

**CITY OF ALPINE  
PLANNING & ZONING COMMISSION MEETING  
MONDAY, MARCH 25, 2024 - 5:30 P.M.**

NOTICE IS HEREBY GIVEN THAT THE PLANNING & ZONING COMMISSION OF THE CITY OF ALPINE, TEXAS, WILL HOLD A MEETING AT 5:30 P.M. ON MONDAY, MARCH 25, 2024, AT CITY COUNCIL CHAMBERS LOCATED AT 803 WEST HOLLAND AVENUE AND VIA ZOOM FOR THE PURPOSE OF CONSIDERING THE ATTACHED AGENDA. THIS NOTICE IS POSTED PURSUANT TO THE TEXAS OPEN MEETINGS ACT. ACTION ITEMS APPROVED AT THIS MEETING WILL BE CONSIDERED BY THE CITY COUNCIL FOR FINAL ACTION.

**1. Call to Order.**

**2. Public Comments.**

**3. Public Hearings –**

- a) Public Hearing to obtain citizen views and comments regarding Rezone 2024-03-01, a rezoning application to allow the applicant, Ruben Losoya, to establish a recognized mobile home park on the subject property. The property in question is located at 708 S. Cactus St and is legally described as 1.52 acres, more or less, being the South part of a 3.0 acre tract of land described as the South 3.0 acres of the West Half (W/2) of Block Two (2) in Volume 36, Page 410, Official Public Records, Means Addition Subdivision “A” to the City of Alpine, Brewster County, Texas, as per Plat on file in Envelope No. 63, Map/Plat Records on file in the Office of the County Clerk of Brewster County, Texas. The Property ID of the subject property is 11311. The record property owner is Ruben Losoya. The current zoning of the property is R-4 Mobile Home District. The zoning classification if the rezoning is approved will be C-1A Neighborhood Commercial District.

**4. Approval of minutes of previous Board Meeting –**

- a) February 26, 2024 Regular Meeting Minutes. (M. Walter, Chair)

**5. Discussion Items –**

- a) Discussion regarding Chapter 9 - Annexation; Discuss zoning and ward designations upon annexation. (M. Antrim, City Manager)
- b) Discuss making a recommendation to City Council to update Chapter 18 - Buildings and Building Regulations, Article XI - Dangerous Buildings, including updates to the criteria for substandard buildings. (G. Fielder, Commissioner)
- c) Discuss making a recommendation to City Council to update Chapter 78 - Signs to the Alpine Code of Ordinances including updates to the criteria for signs within the City. (G. Fielder, Commissioner)
- d) Discussion regarding making a proposed recommendation to the City Council to update to Appendix C - Zoning to the Alpine Code of Ordinances, particularly removing the requirement that City Council and the Planning & Zoning Commission may initiate a spot zoning request. (J. Isley, Building Services)
- e) Discuss proposed amendments to Appendix C - Zoning, Article I - Basic Ordinance, Schedule of Districts, Section IV-A - R-4 Mobile Home District to the Alpine Code of Ordinances; Including proposed amendments to improve the availability of affordable housing by amending to provide

small housing options. (J. Isley, Building Services)

**6. Action Items –**

- a) Approve a recommendation to the City Council regarding Rezone 2024-03-01, a rezoning application to allow the applicant, Ruben Losoya, to establish a recognized mobile home park on the subject property. The property in question is located at 708 S. Cactus St and is legally described as 1.52 acres, more or less, being the South part of a 3.0 acre tract of land described as the South 3.0 acres of the West Half (W/2) of Block Two (2) in Volume 36, Page 410, Official Public Records, Means Addition Subdivision "A" to the City of Alpine, Brewster County, Texas, as per Plat on file in Envelope No. 63, Map/Plat Records on file in the Office of the County Clerk of Brewster County, Texas. The Property ID of the subject property is 11311. The record property owner is Ruben Losoya. The current zoning of the property is R-4 Mobile Home District. The zoning classification if the rezoning is approved will be C-1A Neighborhood Commercial District.  
(G. Calderon, City Secretary)

**7. Board Member Comments.**

**8. Adjourn.**

---

**NOTICE:** This facility is wheelchair accessible and accessible parking space is available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the Office of the City Secretary at (432) 837-3301, option 1, or email [city.secretary@cityofalpine.com](mailto:city.secretary@cityofalpine.com) for further information.

**CERTIFICATION**

I, Geoffrey R. Calderon, hereby certify that this notice was posted at City Hall, a convenient and readily accessible place to the general public, and to the City website at [www.cityofalpine.com](http://www.cityofalpine.com) pursuant to Section 551.043, Texas Government Code. The said notice was posted at 5:00 P.M. on March 20, 2024, and remained so posted for at least 72 hours preceding the scheduled time of the said meeting.

  
Geoffrey R. Calderon, TRMC  
City Secretary & Chief Governance Officer





## **PLANNING & ZONING COMMISSION MEETING AGENDA ITEM COVER MEMO**

**MARCH 25, 2024**

---

### **DISCUSSION ITEMS**

---

- a) Discussion regarding Chapter 9 - Annexation; Discuss zoning and ward designations upon annexation. (M. Antrim, City Manager)

---

### **BACKGROUND**

---

- The city currently does not have a requirement to determine the city ward after property is annexed into the city limits. This poses complex issues because residents in newly annexed areas are not added to the appropriate voting districts upon annexation.
- Additionally, the current zoning ordinance requires that newly annexed properties are annexed as R-1 Residential. This poses issues with incentivizing businesses to come to Alpine and to annex into the city limits because it complicates the process and creates risks for business ventures.
- In most circumstances this can mean that a person may purchase property, annex it into the city to operate a business, and the rezoning from residential to commercial may be denied resulting in prohibiting operation of the original concept. Due to this risk, it might be wise to update the ordinance and provide that Council designates the zoning upon annexation.

---

### **SUPPORTING MATERIALS**

---

1. Chapter 9 – Annexation.
2. Current zoning requirement per ordinance upon annexation.

---

### **STAFF RECOMMENDATION**

---

NONE.

## **Chapter 9 ANNEXATION**

### **Sec. 9-1. In general.**

In accordance with the city Charter, all annexations by the city, whether by action of the city council or by petition, shall be undertaken in strict compliance with state law, including V.T.C.A., Local Government Code ch. 43.

(Ord. No. 2023-02-01 , § I(Exh. A), 2-21-23)

### **Sec. 9-2. Disannexation.**

Disannexation procedures shall be followed in compliance with the city Charter and state law, including V.T.C.A., Local Government Code ch. 43.

(Ord. No. 2023-02-01 , § I(Exh. A), 2-21-23)

### **Sec. 9-3. Neighbor notice.**

In addition to the requirements prescribed in V.T.C.A., Local Government Code ch. 43, the city shall send notice by United States Postal Service regular mail to property owners within 200 feet of a property that will be considered for annexation by the city council. Said notices must be sent to property owners within 200 feet at least ten days prior to the second and final public hearing.

(Ord. No. 2023-02-01 , § I(Exh. A), 2-21-23)

---

### Section 3. Application of district regulations.

The regulations set by this ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided.

1. No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
2. No building or other structure shall hereafter be erected or altered.
  - (a) To exceed the height or bulk;
  - (b) To accommodate or house a greater number of families;
  - (c) To occupy a greater percentage of lot area;
  - (d) To have narrower or smaller rear yards, front yards, side yards or other open spaces than herein required; or in any other manner contrary to the provisions of this ordinance.
3. No part of a yard, or other open space, or off-street parking or loading space required (for the purpose of complying with this ordinance) shall be included as part of a yard, open space, or off-street parking or loading space, required for any other building.
4. No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.
5. All territory which may hereafter be annexed to the city shall be considered to be zoned R-1 until otherwise classified by the city council in accordance with recommendations of the planning and zoning commission in accordance with Chapter 211 of the Texas Local Government Code. Existing legal uses on the annexed property may be registered as non-conforming uses in accordance with the provisions of this ordinance.



**PLANNING & ZONING COMMISSION  
MEETING AGENDA ITEM COVER MEMO  
MARCH 25, 2024**

---

**DISCUSSION ITEMS**

---

- b) Discuss making a recommendation to City Council to update Chapter 18 - Buildings and Building Regulations, Article XI - Dangerous Buildings, including updates to the criteria for substandard buildings. (G. Fielder, Commissioner)

---

**BACKGROUND**

---

NONE.

---

**SUPPORTING MATERIALS**

---

1. Photos of local buildings on main thoroughfares.
2. Chapter 18 – Buildings and Building Regulations, Article XI – Dangerous Buildings.
3. International Property Maintenance Code Boarding Standards.

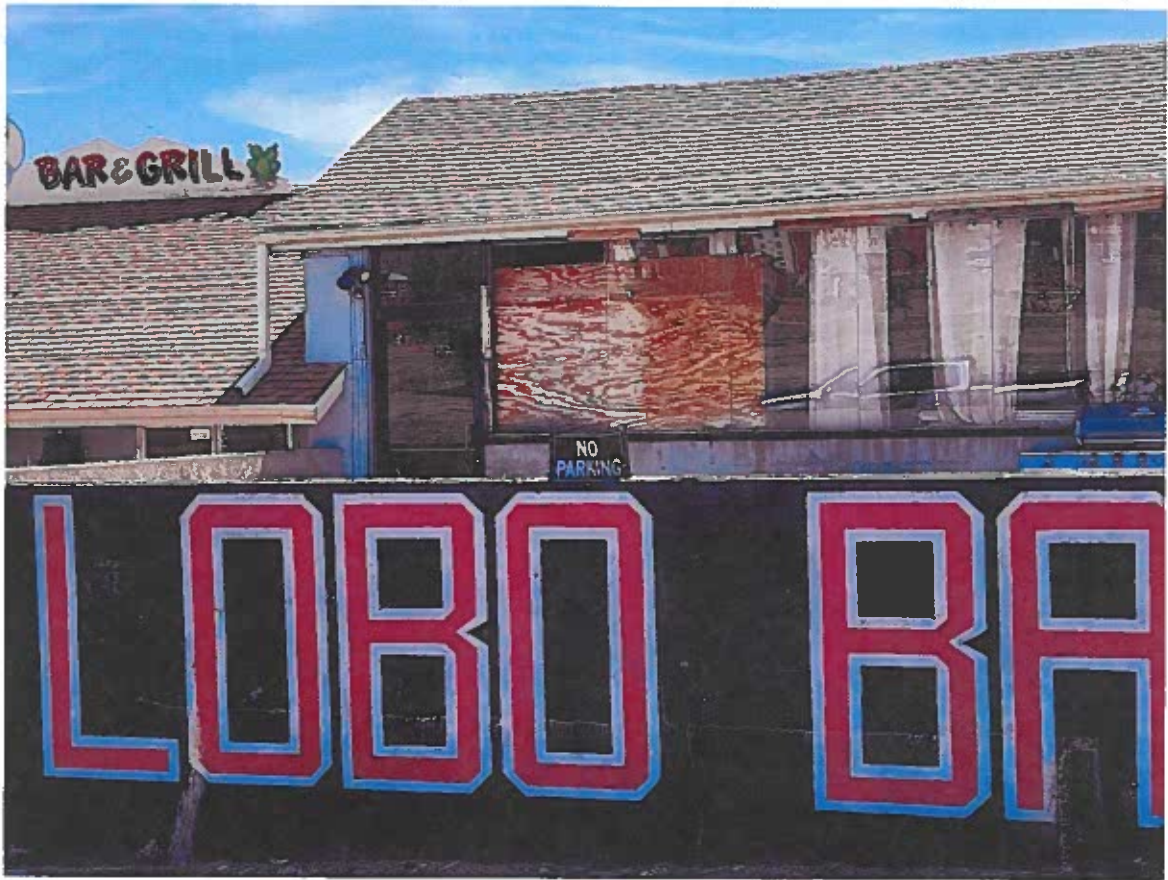
---

**STAFF RECOMMENDATION**

---

NONE.











## **ARTICLE XI. DANGEROUS BUILDINGS<sup>1</sup>**

### ***DIVISION 1. GENERALLY***

#### **Sec. 18-281. Definitions.**

The words and phrases contained herein shall have the following meaning ascribed to them unless the context states otherwise:

*Abatement.* **Repairing, removing or demolishing a structure** or building so as to bring it into compliance with the minimum standards as set forth in this article.

*Accessory structure.* A building or structure incidental to the dwelling unit and located on the same property.

*Appeal court.* The Municipal Court of the City of Alpine, Texas, sitting as a Civil Court.

*Building.* Any structure built for the support, shelter and enclosure of persons, animals, goods or movable property of any kind. Any roof-covered structure shall be considered a building. Also see "structure."

*Building codes.* The most recent version of the codes adopted by the city, including the International Property Maintenance Code, the International Building Code, International Residential Code, the International Plumbing Code, International Existing Building Code, and the National Electric Code.

*Dangerous building.* Any building or structure that does not comply with the minimum standards.

*Minimum standards.* The minimum standards for continued use and occupancy of a building or structure as set forth in section 18-284 herein.

*Inspector.* The individual designated by the city manager to carry out the duties of this article.

*Owner of record.* Any person, agent, firm, corporation or governmental agency shown to be the owner or owners of a structure in:

- (1) The real property, assumed name, or appraisal district records of Brewster County;
- (2) The tax and utility records of the City of Alpine; or
- (3) The records of the secretary of State of Texas.

