

ELMORE COUNTY ORDINANCE 99- 2

An Ordinance: Amending, changing and/or adding verbiage for continuity and clarification within the Elmore County Zoning and Development Ordinance; adding definitions for various terms which are not currently defined; modifying various segments for clarification and continuity within the Ordinance; adding new language to clarify reduced lot sizes through the Planned Unit Development process; adding a new section pertaining to Exemption of Existing Developments; clarifications pertaining to visibility at intersections; clarifications pertaining to outside agency approvals as part of the County's Conditional Use Permit processing procedure; clarification pertaining to appeals by affected persons; adding a new section pertaining to Emergency Revocation of Conditional Use Permits; clarification of public notice beyond 300 feet; directing form modifications for clarity and completeness; adding a new section pertaining to Agricultural Worker Housing; amending the list of land uses to reflect changes in permitted and conditional uses;; clarifying necessary action for Ordinance violations; clarifying grandfather rights for property owners; modifying the Procedures for Action by the Commission; other clarifications as needed to help citizens better understand and read the Ordinance.

WHEREAS, Title 67, Chapter 65 of the Idaho Code and Article 12, Section 2 of the Idaho Constitution provide authority for Elmore County to adopt land use and regulation ordinances. and Elmore County has done so by adopting the Zoning and Devopment Ordinance of 1994 which was subsequently amended in 1995, and

WHEREAS, the Elmore County Planning and Zoning Commission has recommended that several amendments, additions and clarifications be made to the Elmore County Zoning and Development Ordinance. and

WHEREAS, the Board of Commissioners of Elmore County provided notice of hearing on these amendments on January 7 and 14, 1998 , and

WHEREAS, the Board of Commissioners of Elmore County held public hearing on January 26,1999;

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

Section 1: **PURPOSE OF ORDINANCE.** The purpose of this Ordinance is to amend, add to and clarify the Zoning and Development Ordinance of Elmore County, Idaho.

Section 2. **Residential Lot Size - Add a new item 10) to Section 3.E.8-1 b. on page 46:** "10) The minimum lot size in Elmore County is one acre for residential uses within any zoning district. However, through the Planned Unit Development process (Article XV-1) a land owner may be allowed to have residential lots of less than one (1) acre in size if allowed by the Commission."

Section 3. **Non-Conforming Uses - Article XVII-1, Section D.17-a on page 89, first sentence.** The word **notwithstanding** shall be changed to the phrase "regardless of".

Section 4: **Exemption of Existing Developments - Subdivision Article III-2, Procedure for Subdivision Approval, Page 110, Section A.3-2 General Rules.** Add the following new section: "Exemption of Existing Development: Elmore County recognizes that a significant amount of lot splitting and residential development has occurred in the mountainous areas and other areas of the County prior to enforcement of zoning and subdivision regulations. In order to serve the greater public interest, preserve property values, and protect private property rights of good faith purchasers for value without notice throughout the County, the Commission will consider recognizing older lot splits and parcels as legal lots of record on a case by case basis, thereby leading to the process of issuing building permits for development. Elmore County will use the following criteria in considering whether or not to recognize an old lot split or parcel as a legal lot of record:

- a. County tax records;
- b. Real estate records, proof of ownership, and legal records;
- c. Preference given to lot splits and parcels prior to March 14, 1994;
- d. History of development actions in the area.

Section 5. **General Development Standards, Visibility at Intersections, page 36 - Article VIII-1, Section 1.B.8-1 - Remove the current description and substitute the following:** On a corner lot in any district, nothing shall be erected, placed, planted, or permitted to grow in such a manner as to materially impede vision between a height of two and one-half feet (22')

and ten feet (10') in an area consisting of a triangle with baselines forty feet (40') in length centered on the intersection of the edge of pavement lines of the streets which form the corner."

Delete the current drawing on page 36 of the Ordinance and insert a new one illustrative of the above language.

Section 6. Conditional Use Permits - Article XIV-1 General, page 77. Second paragraph, second sentence. Substitute the word "may" for the word "shall" and add "or applied for" to this sentence. This amended sentence to read as follows: "Proof of having obtained or applied for necessary permits and/or approvals from applicable local (other than County), state, and/or federal agencies may be required, at the discretion of the Administrator, prior to issuance of a Conditional Use Permit by Elmore County. If required, documentation shall be submitted with the Conditional Use Permit application."

