

## TOWN OF BLUFF ORDINANCE #2022 - 3 - 5

### **AN ORDINANCE ADOPTING ZONING PROVISIONS, AN OFFICIAL ZONING MAP, NON-CONFORMING USE PROVISIONS, HOME OCCUPATION PROVISIONS, A SITE PLAN PROCESS, SIGN REGULATIONS, AND APPEAL PROVISIONS**

The following describes the intent and purpose of this ordinance:

- a. Utah Code Annotated § 10-9a-501, et seq. allows municipalities to enact land use ordinances and zoning maps.
- b. A draft of this ordinance was reviewed by the Bluff Planning & Zoning Commission on August 19, 2019, at which time a public hearing was held, and the comments of interested persons considered. The Planning & Zoning Commission requested a number of changes following that hearing and recommends approval of this ordinance.
- c. The Town has considered comments and concerns by interested persons, and this ordinance reflects an attempt to address those comments.
- d. This ordinance represents a simplified version of the model ordinance reviewed before the Planning and Zoning Commission. It contains a number of changes which were specifically made to add clarity and bring the draft into compliance with Utah law.
- e. This ordinance furthers and supports the goals of the General Plan adopted by the Town on August 13, 2019.
- f. The Town expected that further amendments and clarifications of Ordinance 2019-5a-9 would occur over time. However, there was a compelling interest in proceeding with adoption of this Title due to the imminent expiration of a land use moratorium enacted by the Town pursuant to U.C.A. § 10-9a-504.
- g. The Town of Bluff passed Ordinance 2019-5a-9 on September 5, 2019 with two subsequent amendments.

h. Since implementation on September 5, 2019, the Bluff Planning & Zoning Commission has identified several areas needing clarification, definition, and updating to the original ordinance 2019-5a-9.

i. The Town has considered comments and concerns by interested persons, and this ordinance reflects an attempt to address those comments.

j. This Town finds that there is good cause for the adoption of this amended ordinance and that it furthers the public health, safety, and welfare.

THEREFORE, the Town of Bluff enacts the following:

## TITLE SIX (6)- ZONING REGULATIONS

### Table of Contents

#### 6.01.010 Definitions.

C. **Acre** means an area of land containing forty-three thousand five hundred sixty (43,560) square feet.

B. **Accessory Building** means a building or structure not used for human habitation having a use that is secondary to the primary residential or business use of a particular land parcel. An accessory building may include a shed, garage, or barn.

C. **Accessory Dwelling Unit** means a dwelling for human habitation that is smaller than, and located adjacent to, another dwelling unit or building. A secondary dwelling unit shall not exceed 800 square feet of finished interior floor area, and shall include, at minimum, a kitchen (including a permanently installed stove, sink, cabinets, counters and refrigerator); a living area; a sleeping area; and a separate bathroom (including toilet, sink, shower {or bathtub}). An accessory dwelling unit shall have an entrance which is separate from the primary residence (or other building) on the lot and have parking sufficient for the occupants. Accessory dwelling units shall not be subdivided or legally split from the subject lot.

D. **Adjacent** means a parcel of land that shares a boundary with the parcel of real property that is the subject of an application under this Title. For purposes of this Title, a parcel is adjacent to another if it is separated only by a public street or easement.

E. **Adversely Affected** means a person or entity who claims an interest in real property which may be negatively affected by any decision under this Title.

F. **Advisory Documents** means planning documents adopted by the Town from time to time, including the General Plan; or similarly adopted guidance documents.

G. **Alley** means a public thoroughfare less than twenty-five (25) feet wide as through a continuous row of houses, permitting access from the street to backyards, garages, etc; a narrow access.

H. **Apartment** means multi-family dwellings held in single ownership, offered for rent or lease, in which units share one or more common walls.

I. **Appeal Authority** means the person or persons designated by ordinance enacted by Town to hear land use appeals under this Title.

J. **Archeological Resources** means any material remains of human life or activities which are at least 200 years of age, and which may provide scientific, cultural, or similar understanding of past human activities or behavior. By way of illustration, and not of limitation, archeological resources may include ancient human remains; ancient human dwellings or other structures; pottery, tools, clothing, art, weapons, or other items used by ancient humans; or the like.

K. **Architect** means a professional architect licensed in the state of Utah who exercises responsible charge over the preparation and submittal of materials required under this Title. Architects shall sign and stamp all submittals required by this Title.

L. **Automotive Repair (Light)** means repair, maintenance, and servicing of motor vehicles that does not involve removal of the head, crankshaft, or pistons of an engine.

M. **Base Flood Elevation (BFE)** means the computed elevation to which floodwater is anticipated to rise during a flooding event having a one percent chance of occurring in any given year. The BFE is typically shown on Flood Insurance Rate Maps and is a regulatory requirement for the elevation and flood-proofing of structures.

N. **Buffer** means a structure or area provided to reduce the conflict between two different land uses. Buffers may consist of fencing, walls, landscaping, roads or land set aside to separate particular uses.

O. **Building Height** means the vertical distance above the average existing grade measured to the highest point of the building. The height of stepped or terraced building shall be the maximum height of any segment of the building.

P. **Building Permit** means documentation of an official approval issued by the local government agency allowing construction or remodeling to proceed on the property. It is intended to ensure that the project will comply with local standards for land use, zoning, and construction.

Q. **Campground** means any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent, overnight camping units, or which is advertised or represented as a camping area.

R. **Common Element or Common Area** means an area of land, including open space, parks, trails, playgrounds, entrance features, or other similar elements which are dedicated to and owned by property owners in common, or by a homeowner association.

S. **Condominium** means a multi-unit development in which individual units are separately owned and each owner receives a recordable deed to the unit, together with an undivided interest in any common elements. A condominium development shall be regarded as a subdivision.

T. **Construction** means the lawful placing of substantial construction materials in permanent position, fastened in a permanent manner.

U. **Development** means, on land, in or under land or water, the placement or erection of any solid material or structure; construction, reconstruction,

demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility, trail, or road; and the division of land.

V. **Driveway** means a paved or unpaved vehicle access provided between a street or road and a parking area or a loading space.

W. **Duplex** means a free-standing dwelling held in single ownership that may be offered for rent or lease, in which two (2) dwelling units share a single common wall and roof.

X. **Engineer** means a professional engineer licensed in the state of Utah who exercises responsible charge over the preparation and submittal of materials required under this chapter. Engineers shall sign and stamp all submittals required by this Title.

Y. **Flashing Sign** means a sign that, by any method of illumination, flashes off and on, winks, changes light intensity, shows motion, creates the illusion of motion, or which shows images or text that appear to move.

