

OPHIR ZONING
ORDINANCE NO. 1

AN ORDINANCE TO REGULATE AND RESTRICT THE HEIGHT, NUMBER OF STORIES, AND SIZE OF BUILDINGS AND OTHER STRUCTURES; THE PERCENTAGE OF LOT THAT MAY BE OCCUPIED; THE SIZE OF YARDS, COURTS AND OTHER OPEN SPACES; THE DENSITY OF POPULATION; AND THE LOCATION AND USE OF BUILDINGS, STRUCTURES, AND LAND FOR TRADE INDUSTRY, RESIDENCE, OR OTHER PURPOSES IN OPHIR, COLORADO; TO REGULATE AND REDISTRIBUTE THE ERECTION, CONSTRUCTION, RECONSTRUCTION, ALTERATION, REPAIR, OR USE OF BUILDINGS, STRUCTURES, OR LAND IN THE AFOREMENTIONED AREA; TO DIVIDE THE SAID AREA INTO ZONING DISTRICTS AND PROVIDE FOR THE BOUNDARIES OF SAID DISTRICTS AND THE MANNER IN WHICH SAID DISTRICTS SHALL BE DETERMINED, ESTABLISHED, AND ENFORCED, AND FROM TIME TO TIME AMENDED, SUPPLEMENTED, OR CHANGED; BY PROVIDING FOR ZONING CERTIFICATES AND APPLICATIONS; BY MAKING CERTAIN EXCEPTIONS; BY CREATING THE OFFICE OF ZONING INSPECTOR AND BOARD OF ADJUSTMENT; BY PROVIDING FOR THE ENFORCEMENT OF AND THE PENALTIES FOR THE VIOLATION OF ANY OF ITS PROVISIONS; FOR THE PURPOSE OF PROMOTING HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY.

NOW THEREFORE, be it ordained by the TOWN BOARD OF the Town of T OPHIR, Colorado:

ARTICLE I
PRELIMINARY PROVISIONS

SECTION 101. TITLE

This ordinance shall be known as the Zoning Ordinance of Ophir, Colorado.

SECTION 102. CONTENT

This ordinance includes a map designated as the official Zoning Map of Ophir, Colorado. This Zoning Map and all notations, references, and other information shown on it are part of this ordinance and have the same effect as if fully set forth in this ordinance.

SECTION 103. FILING

This ordinance, together with the Zoning Map which is part of it, is on file in the Office of the County Recorder and a certified copy is on file with the Town Clerk.

SECTION 104. LEGISLATIVE INTENT

The Board of Trustees of The Town of Ophir has received the report of the zoning commission heretofore appointed which final report includes a comprehensive plan and proposed form of zoning ordinance and it is therefore declared by the Board of Trustees that it is necessary to the public health, welfare and safety, to adopt the within Zoning Ordinance as it provides the Town of Ophir with a comprehensive plan and furnishes a design to lessen congestion in the streets; to promote health and general welfare; to provide adequate light and air; to prevent the overcrowding of

population; and this ordinance accomplishes these objectives taking into consideration in particular, the character of the existing uses of lands and improvements within the Town of Ophir and reasonable conserve the value of the buildings now in existence and encourages the most appropriate use of land throughout the town.

ARTICLE II DEFINITIONS

SECTION 201. DEFINITIONS

For the purpose of this ordinance, the following words and phrases shall have the following meaning:

201.1 Accessory Building: A detached subordinate building, the use of which is customarily incidental to that of the main building or to the main use of the land and which is located on the same lot or parcel with the main building or use. Accessory buildings shall not be provided with kitchen facilities sufficient to render them suitable for permanent residential occupancy.

201.2 Alley: A public way permanently reserved as a secondary means of access to abutting property.

201.3 Building: Any permanent structure built for the shelter or enclosure of persons, animals, chattels or property of any kind, and not including fences.

201.4 Building, Height of: The vertical distance from the average elevation of the ground around the structure to the highest point of coping of a flat roof, or to the deck line of a mansard roof, or to the meanheight level between eaves and ridge for gable, hip or gambrel roofs.

201.5 Commission: The Planning Commission of Ophir, Colorado.

201.6 Condominium: A building, or buildings, consisting of separate fee simple estates to individual units of a multi-unit property together with an undivided fee simple interest in common elements.

201.7 Dwelling: A permanent building or portion thereof: which is used as the private residence or sleeping place of one or more human beings, but not including hotels, motels, tourist courts, resort cabins, clubs, or hospitals: and not including temporary structures such as tents, railroad cars, trailers, street cars, metal prefabricated sections, or similar units.

201.8 Dwelling, One-Family: A detached building containing only one dwelling unit.

201.9 Dwelling, Two-Family: A detached building containing only two dwelling units.

201.10 Family: Any individual, or two (2) or more persons related by blood or marriage or between whom there is a legally recognized relationship, or a group of not more than five (5) unrelated persons, excluding servants, occupying the same dwelling unit.

201.11 Floor Area: The sum of the gross horizontal areas of all floors of a building measured from the exterior faces of the exterior walls or from the center line of walls separating buildings, but not including cellar or basement space not used for retailing.

