

**TITLE 6
ELMORE COUNTY
ZONING and DEVELOPMENT ORDINANCE**

CHAPTER 3 - APPEALS, ENFORCEMENT, WAIVERS, VARIANCES, AND TIME EXTENSIONS -

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Section 6-3-1: Appeals to Commission on Decisions of the Director:

A. Appeal to Commission: Any affected or aggrieved person having an interest in real property which may be adversely affected by a decision of the Director made in interpreting or enforcing this Title may appeal such a decision to the Commission by filing a written notice of appeal. A written notice shall be made by submitting the appropriate fee and application to the Director of Elmore County Growth and Development within ten (10) calendar days of the date of such decision. Appeals shall be based on one of the following:

1. The decision was in violation of constitutional or statutory provisions; or
2. In excess of the statutory authority of the agency; or
3. Made upon unlawful procedure; or
4. Not supported by substantial evidence on the record as a whole; or
5. Arbitrary, capricious, or an abuse of discretion.

- B. The appellant shall submit all legal and factual material in support of the appeal to the Director within fourteen (14) calendar days after submittal of the appeal. If any of such legal and factual material had not been submitted to the Director prior to the Director's decision, the Commission may remand the matter to the Director for reconsideration in light of the new material.
- C. Hearing by Commission: The Commission shall hold a public hearing on all appeals from decisions of the Director during the next available date, or as otherwise directed by the Commission, after the appellant has complied with the requirements of this Section. The Commission shall base its decision upon the record before the Director and any additional legal and factual material submitted. However, the Commission may, at its discretion, allow additional material and evidence if there were good reasons for failure to submit the material and evidence within fourteen (14) calendar days of the filing of the notice of appeal, but any such additional written material and evidence shall be submitted to the Commission at least fourteen (14) calendar days prior to the public hearing. Whenever an appellant lodges additional material or evidence with the Commission that was not submitted to the Director prior to its decision, the Director shall be empowered to lodge with the Commission prior to public hearing any additional material or evidence relevant to the appeal.
- D. Decision by Commission: The Commission shall, within twenty-eight (28) calendar days after the public hearing, enter a written order affirming, reversing or modifying the Director's decision. The order shall also contain the reasons for the Commission's decision.

Section 6-3-2: Appeals to the Board on Decisions of the Commission:

- A. Appeal and Reconsideration: Any affected or aggrieved person having an interest in real property which may be adversely affected by the issuance or denial of a permit authorizing development or use by any final action of the Commission may either appeal the decision and/or request reconsideration.
- B. Decision to Appeal: Any person aggrieved by a decision of the Commission may appeal such a decision to the Board by filing a written notice of appeal. Appeals shall be based on one of the following:
 - 1. The decision was in violation of constitutional or statutory provisions; or
 - 2. In excess of the statutory authority of the agency; or
 - 3. Made upon unlawful procedure; or
 - 4. Not supported by substantial evidence on the record as a whole; or

5. Arbitrary, capricious, or an abuse of discretion.
- C. An appeal shall be made by submitting the appropriate application and fee to the Director of Elmore County Growth and Development within ten (10) calendar days of the Commission's final action.
- D. Request for Reconsideration on Commission Decision: Upon request of the applicant or an aggrieved party, the application may be reconsidered. Reconsideration before the Commission may be granted for good cause. The Commission shall only consider such reconsideration requests once. Good cause includes but is not limited to:
1. The party requesting reconsideration has relevant information; and
 2. The relevant information was not previously presented and is in response to something brought up at the previous hearing; and
 3. The information was not previously available.
- E. Process: A request for reconsideration shall include supporting information and may be made at any time prior to the deadline for filing an appeal as provided in this section.
1. A decision by the Commission to deny or approve the reconsideration is not appealable.
 2. Reappearance before the Commission shall be on the appropriate application and submitted to the Director with fees as adopted by the Board.
 3. The Director will confer with the Commission, if the requested changes would not materially affect the Commission's decision, a reconsideration hearing may be permitted.
 4. If the applicant has modified the application, the Commission shall determine if the revised application shall be reconsidered or if a new application is required.
 5. If the reconsideration hearing is granted, the time to appeal and any pending appeal to be heard before the Commission shall be stayed.
 6. The applicant may still exercise applicant's rights to further appeal the Commission's decision.
 7. If reconsideration is granted and the appeal is withdrawn, any appeal fee shall be refunded in its entirety.

