

## **PART 5 - APPEALS AND ENFORCEMENT**

### **ARTICLE 5.1 APPEALS**

#### **Section 5-101. General**

Any order or decision by the Planning & Zoning Commission or Building Official may be appealed to the Alpine Board of Adjustment. Appeals may be made by any person, private company or corporation, or public agency affected by any such order or decision.

#### **Section 5-102. Authority and Scope of Responsibility**

The authority and responsibility of the Alpine Board of Adjustment are presented in Section 1-105, Board of Adjustment, of the Alpine Land Use and Development Code.

#### **Section 5-103. Rules for Appeal Proceedings Before Alpine Board of Adjustment**

- (a) Appeals to the Alpine Board of Adjustment may be received from any person aggrieved, or by any officer, department or agency affected by any decision of the Planning & Zoning Commission or the Building Official. Such appeal shall be made in writing on forms provided by the Zoning Administrator or Town Clerk, and delivered to the Town of Alpine within ten (10) days from the date of the action being appealed. Upon receipt of notice of appeal, the Zoning Administrator shall transmit to the Alpine Planning and Zoning Commission the notice of appeal and all of the original documents or copies which represent the record of the action being appealed.
- (b) Decisions of the Alpine Board of Adjustment concerning an appeal shall be reached only after a public hearing concerning the specific appeal. The Board of Adjustment shall fix a reasonable time and place for the hearing, and shall proceed in accordance with the following rules:
  - (1) Public notice shall be given for all hearings of the Alpine Board of Adjustment. Public notice shall consist of posting a sign by the Zoning Administrator on the affected property for, at least, thirty (30) days prior to the date of the hearing and one (1) posting of a notice by the Zoning Administrator in the Alpine Town Hall for at least five (5) days prior to the hearing. Both the sign and the notice shall identify the applicant, the nature and general scope of the appeal, as well as the date, time and place of the hearing. All hearings shall be open to the public.
  - (2) Notice of the hearing will also be given to any parties of interest, including the Town Attorney, Zoning Administrator and any attorney of record for the applicant. All parties of interest shall be permitted to be heard during all public hearings.
  - (3) Any interested party may also appear in person, or be represented by an agent or attorney, at any public hearing. After being duly sworn, the interested party may offer evidence and testimony, as well as cross-examine witnesses.
  - (4) All witnesses shall be sworn, or shall affirm their testimony, in the manner required in courts of record.
  - (5) All testimony and evidence shall be presented publicly.
  - (6) The Alpine Board of Adjustment shall keep a record of the proceedings for each matter heard. Records of the proceedings will be kept on file and copies made available to any party at cost. The record of proceedings may include documents and physical evidence considered in the case.

- (7) The Alpine Board of Adjustment shall render a written decision on each case heard within thirty (30) days of the hearing. Each decision must be supported by the rationale for its decision and based on findings of fact. The record shall also document the vote of each member for each decision and be available for public review.
- (8) A majority vote of the Alpine Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of the Planning & Zoning Commission or Building Official.
- (9) The decision of the Alpine Board of Adjustment may be reviewed by District Court pursuant to Rule 12 of the Wyoming Rules of Appellate Procedure.

## **ARTICLE 5.2            ENFORCEMENT**

### **Section 5-201.    Administration, Inspections, Right of Entry, and Other Powers**

(a)    Administration:

The Planning & Zoning Commission and Building Official are authorized to make interpretations of the Alpine Land Use and Development Code. Interpretations of the Alpine Land Use and Development Code shall conform to the general intent and purpose of this ordinance.

(b)    Inspections:

The Building Official is authorized to make site and building inspections, as well as other actions that may be required to enforce the provisions of the Alpine Land Use and Development Code.

(c)    Right of Entry:

(1)    The Building Official may enter any building in the Town of Alpine to make an authorized property or building inspection, enforce any of the provisions of this ordinance, or inspect buildings or properties. Such actions may be taken whenever the or Building Official has reasonable cause to believe there is a condition or ordinance violation which makes such building or property unsafe, dangerous, hazardous, or in conflict with any provision of the Alpine Land Use and Development Code with approval from the Planning & Zoning Commission.

