

2019-5-3

**EX. B**

**TOWN OF BLUFF ORDINANCE NO. ~~2019-02~~**

**AN ORDINANCE ENACTING A TEMPORARY LAND USE REGULATION PROHIBITING, FOR A PERIOD OF 180 DAYS, THE DEVELOPMENT OF NEW COMMERCIAL USES, INCLUDING HOTELS/MOTELS, RETAIL ESTABLISHMENTS, RESTAURANTS, AND INDUSTRIAL USES, AS WELL AS NEW SUBDIVISIONS PENDING THE ENACTMENT OF TOWN LAND USE ORDINANCES**

The following findings describe the reasons for this ordinance and explain its purpose:

- a. The Town of Bluff (the Town) possesses the authority, pursuant U.C.A. § 10-9a-504, to enact temporary land use regulations governing the construction or alteration of any building and having a duration of not to exceed six (6) months if it finds that there is a compelling countervailing public interest that justifies the regulation.
- b. The Town was incorporated on August 31, 2018. As of this enactment the Town has not finalized a general plan for the community, a subdivision ordinance, or other land uses ordinances.
- c. A Planning and Zoning Commission has been enacted, but no zoning districts have been enacted at this time.
- d. The Planning and Zoning Commission and Town Council are engaged in future land use planning to: i) determine the number and composition of various zoning districts; ii) enact requirements for subdivisions; iii) enact requirements for commercial site plan review; and iv) develop long term comprehensive plans for the community.
- e. The Community currently lacks data with respect to culinary water capacity held by the Bluff Service Area that may be available to serve new development. Further investigation is needed to determine the extent of water resources available in the community.
- f. There is a compelling countervailing public interest to postpone new commercial or industrial development or new subdivisions in Bluff until such time as land use ordinances and policies can be given consideration by the community as a whole and enacted via a public process.

- g. Residential development that does not include platting of a new subdivision, such as the construction of a home on a lawfully existing lot, does not implicate the same concerns as larger scale development, and efforts should be taken to exempt that activity from this ordinance.

Now therefore, the foregoing findings are adopted and the Town of Bluff enacts the following:

1. **Definitions.** The following definitions apply to this ordinance:

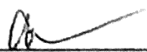
- a. The term “Commercial Development” means the construction of new: hotels, motels, bed and breakfasts, or lodging establishments; restaurants, retail stores, or professional offices; garages, vehicle or equipment storage yards; filling stations or petroleum storage facilities; manufacturing facilities or machine shops; mining facilities; or other facilities or buildings used or incidental to the carrying on of a trade, business, or profession.
- b. The term “Subdivision” means the division of an existing parcel of land into two (2) or more parcels for purposes of future residential or commercial development. The creation of a condominium, as defined by applicable law, constitutes a subdivision.
- c. The term “Residential Construction” means a building constructed for occupancy by people and including a living area, kitchen, bathroom(s), and bedroom(s). The term Residential Construction includes a house intended for occupancy by a single household.
- d. The term “Large-Scale Residential Development” means buildings constructed for occupancy by multiple households, such as duplexes, apartments, townhouses, or similar structures comprising more than one dwelling.
- e. The term “Accessory Structure” means a shed, garage, outbuilding, or similar structure not used for human occupancy or Commercial Development but which is accessory to Residential Construction.

2. **Temporary Regulation and Duration.** The Town hereby enacts a temporary land use regulation prohibiting the development or construction of new Commercial Development, Subdivisions, or Large-Scale Residential Development within the Town limits. This ordinance shall continue until repealed, but in no instance shall the term exceed one hundred eighty (180) calendar days from the effective date, as stated below. No Commercial Development applications, Subdivision applications, or Large-Scale Residential Applications shall be approved by the Town for the duration of this

ordinance. No new Commercial Development, Subdivisions, or Large-Scale Residential Development shall occur within the Town for the duration of this ordinance, except as set forth in Section Three, below.

3. **Exemptions.** The following are exempt from this ordinance: a) persons otherwise subject to this ordinance who have submitted a complete land use application to the Town and paid all applicable fess as of the effective date of this ordinance; and b) existing Commercial Development. Additionally, new single-household Residential Construction or Accessory Structure construction is acceptable, provided that it takes place on a lawfully existing land parcel.
4. **Future Action by Town Leaders.** The Town will engage in further study and preparation of the following: a) the General Plan; b) Subdivision Ordinance; and c) Zoning Ordinance.
5. **Enforcement.** The Town may enforce this ordinance in a civil action to obtain injunctive or declaratory relief. In any such proceeding the City need only prove the existence of an actual or threatened violation of the ordinance to obtain the injunction. Injunctive relief shall be granted without a requirement of the posting of a bond or other security. The Town shall promptly notify the San Juan County Building Department of the adoption of this ordinance, and the Building Department is directed not to issue any building permits within the Town that would violate the terms of this ordinance.
6. **Severability.** If any provision of this ordinance shall be found to be invalid by any court with jurisdiction, the provision shall be severed and the remainder of the ordinance shall be enforced without the severed provision.
7. **Effective Date.** This ordinance shall take effect immediately upon passage by the Town Council, regardless of the date of publication. The Town shall promptly publish same.

Approved and adopted upon the affirmative vote of a majority of the Town of Bluff Council at a properly noticed regular meeting this 5<sup>th</sup> day of March, 2019.

By: 

Mayor Ann Leppanen

3/5/19

Date

Attest:

By: 

Linda Sosa, Recorder

3/5/19

Date

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