*Public nuisance.*

- (1) Whatever is dangerous to human life or health; whatever renders the ground, water, air or food hazardous to human life, or health, or that is offensive to the senses; or that is detrimental to the public health; or
- (2) Any structure that creates a hazard to health, safety, comfort or welfare.

---

<sup>1</sup>Editor's note(s)—Ord. No. 2013-06-04, § 1, adopted July 2, 2013, added provisions numbered as Art. 18.37, §§ 18-371—18-3711. In order to conform to the format used in this Code the editor has renumbered the provisions added by this ordinance as herein set out.

Note(s)—Formerly art. X, see editor's note for art. V.

---

*Structure.* A combination of materials held or put together in a specific way to form a construction for use, occupancy or ornamentation, whether installed on, above, or below the surface of land or water. Structure includes buildings as defined herein.

(Ord. No. 2013-06-04, § 1, 7-2-13; Ord. No. 2022-12-01 , § I(Exh. A), 1-3-23)

### **Sec. 18-282. General information.**

- (a) *Notices mailed.* All notices required to be mailed under this article, shall be mailed by certified mail, return receipt requested. When a notice is mailed in accordance with this section and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered.
- (b) *Notices posted.* All notices required to be posted shall be attached to the structure as close to the front door as practicable. If there is no front door, notice shall be attached to the structure in a noticeable place.
- (c) *Change of owner.* If a building or structure has been designated as a dangerous building, it is the owner's responsibility to furnish a purchaser, transferee, grantee, mortgagee or lessee a true and correct copy of the notice of dangerous building and to provide the Inspector written notification of the intent to enter into such transaction, including the name and address of the purchaser, transferee, grantee, mortgagee or lessee. A purchaser shall be bound by the notices and orders issued pursuant to this article. It is the purchaser's responsibility to provide a copy to the inspector of the document changing ownership which has been recorded in the Official Public Records of Brewster County.

(Ord. No. 2013-06-04, § 1, 7-2-2013)

### **Sec. 18-283. Abatement of dangerous buildings.**

- (a) It shall be unlawful for any owner, occupant, or other person in control of a structure to allow that structure to be in a condition that does not conform to the minimum standards.
- (b) Any structure that does not conform to the minimum standards is hereby declared to be a public nuisance and shall be abated by vacation, relocation of occupants, **repair, demolition, or removal as necessary upon the issuance of an order to abate issued by the board in accordance with the procedures specified in this article.**

(Ord. No. 2013-06-04, § 1, 7-2-2013)

### **Sec. 18-284. Conditions requiring abatement.**

- (a) Regardless of its date of construction, a structure is considered not to meet the minimum standards of the city and shall not continue to be used or occupied if the following conditions are present and constitute a danger to persons or property:
  - (1) *Unoccupied structures.*
    - a. Any structure or any part thereof constructed or maintained in violation of any provision of this Code, or any law of the county, state or federal government which makes the structure unsafe;
    - b. Any structure with roof, ceiling, floors, walls, sills, windows, foundation or any combination thereof, rotted or decayed, and falling apart;
    - c. Any structure with shingles or roofing material not in place, **or is not free from leaks and sags;**
    - d. Any structure that is uninhabitable due to obsolescence and deterioration caused by neglect, vandalism, fire damage, old age, or the elements;
    - e. Any structure that is in danger of falling and injuring persons or property;

- 
- f. Any structure that is a fire menace because it is in a dilapidated condition, or that is likely to become a fire menace or be set on fire; or contains a fire load with the potential to cause a fire;
  - g. Any structure that has been damaged by fire, water, earthquake, wind, hail, rain, vandalism, or other cause to such an extent that the roof, windows or doors or portions of the structure that protect the interior from the weather, no longer reasonably protect from the weather;
  - h. Any structure that is open and accessible so as to become a harbor for insects, rodents, vermin, uninvited persons or transients; or a place for potential illegal activity;
  - i. Any structure that is in unsanitary condition and likely to create disease because of the presence of insects, rodents or vermin;
  - j. Any structure that is damp and in unsanitary condition and is likely to create disease and sickness;
  - k. Any structure that has holes, cracks or other defects in it;
  - l. Any structure that does not have railings for stairs, steps, balconies, porches;
  - m. Any structure that is not weathertight and waterproof, including but not limited to, roofs, walls, windows, doors and flooring;
  - n. Any structure that does not have a moisture resistant finish or material for the flooring or subflooring of each bathroom, shower room and toilet room;
  - o. Any structure with floors that are missing, buckled, warped, worn, loose, or unlevel;
  - p. Any structure with an electric system that is a hazard due to inadequate maintenance, dilapidation, fire hazard, disaster, damage or abandonment or not safely capable of carrying a load imposed by normal use of appliances and fixtures;
  - q. Any structure where the deterioration, decay or inadequacy of its floor joists, floors, subfloors, or foundation is likely to cause the structure to partially or completely collapse; or
  - r. Any structure not in compliance with the adopted codes of the City of Alpine, specifically including the International Property Maintenance Code, that otherwise fails to meet the requirements of this chapter.
- (2) *Occupied structures.* In addition to the conditions for unoccupied structures:
- a. Any structure that does not have in operating condition a connection to discharge sewage from the structure or land into a public sewer system or septic system;
  - b. Any structure that does not have the minimum required fixtures as required in the International Property Maintenance Code and the International Plumbing Code; all of which shall be in operating condition and connected to both hot and cold water sources;
  - c. Any structure that does not have electrical service meeting required codes as described by the International Property Maintenance Code or the National Electric Code; or
  - d. Any structure that does not meet the standards established for an occupied structure as established by the adopted building codes of the city.
- (b) Any structure that is not occupied by its owners, lessees or other invitees, has been left unsecured from unauthorized entry to the extent that it may be entered by vagrants, transients or other uninvited persons as a place of harborage or may be entered and utilized by children as a play area, regardless of its structural condition.
- (c) Any structure that is boarded up, fenced or secured if:
- (1) The structure constitutes a danger to the public even though secured from entry; or
  - (2) The means used to secure the structure are inadequate to prevent unauthorized entry or use of the structure.
-

---

(Ord. No. 2013-06-04, § 1, 7-2-13; Ord. No. 2022-12-01, § I(Exh. A), 1-3-23)

### **Sec. 18-285. Inspection and notice of required abatement.**

- (a) *Inspection.* The inspector shall inspect any structure that he has probable cause to believe does not meet the minimum standards. If the structure is not open and accessible, the Inspector may obtain permission from the owner or a person in control of the premises, or may apply for an administrative search warrant pursuant to Texas Code of Criminal Procedure Section 18.05 unless an exception to the warrant requirement exists.
- (b) *Determination.* The inspector shall use section 18-284 of this article to determine compliance or noncompliance.
- (c) *Notice.*
  - (1) After a determination that a structure requires abatement, an initial notice shall be provided to the owner as on file at the Brewster County Appraisal District.
  - (2) The initial notice shall contain the following:
    - a. The nature of the violation(s) of the minimum standards; and
    - b. That the structure is dangerous and that the owner must vacate and/or **repair, remove, or demolish the structure** for the good of the public health, safety and welfare.
  - (3) A notice shall be posted on the dangerous building as follows:

"THIS STRUCTURE IS DANGEROUS ACCORDING TO THE MINIMUM STANDARDS SET FORTH IN THE CITY OF ALPINE CODE OF ORDINANCES, CHAPTER 18, SECTION 18-284 AND THE OWNER MUST REPAIR, REMOVE, OR **DEMOLISH** IT. CONTACT \_\_\_\_\_ AT \_\_\_\_\_ FOR FURTHER INFORMATION. THIS NOTICE SHALL REMAIN ON THIS STRUCTURE UNTIL IT IS REPAIRED, REMOVED FROM THE CITY OF ALPINE CITY LIMITS, OR **DEMOLISHED**."
- (d) The owner or the owner's designated representative has 15 days from the date of the notice to contact the inspector regarding their intent to repair, remove or demolish the dangerous building.

(Ord. No. 2013-06-04, § 1, 7-2-2013)

### **Sec. 18-286. Hearing.**

A public hearing shall be held so that the court may determine whether the structure complies with the minimum standards set forth in this article.

- (a) *Notice of hearing.*
  - (1) The inspector shall make a diligent effort to discover the identity and address of the owner(s) of record and any lienholders or mortgagees of the structure and the underlying property.
  - (2) The inspector shall notify each owner, lienholder, or mortgagee by mail.
  - (3) The inspector shall notify any unknown interested parties by posting a copy of the notice on each structure.
  - (4) The inspector shall file a notice of hearing in the official public records of real property in Brewster County.
- (b) *Contents of notice of hearing.* The notice of hearing shall contain the following information:
  - (1) The owner, lienholder, mortgagee or unknown interested parties have the burden of proof and will be required to submit at the hearing proof of the scope of any work that may be required to make



---

the structure comply with the ordinance and the amount of time it will take to reasonably perform the work.

- (2) The name and address of the owner of record.
- (3) A legal description of the property.
- (4) A general description of the structures not meeting the minimum standards.
- (5) A description of the proceeding.

(Ord. No. 2013-06-04, § 1, 7-2-2013)

### **Sec. 18-287. Orders of the court.**

- (a) The court may issue one of the following orders:
  - (1) Order to secure or vacate the structure and relocate the occupants.
  - (2) Order to repair, remove or demolish.
  - (3) Order to remove or demolish.
  - (4) Order to release.
- (b) If the structure is occupied and the court issues an order pursuant to subsection (a)(1), the structure shall be vacated and the occupants relocated.
- (c) Orders of the court issued pursuant to subsections (a)(2) and (a)(3) shall allow 60 days for the ordered action to be completed.
- (d) If a residential structure is removed or demolished pursuant to this article, any and all accessory structures located on the same property shall be removed or demolished, regardless of structural condition.
- (e) The inspector shall promptly mail a copy of any order issued pursuant to subsection (a) of this section, to the owner of record, any lienholder or mortgagee along with a notice containing the following:
  - (1) An identification of the structure and the property on which it is located;
  - (2) A description of the violation(s) of the minimum standards;
  - (3) A statement that the municipality will secure, vacate, repair, remove or demolish the structure if the ordered action is not taken within sixty (60) days.
- (f) Sixty days after an order to repair, remove or demolish has been issued, the Inspector has the authority to request the utilities be disconnected at the structure in order to prepare for demolition.
- (g) Once an order to remove or demolish has been issued by the court, the inspector has the authority to request the utilities be disconnected at the structure in order to prepare for demolition.
- (h) Within ten days following the date that an order is issued, the inspector shall:
  - (1) File a copy of the order in the office of the city secretary of the City of Alpine; and
  - (2) Publish in a newspaper of general circulation in the city a notice containing the following:
    - a. The street address or legal description of the property;
    - b. The date the hearing was held;
    - c. A brief statement indicating the results of the order; and
    - d. Instructions stating where a complete copy of the order may be obtained.

(Ord. No. 2013-06-04, § 1, 7-2-2013)

---

### **Sec. 18-288. Permits.**

- (a) Any permits issued for work on a structure on which the court has issued an order shall expire on the deadline established by the order.
- (b) Applicants for a permit to make repairs on a structure on which the court has issued an order shall meet with the appropriate inspecting official from the city's code enforcement department and the building official prior to the granting of a permit. The meeting will be to ensure the applicant understands (i) the scope of work required to be completed to comply with the minimum standards, (ii) that such repairs shall be completed by the deadline established by the order and (iii) that if all repairs are not completed by the deadline established by the order, the structure will be demolished. A permit will not be issued unless the applicants comply with this meeting requirement.

- (c) No permits will be issued after the deadline established by the order.

(Ord. No. 2013-06-04, § 1, 7-2-2013)

### **Sec. 18-289. Appeals.**

Any owner, lienholder or mortgagee of record of property jointly or severally aggrieved by an order of the court under this article may file in district court a verified petition setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be filed by an owner, lienholder, or mortgagee within 30 calendar days after the date a copy of the court's order is mailed to them in accordance with this article.

(Ord. No. 2013-06-04, § 1, 7-2-2013)

### **Sec. 18-290. Expense of abatement.**

- (a) If an owner or other interested party **does not secure, vacate, repair, remove, or demolish** a structure within 60 days, the inspector may take the ordered action at the city's expense.
- (b) *Calculation of costs.*
  - (1) Costs include all expenses incurred as a result of the enforcement of the order.
  - (2) The general administrative expenses of inspecting structures, locating owners, conducting hearings, and issuing notices and orders, together with all associated administrative functions, require a reasonable minimum charge of \$500.00 per property. The building official shall maintain a log of all expenses incurred during this process. If this total is greater than \$500.00, the cost shall be the greater amount.
- (c) *Lien.* Any expenses incurred by the city pursuant to subsection (a) of this section will be assessed against the property on which the structure stands or stood. The city will have a privileged lien upon filing same in the Official Public Records of Brewster County subordinate only to tax liens against the property unless it is a homestead as protected by the Texas Constitution. The lien will be extinguished if the property owner or other interested party reimburses the city for all expenses and penalties.

