

ORDINANCE NO. 74-A

ELMORE COUNTY
AIRPORT HAZARD ZONING ORDINANCE

BOARD OF COUNTY COMMISSIONERS
ELMORE COUNTY

Assisted by
ELMORE COUNTY
PLANNING AND ZONING COMMISSION

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ELMORE COUNTY AIRPORT HAZARD ZONING ORDINANCE

AN ORDINANCE REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH AND REGULATING THE USE OF PROPERTY IN CERTAIN ZONES IN THE VICINITY OF THE MOUNTAIN HOME AIR FORCE BASE, CITY OF MOUNTAIN HOME AIRPORT, AND GLENN'S FERRY AIRPORT BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES OF SUCH ZONES; DEFINING TERMS USED HEREIN; REFERRING TO THE MOUNTAIN HOME AIR FORCE BASE, CITY OF MOUNTAIN HOME AIRPORT, AND GLENN'S FERRY AIRPORT ZONING MAPS WHICH ARE INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT AND IMPOSING PENALTIES; PROVIDING FOR VARIANCES; PROVIDING FOR PERMITS AND SPECIAL USE PERMITS; ESTABLISHING AN APPEALS PROCESS; AND PROVIDING AN EFFECTIVE DATE.

This Ordinance is adopted pursuant to the authority conferred by 31-858, 31-3801, and 50-1201 through 50-1210 of Idaho Code. It is hereby found that an airport hazard endangers the lives and property of users of Mountain Home Air Force Base, City of Mountain Home Airport and Glenn's Ferry Airport, and property of occupants of land in its vicinity, and also if the obstruction type, in effect reduces the size of the area available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the objects, purposes and the utility of above-mentioned airports and the public instrument therein, and impairs and reduces the military preparedness of the Mountain Home Air Force Base and impairs the security of the United States of America. Accordingly it is declared:

1. That the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by the above-mentioned airports.
2. That it is necessary in the interest of public health, safety, morals, and general welfare, to provide for orderly development of land and to protect property values that the creation or establishment of airport hazards be prevented;
3. That it is necessary for the purpose of promoting the general welfare, public health, safety, and morals of the people of the State of Idaho and assisting and promoting the military preparedness and security of the United States of America to regulate, restrict, prohibit, and prescribe the use of any real property within a five mile radius of the Mountain Home Air Force Base.
4. And that the prevention of these hazards should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ELMORE COUNTY, IDAHO, AS FOLLOWS:

SECTION I: SHORT TITLE

This Ordinance shall be known and may be cited as "The Elmore County Airport Hazard Zoning Ordinance."

SECTION II: DEFINITIONS

As used in this Ordinance, unless the context otherwise requires:

1. ACCESSORY USE - A structure or use incidental to the main use of a property and located on the same lot as the main use.
2. ADMINISTRATOR - The official designated by the Board of County Commissioners to administer this Ordinance.
3. AGRICULTURE USE - The raising and harvesting of crops; feeding, breeding, and management of livestock; or any other agricultural or horticultural use or any combination thereof. It includes the construction and use of dwellings and other structures customarily provided in conjunction with the agriculture enterprise, unless specifically prohibited in this Ordinance.
4. AICUZ - Air Installation Compatible Use Zone in vicinity of Mountain Home Air Force Base.
5. AIRPORT - The Mountain Home Air Force Base, City of Mountain Home Airport, and Glens Ferry Airport.
6. AIRPORT ELEVATION - The highest point of an airport's usable landing area measured in feet from mean sea level.
7. AIRPORT HAZARD - Any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near such airport, which obstructs the airspace required for the flight of aircraft landing or takeoff at such airport or is otherwise hazardous to such landing or takeoff of aircraft.
8. APPROACH SURFACE - A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon

the type of approach available or planned for that runway end.

