

ORDINANCE NO. 95-3

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 AREA OF CITY IMPACT, PROVIDING FOR ENFORCEMENT, PROVIDING AN EFFECTIVE DATE, AND REPEALING ALL ORDINANCES IN CONFLICT HEREWITH.

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 Elmore County and the City of Mountain Home have conducted public hearings concerning the proposed regulations to be made effective within the Area of City Impact in accordance with the Local Planning Act, and,

WHEREAS, the Governing Bodies of Elmore County and the City of Mountain Home 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 Area of City Impact will benefit the health, safety and welfare of their respective constituencies, NOW, THEREFORE;

BE IT HEREBY ORDAINED BY THE CHAIRMAN AND BOARD OF ELMORE COUNTY COMMISSIONERS, IDAHO:

SECTION 1. 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.

SECTION 2. CONSIDERATION. The following factors were considered by the Planning and Zoning Commissions and Governing Bodies of Elmore County and the City of Mountain Home in establishing the Area of City Impact:

- (a) Trade area;
- (b) Geographic factors; and,
- (c) Areas that can reasonably be expected to be annexed in the future.

SECTION 3. ORDINANCES AND COMPREHENSIVE PLANNING PROVISIONS GOVERNING THE AREA OF CITY IMPACT. The Area of City Impact defined by the boundaries established in Ordinance No. 1208 of the City of Mountain Home and Ordinance No. 95-2 of Elmore County, or that area redefined by mutual agreement pursuant to the procedures set forth in said ordinances establishing boundaries shall be governed by the following ordinance and as authorized by Title 67, Chapter 65, and Title 50, Chapter 13 of the Idaho Code.

(A) **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 Elmore County Ordinance No. 95-3

Mountain Home, in effect at the time of adoption of this Ordinance, or as subsequently modified. A copy of the Elmore County Zoning Ordinance, and the sections of the official zoning map to which this Area of City Impact refer, are attached to this Ordinance as Exhibits A and B, respectively, and are incorporated herein by reference as is set forth in its entirety.

(B) 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 Overlay include the following requirements.

- a. Minimum 5-acre lot size per single family dwelling unit in the Mountain Home Aquifer Recharge Overlay Zone (CDO).
- b. 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.
- c. All 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 as if it were an adjoining property owner. 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 City Engineer or

Zoning Administrator 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.

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

e. 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.

f. 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.

(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.

a. Except as otherwise provided by this Ordinance, within the Area of City Impact the Subdivision Ordinance of Elmore County, as such now exists or as later amended, shall apply in accordance with provisions of this Ordinance.

b. Within one mile of the then-current corporate limits of the City of Mountain Home, the Subdivision Ordinance of the City of Mountain Home, as such now exists or as later amended, shall prevail. For said purpose the area within one mile of the then current City limits shall be in the Area of City Impact, except other provisions of this Ordinance shall not apply to lands subject to this subparagraph unless said lands are expressly incorporated into the Area of City Impact on an independent basis.

c. All subdivision proposals shall be evaluated in accordance with the policies established by the Comprehensive Plan of the City of Mountain Home. The City of Mountain Home shall be entitled to notice of any subdivision request in the Area of City Impact comparable to that provided to adjoining landowners, but in no case less than 15 days prior to action upon a subdivision request.

(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 User Permits, Variances, Planned Unit Developments, or any other land use permits or authorizations other than building permits shall be vested in Elmore County. Elmore County shall notify the City of Mountain Home of receipt of a completed application for any of the aforementioned requests, applications, or permits in the

same manner that notice is provided to adjacent landowners, but in no case less than 15 days prior to action upon a permit request.

(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 or the Mountain Home Municipal Airport, said areas being designated upon those sections of the Elmore County Zoning Map attached as Exhibit C, or any request to construct structures or develop other land uses in these 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.

(F) **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.

(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 management proposals for land uses and developments within the

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.

All official communication pertaining to a development proposal within the Mountain Home Area of City Impact between the City and County 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 comments from the City as "No comments 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 City and County so citizens of Mountain Home and Elmore County can be assured of an efficient public involvement process and meeting schedules.

SECTION 5. 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 October 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 renegotiation. The stated reasons must address specific provisions of the Comprehensive Plan or Land Use Ordinances effective within the Area of City Impact and cite the changed circumstances with respect to any such basis as grounds for renegotiation. No

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 of City 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 and the Mountain 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. The object of this shared analysis is to make sure that roadways and other public services have sufficient capacity of handle growth and development.

SECTION 4. PROCEDURES FOR JOINT REVIEW AND TIME LINES FOR ACTION. 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 hand deliver a copy of the complete application and supporting documents to the City of Mountain Home at least 30 days prior to any scheduled County public hearing or public meeting date for County action.

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 chooses to submit comments or recommendations to the County, then the City must do so in

modification of the Area of City Impact requirements 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.

SECTION 6. ENFORCEMENT. The provisions of this Ordinance and the agreement to implement it may be enforced by either City of Mountain Home or Elmore County through legal action initiated to require specific performance with the terms of this Ordinance or other appropriate legal action. 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 7. EFFECTIVE DATE. This Ordinance shall be effective upon its passage and publication according to law.

SECTION 8. REPEAL OF CONFLICTING ORDINANCES. Any ordinance of Elmore County in conflict with the terms of this Ordinance is hereby repealed to the extent of such conflict.

PASSED by the Board of County Commissioners of Elmore County, Idaho, this 27th day of March, 1995.

APPROVED by the Chairman of the Board of County Commissioners,
Elmore County, Idaho, this 27th day of March, 1995.