(2)    Building or property inspections will be made at reasonable times during daylight hours. When a building on a given property is occupied, the Building Official will first present proper credentials to building occupants and request entry. When existing buildings are unoccupied, the Zoning Administrator or Building Official will first make a reasonable effort to locate and contact the owner, or other person having charge or control of the building or premises, and request entry. If such entry is refused, the Building Official shall have recourse to every remedy provided by law to secure entry.

(d)    Other powers:

- (1)    The Planning & Zoning Commission, or representative, is also authorized to perform the following:
- (a)    Upon reasonable cause, revoke any land use or building permit, issue “Cease and Desist” orders, or take any other lawful action to ensure substantial compliance with the provisions of this ordinance.
  - (b)    Issue notices and/or citations for violations of the Alpine Zoning Ordinance.

- (2) The Town of Alpine shall hold harmless the Town Zoning Administrator and Building Official from all personal liability for any damage, which may accrue to any person or property, as a result of any act or omission associated with the administration and enforcement of the Alpine Land Use and Development Code. The Town Attorney, or the Government Liability Pool selected attorney, as applicable, through final determinations of such proceedings, shall defend any suit brought against the Town of Alpine, the Zoning Administrator, or Building Official.

#### **Section 5-202. Inspection and Repair**

After inspection by the Building Official, all buildings or property determined to be unsafe, dangerous, hazardous, or in conflict with any of the provisions of this ordinance shall be repaired, rehabilitated, vacated, demolished, or removed in accordance with the procedure outlined in Article 4.3 of the Alpine Land Use and Development Code.

#### **Section 5-203. Citizen Complaints**

Any landowner, resident, private company, corporation, or public agency shall be allowed to file a complaint of any violation of this ordinance at the office of the Town Clerk.

- (a) The forms for citizen complaints will be made available to the general public at the Town Clerk's office.
- (b) When a complaint is received, the Zoning Administrator will, as soon as practical, place the complaint upon the agenda for the Alpine Planning & Zoning Commission.
- (c) When a complaint is received, the Zoning Administrator will also send a copy of the complaint, via certified mail, to the landowner or person, who owns and/or occupies the subject property, within ten (10) days of receipt of the complaint. The landowner or person, who owns or occupies the subject property, shall have thirty (30) days to submit a written response to the Zoning Administrator.
- (d) After receipt of the response, the Zoning Administrator and Building Official shall investigate the complaint and determine an appropriate action with direction from the Planning & Zoning Commission.
- (e) Should the Planning and Zoning Commission issue any notice concerning correction for violation of the ordinance, the landowner or person who receives any notice of violation shall have the right to appeal through the appeal process outlined in Part 4, Appeals and Enforcement, of the Alpine Land Use and Development Code.

### **ARTICLE 5.3 VIOLATIONS, PENALTIES, AND REMEDIES**

#### **Section 5-301. Unlawful to Violate Ordinance**

It shall be unlawful for any person, private firm or corporation, or public agency to construct, alter, expand, renovate, or demolish any building or structure in violation of the Alpine Land Use and Development Code.

#### **Section 5-302. Continuing Violations and Penalties**

Any person, owner, lessee, occupant, or otherwise, who violates any of the provisions of the Alpine Land Use and Development Code, or who interferes in any manner with any person in the performance of a right or duty granted or imposed upon him by the provisions of this ordinance, shall be fined not more than \$750 per offense upon conviction and shall be subject to abatement proceedings. Each day, during which such violation shall continue, shall be deemed to be a separate offense.

**Section 5-303. Order in Writing**

- (a) The Zoning Administrator, with approval from the Planning & Zoning Commission, shall order, in writing, the remedying of any violation. The order shall be sent via certified mail. If the recipient fails to pick-up the certified mail a delivery fee of \$15 for Civil Service Fee of Officer will be assessed for each violation letter.
- (b) After any order has been served, no work shall proceed on any structure, or tract of land, covered by such an order except to correct the violation, or comply with the order.