Z. **Floodplain** means the area of land that marks the delineation of the one hundred (100) year flood event, as defined by the Federal Emergency Management Agency (FEMA) on its Flood Insurance Rate Map FEMA. In the absence of a FEMA delineation of the floodplain, the Town may require floodplain delineation as to a parcel of real property proposed for development via engineering modeling performed by a suitably qualified engineer or other professional.

AA. **Floor Area** means the total floor area of the portion of a building that is above ground. Floor area is measured from the exterior faces of a building or structure. Floor area does not include any of the following:

- a. Vent shafts and courts;
- b. Roof area;
- c. Roof top mechanical equipment, and associated enclosures;
- d. Roofed porches, open patios, exterior balconies, or other similar areas, unless they are enclosed by walls that are more than 42 inches in height, for 50 percent or more of their perimeter;
- e. Structured parking garages.

BB. **Footprint** means the area of land measured at finished ground level that is enclosed by the external walls of a building, or the floor area in the absence of walls.

CC. **Full Cutoff** means a light fixture in which opaque shielding directs all light downward.

DD. **Group Home** means a facility where persons with medical, cognitive, or behavioral disabilities reside in a group setting with professional care or support.

EE. **Home Occupation** means a business or trade as defined in Section 6.01.050(A) of this Title.

FF. **HVAC** means heating, ventilation, and air-conditioning equipment installed in a building.

GG. **Kennel** means a structure, building, or series of buildings where dogs or cats are bred, trained, or boarded, with indoor housing, an outdoor exercise area(s) and a kennel manager shall be available within the Town at all times when the property is occupied by dogs, cats, or any other animal.

HH. **Land Use Authority** means the entity designated by ordinance to approve or deny a land use application.

II. **Land Use Clearance (LUC)** means clearance granted by the Town of Bluff Planning and Zoning Commission to an individual or entity to develop; perform new construction; move a mobile, manufactured, or pre built home onto a lot; and for any addition or remodel, in accordance with Zoning Ordinances that the proposed land use meets the zoning requirements. The signed LUC is a required part of the building permit application subsequently sent to the approving body. Provisions to be met are outlined in the LUC application form.

JJ. **Level I Application** means a site plan application for the development of six (6) or fewer residential units, or the development or remodeling of not more than five thousand (5,000) square feet of finished commercial space.

KK. **Level II Application** means a site plan application for the development of seven (7) or more residential units or the development or remodeling in excess of five thousand (5,000) square feet of finished commercial space.

LL. **Lot** means an existing parcel proposed for development or a parcel of land occupied by a building or group of buildings, together with such yards, open spaces, lot width and lot area as are required by this Ordinance, having frontage upon a street or upon a right of way.

MM. **Map Amendment** means a legislative change to the geographic dimensions or extent of the Official Zoning Map of the Town of Bluff, or any zoning district designated therein.

NN. **Nonconforming Lot** means a parcel of land which is lawfully of-record and subject to taxation prior to the effective date of this Title as defined in Section 6.01.030.

OO. **Nonconforming Use** means a use of land as defined in Section 6.01.030 of this Title.

PP. **Onsite Wastewater System** means a system, on the property, to address wastewater, like a septic system approved and subject to Utah Administrative Code R. 317-4

QQ. **Ornamental Elements** are ornaments affixed to the roof of a structure that are not to exceed five (5) feet.

RR. **Patio** means a hardened surface outdoor area adjoining a house.

SS. **Porch** means a roofed structure, usually open at the sides, projecting from the face of a building.

TT. **Recreational Vehicle (RV)** means a motor vehicle or trailer mounted on or towed by another vehicle which includes living quarters. Types of RVs include but are not limited to motorhomes, campervans, coaches, caravans, fifth-wheel trailers, popup campers, and truck campers.

UU. **Recreational Vehicle (RV) Park** means any parcel or tract of land under the control of any person, organization or governmental entity wherein two or more designated sites are offered for the use of the public or members of an organization by rent or lease, including park-owned recreational vehicles held out for rent. RV parks are primarily designed to accommodate recreational vehicles and camping.

VV. **Refuse Area** means an area for the location of solid waste disposal containers which is screened from view using a solid wall or fence that is not chain link.

WW **Rehabilitation Center** means a facility where in-patient nursing and/or medical care is provided to persons who have medical, psychological, or psychiatric conditions.

XX. **Remodel** means to undergo a structural change.

YY. **Residential Dwelling** means a non-motorized physical structure for housing people constructed on site or delivered and installed on a permanent foundation and connected to approved utilities.

ZZ. **Setback** means the minimum distance from a specified boundary that a structure or other feature must be located.

AAA. **Sign** means a structure or device conveying information in written or pictorial form.

BBB. **Structural** means relating to or forming part of the structure of a building or other item with different interrelated parts with a fixed location on the ground.

CCC. **Surveyor** means a professional land surveyor licensed in the state of Utah who exercises responsible charge over the preparation and submittal of materials required under this chapter. Surveyors shall sign and stamp all submittals required by this Title.

DDD. **Tavern** means any licensed establishment where alcohol is served to paying customers where the revenue from alcohol sales exceeds the revenue from the sale of food. Food need not be sold in such establishments.

EEE. **Telecommunications Facility** means any tower (whether lattice constructed or monopole) which supports radio telecommunications equipment or antennae. A telecommunications facility includes any incidental structures, such as sheds or equipment housings in which telecommunications equipment may be housed or sheltered from the elements.

FFF. **Text Amendment** means a legislative change to the language of any requirement applicable to a zoning district defined under this Title.

**GGG. Tiny Homes or Tiny House** means a structure which provides provisions for living, sleeping, eating, cooking and sanitation as a dwelling unit with a maximum of 400 sq ft of floor area, excluding lofts. A tiny house may be permanent (affixed) in nature or non-permanent.

**HHH. Title** means Title Six (6) of Town of Bluff Ordinances.

III. **Use Change** means the conversion of an existing residential or commercial structure from one use to another use permitted within the zoning district. Without limitation, examples of a use change include changing a warehouse to a restaurant; converting office space into apartments; changing retail space into professional offices; or the like. Any use change that would require a building permit under applicable building codes shall also constitute a use change under this Title.

**JJJ. Variance** means an authorization by the Planning Commission, acting as the Land Use Authority pursuant to state law, relative to specific parcel of land for a modification of a zone's standard height, bulk, area, width, setback, or separation requirement; as distinguished from a conditional use, the allowing of a use not listed as permitted in a zone, or any other change in zoning requirements.

#### **6.01.020 Adoption of Official Zoning Map; General Provisions.**

A. **Official Map.** The Town hereby adopts the Official Zoning Map, Exhibit 1, attached. The Official Zoning Map describes the geographic extent of all zoning regulations enacted under this Title.

B. **New Development to Comply with this Title.** All new development shall conform to the requirements, procedures, and standards contained in or referenced in this Title. Uses that are not permitted under this Title are prohibited.

