

## **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, group, firm, or corporation whether as principle, agent, employee, or otherwise, violating, causing, or permitting the violation of the provisions of this ordinance shall be guilty of a misdemeanor, subject to a Seven Hundred and Fifty (\$750) dollar fine, such person, group, firm, or corporation shall be deemed to be guilty of a separate offense for each and every day during which any violation of this ordinance is committed, continues or results from the action or inaction of such person, group, firm, or corporation.

**Section 5-303. Town Enforce through Appropriate Civil Remedy.**

The town may also enforce this ordinance through any appropriate civil remedy.

**Section 5-304. Actions for Penalties or Fines.**

- (a) To be brought in Corporate Name. All actions brought to recover any penalty or fine shall be brought in the corporate name of the municipality.
- (b) Disposition of Recoveries. The recoveries, when collected, shall be paid into the treasury of the municipality.

**Section 5-305. Applicability of “Wyoming Administrative Procedure Act”.**

In all proceedings before an agency or board pursuant to the rules set forth in this article, the "Wyoming Administrative Procedure Act" shall apply. If a conflict arises between such act and the rules set forth in this article, the act shall supersede these rules.

**Section 5-306. 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 fifteen (\$15) dollars for Civil Service Fee of the 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 5-307. 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.