- F. Notice of Appeal: The notice of appeal shall state the date and the substance of the decision appealed and the grounds for the appeal.
- G. Written Request; Fee: Reappearance before the Commission may be made by written request to the Director and shall include a fee in accordance with the schedule of fee requirements given in this Title. This fee shall be refunded if the reconsideration request is denied.
- H. Filing Notice and Costs of Appeal: Copies of the notice of appeal shall be filed with the Board and the Commission. In the case of a Board appeal, the Director shall provide any such aggrieved party with a written statement of the estimated cost of transcript preparation. The cost of an appeal shall be in accordance with the Schedule of Fee requirements given in this Title and shall include a base fee plus the cost of transcript preparation. The cost of such preparation shall be based on current costs of outside temporary employees to furnish such transcripts and the cost shall be borne by the appellant.
- I. Transmission of Record: Within thirty (30) calendar days after a notice of appeal is filed with the Commission, the Commission shall prepare three (3) copies of a summary of the proceedings appealed from and forward said summary to the Board. A transcript of the proceedings shall be prepared at the appellant's expense. The cost of the transcripts shall be paid in full before the transcript may be forwarded to the Board. The Commission shall serve one copy of the summary or transcript on the appellant and one copy on the attorney for the respondent. The Commission shall submit to the Board with the summary or transcript all documents, exhibits and orders pertinent to the appeal. The entire record shall be forwarded to the Board with a certificate signed by the Director listing all documents in the record in chronological order of filing together with the Director's certificate stating that the documents listed comprise the complete record of the Commission's proceedings. Depending on the level of need, a summary of the proceedings may include, but is not limited to, minutes of the proceedings and/or relevant portions of the transcript.
- J. Briefs on Appeal:
1. Definition: For the purpose of this Section, "brief" is defined as any written document, regardless of form, outlining the parties' legal positions. Parties to an appeal are not required to file briefs. If a party chooses not to file briefs, the time restrictions under this subsection do not apply to that party. If a party chooses not to file a brief, the Director shall be notified in writing. The Director shall then schedule a hearing pursuant to this Title.
 2. Number of Copies: The original and four (4) copies of all appellate briefs shall be filed with the Director.
 3. Length of Briefs: No brief in excess of ten (10) pages, exclusive of any addendum or exhibit, shall be filed without consent of the Director.

4. Time for Filing: The appellant's brief shall be filed within fourteen (14) calendar days of receipt of the transcript. The respondent's brief shall be filed within fourteen (14) calendar days from receipt of the appellant's brief. No briefs shall be accepted outside of the time periods described under this subsection. If the Commission is the only respondent, no respondent's brief is required.
 5. Service of Briefs: One copy of all appellate briefs shall be served upon each party to the appeal. If the Commission or Director is the only respondent, no further service other than that required under this subsection shall be necessary.
- K. Hearing by The Board: After the last brief is filed or if a party chooses not to file any responsive brief, the Board shall hold a hearing on the appeal. The Board shall publish a notice specifying the time, date and place of the hearing and stating the subject of the appeal. The notice shall be published once in the newspaper of general circulation at least fifteen (15) calendar days prior to the hearing. In addition, the same notice requirements as were applicable to the hearing, if any, at which the decision being appealed was made shall be met, including advising that materials submitted pertaining to the appeal are available for public inspection prior to the appeal hearing. No party may present more than five (5) minutes of oral argument to the Board unless otherwise allowed by the Chairperson. Other than exhibits and documents in the record, briefs and oral arguments, the Board shall not consider any other information.
- L. Decision by The Board: The Board shall enter an order within fifteen (15) calendar days after the hearing affirming, reversing or modifying the Commission's decision. The order shall contain a statement of the reasons for the Board's decision and shall be served on all parties to the appeal. On its own motion, the Board may, within fourteen (14) calendar days of issuing a written decision, reconsider that decision.
- M. Request for Reconsideration On Board's Decision: The applicant or an aggrieved party, the application may be reconsidered. Reconsideration before the Board may be granted for good cause. The Board shall only consider such reconsideration requests once. Good cause includes but is not limited to:
1. The party requesting reconsideration has relevant information; and
 2. The relevant information was not previously presented and is in response to something brought up at the previous hearing; and
 3. The information was not previously available.
- N. Process: A request for reconsideration shall include supporting information and may be made at any time prior to the deadline for filing an appeal as provided in this section.
1. A decision by the Board to deny or approve the reconsideration is not appealable.