- A. The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:
 - (1) 1,250 feet for that end of a utility runway with only visual approaches;
 - (2) 2,000 feet for that end of a utility runway with a nonprecision instrument approach;
 - (3) 16,000 feet for precision instrument runways.
 - B. The approach surface extends for a horizontal distance of:
 - (1) 5,000 feet at a slope of 20 to 1 for all utility and visual runways.
 - (2) 25,000 feet at a slope of 50 to 1 and then horizontal for another 25,000 feet for precision instrument runways (military) for a total of 50,000 feet.
9. BOARD - The Board of County Commissioners of Elmore County.
 10. BUSINESS - A structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.
 11. COMMERCIAL USE - A structure or use intended or used for business purposes, such as a retail store, office, or a service establishment. A commercial use includes light repair service but does not include the repair or maintenance of heavy equipment or machinery or such other uses normally associated with an industrial use.
 12. COMMISSION - The Elmore County Planning and Zoning Commission.
 13. CONICAL SURFACE - A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 7,000 feet at Mountain Home Air Force Base and 4,000 feet at all other airports.

14. DEPARTMENT OF AERONAUTICS - Means the Department of Aeronautics of the State of Idaho as defined in 21-501 Idaho Code.
15. DIRECTOR - The Director of the Department of Aeronautics.
16. HEIGHT - For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
17. HORIZONTAL SURFACE - A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway of each airport and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:
 - A. 5,000 feet for all runways designated as utility or visual;
 - B. 7,500 feet for a military airport.
18. LOT - A parcel or tract of land.
19. LOT AREA - The total area of a lot measured in a horizontal plane within the lot boundary lines exclusive of public and private roads and easements of access to other property.
20. LOT OF RECORD - A lot or tract of land as recorded or platted on any plat or record, or on file in the office of the County Recorder or Assessor on the effective date of this Ordinance.
21. NONCONFORMING USE - Any pre-existing lawful structure, object or natural growth or use of land which is inconsistent with the provisions of this Ordinance or an amendment thereto.
22. NON-PRECISION INSTRUMENT RUNWAY - A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved or planned, and for which no precision approach facilities are planned or indicated on an FAA planning document or military service's military airport planning document.

23. PERSON - An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity. It includes a trustee, receiver, assignee, or similar representative of any of them.
24. PRECISION INSTRUMENT RUNWAY - A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an FAA approved airport layout plan: a military service's approved military airport layout plan, any other FAA planning document, or military service's military airport planning document.
25. PRIMARY SURFACE - A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway (except Mountain Home Air Force Base, which ends at the runway end); but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface of the Mountain Home Air Force Base shall be 1,500 feet; for the City of Mountain Home Airport the width shall be 500 feet; for the Glenns Ferry Airport the width shall be 250 feet.
26. RESIDENTIAL USE - A structure or use intended for occupancy as a human dwelling place such as a single-family, two-family, or multi-family dwelling; a boarding, lodging, or rooming house; or a mobile home or mobile home park.
27. RUNWAY - A defined area on an airport prepared for landing and takeoff of aircraft along its length.
28. SIGN - A device designed to inform or to attract the attention of persons not on the premise. The area of a sign is the total of the exposed exterior display surface.
29. STREET - The entire width between the right-of-way lines of every public way intended for vehicular and pedestrian traffic and includes the terms "road", "highway", "lane", "place", "avenue", "alley", or other similar designations.
30. STRUCTURE - An object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, earth formation, and overhead transmission lines.

31. TRANSITIONAL SURFACE - These surfaces extend outward and upward at right angles to the runway centerline and runway centerline extended at a slope of 7 to 1 (from the sides of the primary surface and from the sides of the approach surfaces).
32. TREE - Any object of natural growth.
33. USE - The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.
34. UTILITY RUNWAY - A runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.
35. VISUAL RUNWAY - A runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument approach procedure and no instrument designation indicated on an FAA approved airport layout plan, a military service's approved military airport layout plan, or by any planning document submitted to the FAA by competent authority.