(Ord. No. 2013-06-04, § 1, 7-2-2013)

### **Sec. 18-291. Seizure and sale of property to recover expenses.**

The city may foreclose a lien on property pursuant to Texas Local Government Code § 214.004:

- (1) In a proceeding relating to the property brought under Subchapter E, Chapter 33, Tax Code; or
- (2) In a judicial proceeding, if:

- 
- a. A building or other structure on the property has been demolished;
  - b. A lien for the cost of the demolition of the structure or other structure on the property has been created and that cost has not been paid more than 180 days after the date the lien was filed; and
  - c. Ad valorem taxes are delinquent on all or part of the property.

(Ord. No. 2013-06-04, § 1, 7-2-2013)

**Sec. 18-292—18-300. Reserved.**

***DIVISION 2. BUILDING AND STANDARDS COMMISSION***

**Sec. 18-301. In general.**

The building and standards commission shall:

- (1) Use the standards of criteria related to: deterioration of the building or structure, fire hazard, pestilence, structural deformity, inadequate fire safety measures and other conditions as recognized by the building codes adopted by the city in article X, section 18-260, and article XI, sections 18-281—18-284.
- (2) Hear evidence and shall, upon a finding that the conditions as set out in the ordinances have been met, declare a structure substandard.

(Ord. No. 2022-10-03 , § I(Exh. A), 11-1-22)

**Sec. 18-302. Notice.**

- (a) A public hearing shall be held so that the building and standards commission may determine whether the structure complies with the minimum standards set forth in this section.
  - (1) *Notice of hearing.*
    - a. The city secretary shall make a diligent effort to discover the identity and address of the owner(s) of record and any lienholders or mortgagees of the structure and the underlying property.
    - b. The city secretary shall notify each owner by personal delivery, by certified mail with return receipt requested, or by delivery by the United States Postal Service using signature confirmation service, to the record owners of the affected property, and each holder of a recorded lien against the affected property, as shown by the records in the office of the county clerk of the county in which the affected property is located if the address of the lienholder can be ascertained from the deed of trust establishing the lien or other applicable instruments on file in the office of the county clerk lienholder, or mortgagee by mail.
    - c. The inspector shall notify any unknown interested parties by posting a copy of the notice on each structure.
    - d. The inspector shall file a notice of hearing in the official public records of real property in the county.
  - (2) *Contents of notice of hearing.* The notice of hearing shall contain the following information:
    - a. The notice must be posted and either personally delivered or mailed on or before the tenth day before the date of the hearing before the commission panel and must state the date, time, and place of the hearing. In addition, the notice must be published in a newspaper of general circulation in the municipality on one occasion on or before the tenth day before the date fixed for the hearing.

- 
- b. The owner, lienholder, mortgagee, or unknown interested parties have the burden of proof and will be required to submit at the hearing proof of the scope of any work that may be required to make the structure comply with the ordinance and the amount of time it will take to reasonably perform the work.
  - c. The name and address of the owner of record.
  - d. A legal description of the property.
  - e. A general description of the structures not meeting the minimum standards.
- (b) When a municipality mails a notice in accordance with this section to a property owner, lienholder, or registered agent and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered.
- (Ord. No. 2022-10-03 , § I(Exh. A), 11-1-22)

### **Sec. 18-303. Functions of the building and standards commission.**

- (a) The building and standards commission may issue one of the following orders:
  - (1) Order to **secure or vacate the structure** and relocate the occupants.
  - (2) Order to repair, remove or demolish.
  - (3) Order to remove or demolish.
  - (4) Order to release.
- (b) If the structure is occupied and the commission issues an order pursuant to subsection (a)(1) above, the structure shall be vacated and the occupants relocated.
- (c) Orders of the commission issued pursuant to subsections (a)(2) and (3) shall allow 45 days before the ordered action to be completed.
- (d) If a residential structure is removed or demolished pursuant to this article, any and all accessory structures located on the same property shall be removed or demolished, regardless of structural condition.
- (e) The inspector shall promptly mail a copy of any order issued pursuant to subsection (a) of this section, to the owner of record, any lienholder or mortgagee along with a notice containing the following:
  - (1) An identification of the structure and the property on which it is located.
  - (2) A description of the violation(s) of the minimum standards.
  - (3) A statement that the municipality will **secure, vacate, repair, remove or demolish** the structure if the ordered action is not taken within 45 days.
- (f) Forty-five days after an order to repair, remove or demolish has been issued, the inspector has the authority to request the utilities be disconnected at the structure in order to prepare for demolition.
- (g) Once an order to remove or demolish has been issued by the commission, the inspector has the authority to request the utilities be disconnected at the structure in order to prepare for demolition.
- (h) Within ten days following the date that an order is issued, the inspector shall:
  - (1) File a copy of the order in the office of the city secretary of the city; and
  - (2) Publish in a newspaper of general circulation in the city a notice containing the following:
    - a. The street address or legal description of the property;
    - b. The date the hearing was held;
    - c. A brief statement indicating the results of the order; and



- 
- d. Instructions stating where a complete copy of the order may be obtained.

(Ord. No. 2022-10-03 , § I(Exh. A), 11-1-22)

### **Sec. 18-304. Permits.**

- (a) Any permits issued for work on a structure on which the commission has issued an order shall expire on the deadline established by the order.
- (b) Applicants for a permit to make repairs on a structure on which the commission has issued an order shall meet with the appropriate inspecting official from the city's code enforcement and building official prior to the granting of a permit. The meeting will be to ensure the applicant understands:
  - (1) The scope of work required to be completed to comply with the minimum standards;
  - (2) That such repairs shall be completed by the deadline established by the order; and
  - (3) All repairs are not completed by the deadline established by the order (90 days to repair—everything has to be done in 45 days; 45 days for appeal), the structure will be demolished. A permit will not be issued unless the applicants comply with this meeting requirement.
  - (4) No permits will be issued after the deadline established by the order.
- (c) The building and standards commission may not allow the owner, lienholder, or mortgagee more than 90 days to repair, remove, or demolish the building or fully perform all work required to comply with the order unless the owner, lienholder, or mortgagee:
  - (1) Submits a detailed plan and time schedule for the work at the hearing; and
  - (2) Establishes at the hearing that the work cannot reasonably be completed within 90 days because of the scope and complexity of the work.

(Ord. No. 2022-10-03 , § I(Exh. A), 11-1-22)

### **Sec. 18-305. Appeal.**

Any owner, lienholder, or mortgagee of record of property jointly or severally aggrieved by an order of the building and standards commission may file in district court a verified petition setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be filed by an owner, lienholder, or mortgagee within 30 calendar days after the respective dates a copy of the final decision of the municipality is personally delivered to them, mailed to them by first class mail with certified return receipt requested, or delivered to them by the United States Postal Service using signature confirmation service, or such decision shall become final as to each of them upon the expiration of each such 30 calendar day period.

(Ord. No. 2022-10-03 , § I(Exh. A), 11-1-22)

### **Sec. 18-306. Expense for abatement.**

- (a) If an owner or other interested party does not **secure, vacate, repair, remove, or demolish a structure** within 45 days, the inspector may take the ordered action at the city's expense with permission for expenses to be incurred from the city council.
- (b) Calculation of costs.
  - (1) Costs include all expenses incurred as a result of the enforcement of the order.
  - (2) The general administrative expenses of inspecting structures, locating owners, conducting hearings, and issuing notices and orders, together with all associated administrative functions, require a reasonable

---

minimum charge of \$500.00 per property. The building official shall maintain a log of all expenses incurred during this process. If this total is greater than \$500.00, the cost shall be the greater amount.

- (c) **Lien.** Any expenses incurred by the city pursuant to subsection (b) of this section will be assessed against the property on which the structure stands or stood. The city will have a privileged lien upon filing same in the official public records of the county subordinate only to tax liens against the property unless it is a homestead as protected by the state constitution. The lien will be extinguished if the property owner or other interested party reimburses the city for all expenses and penalties.

(Ord. No. 2022-10-03 , § I(Exh. A), 11-1-22)

### **Sec. 18-307. Rights and remedies saved.**

All rights or remedies of the city are expressly saved as to any and all violations of any building ordinance or amendments thereto, of the city, that have accrued at the time of the effective date the ordinance from which this section derives; and as to such accrued violation, the building and standards commission shall have all the powers that existed prior to the effective date of this ordinance; and that all existing violations of previous building ordinances which would otherwise become non-conforming under this section but shall be considered as violations of this section are violations of this section in the same manner that they were violations of prior building ordinances of the city.

(Ord. No. 2022-10-03, § I(Exh. A), 11-1-22)

## APPENDIX A

# BOARDING STANDARD

*The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.*

### User note:

*About this appendix: Appendix A provides minimum specifications for boarding a structure. This can be utilized by a jurisdiction as a set of minimum requirements in order to result in consistent boarding quality. These requirements also provide a reasonable means to eliminate having to approve numerous methods or materials for the boarding and securing of a structure. It is important to note that the provisions of Appendix A are not mandatory unless specifically referenced in the adopting ordinance of the authority having jurisdiction.*

### A101 GENERAL

**A101.1 General.** Windows and doors shall be boarded in an *approved* manner to prevent entry by unauthorized persons and shall be painted to correspond to the color of the existing structure.

### A102 MATERIALS

**A102.1 Boarding sheet material.** Boarding sheet material shall be minimum  $\frac{1}{2}$ -inch-thick (12.7 mm) wood structural panels complying with the *International Building Code*.

**A102.2 Boarding framing material.** Boarding framing material shall be minimum nominal 2-inch by 4-inch (51 mm by 102 mm) solid sawn lumber complying with the *International Building Code*.

**A102.3 Boarding fasteners.** Boarding fasteners shall be minimum  $\frac{3}{8}$ -inch-diameter (9.5 mm) carriage bolts of such a length as required to penetrate the assembly and as required to adequately attach the washers and nuts. Washers and nuts shall comply with the *International Building Code*.

### A103 INSTALLATION

**A103.1 Boarding installation.** The boarding installation shall be in accordance with Figures A103.1(1) and A103.1(2) and Sections A103.2 through A103.5.

**A103.2 Boarding sheet material.** The boarding sheet material shall be cut to fit the door or window opening neatly or shall be cut to provide an equal overlap at the perimeter of the door or window.

**A103.3 Windows.** The window shall be opened to allow the carriage bolt to pass through or the window sash shall be removed and stored. The 2-inch by 4-inch (51 mm by 102 mm) strong back framing material shall be cut minimum 2 inches (51 mm) wider than the window opening and shall be placed on the inside of the window opening 6 inches (152 mm) minimum above the bottom and below the top of the window opening. The framing and boarding shall be predrilled. The assembly shall be aligned and the bolts, washers and nuts shall be installed and secured.

**A103.4 Door walls.** The door opening shall be framed with minimum 2-inch by 4-inch (51 mm by 102 mm) framing material secured at the entire perimeter and vertical members at a maximum of 24 inches (610 mm) on center. Blocking shall also be secured at a maximum of 48 inches (1219 mm) on center vertically. Boarding sheet material shall be secured with screws and nails alternating every 6 inches (152 mm) on center.

**A103.5 Doors.** Doors shall be secured by the same method as for windows or door openings. One door to the structure shall be available for authorized entry and shall be secured and locked in an *approved* manner.

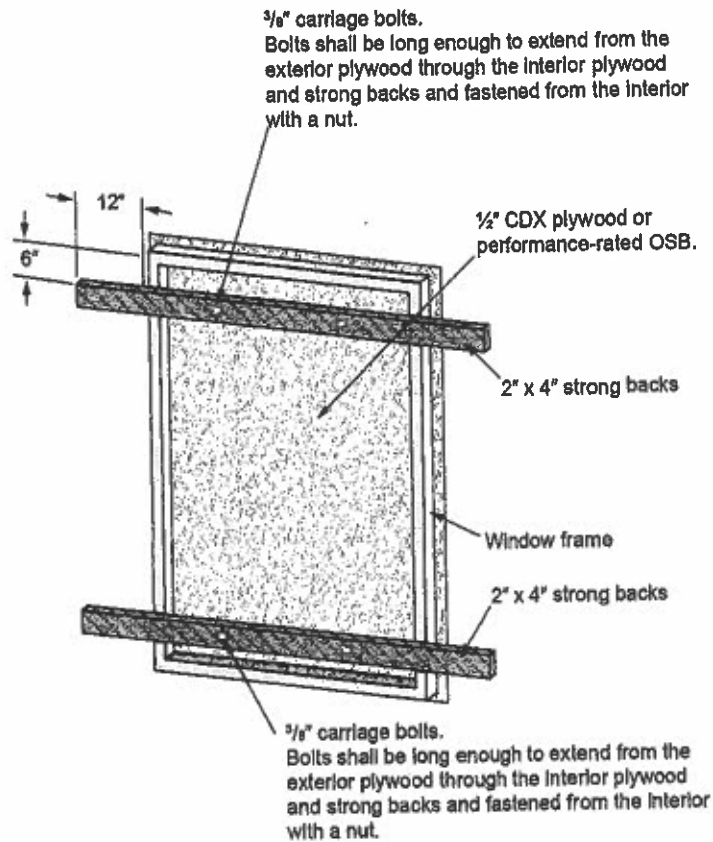
### A104 REFERENCED STANDARD

**A104.1 Referenced standards.** Table A104.1 lists the standard that is referenced in various sections of this appendix. The standard is listed herein by the standard identification, the effective date and title and the section or sections of this document that reference the standard. The application of the referenced standards shall be as specified in Section 102.8.

