

GENERAL PROVISIONS – CHAPTER 1 Administrative

1-1 Short Title

~~This Ordinance shall be known and may be so cited and pleaded as the "ZONING ORDINANCE OF SAN JUAN COUNTY, UTAH"~~

These ordinances shall be known as the Land Use Development and Management Ordinance (LUDMO) and may be so cited and pleaded. Whenever a reference is made to this code as the San Juan County land use or development code, or to any portion hereof, or to any ordinance of San Juan County, Utah, codified herein, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made.

1-2 Purpose and intent

~~This Ordinance is designed and enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of SAN JUAN COUNTY, including, among other things, the lessening of congestion in the streets or roads, securing safety from fire and other dangers, providing access to adequate light and air, classification of land uses and distribution of land development and utilization, protection of the tax base, securing economy in governmental expenditures, fostering agricultural and other industries, and the protection of both urban and non-urban development.~~

This LUDMO and the regulations and restrictions contained herein are adopted and enacted for the purposes enumerated in CLUDMA, including:

- I. ~~providing~~ providing for health, safety, and welfare;
- II. promoting prosperity;
- III. improving morals, peace, good order, comfort, convenience, and aesthetics;
- IV. protecting tax base;
- V. securing economy in governmental expenditures;
- VI. fostering agricultural and other industries;
- VII. protecting both urban and nonurban development;
- VIII. protecting and ensuring access to sunlight for solar energy devices;
- IX. providing fundamental fairness in land use regulation;

- X. facilitating orderly growth and allowing growth in a variety of housing types; and
- XI. protecting property values.

This LUDMO shall be construed to further its purposes and to promote the objectives and characteristics of the respective zones.

1-3 Interpretation Authority

~~In interpreting and applying the provisions of this Ordinance, the requirements contained herein are declared to be the minimum requirements for the purposes set forth.~~

It is hereby recognized to be within the authority delegated to San Juan County to approve the subdivision and development of land, amendment of plats or adjustment of lot lines, rezoning of property, amendments to the San Juan County General Plan, and approval of site plans pursuant to the guidance of the San Juan County General Plan and CLUDMA, for the orderly, planned, efficient, and economic development of San Juan County. Unless otherwise designated, the San Juan County legislative body shall be the Land Use Authority for all applications requiring legislative action. Non-legislative actions are delegated as follows:

- A. The Planning Commission shall be the Land Use Authority for:
 - 1. Conditional Use Permits
 - 2. Recommendation to San Juan County Commission
 - 3. X
 - 4. X
 - 5. X
 - 6.
- B. The San Juan County Planning Administrator shall be the Land Use Authority for the following applications unless a public hearing is required:
 - 1. Non-Conforming Use Determinations;
 - 2. Temporary Uses;
 - 3. Home Occupation Certificates;
 - 4. Commercial Site Plans;
 - 5. Commercial Off-Street Parking Reductions;
 - 6. Building Relocations;
 - 7. Building Permits;
 - 8. Boundary Line Adjustments; and
 - 9. Minor Subdivisions.

1-4 Interpretation and Applicability

This Ordinance shall not nullify the more restrictive provisions of covenants, agreements, other ordinances or laws, but shall prevail notwithstanding such provisions which are less restrictive.

1-5 Conflict of Laws

All departments, officials, and employees of San Juan County authorized to issue land use permits and licenses shall do so in conformance with the provisions of this LUDMO. No land use permit or license for a use, building, or purpose shall be issued where the same would be in conflict with the provisions of this LUDMO. A land use permit or license, if issued in conflict with the provisions of this LUDMO shall be null and void.

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~~2-2~~ ~~1.3~~ 1.6 Planning Commission

(1) Organization

- (a) The Planning Commission shall consist of seven (7) members who shall be appointed by the Board of County Commissioners. In addition to the regular seven (7) members, the Board of County Commissioners may appoint, one (1) non-voting, ex-officio staff member to serve as liaison between the Board of County Commissioners and the Planning Commission and provide administrative support to the Planning Commission. Board of County Commission members may not serve as regular members of the Planning Commission.

(2) Term of Office

- (a) The term of office for regular Planning Commission members shall be staggered so that the terms of at least one (1) member and no more than three (3) members expire each year. As the term of each regular member expires, the vacancy thus created shall be filled by a majority vote of the Board of County Commissioners for a term of four (4) years, so as to maintain the succession of staggered terms of service.
- (b) Terms of all regular members begin on January 1st and expire on December 31st of the 4th year following the year of appointment. If the Board of County Commissioners has not appointed a new member(s) to the Planning Commission at the expiration of term, the current Planning Commission member(s) will remain on the Planning Commission until replaced by appointment of the Board of County Commissioners.

