

ORDINANCE NO. 2003-02

AN ORDINANCE AMENDING THE FREMONT COUNTY DEVELOPMENT CODE BY AMENDING CHAPTER I SECTION F SUBSECTION 4, CHAPTER III SECTION D SUBSECTIONS 2 AND 3, AND CHAPTER XIV SECTION HHH BY DELETING THE WORDS "UNIFORM BUILDING CODE" or THE ACRONYM "UBC" AND ADDING THE WORDS "INTERNATIONAL BUILDING CODE" AND INTERNATIONAL RESIDENTIAL CODE" OR THE ACRONYMS "IBC" AND "IRC"; AMENDING CHAPTER XIV SECTION UUU BY DELETING THE DEFINITION FOR "UBC" AND ADDING DEFINITIONS FOR "IBC" AND "IRC"; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF FREMONT IDAHO DOES ORDAIN AS FOLLOWS:

THAT THE FOLLOWING CHANGES BE MADE TO THE 2002 FREMONT COUNTY DEVELOPMENT CODE :

HIS ORDINANCE SHALL TAKE FULL FORCE AND EFFECT JANUARY 27, 2003.

PASSED BY THE FREMONT COUNTY BOARD OF COUNTY COMMISSIONERS THIS  
27<sup>th</sup> DAY OF JANUARY 2003.

  
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CHAIRMAN, COUNTY COMMISSIONERS

ATTEST:

  
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ABBIE MACE, COUNTY CLERK

1. No permit shall be required for any land division that results from the settlement of an estate or a court decree for the distribution of specific parcels of property.
2. No permit shall be required for any land division that results from a condemnation proceeding or the voluntary sale or gift of land for a public purpose.
3. No permit shall be required for platting a cemetery.
4. No permit shall be required for any land division in which all resulting parcels are 160 or more acres in size. The creation of parcels between 20 and 160 acres in size for agricultural purposes only shall also be exempt from the requirement for a permit, but the further division or the development of any such parcel shall be preceded or accompanied by an application for a lot split.
5. No permit shall be required for the adjustment of un-platted property lines in which no new parcel is created and ~~no nonconforming lot, parcel, use, or structure results.~~ Plat amendments require a Class I permit and approval by the board.

**D. Exemptions for Construction Activity.** The activities listed here are not exempt from any applicable requirement of this ordinance, except the requirement for a permit. Not permit shall be required by: A Class I permit shall be required for:

1. clearing and grading for agricultural purposes, the maintenance and construction of irrigation works, and grading required for the maintenance (but not change or expansion) of an existing use or structure;
2. repair or remodeling that does not alter the exterior dimensions of the structure involved (note that the *Uniform Building Code* **IRC and IBC** may require a building permit for such remodeling);
3. accessory buildings that are also exempted from review by the *Uniform Building Code* **IBC and IRC** (note that this generally exempts accessory buildings of less than 120 square feet in floor area and less than 10- feet in height);
4. fences of eight feet or less in height (note that all fences must comply with the requirements of Appendices A. and B. for clear sight triangles at intersections and points of access to public roads);
5. minor utility installations; and
6. certain signs, as provided in Appendix C.
7. These exemptions may not apply within the Airport Overlay Zoning District. See X.E.
8. The exemptions of III.D.1., III.D.3., III.D.5., and III.D.6. shall not apply within any stream or lakeshore corridor or special flood hazard established by this ordinance. All development activity within stream or lakeshore corridors or special flood hazard areas shall be subject to the requirements for a permit.

**E. Application Forms.** Applications for permits shall be submitted on forms provided by the county. All information, including a site plan, and other maps, plans, drawings, tabulations, and calculations, called for on those forms shall be required for a complete application and no incomplete application

2. There shall be no limit on repair or maintenance activities for nonconforming uses, buildings, or signs, provided that no such activity shall increase the degree of nonconformity.

3. Changes in occupancy may be permitted in nonconforming commercial or industrial buildings, provided that the new occupancy is no more intense (with intensity being measured by traffic and noise generation, parking requirements, and similar factors) than the existing. Requests for such changes in nonconforming occupancies shall be processed as applications for Class II permits.

4. Nonconforming buildings and signs may be replaced, but only where the effect of the replacement is to lessen the adverse impact of the nonconformity on the community, and where the degree of nonconformity is not increased. Requests for replacement of nonconforming buildings shall be processed as applications for Class II permits, except that any nonconforming building destroyed by fire or other catastrophe may be replaced without a permit (a permit may be required by the ~~UBC~~ **the IBC and IRC**), if the degree of nonconformity is not in any way increased and if the replacement is completed within 12 months of the building's destruction. No permit is required for replacement of a nonconforming sign.

5. There are additional limitations on nonconforming uses and buildings in the Airport and Floodplain Overlay Zoning Districts: see X.G. and Chapter XI.

**G. Most Restrictive Standards Apply.** When future ordinances, or state or federal law, impose additional standards on activities governed by this ordinance, the most restrictive standard shall apply.

**H. Conflict with Private Agreements.** This ordinance does not nullify easements, covenants, deed restrictions, and similar private agreements, but where any such private agreement imposes standards that are less restrictive than those adopted here, this ordinance shall apply.

**I. Burden of Proof.** The burden of proof shall, in all proceedings pursuant to this ordinance, rest with the developer.