**Section 5-304. Ordinance Enforceable in Addition to Other Remedies**

The Alpine Land Use and Development Code shall be enforceable in addition to the other remedies provided by law, by injunction, mandamus, or proceedings in abatement.

## **PART 6 – RULES OF INTERPRETATION AND DEFINITIONS**

### **ARTICLE 6.1 RULES OF INTERPRETATION**

Some of the words, phrases, and terms used in the Alpine Land Use and Development Code have specific meanings that are defined within Article 6.2. Words, phrases, and terms not defined in the Land Use and Development Code shall be given their usual and customary meanings except where the context clearly indicates a different meaning.

The word “shall” requires mandatory action. The words “may” and “should” are discretionary.

Within the Land Use and Development Code, various sections identified as “Intent” are provided as an official statement of legislative purpose. These sections are intended as a guide to the administration and interpretation of the Land Use and Development Code. However, they are not binding standards.

### **ARTICLE 6.2 DEFINITIONS**

Words with specific defined meanings are as follows:

Accessory Building. A detached building on parcel of land that is used to support the primary use of a principal building.

Accessory Use. A secondary use of a parcel of land that is secondary to the primary use of the property.

Alley. A public thoroughfare which affords only a secondary means of access to an abutting property.

Apartment. A dwelling unit within a multi-unit residential facility.

Attach. To make fast; permanently fixed.

Attached/Attachment. To make fast, permanently fixed; must have contiguous foundation wall; can include a covered walkway. Roof of addition and/or walkway, must be attached to the principal building.

Authorized Representative. An individual appointed by the Town Council to enforce the provisions of the International Building Code (IBC), International Residential Code (IRC), International Mechanical Code (UMC), International Plumbing Code (UPC), National Electric Code, and the Alpine Zoning Ordinance.

Banners. Signs that are made out of fabric weight material that indicate temporary activities or welcomes.

Bed-and-Breakfast Operation. An owner-occupied single-family dwelling with a maximum of five guest bedrooms within the dwelling. Guest bedrooms used to provide short-term overnight accommodations are rented for periods less than thirty (30) days. Only breakfast meals are served to guests of the bed-and-breakfast operation.

Breezeway. A roofed, often open passage connecting two buildings (as a house or garage) or halves of a building.

Building. Any permanent structure built for the shelter or enclosure of persons, animals, chattels, or property of any kind.

Building, Principal. A building which represents the primary use of a property.

Commercial Frontage. Is the full length of a plot of land or a building measured alongside the road on to which the plot or building fronts. In the case of contiguous buildings, individual frontages are usually measured to the middle of any party wall.

Community Land Use Plan Map. An illustration that depicts a general community vision regarding the type and location of various land uses in Alpine. This map is presented as Figure 8-4 within the Alpine Municipal Master Plan report dated October 25, 2006.

Conceptual Site Plan. An illustration of a general land use development concept for one or more parcels of land which provides an identified map scale, identifies the boundaries of project development site, and locates all proposed buildings and other land uses, vehicular parking areas and access to the project development site, utility distribution systems, and primary site development features.

Condominium. A living unit in a multi-unit residential facility that is owned in fee simple. The use of the living unit, as well as shared common space areas and facilities, are subject to covenants, conditions, and restrictions that are enforced by a homeowners association.

Construction Fences. A temporary fence constructed to preserve the safety of the building site during construction of a building.

Deck. An exterior floor supported on at least two (2) opposing sides by an adjacent structure, and/or posts, piers or other independent supports. Decks with height of 30 inches or greater need guard rails.

Driveway. A private road connecting a house, garage, or other building with the street.

Dwelling, Single-Family. A residential structure limited to a stick-built home, manufactured home, modular home, or factory-built home, which is physically arranged to create an independent housekeeping establishment for occupancy by one family or one household. The structure is characterized by separate facilities for wastewater disposal, cooking and sleeping.

