

CHAPTER 17 – OIL and GAS

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Section 7-17-1: Purpose:

The purpose of this ordinance is to provide, through zoning provisions, for the reasonable development of land for Oil and Gas drilling while providing adequate health, safety and general welfare protections of the Elmore County residents. Oil and Gas exploration, drilling and extraction operations involve activities that are economically important and will impact Elmore County. Accordingly, it is necessary and appropriate to adopt reasonable requirements for Oil and Gas resource development so that these resources can be obtained in a manner that is economically remunerative, and that minimizes the potential impact on the resident of Elmore County.

Local governments are preempted from regulating the same features Oil and Gas Well operations or accomplishing the same purposes regulated under Idaho Statute 47-314. Local zoning regulates surface land use as authorized under the Local Land Use Planning Act (Idaho Statute 67-65).

Section 7-17-2: Adoption of New Chapter 17, TITLE 7 to Zoning Ordinance:

The Elmore County Zoning and Development Ordinance is hereby amended to add the following new Chapter.

Section 7-17-3: Definitions:

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADMINISTRATIVE: A regulatory review and/or action performed by an employee or contractor of Elmore County and not deemed a legislative or quasi-judicial action.

APPLICANT: Any person, Owner, Operator, partnership, company, corporation and its subcontractors and agents who has an interest in real estate for the purpose of exploring or drilling for, producing, or transporting Oil or Gas.

LOCAL STREET: A public street or road designed to provide access to abutting lots and to discourage through traffic.

OIL and GAS: Means oil or gas or both. "Oil and Gas" refers to not only to oil and gas in combination with each other but also generally to oil, gas casinghead gas, casinghead gasoline, gas-distillate or other hydrocarbons, or any combination of combinations thereof, which may be found in or produced from a common source or supply of oil, oil and gas, or gas-distillate.

OIL and GAS WELL: A hole drilled into the earth for the purpose of exploring for or extracting oil, gas, or other hydrocarbon substances.

ROAD REPAIR AGREEMENT: A written agreement between the applicant and the local highway jurisdiction obligating the applicant to repair damage, excluding ordinary wear and tear, if any, to public streets, including but not limited to bridges, caused by subcontractors or representatives in the performance of drilling or production of any wells authorized by the city or county.

WELL: An oil and gas well or an injection well, including but not limited to directional drilling wells (for example, any well hole drilled into the ground).

Section 7-17-4: Zoning Classifications:

Subject to the provisions of this ordinance; an oil or gas well site shall be considered a permitted use by right within any Zoning District(s), subject to the standards listed herein.

Section 7-17-5: Permit Requirement:

- A. No oil or gas well site, or an addition to an existing oil or gas well site, shall be constructed or located within Elmore County unless an administrative zoning permit under this ordinance has been issued by the Elmore County Land Use and Building Department (the "Department") to the applicant approving the construction or preparation of the site for oil or gas development or construction of natural gas compressor stations or natural gas processing plants.
- B. Each application shall be submitted with the fee established pursuant to resolution of the Elmore County Zoning and Development Ordinance as adopted. Such fee shall be reasonable related to the cost of administering this Chapter.

- C. Any modification to an existing and/or permitted oil or gas well site that materially alters the size, location, number of wells or accessory equipment or structures, shall require a modification of the permit under this ordinance. Like-kind replacements shall not require a permit modification.
- D. Wells that were permitted and constructed prior to the adoption of this ordinance shall not be required to meet the requirements of this ordinance. Any modification to an existing or permitted oil or gas well site that occurs after the effective date of this ordinance and materially alters the size, type, location, number of wells and other accessory equipment or structures, shall require compliance with this ordinance.
- E. Upon receiving notice from the Department that an application has been submitted, the local jurisdiction will notify all property owners with one thousand (1,000) feet of the affected tax parcel that an application for a new Oil and Gas operation has been filed with the Department. The notice is for informational purposes only and will not solicit any public comments on the application.
- F. An oil or gas well permit shall not be required for exploration for oil or gas. Exploration of oil or gas means activities related to the various geological and geophysical methods used to detect and determine the existence and extent of hydrocarbon deposits. The activities related to the search for oil and gas include without limitation aerial, geological and geophysical surveys and studies, seismic work, core drilling and the drilling of test wells.
- G. If an applicant does not conduct said business for a period of one (1) year, the administrative zoning permit shall be null and void. Permits issued under this ordinance shall not be transferable to any other applicant, except by majority vote of the Elmore County Planning and Zoning Commission, and the filing of an application by the applicant to whom such license is, or may be, transferred or assigned.