C. **Building Permit Required.**

A building permit shall be obtained from the San Juan County Building department in accordance with the Town of Bluff's issuance of a Land Use Clearance permit prior to commencing construction. All construction shall be

performed in compliance with applicable zoning, building, electrical, plumbing, and health codes as passed by either the Town of Bluff or San Juan County.

**A building permit is required for:**

- all new construction of any structure of more than 200 sq ft footprint
- all interior or exterior reconstruction or remodeling
- installation of permanently affixed prefabricated dwellings or habitable buildings
- installation of a foundation
- construction subject to inspections, as contracted with and performed by San Juan County Building Department.

**A building permit is not required as long as all code requirements are met for:**

- the construction or addition of a porch or patio unless it is enclosed by more than 50% or integral to the structural integrity of the building
- installing a fence or permitted sign
- temporary event structures

D. **Review Prior to Building Permit. A Land Use Clearance from the Planning & Zoning Commission is required** prior to issuance of a building permit. The Land Use Clearance process will review the building permit application for compliance with this Title and applicable Town ordinances.

E. **Written Decisions/Effective Date.** Decisions under this Title shall be issued in writing and shall have an effective date as of the date specified in the writing.

F. **Interpretation/Severability.** This Title shall be interpreted in a manner that is consistent with applicable laws of the State of Utah and the United States. In the event any provision should be held to be invalid or unenforceable it shall be severed, and the remainder of this Title shall be enforced as written.

G. **Fees.** The Town may establish reasonable filing fees to cover costs associated with the review of applications under this Title. Filing fees shall be set by resolution adopted by the Town Council.

H. **Administration.** In the absence of the appointment of a zoning code official, routine administrative duties under this Title shall be performed by the Planning & Zoning Commission.

I. **Archeological Resources.** Applications for a Level II Site Plan, as defined in this Title, shall submit an archeological report surveying possible archeological resources that may be located on the subject property. The report shall be prepared by a trained archeologist or person with similar credentials and be based on an actual site survey.

1. No archeological report is required for Level I Site Plans or other development applications under this Title unless, on the basis of evidence specific to the site, it is believed that archeological resources are likely to be encountered.

J. **Human Remains.** If human remains are encountered in the course of any development activities, the owner of the subject property shall notify San Juan County Sheriff, and cease work until such time as the site can come into compliance with applicable laws.

K. **Public Lands Within the Town.** The Town expresses the policy that public lands and state-administered lands within Town limits should be developed in a manner that is consistent with the ordinances and advisory documents of the Town. The Town will engage in dialogue and pursue agreements with public and state agencies to ensure that public and state lands within the Town are developed in a manner that benefits the Town and the public interest.

#### **6.01.030 Nonconforming Uses.**

A. A nonconforming use is defined to mean a use of land that does not conform to current land use regulations that legally existed before the enactment of the applicable regulation(s), which has been continuously maintained.

B. A nonconforming use may continue indefinitely so long as it is not abandoned. The term abandoned means a discontinuance of the nonconforming use for a period of not less than one (1) year. By way of example, and not of limitation, a nonconforming use may be deemed abandoned if a building or

structure is: i) voluntarily demolished by its owner; ii) allowed to deteriorate such that it is rendered uninhabitable; or iii) failure to conduct business for a period of not less than a period of one (1) year constitutes abandonment.

C. A nonconforming use runs with the land and may be transferred to successors in title at to the real property on which the use is located.

D. A nonconforming use shall not be expanded in scope or extent, except that it may be extended throughout an existing building or structure, provided that no structural alteration is made. In the event of any extension of a nonconforming use throughout an existing building or structure, all construction shall be performed in compliance with applicable building, zoning codes, and health codes. The addition of solar energy devices to a building is not a structural alteration.

E. If a nonconforming use is interrupted by fire, flood, or other calamity it may be restored, provided that the restoration is completed no later than one (1) year from the date of the calamity that caused the use to be discontinued. Any restoration of a nonconforming use shall comply with subsection (D).

F. If a nonconforming lot of record is proposed for development it may be developed, provided that the owner can: i) install and maintain an onsite wastewater system in compliance with Utah Administrative Code R.317-4; and ii) comply with other applicable ordinances.

#### **6.01.040 Text Amendments and Map Amendments.**

A. As used in this title, a Text amendment means a legislative change to the requirements or procedures applicable to any particular zoning district. As used in this Title, a Map Amendment means a legislative change to alter, enlarge, or reduce the geographic extent of any zoning district.

B. Any person, including an official or employee of the Town, may request a text amendment or map amendment by filing an application with the Town. A map amendment or text amendment is a legislative action committed to the discretion of the Town Council, as land use authority. The application shall include:

1. The name and contact information of the person(s) requesting the change;
2. The filing fee, if any, set by the Town;
3. A description of the change requested and the rationale for the change; and/or
4. In the case of a map amendment, a plat or map prepared by a surveyor showing the geographic boundaries, parcel lines, and major features of the area to be altered.

The Town may require other or additional submittals as may be deemed necessary to review any particular application.

C. A map amendment or text amendment shall first be reviewed by the Planning & Zoning Commission at a public hearing. The public hearing shall be preceded by public notice, as required by U.C.A. § 10-9a-205. In the case of a map amendment, the applicant shall cause the subject land parcel(s) to be posted with one or more signs, in a form specified by the Town, which shall be posted at prominent location(s) on the property not less than ten (10) days prior to the public hearing. The sign(s) shall notify the public of the pending land use application before the Town and how the public may obtain information as to the application.

D. Following the public hearing the Planning & Zoning Commission shall promptly issue a written recommendation to the Town as to the subject application.

E. The Planning & Zoning Commission, in making a recommendation, and the Town Council, in acting as land use authority, has discretion to consider all relevant facts bearing on the application, including but not limited to: i) consistency of the application with the General Plan, other advisory documents, and ordinances of the Town; ii) the compatibility of the proposed change with other permitted uses and requirements in the subject zoning district(s); iii) the compatibility of the proposed change with real properties adjacent to or in the

vicinity of the area subject to the change; iv) the availability of public services that may be required by subsequent development; and v) the public interest and the best interests of the Town.

F. The Town declares that stable zoning classifications promote consistency of investment and respect for individual property rights. Accordingly, map amendments are to be discouraged. In addition to the foregoing factors, the Town may consider whether a map amendment is necessary because the original zoning for parcel(s) was adopted in error, or whether changes in an area have resulted in the proposed amendment being necessary to allow for appropriate redevelopment to take place.

