

177 - ORDINANCE NO. 2008 - 33

AN ORDINANCE FOR THE ENFORCEMENT OF THE TOWN OF ALPINE ZONING CODE AND ORDINANCES.

Whereas: The Town of Alpine wishes to enact enforcement procedures for the Town of Alpine Zoning Code and Town Ordinances providing for notice and opportunity for a hearing prior to any enforcement action that would deprive anyone of a protected interest.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ALPINE, WYOMING IN REGULAR SESSION DULY ASSEMBLED THAT:

SECTION 1 GENERAL

The provisions of the Town of Alpine Zoning Code (the “Code”) and Ordinances shall be enforced by the Town Council through its authority to request the imposition of fines, abate, enjoin, and restrain any person violating the Code and Ordinances pursuant to Wyoming law.

SECTION II INSPECTION

Under the powers of this Ordinance, the Building Inspector, or other individual designated by the Planning and Zoning Commission or Town Council (collectively “Inspector”) shall have the authority to enter onto land within the Town to inspect for violations of the Code and/or Ordinances.

SECTION III REVOCATION OR SUSPENSION OF PERMIT

Revocation or suspension of any permit issued pursuant to the Code and/or Ordinances Regulations shall be undertaken pursuant to the procedures and standards of this Ordinance.

1. PROCEDURE

A. Initiation by the Inspector. If the Inspector determines there are reasonable grounds for the revocation or suspension of a permit, the Inspector shall set a Revocation Hearing before the Town Council which shall be a public hearing.

B. Notification. The Inspector shall give the permittee notification, by certified mail, return receipt requested, of the time, place and location of the public hearing, a minimum of twelve (12) calendar days prior to the public hearing. The notification shall also state the grounds for the revocation or suspension of the permit.

C. The inspector shall provide the permittee with a brief report as to whether the application complies with all appropriate standards of the Code and/or Ordinances and shall recommend any changes in the development, as submitted, and the conditions of approval, if any, necessary to bring the development into compliance with the appropriate review standards, or denial.

D. Revocation or Suspension Hearing. The Town Council shall conduct a public hearing on the proposed revocation or suspension in accordance with the procedure set forth below.

E. Public hearings held pursuant to this ordinance shall comply with the following procedures.

1 Examination and copying of application and other documents. At any time, upon reasonable request, and during normal business hours, any person may examine any application and materials submitted in support or in opposition to an application at the Town Offices, if available. Copies of such materials shall be made available at cost and upon reasonable notice.

2 Request for mailing of notification of public hearing. Notification of all public hearings shall be provided by the Inspector to any person who requests such notification in writing, and pays the costs of processing and mailing of the notification.

3 Staff Report. A staff report shall be provided to the applicant and the public at least five (5) calendar days prior to the public hearing. It shall address factors to be considered by the Code and/or Ordinances prior to approval of the application.

4 Conduct of Public Hearing before Town Council and Planning and Zoning Commission. The conduct of public hearings shall comply with the following procedures.

- a. Rights of all persons. Any interested person may appear at a public hearing and submit evidence, either individually or as a representative of an organization. Upon request of the Chairperson, anyone representing an organization shall present written evidence of their authority to speak on behalf of the organization in regard to the matter under consideration. Each person who speaks at a public hearing shall be identified, state an address, and if appearing on behalf of an organization, state the name and address of the organization.
- b. Order of Proceedings. The chairperson conducting the hearing may exclude statements or information that the Chairperson finds to be irrelevant, immaterial, or unduly repetitious. The order of proceedings shall be as follows.
 - 1 Narrative and graphic description. The Inspector shall present a narrative and/or graphic description of the matter to be heard.
 - 2 Staff Report Presented. The Inspector shall present a staff report.
 - 3 Applicant presentation. The applicant shall present any information the applicant deems appropriate.
 - 4 Public Statements. Public statements shall be heard, first in favor of the proposal, then in opposition to it.
 - 5 Applicant Response. The applicant may respond to any statements or information presented by the public.
 - 6 Town Staff Response. The Inspector, or Planning and Zoning Commission, The Town Attorney, and any other Town Staff may respond to any statement made by the applicant or public comment.
- c. Offer of Proof. In the event any statement or information is excluded as irrelevant, immaterial or unduly repetitious, the person offering such statements or information shall have an opportunity to make an offer of proof in regard to such statements or information for the record. Such offer shall be made at the public hearing.
- d. Continuance of Public Hearing. The body conducting the public hearing may, on its own motion or at the request of any person, continue the public hearing to a fixed time and place. In the event the applicant demands in writing that action be taken on an application continued or tabled, the decision making body that continued or tabled the matter shall complete the public hearing and take action on the application within thirty (30) calendar days after receipt of such written demand. An applicant shall have the right to request and be granted one (1) continuance. All subsequent continuances shall be granted at the discretion of the public body conducting the hearing and only upon good

cause shown. If the body conducting the public hearing continues the application so that the applicant can provide additional information, and the applicant fails to respond to the request within sixty (60) calendar days, the application shall be deemed withdrawn. The running of all established periods between stages of the review process shall be tolled during any continuance.