SECTION III: AIRPORT ZONES

In order to carry out the provisions of this Ordinance, there are hereby created and established certain airport zones which include all of the land lying within the instrument approach zone, noninstrument approach zone, visual approach zone, horizontal zone, conical zone, and AICUZ (composite noise-hazard zones at Mountain Home Air Force Base). Such zones are shown on the individual airport Hazard Zoning Maps which are made a part of this Ordinance, and official copies of which are filed in the offices of the County Recorder. The various zones are hereby established and defined as follows:

<u>ZONE</u>	<u>ZONE DESIGNATION</u>
Utility Runway Visual Approach Zone	URV
Utility Runway Non-Precision Instrument approach Zone	URN
Precision Instrument Runway Approach Zone	PIR
Transitional Zone	TZ

<u>ZONE</u>	<u>ZONE DESIGNATION</u>
Horizontal Zone	HZ
Conical Zone	CZ
Outer Horizontal Zone	OHZ
Air Installation Compatibility Use Zone (AICUZ)	AIC
Airport Commercial Zone	ACZ
1. <u>Utility Runway Visual Approach Zone (URV)</u> - The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline being the continuation of the centerline of the runway.	
2. <u>Utility Runway Non-Precision Instrument Approach Zone (URN)</u> - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance 5,000 feet from the primary surface. Its centerline being the continuation of the centerline of the runway.	
3. <u>Precision Instrument Runway Approach Zone (PIR) (Mountain Home Air Force Base)</u> - The inner edge of this approach zone coincides with the width of the primary surface, begins 200 feet beyond the end of the primary surface, and is 1,500 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from 200 feet beyond the end of the primary surface. Its centerline being the continuation of the centerline of the runway.	
4. <u>Transitional Zone (TZ)</u> - These zones are hereby established as the area beneath the transitional surfaces. These surfaces extend outward and upward at 90 degree angles to the runway centerline; and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.	

5. Horizontal Zone (HZ) - The Horizontal Zone is hereby established by swinging arcs of 7,5000 feet (for Mountain Home Air Force Base) and 5,000 feet (all other airports) radii from the center of each end of the primary surface of each runway, and connecting the adjacent arcs by drawing lines tangent to those arcs. The Horizontal Zone does not include the approach and transitional zones.
6. Conical Zone (CZ) - The conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 7,000 feet (Mountain Home Air Force Base) or 4,000 feet (all other airports).
7. Outer Horizontal Zone (OHZ) (Mountain Home Air Force Base Only) - The Outer Horizontal Zone is hereby established as the area that commences at the outer periphery of the Conical Zone and extends outward therefrom a horizontal distance of 30,000feet.
8. Airport Commercial Zone (ACZ) - The Airport Commercial Zone is hereby established as a strip of land 660 feet wide on each side of the section line, which section line is described as the line between section 15 and 16, and the line between the south half of section 9 and 10, plus that part of the NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ of section 10 lying East of the now existing four-lane highway 67, all in T4S R5E, Boise Meridian.
9. AICUZ - Buffer zone outside the Mountain Home Air Force Base within lines as shown on the zoning map and as described below:

Beginning at a point which is the southeast corner of section 1, T4S R5E; thence west 2 $\frac{1}{2}$ miles along the section lines to the south quarter corner of section 3, thence south $\frac{1}{2}$ mile to the middle of section 10, thence west 1 $\frac{1}{2}$ miles to the west quarter corner of section 9, thence north $\frac{1}{2}$ mile to the northwest corner of section 9, thence west $\frac{1}{4}$ mile, north $\frac{1}{2}$ mile, west $\frac{1}{4}$ mile, north $\frac{1}{4}$ mile, west $\frac{1}{4}$ mile, and north $\frac{1}{4}$ mile to a point on the north section line of section 5, which is $\frac{1}{4}$ mile east of northwest corner of section 5, T4S R5E; thence west along the section lines 3 $\frac{1}{2}$ miles to the northwest corner of section 2, T4S R4E; thence south $\frac{1}{2}$ mile, west $\frac{1}{2}$ mile, and south 1 $\frac{1}{2}$ miles to the south quarter corner of section 10; thence east $\frac{1}{2}$ mile, south $\frac{1}{2}$ mile and east $\frac{1}{2}$ mile to the middle of section 14; thence south through the middle of section 23, 26, and 35, T4S R4E, to the middle of section 2, T5S R4E; thence east $\frac{1}{2}$

