

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 thes 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 of the official Zoning Map entitles "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 the same force and effect as if fully set forth or described herein.

SECTION 303. GENERAL REQUIRMENTS

303.1 No building shall be eredited, converted, enlarged, moved or structurally altered, nor shall any building or premises be used for any prtpose 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 dky, 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.

ARTICAL 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, hedhes 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-

The Inspector of the Town has issued a zoning permit for such work.

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

801.6 Requirements for Permits: The Building Inspector of the Town shall require that every application for a zoning permit shall be accompanied by two (2) copies of a plan or plat drawn to scale 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.

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

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

801.6.3 Use of Structures: The existing and intended use of all such buildings or other structures.

801.6.4 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.

801.6.5 Building Code: Any other information as required by the Building Code.

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

801.8 Disapproval of Permit Request: If an application for a zoning permit is not approved, the Building Inspector of the Town shall state in writing on the application the reason for such disapproval.

801.9 Null or 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.

801.10 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 until a certificate of occupancy has been issued.

801.11 Record Kept by 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 and at the expense of any person having a proprietary or tenancy interest in the land or building affected by such certificate of occupancy.

801.12 Appeal from Decisions: The applicant may appeal said order to the Town Board of Trustees, Town of Ophir, Colorado, in the following manner: The aggrieved applicant must file notice of appeal with the Town Clerk of the Town of Ophir within 45 days of the mailing of the said written order of building inspector. The Town Clerk shall place said appeal on the agenda of the Town Board. The Town Board of Trustees shall consider the recommendations of the building inspector and the arguments of the aggrieved applicant, and shall, within 45 days of the filing of said appeal, either confirm the order of the Building Inspector, or over rule the Building Inspector and order the Building Inspector to grant a Building Permit.

ARTICLE IX AMENDMENTS

SECTION 901 PROCEDURE

901.1 Amendments, supplements, changes or repeal of this ordinance or any article thereof, or to the official zoning map may be initiated by application of:

- 901.1.1 Any citizen or group of citizens, firm or corporation residing, owning or leasing property in the Town;
- 901.1.2 By the Planning Commission;
- 901.1.3 The Board of Trustees.

901.2 Application for an amendment to this ordinance shall be made on such a form as the Planning Commission shall prescribe and shall be filed with the Town Clerk. Application for an amendment to the official zoning map shall contain all of the following information:

901.2.1 Description of land area to be re-zoned, and requested new classification along with a sketch to scale showing boundaries of area requested to be re-zoned, along with an indication of the existing zoning on all adjacent sides of the area.

901.2.2 A statement of justification for the rezoning, including one of the following conditions: (1) Changing area conditions (2) error in original zoning; (3) Conformance to Master Plan for area; or, (4) peculiar suitability of the site to a certain use.

901.2.3 Description and sketches, if available, of buildings or uses proposed if re-zoning is granted, along with a description of land and building uses within 200 feet of the proposed area of change, in all directions.

901.2.4 Time schedule for any contemplated new construction or uses.

901.2.5 Justification for any new business or industrial zoning.

SECTION 902

All applications for changes to the zoning ordinance or map shall be referred by the Town Clerk to the Planning Commission, which commission shall return a recommendation either recommending for or against the proposed change to the Board within Fifteen (15) days of the receipt thereof.

SECTION 903 Before any amendment to this ordinance or map is enacted, a public hearing shall be held, fifteen (15) days advance notice of the time and place of which shall be published in a newspaper having general circulation within the Town, and, also such notice shall be mailed fifteen (15) days prior to such hearing by certified mail to the owners of land within one hundred (100)

feet of the area affected by the proposed amendment or change to the zoning map. All such mailing and publication expense shall be paid by the applicant.

SECTION 904 The adoption of any amendment shall require the favorable vote of a majority of the Board of Trustees, except, however, a favorable vote of three-fourths ($3/4$) of the Board of Trustees shall be required when there is filed a protest against a map change by the owners of more than twenty (20) per cent of the property:

904.1 Within the proposed area of change, and/or;

904.2 Immediately adjacent thereto and to the rear extending one hundred feet (100) and/or

904.3 Facing the proposed change directly across a street and or alley, and extending one hundred feet (100) from the street or alley frontage.

904.4 An amendment or map change that has not been recommended by the Planning Commission.

SECTION 1001 PENALTY

Violation of any Article, section, or subsection of the 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 \$300.00 or sentenced to jail for a term of not less than 1 day nor more than 90 days or by both such fine and sentence. Every day this ordinance is violated shall constitute a separate offense.

SECTION 1002 COMPLAINTS

Any person aggrieved by a violation or apparent violation of the provisions of this ordinance may 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 1003 INTERPRETATION CONFLICTS 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 morals, and the promotion of safety and general welfare of the residents of the Town of Ophir.

SECTION 1004 CONFLICT

Whenever these requirements are at variance with the requirements of any other lawfully adopted rules, regulations, resolutions or ordinances, the one which is the most restrictive, or which requires the higher standard shall apply.

SECTION 1005 SEVERABILITY

If any part or parts of this ordinance or any article hereof 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.

The Board of Trustees hereby declares that it would have passed this ordinance and each part or parts may thereof, irrespective of the fact that any one part or parts may be declared invalid or unconstitutional.

SECTION 1006 ADOPTION OF BUILDING CODE

There is hereby adopted by the Town of Ophir, State of Colorado for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures including permits and penalties that certain building code known as the National Building Code, Abbreviated Edition, recommended by the American Insurance Association, successor to the National Board of Fire Underwriters, being particularly the 1967 edition thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended, of which not less than (1) copy have been and now are filed in the office of the Clerk of the Town of Ophir, State of Colorado, and the same are hereby adopted and incorporated as fully as is set out at length, herein, and from the date on which this ordinance shall take effect the provisions thereof shall be controlling in the construction of all buildings and structures therein contained within the corporate limits of the Town of Ophir, State of Colorado.

SECTION 1007 FEES

No permit as required by the Building Code shall be issued until the fee prescribed in this Ordinance shall have been paid. Nor shall an amendment to a permit be approved until the additional fee, if any, due to an increase in the estimated cost of the building or structure, shall have been paid.

1007.2 The permit issued pursuant to this Ordinance shall also contain and include the permits required by the Zoning Ordinance of the Town of Ophir and the fee designated in this section shall include any fee required by said Zoning Ordinance.

1007.3 For a permit for the construction or alteration of a building or structure, the fee shall be, including said zoning fee, no fee where the estimated cost of the project is less than five hundred dollars (\$500.00); for estimated cost more than five hundred dollars (\$500.00) a fee of ten (\$10.00) dollars for the first one thousand dollars (\$1000.00) and an additional fee of one dollar (\$1.00) per additional one thousand dollars (\$1000.00) or estimated cost.