201.12 Garage, Private: A building used only for the housing of motor vehicles, without their equipment for operation, repair, hire or sale.

201.13 Home Occupation: Any business conducted principally within a dwelling unit, an enclosed garage or accessory building and carried on by the inhabitants, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof.

201.14 Lot: A parcel of real property as shown with a separate and distinct number or letter on a plat recorded in the San Miguel County Court House, or when not so platted, in a recorded subdivision; a parcel of real property abutting upon at least one public street and held under separate ownership.

201.15 Lot Line, Front: The property line dividing a lot from the street.

201.16 Lot Line, Rear: The line opposite the front lot line.

201.17 Lot Area: The total horizontal area within the lot lines of a lot.

201.18 Lot of Record: A lot or parcel of land, the deed to which has been recorded in the office of the County Recorder prior to the adoption of this ordinance.

201.19 Mobile Home: Any vehicle or similar portable structure originally constructed to have no foundation other than wheels, jacks or post and so designed or constructed to permit occupancy as living or sleeping quarters.

201.20 Non-Conforming Buildings: A building or structure or portion thereof conflicting with the provisions of this ordinance applicable to the zone in which it is situated.

201.21 Non-Conforming Use: The use of a structure or premises or any portion thereof conflicting with the provisions of this ordinance.

201.22 Natural Materials: Stone, wood, or stained wood.

201.23 Occupied: The word "occupied" includes arranged, designed, built, altered, converted, rented or leased, or intended to be occupied.

201.24 Open-use Recreation Site: Land devoted to the public use for recreation, including such facilities as playgrounds and play-fields, golf, tennis and similar court installation.

201.25 Recreation Club: A building devoted to public use including such facilities as golf club house, swimming pool club house, tennis club house, playground and play-field activity centers, or club houses, and may include kitchen facilities, assembly hall, meeting rooms, locker facilities, etc.

201.26 Sign: Any device fixed to, painted on or incorporated in the building surface, or displayed from or with a building or structure, or free standing upon the site and which is visible from the public right-of-way; designed to convey or direct a message to the public concerning the identification of the premises or to advertise or promote the interests of any private or public firm, person or organization.

201.27 Street: A public way other than an alley, which affords the principal means of access to abutting property.

201.28 Structure: Anything constructed or erected, which requires location on the ground or attached to something having a location on the ground, but not including fences or walls used as fences less than six feet (6) in height.

201.29 Use: The purpose for which land or a building is designated, arranged, or intended, or for which it either is or may be occupied or maintained.

201.30 Yard: A space on the same lot with a principal building open, unoccupied, and unobstructed by buildings or structures from the ground upward, except as otherwise provided herein.

201.31 Yard, Front: A yard extending the full width of the lot or parcel, the depth of which is measured in the least horizontal distance between the front lot line and the nearest wall of the principal building; such distance being referred to as the front yard setback.

201.32 Yard, Rear: A yard extending the full width of the lot or parcel, the depth of which is measured in the least horizontal distance between the rear lot line and the nearest wall of the principal building; such depth being referred to as the rear yard setback.

201.32 Yard Side: A yard extending from the front yard to the rear yard, the width of which is measured in the least horizontal distance between the side lot line and the nearest wall of the principal building.

201.33 Yard, Service: Any yard area utilized for storage of materials accessory to, or used in conjunction with the principal use of the lot or building. or used for garbage or trash containers, or for the location of mechanical equipment accessory to the principal building or use.

201.34 Utilites: All poles, lines, cables or other transmission or distribution facilites of public utilities.

ARTICLE III GENERAL PROVISIONS

SECTION 301. DISTRICTS

For the purposes of this ordinance, the Town of Ophir, Colorado, is hereby divided into three zoning districts to be known as follows:

RESIDENTIAL DISTRICT
OPEN SPACE DISTRICT
AVALANCHE HAZARD DISTRICT

SECTION 302. ZONING MAP

The boundaries of these districts are shown on the official Zoning Map entitled "Zoning District Map" of the Town of Ophir, Colorado, which accompanies and is made a part of this ordinance. The original of this map is properly attested to, and is on file with the Town Clerk, and said map and all information shown thereon shall have the same force and effect as if fully set forth or described herein.

SECTION 303. GENERAL REQUIREMENTS

303.1 No building shall be erected, converted, enlarged, moved or structurally altered, nor shall any building or premises be used for any purpose other than permitted in the district in which such building or premises is located. No building shall be erected, enlarged, moved or structurally altered except in conformity with the height, yard and other regulations prescribed herein for the district in which such lot is located; every part of a required yard shall be open to the sky, unobstructed, except as hereinafter provided; and no yard of lot area shall be reduced so as to be smaller than the applicable district requirements.

303.2 Every building hereinafter erected or structurally altered shall be located on a lot as defined in Section 201.14, and in no case shall more than one residential building be located on a lot.

303.3 All building's exterior siding shall be of natural materials.

ARTICLE IV
RESIDENTIAL DISTRICT

SECTION 401. RESIDENTIAL DISTRICT USE REGULATIONS

Intention: To allow utilization of land for residential purposes and customary accessory uses. Recreational and institutional uses customarily found in the proximity with residential uses are included.