- e. Withdrawal of an application. An applicant shall have the right to withdraw an application at any time prior to action on the application by the decision making body.
- f. Record. The written or taped record of oral proceedings, including testimony and statements of personal opinions, the minutes of the Secretary, all applications exhibits and papers submitted in any proceeding before the decision-making body shall constitute the record.
- g. Actions by decision making bodies. All decisions shall be in writing and include a clear statement of required findings of fact and conclusions of law referring to the relevant standards relied upon as set forth in the Zoning Code and/or Ordinances, and a clear statement of approval, approval with conditions, or disapproval.
- h. Notification. Notification of a decisions making's body's decision based on the standards below shall be provided by the Town to the applicant within fourteen (14) calendar days by mail and shall be available at the Town Offices within fourteen (14) days after the decision.
- i. Successive Applications. Whenever any application is denied for failure to meet the substantive requirements of the Code and/or Ordinances, no application for the same or similar development proposal shall be accepted or considered for all or a part of the same or substantially the same land for a period of one (1) year after the date of denial, unless the applicant can demonstrate a change of circumstances or conditions, or unless a majority of the membership of the decision making body that made the final decision on the applications determines that prior disapproval was based on a material mistake of fact. The decision-making body charged with conducting the final public hearing under a successive application shall resolve any questions concerning a change of circumstances or conditions, or a mistake of fact.

2. STANDARDS

A permit shall be revoked or suspended if any one (1) of the following findings is made by the Town Council.

A. Based on misleading information or misrepresentation. The permit was issued on the basis of erroneous or misleading information or misrepresentation; or

B. Violation of conditions of permit. The development violates the terms or conditions of the permit, or the Code or Ordinances.

SECTION IV ABATEMENT OF VIOLATIONS

1. GENERAL

Violations of the Code or Ordinances may be abated under the procedures and standards of this Ordinance at the election of the Inspector, however, this procedure shall not be the sole remedy available, and the Town may enforce the Code and/or Ordinances in any manner provided by

law.

2. PROCEDURE

A. Notification of Violation. If the Inspector determines that any development/building/structure or lot within the Town is in violation of the provisions of the Code and/or Ordinances, the Inspector may invoke the provisions of this Ordinance and mail a Notice to Abate to the landowner, stating the provisions of the Code or Ordinances being violated, and setting forth a reasonable period of time for the landowner to abate and correct the violation.

B. Hearing to Correct Violation. In the event the landowner fails to comply with the Notice to Abate, the Town Council shall conduct a Hearing to Abate to ascertain whether abatement should be required under the procedures and standards of this Ordinance. Such hearing shall be conducted in accordance with the procedures set forth below.

1. Notice of Hearing. The Inspector shall provide notice of the Hearing to Abate to the landowner by certified mail, return receipt requested, a minimum of twelve (12) calendar days prior to the date established for the hearing. Notice shall be substantially in the format set forth below:

NOTICE OF HEARING ON ABATEMENT OF VIOLATION OF ZONING CODE AND/OR ORDINANCES

This is a notice of hearing before the Town Council of the Town of Alpine, Wyoming, to ascertain whether certain land or structures situated in the Town of Alpine, Wyoming, known and designated as (street address), in said Town, and more particularly described as (legal description) constitutes a violation of the Town's Code and/or Ordinances and is subject to abatement pursuant to this Ordinance as it may be amended from time to time, and Section 15-1-512, Wyoming Statutes. If the zoning violation is not promptly abated by the landowner, such violation may be abated by Town authorities, in which case the cost of any eviction or relocation of an illegal use, rehabilitation, repair, or demolition of an illegal structure will be assessed upon such land, and such costs, together with interest thereon, will constitute a lien upon such property until paid. In addition, the landowner may be cited for violation of the provisions of these Code and Ordinances and subject to a fine.

Said alleged violation is of Section _____ of the Code and Ordinances_____, and consists of the following:

The method(s) of abatement are:

All persons having an interest in said matters may attend the hearing and their testimony and evidence will be heard and given due consideration.

Dated this ____ day of, 200_

Time and Date of Hearing:

Location of Hearing:

2. Public hearings held pursuant to this ordinance shall comply with the following procedures.
a Examination and copying of application and other documents. At any time, upon

reasonable request, and during normal business hours, any person may examine any materials submitted in support or in opposition to the enforcement action at the Town Offices, if available. Copies of such materials shall be made available at cost and upon reasonable notice.

b Request for mailing of notification of public hearing. Notification of all public hearings shall be provided by the Inspector to any person who requests such notification in writing, and pays the costs of processing and mailing of the notification.

c Staff Report. A staff report shall be provided to the applicant and the public at least five (5) calendar days prior to the public hearing. It shall address factors to be considered by the Code and/or Ordinances prior to approval of the application.

d Conduct of Public Hearing before Town Council and Planning and Zoning Commission. The conduct of public hearings shall comply with the following procedures.