#### **6.01.050 Requirements and Procedures Applicable to all Zones.**

A. **Home Occupations.** A home occupation is any business or trade carried on entirely within a dwelling or accessory building by persons residing on the property and the business or trade is not the primary use of the property. It is the policy of the Town to permit home occupations in all zoning districts where a dwelling is allowed. The home occupation shall comply with all Town business license and permit requirements. Home occupations must comply with all applicable building, plumbing, electrical, and health codes or laws. Exterior storage of vehicles, equipment, or inventory is not allowed for home occupations unless adequately screened by opaque fences, screening, or the like. Home occupations that generate excessive noise, vibration, glare, smoke, odors, dust, traffic, or which otherwise create a nuisance or unreasonable interference with the use or enjoyment of nearby or adjacent persons or properties may be prohibited by the Town. Short term lodging rentals for a period of thirty (30) days or less shall not be considered a valid home occupation.

B. **Building Height.** The maximum building height in all zoning districts for residential dwellings, where allowed, is twenty-six (26) feet measured from finished grade of the primary structure to the peak of the roof. Chimneys, antennae, ornamental elements, or the like shall not be used in calculating maximum building height. Dwellings shall not exceed two (2) stories above finished grade level. Accessory buildings, where applicable, may not exceed thirty-five (35) feet.

C. **Onsite Wastewater System Requirements.** All development not connected to a lawful public or private sewage treatment system must include an onsite wastewater system installed and maintained in compliance with Utah Administrative Code R.317-4 or other applicable rules. All minimum lot areas specified by this Title are subject to applicable onsite wastewater regulations. Where a larger area is needed for satisfactory performance of an onsite wastewater system, the Town may require that minimum lot areas in any particular zoning district be increased to a size sufficient to accommodate the necessary systems.

D. **Buffers.** Buffers, as defined in 6.01.010 M. shall be required between all commercial developments and residences where the land use is zoned differently. Buffers required under this subsection are not subject to setback requirements and shall be within property boundaries.

E. **Fences.** Fences are not subject to setback requirements and shall be within property boundaries.

F. **Driveways.** Driveways, as defined in V, are not subject to setback requirements and shall not encroach into adjoining lots.

#### 6.01.060 **Agricultural A-1 District.**

A. Allowed uses for the A-1 district include: open space, green space, public parks, public lands, cemeteries, and public restroom facilities.

B. There is no minimum lot size in the A-1 district. There are no minimum lot dimensions. Setbacks are 15 feet from front, rear and side.

C. **Building Height.** The maximum building height shall be fifteen (15) feet measured from finished grade of the primary structure to the peak of the roof. Chimneys, antennae, ornamental elements, or the like shall not be used in calculating maximum building height.

D. Structures shall not exceed 200 square feet.

#### 6.01.070 **Agricultural A-2 District.**

A. Allowed uses in the A-2 district include all uses in the A-1 district, and agriculture, silviculture, ranching, farming, including the raising of domestic animals, kennels, the growing of crops, orchards, or forage, and all necessary or incidental agriculture structures; single-family dwellings; accessory dwelling units; accessory structures.

B. Minimum lot size in the A-2 district shall be three (3) acres. Maximum dwelling density, including accessory dwelling units, shall be two (2) units per three (3) acres.

C. Setbacks in the A-2 district shall be thirty (30) feet from the front right of way, fifteen (15) feet from side property boundary, and fifteen (15) feet from the rear property boundary.

D. **Building Height.** The maximum building height shall be thirty-five (35) feet measured from finished grade of the primary structure to the peak of the roof. Chimneys, antennae, ornamental elements, or the like shall not be used in calculating maximum building height.

**6.01.080 Agricultural A-3 District.**

A. Allowed uses in the A-3 district include those uses specified for the A-2 district, plus campgrounds, RV parks, and recreation facilities.

B. Minimum lot size in the A-3 district shall be one-half (1/2) acre. Maximum dwelling density, including accessory dwelling units, shall be four (4) units per one (1) acre.

C. Setbacks in the A-3 district shall be thirty (30) feet from the front right of way and fifteen (15) feet from the side and rear property boundaries.

D. **Building Height.** The maximum building height shall be thirty-five (35) feet measured from finished grade of the primary structure to the peak of the roof. Chimneys, antennae, ornamental elements, or the like shall not be used in calculating maximum building height.

**6.01.090 Commercial C-1 District.**

A. Allowed uses for the C-1 District include: automotive repair (light); motor vehicle fuel dispensing; retail sales (no outside storage); trading posts; galleries; offices or professional services; day-care facilities libraries; mortuary or funeral homes; public buildings or governmental services buildings (police, fire, emergency medical services, etc.), parks; places of worship; public utility facilities; restaurants; residential dwellings; or accessory dwellings.

B. Setbacks in the C-1 district shall be fifty (50) feet from the front right-of-way and fifteen (15) feet from side and rear property boundaries.

C. Minimum lot size shall be one half (0.5) acre.

D. **Building Height.** The maximum building height shall be thirty-five (35) feet measured from finished grade of the primary structure to the peak of the roof. Chimneys, antennae, ornamental elements, or the like shall not be used in calculating maximum building height.

**6.01.100 Commercial C-2 District.**

A. Allowed uses for the C-2 District include: all uses allowed in the C-1 district; group homes or care facilities; gyms or physical fitness centers; schools or vocational training facilities; museums or public cultural facilities; rehabilitation centers; hospitals; clinics; fraternal, religious, or recreational meeting facilities.

B. Minimum lot size shall be one half (0.5) acre.

C. Setbacks in the C-2 district shall be fifty (50) feet from the front right of way and fifteen (15) feet from side and rear property boundaries.

D. **Building Height.** The maximum building height shall be thirty-five (35) feet measured from finished grade of the primary structure to the peak of the

roof. Chimneys, antennae, ornamental elements, or the like shall not be used in calculating maximum building height.

**6.01.110 Commercial C-3 District.**

A. Allowed uses in the C-3 District include: all uses allowed in the C-1 or C-2 districts; amusement or recreational facilities; golf courses; vehicle or automotive sales; building material supply (wholesale or retail, including outdoor storage); hotels, motels, and lodging establishments; taverns; theaters; kennels or animal shelters; and veterinary offices; recreational vehicle parks.

B. Setbacks in the C-3 district shall be fifty (50) feet from the front right of way and fifteen (15) feet from side and rear property boundaries.

C. Minimum lot size shall be three quarters of an (.75) acre.

D. **Building Height.** The maximum building height shall be thirty-five (35) feet measured from finished grade of the primary structure to the peak of the roof. Chimneys, antennae, ornamental elements, or the like shall not be used in calculating maximum building height.

**6.01.120 Factory-Industrial F-I District.**

A. Allowed uses include major automotive repair (body shops, auto painting, tire shops, repair garages (heavy); machine shops; manufacturing and assembly facilities; casting facilities; welding shops; wholesale sales; storage yards; lumber yards; wood products manufacturing; kennels; commercial food production facilities; recycling facilities; solid waste transfer stations; automobile salvage yards; towing yards; utility facilities; telecommunications facilities; ;; or warehouses (with or without exterior storage).

