

ORDINANCE NO. PtZ1

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF TORREY, WAYNE COUNTY, UTAH ESTABLISHING A RURAL RESIDENTIAL ZONE, A MINIMUM LOT SIZE AND A MOBILE HOME ORDINANCE OF TORREY TOWN.

A. PURPOSE.

This chapter is enacted for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of the Town, including, among other things, lessening the congestion on the streets and roads, securing safety from fire and other dangers, providing adequate light and air, classifying land uses to distribute development and utilization, protecting the local tax base, securing economy in governmental expenditures, fostering agriculture and other industries, protecting urban and non-urban development.

B. AMENDMENTS

1. The Zoning map and use restrictions may be amended by the Town Council from time to time, but any amendment shall be first submitted to the Planning Commission for its review and comment.
2. No proposed amendment affecting the number, shape, boundary, or zoning classification of any zone shall be adopted unless the proposed zoning ordinance amendment complies with the following criteria:
 - a. The proposed amendment will place all property similarly situated into the same zoning classification or in complementary classifications; and
 - b. That all uses permitted under the proposed zoning amendment are in the general public interest and not merely in the interest of an individual or small group; and
 - c. All uses permitted under the proposed zoning classification amendment will be appropriate in the area to be included in the proposed zoning amendment; and
 - d. The character of the neighborhood will not be adversely affected by any use permitted in the proposed zoning classification; and
 - e. The proposed zoning amendment is consistent with the Town's General Plan.
3. Before adopting any amendment to the Zoning Ordinance, the Town Council shall hold a public hearing. Notice of the time and place of the hearing shall be given by at least one (1) publication in a

newspaper of general circulation in the Town, at least fifteen days before the hearing. The cost of publication shall be paid by the applicant for the zoning change.

4. On any property requested for rezoning, (except for rezoning initiated by the Town to implement general planning objectives) the applicant shall be required to post the property in question with a Notification of Rezoning which states the zone classification being requested and the time and place of Public Hearing. The signs shall be obtained from the Town and be posted at 500 foot intervals around the property and on all corners at least fifteen (15) days prior to the public hearing.

PART II. SUPPLEMENTARY AND QUALIFYING REGULATIONS.

A. EFFECT.

These regulations qualify or supplement, as the case may be, the zone regulations appearing elsewhere in this Chapter.

B. LOTS AND YARDS.

1. The Minimum Lot area in acres required for any building shall be one-half acre or 21,780 square feet.

2. Lots in Separate Ownership - Reduced Yards.

The requirements of this Chapter as to minimum lot area or lot width shall not prevent the use for a single-family dwelling on any lot or parcel of land in the event that the lot or parcel of land was held in separate ownership at the time such parcel became non-conforming as to area or width.

3. Every Dwelling to be on a "Lot".

Every Dwelling shall be located and maintained on a "lot" as defined in this Code.

4. Sale or Lease of Required Space.

No space needed to meet the area or other requirements of this Chapter for minimum lot or building requirements may be sold or leased away from such lot or building.

5. Creation of Lots Below Minimum Space Requirements.

No parcel of land which has less than the minimum area requirement for the zone in which it is located

may be separated from a larger parcel of land for the purpose, whether immediate or future, of building or development as a lot.

C. BUILDINGS

1. Detached Single Family Dwelling

Any detached single family dwelling must meet the Building Code or, if it is a manufactured home, it must be certified under the National Manufactured Housing Construction and Safety Standard Act of 1974, and must have been issued an insignia and approved by the following standards in addition to any others required by law.

The dwelling must be taxed as real property. If the dwelling is a manufactured home, an affidavit must be filed with State Tax Commission pursuant to Utah Code Annotated 59-2-602.

The dwelling must be permanently connected to and approved for all required utilities.

The dwelling must be attached to a site built permanent perimeter foundation which meets the Uniform Building Code or if the dwelling is a manufacture home, the installation must meet the ICBO Guidelines for Manufactured Housing Installations. All manufactured home running gear, tongues, axles and wheels must be removed at the time of installation.

Mobile homes will permitted as long as axles, tongues, running gear and wheels are removed and they are sitting on a permanent foundation that meets all the requirements of this ordinance.