Dwelling, Multi-Unit. A residential building occupied by two (2) or more families or households living independently of each other.

Factory-built Home. Any residential dwelling that is wholly, or in substantial part, made, fabricated, formed, or assembled in manufacturing facilities for installation or assembly on a building site. Factory-built homes shall include, but not be limited to, manufactured homes, modular homes, and mobile homes.

Family Household. A single-family dwelling or multi-unit dwelling that is occupied by a family that is comprised by any number of persons related by blood, marriage, or adoption.

Frontage. The direction in which a building faces; the front of a building or lot; the lineal extent of this front; the land between a building and the street; body of water etc.

Front Yard. Portion of a property that is adjacent to the street frontage where the primary structure's drive way exits and enters.

Full-time Employees. Full-time employees are those employees working forty (40) hours or more per week.

Governing Body. The Alpine Town Council.

Grade. The average finished ground elevation around a building.

Guard. A building component or a system of building components located at or near the open side of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

Handrail. A horizontal or sloping rail intended for grasping by the hand for guidance or support.

Height of Buildings. The vertical distance from the average finished ground elevation that adjoins a building at all exterior walls. Where the finished ground elevation slopes away from the exterior walls, a grade plane will be established by the lowest points within the area between the building and the lot line. Where the lot line is more

than six (6) feet from the building, a grade plane will be established between the structure and a point six (6) feet from the building.

Home Occupation. A professional, technical or retail service operated by the occupants of a single-family residence and not more than two (2) non-household employees. However, such enterprises will generate limited vehicular traffic and vehicular parking along residential streets, as well as limited noise within residential neighborhoods.

Hotel. Any building containing six (6) or more guestrooms used to provide short-term overnight accommodations, which are rented, for less than thirty (30) days. This facility may also include commercial food preparation and dining facilities, as well as other onsite amenities.

Household. A household consists of all the people who occupy a single-family or multi-unit dwelling, but does not include more than three (3) persons who are not related by blood or marriage.

Kitchen. Kitchen shall mean an area used, or designated to be used, for the preparation of food.

Land Use Plan Map. The definition of land use plan map is synonymous with the definition for “community land use plan map”.

Live Loads. Those loads produced by the use and occupancy of the building or other structure and do not include constructions or environmental loads such as wind load, snow load, rain load, earthquake load, flood load or dead load.

Loads. Forces or other actions that result from the weight of building materials, occupants and their possessions, environmental effects, differential movement and restrained dimensional changes

Lot. A parcel of land within the Town of Alpine which may be vacant, occupied by a building or a group of buildings, as well as contain utility systems and/or accessory buildings.

Lot Area. The total land area contained within a parcel of land.

Maintenance. The cleaning, painting, repair of a building, or the replacement of defective materials and fixed equipment within a building, in a manner that does not alter the basic design of the structure.

Manufactured Home. A single-family dwelling structure which:

- (a) Is partially or entirely manufactured in an offsite factory facility.
- (b) Will adhere to the building standards outlined in Part 4, Section 4-502 of the Alpine Land Use and Development Code.

Membership Club. A private group of persons organized in association with a national, state, or local non-profit organization.

Mobile Home. A single-family dwelling that does not meet the definition of a manufactured home of this ordinance, and has the following characteristics:

- (a) It is designed for long or short-term occupancy; and
- (b) It contains sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities; and
- (c) It contains plumbing and electrical connections to local utility systems; and
- (d) It is designed to be transported after fabrication, on its own wheels, a flatbed truck or other trailers, or on detachable wheels; and

- (e) It arrives at the building site where it is to be occupied as a complete unit and is ready for occupancy except for minor and incidental unpacking and assembly operations, installed on foundation supports or jacks, underpinned, and connected to utilities.

Modular Home. A residential dwelling, which:

- (a) Is constructed in a factory in accordance with the most current version of the International Building Code.
- (b) Will adhere to the building standards outlined in Section 4-503 of the Alpine Land Use and Development Code.