B. Setbacks in the F-I district shall be fifty (50) feet from the front right of way and fifteen (15) feet from side and rear property boundaries.

C. Minimum lot size shall be one (1) acre.

D. **Building Height.** The maximum building height shall be thirty-five (35) feet measured from finished grade of the primary structure to the peak of the roof. Chimneys, antennae, ornamental elements, or the like shall not be used in calculating maximum building height.

**6.01.130 Residential District.**

A. Allowed uses include single family homes; accessory dwelling units; accessory buildings; duplexes; apartments; condominiums; parks, open space; places of worship; government and public buildings; and home occupations.

B. Setbacks in the Residential district shall be twenty-five (25) feet from the front right of way and fifteen (15) feet from side and rear property boundaries.

C. **Accessory structures.** The maximum accessory building height shall be eighteen (18) feet.

D. **Minimum lot area shall be one half (1/2) acre.** For nonconforming lots, see Section 6.01.030 F.

E. **Building Height.** The maximum building height shall be twenty-six (26) feet measured from finished grade of the primary structure to the peak of the roof. Chimneys, antennae, ornamental elements, or the like shall not be used in calculating maximum building height. Dwellings shall not exceed two (2) stories above finished grade level.

**6.01.140 Signs.** Signs are subject to review and approval by the Planning & Zoning Commission, either individually through the issuance of a sign permit, or in conjunction with other development review, except for subsections A and B.

A. The following signs are exempt from a sign permit as long they meets the requirements below:

a. Non-electric signs 15 square feet or less are exempt from a sign permit in residential zones

- b. Non-electric signs 40 square feet or less are exempt from a sign permit in all other zones
- c. Electric light, or neon signs that comply with the outdoor lighting ordinance that are 4 square feet or less.
- d. Realtor signs
- e. Temporary event signs, not to exceed 20 calendar days
- f. Political signs which are to be removed within 10 days of the certification of the election

B. The following signs are prohibited:

1. Signs that interfere with public traffic safety signs, traffic signals, or which otherwise obstruct a driver's view of approaching or merging traffic.
2. Signs that encroach upon or overhang any public right-of-way, or which are attached or affixed to any utility pole, lighting pole, tree, rock, or natural feature.
3. Signs that blink, flash, have moving text or images, or which have electronically modifiable text or images—including video, electronically variable messaging, mechanically or electronically activated lighting, or the like.
4. Balloons, streamers, pinwheels, moving or rotating signs, moving figures, or inflatable figures, except those erected temporarily for a special event, promotion, grand opening, or community activity for a period of not to exceed twenty (20) calendar days in any calendar year.
5. Portable signs affixed to a vehicle, trailer, or similar conveyance except as allowed for temporary signs
6. Signs that exceed the dimensional or other requirements of this Section.
7. Signs that are located on a parcel of land that is different from the land parcel upon which the business or other activity is situated (off-premises signs).

8. Box signs with interior illumination having a white background.
9. Signs that are broken, damaged, unmaintained, or which present a nuisance or safety hazard to persons or property.
10. Signs that are illuminated by floodlighting are prohibited.

C. Nonconforming signs in existence at the date of the initial approval of this document are allowed.

D. Maximum signage area for any enterprise in a commercial or industrial zoning district shall not exceed one hundred twenty (120) square feet, with no individual sign exceeding forty (40) square feet in size. In the residential zone maximum signage area shall not exceed fifteen (15) square feet.

E. Real estate sales/leasing signs shall be limited to one sign per lot not greater than six (6) feet high, nor more than twelve (12) square feet in area. Real estate signs shall be removed no later than ten (10) days from the completion of the last sale or leasing event.

F. Political signs advocating for a political candidate, cause, or election matter shall be not greater than six (6) feet high, nor more than eight (8) square feet in area. Political signs shall be removed no later than ten (10) days from the date of the election to which they apply.

G. Development construction signs shall be no greater than eighteen (18) feet in height, nor more than forty (40) square feet in area. Signs are limited to one (1) sign per entrance to the development, and shall be erected no sooner than the date upon which land use entitlements are issued for the subject property, and must be removed no later than ten (10) days from the date of the completion of the last sale or leasing of the subject property.

H. Sign plans shall be submitted for review and approval in conjunction with all new development. Submittal materials shall clearly depict: i) sign

locations; materials and dimensions; type of illumination; sign designs; quantity; height; and all other relevant features.

I. A sign permit shall be issued in writing, executed by the Town and the owner, and constitutes the agreement by the owner that the sign will be removed if the use or business applicable to the sign is abandoned or ceases for a period in excess of one (1) calendar year, unless otherwise provided in this Section. The sign owner or property owner shall promptly repair or replace any sign that is damaged, defective, or which presents a nuisance or safety hazard to persons or property.

**6.50.010 Site Plan Review.** Site plan review is required to assure that new development and redevelopment of existing structures is compliant with Town ordinances, advisory policies, and building codes. Unless exempted, an approved site plan issued under this Title is required prior to the issuance of a building permit.

**6.50.020 Review Required; Exemptions.**

A. Site plan review is required for the following:

1. All new development unless exempted by this section;
2. Remodeling of existing commercial development involving an addition of two thousand (2,000) square feet or more to the finished square footage of an existing structure; or
3. A use change as defined by this chapter involving an addition of two thousand (2,000) square feet or more to the finished square footage of an existing structure.

B. Site plan review is not required for the development of the following, as defined in this title: a single family dwelling; a duplex; an accessory dwelling unit; subdivisions, or remodeling or additions to existing structures comprising less than two thousand (2,000) square feet of new construction.

**6.50.030 Submittal Requirements.**

A. An application for site plan approval must be submitted to the Town on the approved site plan application form, together with the required review fee. The

application must be signed by the record property owner or, if the applicant is not the owner, the applicant must deliver proof of approval signed by the owner. Components of the application submittal may contain multiple plan sets or reports; provided, that they are clear, legible, and successfully demonstrate the purposes required under this chapter. Unless waived by the planning and zoning chair, the application must include four copies of all design drawings. The application must include the following:

1. *Preliminary Site Plan.* Applicants shall submit a preliminary site plan (with requirements as listed below), drawn by an engineer, surveyor, or architect, to a scale of not less than one inch equals fifty feet (on paper no larger than twenty-four inches by thirty-six inches), and one copy reduced to eleven inches by seventeen inches that shall include:
  - a. *Parcel Boundary Lines.* Include all easements, setbacks and construction limits of the project site;
  - b. *Drives, Streets, and Rights-of-Way.* Include widths of pavement, curb and gutter, and dimensions of rights-of-way;
  - c. *Parking and Loading.* The parking plan must include a count of spaces and details of handicap parking spaces as well as indicating the location and types of exterior lighting proposed for security lighting of the area;
  - d. *Access.* Include all points of ingress, egress. For developments adjacent to and accessed by a state or federal highway, a completed highway access permit application from the Utah Department of Transportation (UDOT) must be submitted with the application, with a permit issued prior to building permit approval;
  - e. *Refuse Areas.* Drawings of the refuse enclosures must be included;
  - f. *Common Open Space.* All open space, common areas, parks, sidewalks, and trails (with required connectivity) must be clearly depicted;