TABLE A104.1  
REFERENCED STANDARD

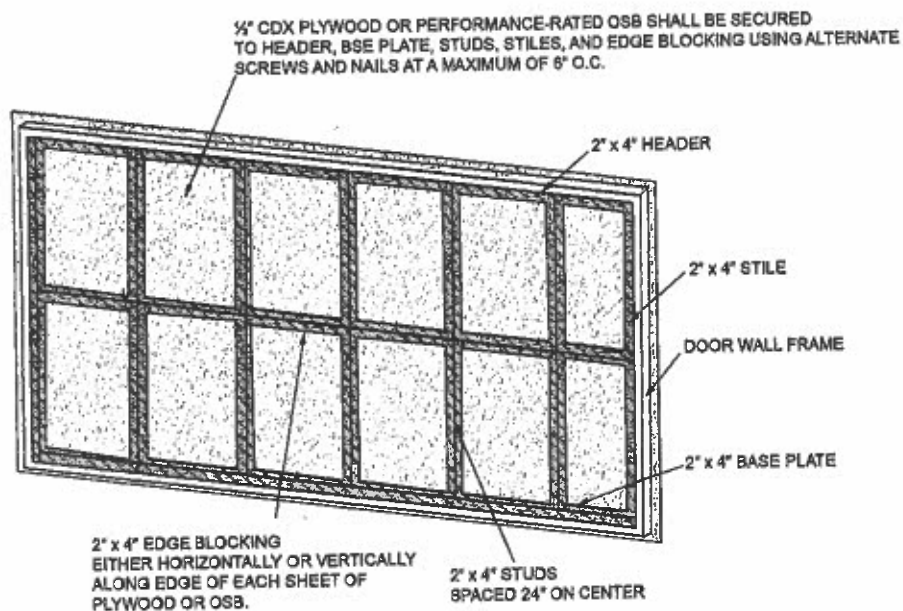
STANDARD ACRONYM	STANDARD NAME	SECTIONS HEREIN REFERENCED
IBC—21	International Building Code	A102.1, A102.2, A102.3

## APPENDIX A BOARDING STANDARD



For SI: 1 inch = 25.4 mm.

**FIGURE A103.1(1)**  
**BOARDING OF DOOR OR WINDOW**



For SI: 1 inch = 25.4 mm.

**FIGURE A103.1(2)**  
**BOARDING OF DOOR WALL**





**PLANNING & ZONING COMMISSION  
MEETING AGENDA ITEM COVER MEMO**

**MARCH 25, 2024**

---

**DISCUSSION ITEMS**

---

- c) Discuss making a recommendation to City Council to update Chapter 78 - Signs to the Alpine Code of Ordinances including updates to the criteria for signs within the City. (G. Fielder, Commissioner)

---

**BACKGROUND**

---

NONE.

---

**SUPPORTING MATERIALS**

---

1. Photos of local signs.
2. Chapter 78 – Signs.

---

**STAFF RECOMMENDATION**

---

NONE.



## Chapter 78 SIGNS<sup>1</sup>

### Sec. 78-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Abandoned sign* means a sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product or activity, and/or for which no legal owner can be found.

*Administrator* means the code administrator, code enforcement officer, committee or board so designated, or their representative.

*Animated sign* (see also and note difference from "Changeable sign") means a sign, or display, manifesting either kinetic or illusionary motion occasioned by natural, manual, mechanical, electrical or other means. Animated signs include the following types:

- (1) *Naturally energized sign* means a sign whose motion is activated by wind or other atmospheric impingement. Wind driven signs include flags, banners, pennants, streamers, spinners, metallic disks or other similar devices designed to move in the wind.
- (2) *Mechanically energized sign* means a sign manifesting a repetitious preprogrammed physical movement or rotation in either one or a series of planes activated by means of mechanically based drives.
- (3) *Electrically energized sign* means an illuminated sign whose motion or visual impression of motion is activated primarily by electrical means. Electrically energized animated signs are of two types:
  - a. *Flashing sign* means an illuminated sign exhibiting a preprogrammed repetitious cyclical interruption of illumination from one or more sources in which the duration of the period of illumination (on phase) is either the same as, or less than, the duration of the period of darkness (off phase), and which the intensity of illumination varies from zero (off) to 100 percent (on during the programmed cycle).
  - b. *Illusionary movement sign* means an illuminated sign exhibiting the illusion of movement by means of a preprogrammed repetitious sequential switching action in which illuminated elements of the sign are turned on or off to visually simulate the impression of motion characteristic of chasing, running, blinking, oscillating, twinkling, scintillating or expanding and contracting light patterns.

*Area* (see "Sign, area of").

*Assembly or meeting room* means a room or portion of a building used for gathering together of 50 or more persons for such purpose as deliberation, education, instruction, worship, entertainment or amusement.

*Awning* means a shelter projecting from, and supported by, the exterior wall of a building, constructed of nonrigid materials on a supporting framework (compare "Marquee").

*Awning sign* means a sign painted on, printed on or attached flat against the surface of an awning.

---

<sup>1</sup>Cross reference(s)—Buildings and building regulations, ch. 18; streets, sidewalks and other public places, ch. 86; subdivisions, app. B; zoning, app. C.

State law reference(s)—Regulation of signs by municipalities, V.T.C.A., Local Government Code ch. 216; outdoor advertising, V.T.C.A., Transportation Code § 391.031 et seq.

---

*Back lit awning* (see "Electric awning sign").

*Banner sign* means a sign made of fabric, or any nonrigid material, with no enclosing framework.

*Billboard* (see "Off-premises sign").

*Blade sign* (see "Ground sign").

*Canopy, building*, means a rigid multisided structure covered with fabric, metal or other material, and supported by a building at one or more points or extremities, and by columns or posts embedded in the ground at other points or extremities and may be illuminated by means of internal or external sources (compare "Marquee").

*Canopy, freestanding*, means a rigid multisided structure covered with fabric, metal or other material, and supported by columns or posts embedded in the ground and may be illuminated by means of internal or external sources.

*Canopy sign* means a sign affixed or applied to the exterior wall facing surface of a building or freestanding canopy.

*Changeable sign* means a sign whose informational content can be changed or altered by manual or electric, electro-mechanical or electronic means. Changeable signs include the following types:

- (1) *Manually activated* means signs that show alphabetic, pictographic or symbolic informational content and can be changed or altered by manual means.
- (2) *Electrically activated* means signs whose alphabetic, pictographic or symbolic informational content can be changed or altered on a fixed display surface composed of electrically illuminated or mechanically driven changeable segments and includes the following two types:
  - a. *Fixed message electronic signs* means signs whose basic informational content has been preprogrammed to include only certain types of information projection, such as time, temperature, predictable traffic conditions or other events subject to prior programming.
  - b. *Computer controlled variable message electronic signs* means signs whose informational content can be changed or altered by means of computer-driven electronic impulses.

*City* means the City of Alpine and/or any jurisdiction of the city outside the city boundaries, unless the context clearly discloses a contrary intent.

*Clear sight triangle* means an area enclosed within an isosceles triangle having equal sides of 25 feet with the apex of the triangle at the point where two abutting streets meet.

*Clearance (of a sign)* means the smallest vertical distance between the grade of the adjacent street, highway or street curb and the lowest point of any sign, including framework and embellishments.

*Construction sign* means a temporary sign identifying an architect, project, contractor, subcontractor and/or material supplier participating in construction on the property on which the sign is located.

*Copy* means the graphic content of a sign surface in either permanent or removable letter, pictograph, symbolic or alphabetic form.

*Directional/information sign* means an on-premises sign giving directions, instructions or facility information, and which may contain the name or logo of an establishment but no advertising copy, e.g., parking or exit and entrance signs. Informational signs may contain the name or logo provided that the name or logo may not comprise more than 30 percent of the total sign area, which is three square feet per sign.

*Double-faced sign* means a sign with two faces, essentially back-to-back.

*Electric awning sign* or *back lit awning* means an internally illuminated fixed space-frame structure with translucent, flexible, reinforced covering designed in awning form, and with graphics or copy applied to the visible surface of the awning.

*Electrical sign* means a sign or sign structure in which electrical wiring, connections or fixtures are used.



---

*Electronic message center* (see "Changeable sign, electrically activated").

*Facade* means the entire building front including the parapet.

*Face of sign* means the area of a sign on which the copy is placed.

*Festoons* means a string of ribbons, tinsel, tassels, small flags or pinwheels.

*Flashing sign* (see "Animated sign, electrically energized").

*Freestanding sign* means a sign supported permanently upon the ground by poles or braces and not attached to any building.

*Frontage* means the length of the property line of any one premises along a public right-of-way on which it borders.

*Frontage, building*, means the length of an outside building wall on a public right-of-way on which it borders.

*Government sign* means any temporary or permanent sign erected and maintained by the city, county, state or federal government for traffic direction, or for designation of, or direction to any school, hospital, historical site or public service, property or facility.

*Grade* means the average elevation of the finished ground level at the center of all facades of a building.

*Graphic design* means any artistic design, portrayal or mural, painted directly on the exterior wall, fence, window or sculpture, or other structure which is visible from any public right-of-way, and which has its artistic purpose visible from any public right-of-way, which has its purpose and effect artistic and not the identification of the premises or the advertisement or promotion of the interest of any person or business. Such graphic design may be subject to a sign permit or building permit and review and approval by the building official or the code enforcement officer.

*Ground sign* or *blade sign* means a sign which is anchored to the ground similar to a pylon or freestanding sign, but which has a monolithic or columnar line and which maintains essentially the same contour from grade to top. Height and setbacks are to be the same as for freestanding signs.

*Height (of a sign)* means the vertical distance measured from the highest point of the sign, including decorative embellishments, to the grade of the adjacent street, or the surface grade beneath the sign, whichever is less (compare "Clearance").

*Identification sign* means a sign whose copy is limited to the name and address of a building, institution or person and/or activity or occupation being identified.

*Illegal sign* means a sign which does not meet requirements of this Code and which has not received legal nonconforming status.

*Illuminated sign* means a sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.

*Incidental sign* means a small sign less than one square foot, emblem or decal informing the public of goods, facilities or services available on the premises, e.g., a credit card sign.

*Lot* means a parcel of land legally defined on a subdivision map recorded with the assessment department or land registry office, or a parcel of land defined by a legal record or survey map.

*Low profile sign* or *monument sign* means a sign mounted directly to the ground with maximum height not to exceed six feet.

*Maintenance* means the cleaning, painting, repair or replacement of defective parts of a sign in a manner that does not alter the basic copy, design or structure of the sign.

*Mansard* means a sloped roof or roof-like facade architecturally comparable to a building wall.

*Marquee* means a lettering changeable sign, not to exceed 24 square feet in size. This type of sign may also be known as a reader board.

---

*Menu* means a comparable list or assortment of offerings, either food items or merchandise.

*Monument sign* (see "Low profile sign").

*Multiple-faced sign* means a sign containing three or more faces, not necessarily in back-to-back configuration.

*Nameplate* means a nonelectric, on-premises identification sign giving only the name, address and/or occupation of an occupant or group of occupants.

*Nonconforming sign* means an illegal sign which does not comply with the sign ordinance or to the sign code requirements, but for which a special exception or variance has been issued.

*Occupancy* means the portion of a building or premises owned, leased, rented or otherwise occupied for a given use.

*Off-premises sign* or *billboard* means a sign structure advertising an establishment, merchandise, service or entertainment, which is not sold, produced, manufactured or furnished at the property on which such sign is located, e.g., billboards or outdoor advertising.

*Off-site directional sign* means a sign which provides directional assistance to access an establishment conveniently and safely. Such signs shall be limited by the administrator in size, height and placement, as justified.

*On-premises sign* means a sign, the content of which is related to the premises on which it is located, referring exclusively to the name, location, product, persons, accommodations, services or activities of those premises, or the sale, lease or construction of those premises.

*Owner* means a person recorded as such on official records. For the purposes of this chapter, the owner of property on which a sign is located is presumed to be the owner of the sign, unless facts to the contrary are officially recorded or otherwise brought to the attention of the administrator.

*Painted wall sign* means any sign which is applied with paint, or similar substance, on the surface of the wall.

*Parapet* means the extension of a false front or wall above a roof line.

*Person* means any individual, corporation, association, firm, partnership or similarly defined interest.

*Point of purchase display* means advertising of a retail item accompanying its display, e.g., an advertisement on a product dispenser, tire display, etc.

*Pole cover* means a cover enclosing or decorating poles or other structural supports of a sign.

*Political sign* means a temporary sign used in connection with a local, state or national election or referendum.

*Portable sign* means any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building.

*Portal* means a covered structure forming an entrance to a building outside and with a separate roof, or as a recess in the interior as a kind of vestibule.

*Premises* means a parcel of land with its appurtenances and buildings which, because of its use, may be regarded as the smallest conveyable unit of real estate, and any tract that has been surveyed and delineated by a legal description, and the property upon which the business is located.

*Projecting sign* means a sign, other than a flat wall sign, which is attached to and projects from a building wall or other structure not specifically designed to support the sign.