mile to the east quarter corner of section 2; thence south along the section line to the Elmore County line, which is the Snake River; thence easterly along the Snake River to a point where the Snake River crosses the west line of Section 19, T5S R6E; thence north to the west quarter corner of section 19; thence east 1 mile to the east quarter corner of section 19; thence north 1 3/4 miles, west 1/2 mile, north 3/4 mile, and west 1/2 mile to a point which is the southeast corner of section 1, T5S R5E; thence north along the section lines 6 miles to the southeast corner of section 1, T4S R5E, which is the point of beginning.

Does not include the approach zones on each end of the runway; does not include the Airport Commercial Zone (ACZ), does not include the Mountain Home Air Force Base Gunnery Range as shown on the Zoning Map.

The Mountain Home Air Force Base is described as follows: Sections 20, 21, 22, 27, 28, 29, 32, 33, and 34, T4S R5E, and N1/2 of Lots 1, 2, and 3 of section 3, T5S R5E, Boise Meridian.

SECTION IV: AIRPORT ZONE HEIGHT LIMITATIONS

Except as otherwise provided in this Ordinance, no structure or tree shall be erected, altered, allowed to grow, or be maintained in any zone created by this Ordinance to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows;

1. Utility Runway Visual Approach Zone (URV) - Slopes upward and outward twenty (20) feet horizontally for each foot vertically, beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
2. Utility Runway Non-Precision Instrument Approach Zone (URN) - Slopes upward and outward twenty (20) feet horizontally for each foot vertically, beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
3. Precision Instrument Runway Approach Zone (PIR) (Mountain Home Air Force Base Only) - The height limit within this zone shall be ten feet below the elevation of the primary surface to a maximum height of 150 feet for the first 25,000 feet on a slope upward of 50 feet horizontally to each foot vertically. The height limit for the next 25,000 feet of this zone shall be 250 feet.

4. Transitional Zone (TZ) - These zones extend outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7 to 1 from the sides of the primary surface and from the sides of the approach zones.
5. Horizontal Zone (HZ) - One hundred and fifty (150) feet above the established airport elevation.
6. Conical Zone (CZ) - Slopes upward and outward twenty (20) feet horizontally for each foot vertically beginning at the periphery of the horizontal zone and at one hundred fifty (150) feet above the airport elevation and extending to a height of 500 feet (for Mountain Home Air Force Base) and 350 feet (for all other airports) above the airport elevation.
7. Outer Horizontal Zone (OHZ) (Mountain Home Air Force Base Only) - Five hundred (500) feet above the established airport elevation of 3,004 feet.

When an area is covered by more than one (1) height limitation, the more restrictive limitation shall prevail.

SECTION V: USE RESTRICTIONS

1. Near Mountain Home Air Force Base the following use regulations shall apply:
 - A. Precision Instrument Runway Approach Zone (PIR):
 - (1) Permitted use is Agriculture, but with no residences allowed.
 - B. AICUZ (AIC), including the land under the Horizontal, Conical, and Transition Zones outside the boundaries of the Mountain Home Air Force Base.
 - (1) The AIC is hereby zoned Agricultural. Permitted uses are:
 - (a) A single-family living unit may be built on a lot of record.
 - (b) On all other agricultural lands, residence is restricted to a one-family living unit per 320 acres with necessary farmstead buildings and employee quarters.

