

## **ORDINANCE NO 2001-2**

**AN ORDINANCE AMENDING THE ELMORE COUNTY ZONING AND DEVELOPMENT ORDINANCE - PROVIDING THAT CHAPTER 1, ARTICLE VIII-1, SECTION 2.E.8-1, GENERAL AGRICULTURE/GRAZING/FOREST B-ZONE AG B, CHAPTER 1, ARTICLE VIII-1, SECTION 5.E.8-1, LIGHT MANUFACTURING - M1 ZONE AND CHAPTER 1 ARTICLE VIII-1, SECTION 6.E.8-1, HEAVY MANUFACTURING - M2 ZONE, BE AMENDED TO ALLOW ELECTRICAL PRODUCTION BY GAS TURBINES, SOLAR OR WIND POWER; PROVIDING FOR SETBACKS FROM RESIDENCES, NOISE LIMITS AND OTHER MITIGATION REQUIREMENTS; ALLOWING FOR VARIANCES FROM THE SETBACK REQUIREMENT; ALLOWING AFFECTED LANDOWNERS TO WAIVE THE SETBACK REQUIREMENT; AND REQUIRING LANDSCAPING AND MITIGATION PLANS:**

**WHEREAS,** The Elmore County Zoning and Development Ordinance of 1994, as amended in 1995 and 1999 was adopted for the public health, safety and general welfare of the citizens of Elmore County as authorized by Title 67, Chapter 65 of the Idaho Code and Article 12, Section 2 of the Idaho Constitution;

**WHEREAS,** The Zoning and Development Ordinance contains a land use matrix and zoning district regulations designating land uses and regulations within the County;

**WHEREAS,** The Elmore County Planning and Zoning Commission has recommended that the Board of Commissioners of Elmore County amend the Elmore County Zoning and Development Ordinance to allow certain types of electrical generating facilities in Agriculture B, Light Manufacturing and Heavy Manufacturing Zones;

**WHEREAS,** A public hearing was held on April 12, 2001 by the Elmore County Commissioners OF Elmore County to take public testimony on the proposed amendment and notice of that hearing was published in the Mountain Home News on March 29, 2001 and April 4, 2001.

**WHEREAS,** The proposed amendment, as amended in the meeting of March 16, 2001 failed for lack of a majority;

**WHEREAS,** a request to consider that action was made and testimony on the requested reconsideration was taken on April 23, and the Board voted 2-0 to reconsider the proposal; and

**WHEREAS,** the proposal was passed as amended on April 23, 2001 by a vote of 2-0, the Board having concluded that the proposed amendment was in accordance with the comprehensive plan and that amendments made by the Board were not material;

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

**That the following Sections of the Elmore County Zoning and Development Ordinance be amended as follows:**

1. That Chapter 1, Article VIII-1, Section 2.E 8-1, GENERAL AGRICULTURE/GRAZING/FOREST B-Zone Ag B be amended to include a new Subsection 2.E.8-1(n) that shall read:

### Electricity Generating Facilities

Certain types of electricity generating facilities are permitted in this zone.