*Real estate sign* means a temporary sign advertising the real estate upon which the sign is located as being for rent, lease or sale.

*Roof line* means the top edge of a roof or building parapet, whichever is higher, excluding any mansards, cupolas, pylons, chimneys or minor projections.

*Roof sign* means any sign erected over, or on top of, a building (compare "Mansard," or "Sign, wall").

---

*Rotating sign* (see "Animated sign, mechanically energized").

*Sign* means any device, fixture, placard or structure that uses any color, forms, graphic, illumination, symbol or writing to advertise, announce the purpose of or identify the purpose of a person or entity, or to communicate information of any kind to the public, except for the following:

- (1) Nonilluminated names of buildings, dates of erection, monument citations, commemorative tables and the like, when carved into stone, concrete, metal or any other permanent type of construction and made an integral part of a permitted structure, or made flush to the ground.
- (2) Signs required by law or signs of a duly constituted governmental body.
- (3) Signs placed by a public utility for safety, welfare or convenience of the public such as signs identifying high voltage, public telephone or underground cables.
- (4) Signs upon a vehicle; provided, any such vehicle with a sign face over two square feet is not conspicuously parked as to constitute a sign.
- (5) Temporary holiday decorations.

*Sign, area of, means:*

- (1) *Projecting and freestanding sign.* The area of a freestanding or projecting sign shall have only one side of any double-faced sign counted in calculating its area. The area of the sign shall be measured as a rectilinear line of not more than eight sides drawn around and enclosing the perimeter of each cabinet or module. The area shall then be summed and totaled to determine total area. The perimeter of the measurable area shall not include embellishments such as pole covers, framing, decorative roofing, support structures, etc.; provided, there is no written advertising copy on such embellishments.
- (2) *Wall sign.* The area of a wall sign shall be with a single, continuous perimeter composed of any rectilinear line geometric figure which encloses the extreme limits of the advertising message. If the sign is composed of individual letters or symbols, using the wall as the background with no added decoration, the total sign area shall be calculated by measuring the area of the smallest rectangle within the perimeter of the signage. The combined areas of the individual figures shall be considered the total sign area.

*Sign, canopy,* means any sign which is mounted to, and supported by, a permanent canopy, arcade or portal, the ceiling of which is no more than 16 feet above grade.

*Sign, joint identification,* means a sign whose area is shared by three or more businesses.

*Sign, projecting,* means any sign with no more than two faces supported by a building wall and projecting from such building wall.

*Sign, wall,* means any sign painted on, incorporated in or affixed to the building wall, or any sign consisting of cutout letters and devices affixed to the building wall with no background or border defined on the building wall.

*Snipe sign* means a sign not constructed or intended for long-term use.

*Subdivision identification sign* means a freestanding sign, or wall sign, identifying a recognized subdivision, condominium complex or residential development.

*Temporary sign* means a sign not constructed or intended for long-term use.

*Under-canopy sign* means a sign suspended beneath a canopy, ceiling, roof or marquee.

*Use* means the purpose for which a building, lot, sign or structure is intended, designed, occupied or maintained.

*V sign* means a sign consisting of two essentially equal faces, positioned at an angle subtending less than 179 degrees.

*Value* means replacement costs, including any amount owed on a sign.

---

*Window sign* means any sign, pictures, symbol or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service, that is placed inside a window, or upon the window panes or glass, and is visible from the exterior of the window.

(Code 1978, § 21.5-1)

Cross reference(s)—Definitions generally, § 1-2.

## **Sec. 78-2. Permits.**

It shall be unlawful for any person to erect, alter or relocate, within the jurisdiction and extraterritorial jurisdiction of the city, any sign without first obtaining a permit and making payment of fees.

- (1) *Required.* Permits shall be required for the following types of new or temporary signs:
  - a. All signs having an area greater than six square feet.
  - b. All illuminated signs.
  - c. All signs with moving elements.
  - d. All signs over a public right-of-way.
  - e. All temporary signs that are portable, wheeled or footed.
  - f. All off-premises signs, except temporary real estate, political and contractor signs.
- (2) *Applications.* Permit applications shall contain the following:
  - a. Signature of applicant.
  - b. Name and address of sign owner.
  - c. Name and address of person erecting the sign.
  - d. Location of the building or lot to which or upon which the sign is to be attached or erected.
  - e. Drawings or description showing the design and dimensions of the sign.
  - f. Drawing or detailed description showing the site plan or building facade.
  - g. Written consent of the owner of the building, structure or land to which, or on which, the sign is to be erected.
- (3) *Fee.* Fifty cents per square foot of the sign face with a \$50.00 maximum.
- (4) *Permit exceptions.*
  - a. Replacing or updating copy.
  - b. General maintenance to any sign should not require a permit.
- (5) *Variances.* The planning and zoning commission shall have authority and power to grant variances of this chapter in a duly conducted public hearing. The commission shall also have the power to recommend extensions of time to comply.
  - a. When requesting a permit, the applicant may apply to the planning and zoning commission through the administrator for a variance from certain requirements of this chapter.
  - b. There will be a \$20.00 application fee on request for a variance.
  - c. The granting of a variance would not be contrary to the general objectives of this Code and any land use plan.
  - d. In granting a variance, the administrator may attach additional requirements necessary to carry out the spirit and purpose of this chapter in the public interest.

- 
- e. Written notice shall be given to adjoining and other property owners of a hearing on request for a variance, and shall be given pursuant to the procedures set forth by the codes set forth by the city.
  - f. The planning and zoning commission shall either grant or deny the variance or extension requested. Any party aggrieved by the decision of the planning and zoning commission may appeal within ten days to the city council by filing an appeal with the city clerk.

(Code 1978, § 21.5-2)

### **Sec. 78-3. General regulations.**

(a) *Prohibited signs in all zones.* The following prohibited signs shall be removed or brought into compliance:

- (1) Signs, or any part of a sign, that might contribute to confusion of traffic control, or imitating signs or devices for control of traffic or railroad.
- (2) Rotating or oscillating beacons of light, or strobe lights.
- (3) Freestanding signs with overhead wiring to supply electric or support cables.
- (4) Temporary signs for any period over seven days. Temporary signs may be renewed eight times per year.
- (5) Canopy signs or hanging signs, the bottom of which are less than seven feet above grade.
- (6) Freestanding signs whose top exceeds 30 feet above grade.
- (7) Any sign, or part thereof, erected or constructed wholly upon or over the roof of any building that is visible from any grade of street level.
- (8) Any wall sign, or part thereof, that projects more than 12 inches from the building wall at a height lower than ten feet.
- (9) Signs (except wall signs) in a clear sight triangle.
- (10) Any sign, or part thereof, that contains any audible devices.
- (11) Any sign, or part thereof, that is partially or wholly illuminated by floodlights or spotlights, unless such lights are used for indirect lighting, and the illumination is shielded as not to be directly visible from the public right-of-way, or to a residential area that may be within 40 feet distant.
- (12) Any sign that is in obvious poor repair as determined by the code enforcement officer or agency representative, which decision may be appealed to the planning and zoning commission.
- (13) Any sign attached to trees, fences, utility poles or street furniture, which is in the public right-of-way.

(b) *Exempt signs.* The following exempt signs shall not require a permit or payment of fee:

- (1) Construction signs. One sign shall be permitted for all building contractors, all professional firms and all lending institutions on premises under construction. Such signs shall be confined to the site of construction and shall be removed within 14 days of the beginning of the occupancy of the project.
- (2) Real estate signs. One temporary sign located on the property it refers to for each street frontage. In residential zones, the signs shall not exceed four square feet. An additional sign with the word "sold" or "leased" may be added but not to exceed one-half of the size of the original real estate sign. In nonresidential zones, the signs shall not exceed 16 square feet and be over five feet in height.
- (3) Advertising for community or civic events, flags or emblems or civic, philanthropic, educational or religious organizations, maintained for a temporary period not in excess of one month.
- (4) Temporary directional signs not exceeding three square feet in area placed on private property may be permitted on approach routes to a real estate open house, garage sale, benefit sale or car wash.
- (5) Official national, state, city or school flags for any period of time.

- 
- (6) Street banners and holiday decorations may be displayed during appropriate season or event.
  - (7) Residential name signs and/or address signs not exceeding 1.5 square feet.
  - (8) Private traffic directional signs which are necessary for and function only to direct traffic movement on, off of or within a premises, shall be allowed without limit as to number. Maximum size shall not exceed six square feet. Such signs shall not contain commercial advertising.
  - (9) Nameplates on mailboxes.
  - (10) Religious emblems that are located on the premises of the religious institution.
  - (11) Window signs, show cards and bulletins, as long as such signs are not illuminated.
  - (12) Memorial signs or historic markers.
  - (13) Signs required by law.
  - (14) Street banners owned and maintained by the city.
- (c) *Fee exempt signs.* The following fee exempt signs shall require a permit, but any applicable fees shall be waived:
- (1) Murals or wall art which contain no commercial message.
  - (2) Gasoline price signs. Service stations shall be permitted one double-faced, on-site sign not to exceed 12 square feet per face, and five feet in height, advertising the price of gasoline. Such signs shall not contain any advertisement other than brand name.
  - (3) One permanent identification sign setting forth the name of a center, civic, religious, educational, charitable, public or quasi-public institution, shall be permitted in accordance with the requirements of the zone in which the sign is placed.
  - (4) A single permit shall be required for the placement of temporary political signs. Such signs shall be placed only with the consent of the owner of the property on which they are posted. Such signs may be erected no earlier than 90 days prior to any primary or general election. They shall be removed within 14 days after the election to which the sign pertains. The candidate for whom the sign advertises, or the candidate's duly responsible agent, shall bear the responsibility for removal of such sign.
  - (5) One bulletin board or changeable public notice sign, not over 32 square feet and seven feet in height, for public, charitable or religious institutions, when the bulletin board or changeable public notice sign is located on the premises of such institution.
- (d) *R-3 zones, apartments.*
- (1) Signs permissible in the R-3 district include nameplates not exceeding two square feet in area.
  - (2) An apartment premises with five to 24 dwelling units may have wall signs identifying the apartments, provided the sign on any facade does not exceed 32 square feet.
  - (3) An apartment premises with more than 24 units may have wall signs identifying the apartments, provided the total number of square feet per facade does not exceed 100 square feet.
  - (4) Each premises may have one freestanding sign per each 750 feet of public street frontage. No freestanding sign shall be more than 12 feet in height.
- (e) *R-1, R-2, R-4 zoned residential areas.*
- (1) No portion of an illuminated sign shall have a luminance greater than provided by a 100 watt bulb.
  - (2) No sign, or part of a sign, shall move, flash or rotate.
  - (3) No more than one sign per premises shall be illuminated.



- 
- (4) Any and all illuminated signs within 40 feet of residential zones, must use shielding for the source of lighting in such manner that will prevent glare or light from the source from shining directly into or toward the residential area.
  - (5) One unlighted sign, which shall not exceed one square foot in area, indicating the name of the occupant or occupation of a customary home occupation, provided the sign is attached flat to the building.
  - (6) One sign, which shall not exceed 15 square feet in area, for church or school.
  - (7) One sign, which shall not exceed four square feet in area, for temporary unlighted sign pertaining to the lease, hire or sale of building or property upon which it is located; provided, the sign is immediately removed upon the lease, hire or sale of such building or property.
  - (8) One unlighted temporary political sign which shall not exceed 32 square feet in area.
- (f) *Nonresidential regulations.* The additional provisions of this subsection apply to all signs not in a residential zone or within 40 feet of a residential zone.
- (1) *Height.*
    - a. Height of a freestanding sign shall not exceed 30 feet above grade.
    - b. Height of a building mounted sign or projecting sign shall not exceed 40 feet above grade.
  - (2) *Size.*
    - a. Size of a freestanding or projecting sign shall not exceed 100 square feet.
    - b. Size of a building mounted sign, except a projecting sign, shall not exceed 15 percent of the area of the facade to which they are applied.
    - c. Canopy signs shall not extend beyond the sides or edges of the canopy.
  - (3) *Number.*
    - a. Wall signs shall be limited to four per facade.
    - b. One freestanding sign shall be permitted for each 100 feet of street frontage.
    - c. One projecting sign shall be permitted for each premises, provided it is oriented to the primary entrance, or entrance frontage.
    - d. One marquee sign shall be permitted for each street frontage.
    - e. One perpendicular canopy sign every 15 feet shall be permitted for each premises.
  - (4) *Location.*
    - a. No off-premises sign shall be nearer than 150 feet to any other off-premises sign.
    - b. Flush mounted wall mounted signs may protrude up to one foot into the public right-of-way, granted the bottom of such sign is at least ten feet from the grade.
    - c. Building mounted signs extending above the roof shall be permitted only if they are a continuation of the plane of the facade. No roof mounted signs will be permitted.
    - d. Signs painted on the roof of any building shall be permitted as long as they are not visible from any plane of pedestrian or vehicular traffic.
  - (5) *Illuminance near residential zones.* Any and all illuminated signs within 40 feet of residential zones must use shielding for the source of lighting in such manner that will prevent glare or illumination from the source from shining directly into or toward the adjacent residential area.
- (g) *General illumination and design.*
- (1) No single light bulb used to indicate time or temperature shall have a rating greater than 40 watts.