- (2) No building shall be erected closer than 30 feet to any section line or half-section line.
- (3) Signs shall be limited to no higher than 4 feet and not larger than 9 square feet. No lighted signs are permitted.

C. Airport Commercial Zone (ACZ):

- (1) Permitted uses are:
 - (a) Service stations
 - (b) Convenience type grocery, fruit, or vegetable stores
 - (c) Professional services
 - (d) Hardware and building supplies
 - (e) Drug stores
 - (f) Barber shops and beauty shops
 - (g) Electrical appliance and repair shops
 - (h) Laundromats
 - (i) Automobile sales, repair and service shops, conducted wholly within enclosed building.
 - (j) Automobile sales lot
- (2) Lot Area: There shall be only one (1) business establishment per lot of record or five-acre lot. The reason for this is to keep down the density of buildings and people in this hazard zone.
- (3) Set-Backs: No building, structure, or sign may be built within 100 feet of the highway right-of-way.
- (4) Parking and Loading: All loading operations must be behind the 100-foot set-back line. Customer parking is allowed on the 100-foot setback area.
- (5) Signs: In the ACZ Zone signs are subject to the following restrictions:

- (a) Moving or intermittent flashing signs are prohibited.
 - (b) Signs shall be limited to those identifying a business on the premises and may be placed only on the building itself.
2. Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Ordinance in such a manner as to create electrical interference with navigational signals or radio communications between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport or otherwise in any way create a hazard or endanger the landing, takeoff, or maneuvering of aircraft intending to use the airport.

SECTION VI: NONCONFORMING USES

1. Regulations not Retroactive - The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering, or other changes or alterations of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance, and is diligently prosecuted.
2. Marking and Lighting - Notwithstanding the preceding provision of this section, the owner of any nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Director to indicate to the operators of aircraft in the vicinity of the airport, the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the operator of each individual airport.

SECTION VII: PERMITS

1. Future Uses - No material change shall be made in the use of land and no structure or tree shall be erected, altered

planted, or otherwise established in any zone hereby created unless a permit therefor shall have been applied for and granted by the Administrator.

2. Existing Uses - No permit shall be granted that could allow the establishment or creation of an airport hazard or permit a nonconforming use, structure, or tree to be made or become higher, or become a greater hazard to air navigation, than it was on the effective date of this Ordinance or any amendments thereto or that it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.
3. Nonconforming Uses Abandoned or Destroyed - Whenever the Administrator determines that a nonconforming structure or tree has been abandoned or more than 50 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.
4. Expiration of Permits - Any permit granted hereunder shall expire if the change of use or construction allowed thereby has not been started within one year after issuance of the permit, unless good cause can be shown why it was not started. If good cause can be shown, then the permit may be extended for one more year.
5. Procedure for Application for Permit - An applicant shall complete and submit an application for permit to the administrator on a form furnished by him. Each application shall indicate the purpose for which the permit is desired with sufficient particulars to determine whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. If the permit is not granted, then the Administrator shall set forth in writing the reasons for denial, with a copy to the applicant.
6. Fee for Permit - When a permit is issued by the Administrator in accordance with the regulations set forth herein, the applicant shall pay a fee of \$10.00.

SECTION VIII: SPECIAL USE PERMITS

1. Special Use Permits Required - In addition to the permit required in Section VII, any person desiring to build any

structure or building, or to use any land or grow any tree not in accordance with the zones and regulations of this Ordinance prescribed, which is not specifically permitted or prohibited in the particular zone, may apply for a special use permit to the Commission.

