

CHAPTER 16 - ENFORCEMENT

Sections:

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Section 7-16-1: General Enforcement:

- A. Duty of Director: It shall be the duty of the Director to enforce these regulations and to issue citations and fines as necessary to enforce this Ordinance. The Director shall also coordinate as necessary with the Prosecuting Attorney to enforce any violations or lack of compliance herewith. The Elmore County Sheriff, and his or her authorized representatives, shall have the authority to enforce this Ordinance and assist the Director in enforcement actions as set forth in Idaho Statute and this Ordinance.
- B. Sales Before Approval: No owner or agent of the owner of a parcel of land located in a proposed subdivision shall transfer or sell any such parcel before a final plat of such subdivision has been approved by the Board, in accordance with the provisions of these regulations and filed with the Elmore County Clerk.
- C. Metes and Bounds Description: The subdivision of any lot or parcel of land, by the use of metes and bounds description for the purpose of sale, transfer or lease with the intent of evading these regulations, shall not be permitted. All such described subdivisions shall be subject to all of the requirements contained in this Ordinance.
- D. Issuance of Building Permit: No building permit shall be issued for the construction of any building or structure located on a parcel, lot or plat in violation of this Ordinance.
- E. Appropriate actions and proceedings may be taken at law or in equity to prevent any violation of this Ordinance, to prevent unlawful construction, to recover damages, to restrain, correct or abate a violation, to prevent illegal occupancy of a building, structure or premises, and these remedies shall be in addition to the penalties described in this Ordinance.

Section 7-16-2: Zoning Approvals:

- A. No construction or alteration shall commence until the Director has issued zoning approval. If no structures are involved, no use shall commence until the Director has issued zoning approval.

- B. No zoning approval shall be issued for any use on a property in violation of this Ordinance or on a property that contains structures or uses in violation of this Ordinance. Any zoning approval secured in violation of State or Federal law shall be invalid.
- C. Any application that requires issuance of zoning approval as a condition of approval shall be deemed complete with the issuance of the zoning approval. This provision shall apply to prior approved applications with issued zoning approvals.
- D. Zoning approvals issued in conjunction with a change of use that are not associated with a building permit shall expire if the new use has not commenced within one (1) year of the date of issuance of the zoning approval.
- E. The zoning approval may require inspections and approvals specified in the approval of the application, or conditions of approval.
- F. If the Director determines the conditions of the zoning approval have been violated, the Director may impose a stop work order on a project until the violation has been remedied.

Section 7-16-3: Enforcement, Violations and Penalties:

- A. **Enforcement Duties.** All departments, officials and employees of Elmore County vested with the authority to issue permits shall conform to the provisions of this Ordinance and shall issue no permit, buildings or purposes in conflict with the provisions of this Ordinance. Any such permit issued in conflict with the provisions of this Ordinance shall be null and void. The Director shall maintain a zoning enforcement program to promote the abatement of violations of this Ordinance and to provide assistance in the prosecution of such violations. It shall be the duty of the Director, Code Enforcement Officer and/or the Building Official, or their authorized agent(s), to enforce the provisions of this Ordinance pertaining to the erection, construction, reconstruction, moving, conversion, alteration, addition, location, or raising of any building or structure. It shall further be the duty of the Director, or his/her authorized agent(s) to enforce the provisions of this ordinance pertaining to land use regulation, including compliance with the wrecking, salvage, and/or junk yard provisions.
- B. **Enforcement.** Enforcement of this Ordinance may be by criminal prosecution, a civil lawsuit or an abatement action. Selection of the enforcement procedure shall be at the sole discretion of the County and commencement of one procedure shall not preclude commencement of another.
- C. **Violation of Ordinance Unlawful. Penalties and Restitution.** It shall be unlawful for any owner, occupant, tenant, manager or any person or entity having control of or a legal interest in property to violate any requirement or duty imposed by this Ordinance. Upon conviction of any violation of any of the provisions of this Ordinance such person shall be

punished by a fine of not more than one thousand dollars (\$1,000.00), or by imprisonment for not more than six (6) months, or both such fine and imprisonment. Each and every day of continuing violation shall be considered a separate criminal offense. Upon conviction, violators shall be responsible for and pay all incurred investigation, prosecution and court costs as determined by the court having jurisdiction over the proceeding.

D. Administrative Procedure: Code Enforcement cases commence by a citizen complaint or any time knowledge of a possible violation becomes known to the County. Complainants may be anonymous or the complainant may leave a name and number so that they can be contacted in the future. Following commencement of the case, the following administrative procedure is followed:

1. A site inspection is performed to verify that a violation exists on the property.
2. The property owner, tenant, and/or occupant of the property where there exists a violation of the provisions of this Ordinance are then notified that a violation(s) exists. Such notice shall include (1) a description of the property where the violation exists, (2) a description of the details of the violation or violations and that there is a fifteen (15) day opportunity to correct the violation(s) after receipt of notice. This ~~notice~~ Notice may be made by personal service or certified mail, return receipt requested. The Code Enforcement Officer may extend the fifteen (15) day requirement for good cause, but under no circumstances shall the time period be extended for public health and safety issues for longer than ninety (90) days.
3. A follow up inspection is performed to verify that the violation(s) has/have been corrected after the fifteen (15) days from receipt of notice.
4. If compliance cannot be achieved through administrative channels, or if the landowner, tenant and/or occupant of the property fails or refuses to respond to said Notice of Violation within the prescribed time period, the County may commence enforcement action.
5. Compliance with the above administrative procedure either completely or partially is at the discretion of the Director and/or Code Enforcement Officer and failure to follow these procedures shall not bar commencement of a criminal, civil, or abatement proceeding by the County.