- 
- (2) No portion of an illuminated sign, apart from the light bulbs used to indicate time or temperature, shall have a luminance greater than that provided by a 150-watt bulb.
  - (3) Separate light sources aimed at a sign, and not intended as general illumination, shall not have a wattage greater than 150 watts.
  - (4) All new internally lit signs erected shall have their faces recessed within a decorative trim a minimum of two inches.
  - (5) All freestanding signs over 12 feet in height, shall have a base, i.e., planter box, wall, banco, trees, bushes or other landscaping material, as long as it does not create a hazard, which shall be compatible in color and design of the building which it advertises.
  - (6) All signs shall be constructed to withstand a wind velocity of not less than 75 miles per hour.

(Code 1978, § 21.5-3)

#### **Sec. 78-4. Right of inspection.**

The administrator, code enforcement officer or agency representative, shall have the right to inspect all signs in the city for the purpose of ascertaining whether they are safe, secure, in need of repair or conforming to this chapter.

(Code 1978, § 21.5-4)

#### **Sec. 78-5. Enforcement.**

(a) *Compliance.*

- (1) If the code enforcement officer or agency representative finds that any sign is unsafe or a hazard to the public, or has been erected or is being maintained in violation of this chapter, he shall give written notice to the permittee or owner of the property on which the sign is erected. If the permittee or owner fails to remove or alter the sign so as to comply with this chapter within ten days after mailing of such notice, such sign may be removed by the city; and the permittee or owner shall bear the expense of such removal. No person refusing to pay the costs assigned, shall be issued a sign permit. If a sign is an immediate peril to persons or property, the code enforcement officer or agency representative may cause such sign to be removed summarily and without notice.
- (2) An abandoned sign, which no longer advertises a bona fide, ongoing business or a product sold, shall be subject to the rules and enforcement action as outlined in subsection (1) of this section.
- (3) The exception to this chapter is historic signs. Any sign which can be shown to exist at least 45 years ago, even if nonconforming today, may be kept in place and used in its historical context.
  - a. Historic signs must be maintained and be structurally sound.
  - b. Electrical elements of historic signs, if used, must meet requirements of the National Electrical Code and any city electrical codes that may apply.

- (b) *Penalties for violation.* Any person violating any provisions of this chapter, shall be deemed guilty of a petty misdemeanor, and upon conviction thereof, shall be punished as provided in section 1-11. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punished as provided in section 1-11.

(Code 1978, § 21.5-5)

---

**Sec. 78-6. Applicability and enforcement in city's extraterritorial jurisdiction.**

The sections and provisions of this chapter shall extend and be enforced within the area of the city's extraterritorial jurisdiction, as provided by V.T.C.A., Local Government Code § 216.902.

(Code 1978, § 21.5-6)



**PLANNING & ZONING COMMISSION  
MEETING AGENDA ITEM COVER MEMO**

**MARCH 25, 2024**

---

**DISCUSSION ITEMS**

---

- d) Discussion regarding making a proposed recommendation to the City Council to update to Appendix C - Zoning to the Alpine Code of Ordinances, particularly removing the requirement that City Council and the Planning & Zoning Commission may initiate a spot zoning request. (J. Isley, Building Services)

---

**BACKGROUND**

---

NONE.

---

**SUPPORTING MATERIALS**

---

1. Appendix C – Zoning; Article I – Basic Ordinance; General Zoning Regulations; Section 21.02 – Proposed district boundaries must be contiguous.
2. Article from Planners Web. *Understanding Spot Zoning*:  
<https://plannersweb.com/2013/11/understanding-spot-zoning-2/>
3. Article from R.E. Tipster. *What is Spot Zoning?*:  
<https://retipster.com/terms/spot-zoning/>

---

**STAFF RECOMMENDATION**

---

NONE.

---

**Section 21.02. Proposed district boundaries must be contiguous.**

Except as provided in section 21.01, the boundaries of the districts proposed in a zoning or rezoning application must be contiguous.

The boundaries of the districts proposed in a zoning application may be noncontiguous if the zoning is initiated by the council or the planning and zoning commission.

(Ord. No. 2016-08-02, 9-20-16; Ord. No. 2016-10-03, 11-1-16)

## *Issues in Land Use Law & Zoning*

# Understanding Spot Zoning

*by Daniel Shapiro, Esq.*

**Editor's note:** We're pleased to continue offering articles providing an overview of some of the key zoning and land use law issues planners and planning commissioners face. As with all such articles, we encourage you to consult with your municipal attorney as laws and legal practice vary from state to state.

Occasionally, planning boards or commissions are faced with a petitioner's request to re-zone property only to be challenged with an objector's claim that doing so would constitute illegal spot zoning. The plan commission often has a quandary; approve the development and risk making an improper, if not illegal decision, or deny the development which would have financially improved the community. To better assist with this difficult decision, it is beneficial for the commission to understand exactly what "spot zoning" is.

## What Constitutes Spot Zoning

The "classic" definition of spot zoning is **"the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area for the benefit of the owner of such property and to the detriment of other owners."**<sup>1</sup>

Spot zoning is, in fact, often thought of as the very antithesis of plan zoning.<sup>2</sup> When considering spot zoning, courts will generally determine whether the zoning relates to the compatibility of the zoning of surrounding uses. Other factors may include; the characteristics of the land, the size of the parcel, and the degree of the "public benefit." **Perhaps the most important criteria in determining spot zoning is the extent to which the disputed zoning is consistent with the municipality's comprehensive plan.**

**Counties and municipalities both adopt comprehensive plans for the purposes of stating their long term planning objectives, and addressing the needs of the community in one comprehensive document that can be referred to in making many zoning decisions over time.**

**Comprehensive plans also typically map out the types (and locations) of future land use patterns which the municipality (or county) would like see — again, these provide guidance for changes in the zoning ordinance and zoning district maps.**

**The key point: rezonings should be consistent with the policies and land use designations set out in the comprehensive plan.**



Importantly, each claim of spot zoning must be considered based upon its own factual scenario. Indeed, some courts engage in a cost/benefit analysis to determine whether the challenged zoning is spot zoning.

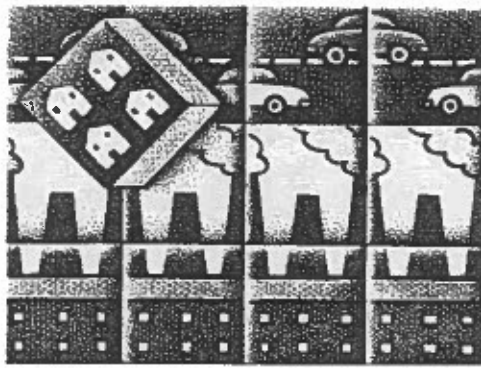


illustration by Paul Hoffman for PlannersWeb

For instance, in *Griswold v. Homer*,<sup>3</sup> the Alaska Supreme Court found spot zoning to exist by considering a cost benefit analysis, as well as the size of the parcel in question and the rezoning in relationship to the comprehensive plan. Critically, it found that the spot zoning was absent because, among other things, the underlying ordinance resulted in genuine benefits to the City of Homer as a whole, and not just to the particular land owner.

Although courts often find spot zoning where the challenged zone is surrounded by other incompatible zones, spot zoning is less likely to occur when the rezoning has “slopped over” by the extension of the perimeter of an existing zone to include the rezoned area.



illustration by Paul Hoffman for PlannersWeb

Additionally, improper spot zoning is less likely when the disputed area is characterized by mixed uses or transitional areas. In other words, spot zoning is more frequently found in residential than in commercial neighborhoods.

When holding that spot zoning is invalid, some courts will couch their ruling in in terms of substantive due process — in other words, that the rezoning was not “reasonably related” to a legitimate state interest. Other courts will frame a ruling upon equal protection principles.<sup>4</sup>

Regardless, when courts declare such rezoning invalid they must base their declaration on: (1) the lack of connection of the rezoning to a legitimate power or purpose; (2) the lack of the rezoning’s conformity to the comprehensive plan; or (3) the rezoning’s representing an unreasonable inequality in the treatment of similarly situated lands. See, e.g., *Hanna v. City of Chicago*<sup>5</sup> (spot zoning occurs when a relatively small parcel or area is rezoned to a classification out of harmony with the comprehensive plan).

## Rebutting Spot Zoning

Spot zoning, however, may be rebutted when the challenged zoning is found to be consistent with a municipality's recent zoning trends in the area, not just with the present surrounding uses. <sup>6</sup> To illustrate the importance that each factual scenario must be closely addressed, rather than merely labeled, it should be noted that one Illinois court found that the rezoning of small parcels inconsistent with the zoning of surrounding areas is not necessarily unlawful. <sup>7</sup> The size of a parcel is just one factor to be considered in determining spot zoning.

A claim of spot zoning may also lack merit, for instance, when the zoning or planning regulations consider the boundaries of the property in dispute to contain a line of demarcation between zoning districts which would appropriately separate one zoning district from another. <sup>8</sup>

Most importantly though, if the zoning is enacted in accordance with a comprehensive plan, it is typically not "spot zoning." <sup>9</sup>

### What's a Planning Commission to Do?

When considering zoning map amendments, the planning commission or board must not only determine whether the petitioner has satisfactorily responded to the traditional standards in support of his or her application, but it should also closely scrutinize whether a potential exists for spot zoning. In doing so, the commission should look at the comprehensive plan and the surrounding uses to the property at issue.

While the commission is not qualified to make legal determinations of spot zoning, it is nonetheless the gatekeeper of identifying that such an issue may exist. It is therefore appropriate for the commission to defer its decision and consult with its municipal attorney *before* voting to approve the rezoning and referring it to the governing body for adoption.

## Summing Up:

Spot zoning must be addressed upon the facts and circumstances of each case. As such, when faced with allegations of spot zoning, the courts will closely look at factors such as the size of the parcel; the anticipated public benefit; the consistency with the community's comprehensive plan; and the consistency with surrounding zoning, and uses, to make a determination of the validity of the rezoning.



Dan Shapiro is a partner with the law firm of Robbins, Salomon and Patt, Ltd in Chicago, Illinois. He practices in the areas of land use, zoning, governmental relations, municipal law, and civil litigation.

Dan represents a wide variety of private developers as well as governmental entities and advises his clients closely on issues of concern. As part of his practice, he has successfully presented legislative and administrative matters before plan commissions, zoning boards, and other village, city, and county bodies.

Dan also is an adjunct professor teaching land use at Kent Law School in Chicago, and is the Chairman of the Village of Deerfield (Illinois) Plan Commission.

---

Notes:

1. Anderson's American Law of Zoning, 4th Edition, § 5.12 (1995). ↵
2. See, e.g., Jones v Zoning Board of Adjustment of Township of Long Beach, 32 N.J. Super 397, 108 A.2d 498, 502 (1954).  
↵
3. Griswold v. Homer, 926 P.2d 1015 (Alaska 1996) ↵
4. See, e.g., Rando v. Town of N. Attleborough, 692 N.E.2d 544 (Mass. App. Ct. 1998). ↵
5. Hanna v. City of Chicago 771 N.E.2d 13 (2002) ↵
6. See e.g., 1350 Lakeshore Associates v. Casalino, 352 Ill.App.3d 1027, 816 N.E.2d 675 (1st Dist. 2004). ↵
7. See, e.g., Goffinet v. County of Christian, 65 Ill.2d 40 357 N.E.2d 442 (1976). ↵
8. See, e.g., LaSalle National Bank v. City of Highland Park, 344 Ill.App.3d 259, 799 N.E.2d 781 (2nd Dist. 2003). ↵
9. See, e.g., Jones v. Zoning Board of Adjustment of Township of Long Beach, 32 N.J. Super. 397, 108 A.2d 498, 502 (1954).  
↵

Share

Print

Tags: Land Use Law, Zoning & Land Use Regulations

# What Is Spot Zoning?

Spot zoning describes the process of singling out a small parcel of land for a zoning classification that differs from the surrounding area. Factors like its compatibility with nearby zones and benefit to the public determine its approval.

## Shortcuts

- Spot zoning is when a parcel's land use differs from the [zoning](#) of its surrounding area.
- Generally, there is a stigma attached to spot zoning, but many jurisdictions require that spot zoning should be made for the greater good and not just for special treatment of a property owner.
- Depending on the state, spot zoning occupies an interesting place in zoning regulations.
- Some states allow it, like Texas, while others prohibit it, like Pennsylvania.

## How Spot Zoning Works

To understand why spot zoning is needed and how it works, it pays to know what zoning is first.

Local governments use zoning to regulate the use of land within their jurisdictions. Zoning divides the community's land into different zones, each with expressly permitted land uses, such as residential, commercial, industrial, or agricultural.

These zones are reasonably self-explanatory. For example, people live in residential zones, where one can expect [single-family homes](#), townhouses, apartments, duplexes, triplexes, trailer parks, condos, or co-ops[1]. Sometimes, home-based businesses are allowed as long as owners comply with restrictions.

Meanwhile, people work, shop, play, and party in commercial zones, while most manufacturing and raw material processing and storage

happen in industrial zones. Finally, agricultural zones are where food for local consumption or export is grown or raised. They prevent farming communities from becoming more fragmented due to residential projects[2].

One less-known zone is a historic zone, which aims to preserve the conditions of districts and structures with great historical value[3].