Section 7-17-6: Permit Application:

The applicant shall provide to the Department at the time of permit application:

1. A narrative describing an overview of the project including the number of acres to be disturbed for development, the number of wells to be drilled including permit number(s) for all wells, if available, at the time of submittal and provided when issued later, and the location, number and description of equipment and structures to the extent known.
2. The address of the oil or gas well site and a legal description of the parcel as determined by the Elmore County Assessor's Office and information needed to gain access to the well site in the event of an emergency.

3. The contact information of the individual or individuals responsible for the operation and activities at the oil or gas well site shall be provided to the Department and all applicable Emergency Responders as determined by the Department. Such information shall include a phone number where such individual or individuals can be contacted twenty-four (24) hours per day, three-hundred sixty-five (365) days a year. Annually, or upon any change of relevant circumstances, the applicant shall update such information and provide it to the Department and all applicable Emergency Responders as determined by the Department.
4. A scaled site plan of the oil or gas well site showing the drilling pad, planned access roads, the approximate location of derricks, drilling rigs, equipment and structures and all permanent improvements to the site and any post construction surface disturbance in relation to natural resources. Included in this map shall be an area within the development site for vehicles to locate while gaining access to the oil or gas well site.
5. A narrative and map describing the planned access routes to the well sites on public roads including the transportation and delivery of equipment, machinery, water, chemicals and other materials used in the siting, drilling, construction, maintenance and operation of the oil or gas well site.
6. A statement that the applicant will make the operation's Preparedness, Prevention and Contingency Plan available to the Department and all Emergency Responders at least thirty (30) days prior to drilling of an oil or gas well and at least annually thereafter while drilling activities are taking place at the oil or gas well site.
7. An appropriate site orientation of the Preparedness, Prevention and Contingency Plan for all applicable Emergency Responders as determined by the Department. The cost and expense of the orientation shall be the sole responsibility of the applicant. If multiple wells/well pads are in the same area (covered by the same emergency response agencies), evidence from the appropriate emergency response agencies that a training course was offered in the last twelve (12) month shall be accepted.
8. A narrative describing the environment impacts of the proposed project on the site and surrounding land and measure proposed to protect or mitigate such impacts shall be provided to the department.
9. The applicant shall submit with application a certificate of comprehensive general liability insurance in the amount of no less than 1,000,000,000 per occurrence with an aggregate of 25,000,000,000 and a company authorized to do business in the state of Idaho shall write the policy. The certificate shall require at least thirty (30) day notice to the county prior to termination of coverage for any reason.

Section 7-17-7: Issuance of Permit:

- A. Within twenty-one (21) business days after receipt of a permit application, the Department will determine whether the application is complete and advise the applicant accordingly.
- B. If the application is complete and fulfills the requirements of this ordinance, the Department shall issue a permit within twenty-one (21) days following the date the complete application was submitted.
- C. If the application is incomplete or does not fulfill the requirements of this ordinance, the Department shall return the application to the applicant. After necessary changes have been made, the Department shall follow Section 7 (B) of this section.
- D. As a condition of permit approval, applicant shall provide all permits and plans from the Department and all other appropriate regulatory agencies within thirty (30) days of receipt of such permits and plans.
- E. If temporary housing for well site workers is proposed on the well site, a plan showing the number and location of the units shall be provided to the Department. Temporary housing plans shall be in compliance with all applicable county regulations.

Section 7-17-8: Site Design and Installation:

A. Access.

1. Vehicular access to a natural gas well, oil well or well pad solely via a residential street is prohibited unless it can be proven that the only viable vehicular access to the well site is via the residential route. The use of collector streets are required, unless no viable alternative exists.
2. Applicable highway districts adopted standards pertaining to minimum traffic sight distances for all access points shall be adhered to.
3. Access directly to State roads from a well site may require an Idaho Transportation Department (ITD) Approach Permit. Prior to initiating any work at a drill site, the Developer shall be provided a copy of any required Approach Permit.
4. Access directly to Elmore County local roads shall require a Road Repair Agreement with the applicable highway district prior to initiating any work at well site. Operator shall comply with any generally applicable bonding and permitting requirements for Elmore County roads that are to be used by vehicles for site construction, drilling activities and site operations.