1. The facility must only use natural gas, solar cells or wind power to produce electricity for sale. The use of diesel fuel is allowed only for emergency generation of electricity for fire suppression or winding down turbines.
  2. The owner or operator of the facility must show compliance with applicable Idaho Public Utility and Federal Energy Regulatory Commission rules and regulations before receiving a zoning permit and must operate the facility in conformance with those same regulations.
  3. Facility improvements must be at least 2,500 feet from any residence existing at the time of the application for permit. This distance shall be measured from the center line of the power producing turbine to the closest edge of the residence. The distance may be shortened if the applicant applies for and is granted a variance using the standards and procedures contained in Chapter 1, Article XX-1 of this ordinance. Provided however, that the owner of an affected residence may waive, in writing, the setback requirement for that residence. If such a waiver is submitted to the office of the Zoning Administrator for each residence within 2500 foot setback no variance need be obtained.
  4. Operation of the facility shall not create or cause any dangerous, injurious, noxious or otherwise objectionable condition that could adversely affect the surrounding area or adjoining premises. Operation of the facility shall not result in any noise louder than 58 decibels on the A-weighted decibel scale as measured from 750 feet from the center line of the power producing turbine. A higher decibel reading would require a variance. The Administrator shall cause the applicant to provide information detailing possible adverse impacts and require mitigation of the same as set forth in Chapter 1, Article VIII-1, Section D,8-1, Provisions for Commercial and Industrial Uses.
  5. The applicant, with its building permit application, shall submit and thereafter follow a landscaping, screening and noise control plan to comply with section 4 above. The plan's ability to comply with section 4 shall be certified by a licensed engineer employed by the applicant. All improvements on the facility shall be enclosed by an appropriate security fence.
  6. The applicant shall demonstrate and maintain an adequate fire protection and fire fighting capacity, including entering into an agreement with a public firefighting agency when the applicant's project is within the jurisdiction of such an agency.
  7. Before a zoning permit is granted, the applicant shall hold at least two (2) public meetings. Notice of those meetings shall be by publication in local newspaper and by mail to property owners within one (1) mile of the proposed facility.
2. That Chapter 1, Article VIII-1, Section 5.E.8-1, LIGHT MANUFACTURING - M1 Zone be amended to include a new Subsection 2.E.8-1(i) that shall read:

### Electricity Generating Facilities

Certain types of electricity generating facilities are permitted in this zone if in addition to the light manufacturing requirements contained in this Section 5.E.8-1, they comply with the requirements in GENERAL AGRICULTURAL/GRAZING/FOREST B-Zone Ag B Chapter 1, Article VIII-1, Section 2.E.8-1(n)

3. That Chapter 1, Article VIII-1, Section 6.E.8-1, HEAVY MANUFACTURING -M2 Zone be amended to include a new Subsection 6.E.8-1(b) that shall read:

Electricity Generating Facilities

Certain types of electricity generating facilities are permitted in this zone if they comply with the requirements set forth in GENERAL AGRICULTURAL/GRAZING/FOREST B-Zone Ag B Chapter 1, Article VIII-1, Section 2.E.8-1(n)

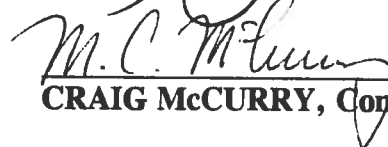
4. The Chapter 1, Article VI-1, the Official Schedule of Zoning District Regulations be amended to include a new land use in the matrix, that of "Electricity Generation Facilities-Natural Gas/Solar Cell/Wind Power." That use shall be a permitted use in the Heavy Industrial M2, Light Industrial M1, and Agricultural B zones and prohibited use in all other zones.
5. That Chapter 1, Article VII-1, Community Development Overlay and Area of Critical Concern Districts, Section B.7.1 so that the Mountain Home Aquifer, Community Development Overlay Requirement shall read:

Minimum residential lot size = 5 acres per dwelling unit within the Mountain Home Aquifer Recharge CDO area. Technical studies shall normally be required for all proposed development with densities greater than one (1) dwelling unit per five (5) acres or as directed by the Elmore County Planning and Zoning Commission. However, Elmore County reserved the right to have final determination in this matter. All subdivision and any residential development with a density greater than (1) dwelling unit per five (5) acres must be connected to any approved central sewer system as a condition of approval. Development requests will be processed through the condition use review procedures if a potential for adverse impact on the ground or surface water exists. Any proposed development that increases or contributes surface drainage to the Mountain Home Reservoir will not be allowed.

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


DATED this 30<sup>th</sup> day of April, 2001.

  
LARRY ROSE, Chairman

  
CRAIG McCURRY, Commissioner

RECUSED  
CALVIN IRELAND, Commissioner

ATTEST:

  
GAIL L. BEST  
Clerk of the Board of County Commissioners