Section 7. Conditional Use Permits - Article XIV-1. Add a new section to be known as Section K.14-1, page 81. "Section K.14-1 Emergency Suspension of Conditional Use Permit If the Elmore County Planning and Zoning Commission finds that a public emergency exists as a result of non-compliance or lack of performance pertaining to a Conditional Use Permit, the Commission may exercise its responsibility to protect public health, safety, and welfare and immediately suspend a Conditional Use Permit based on a Finding of Fact and Conclusions of Law adopted by the Commission which validates the public emergency and describes the problem(s) associated with a Conditional Use Permit. If the Commission finds that an emergency situation warrants immediate suspension of a Conditional Use Permit, the Commission shall authorize the Zoning Administrator or designated representative to issue a notification of suspension of the Conditional Use Permit to the permit holder indicating that the Conditional Use Permit is immediately suspended. If the permit holder contests the suspension of the permit by delivering to the Zoning Administrator a Letter of Contest within fifteen (15) days of the permit suspension date, the Commission shall hold a public hearing on the emergency suspension. Fifteen (15) days prior notice of the hearing shall be given to the permit holder, the public, and all the property owners within a minimum of 300 feet of the boundaries of the land for which the permit was issued. The Commission may decide to continue suspension of the Conditional Use Permit or conditionally reinstate the Conditional Use Permit at the discretion of the Commission based on public testimony and the hearing record. Emergency suspension of a Conditional Use Permit is effective immediately upon the Zoning Administrator or designated representative issuing the emergency suspension notice to the permit holder by the Zoning Administrator or designated representative. The Conditional Use Permit is null and void during the time of scheduling and conducting the public hearing. The Conditional Use Permit can be reinstated by the Commission when the situation has been corrected and resolved to the satisfaction of the Commission."

Add a definition for Public Emergency to Article II-1, Section B.2-1 to read as follows: "Public Emergency. A public emergency exists when any one or more of the following conditions are present or reasonably expected to occur:

- a. Imminent danger or threat to public health, safety, or welfare;
- b. Hazardous conditions;
- c. Violation of federal, state, local, or county health or safety regulations."

Section 8. Add the following to the first paragraph of Section G.14-1 page 80: "If extenuating circumstances prevail such as inadequate time for hearing notices, lack of quorum, illness, acts of God, etc., the Commission may require more than thirty (30) days from the public hearing date to take action. The Commission will make every attempt to meet the thirty (30) day schedule.

Section 9. Appeals, Variances, and Action by Affected Persons - Section J.20-1 Appeal to Board, page 97, Remove the word "favorable" from the last sentence.

Section 10. Public Notice Beyond 300 Feet General Clarification - Throughout the Ordinance document, add the words "a minimum of" in front of the words "three hundred (300) feet" when the public notification process is mentioned throughout the ordinance.

Section 11. Residential Zoning Regulations - Page 38, add the following new section to this page: "9.C.8-1 Agriculture Worker Housing: Housing for agricultural workers and owners of agricultural land is allowed in any Elmore County Zoning District except for the M2, Heavy Industrial Zone as long as the housing is for employees or owners of a bona fide agricultural operation. The farm owner is not required to own the housing. The housing must be located on the site of the agricultural operation. Housing for agricultural workers does not require or create the need for lot splitting, subdividing, platting, parcel splitting, or Letter of Information splitting because agricultural worker housing is recognized as an accessory use to the agricultural operation. Accessory Use provisions, public health, safety, transportation, and utility requirements apply to all agricultural worker housing projects."

Section 12. Official Schedule of Zoning District Regulations, Residential (R), page 26. Remove the "C" in the "M2" column pertaining to subdivision. On page 29 under Heavy Manufacturing (M2), add the land use type of "Industrial Subdivision" and add a "C" in the "M2" column, plus the AgA, AgB, C, and M1 columns."

Section 13. Add the following new language to appropriate sections of the Ordinance as needed: "All new lots or parcels or subdivisions created after June 28, 1999, the date of enactment of this ordinance shall have a thirty foot (30') wide perimeter road easement to facilitate future public road access to adjoining properties and developable areas. The Highway District shall determine when the 30' wide perimeter future road easements do or do not apply on an individual case by case basis."

Section 14. M2 Minimum Lot Sizes - Add a new note to the Zoning Schedule of Bulk and Coverage Controls of Section B.6-1 on page 30 stating: "The minimum lot size within the M2 Zone can be reduced from 20 acres to 5 acres through a Conditional Use Permit process and that the minimum lot size can be reduced through the Planned Unit Development permitting process."