SECTION 402. USES-PERMITTED

402.1 One family dwelling, two family dwelling, accessory buildings and use, home occupations.

402.2 Fences, hedges or walls subject to requirements under supplementary regulations.

SECTION 403. USES-CONDITIONAL

403.1 Recreational Club, open use recreation subject to the approval of the Board of Trustees.

403.2 School, church, hospital or public building subject to the approval of the Board of Trustees.

SECTION 404. MINIMUM LOT AREA (per dwelling)

404.1 5,000 square feet per dwelling unit.

SECTION 405. MINIMUM FRONT YARD

405.1 Buildings.....10 feet.

405.2 Corner Lots: (both streets).....10 feet, front; 5 feet, side.

SECTION 406. MINIMUM SIDE YARD

406.1 All Buildings.....5 feet.

SECTION 407. MINIMUM REAR YARD

407.1 All Buildings.....10 feet

SECTION 408. MAXIMUM BUILDING HEIGHT

408.1 All Buildings.....25 feet.

SECTION 409. MINIMUM ROOF PITCH

409.1 All Buildings....1" to 4.

ARTICLE V
OPEN SPACE DISTRICT

SECTION 501. INTENT AND PURPOSE

To insure that land intended for open space use is retained and developed in such a manner that the land retains its natural character and intended use while not exerting a disruptive influence on adjacent uses of land.

SECTION 502. LIMITATIONS OF ZONE DISTRICT

This zone district shall be applicable only to land dedicated to and/or owned by the Town of Ophir or San Miguel County, unless specifically requested by a private property owner within the Town limits of the Town of Ophir.

SECTION 503. USES PERMITTED

503.1 Open space recreation uses which shall include the retention of land in its natural state and/or the provision of such uses which are compatible with the natural state and/or the provision of such uses which are compatible with the natural environment to include but not be limited to walking and hiking trails, nature trails, etc. Uses permitted shall include necessary access for public utilities and pedestrian bridges. Vehicular bridges and roads shall be permitted only after notice and public hearing before the Board of Trustees. Vehicular bridges and roads, if approved, shall be closed to public traffic. Also, certain areas of the open space district may be fenced for the protection of certain natural features. If such areas are fenced, the fencing shall be limited to a height of 36 inches.

503.2 Riverfront open space uses which shall include but not be limited to walking and hiking trails, bike paths, occasional benches and other such passive recreation uses. Uses permitted shall include necessary access for public utilities and pedestrian bridges. Vehicular bridges and roads shall be permitted only after notice and public hearing before the Board of Trustees. Vehicular roads, if approved, shall be closed to public traffic. Flood control activities within the riverfront open space district shall be limited to proper rip-rap and natural vegetation types of control measures.

SECTION 504. USES NOT PERMITTED

It is the specific intent of this ordinance to limit the range of uses in the open space district. All active recreation uses such as playfields, campgrounds, court installations, activity centers, permanent buildings and any other similar uses are not included within this district.

ARTICLE VI
AVALANCHE HAZARD ZONE

SECTION 601. INTENTION

To define areas where avalanches may pass over the ground and to restrict buildings on these areas.

SECTION 602. USE PERMITTED

Open space recreation.

ARTICLE VII
SUPPLEMENTARY REGULATIONS

SECTION 701

Regulations specified in other sections of this ordinance shall be subject to the following interpretations and exceptions:

701.1 All fuel storage tanks shall be completely buried beneath the surface of the ground.

701.2 Utilities; Nothing in these regulations shall be construed to prevent the construction or installation, in any zone district, of a public utility use or structure necessary for the transmission of commodities or services of a utility company including mains, transmission and distribution lines, sub-stations and exchanges, provided that all mains, transmission and distribution lines are completely buried beneath the surface of the ground.

ARTICLE VIII
ADMINISTRATION AND ENFORCEMENT

SECTION 801 ADMINISTRATION

801.1 Enforcing Official: The provisions of this ordinance shall be administered and enforced by the Building Inspector of the Town of Ophir, his authorized representative and or such other authority as appointed by the Board of Trustees.

801.2 Right to Trespass: The Building Inspector or any duly authorized person shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections of buildings or premises necessary to carry out his duties in the enforcement of this ordinance.

802.2.1 Liability of building inspector
The Building Inspector or any employee charged with the enforcement of this Code, acting in good faith and without malice for the Town in the discharge of his duties, shall not thereby render himself liable personally and he is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of his duties. Any suit brought against the Building Inspector or employee, because of such act or omission performed by him in the enforcement of any provisions of this code, shall be defended by the legal department of the Town until final termination of the proceedings.

801.3 Stop Orders: Whenever any building work is being done contrary to the provisions of this ordinance, the Building Inspector may order the work stopped by notice in writing served on any person engaged in doing or causing such work to be done, and any such person shall forthwith stop such work until authorized by the Building Inspector to proceed with the work.

801.4 Zoning Permit Required: It shall be unlawful to commence the excavation for or the construction of any building or other structure, including accessory structures until the Build-