- g. *Topography.* All site conditions including terrain contours, drainage areas, and other physical features on or within one hundred feet of the site must be shown; existing and finished grades must be clearly shown in different shades or contour depictions; all elevations shall be shown in the most current North American Vertical Datum (NAVD). Level I applications may contain this topographic survey on the site plan. Level II applications must show a separate topographic survey;
  - h. *Use Types.* Specific areas proposed for specific types of land use shall be shown, and must include the acreage or square footage for each area;
  - i. *Public Dedications.* Areas proposed for public dedication (i.e., utility easements, trails, open space, or the like) shall be depicted;
  - j. *Lots or Plots.* The dimensions and areas for each lot or plot must be shown;
  - k. *Adjacent Zoning.* Zoning for adjacent properties within three hundred feet of the subject property shall be shown;
  - l. *Fire Hydrants.* The locations of all fire hydrants;
  - m. *Title Block.* A title block shall appear in the lower right hand corner of all pages of plans and plats and shall contain the name of the development; legal location of the property; name and contact information of the site designer/engineer/surveyor; the name of the development; and the drawing scale and north point;
  - n. A regional or vicinity map shall accompany the submitted application to indicate the location of the project; and
  - o. The legal description of the property.
2. *Floor Plan and Elevations.* A floor plan, at a minimum, shall consist of a drawing to scale showing a view from above, of the relationships between rooms, spaces and other physical features at each floor level of a structure. All dimensions shall be drawn between the walls

to specify room sizes and wall lengths. The floor plan shall show the physical layout of:

- a. Interior walls and hallways;
- b. Restrooms;
- c. Windows, doors, landings, decks, and patios;
- d. Plumbing features such as sinks, showers, bathtubs, HVAC elements, etc.;
- e. Interior features such as fireplaces, saunas, hot tubs, and whirlpools;
- f. Locations of electrical panels and service connections;
- g. The planned uses of all buildings and rooms;
- h. All finished first floor elevations;
- i. Elevation view drawings shall show all side elevations of existing and proposed structures, and shall depict exterior architectural elements and materials, as well as heights of the structure.

B. *Narrative.* The narrative shall describe in reasonable detail the purpose of the proposed development, the types of all land uses that are anticipated, the phasing of development, and information regarding all accessory uses, structures, or major features. Statistical information as to the project area, developed area square footage, number of parking spaces, and the like shall be included.

C. *Conceptual Sign Plan.* If signage is anticipated, applicants shall submit a plan showing the location, dimensions, materials, and type of illumination for all signs. All signage shall comply with this Title.

D. *Lighting Plan.* The lighting plan shall show number and types of fixtures for walkways, building exterior lighting, and parking areas. An acceptable lighting plan shall consist of full cutoff, fully shielded, downward directed lighting types. The plan shall include manufacturer's information detailing the

fixtures to be used. Wall mounted flood lights that direct outward toward other properties and roadways are prohibited.

E. *Landscape Plan.* The landscape plan shall include location of landscaping features, maintenance, and proposed erosion control.

F. *Wetlands, Riparian Areas, and Floodways.* If the development is adjacent to riparian areas, floodplains, probable wetlands, or areas where stream channels may be altered by planned development, a wetlands, riparian areas, and floodway plan drawn by an engineer, surveyor, or other appropriate consultant must be submitted. Flood zone boundaries and the base flood elevation must be shown. Where the application includes areas which may be subject to flooding the applicant shall show that the elevation of the lowest floor of all structures exceeds the elevation which is above the base flood elevation. All elevations on the plan shall be shown in the most current North American Vertical Datum (NAVD).

G. *Drainage Plan.* A storm water drainage plan, signed and stamped by an engineer, shall be submitted and show calculations and other information specified below:

1. The project site, including areas three hundred feet beyond its boundaries;
2. Existing contours at two-foot intervals shown as dashed lines;
3. Proposed contours at two-foot intervals shown as solid lines;
4. Indication of a permanent benchmark referenced to mean sea level;
5. Drainage system shown in plan view with estimated cubic-feet-per-second flow for a one-hundred-year storm event;
6. Locations of all natural drainage channels and water bodies;
7. Existing and proposed drainage easements;
8. Type, size, and location of existing and proposed drainage structures such as pipes, culverts, inlets, ditches, swales, retention ponds, detention areas, etc.;
9. One-hundred-year event (base) flood areas;

10. Additional grading and drainage elements may be required to be depicted to satisfy Federal Emergency Management Administration (FEMA) floodplain requirements; and

11. Erosion control plans showing adequate sedimentation control which shall be accomplished throughout construction phases as well as during the ongoing use of the site (e.g., sedimentation ponds, dikes, seeding, retaining walls, rip-rap, etc.).

H. *Minimum Standards.* All structures for drainage and flood control shall be designed, at a minimum, to successfully convey the anticipated one-hundred-year frequency storm event for maximum period of intensity over the entire drainage basin. The applicant shall submit calculations to show that all structures have adequate capacity to accommodate flows expected to result from the designated storm event.

I. *Water and Sewer System Protection.* All storm water facilities shall be designed to avoid or minimize damage to, or infiltration of, culinary water and sanitary sewer facilities, if applicable.

J. *Planned Grading.* A grading plan for surface drainage (shown by contours and spot elevations) shall be prepared by an engineer or surveyor. It shall show the planned grading and paving of driveways, access roads, and parking areas. Grading and paving shall be shown on plans, profiles, cross sections, and details as necessary to describe new construction. Details of curbs, gutters, sidewalks, drainage structures, and conveyance systems, dimensions of all improvements, size, location, thickness, materials, strengths, and necessary reinforcement can be shown on the site plan in the case of a Level I application, or on a separate drawing based on the complexity of the project.

K. *Utility Plan.* A utility plan shall be prepared by an engineer. It shall show the locations, dimensions, and elevations of all sewer facilities and culinary water facilities needed to serve the site. The utility plan shall specify in reasonable detail the types of equipment and materials to be used and shall comply with all applicable advisory documents or sound engineering requirements. Plans showing the locations of natural gas, electric, and telephone/data lines must also be shown.

L. *Evidence of Title.* A current title insurance commitment, ownership and encumbrance report, or abstract of title prepared by a title insurance company or

attorney showing all ownership interests, easements, and encumbrances which apply to the parcel(s) comprising the application must be submitted. If requested, the applicant shall provide copies of all recorded documents which may affect the property subject to the application. If common elements or private use restrictions are anticipated, the applicant must submit draft covenants, conditions, and restrictions (CC&Rs) for review.