Motel. Any building or complex containing six (6) or more guestrooms used to provide short-term overnight accommodations, which are rented, for usually less than thirty (30) days.

Multi-Unit Complex. A residential development that includes a group of multi-unit residential facilities that are owned by one landowner.

Multi-Unit Residential Facility. A group of dwelling units within one building that contains separate living units for three or more families who may share supporting services and facilities.

Nonconforming Building. An existing structure which, on the effective date of this ordinance, does not comply with the provision of this ordinance for the zoning district where the building is located.

Nonconforming Use. A legal use of land which, on the effective date of this ordinance, does not conform to the permitted uses established for the zoning district where the existing land use is located.

Nonfamily Household. A nonfamily household consists of a householder living alone (a one-person household) or where the householder shares the home exclusively with not more than three (3) persons to whom he or she is not related.

Occupied. The use of a developed property for one (1) or more purposes.

Pavement Structures. The implementation of a sub base, base and surface material, to accommodate the needs of traffic and load bearings.

Permanent Foundation. A system of supports, including piers, either partially or entirely below grade which is:

- (a) Capable of transferring all design loads imposed by or upon the structure into soil or bedrock without failure;
- (b) Placed at an adequate depth below grade to prevent frost damage;
- (c) Constructed of concrete, metal, treated lumber or wood, or grouted masonry; and
- (d) In accordance with manufacturer specifications and applicable sections of the International Building Code (IBC).

Planned Unit Development. A development of one (1) or more parcels of land that is planned and developed as a single development project and/or programmed for development over a series of incremental development stages. This development approach integrates site development considerations for proposed land uses, vehicular access, parking and circulation, supporting utility systems, landscaping, site constraints and development opportunities, and zoning requirements.

Plot Plan. An illustration depicting a proposed land use which shall be prepared to a defined map scale, identifies the general location of the project site, project development site boundaries, locates the proposed vehicular access to the project development site, as well as identifies and locates proposed land uses.

Primary Structure. The structure from which the principal use of a property is conducted.

Project Stipulations. Potential requirements which may accompany decisions by the Alpine Planning and Zoning Commission, Board of Adjustment, and Alpine Town Council concerning proposed planned unit developments, zone changes, and variances.

Ramp. A walking surface that has a running slope steeper than one unit vertical in 20 units horizontal (5-percent slope).

Rear Yard. Portion of a property that is opposite the front yard.

Setback. The minimum horizontal distance between the lot or property line and the nearest front, side or rear building line.

Side Yard. Portion of a property that runs perpendicular to the front and side yards.

Silt Fence. Temporary sediment control device typically used in combination with sediment basins and sediment traps, as well as erosion controls, which are designed to retain sediment in place where soil is being disturbed by construction processes. A typical fence consists of a piece of synthetic filter fabric stretched between a series of wooden or metal stakes.

Single Family Dwelling Unit. One family or non-family household occupies the single-family dwelling unit; limited to stick-built homes, manufactured homes and modular homes. However, owners may provide room and board for up to three (3) persons who are not related by blood or marriage; provided no separate kitchen is provided.

Snow Fence. A temporary fence to prevent blowing and drifting snow.

Stair. A change in elevation, consisting of one or more risers.

Street. A public or private transportation facility which affords public access to adjacent properties and/or other parts of the community.

Structure. A new, extended, expanded, or renovated building constructed on a property.

Townhome: An attached single family home that has a common wall with an adjacent single family home. This type of housing is sometimes referred to as a duplex or twinhome.

Use. The purpose for which a parcel of land or building is utilized.

Vehicular Parking Area. An off-street area containing a paved surface designated parking stalls, and appropriate signage for the parking of motor vehicles.

Xeriscaping. A landscaping method that makes routing irrigation unnecessary. It uses drought-adaptable and low-water plants as well as soil amendments such as compost and mulches to reduce evaporation.

Yard, Front, Side, or Rear. Required open space area on an occupied lot which is defined via minimum setback requirements from property lines.

Zoning District. A land use zoning designation for selected geographical areas within the Town of Alpine.