- (c) The ex-officio member shall be appointed by the Board of County Commissioners and shall continue to serve until replaced by appointment of the Board of County Commissioners.
- (d) If a vacancy occurs other than by expiration of term, the Board of County Commissioners by majority vote shall appoint a new member to fill the unexpired term.
- (e) Planning Commission members may be removed for cause from office by 2/3 vote of the Board of County Commissioners prior to the expiration of the appointed term.

(3) Method of Appointment

In early November of each year, the County Administrator shall cause notice of appointment(s) to be published in a newspaper of general circulation in San Juan County. The Building and Zoning Department shall be responsible for the costs of such advertisement. Such notice shall state the nature and term of the appointment(s), the qualification for such appointment, request written statements of interest and qualifications, and establish a deadline for submittal of such statements, which time shall not be earlier than fifteen (15) days from the date of publication.

(4) Qualifications

Each Planning Commission member shall be a legal San Juan County resident for at least two (2) years prior to appointment.

(5) Powers and Duties

The Planning Commission shall have the following powers and duties pursuant to Section 17-27a-302, Utah Code Annotated (1953, as amended):

- (a) Each countywide planning commission shall, with respect to the unincorporated area of the county, make a recommendation to the county legislative body for:
 - (i) a general plan and amendments to the general plan;
 - (ii) land use ordinances, zoning maps, official maps, and amendments;
 - (iii) an appropriate delegation of power to at least one land use authority to hear and act on a the land use application;
 - (iv) an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority;
 - (v) application processes that may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and shall protect the rights of each applicant and third

party to require formal consideration of any application by a land use authority; applicant, adversely affected party, or county officer or employee to appeal a land use authority's decision to a separate appeal authority; and participant to to be heard in each public hearing on a contested application.

1.7 Land Use Authority / Administrative authority

1.8 Appeal Authority

2-3 Appeals Authority

- (1) Appeal Authority. The authority to hear request for variances from the terms of the land use ordinance and appeals from decisions applying the land use ordinances shall be vested in the Board of County Commissioners.
- (2) Appealing Land Use Authority's Decision. An applicant, board, or officer of the County, or any person affected by the land use authority's decision applying a land use ordinance may, within the time period provided in 2-2(3)(a) below, appeal that decision to the Appeal Authority by alleging there is error in any order, requirement, decision, or determination made by the land use authority in the decision applying the land use ordinance.
 - (a) Time to Appeal. Any appeal, pursuant to 2-2(3) above, must be filed in writing to the County Administrator within ten (10) calendar days of the issuance of the written decision applying the land use ordinance.
 - (b) Time for Hearing Appeal. The Appeal Authority should hear the appeal within thirty (30) days of the date the appeal was filed.
 - (c) Written Statement Setting Forth Theories of Relief Required. The appellant shall deliver to the Appeal Authority and all other participants, five (5) business days prior to the hearing, a written statement setting forth each and every theory of relief she intends to raise at the hearing, along with a brief statement of facts in support thereof.
 - (d) Condition Precedent to Judicial Review. No person, board or officer of the County may seek judicial review of any decision applying to the land use ordinance until after challenging the land use authority's decision in accordance with this part. No theory of relief may be raised in the District Court unless it was timely and specifically presented to the Appeals Authority.
 - (e) Standard of Review and Burden of Proof on Appeal. The Appeal Authority shall upon appeal, presume that the decision applying the land use ordinance

is valid and determine only whether or not the decision is arbitrary, capricious, or illegal. The burden of proof on appeal is on the appellant.

- (f) Due Process Rights. The Appeal Authority shall respect the due process rights of all participants.

2-4 1.9 Variances.

- (1) Any person or entity desiring a waiver or modifications of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the Appeal Authority for a variance from the terms of the ordinance.
- (2) Pursuant to Utah State law, the Appeal Authority may grant a variance only if:
 - (a) Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;
 - (b) There are special circumstances attached to the property that do not generally apply to other properties in the same zone;
 - (c) Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
 - (d) The variance will not substantially affect the general plan and will not be contrary to the public interest; and
 - (e) The spirit of the land use ordinance is observed and substantial justice done.
- (3) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under 2-3(a)(i), the Appeal Authority may not find an unreasonable hardship unless the alleged hardship:
 - (a) is located on or associated with the property for which the variance is sought; and
 - (b) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
- (4) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection 2-3(2)(a), the Appeal Authority may not find an unreasonable hardship if the hardship is self-imposed or economic.
- (5) In determining whether or not there are special circumstances attached to the property under Subsection 2-3(2)(b), the Appeal Authority may find that special

circumstances exist only if the special circumstances:

- (a) relate to the hardship complained of; and
 - (b) deprive the property of privileges granted to other properties in the same zone.
- (6) The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
- (7) Variances run with the land.
- (8) The Appeal Authority may not grant a use variance.
- (9) In granting a variance, the Appeal Authority may impose additional requirements on the applicant that will:
- (a) mitigate any harmful affects of the variance; or
 - (b) serve the purpose of the standard or requirement that is waived or modified

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