

Building
Ordinance

ANCE TO REGULATE AND RESTRICT THE HEIGHT, NUMBER OF STORIES, AND SIZE OF BUILDINGS AND OTHER STRUCTURES; THE PERCENTAGE OF THE LOT THAT MAY BE OCCUPIED; THE YARDS; THE DENSITY OF POPULATION; AND THE LOCATION AND USE OF BUILDINGS, LOTS, LOTS, AND LAND FOR RESIDENCES OR OTHER PURPOSES IN OPHIR, COLORADO. TO REGULATE THE ERECTION, CONSTRUCTION, RECONSTRUCTION, ALTERATION, USE AND REPAIR OF BUILDINGS, STRUCTURES OR LAND IN OPHIR. TO DIVIDE OPHIR INTO ZONING DISTRICTS AND TO DEFINE FOR THE BOUNDARIES OF SAID DISTRICTS AND THE MANNER IN WHICH SAID DISTRICTS MAY BE DETERMINED, ESTABLISHED AND ENFORCED, AND FROM TIME TO TIME AMENDED, SPLIT, OR CHANGED; BY PROVIDING FOR BUILDING PERMITS AND APPLICATIONS; BY CREATING AN OFFICE OF BUILDING INSPECTOR; BY PROVIDING FOR THE ENFORCEMENT OF AND THE PENALTIES FOR THE VIOLATION OF ANY OF ITS PROVISIONS; FOR THE PURPOSE OF PROMOTING THE HEALTH, SAFETY AND GENERAL WELFARE OF THE COMMUNITY.

AND THEREFORE be it ordained by the General Assembly of the Town of 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 contains 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.

Section 103. Filing

This Ordinance, together with the Zoning Map which accompanied it is on file with the San Miguel County Clerk and a certified copy is on file with the Town Clerk of Ophir.

Section 104. Legislative intent

The Town of Ophir declares that in the interest of protecting our most precious resource, the natural environment, while at the same time allowing for use of the land, this Zoning Ordinance shall be adopted. The Zoning Ordinance provides the Town of Ophir with a comprehensive plan and orderly design to lessen congestion in the streets, to prevent the overcrowding of population, to promote health and general welfare, to provide adequate light and air, and to provide a safe environment in which its residents can live. It is the intent of the General Assembly to maintain the historical flavor of the town, while allowing for harmonious new construction.

ARTICLE II

DEFINITIONS

Section 201. Definitions

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

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 could not be provided with kitchen facilities sufficient for rendering them suitable for permanent residential occupancy.

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

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

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 depth of an mansard roof, or to the mean height level between the eaves and ridge for gable, hip or gambrel roofs.

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

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 cabins, resort cabins, clubs or hospitals, and not including temporary structures such as tents, railroad cars, trailers, street cars, metal prefabricated sections, or similar units.

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

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

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

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, but not including cellar or basement space not used for retailing.

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

Home Occupation: Any business conducted primarily 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.

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.

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

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

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

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

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.

201.22 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 for recreation, including such facilities as playgrounds and ball-fields, golf, tennis and similar sport 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 location on the ground, but not including fences or walls and 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 on 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.

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.

Service: Any yard area used 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.

Utilities: All poles, lines, cables or other transmission or distribution facilities of public utilities.

Article III GENERAL PROVISIONS

Section 301. Zoning 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
Avalanche Hazard District
Open Space District

Section 302. Zoning Map

The boundaries of these districts are shown on the Official Zoning Map of the Town of Ophir which accompanies and is made a part of this Ordinance.

Section 303. General Requirements.

1. No building shall be erected, converted, enlarged 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 or other regulations prescribed herein for the district in which the building is located; every part of a required yard shall be open to the sky, unobstructed, except as hereafter provided; no yard of any lot shall be reduced to less than to be smaller than the applicable district requirement.

2. Every building hereinafter erected or structurally altered shall be located on a lot as defined in Section 201, and in no case shall more than one residential building be located on a lot.

All buildings shall have natural materials as exterior materials.

Article IV Residential District

Section 401. 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

1. One-Family Dwellings, accessory buildings and use, home occupations.
2. Fences, hedges or walls, subject to supplementary regulations.

Section 403.

Any other uses must be approved by the Town of Ophir through the Special Use Permit (SUP) process. A Zoning commission will be appointed by the General Assembly upon the

of an application for a SUP, and that commission will act upon the application in the manner described in Section 403-1, below.

Procedure for Special Use Permits

- a. Application for a SUP shall be submitted to the General Assembly at its regular meeting. An application shall be obtained from the Town Clerk of Ophir.
- b. At that same meeting, the General Assembly shall appoint a Zoning Commission of at least 5 qualified electors who shall study and review the Application and accompanying evidence, and shall prepare a report to the General Assembly recommending that the SUP be either approved, disapproved or approved with modifications on conditions attached.
- c. The General Assembly shall rule on the application as follows:
 1. A public hearing on the application shall be held as indicated in Section 403-2, below, and such permit may be granted or denied, or granted with modifications on conditions attached.
 2. The General Assembly shall act upon the Application within 30 days of the public hearing, or such longer period as may have been agreed upon by the applicant.
 3. The SUP must be used only by the Applicant and can not be transferred, and expires after one year unless it is used.