Any mobile home shall comply with and conform to all other zoning laws, rules, regulations and building, plumbing, electrical, fire prevention and all other codes and requirements applicable to a structure or building erected within the town.

PART III. NON-CONFORMING BUILDING AND USES.

A. MAINTENANCE PERMITTED.

A nonconforming building or structure may be maintained.

B. REPAIRS AND ALTERATIONS.

Repairs and structural alterations may be made to a nonconforming building or to a building housing a nonconforming use with a valid building permit.

C. ADDITIONS, ENLARGEMENTS, AND MOVING.

1. A building or structure occupied by a nonconforming use and a building or structure nonconforming as to height, area or yard regulations shall not be added to or enlarged in any manner or moved to another location on the lot except as provided herein.

2. A building or structure occupied by a nonconforming use or a building or a structure nonconforming as to height, area or yard regulations may be added to or enlarged or moved to a new location on the lot upon permit authorized by the Board of Adjustment, which may issue, provided that the Board of Adjustment after hearing, shall find;

a. The addition to, enlargement of, or moving of the building will be in harmony with the purposes of and shall be in keeping with the intent of this Ordinance.

b. The proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or structure.

D. RESTORATION OF DAMAGED BUILDINGS.

A nonconforming building or structure or a building or structure occupied by a nonconforming use which is damaged or destroyed by fire, flood, wind, earthquake or other calamity or Act of God or the public enemy, may be restored and the occupancy or use of such building structure or part thereof, which existed at the time of such damage or destruction may be continued or resumed, provided that such restoration is started within a period of one (1) year and is diligently pursued to completion.

E. ONE YEAR VACANCY.

A building or structure or portion thereof occupied by a nonconforming use, which is, or hereafter becomes, vacant and remains unoccupied by a nonconforming use for a continuous period of one (1) year, shall not thereafter be occupied except by a use which conforms to the use regulations of the zone in which it is located.

F. CONTINUATION OF USE.

The occupancy of a building or structure by a nonconforming use, existing at the time this Ordinance becomes effective, may be continued.

G. OCCUPATION WITHIN ONE YEAR.

A vacant building or structure may be occupied by a use for which the building or structure was designed or intended if so occupied within a period of one (1) year after the use became a nonconforming use.

H. CHANGE OF USE.

The nonconforming use of a building or structure may not be changed except to a conforming use; but where such change is made, the use shall not thereafter be changed back to a nonconforming use.

I. EXPANSION OF USE PERMITTED.

A nonconforming use may be extended to include the entire floor area of the existing building in which it is conducted at the time the use became nonconforming.

J. NONCONFORMING USE OF LAND.

1. The nonconforming use of land may be added to, enlarged, or moved to a new location on the lot upon which the use is established provided that the Town Council after notification of all property owners within one thousand (1,000) feet of the boundary of the lot where the use is established, find that such change shall be in harmony and keeping with the purpose of this Ordinance, that it does not impose undue or unreasonable burden on adjoining land or use, and that the use is compatible with the general environment of the neighborhood. Application for change of a nonconforming use shall be made directly to the Town Council, however, such application may be referred to the Planning Commission for a recommendation from that body if so directed by the Town Council. All costs for notification of adjoining property owners, public hearing and administrative functions shall be borne by the applicant.

2. A nonconforming use of land, or any portion thereof, which is abandoned or changed for a period of one year or more, shall cease to have continuing status and any future use of such land as was occupied

by a nonconforming use shall be consistent with the provisions of this Ordinance.

PART IV.

A. PURPOSE OF CONDITIONAL USE PROVISIONS.

Certain uses which may be harmonious under special conditions and in specific locations within a district, but may be improper under general conditions and in other locations are classed as conditional uses within the various districts and require conditional use permits.

B. PERMIT REQUIRED.

A conditional use permit shall be required for all uses listed as conditional uses in the district regulations or elsewhere in this Ordinance.

C. APPLICATION.

A conditional use permit application shall be made to the Planning Commission as provided in this Ordinance. Applications for a conditional use permit shall be accompanied by maps, drawings, statements, or other documents as required by the Planning Commission.