M. *Surface and Subsurface Soils Report.* The application shall include a surface and subsurface soils report establishing soil suitability for the proposed development. The report shall be prepared by a geotechnical engineer or other professional. At a minimum, the report shall include:

1. A description of soil types;
2. Locations and characteristics with supporting soil maps;
3. Soil logs of test pits and bore holes;
4. All other information necessary to determine soil suitability for the scope of the development and constraints on development based on the findings;
5. Analysis and evaluation of such information with recommendations regarding structural constraints, erosion control, and requirements for building design.

N. *Traffic Study.* A traffic study and parking and circulation study are required for projects which will generate in excess of five hundred peak daily trips. The study shall be prepared by an engineer. The following table shall be used to determine if a traffic study is required:

<b>Traffic Impact Table</b>	
<b>Land Use</b>	500 Daily Trips
Residential: Single-family	50 units

Apartments	85 units
Condos/Townhouses	85 units
Mobile Home Park	100 units
Shopping Center	1,800 sq. ft.
Fast Food Restaurant (GFA)	800 sq. ft.
Convenience Store w/Gas (GFA)	870 sq. ft. or 5 pumps
Bank w/Drive-In	1,870 sq. ft.
Hotel/Motel	60 rooms
General Office	30,000 sq. ft.
Medical/Dental Office	17,400 sq. ft.
Research and Development	47,000 sq. ft or 2.75 acres
Light Industrial	77,000 sq. ft. or 7.75 acres
Manufacturing	130,000 sq. ft.

O. The Town has discretion to require a traffic study for applications which do not generate the level of trips specified above where:

1. High traffic volumes on surrounding streets may affect movement to and from the proposed development;
2. There is a lack of existing left turn lanes on streets adjacent to the proposed access drive;
3. There are inadequate sight distances at access points;
4. Proposed access points are close to other existing drives or intersections; or
5. The proposed development includes a drive-through pick-up window.

P. *Street Design Drawings.* The application shall include drawings by an engineer showing the design, grades, widths, and profiles of all streets, sidewalks, curbs, gutters, traffic control devices, traffic signs, and associated public improvements. All street designs shall conform to street classifications and design standards adopted by the Town, if any.

Q. *Additional Submittals--Waiver of Certain Submittals.* The Town has discretion to require other or additional submittals where necessary for the review of a particular application, or as required for Level II development. Alternatively, the Town has discretion to waive or modify any requirement for a particular submittal if it is determined that the document or report is not necessary, or if an alternate submittal is justified for the review of a particular application. Any waiver shall be in a writing labeled as a submittal waiver, shall identify the project by name and application number, and shall be signed and dated by the planning and zoning chair.

R. *Conformity with Submittal Standards.* All submittals must conform to the land use submittal standards adopted by the Town, if applicable. Submittals which do not clearly or accurately depict elements required for review of the project may be rejected, or the Town may require revisions during the review process.

#### **6.50.040 Review Process.**

A. *Review for Completeness.* All applications shall be promptly reviewed for completeness and accuracy by the Town. If an application is found to be incomplete or deficient the Town will notify the applicant in writing as to the

deficiencies and allow the applicant to submit additional or supplemental materials as needed. Incomplete or deficient applications will not be scheduled for further review.

B. *Level I Applications.* Level I applications shall be reviewed by the Planning & Zoning Commission, which shall be the land use authority. The Planning & Zoning Commission may approve, approve subject to conditions, or deny a Level I application.

C. *Level II Applications.* Level II applications shall first be reviewed by the Planning & Zoning Commission which shall issue written recommendations for the project. The land use authority for Level II applications shall be the Town Council, which may approve, approve subject to conditions, or deny the application.

1. Level II applications are not subject to a public hearing; however, the applicant shall deliver notice of the pending application, in a form approved by the Town, to adjacent property owners, who shall be permitted to submit written comments or testimony as to the compliance of the application with applicable approval criteria and ordinances. Any written comments or testimony from adjacent property owners or interested persons may be considered by the Town Council in reaching its decision. The Town Council shall consider the application at a public meeting without further public testimony. Within a reasonable period of time following the conclusion of the meeting, the Town Council, as land use authority, shall issue a written decision, which may approve, approve subject to conditions, or deny the application.

D. *When a Site Plan Is Deemed Granted.* For purposes of this chapter, a site plan approved by the applicable land use authority subject to conditions is not deemed granted until the Town determines in writing that all pre-construction conditions of approval have been satisfied, all applicable fees are paid, and all ancillary documents (dedications, development improvements agreement, or the like) are executed and delivered to the Town. Satisfaction of all such conditions must occur before a building permit will be issued. For purposes of this subsection, pre-construction conditions mean those conditions pertaining to design of the development, permitting by other agencies, corrective submittals, or the like.

E. *Concurrent Review.* To the extent possible, where an application under this chapter requires other approvals, the Town shall attempt to consolidate all such approvals in one proceeding to provide for efficient and timely review. However, nothing in this chapter shall be deemed to repeal or abrogate review procedures or criteria in other ordinances.

F. *Certificate of Occupancy.* A certificate of occupancy will be issued, provided that all fees have been paid and construction is completed in conformity with the approved site plan, conditions of approval, the building permit, applicable ordinances, and building codes.

#### **6.50.050 Approval Criteria.**

A. The following criteria govern site plan approval:

1. Compliance with applicable ordinances and building codes;
2. Availability of necessary utilities, including culinary water, sewer (or septic systems), electricity, natural gas, and the like;
3. Consistency of the design with advisory documents; and
4. Accuracy and truthfulness of submittals or representations in the application.

B. *Discretion to Grant Conditional Approval.* The applicable land use authority has discretion to impose conditions during the review process that address: i) deficiencies in the application; ii) performance of the design in providing efficient access, vehicle circulation, connectivity, pedestrian/non-motorized vehicle access; iii) buffering of off-site impacts; iv) storm water management and flood damage prevention; v) landscaping and architectural design; vi) utility design issues; and/or vii) other ordinances or advisory documents.

C. *Statement of Reasons in the Event of Denial.* Where an application is denied, the land use authority shall provide a statement of reasons explaining the basis for its denial.

D. *Code Violations.* The Town may properly decline to review or approve any application where the property that is the location of the application has

outstanding ordinance or building code violations. Where such violations exist, the Town may decline further review of the application until such time as all violations are abated and applicable fines, fees, or taxes applicable to the property are paid.