Zoning categories vary by location, so the symbols adopted by one county, city, or municipality can differ from those used by others.

Against this backdrop, spot zoning is sometimes used to address specific land use needs or development proposals that may not fit an area's existing zoning regulations. For example, spot zoning can provide affordable housing by allowing for higher density or mixed-use development in a commercial zone.

While spot zoning can be controversial, addressing specific needs and promoting certain goals can be helpful. However, many jurisdictions require that spot zoning benefit the public as a whole[4], not simply for special treatment of a particular property owner.

## **Spot Zoning Laws: State Variances**

Some states differ in enforcing or observing spot zoning, and some ban it entirely. Here are the most notable.

### **Texas**

Spot zoning is illegal in Texas when one can prove it is arbitrary, unreasonable, and discriminatory and does not substantially relate to the public's health, safety, morals, or general welfare.

The highest civil court in Texas has set four criteria to determine whether a city ordinance is considered impermissible spot zoning[5].

The Texas Local Government Code grants its municipalities the freedom to adopt zoning, provided the use is lawful and legal.

This is why neighboring cities in Texas may regulate land uses within their boundaries differently. Examples are zoning-free Houston and the zoned cities of Bellaire and West University Place[6].

### **Houston, Texas**

Houston is a special case because the city itself has been zoning-free since its founding[7]. Instead, the Houston Construction Code defines the standards for building, maintaining, repairing, altering, and demolishing structures to help keep the public out of harm's way[8].

Many homeowners use deed restrictions[9] as a buffer against unwanted development projects in their neighborhoods. Civic associations can enforce these agreements with the help of the local government.

This local quirk also makes investors listen to what the market says[10]. As a result, they set up shop where local demand is strongest, allowing residential and commercial land uses to mix organically.





**PLANNING & ZONING COMMISSION  
MEETING AGENDA ITEM COVER MEMO**

**MARCH 25, 2024**

---

**DISCUSSION ITEMS**

---

- e) Discussion regarding making a proposed recommendation to the City Council to update to Appendix C - Zoning to the Alpine Code of Ordinances, particularly removing the requirement that City Council and the Planning & Zoning Commission may initiate a spot zoning request. (J. Isley, Building Services)

---

**BACKGROUND**

---

NONE.

---

**SUPPORTING MATERIALS**

---

1. Sample Ordinance.

---

**STAFF RECOMMENDATION**

---

NONE.

## ORDINANCE NO. 05162023

AN ORDINANCE OF THE CITY OF KOSSE, TEXAS FOR PROVIDING REQUIREMENTS FOR THE INSTALLATION OF TINY HOME WITHIN THE CITY LIMITS OF KOSSE, REQUIRING AN APPLICATION FOR THE LOCATION AND PLACEMENT OF TINY HOME; REPEALING ORDINANCES IN CONFLICT HEREWITH; PROVIDING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the growth and development of the city is a matter of paramount importance to the City and its citizens; and

WHEREAS, the City Council of the City of Kosse finds it to be in the best interest of the public safety, health and general welfare to regulate Tiny Houses within the City;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF KOSSE, TEXAS:

### Section 1. DEFINED TERMS

- 1.1 Definitions. All definitions contained in this section are for use with and are only applicable as used in connection with this ordinance.
  - A. **Building Official:** Code Enforcement or other designated inspection authority of the City.
  - B. **Driveway:** Short Road leading from a public road to a house or garage
  - C. **Site Pad:** The minimum dimensions of a site pad shall be no less than the overall width and no less than the overall length of the tiny home.
  - D. **Skirting:** Means enclosing the open space between the underside of the tiny home and the ground around the entire perimeter of the structure using a masonry wall or a framework to which solid, fire-resistant panels are attached, with necessary vents.
  - E. **Permit:** Written permit and or application issued by the Mayor permitting the placement, alteration or extension of a Tiny Home under the provisions of this Ordinance and regulations issued hereunder.
  - F. **Person:** Any natural individual, firm, trust, partnership, association, or corporation.
  - G. **Pre-manufactured:** Means that the Tiny Home has been manufactured as a unit off-site or its components have been manufactured off-site and are put together on-site.
  - H. **Tiny Home:** Residential dwelling pre-manufactured structures that are not HUD Manufactured Homes or mobile homes that has a square footage of no less than four hundred (400) square feet and no greater than nine hundred (900) square feet total living space. Living space shall exclude porches, garages, and other space not heated or cooled by mechanical means. With said dwelling being structurally attached to a transportable chassis, with or without a permanent foundation.  
Tiny Homes constructed or otherwise located in the city shall be subject to the following:
    1. **Minimum Unit Size:** Each Tiny House shall have a minimum gross floor area of not less than four hundred (100) square feet.
    2. **Minimum Sleeping Room Size:** In every Tiny House of two or more rooms, every room occupied for sleeping purposes by one occupant shall contain at least thirty- five (35) square feet of floor space.

3. **Width:** Each Tiny House must measure not less than seven feet (7.0').
4. **Depth:** Each Tiny House must measure not less than twelve feet (12') and not greater than forty feet (40') in length.
5. **Restroom:** Each Tiny House shall have a least one restroom dedicated and capable of connecting to city plumbing and discharging wastewater.
6. **Construction Standards:** In addition to the regulations set forth in this Ordinance, every Tiny House located in the city, whether constructed in the city on a permanent foundation or constructed off-site and transported to the city, shall, at the time of application for a building permit or, if not building permit is required, certificate of occupancy, be constructed in accordance with:
  - a. all construction codes relating to residential dwelling units enacted by the City of Kosse that are deemed to be applicable to the structural stability and life safety requirements for a Tiny Home as determined by the Building Official or designee; and
  - b. The 2021 International Tiny House Provisions: Code, Commentary and Standards for Design, Construction and Compliance issued by the International Code Council.
7. **Foundation Platforms:** Tiny Home located in the city shall be constructed with one of the following foundation platforms:
  - a. Mobile, or wheeled, platforms shall be permitted in the form of a trailer vehicle that is registered with the Texas Department of Motor Vehicles (TxDMV). Such dwellings may be towed in-place by means of bumper hitch, frame-towing hitch, fifth-wheel connection, gooseneck type, or other approved towing method.
    - (1) All Tiny Homes with mobile or wheeled platforms shall be:
      - (a) tied down to the ground or pad with an auger/ground anchors when located on a Pad; and
      - (b) constructed with fire-resistant skirting, with the necessary vents, screens, and/or openings that is installed within thirty (30) days after placement of the Tiny Home on the Pad.
  - b. Conventional foundation platforms, such concrete slab on-grade, pier and beam, perimeter grade beam, and similar permanent foundation types shall be permitted, with such foundations being certified by a registered professional structural engineer as a condition of securing building permit approval.

## Section 2. PERMITS

- A. **Permit.** The owner or person in control of the property (hereinafter "owner") upon which the Tiny Home is to be located must apply for and obtain a permit from the City before any installation of a Tiny Home begins.

- B. Application. The owner must make an application to the City by filing with the City Secretary the following information:
- 1) a plat or survey showing the property;
  - 2) a site plan which shows the location of the tiny home on the property, the location of proposed connections to utility services and identification of the service providers, and any other improvements to be made on the property;
  - 3) dimensions of the Tiny Home;
  - 4) the identity of the Licensed Retailer or Installer who is proposed to install the tiny home;
  - 5) current pictures of the tiny home proposed to be installed-including of all walls and the roof.
  - 6) Tiny Homes constructed or otherwise, require professional engineer plans to show that the construction or renovation will be in compliance with the 2021 International Tiny House Provisions: Code, Commentary and Standards for Design, Construction and Compliance issued by the International Code Council.
- C. Issuance or Denial. If the proposed installation of the tiny home does not appear to violate this Ordinance, the Mayor shall issue the permit. If the Mayor denies the permit, he must do so in writing delivered to the owner, and the writing must explain the reason(s) for the denial. The decision must be made within 30 days of receipt of the application, and if a decision is not made within that period the application is considered denied. The owner may appeal a denial of a permit to the city council by filing an appeal with the City Secretary within 30 days after the denial. The city council shall consider the appeal at the next council meeting for which it can be legally placed on the agenda. The council may uphold the Mayor's denial of the permit or reverse the mayor's denial of the permit and order the permit issued or issued with certain conditions.
- D. Permit Fee. The permit fee is \$500 plus 5 cents per sq. ft and must be paid at the time that the application is filed with the city.

### **Section 3. BASIC TINY HOME REQUIREMENTS**

- A. The Tiny Home must be on a foundation with at least six (6) inches of cement footing, which is steel reinforced for load bearing walls. A tiny home built on a trailer is required to remove wheels/axles in order to tie down to a foundation as described above.
- B. The Tiny Home must have a driveway.
- C. The Tiny Home is required to be skirted.
- D. The Tiny Home must be located on a Common Access Route / Internal Street, and have an assigned address obtained at the City Office.
- E. The Tiny Home must be connected to City utilities, which are water and sewer services. Sewer service is essential to dispose of all human waste. No composting toilets will be permitted.
- F. The Tiny Home must comply with the 2021 International Building Codes that are listed in Ordinance 05162023A and the regulations of buildings in Ordinance 101112.
- G. The Tiny Home if not finished out when moved onto the property a time frame of 180 days will be allotted to complete the home.

- H. Pre-manufactured Tiny Homes must provide a Certification Label Verification from the manufacturer.
- I. The Tiny Home must pass the occupancy inspection by the Building Official before occupying the home.

#### **Section 4. REPEALING CLAUSE**

That all Ordinances and parts of Ordinances in conflict with the terms of the ordinance are hereby repealed.

#### **Section 5. PENALTY PROVISION**

Any person, firm or corporation violating this Ordinance or any portion thereof shall upon conviction be guilty of a misdemeanor and shall be fined no more than five hundred dollars (\$500.00), and each day that such violation continues shall be considered a separate offense punishable accordingly.

#### **Section 6. EFFECTIVE DATE**

This Ordinance shall be effective immediately upon its passage, approval and publication.

**PASSED, APPROVED AND EFFECTIVE this 16th day of May, 2023.**

s/Brooks Valls  
Mayor  
City of Kosse, Texas

ATTEST:  
s/Christina Lockhart  
City Secretary

#### **City Council Record Vote:**

**The members of the Governing Body voted on the adoption of Ordinance  
No.05232023 – 16<sup>th</sup> day of May, 2023:**

	AYE	NAY	NOT VOTING	ABSENT	SIGNATURE
Ronnie Funderburk, Mayor Pro Tem	<u>  X  </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>s/Ronnie Funderburk</u>
Todd Freeman, Councilmember	<u>  X  </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>s/Todd Freeman</u>
Cullen Freeman, Councilmember	<u>  X  </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>s/Cullen Freeman</u>
Kendall Funderburk, Councilmember	<u>  X  </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>s/Kendall Funderburk</u>
Kelli Eno, Councilmember	<u>  X  </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>s/Kelli Eno</u>

---

## EFFECTS

Permitting permanent occupancy of “tiny homes” in residential zones is a particularly cost-effective way to maximize affordable housing options within an existing community. To begin, the cost of constructing tiny homes is substantially cheaper than the cost of constructing traditional housing.<sup>[11]</sup> In addition, because second dwelling units can be constructed on land that is already developed and has access to existing utilities, infrastructure, and other community services, the city and/or the developer is able to avoid almost all costs other than those associated with extending existing utilities to service the additional unit.<sup>[12]</sup> Bypassing these costs can help the community increase the supply of affordable housing units by maximizing use of existing land and lower housing production costs.<sup>[13]</sup> In addition, community advisors can help further facilitate development by making sure the application and approval process for building a detached tiny home or second dwelling is not so onerous as to deter the interest of existing single-family residential districts.<sup>[14]</sup>

Amending a city’s zoning ordinance to permit tiny homes is not only one of the most cost-effective options for providing affordable housing in an existing community, but also one of the swiftest options available.<sup>[15]</sup> Typically, an endeavor to create affordable housing is costly because it requires large-scale construction and development, which can be a slow process and may require a variety of government subsidies and approvals.<sup>[16]</sup> Tiny homes offer a uniquely economical approach to increasing the availability of affordable housing because the local government must merely amend the definitions within existing zoning ordinances in order to initiate development. The cost of tiny homes is almost entirely shifted to the private market.<sup>[17]</sup>

Three of the most common concerns that arise when permitting the use of tiny homes in residential zones are the impact on the character of the community, the effect on the property value of adjacent lots, and the potential burden on parking.<sup>[18]</sup> As illustrated below, there are various ways to draft ordinances to help the community control the impact that permitting tiny homes may have on an existing community.