2. Procedure on Application for a Special Use Permit - The applicant shall complete and submit an application to the Administrator upon a form prescribed by the Commission and accompanied by a filing fee of twenty-five dollars (\$25.00). The application shall not be deemed accepted for filing, nor the time limits hereinafter set out commence to run, until all of the information required has been submitted and the specified fee paid the Commission. The application shall be made in four (4) copies, one (1) copy being forwarded to the City Commission (if near the city), the Director of the Idaho Department of Aeronautics, and the Mountain Home Air Force Base Commander (if near the Air Base). Each party receiving said copies of the application shall be allowed fifteen (15) days in which to make recommendations thereon, and if no recommendations are received, it shall be assumed there are no objections thereto. Upon receipt of the application by the Administrator, the matter shall be set down for public hearing before the Commission within forty-five (45) days; provided, no public hearing shall be held until fifteen (15) days' notice has been given the City Commission, the Director of the Idaho Department of Aeronautics, and the Mountain Home Air Force Base Commander, by mailing to them copies of the application. In addition, the Administrator shall notify all adjoining property owners, as listed in the application, by certified mail. Written notification shall be mailed at least ten (10) days prior to the public hearing.
3. Granting of Permit - A special use permit shall be approved by the Commission only where it is found that the use of land or structure, the erection of the structure, or the growth of a tree is in harmony, and not in conflict, with the purposes and intent of the comprehensive general plan for development within the Mountain Home Air Force Base Area, the Mountain Home City Airport Area, and the Glenns Ferry Airport Area and would not adversely affect the health, safety, and morals of the residents of the areas or users of the public air transportation, and would not be detrimental to the military mission at the Mountain Home Air Force Base. The Commission may attach such conditions that said Commission deems necessary to assure compliance

with the purposes and intent of the Ordinance and the comprehensive general plan for the above listed areas.

4. Notification to Interested Bodies of Action Taken - In cases involving the hearings and review of applications for special use permits where the finding, determination, decision or recommendation has been made on a subject which has been a matter of contest, then in such case the Commission shall file with the County Clerk, not later than ten (10) days after the conclusion of such matter, a written report stating the findings and action taken by the Commission. A copy of said report shall be sent to the Chairman of the Board of County Commissioners and to the applicant concurrently with the filing of the report with the Clerk.

SECTION IX: NOTICE OF AIRPORT HAZARDS

Where required on Permits, Special Use Permits and Plats to be Recorded - A permit, special use permit, plat or dedication, located in zones URN, URV, PIR, ACZ, & AIC authorized or approved hereunder shall contain notice to the applicant, petitioner or other persons for whom the action is taken or to whom the approval is granted, a notice, receipt of which such person shall acknowledge in writing, that the Administrator has advised and explained to such person the existence and the possibility of increase in airport hazards and noise levels within the Mountain Home Air Force Base area and the Mountain Home City Airport area, in relation to public air travel and military airport use. Any such permit, plat or dedication, special use permit, and the use of lands and structures, heights approved thereby, shall be thereafter deemed to be made subject to the existence and possibility of said increase in airport hazards and noise levels, and said notification shall be shown on the face of said permit, plat or other document issued by this Commission.

SECTION X: ENFORCEMENT AND PENALTIES

1. Enforcement - It shall be the duty of the Administrator, appointed by the Board of County Commissioners, to administer and enforce the regulations prescribed herein. Applications for permits and variance shall be made to the Administrator upon a form furnished by him. He shall inspect the plans of all buildings for which permits are required to make sure that the requirements of this Ordinance are complied with. He shall enforce all provisions of this

Ordinance and refer all violations to the Elmore County Prosecuting Attorney. His failure to do so shall not legalize any violation of such provisions, nor shall the failure of the County Attorney to enter actions in the courts legalize any violation of such provisions.

2. Penalties - Each violation of this Ordinance, or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and shall be punishable by a fine of not more than \$500 or imprisonment for not more than six (6) months, or by both such fine and imprisonment, and each day a violation continues to exist shall constitute a separate offense.