**6.50.060 Improvements Agreement, Dedications, and Warranties.**

A. *Development Improvements Agreement.* The Town may require the applicant to deliver a development improvements agreement (DIA), which will specify in detail: the site-specific development plan for the property; the public improvements to be constructed to serve the development; an engineer's estimates for the cost of required improvements; deadlines for construction and the phasing of development; provisions for a financial assurance and warranty deposit to secure completion of public improvements; required property dedications; and such other terms as may be specifically required for the development. The amount of the financial assurance and warranty deposit shall be equal to one hundred forty percent (140%) and ten percent (10%), respectively, of the approved construction costs, as verified by the Town or its engineer designee. At the election of the Town, the DIA may be recorded in the San Juan County land records and constitutes an encumbrance on the subject real property for the duration of the life of the development authorized under this chapter. The form of any financial assurance shall be as authorized by the Town Attorney.

B. *Dedications.* The Town may require an applicant to dedicate an interest in land to the Town, in fee simple or an easement, where it is necessary for the siting of public infrastructure, such as public streets, sidewalks, pedestrian paths, or underground utilities made necessary by a particular site plan application. Additionally, dedications may be required incident to site plan approval to conform to advisory documents. Property dedications will be confirmed by a separate deed or easement, in a form acceptable to the parties, which shall be executed by the property owner and recorded. All applicants are encouraged to consider access dedications and connectivity with adjacent parcels during the design process.

C. *Public Improvements Warranted and Delivered Free of Liens.* All public improvements installed and dedicated to the Town (e.g., culinary water lines, sewer lines [if applicable], curbing, gutters, roads, hydrants, street lights, and the like) shall be delivered free of liens and encumbrances, and shall be warranted by

the applicant to be free of defects in design, materials, and workmanship for a period of one (1) year from the date of acceptance.

D. *Release of DIA.* If the Town determines that the DIA serves no further purpose, as in the case of abandonment or termination of the development contemplated by the site plan approval, then the DIA may be released via a writing duly executed by the Town and recorded in the land records.

#### **6.50.070 Amendment Procedures; Lapse of Site Plan.**

A. *Binding on Successors.* An approved site plan shall be binding upon the applicant and any of its successors in title. Amendments which change the character, building design, density, or any other requirements or conditions contained in the site plan shall not be permitted without prior review and approval as set forth in this section.

B. *Minor Changes.* A minor change in the location or placement of buildings or specific improvements may be authorized by the Planning & Zoning Commission where unforeseen circumstances, such as site constraints, engineering problems, or the like require a change.

C. *Major Changes.* Major changes, such as alterations in the size, configuration, or change of use as defined in this chapter; significant realignments or changes to access, utilities, or storm water facilities; other changes which increase the density, scope, or intensity of occupancy; significant changes to project phasing; or other changes which significantly affect the overall design or intent of the project shall be treated as a major change, and shall be referred for review to the Town Council.

D. *Review of Amendments.* A land use authority reviewing an amendment application may approve, approve with conditions, or deny the application.

E. *Lapse of Plan--Extension.* If, within twelve (12) months from the date of approval of a site plan, the applicant fails to satisfy approval conditions or diligently proceed with construction, then the Town may declare a lapse of plan by delivering written notice to the applicant. A lapse of plan shall result in all prior approvals under this chapter being void and of no further effect. An extension of any site plan approval may be granted by the applicable land use authority upon a showing by the applicant of good cause, and provided that an

extension is sought in writing within twelve months of the date of approval. Nothing in this section shall be deemed to alter or impair a phasing plan or construction schedule approved in a valid DIA.

#### **6.80.010 Enforcement.**

- A. It is unlawful for any person to construct, alter, reconstruct, or maintain any building or structure, or engage in any use of land that is prohibited by the provisions of this Title.
- B. In the event of any violation of this Title the Town may:
1. Withhold building permits or certificates of occupancy;
  2. Obtain an injunction to halt or abate zoning violations or violations of this this Title;
  3. Impose a civil penalty of five hundred dollars (\$500) per violation;
  4. Commence an action for damages—including damages for costs incurred in completing, repairing, or abating violations; and/or
  5. Any other remedies available at law or equity, including the remedy of specific performance. The Town may combine remedies in its discretion and pursue some or all at different times, as may fit the circumstances.
- C. Prior to invoking any remedies, the Town shall provide written notice to the property owner identifying the breach or violation(s) and allowing that person a reasonable period of time, but not less than thirty (30) days and no more than one hundred twenty (120) days, in which to cure or abate the violation(s).
- D. To obtain injunctive relief the Town need only prove a violation of this Title; it shall not be required to post a bond as a condition for obtaining injunctive relief.

#### **6.050.090 Appeals; Hearing Officer.**

- A. **Hearing Officer.** A non-final decision of the Planning & Zoning Commission interpreting or applying the zoning or planning ordinances of the Town may be appealed to a hearing officer designated by the Town. Hearing

officer appeals shall be conducted informally based on the record or other information presented to the Town.

B. **Judicial Appeals.** Any person adversely affected by a final decision under this Title may file an appeal of that decision with the San Juan County District Court.

C. **Review of the Record.** Judicial Appeals shall be a review of the record that was submitted to the applicable land use authority. Upon the filing of an appeal the Town shall assemble the record of proceeding and forward same to the court, as applicable, and the parties. If the record is particularly voluminous, the Town may require the appellant to pay in advance the reasonable costs of assembly and copying of the record.

D. **Standard of Review.** In any judicial appeal the matter shall be reviewed based on the record before the applicable decision maker. The decision shall be affirmed unless it is found to be arbitrary, capricious, or illegal. The appealing party has the burden of proof. To preserve an issue for judicial review, the appealing party must first have exhausted its administrative remedies by presenting any claimed point of error to the attention of the decision maker prior to seeking appellate review.

1. If any provision of this Title shall be found to be unlawful or invalid, it shall be stricken or reformed to comply with applicable law, and the remainder of this Title shall be enforced regardless of any such provision.

E. **Time for Judicial Review.** A judicial action seeking review of a decision of the land use authority must be commenced no later than thirty (30) days from the date of the final written decision or order. Untimely appeals are subject to dismissal with prejudice.

THIS ORDINANCE was approved by the affirmative vote of a majority of the Town Council of the Town of Bluff this 3rd day of May, 2022. This ordinance shall take effect immediately upon passage.

By: \_\_\_\_\_  
Mayor Ann K. Leppanen

\_\_\_\_\_  
Date

Attest

By: \_\_\_\_\_  
Linda Sosa, Recorder

\_\_\_\_\_  
Date

**Attachment 1—Town of Bluff Official Zoning Map**

-End of Document-

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This Ordinance was reviewed after a public hearing on February 16, 2022 and unanimously approved as amended on May 3, 2022

By: Ann K. Leppanen, Mayor

Luanne Hook, Councilmember

Brant Murray, Councilmember

Jim Sayers, Councilmember

Linda Sosa, Councilmember