## **PLANNING & ZONING COMMISSION MEETING AGENDA ITEM COVER MEMO**

**MARCH 25, 2024**

---

### **ACTION ITEMS**

---

- a) Approve a recommendation to the City Council regarding Rezone 2024-03-01, a rezoning application to allow the applicant, Ruben Losoya, to establish a recognized mobile home park on the subject property. The property in question is located at 708 S. Cactus St and is legally described as 1.52 acres, more or less, being the South part of a 3.0 acre tract of land described as the South 3.0 acres of the West Half (W/2) of Block Two (2) in Volume 36, Page 410, Official Public Records, Means Addition Subdivision "A" to the City of Alpine, Brewster County, Texas, as per Plat on file in Envelope No. 63, Map/Plat Records on file in the Office of the County Clerk of Brewster County, Texas. The Property ID of the subject property is 11311. The record property owner is Ruben Losoya. The current zoning of the property is R-4 Mobile Home District. The zoning classification if the rezoning is approved will be C-1A Neighborhood Commercial District. (G. Calderon, City Secretary)

---

### **BACKGROUND**

---

- Ruben Losoya has an unrecognized mobile home park in the City. He is unable to legally remove mobile homes and bring new ones in to replace them because the lot sizes in the current zone (R-4 Mobile Home District) do not conform to his project. Mr. Losoya wishes to rezone to C-1A which would allow him to operate a mobile home park.
- If this zoning change is approved, it would be considered spot zoning because the surrounding area is not zoned commercial. Spot zoning is typically illegal.
- Our current ordinance stipulates that the zoning does not have to be contiguous if the request is initiated by the City Council or by the Planning & Zoning Commission.

---

### **SUPPORTING MATERIALS**

---

1. Rezone Application 2024-03-01.
2. Alpine Zoning Map and closeup of the area in question.
3. Public Records Map excerpt.

---

### **STAFF RECOMMENDATION**

---

**NONE.**



CITY OF ALPINE BUILDING SERVICES DEPARTMENT

309 W SUL ROSS AVENUE ALPINE, TX 79830

(432) 837-3281

## APPLICATION FOR REZONING & CONDITIONAL USE PERMIT

Section 21.03. The city council shall have jurisdiction with respect to all rezone requests. The planning and zoning commission shall review and submit a recommendation to the city council on all applications for rezoning.

ADDRESS OF PROPERTY:		ACREAGE OF SITE:	
708 S. Cactus		1.5 acres	
LEGAL DESCRIPTION:		CURRENT ZONE:	
means A Block 2 lot; S W 12 means A Addition		mobile Home Dist	
PROPERTY OWNER:	APPLICANT NAME:	TELEPHONE:	EMAIL:
Ruben Losoya	Chris Rodriguez	432 294-0225	ward 2. rodriguez@cityofalpine.com
APPLICANT MAILING ADDRESS:		CITY, STATE & ZIP:	
501 S. 14th St.		Alpine, Tx 79830	
APPLICANT MAILING ADDRESS:		CITY, STATE & ZIP:	
PROJECT FOR WHICH REZONING IS SOUGHT:		APPLICABLE SECTION/SUBSECTION ORDINANCE:	
mobile Home Park			
SPECIFIC USE OF THE PROPERTY:		EXISTING USES OF ADJACENT PROPERTIES:	
PARCEL ID#:		SURVEY INCLUDED: <input type="checkbox"/>	

\*\*If the applicant is not the legal owner of the property, a signed statement by the owner that the applicant is the authorized agent of the owner of the property.

### REZONING CHECKLIST

Initiation of zoning or rezoning:

☐ Section 21.01. Zoning or rezoning of property may be initiated by the:

☒ Council;

☐ Planning and zoning commission;

☐ Record owner;

☐ Petition of:

a. The owners of at least 51 percent of the land, by land area, in the proposed district; or

b. At least 51 percent of the owners of individual properties in the proposed district.

i. Property owned by the City Of Alpine or other governmental entities shall be fully excluded from the area subject to petition of the owners, except such property may be included in support if it contains structures or features that

contribute to the historic character of the district, as determined by the historic landmark commission. The amount of such property to be calculated as supporting shall not exceed one-third of the 51 percent of the land in the proposed district.

(Ord. No. 2016-08-02, 9-20-16; Ord. No. 2016-10-03, 11-1-16)

☐ **Section 21.02. Proposed district boundaries must be contiguous.**

*Except as provided in section 21.01, the boundaries of the districts proposed in a zoning or rezoning application must be contiguous.*

**\*\* The boundaries of the districts proposed in a zoning application may be noncontiguous if the zoning is initiated by the council or the planning and zoning commission. (Ord. No. 2016-08-02, 9-20-16; Ord. No. 2016-10-03, 11-1-16**

<p><b>SUBMITTAL VERIFICATION/INSPECTION AUTHORIZATION:</b></p> <p>I as owner of the property hereinafter referenced, do hereby execute this document, and acknowledge the above statements to be true and, accurate to the best of knowledge. I have received, read and understand the terms and conditions of this request and agree to compliance with all applicable codes and ordinances of the City. I authorize the City or their representatives to visit and inspect the property for which this application is being submitted.</p> <p><b>OPTIONAL:</b></p> <p>_____ I authorize my duly authorized agent to coordinate with the City and its representatives and speak in my behalf for the purpose of representing me in regards to this request.</p> <p><b>APPLICANT SIGNATURE</b> <u>Chris Rodriguez</u></p> <p><b>PRINTED NAME</b> <u>Chris Rodriguez</u> <b>DATE</b> <u>3-21-24</u></p>	<p><b>FOR STAFF USE ONLY</b></p> <p>PERMIT # <u>24-007416</u></p> <p>TOTAL FEES <u>0 Exempt - Council Request</u></p> <p>DATE: <u>03/21/24</u></p> <p></p>
--	---

**Section 21.15. Refunds.**

*The fees established shall be non-refundable to the applicant, unless the request is completely withdrawn before the procedure of notices as set forth in section 20.13 have begun.*

(Ord. No. 2016-08-02, 9-20-16; Ord. No. 2016-10-03, 11-1-16)

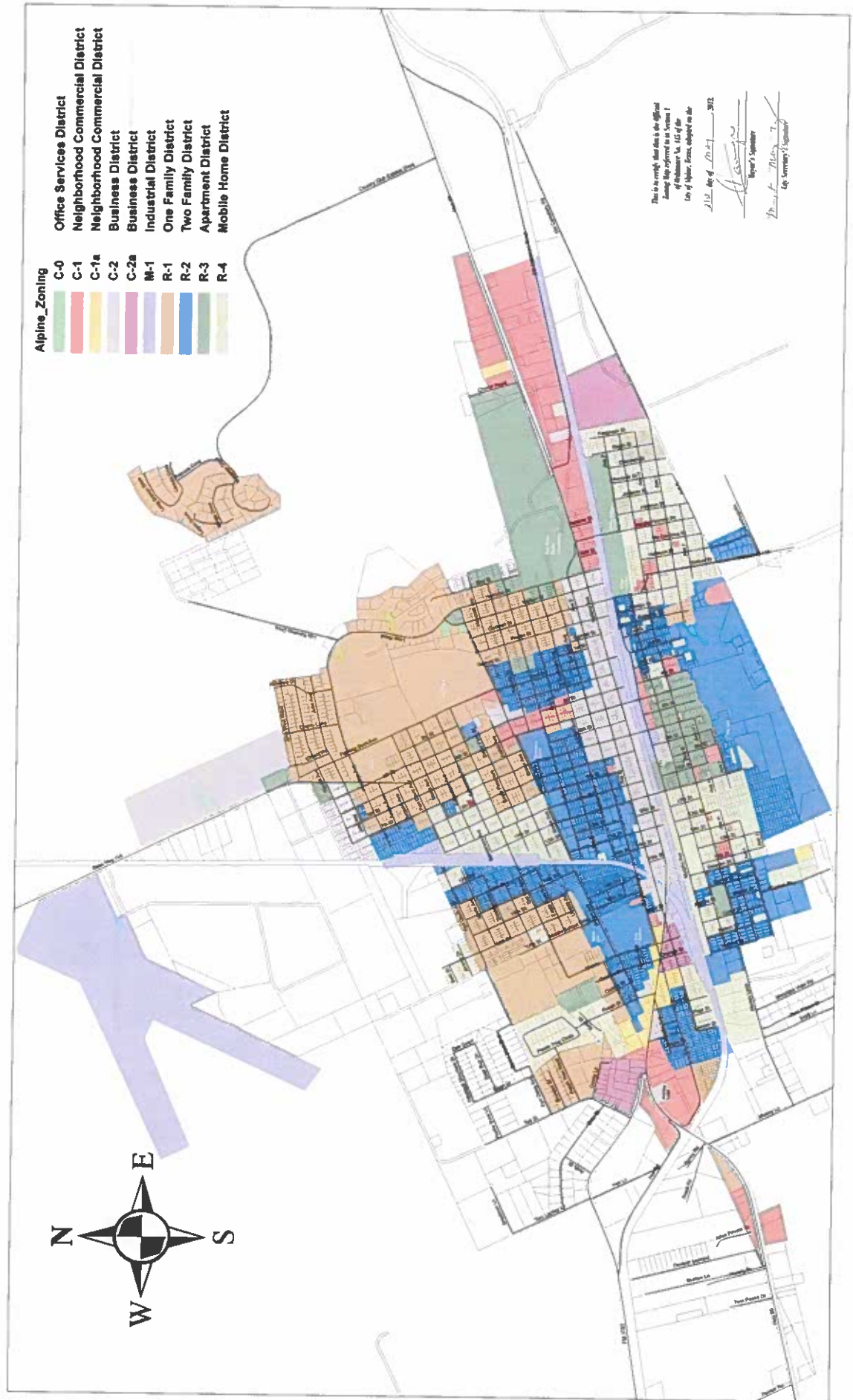
**RECEIVED**

MAR 21 2023

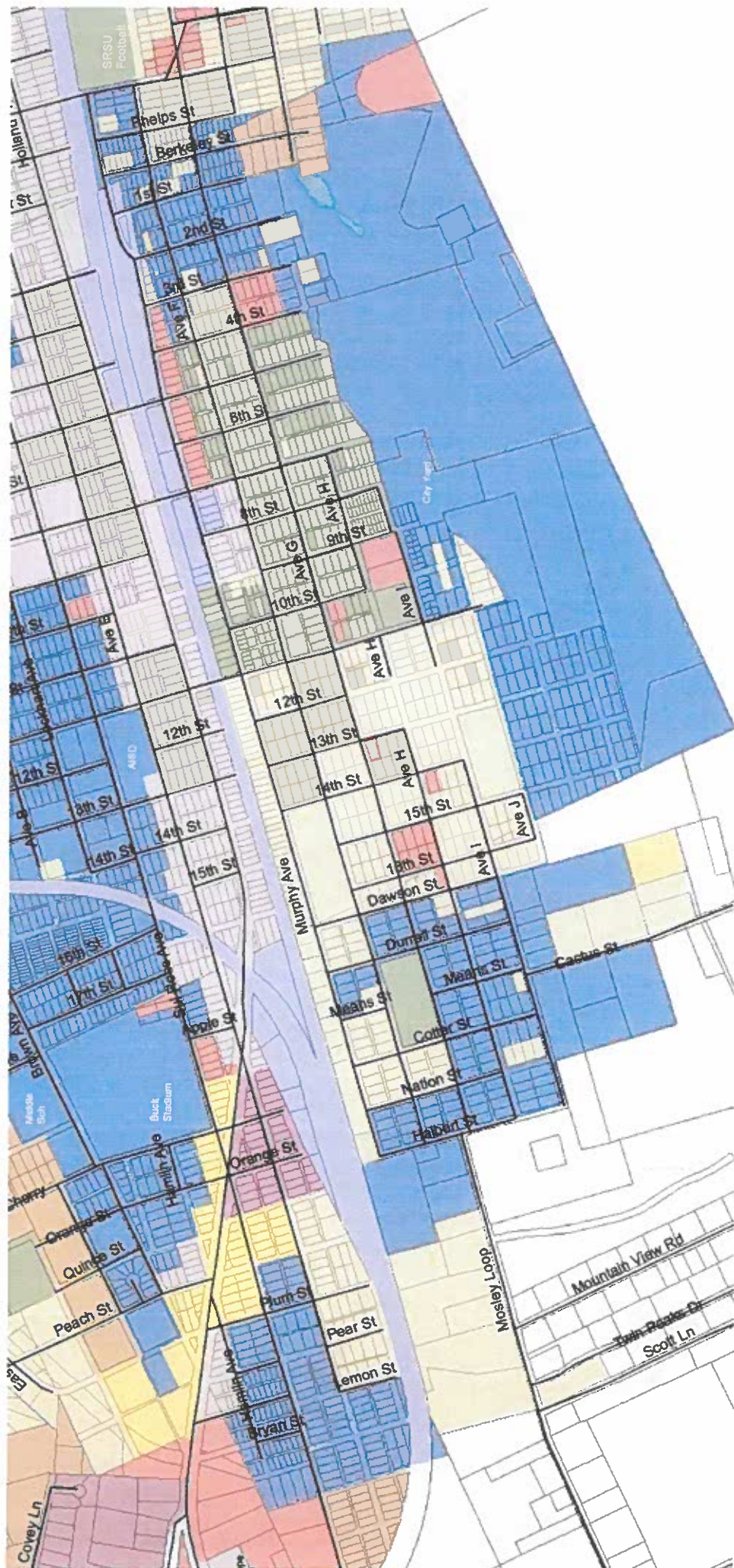
*mm*

**Section 21.04. -Conditional Use Permit Application fee \$250.00 & \$100.00 REZONING Application Fee Total amount due: \$350.00**

# Official Zoning Map of the City of Alpine, Texas - Ordinance No. 445









Search Here: ▾

11311



Show search results for 113...

30°20'51"N 103°40'10"W

0 100 200ft