Section 15. Add the following to the Street Definitions on page 17: "**Driveway:** A delineated vehicular access area, outside of public or private road right-of-way, where vehicles can ingress or egress private or public property. Driveways are maintained by the property owner. Driveways are not dedicated to the public for public road use. A driveway serves one property, dwelling, business, or street address only."

Section 16. Add the following description to **Section D.4-2 Specifications** on page 121 as follows: "4.D.4-2 **Driveways:** Driveways shall serve one property, dwelling, business, or street address only. All driveways shall be constructed to the same construction standards as private street construction standards with the applicable Highway District. Common access driveways are not allowed. Two or more properties, dwellings, businesses, or street addresses cannot be accessed by a common driveway. A public or private road (street) is required when two or more properties, dwellings, businesses, or street addresses share common access. The Elmore County Planning and Zoning Commission and Board of County Commissioners may consider common access driveways on a case by case basis if these requirements prevent access to private property."

Section 17. Add the following Idaho state definition of Pit Run Material to the Definitions section Article II-1, Section B.2-1 and also on page 121, Section D.4-2 Specifications, as follows: "The State of Idaho, Department of Transportation definition of Pit Run material shall be used in Elmore County."

Section 18. Add the following Idaho state definition of Gravel Road Standard to the Definitions section and also on page 121, Section D.4-2 Specifications, as follows: The Gravel Road Standard of the applicable Highway District (Glenns Ferry Highway District, Mountain Home Highway District and Atlanta Highway District) shall be used in Elmore County unless specifically allowed in the design specifications of the applicable Highway District."

Section 19. Clarification of wording: Change "Lot of Record" to "Parcel of Record" throughout the Ordinance to match Idaho State Code language and surveyors language.

Section 20. Add the following to the title of Section 3.E.8-1, page 45: "and Residential Parcels"

Section 21. Wherever cul-de-sac is referenced in the Ordinance add the following: "There shall be no hammerhead design cul-de-sacs. Cul-de-sacs will be considered on a case by case basis."

Section 22. Add "(r)" next to the P in the AHZ column for Single Family Dwellings, in Section 3.B.6-1, page 26. Official Schedule of Zoning District Regulations.

Section 23. Add "C" in M1 column under Light Manufacturing pertaining to Grain Storage in Section 3.B.6-1, page 28, Official Schedule of Zoning District Regulations.

Section 24. REPEAL OF CONFLICTING ORDINANCES. All sections of the Elmore County Zoning and Development Ordinance inconsistent with this Ordinance or in conflict with it, and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 25. The Elmore County Zoning and Development Ordinance of 1994 as amended in 1995 is to be interpreted consistently with this Ordinance and the Director is authorized to cross reference, and delete sections of the Zoning and Development Ordinance of 1994 to effectuate this Ordinance.

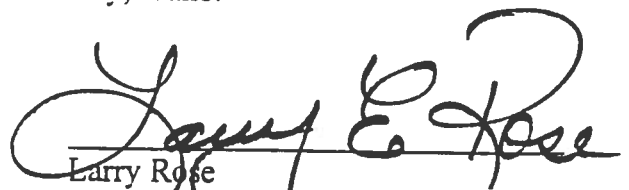
Section 26. SAVINGS CLAUSE. In the event any of the above-entitled Sections are declared unconstitutional and/or unlawful, each Section thereof shall be declared independent of the other and any sections of this Ordinance not declared unconstitutional and/or unlawful shall remain in full force and effect.

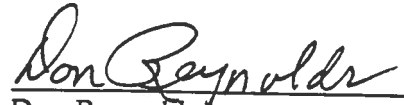
Section 27. EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage, approval, and publication.

PASSED. at a regular meeting of the Elmore County Board of County Commissioners in the City of Mountain Home, County of Elmore, State of Idaho, held on the 28th day of June, 1999, upon which roll call vote was duly taken and said Ordinance duly passed by a unanimous vote as an Ordinance of Elmore County, Idaho.