2. Reappearance before the Board shall be made by written request to the Director and shall include a fee as adopted by the Board. This fee shall be refunded if the reconsideration is denied.
3. The Director will confer with the Board, if the requested changes would not materially affect the Board's decision, a reconsideration hearing may be permitted.
4. If the applicant has modified the application, the Commission shall determine if the revised application shall be reconsidered or if a new application is required.
5. If reconsideration is granted, the time to appeal and any pending appeal to be heard before the Board shall be stayed.
6. The applicant may still exercise applicant's rights to further appeal the Board's decision.
7. If reconsideration is granted and the appeal is withdrawn, the appeal fee shall be refunded in its entirety.

Section 6-3-3: 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 Title. 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 Title and assist the Director in enforcement actions as set forth in Idaho Code and this Title.
- 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) Recorder of Deeds.
- 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 these regulations.
- 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 sold in violation of the provisions of these regulations.
- E. Appropriate actions and proceedings may be taken at law or in equity to prevent any violation of these regulations, 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 above.

Section 6-3-4: Zoning Permits:

- A. No construction or alteration shall commence until the Director has issued a zoning permit. If no structures are involved, no use shall commence until the Director has issued a zoning permit.
- B. No zoning permit shall be issued for any use on a property in violation of this Title or on a property that contains structures or uses in violation of this Title. Any zoning permit secured in violation of State or Federal law shall be invalid.
- C. Any application that requires issuance of a zoning permit as a condition of approval shall be deemed complete with the issuance of the zoning permit. This provision shall apply to prior approved applications with issued zoning permits.
- D. Zoning permits 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 year of the date of issuance of the zoning permit.
- E. The zoning permit 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 permit have been violated, the Director may impose a stop work order on a project until the violation has been remedied.

Section 6-3-5: Enforcement, Violations and Penalties:

In order to maintain property values and to provide a safe and peaceful environment for the people of Elmore County, the following action will be taken for failure to comply with the provisions of the zoning ordinance:

The Elmore County Code Enforcement Officer will have enforcement and investigative responsibility for building permit compliance, zoning and nuisance inspections or complaints, Conditional Use Permit compliance, and other zoning permits and related permitting issued by Elmore County. The Department's Code Enforcement function will ensure a safe living, working and recreational environment for the residents and citizens of Elmore County by creating partnerships with the public to ensure the enforcement of building, zoning subdivision, nuisance, and environmental regulations

Code Enforcement will handle complaints, such as, but not limited to nuisance conditions, inoperable vehicles, animals, trash on lots, high weeds and grass on vacant lots. Code Enforcement will also be responsible for the enforcement of the provisions of the Elmore County Zoning and Development Ordinances, which regulates the use of private property (zoning), signs and other related development issues.

- A. Violation: Whenever a violation of this Title occurs, or is alleged to have occurred, any person may file a written complaint with the Director stating the causes and basis thereof. The Director shall investigate and forward to the Elmore County Prosecuting Attorney the results of such investigation and the complaint. The Director may authorize and/or delegate any or all Director Responsibilities defined in this Section to the Elmore County Code Enforcement Officer.
- B. Criminal Penalty: A violation of this Title shall be a misdemeanor, and subject to penalty as provided in this Title. Each day that such a violation continues shall constitute a separate criminal offense. The landowner, tenant, subdivider, builder, public official or any other person, who commits, participates in, assists in or maintains such violation may be found guilty of such a violation.
- C. Civil Penalties: In addition to the criminal sanctions in subsection B above, whenever a violation of this Title occurs, the Board may institute proceedings in the District Court seeking civil penalties not to exceed one hundred (\$100) dollars per day.
- D. Civil Action By County: Whenever it appears to the Board that any person has engaged or is about to engage in any act or practice violating any provision of this Title, the Board may institute a civil action in the District Court to enforce compliance with this Title.
- E. Civil Action by Private Citizen: Nothing herein shall be construed as preventing any private citizen from pursuing any available civil remedy for the prevention of any activity, which constitutes a violation of this Title.
- F. Public Hearing: In the event that noncompliance with the conditions of approval is found and is continuing after due notice to the applicant, the Director shall have the authority to order a public hearing before the deciding body, in conformance with this Title. At the public hearing, the deciding body shall have the authority to affirm, reverse, modify, in whole or in part, the approval, or make or substitute any additional conditions that in its deliberations it may find warranted. In order to take action except to affirm the approval, the deciding body must find there is a violation of the conditions of approval of an application within the authority of the deciding body and one or more of the following:
 - 1. The violation has cause or will cause detriment to the public health, safety or welfare.