E. Enforcement Actions.

1. Criminal Actions shall commence by issuance of a misdemeanor criminal citation signed by the Code Enforcement Officer, Building Official, Director, any county law enforcement officer, any county employee so authorized by the Board or by a formal criminal complaint filed by the Elmore County Prosecuting Attorney.

2. Civil Actions shall commence by filing a civil complaint by the Elmore County Prosecuting Attorney in the District Court of the State of Idaho having jurisdiction. The County may seek any relief deemed appropriate including, but not limited to, monetary damages, and
3. Abatement. The County may abate any conditions caused by a violation of this Ordinance. The expenses associated with abatement and abatement proceedings (including any expenses arising from contractors hired by the County to perform said abatement, investigatory costs and costs of suit) shall be charged to the owner, occupant or person in charge or possession of the premises or property upon which the nuisance exists. The Prosecuting Attorney may seek recovery of these expenses and costs under Idaho Statute ~~IDAHO STATUTE~~ §§ 31-604, 52-202 and 52-205. Said costs shall attach as a lien upon the subject property if unpaid.

F. Remedies and Sanctions not Exclusive: The remedies and sanctions set forth in this Chapter shall not be construed so as to exclude any other remedies or sanctions, either criminal or civil, elsewhere prohibited by this Chapter.

G. Severability: The provisions of this chapter are severable, and if any sentence, section or other part of this chapter shall be found to be invalid, such invalidity shall not affect the remaining provisions and the remaining provisions shall continue in full force and effect.

H. Penalty:

1. A violation of any provision of this section shall be a general misdemeanor punishable by a fine not to exceed one thousand dollars (\$1,000.00).
2. Notice of violations of this chapter shall be recorded in the office of Elmore County Recorder and shall run with the land. Once a violation has been resolved,

a-a Notice of Release of Violation shall be recorded in the office of Elmore County Recorder within thirty (30) days.

I. Appeal of Decision: see chapter 3 of this Title.

Section 7-16-4: Emergency Suspension of Permit:

The County may exercise its responsibility to protect public health, safety, and welfare by immediately suspending an approved permit. If the Director finds that a public emergency exists as a result of non-compliance or lack of performance pertaining to a permit a written notification of suspension of the permit shall be sent by certified mail to the permit holder or by personal service or both. The permit is null and void following service of the notice of suspension and failure to obey the notice of suspension is a violation of this Ordinance. The permit holder shall have thirty (30) days to contest the suspension or bring the permit

into compliance. If the suspension is contested, the Commission shall conduct a public hearing in accordance with this Ordinance. Such hearing shall occur as soon as practical. The permit can only be reinstated by the County when the situation has been corrected or resolved or when the County determines that there was no sufficient basis for suspension. Any decision by the Commission can be appealed to the Board.

Section 7-16-5: Revocation:

All permits of this Ordinance are subject to revocation for non-compliance with their terms and conditions. If the Director determines that a permit has been violated he/she shall notify the permit holder of his/her intention to revoke the permit and provide the permit holder the opportunity to contest the revocation. If the permit holder chooses not to contest the revocation of the permit the Commission shall revoke the permit during an open meeting.

The permit holder notified by the Department of the intent to revoke shall have thirty (30) days to contest the revocation of the permit by filing a letter of contest and paying a fee established by the Board. The Commission shall conduct a public hearing in accordance with this Ordinance for all contested revocations. At such hearing, the Commission shall hear evidence from the Director and any other party regarding the alleged violations and why the permit should be revoked. The permit holder shall have the opportunity to provide evidence contesting the violations and why the permit should not be revoked. After hearing evidence, if the Commission upholds the Director's determination of violation it may revoke or modify the permit or find that there was not sufficient evidence to revoke the permit. The decision from the Commission's public hearing may be appealed to the Board in accordance with the provisions of this Ordinance.

Section 7-16-6: Investigation Fees and Work without a Permit:

- A. Investigation: Whenever any work, use or action has been commenced without first obtaining approval for which approval is required, and/or a permit for which a permit is required by this Ordinance, a special investigation shall be made by the Building Official and/or Director before approval, use, or action and/or a permit may be issued or resumed for such work.
- B. Fee: An investigation fee, for work without a permit, in addition to an application and/or the permit fee shall be collected whether or not an application and/or permit is then or subsequently issued. The investigation fee shall be equal to the amount of the application fee and/or permit fee required by the County. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this Ordinance nor from any penalty prescribed by this Ordinance or by law.