1. Rights of all persons. Any interested person may appear at a public hearing and submit evidence, either individually or as a representative of an organization. Upon request of the Chairperson, anyone representing an organization shall present written evidence of their authority to speak on behalf of the organization in regard to the matter under consideration. Each person who speaks at a public hearing shall be identified, state an address, and if appearing on behalf of an organization, state the name and address of the organization.
2. Order of Proceedings. The chairperson conducting the hearing may exclude statements or information that the Chairperson finds to be irrelevant, immaterial, or unduly repetitious. The order of proceedings shall be as follows.
 - a Narrative and graphic description. The Inspector shall present a narrative and/or graphic description of the matter to be heard.
 - b Staff Report Presented. The Inspector shall present a staff report.
 - c Landowner presentation. The landowner shall be afforded the opportunity to present any information in deems appropriate.
 - d Public Statements. Public statements shall be heard, first in favor of the enforcement, then in opposition to it.
 - e Landowner Response. The landowner may respond to any statements or information presented by the public.
 - f Town Staff Response. The Inspector, or Planning and Zoning Commission, The Town Attorney, and any other Town Staff may respond to any statement made by the landowner or public comment.
3. Offer of Proof. In the event any statement or information is excluded as irrelevant, immaterial or unduly repetitious, the person offering such statements or information shall have an opportunity to make an offer of proof in regard to such statements or information for the record. Such offer shall be made at the public hearing.
4. Continuance of Public Hearing. The body conducting the public hearing may, on its own motion, or at the request of any person, continue the public hearing to a fixed time and place. An applicant shall have the right to request and be granted one (1) continuance. All subsequent continuances shall be granted at

the discretion of the public body conducting the hearing and only upon good cause shown.

5. Record. The written or taped record of oral proceedings, including testimony and statements of personal opinions, the minutes of the Secretary, all applications exhibits and papers submitted in any proceeding before the decision-making body shall constitute the record.
6. Notification. Notification of a decisions making's body's decision shall be provided by the Town to the landowner within fourteen (14) calendar days by mail and shall be available at the Town Offices within fourteen (14) days after the decision.
7. Order. If, after the conclusion of the hearing, the Town Council finds that there is competent substantial evidence in the record that a violation of the Code and/or Ordinances does exist and there is sufficient cause to evict or relocate an illegal use or rehabilitate, demolish, remove or repair an illegal structure, the Town Council shall prepare an Order to Abate outlining findings and specifying the nature of the violation, the method of abatement and the time within which the work shall be commenced and completed.

3. EFFECT OF ORDER TO ABATE

If an Order to Abate is issued it shall mean that the land or structure is in violation of the Code and/or Ordinances, and the illegal activity shall be discontinued and rehabilitated, repaired, removed, or demolished in the manner and means specifically set forth in the Order to Abate. If the zoning violation is not promptly abated by the landowner, such violation may be abated by Town authorities, in which case the cost of any eviction or relocation of an illegal use, rehabilitation, repair, or demolition of an illegal structure will be assessed upon such land, and such costs, together with interest thereon, will constitute a lien upon such property until paid, once such lien referencing this ordinance is recorded. In addition, the landowner may be cited for violation of the provisions of these Code and Ordinances and subject to a fine.

SECTION V OTHER REMEDIES

1. CUMULATIVE REMEDY

The Town's right to abate a violation of these Land Development Regulations, as provided in this Ordinance, shall be cumulative to any other remedy provided by law.

1. CIVIL REMEDIES

The Town Council shall have the right to enforce the provisions of the Code and/or Ordinances under any remedy provided by Wyoming law, including injunctions.

2. GENERAL PENALTY

Any person violating any provisions of the Code and/or Ordinances is guilty of a separate offense for each and every day during any portion of which any violation of any provision of the Code and/or Ordinances is committed, continued or permitted by any such person and shall be punished by a fine of not more than seven hundred and fifty (750) dollars for each offense

SECTION VI SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional, the invalidity shall not affect other provisions of application of this Ordinance which can be given affect without the invalid provision or application, and to this and the provisions of this act are severable.

SECTION VII ORDINANCES REPEALED

All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed except for that ordinance governing the conduct of Town Council meetings.

SECTON VIII EFFECTIVE DATE

This Ordinance shall become effective from the date of its passage.

PASSED 1ST READING THIS _____ DAY OF _____, 2008.

Vote: _____yes _____no _____abstain _____absent

PASSED 2ND READING THIS _____ DAY OF _____, 2008.

Vote: _____yes _____no _____abstain _____absent

PASSED 3RD READING THIS _____ DAY OF _____, 2008.

Vote: _____yes _____no _____abstain _____absent

PASSED AND APPROVED THIS _____ DAY OF _____, 2008.

TOWN OF ALPINE

BY: _____
Victoria DeCora, Mayor

ATTEST:

BY: _____

Whitney Heller, Clerk

ATTESTATION OF THE TOWN CLERK

STATE OF WYOMING)
COUNTY OF LINCOLN)
TOWN OF ALPINE)

I hereby certify that the forgoing Ordinance No. _____ was duly posted for ten (10) days in the Town Clerk's Office.

I further certify that the forgoing Ordinance was duly recorded in the BOOK OF ORDINANCES IV, TOWN OF ALPINE, LINCOLN COUNTY, WYOMING.

ATTEST:

WHITNEY HELLER, CLERK

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