2. The violation has created or will create undue adverse impact on surrounding properties.
3. The violation has caused or will cause the approved use to be served by inadequate public or private facilities.
4. The violation has impeded or will impede the normal development of surrounding property.

Section 6-3-6: Code Enforcement Officer:

General Enforcement Provisions:

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 or license for uses, 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 of the Growth and Development Department 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 of the Growth and Development Department 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 razing of any building or structure. It shall further be the duty of the Director of the Growth and Development Department, 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.

Definitions:

“ ABATE” means to repair, replace, remove, destroy or otherwise remedy the condition in question by such means and in such a manner and to such an extent as the Code Enforcement Staff shall determine is necessary in the interest of the general health, safety and welfare of the community.

Abatement of nuisance by County:

The County may, at its election, abate or cleanup any nuisance or violation of the County Ordinances and nothing contained in this subsection of the Zoning Ordinance shall be construed as limiting, prejudicing or adversely affecting the County’s ability to concurrently or consecutively use any criminal or civil enforcement proceeding the County may deem applicable. Proceeding under this subsection of the Zoning Ordinance will not preclude the County from proceeding under other subsection of any County Ordinance or any other applicable provision of State or Federal Statutes.

Following the determination by the Growth and Development Director or his/her authorized agent(s) and representative(s) that any nuisance is being maintained or violation of the provisions of the Zoning Ordinance is being carried out, notice shall be given to the owner or owner's representative either in person or by certified mail to the last known address shown under the Elmore County tax rolls for the subject property, to abate the nuisance or violation within a time, not exceeding thirty (30) days, to be specified in the notice. If the owner or owner's representative fails to comply with the requirements of the notice within the period specified therein, Code Enforcement Staff may take action including abatement or cleanup.

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 I.C. §§ 31-604, 52-202 and 52-205. Said costs shall attach as a lien upon the subject property if unpaid.

“NUISANCE, PUBLIC” is defined as follows:

The owner or person in control shall maintain all property, premises or rights-of-way in a nuisance free manner.

A. Abandoned, dismantled, wrecked, inoperable, unlicensed, and discarded objects, equipment or appliances such as, but not limited to vehicles, boats, water heaters, refrigerators, furniture which is not designed for outdoor use, household fixtures, machinery, equipment, cans or containers standing or stored on property, sidewalks, alleys and streets; which can be viewed from a public street, walkway, alley or other public property and which items are readily accessible from such places, or which are stored on private property in violation of any other law or ordinance;

B. Discarded putrescibles, garbage, rubbish, refuse or recyclable items which have not been recycled within fifteen (15) days of being deposited on the property which could be determined to constitute a fire or environmental hazard, or to be detrimental to human life, health or safety;

C. Oil, grease, paint, other petroleum products, hazardous materials, volatile chemicals, pesticides, herbicides, fungicides or waste (solid, liquid or gaseous) which could constitute a fire or environmental hazard, or to be detrimental to human life, health or safety;

D. Lumber (excluding lumber for the construction project on the property with a valid building permit), salvage materials, including but not limited to auto parts, scrap metals, tires, other materials stored on premises in excess of thirty (30) days and visible from a public street, walkway, alley or other public property;

E. Receptacles for trash, discarded materials and recyclables which are left in the front yard or on public rights-of-way following the day of the regularly scheduled refuse pick-up for the property;

F. Swimming pool, pond, spa, other body of water, or excavation, which is abandoned, unattended, unsanitary, empty, which is not securely fenced, or which poses a threat to be detrimental to human life, health or safety;

G. Allowing the accumulation of weeds, grasses or other vegetation with an average height over 12 inches, which are liable to be fired.