SECTION XI: VARIANCES

1. Application - Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property not in accordance with the regulations prescribed in this Ordinance may apply to the Commission for a variance from such regulation. Such application shall be made to the Administrator on a form prescribed by the Commission. The Commission may request additional drawings or information.
2. Public Hearing - The Commission shall fix a time for a public hearing concerning the variance within thirty (30) days of receipt of application. Notice of public hearing shall be placed in one issue of the Mountain Home News a minimum of fifteen (15) days before such hearing. Other notices to adjoining property owners will be by mail or otherwise.
3. Findings of Fact - No variance shall be granted by the Commission unless it can be shown that all of the following circumstances exist:
 - A. Conditions apply to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size or slope, topography, or other circumstances over which the applicant has no control.
 - B. The variance is necessary to preserve a property right of the applicant substantially the same as is possessed by owners of other property in the same zone or vicinity.

- C. That the granting of the variance will not be detrimental to the public welfare or injurious to other property in the area.
 - D. That such variance will not have the effect of nullifying the interest and purpose of this Ordinance.
4. Authorization to Grant or Deny - The Commission may authorize variances from the requirements of this Ordinance where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of this Ordinance would cause an undue or unnecessary hardship; except that no variance shall be granted to allow the use of property for purposes not authorized within the zone in which the proposed use would be located. In granting a variance the Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property and to otherwise achieve the purposes of the Ordinance.
 5. Notification of Decision - Within five days after the Commission has reached a decision on a request for a variance, the Administrator shall notify the applicant of the decision.

SECTION XII: APPEALS

1. Right to Appeal - Any person aggrieved, or any taxpayer affected by any decision of the Administrator made in his administration of this Ordinance may appeal his decision to the Commission.
2. Method of Appeal - All appeals hereunder must be filed with the Administrator within ten (10) days of any decision rendered. The grounds for the appeal must be specified by the person making the appeal. The Administrator shall promptly transmit to the Commission all the papers constituting the record upon which the action appealed from was taken.
3. Hearing the Appeal - The Commission shall hear the appeal within thirty (30) days of the receipt of the notice of appeal, (a public hearing may be required). Due notice to the parties in interest must be given ten (10) days before such hearing.
4. Determining Decisions - The Commission may in conformity with the provisions of this Ordinance, reverse or affirm,

in whole or in part, or modify the order, requirement, decision, or determination as may be appropriate under the circumstances. Decision must be rendered within 30 days of the hearing. The Commission must make their decision on a finding of the following facts:

- A. That there was an error in any order, requirement, decision, or determination made by the Administrator.
 - B. That the interpretation of the requirements of the Ordinance was in error.
5. Appeal to Board of County Commissioners - A decision of the Commission may be appealed to the Board of County Commissioners, with the same requirements stipulated for appeal to the Commission. The Board will hear and make decisions in conformity with the procedures outlined in paragraphs 1 through 4 above for the Commission.

SECTION XIII: AMENDMENTS

1. Power to Amend - This Ordinance and the zones set forth in it and on the zoning map may be amended by the Board from time to time after a public hearing when the amendment is deemed necessary for public health, safety, or general welfare. The term amendment shall include any measures to change the zoning map, or to add to, repeal, or amend any other provisions of this section or the whole of this Ordinance. A proposed amendment, supplement, or repeal may be originated by the Board, Commission, or by petition. All proposals not originating with the Commission, shall be referred to it for a report thereon before any action on the proposal is taken by the Board.
2. Application Required for Change in Zoning - Any owner or owners of property lying within the boundaries of the zone sought to be changed may petition the Commission for a change of the subject zone or of the regulations there concerned. The applicant shall submit to the Administrator an application signed by at least twenty (20) percent of the ownership of the lands included in said subject zone, accompanied by a filing fee of twenty-five dollars (\$25.00).
3. Form and Scope of Application - The Commission shall prescribe the form, scope, and content of such application, and the data required to be furnished in connection therewith. Each such application shall include a map showing

all the land parcels lying within subject zone, together with a list of names and addresses of the last known owners of each lot or parcel therein, insofar as they are of public record.