**J. Interpretation.** All ordinance provisions shall be interpreted as the minimum requirements necessary to protect the public health, safety, and general welfare and to implement the Local Planning Act and Comprehensive Plan. This ordinance is designed for consistency with the comprehensive plan and should be liberally construed to achieve that plan's purposes and intent.

**K. Severability.** If any provision of this ordinance is held to be invalid by any court, the remainder shall continue in full force.

**DDD. Replat.** A replat is any change in an existing subdivision that adds land to the subdivision or creates a new road or parcel within an existing subdivision. The procedures for a replat are the same as for an original subdivision.

**EEE. Residential Care Facility.** A residential facility in which care and /or protection is provided for the elderly, children, or adults under a license issued by the Idaho Department of Health and Welfare pursuant to the Child Care Licensing Reform Act, the Alcoholism and Intoxication Treatment Act, and similar authorities. This definition does not include halfway houses or any other detention facility.

**FFF. Runway.** A defined area on an airport prepared for landing and takeoff of aircraft along its length. A **utility runway** is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less. A **visual runway** is intended solely for the operation of aircraft using visual approach procedures.

**GGG. Setback.** All setbacks are measured at right angles, from the nearest point on the property line to the foundation or to any above grade projection of the structure that extends more than three feet beyond the foundation.

1. The front setback is measured from the lot line paralleling a public Street to the principal building. Corner lots have two front yards, but may treat either as a side yard for the purposes of this ordinance, except where the adjacent street is an arterial.
2. The rear setback is measured from the rear lot line to the principal building. The rear lot line is parallel, or more or less parallel, to the street. Corner lots have two year yards, but may treat either as a side yard for the purposes of this ordinance.
3. The side setback is measured from the side lot line to the principal building.

**HHH. Single Family Dwelling.** A detached building designed for occupancy by one family. Also includes group homes, as required by I.C. 67-6530, et. Seq. Includes both conventional dwellings and manufactured homes that: 1. comply with the National Manufactured Home Construction and Safety Standards Act (40 USC 5401) or ~~the Uniform Building Code;~~ the **International Building Code and International Residential Code**; 2. have all hitches, wheels, chassis, and other running gear removed and are attached to a permanent foundation; and 3. where available, are permanently connected to central utilities. Recreational vehicle and travel trailers are not single family dwellings and shall not be used as such, but are included within the definition of "manufactured home" for the purposes of Chapter XI.

**III. Site Plan.** A site plan is a scale drawing, or a series of such drawings, that illustrates all those details of a proposed development needed to demonstrate compliance with this ordinance, including the location of existing and proposed property lines, easements, buildings, parking areas, streets, sidewalks, landscaped buffers, and other features of the site. Where an erosion and runoff control plan is required, the site plan must be prepared on a detailed (contour intervals of two feet) topographic base.

**JJJ. Sketch Plan.** A sketch plan is a general or conceptual site plan of a development. It must include the approximate location of all lot lines and streets, the approximate location and exterior dimensions of all structures, the approximate location, size, and circulation pattern of all parking areas, and the approximate location and dimensions of all landscaped buffers.

**UUU. ~~UBC.~~** Acronym for the ~~*Uniform Building Code*~~ published by the ~~International Conference of Building Officials.~~ **IBC,** acronym for the International Building Code and **IRC,** acronym for the International Residential Code, both are published by the International Code Council, Inc.

**VVV. Uplit.** Uplighting occurs when signs or structures are illuminated by a spotlight shining on them from below. Uplighting can be attractive in urban environments, but is a definite enemy of a night sky in which one can view the stars.

**WWW. Use.** See XIV.LLL.

**XXX. Vacation.** The process provided by state law (see I.C. 50-1306A) and this ordinance (see III.AA.) for the elimination of a recorded subdivision plat.

**YYY. Variance.** According to I.C. 67-6516, "A variance is a modification of the requirements of the ordinance as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other ordinance provision affecting the size or shape of structure or the placement of the structure upon lots, or the size of lots." Land use cannot, by definition, be varied.

**ZZZ. Vested Right.** The right to proceed with development under a previous set of regulations, or the right to proceed under this ordinance, pursuant to a development agreement. See I.E.

**AAAA. Visually Sensitive Area.** Visually sensitive areas are broadly delineated on the natural resource inventory maps prepared for the county, using the system developed by the U.S. Forest Service. The delineation is based on the view from major public roads and bodies of water. For the purposes of VIII.Y., visually sensitive areas shall be limited to those designated FG-1/A, FG-1/B, FG-2/A, FG-2/B, MG-1/A, MG-1/B, MG-2/A, and MG-2/B on the natural resource inventory maps. Regardless of their designation, however, areas platted before the effective date of this ordinance or designated as commercial areas or nodes by IV.E. shall not be considered visually sensitive.

**BBBB. Water Quality Vulnerability Area.** As explained in the comprehensive plan, those areas which past studies have identified as needing central sewerage to avoid surface and ground water pollution.

**CCCC. Wetlands.** Wetlands shall be defined in the current *Federal Manual for Identifying and Delineating Jurisdictional Wetlands*.

**DDDD. Wildlife Habitat.** Any area that provides the environmental factors required for the survival of a particular species of wildlife. **Critical wildlife habitat** includes all important habitat areas shown on the natural resource inventory maps prepared for the county, or other areas so identified by the Idaho Fish and Game Department.

**EEEE. Yard.** The area between the lot lines and the principal building created by the required setbacks.