D. PUBLIC HEARINGS.

A conditional use permit may be approved by the Planning Commission without a public hearing except mandated as indicated by the use regulation section of this Chapter. However, the Planning Commission may require a public hearing where any conditional use is judged to be of a controversial nature or where the best interests of the neighborhood or community are served by broader public exposure to the proposed use.

E. DETERMINATION.

The Planning Commission may permit a conditional use to be located within any district in which the particular conditional use is permitted by the use regulations of this Ordinance. In authorizing any conditional use the Planning Commission shall impose such requirements and conditions as are necessary for the protection of adjacent properties and the public welfare. The Planning Commission shall not authorize a conditional use permit unless evidence presented is such to establish:

1. That such use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity, and that the proposed use of the particular location is necessary or desirable and that provides a service or facility which will contribute to the general well being of the neighborhood and the Town.

2. That the proposed use will comply with regulations and conditions specified in this Ordinance for such use.

3. The Planning Commission shall itemize, describe, or justify then have recorded and filed in writing the conditions imposed on the use.

G. APPEALS OF DECISION.

Any person shall have the right to appeal the decision of the Planning Commission to the Town Council.

H. INSPECTION.

Following the issuance of a conditional use permit, the Building Official may approve an application for a building permit, provided the development is undertaken and completed in compliance with said conditional use and building regulation.

I. TIME LIMIT.

1. A conditional use permit for temporary uses may be issued for a maximum period of six (6) months, with renewals at the descretion of the Planning Commission for not more than three (3) successive periods thereafter.

2. Unless there is substantial action, under a conditional use permit within a maximum period of one(1) year of its issuance, the said permit shall expire. The Planning Commission may grant a maximum extension for six (6) months.

J. PERMIT REVOCATION.

The Planning and Zoning Commission shall revoke a conditional use permit if there is a substantial violation of the conditions placed on the permit. The commission shall give notice to the permit holder

prior to revocation and the right to a hearing before the Planning Commission.

PART V. ESTABLISHMENT OF ZONES.

A. ZONE DISTRICTS. For the purpose of this Ordinance, the territory of the Town is divided into districts as follows:

Rural Residential Zone RR

B. OFFICIAL ZONE MAP ADOPTED. The Official Zone Map is hereby adopted and made part of this ordinance and zone districts shall exist and be established on the Official Zone Map as adopted and amended from time to time.

C. RULES FOR LOCATING BOUNDARIES.

Where uncertainty exists as to the boundary of any zone, the following rules shall apply:

1. Wherever the district boundary is indicated as being approximately upon the center line of a street, alley, or block, or along a property line, then unless otherwise definitely indicated on the map, the center line of such street, alley, or block of such property line, shall be construed to be the boundary of such zone.

2. Whenever such boundary line of such district is indicated as being approximately at the line of any river, irrigation canal or other waterway or railroad right of way, the boundary line of such public land or such section line shall be deemed to be the boundary of such zone.

3. Where such district boundary lines cannot be determined by the above rules, their location may be found by the use of the scale appearing upon the map.

4. Where the application of the above rules does not clarify the district boundary location, the Town Council shall interpret the map.

D. USE REGULATIONS.

No building, structure or land shall be used and no building or structure shall be hereafter erected structurally or substantially altered, or enlarged except as allowed in the districts as shown as "permitted uses", or as "conditional uses". Uses not listed are not allowed.

PART V. RURAL RESIDENTIAL RR.

A. PURPOSE.

To promote and preserve, in appropriate areas, conditions favorable to large-lot family life, the keeping of limited numbers of animals and fowl and Commercial on a limited basis when conditions permit. These districts are intended to be primarily residential in character and protected from encroachment by commercial and industrial uses.

B. ALLOWED USES.

1. Single Family dwellings and Accessory buildings and uses customarily incidental to them.

C. CONDITIONAL USES.

1. Agricultural uses and accessory uses and buildings customarily incidental agricultural uses.
2. Neighborhood Commercial such as retail, motel, and small shops and stores.
3. Home occupations.
4. Public Buildings such and Uses, such as churches and public schools.
5. Multiple dwellings.

D. AREA REGULATIONS.

The minimum lot area in acres for any main use in the districts regulated by chapter shall be one-half acre.

