

CHAPT ER 1

GENERAL PROVISIONS

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"

1-2 Purpose

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.

1-3 Interpretation

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.

1-4 Conflict

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 Definitions~~ (relocated to chapter 2)

~~For the purpose of this Ordinance certain words and terms are defined as follows: (Words used in the present tense include the future; words in the singular number include the plural and the plural the singular; words not included herein but defined in the Uniform Building Code shall be construed as defined therein).~~

1-5—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.~~~~

~~1-6 — Appeals~~

- ~~(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.~~

~~1-7—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
- serve the purpose of the standard or requirement

CHAPTER 1 DEFINITIONS RELOCATED TO CHAPTER 2. OTHER PORTIONS OF CHAPTER 1 MERGED WITH CHAPTER 2 IN IT ENTIRELY RELOCATED TO CHAPTER 1 (ADMINISTRATION)

Building Permit Required

The use of land or the construction or alteration, of any building or structure or any part thereof, as provided or as restricted in this Ordinance shall not be commenced, or proceeded with, except after the issuance of a written permit for the same by the Building Inspector. Farm buildings shall be exempt, except when either electric or plumbing will be installed in the buildings, from the requirements of a building permit except where such structures are intended as dwellings or for human habitation. All dwellings shall require State Board of Health approval prior to issuance of a building permit (emphasis added).

Application and Review

- (1) All applications for building permits, except-for single family dwellings and their accessory buildings shall:
 - (a) be submitted to the Building and Zoning Department. The design submissions shall include architectural and site development plans to scale, which shall show building locations, landscaping, prominent existing trees, ground treatment, fences, off-street parking and circulation, location and size of the adjacent streets, north arrow and property lines, existing grades and proposed new grades. All such drawings and sketches shall be reviewed with the Planning Commission upon notification and request of the Planning Commission to assure conformity with the intent of the Master Plan and compliance with all applicable ordinances and regulations.
 - (b) then follow the usual process for obtaining a building permit as required by the County.
- (2) Design review for buildings and uses covered by conditional use permits or planned unit development approval shall be incorporated within such conditional use permit or planned unit development approval and need not be a separate application, provided the requirements of this Ordinance are met.
- (3) Agricultural buildings are exempt from design-review.

1-6 Planning Commission Review

When a question arises whether proposed architectural and site development plans submitted are consistent with the general objectives of this Ordinance, the Planning Commission shall make a determination. A negative or unfavorable determination by the Planning Commission may be appealed to the Board of County Commissioners, as provided for in this Ordinance.

1-7 Zoning Administrator to Enforce

The Zoning Administrator is designated and authorized by the Board of County Commissioners as the officer charged with the enforcement of this Ordinance, but from time to time, by resolution or ordinance, the Board of County Commissioners may entrust such administration in whole or in part, to any other officer without amendment to this Ordinance.

1-8 Permits to Comply with Ordinance

From the time of the effective date of this Ordinance, the Zoning Administrator shall not grant a permit for the construction, or alteration of any building or structure or the moving of a structure onto a lot if such building or structure will be in violation of any of the provisions of this Ordinance, nor shall any local officer grant any permit or license for the use of any building or land if such use would be in violation of this Ordinance.

1-9 Powers and Duties of Building Inspector

It shall be the duty of the Building Inspector to inspect or cause to be inspected all buildings in course of construction or repair.

1-10 Powers and Duties of Zoning Administrator

The Zoning Administrator shall enforce all of the provisions of this Ordinance, entering actions in the courts when necessary and his failure to do so shall not legalize any violations of such provisions. The Zoning Administrator shall not issue any permit unless the plans of the proposed erection, construction, reconstruction, alteration and use fully conform to all zoning regulations then in effect.

1-11 Nuisance and Abatement

Any building or structure erected constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of this Ordinance, and any use of land, building or premise established, conducted or maintained contrary to provisions in this Ordinance shall be, and the same hereby is, declared to be unlawful and a public nuisance; and the County

Attorney shall, upon request of the governing body, at once commence action or proceeding for abatement and removal of enjoinder thereof in a manner provided by law, and take other steps as will abate and remove such building or structure, and restrain or enjoin any person, firm, or corporation from erecting, building, maintaining, or using said building or structure or property contrary to the provisions of this Ordinance. The remedies provided for herein shall be cumulative and not exclusive.

1-12 Amendments

The number, shape, boundary, area or zone, or any regulation or any other provision of the Zoning Ordinance may be amended by the Board of County Commissioners from time to time, but any such amendment shall not be made or become effective until after thirty days notice and public hearing and unless the same shall have been proposed by or be first submitted to the Planning Commission, for its recommendation which shall be returned within thirty (30) days to the Board of County Commissioners.

1-13 Hearing and Publication of Notice

Before finally adopting any such amendment, the Board of County Commissioners shall hold a public hearing thereon. Notice of such a hearing shall be disseminated to the public, in accordance with state law, at least ten (10) days before the scheduled hearing.

1-14 Licensing

All departments, officials and public employees of the County which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this Ordinance and shall issue no permit or license for uses, building or purposes where the same would be in conflict with the provisions of this Ordinance and any such permit or license, if issued in conflict with the provisions of this Ordinance shall be null and void.

1-15 Penalties

Any person, firm or corporation whether as principal, agent, employee or otherwise, violating or causing or permitting the violation of the provisions of this Ordinance shall be charged, for each separate, identifiable violation, with a Class C Misdemeanor and punishable upon conviction as a class C misdemeanor or by imposing the appropriate civil penalty adopted under the authority of Section 17-27a-101 *et seq.*, Utah Code Annotated (1953, as amended).