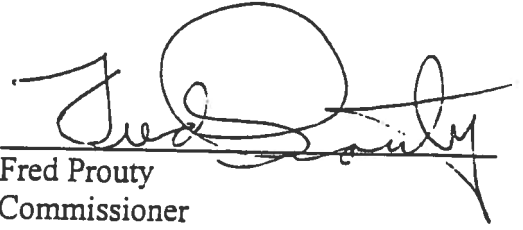
Attest:

Hail L. Best
Clerk of the Board of
County Commissioners


Larry Rose
Chairman, Elmore County Board of
Commissioners



Don Reynolds
Commissioner



Fred Prouty
Commissioner

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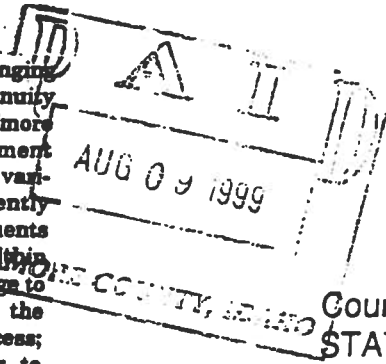
The following is a list of sections contained in the Ordinance. A copy of the entire Ordinance is available on request at the Recorder's Office, Elmore County, Idaho.

SECTION 1. PURPOSE OF ORDINANCE

SECTION 2. RESIDENTIAL LOT SIZE

SECTION 3. NON-CONFORMING USES

SECTION 4. EXEMPTION OF



Affidavit of Publication

County of Elmore } ss.
STATE OF IDAHO }

I, Coleen W. Swenson, do solemnly swear that I am the foreman, or publisher of the

Mountain Home News

a weekly newspaper of general circulation, published once a week at MOUNTAIN HOME, IDAHO, that the notice attached hereto and which is a part of publication thereof; was published in said newspaper for

1 consecutive weeks, the first publi-

cation having been made on 7th day of

July, 1999, and the last publi-

cation having been made on the 7th day of

July, 1999; every Wednesday

issue of the paper during the period and time of publication and that the notice was published in the newspaper proper and not in a supplement thereof.

And I further swear that the said MOUNTAIN HOME NEWS has been continuously and uninterruptedly published in said Elmore County during a period of 78 consecutive weeks prior to the first publication of the attached notice.

Coleen W. Swenson

Subscribed and sworn to me this 7th day of

July, 1999

Cynthia A. Roberson
Notary Public

Residing in Mountain Home, Elmore County, Idaho. My commission expires 09-09-2002.

USES

SECTION 4. EXEMPTION OF EXISTING DEVELOPMENTS

SECTION 5. GENERAL DEVELOPMENT STANDARDS, VISIBILITY AT INTERSECTIONS

SECTION 6. CONDITIONAL USE PERMITS

SECTION 7. CONDITIONAL USE PERMITS

SECTION 8. ADDITION TO SECTION G.14-1 PAGE 80

SECTION 9. APPEALS, VARIANCES, AND ACTION BY AFFECTED PERSONS

SECTION 10. PUBLIC NOTICE BEYOND 300 FEET GENERAL CLARIFICATION

SECTION 11. RESIDENTIAL ZONING REGULATIONS

SECTION 12. OFFICIAL SCHEDULE OF ZONING DISTRICT REGULATIONS

SECTION 13. ADD NEW LANGUAGE TO APPROPRIATE SECTIONS OF ORDINANCE

SECTION 14. M2 MINIMUM LOT SIZES

SECTION 15. ADD TO STREET DEFINITIONS ON PAGE 17

SECTION 16. ADD DESCRIPTION TO SECTION D.4-2 SPECIFICATIONS

SECTION 17. ADD TO IDAHO STATE DEFINITION OF PIT RUN MATERIAL

SECTION 18. ADD IDAHO STATE DEFINITION OF GRAVEL ROAD STANDARD

SECTION 19. CLARIFICATION OF WORDING

SECTION 20. ADD FOLLOWING TITLE OF SECTION 3.E.8-1 PAGE 45

SECTION 21. WHEREVER CUL-DE-SAC IS REFERENCED ADD FOLLOWING

SECTION 22. ADD "(r)" NEXT TO THE P IN THE AHZ COLUMN FOR SINGLE FAMILY DWELLINGS

SECTION 23. ADD "C" IN M1 COLUMN UNDER LIGHT MANUFACTURING PERTAINING TO GRAIN STORAGE

SECTION 24. REPEAL OF CONFLICTING ORDINANCES

SECTION 25. ORDINANCE OF 1994 AMENDED IN 1995 TO BE INTERPRETED CONSISTENTLY WITH THIS ORDINANCE

SECTION 26. SAVINGS CLAUSE

SECTION 27. EFFECTIVE DATE.

One Publication July 7, 1999.