- d. Before granting a SUP, the General Assembly shall hold a public hearing on the matter, and notice of such hearing shall be published one time at the expense of the applicant in a newspaper of general circulation within the Town of Ophir at least 14 days prior to the hearing date. In addition, written notice of the hearing shall be mailed to the applicant and to all adjacent property owners to the project at least 14 days prior to the hearing date.

Section 404. Uses Not Permitted

1. Industrial Uses, including but not limited to lumber and ore mills, mines, quarries, sand and gravel operations tailings storage areas and adjacent industrial buildings.
2. Mobile Homes

Section 405. Minimum lot area per dwelling.

1. 5000 square feet per single family dwelling
2. 10,000 square feet per 2 family dwelling (must first be given a SUP)

Section 406. Minimum Front Yard

1. Buildings.....10 feet
2. Corner lots (both streets)10 feet - front, 5 feet - sides

Section 407 . Minimum Rear Yard

All buildings.....10 feet

Section 408. Minimum Side Yard

All buildings.....5 feet

Section 409. Minimum Roof Pitch

All buildings.....1 to 4

Section 410. Maximum Building Height

All buildings....25 feet

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.

Section 502. Limitations of Zone District

This Zone shall include only land which has been dedicated to or is owned by the Town of Ophir, unless specifically requested by a property owner within the Town of Ophir.

Section 503. Uses Permitted

Open space recreation uses which shall include the retention of land in its natural state and uses which are compatible with the natural environment, including but not limited to walking and hiking trails, nature trails and natural areas. Also, certain areas of the open space district can be fenced in order to protect certain natural features, provided that approval is obtained from the General Assembly and the height of the fence does not exceed 48 inches. There is also created a riverfront open space district subject to the same uses.

Section 504.

All other uses, including horse pasture, fences, roads and vehicular access, and pedestrian bridges over the river shall be subject to the Special Use Permit process.

Section 505. Uses not permitted

Organized recreation uses, including but not limited to playfields, campgrounds, courts, permanent buildings or other similar uses.

Article VI

Avalanche Hazard Zone

Section 601. Intention

To define areas where avalanches may pass over the ground and to restrict building in those areas.

Section 602. Uses Permitted

Open Space Recreation only.

Section 603. Map Adopted.

The Town of Ophir has adopted a Avalanche Zone as indicated by the attached map. It is the intention of the Town of Ophir to allow building of residences on building sites which have at least 50% of their area outside of the designated avalanche hazard zone.

Article VII

Supplementary Regulations

Utilities: Nothing in these regulations shall be construed to prevent the construction of a public utility or utility structure necessary for the transmission or commodities or services of a utility company including mains, transmission and distribution lines, provided that all mains, transmission and distribution lines are completely buried beneath the surface of the ground. All construction and improvement of utility lines and structures are subject to the Special Use Permit process.

Article VIII Administration and Enforcement

Section 801 Administration

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

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 for the enforcement of this Ordinance.

Liability: 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 is hereby relieved of all personal liability for any damage which 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 department shall be defended by the Town of Ophir.

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 such person engaged in doing or causing such work to be done. Any such person shall forthwith stop such work until authorized by the Building Inspector to resume work.

Building Permit Required: It shall be unlawful to commence the excavation for or the construction of any building or any other structure, including accessory structures until the Building Inspector of the Town of Ophir has issued a building permit for such work.

Application for Permit: Application for a building permit shall be made to the Building Inspector of the Town on forms provided for that purpose.

Requirements for Permits: The Building Inspector of the Town shall require that every application for a building permit shall be accompanied by 2 copies of a plan drawn to scale and 3 elevation drawings and showing the following in sufficient detail to enable the Building Inspector to ascertain whether the proposed excavation, construction, reconstruction or conversion, moving or alteration is in conformance with this Ordinance. All building permits expire after one year if the Building Inspector determines that insufficient progress has been made.

a. **Lot dimensions and corners:** The actual shape, proportion and dimensions of the lot to be built on, and satisfactory evidence that actual corners of the lot are known and are established on the ground.

b. **Proposed Structures:** The shape, size and location of all buildings, fences, other structures to be erected, altered or moved and of any buildings, fences or other structures already on the lot.

c. **Use of Structures:** The existing and intended uses of the building and other structures.

d. **Existing Yards:** The dimensions of all yards and such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Ordinance are being observed regarding yards, areas, and other such requirements or standards.

e. **Building Code:** Any other information as required by the Uniform Building Code.

f. **Any planned roads or access.**

Issuance of Permit: If the proposed excavation, construction, moving or alteration set forth in the application is in conformity with the provisions of this Ordinance and all other Ordinances of the Town, the Building Inspector shall issue a Building Permit.

Disapproval of Permit: If an application for a building permit is not approved,

the Building Inspector shall state in writing his reason for such a disapproval.