4. Content of Application - The application shall be submitted in four (4) copies and set forth the following:
 - A. The changed conditions alleged to warrant additional zoning or changes therein, including the reason or hardship allegedly necessitating the change.
 - B. Facts justifying a change based upon public health, safety and general welfare, and in the area of Mountain Home Air Force Base, the effect on the military use of the airport.
 - C. The effect it will have upon value and character of property.
 - D. Effect on property of owners if the request is denied.
 - E. Such other information as the Administrator may reasonably and properly require.
5. Action by Administrator - Upon receipt of the completed application by the Administrator, he shall then arrange for the time, place, and due notice for a public hearing to be held by the Commission. The matter shall be set down for public hearing before the Commission within 45 days.
6. Publication of Notice of Hearings - Notice of the time, place, and purpose of each public hearing held by the Commission shall be given one (1) publication in a newspaper of general circulation in the County at least fifteen (15) days, but no more than forty (40) days, prior to such hearing. Notice shall be given by certified U. S. Mail or personal delivery to each property owner whose name and address appears in the list accompanying such application, which notice shall give the date, time, and place of hearing, the name of the applicant, the relief sought, an identification of subject property, and such other facts as may be prescribed by the Commission. The failure of the Commission to mail, or the failure of the applicant to submit a complete list, shall in no way affect the validity of such proceedings; provided, that such failure shall have occurred in good faith.
7. Action by Commission - At every hearing before the Commission the presiding officer shall be the Chairman, or in his absence,

the Vice Chairman of the Commission. The Commission shall hear all persons interested in the subject matter. Not later than ten (10) days after the conclusion of the hearing the Commission shall file with the County Clerk a written report stating the action taken by the Commission at such hearing and its recommendation to the Board of County Commissioners.

8. Report of Commission - The report of the Commission will recite the Commission's position regarding the application as to approval, rejection or modification. In approving a change in zoning the Commission may recommend such conditions as will in its judgment secure substantially the objectives of the standards of this Ordinance so varied or modified. The report shall include the reasons for the position taken and the vote of all members present on the positions taken.
9. Action by Board - At its next regular meeting after the Commission has filed its recommendation with the County Clerk, the Board shall set a date, time, and place to hold a public hearing on the application and shall publish such notice at least fifteen (15) days, but no more than forty (40) days, prior to the date set in a newspaper of general circulation in the County.
10. Determination - In hearing such application the Board shall thereafter make and file their decision and order determining such application. A change of zone shall not be granted unless the applicant clearly shows that the conditions then existing warrant the same, that the change will be in harmony with the purposes and intent of the zoning ordinance, and would not adversely affect the health, safety, general welfare, and morals of the residents in the vicinity, or the users of public air transportation, and would not be detrimental to the military use of the airport.
11. Ordinance Required - In the event the Board shall approve the application requiring an amendment to this Ordinance, the Board shall thereafter make the appropriate amendment to this Ordinance.
12. Resubmission of Applications - No application for change of zone of any property which has been denied by the Board shall be resubmitted in either substantially the same form or reference to substantially the same premises, for the same purposes, within a period of one (1) year from the date of such final action by the Board.
13. Expenses of Processing Applications - All expenses necessary to provide data required hereunder to process any application

requiring granting of permits, amendments, or changes in zoning shall be paid by the applicant.

SECTION XIV: CONFLICTING REGULATIONS

Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

SECTION XV: SEVERABILITY

If any of the provisions of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION XVI: EFFECTIVE DATE

This Ordinance shall take effect upon its passage and publication in the Mountain Home News, a newspaper of general circulation in the County of Elmore, Idaho.

PASSED AND ADOPTED THIS 22 DAY OF July, 1974

N. H. Shuster
John W. ...
M. A. Kiddle
County Commissioners

ATTEST:

N. H. ...
County Clerk

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