B. Height

1. There shall be an exception to the height restrictions contained in this section for the temporary placement of drilling rigs, drying tanks, pad drilling and other accessory uses necessary for the actual time period of drilling or re-drilling of an oil or gas well or pad drilling.
2. If applicable, application will meet standards as defined in this Ordinance, "Airport Hazard Zoning".

C. Setbacks/Location.

1. Except as provided in Idaho Statute 47-319, oil and gas wells, tank batteries and gas processing facilities shall not be constructed within three hundred (300) feet of an existing occupied structure, domestic water well, canal, ditch or the natural or ordinary high-water mark of surface waters or within fifty (50) feet of a highway.
2. Oil and gas wells, tank batteries and gas processing facilities may be constructed less than three hundred (300) feet but more than one hundred (100) feet from an existing occupied structure, domestic water well, canal or ditch if the operator has obtained the express written permission from the owner of the occupied structure, domestic water well, canal, or ditch.
3. Recognizing that the specific location of equipment and facilities is an integral part of the oil and gas development, and as part of the planning process, operator shall strive to consider the location of its temporary and permanent operations, where prudent and possible, so as to minimize interference with Elmore County residents' enjoyment of their property and future Elmore County development activities as authorized by the Elmore County applicable ordinances.

D. Screening and Fencing

1. Security fencing shall not be required at oil or gas well sites during the initial drilling, or re-drilling operations, as long as manned twenty-four (24) hour on-site supervision and security are provided.
2. Upon completion of drilling or re-drilling in Residential or Commercial Zones, security fencing, acceptable to the landowner and the operator, shall be installed within sixty (60) days after the completion of the well, at the oil or gas well site to secure well heads, storage tanks, separation facilities, water or liquid impoundment areas, and other mechanical and production equipment and structures on the oil or gas well site.
3. Security fencing shall be at least six (6) feet in height equipped with lockable gates

at every access point and have openings no less than twelve (12) feet wide. Additional lockable gates used to access oil and gas well sites by foot may be allowed, as necessary.

4. Warning signs shall be placed on the fencing surrounding the oil or gas well site providing notice of the potential dangers and the contact information in case of an emergency. During drilling and hydraulic fracturing, clearly visible warning signage must be posted on the pad site.

5. In construction of oil or gas well sites, the natural surrounding should be considered and attempts made to preserve existing trees and other native vegetation. Existing trees and respective root systems should not be disturbed whenever possible. Re-forestation/re-vegetation of the well site will be provided by the owner/operator as required by rules governing Oil and Gas Conservation,

D. Lighting.

Lighting at the oil or gas well site, either temporary or permanent, shall be directed downward and inward toward the activity, to the extent practicable.

E. Noise.

Elmore County recognized that oil and gas development is accompanied by inherent noise. However, the operator shall consider, the extent possible, mitigation of noise resulting from the oil or gas well development.

G. Dust Control

Operator shall control fugitive dust control arising from operations. Operator shall dust proof work area by sprinkling with water or water/calcium chloride mixture where necessary.

H. Work Hours

Site development, other than drilling shall be conducted only between 7:00 a.m. and 7:00 p.m. Monday through Friday and 9:00 a.m. to 5:00 p.m. on Saturday. Truck deliveries of equipment and materials associated with drilling and well servicing, site preparation and other related work conducted on the site shall be limited to the above same work hour restrictions except in cases of an emergency. The operator may request an exception to this section for good cause shown,

This ordinance shall be in full force and effect immediately upon passage and publication as required by the laws of the State of Idaho.

Any ordinances or resolutions which are in conflict with the Ordinance are hereby repealed,

but only insofar as the conflict exists.

If any portion of this Ordinance should be found to be unconstitutional or unenforceable the remained or the Ordinance shall be applied to effectuate the purpose of the Ordinance.