Zoning Commission or the Elmore County Board of Commissioners or require that a professional study of the groundwater and subsurface waste water disposal proposals be made. For the purposes of this subparagraph a "development proposal" shall include any subdivision, building permit application for a commercial or multifamily residential building, any other commercial or industrial development, or lot split application, and;

4. Any development in the Area of City Impact which would increase or contribute surface drainage to the Mountain Home Reservoir is hereby prohibited, and;

5. There shall be no additional surface water runoff from any development that could contaminate any canal or waterway, ditch, or reservoir or the Mountain Home Reservoir. No development shall be allowed in the Area of City Impact which would adversely impact the Mountain Home Reservoir and irrigation systems, and;

6. The minimum lot size and central sewer system requirements of the Mountain Home Aquifer Community Development Overlay Zone shall not apply to existing lots of record at the time of the enactment of this ordinance, if said lots or parcels meet all other land use requirements at the time of the enactment of this ordinance.

G. **SHARED PROTECTION OF SURFACE WATERS.** To further the effectiveness of the Area of City Impact agreement which this Ordinance reflects, the City of Mountain Home will review surface water proposals for land uses and developments within the City, and to which the City Subdivision Ordinance is applicable, to require that surface water not be allowed to infiltrate irrigation facilities which cross the city and/or Area City of Impact, unless design work is implemented to prevent adverse effects upon the quality of irrigation waters.

H. **SHARED ANALYSIS OF TRAFFIC AND OTHER PUBLIC SERVICE IMPACTS.** To further the effectiveness of the Area of City Impact Agreement which this ordinance reflects, the City of Mountain Home and the Mountain Home Highway District plus Elmore County, will review all land development proposals and change of land use projects to determine impacts to road capacity and traffic service. All other applicable public services will also be included in this shared impact analysis. The object of this shared impact analysis is to make sure that roadways and other public services have sufficient capacity to handle growth and development.

I. **FEEES.** A fee schedule for development within the Area of City Impact may include among other things, reimbursement for City of Mountain Home staff time for the review of proposed county applications.”

SECTION 5. Section 7-1-5, entitled, Procedures For Joint Review And Time Line For Actions, under the Elmore County Zoning Ordinance is hereby deleted and replaced in its entirety with the following:

“Section 7-1-5: Procedures for Joint Review and Time Line for Actions:

Upon receipt of any development request, permit application, change of zoning, or discretionary action provided or submitted to Elmore County for development action within the Mountain Home Area of City Impact, the County shall include the City of Mountain Home in all pre-

application and development meetings. City of Mountain Home and Elmore County will each verify that applications are complete prior to acceptance.

The City of Mountain Home will then have an opportunity to review, comment, and provide a recommendation or opinion on the proposal to the County. If the City of Mountain Home chooses to submit comments or recommendations to the County, then the City must do so in writing on city letterhead, and hand deliver the comments to the County at least seven (7) days prior to the scheduled County hearing or meeting date on the proposed action. For developments utilizing the City of Mountain Home ordinances and comprehensive plan, City staff shall prepare and present staff reports.

All official communication pertaining to a development proposal within the Mountain Home Area of City Impact between the County and the City shall be in writing. If the City chooses not to provide written comment on a particular proposal, then the County will consider the absence of written comment(s) from the City as “No comment(s) from the City of Mountain Home” and this wording will be entered into the official public record for the affected project.

The purpose of this guideline is to establish a formal, interagency working procedure between the County and City so citizens of Elmore County and the City of Mountain Home can be assured of an efficient public involvement process and meeting schedules.”

SECTION 6. Section 7-1-6, entitled, **Modification Of Area Of City Impact Requirements**, under the Elmore County Zoning Ordinance is hereby deleted and replaced in its entirety with the following:

“Section 7-1-6: Modification of Area of City Impact Requirements:

The Area of City Impact requirements established by this Ordinance may be modified by mutual agreement in accordance with the notice and hearing procedures set forth in the Idaho Code at any time. In the absence of a mutual agreement to modify the requirements of the Area of City Impact, either jurisdiction may unilaterally request that such requirements be reopened for negotiations in the first quarter of any calendar year. Any such request for change shall be based upon stated reason or reasons within the scope of the Agreement which shall serve as the basis for any renegotiations. The stated reason must address specific provisions of the Comprehensive Plan or Land Use Ordinance effective within the Area of City Impact and cite the changed circumstances with respect to any such basis as grounds of renegotiations. No modification of the Area of City Impact requirement shall be effective unless or until the specific procedures required by this ordinance and the Idaho Code have been completed and agreement has been reached regarding new terms for the Area of City Impact. The City of Mountain Home agrees to notify the County as soon as an application is received whereby the applicant is requesting to annex property outside of the Area of City Impact.”

SECTION 7. Section 7-1-7, entitled, **Enforcement**, under the Elmore County Zoning Ordinance is hereby deleted and replaced in its entirety with the following:

“Section 7-1-7: Enforcement:

The provisions of this Ordinance and the agreement to implement it may be enforced by either Elmore County or the City of Mountain Home through legal action initiated to require specific performance with the terms of this Ordinance or other appropriate legal actions. Violation of this Ordinance by one subject to its jurisdiction shall be punishable by the penalties authorized to be imposed upon those found guilty of a misdemeanor, including the authorized fine, imprisonment, or both. Violators may also be subject to civil legal action intended to compel compliance with the provisions of this Ordinance.”

SECTION 8. REPEAL OF CONFLICTING ORDINANCES:

All ordinances in conflict herewith are hereby repealed.

SECTION 9. EFFECTIVE DATE. This Ordinance shall take effect and be in force after its passage, approval and publication as required by law. In lieu of publication of the entire Ordinance, a summary thereof in compliance with Idaho Code § 31-715A may be published.

Dated this 22nd day of November, 2010.

ELMORE COUNTY BOARD OF COMMISSIONERS



By: Connie M. Cruser
Connie Cruser, Chairperson

By: Larry E. Rose
Larry Rose, Commissioner

By: Arlen O. Shaw
Arlen O. Shaw, Commissioner

ATTEST:
Marsa Plummer
Marsa Plummer, Elmore County Clerk

Dates of publication: Nov. 3, 2010

EXHIBIT "A"