E. FRONT YARD, REAR YARD AND SIDE YARD REGULATIONS.

The minimum depth in feet for the front yard (from the right of way line (99 feet wide) , rear yard and side yard for any building regulated by this chapter shall be (10) feet.

REGULATORY PROVISIONS.

A. ENFORCEMENT.

1. The Building Inspector is the officer charged with the enforcement of this Title, but from time to time, by resolution or ordinance, the Town Council may delegate the enforcement, in whole or in part, to any other employee of the Town without amendment to this Title. The Building Official may not waive any provisions of this Title. The Building Official shall not issue any permit unless the plans of the proposed erection, construction, reconstruction, alternation and use fully conform to all land use development regulations then in effect.

2. It shall be the duty of the Building Official to inspect or cause to be inspected all buildings and improvements in course of construction or repair.

3. No construction, alteration, repair or removal of any building or structure or any part thereof, or the change of use of any land or building as provided or as regulated in this Title is allowed, without a written permit issued by the Building Official.

B. APPLICATION AND REVIEW.

1. All applications for permits shall be made to the building official. All applications for permits except for single family dwellings and their accessory buildings shall be submitted also to the Planning Commission for design review to assure conformity with the intent of the General Plan and compliance with all applicable ordinances and regulations. The design submissions shall include architectural and site development plans to scale, which shall show building locations, landscaping, prominent existing trees, ground cover 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, point of water and sewer connections, curb cuts, and locations of all freestanding signs.

2. Design review for buildings and uses covered by conditional use permits shall be incorporated within such conditional use permit and need not be a separate application, provided the requirements of this Ordinance are met.

C. PLANNING COMMISSION APPROVAL.

The Planning Commission, or the Building Official when authorized by the Planning Commission, shall determine whether proposed architectural and site development plans submitted are consistent with the general objectives of this Title, and shall give or withhold approval accordingly. Denial of approval by the Building Official may be appealed to the Planning Commission, and denial by the Planning Commission may be appealed to the Town Council, as provided for in this Ordinance.

D. NUISANCE AND ABATEMENT.

Any building or structure erected, constructed, altered, enlarged, converted, moved or maintained contrary to provisions of Town ordinances, and any use of land, building or premise established, conducted or maintained contrary to provisions of any Town Ordinance shall be; and the same hereby is, declared to be unlawful and a public nuisance; and the Town attorney shall, upon request of the Town Council, commence action for abatement thereof in a manner provided by law, and restrain or enjoin any person, firm, or corporation from erecting, building, maintaining, or using the building or structure or property contrary to the provisions of Town ordinance. The remedies provided for herein shall be cumulative and not exclusive.

E. LICENSING.

All departments, officials and public employees of the Town 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.

F. FEES.

Fees may be charged applicants for building, occupancy, and conditional use permits, design review and planned unit development approval, Planning Commission and Board of Adjustment hearings, and such other services as are required by this Ordinance to be performed by public officers or agencies. Such fees shall be established by the governing body and be amounts reasonably needed to defray cost to the public.

G. PENALTY FOR VIOLATION.

Whoever shall violate any of the provisions of this Title shall be guilty of a Class C misdemeanor for each and every day such violation shall occur or continue and upon conviction of any such violation, shall be punishable by a fine of not more than the maximum as allowed by the State of Utah or by imprisonment for not more than six months, or by both such fine and imprisonment.

H. EFFECT ON PREVIOUS ORDINANCES AND MAPS.

The existing ordinances covering land use and development regulations, in their entirety, and including the maps and standard drawings heretofore adopted and made a part of said ordinances are hereby superseded and amended to read as set forth herein; provided, however, that this Ordinance, including its accompanying maps and standard drawings, shall be deemed a continuation of previous ordinances and not a new enactment, insofar as the substance of revisions of previous ordinances are included in this Ordinance, whether in the same or indifferent language; and this Ordinance shall be so interpreted upon all questions of construction relating to tenure of officers and boards established by previous ordinances and to questions of conforming or nonconforming dates upon which such uses, buildings, or structures became conforming or nonconforming.

I. INTERPRETATION.

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

J. CONFLICT.

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

2. If any provision of this Title or its application to any persons or circumstance is, for any reason, held invalid, the remaining portion and/or portions of this Title or the application of the provision to other persons or circumstances shall not be affected.