11. Null and Void Permits: Any permit issued in conflict with the provisions of this Ordinance shall be null and void and may not be construed as waiving any provision of this Ordinance.

12. Certificate of Occupancy Required: After the effective date of this Ordinance no change in the use or occupancy of land, nor any change of use or occupancy in an existing building other than for single family residence shall be made, nor shall any new building be occupied for any purpose other than single family residence use until a certificate of occupancy has been issued by the Building Inspector of the Town of Ophir.

13. Record kept by the Building Inspector: A record of all certificates of occupancy shall be kept on file in the office of the Building Inspector, and copies shall be furnished on request to an at the expense of any person having a proprietary interest in the land or building affected by such certificate of occupancy.

14. Appeal from decisions: The applicant may appeal to the General Assembly of the Town of Ophir in the following manner. The aggrieved applicant must file notice of appeal with the Town Clerk of Ophir within 30 days of the mailing of the written order of the Building Inspector. The Town Clerk shall place the appeal on the agenda of the next Town Meeting. The General Assembly shall consider the recommendations of the Building Inspector and the arguments of the aggrieved applicant, and shall, within 30 days of the filing of said appeal, either confirm or overrule the decision of the Building Inspector.

Article IX Amendments

Section 901. Procedure

1. Amendments, supplements, changes or repeals of this Ordinance or any article thereof, or to the official zoning map may be initiated by application of:
 - a. Any qualified elector of the Town of Ophir or any property owner within the Town of Ophir.
 - b. The Town of Ophir, by and through its staff or elected officials.
2. Application for an amendment to this Ordinance shall be filed with the Town Clerk of Ophir, and shall contain the following information:
 - a. Description of the land to be rezoned, and requested new classification, along with a sketch to scale showing boundaries of area requested to be rezoned, along with an indication of the existing zoning on all sides of the area.
 - b. A statement of justification for the rezoning, including one of the following conditions: Changing area conditions, conformance to master plan for the area, or peculiar suitability of the site to a certain use.
 - c. Description and sketches, if available, of buildings or uses within 200 feet of the proposed area of change, in all directions.
 - d. Time schedule for any contemplated new construction.
 - e. Justification for any business or industrial use.
 - f. Effect that the zoning would have on adjacent uses.

Section 902

All applications for changes to the Zoning Ordinance or map shall be referred by the Town Clerk to the General Assembly, who shall decide either for or against the change at its next meeting, unless it is determined that additional information is needed from the applicant.

Section 903

Before any amendment to this Ordinance or map is enacted, a public hearing shall be

held in the manner described in Section 902. Notice of the Public hearing shall be published at least 14 days prior to the date of the hearing and written notice shall be mailed to owners of land within 100 feet of the proposed change in Zoning, at least 14 days prior to the hearing date. Cost of such notice shall be borne by the applicant.

Section 904: Penalty

Violation of any article, section or subsection of this Ordinance is hereby deemed to be a misdemeanor and any person found guilty hereunder shall be fined not less than \$5.00 nor more than \$300 or sentenced to jail for a term of not less than 1 day or not more than 90 days or by both such fine and sentence. Every day this Ordinance is violated shall constitute a separate offense.

Section 905: Complaints

Any person aggrieved by violation or apparent violation of this Ordinance shall file a written complaint with the Building Inspector, who shall immediately investigate such complaint and take legal action to have the violation penalized and removed if such a violation is found to exist.

Section 906 Interpretation and Validity

The provisions of this Ordinance shall be interpreted and applied to be the minimum required for the proper protection of the public health and safety and welfare of the residents of the Town of Ophir.

Section 907 Conflict

Whenever these regulations are in conflict with any other lawfully adopted regulations, rules or Ordinances, the most restrictive shall apply.

Section 908 Severability

If any part or parts of this Ordinance or any article thereof are for any reason to be held invalid or unconstitutional, such decision shall not affect the validity or constitutionality or the enforceability of the remaining portions of this Ordinance.

Section 909 Adoption of Building Code.

The Town of Ophir has adopted the Uniform Building Code.

Section 1000 Fees

No permit as required by the Building Code shall be issued until the fee prescribed by the Town of Ophir has been paid.

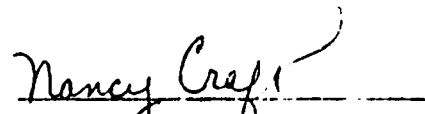
The Town shall adopt fees for administration of the Special Use Permit process.

This ordinance replaces and supercedes any previous zoning legislation passed by the Town of Ophir. This ordinance shall take effect 30 days after passage by the Ophir General Assembly

INTRODUCED, READ, PASSED AND ADOPTED BY THE GENERAL ASSEMBLY OF THE TOWN OF OPHIR ON THIS 23rd Day of March, 1980 at a regular meeting of the Town of Ophir, State of Colorado.


MAYOR

ATTEST: I certify that the above Ordinance No. 80-1 was introduced to the General Assembly on January 27, 1980, with a Public Hearing being held on that same date; a first reading of the above ordinance No. 80-1 was held on February 24, 1980; and a second and final reading was held on March 23, 1980.


TOWN CLERK