Code Enforcement cases can begin in a number of different ways; most commonly a complaint is called into the department by a citizen. Complainants may be anonymous or the complainant may leave a name and number so that they can be contacted in the future. Case progression can vary depending upon the nature of the violation or a number of variables. What follows is a general outline of case progression.

1. A complaint is received by the Department of Growth and Development.
2. A site inspection is performed to verify that a violation exists on the property.
3. The property owner, tenant, and/or occupant of the property where there exists a violation of the provisions of this Ordinance is then notified that a violation(s) exists. Such notice shall (1) include a description of the property where the violation exists, and will (2) provide a thirty (30) calendar day opportunity to correct the violation(s). This Notice may be made by personal service or certified mail, return receipt requested. 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, a request for a criminal complaint shall be referred to the Elmore County Prosecuting Attorney's Office. The Code Enforcement Officer may extend the thirty (30) calendar day requirement for good cause, but under no circumstances shall the time period be extended for public health and safety issues for longer than one hundred twenty (120) calendar days.
4. A follow up inspection is performed to verify that the violation(s) has/have been corrected.
5. If compliance cannot be achieved through normal channels, the case is forwarded to the Director to determine if the file should be forwarded to the County Prosecutor for further action.
6. If the Director determines that a public hearing is needed, a hearing is scheduled before the appropriate government body.

7. After hearing testimony from the property owner and Elmore County Code Enforcement, the government body rules on the case and determines whether or not the County has proved a violation(s) exist on the property.
8. If compliance is not achieved within the time given by the governing body, legal action will be taken against the individual in violation. 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. Prosecutable violators shall be responsible for and pay all incurred investigation, prosecution and court costs as determined by the court having jurisdiction over the proceeding. Elmore County reserves the right to pursue such violations through civil and/or criminal remedies.
9. If citizens are willing to correct the violation(s) as prescribed by this Title, the Elmore County Code Enforcement Office will work with citizens to achieve a resolution of the matter.

Section 6-3-7: Approval Conditions:

Regulation of the subdivision of land and the attachment of reasonable conditions to land subdivision is an exercise of valid police power granted to the County by the Idaho Constitution. The developer has the duty of compliance with reasonable conditions laid down by the Board and Commission for design, dedication, improvement and restrictive use of the land so as to conform to the physical and economical development of the County and to the safety and general welfare of the future plot owners in the subdivision and of the community at large.

Section 6-3-8: Waiver:

The Director has the authority to determine, on a case-by-case basis if a partial waiver is warranted in a unique situation. The maximum waiver authority granted to the Director is ten (10%) percent of the Title requirements. The Director can only issue an administrative waiver if the waiver does not negatively affect public health and safety, and does not deviate from the spirit and intent of this Title.

- A. The Director, Hearing Examiner, Planning and Zoning Commission or Board, in a specific situation, may approve a waiver from strict compliance with a Design Standard in this Title if an applicant can demonstrate that the waiver:
 1. Is based on conditions unique to the property in question and not applicable generally to other property, that the property in question demonstrates an extraordinary hardship related to a physical characteristics, surroundings or topographic features; and

2. Is not detrimental to the public health, safety or welfare; and
 3. Is not injurious to the property of others physically or financially; and
 4. Does not in any way nullify any other provision of this Title or the Elmore County zoning map; and
 5. That the granting of a waiver would better serve an alternative proposal where the applicant can demonstrate that the alternative proposal suggested would better serve the intended use or public.
- B. Waivers may also be granted if other Federal, State or local agencies have jurisdiction over the subject matter and they have already issued a waiver that applies to the waiver application before Elmore County.