BOARD OF ELMORE COUNTY COMMISSIONERS

JOHN W. SHRUM, Chairman

Barry Peterson
BARRY PETERSON, Commissioner

Charles F. Whipple
CHARLES F. WHIPPLE, Commissioner

ATTEST:

Dolores Robison
DOLORES ROBISON, Clerk

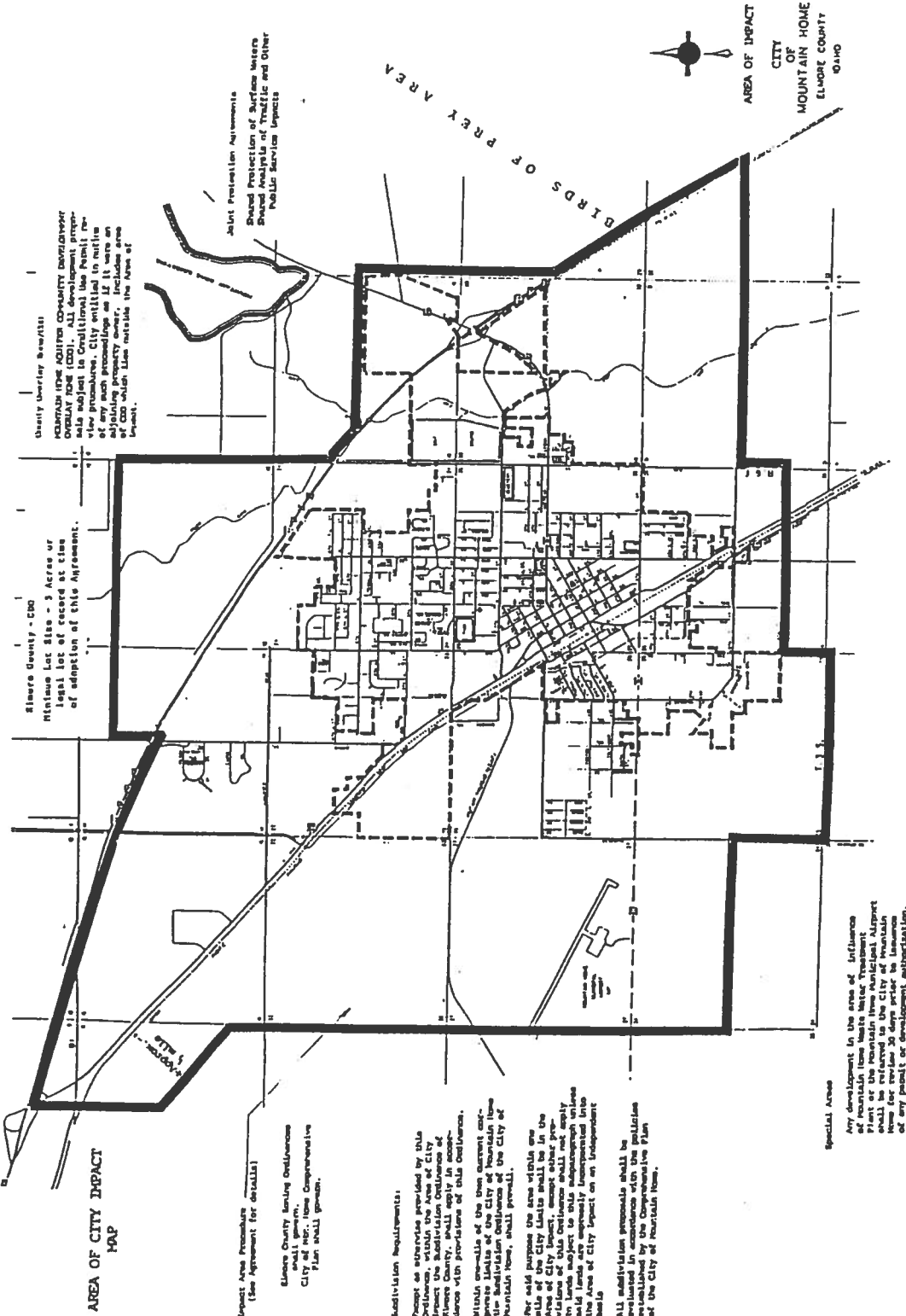
1 Publication: April 26, 1995

EXHIBIT A

ZONING ORDINANCE

Please see file copy in Clerk's Office

EXHIBIT "B"



AREA OF CITY IMPACT MAP

Impact Area Procedure (See Agreement for details)

Sierra County zoning Ordinance shall govern. City of Mountain Home Comprehensive Plan shall govern.

Modification Requirements:

Except as otherwise provided by this Ordinance, within the Area of City Impact, all zoning Ordinance provisions of Elmore County, shall apply in those areas of Mountain Home with provisions of this Ordinance.

Within the area of the town, except as otherwise provided in the Ordinance of the City of Mountain Home, shall prevail.

For all purposes the area within the area of the City Impact shall be in the area of City Impact, except other provisions of the Ordinance shall not apply to lands subject to this Ordinance. All lands are expressly incorporated into the Area of City Impact on an independent basis.

All modification proposals shall be reviewed in accordance with the policies of the City of Mountain Home.

Special Avenue

Any development in the area of Influence of the Special Avenue shall be subject to the review and approval of the City of Mountain Home for review 30 days prior to issuance of any permit or development authorization.

Sierra County - CDO
Minimum Lot Size - 5 Acres or larger lot of record at time of adoption of this Agreement.

Sierra County - CDO
Minimum Lot Size - 5 Acres or larger lot of record at time of adoption of this Agreement.

Joint Protection Agreements
Shared Protection of Surface Waters
Shared Analysis of Traffic and Other Public Service Impacts

AREA OF IMPACT
CITY OF MOUNTAIN HOME
ELMORE COUNTY
IDAHO