Section 6-3-9: Zoning Ordinance Amendments:

A. Process:

1. Zoning Ordinance Amendment Initiated by Board: The Board may propose to amend this Title following notice and public hearing procedures in compliance with this Chapter and Title.
2. Zoning Ordinance Amendment Initiated by Property Owner (Including Planned Communities, Planned Unit Developments, and Planned Unit Development Districts): The applicant shall complete a pre-application conference with the Director prior to submittal of an application for a zoning ordinance amendment. An application and fees shall be submitted to the Director on forms provided by the Growth and Development Department.
3. Application; Review: The Board shall apply the standards listed in subsection B of this section and the findings listed in subsection C of this section to review the zoning ordinance amendment.
4. Approval; Reversal of Action: If the Board approves a zoning ordinance map amendment pursuant to a request from a property owner, the Board shall not subsequently reverse its action or otherwise change the zoning classification as set forth in Idaho Code section 67-6511(d).

B. Standards: For zoning ordinance map amendments, the subject property shall meet the minimum dimensional standards of the proposed base zone.

C. Required Findings: Upon recommendation from the Commission, the Board shall make a full investigation and shall, at the public hearing, review the application. In order to

grant a map or text amendment to the zoning ordinance, the Board shall make the following findings:

1. The zoning ordinance amendment complies with the applicable comprehensive plan; and
2. The zoning ordinance amendment complies with the regulations outlined for the proposed base zone, specifically the purpose statement; and
3. The zoning ordinance amendment shall not be materially detrimental to the public health, safety, and welfare; and
4. The zoning ordinance amendment shall not result in an adverse impact upon the delivery of services by any political subdivision providing public services within the planning jurisdiction including, but not limited to, school districts.

Section 6-3-10: Variances:

Applications for floodplain variance shall comply with the regulations of the Floodplain Chapter within this Title and are not subject to the regulations of this variance section within this Title.

A. Process:

1. The applicant shall complete a pre-application conference with the Director prior to submittal of an application for a variance; and
2. An application and fees shall be submitted to the Director on forms provided by the Growth and Development Department; and
3. The Commission and Board shall apply the standard listed in subsection B of this section and the findings listed in subsection C of this section to review the variance.

B. Standard: The variance shall comply with Idaho Code section 67-6516.

C. Required Findings: In order to grant a variance, the Commission and Board shall make the following findings:

1. The variance shall not grant a right or special privilege that is not otherwise allowed in the base zone; and
2. The variance relieves an undue hardship due to characteristics of the site; and
3. The variance shall not be detrimental to the public health, safety, and welfare.

Section 6-3-11: Time Extension:

The Director shall review an application for a time extension. The time extension shall commence from the date of expiration of the previous approval, except in the case of an appeal of a Board approval, when the time extension shall commence from the final resolution of such appeal.

A. Process:

1. An application and fees shall be submitted to the Director on forms provided by the Growth and Development Department.
 - a. The application shall include a written request indicating the need for a time extension.
 - b. The application shall be filed at least thirty (30) calendar days prior to expiration date of the original approval.
2. At the discretion of the Director, other agencies may be notified of the time extension request in order to solicit their comments and recommendations for consideration.
3. The Director shall apply the standards listed in subsection B of this section and the findings listed in subsection C of this section to review the time extension.
4. The Director may impose additional conditions in an approval of a time extension for an approved development (excluding final plats).

B. Standards:

1. The applicant or owner for an approved development (excluding final plats) may apply for a one (1) time extension for a period not to exceed one year.
2. The applicant or owner for an approved final plat may apply for one (1) time extension for each phase of the final plat. The time extension shall be for a period not to exceed one year.

C. Required Findings: In order to grant a time extension, the Director shall make the following findings:

1. The time extension meets the standards listed in subsection B of this section; and
2. The applicant and/or owner have adequately justified the need for a time extension.

Section 6-3-12: Investigation Fees and Work without a Permit:

- A. Investigation: Whenever any work, use or action has been commenced without first obtaining a approval for which approval is required, and/or a permit for which a permit is required by the adopted Building Code Standard and/or the Planning and Zoning Regulations of Elmore County, a special investigation shall be made by the Building Official and/or Planning and Zoning Director before approval, use, or action and/or a permit may be issued or resumed for such work.

- B. Fee: An investigation fee, 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 adopted Building Code Standard or the Planning and Zoning Regulations of Elmore County, whichever applies. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this Title nor from any penalty prescribed by this Title or by law.