

**ORDINANCE 98-1  
TOWN OF SAWPIT**

**ORDINANCE AMENDING SECTION 404 OF THE TOWN OF SAWPIT LAND USE CODE BY MODIFYING THE MINIMUM LOT SIZE OF LOTS WITHIN THE 100 FOOT BUFFER ZONE AS DELINEATED ON THE OFFICIAL ZONING MAP OF THE TOWN OF SAWPIT FROM 10,000 SQUARE FEET TO 15,000 SQUARE FEET.**

WHEREAS, the Town of Sawpit's Master Plan states that it is the goal of the Town of Sawpit to "ensure the protection and encourage the restoration of the natural environment and continued health of both the human and wildlife environment for the area within and surrounding Sawpit;

WHEREAS, the Town of Sawpit's Master Plan also states that it is the goal of the Town of Sawpit "to maintain the rural character of the residential community and enhance the living environment of all citizens of the Town of Sawpit;

WHEREAS, the Board of Trustees finds that certain lots within the corporate boundaries of the town of Sawpit lie within the one hundred year plain of the San Miguel River, and in order to provide for the safety of those who live along and adjacent to the river and for the safety of personal property, the Board has determined that minimum lot sizes of lots near the San Miguel river must be increased;

WHEREAS, the Board of Trustees also finds that the central water system for the Town of Sawpit is at capacity and cannot provide for any additional water taps for residential or commercial development, and therefore, any new development within the Town of Sawpit must provide for its own water needs;

WHEREAS, the Planning and Zoning Commission of the Town of Sawpit held a public hearing on January 14, 1998, and notice of such public hearing to consider and adopt this amendment to the Land Use Code was given in the official newspaper of San Miguel County prior to hearing;

WHEREAS, the Planning and Zoning Commission of the Town of Sawpit recommended to the Board of Trustees that the Board adopt Ordinance 98-1;

WHEREAS, the Board of Trustees finds that the adoption of this amendment will promote the health, safety and welfare of the citizens of the Town of Sawpit, will promote the Town of Sawpit Master Plan, and will preserve and promote the property values in the Town of Sawpit,

**NOW THEREFORE BE IT ORDAINED BY THE TOWN OF SAWPIT BOARD OF TRUSTEES that**

**Section 1. Amendment of Section 404 of the Land Use Code**

Section 404 of the Land Use Code shall be amended as follows:

Delete the paragraph under Section 404 and insert the following:

- A. Except for those lots described in Paragraph 404(B), the minimum lot area for each single family dwelling in the Residential Zone District is ten thousand (10,000) square feet.
- B. For those lots which are located within the 100 foot buffer zone and within the Residential Zone District as delineated on the Official Zoning Map of the Town of Sawpit, the minimum lot area for each single family dwelling is fifteen thousand (15,000) square feet.
- C. Any lots which are less than 15,000 square feet and which have been subdivided and approved by the Town of Sawpit shall be exempted from the foregoing Paragraph 404(B).

**Section 2: Publication**

Following final adoption, the Town Clerk shall cause a copy of this ordinance to be published in accordance with C.R.S. 31-16-101, et seq.

**Section 3: Effective Date**

The Board of Trustees hereby finds, determines, and declares that this Ordinance is necessary for the immediate preservation of the health, safety and welfare of the Town of Sawpit and that upon approval of this Ordinance, this Ordinance shall become effective and in force.

**Section 4: Conflicts with Other Laws**

This Ordinance shall supersede any existing laws of the Town of Sawpit or existing or future laws of the State of Colorado or of the United States of America, to the maximum extent permissible by home rule communities, that are in conflict with the provisions of this Ordinance.

**Section 5: Severability**

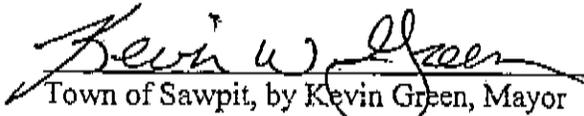
If any one or more sections or parts of this Ordinance shall be adjudged unenforceable or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, it being the intention that the various provisions hereof are severable.

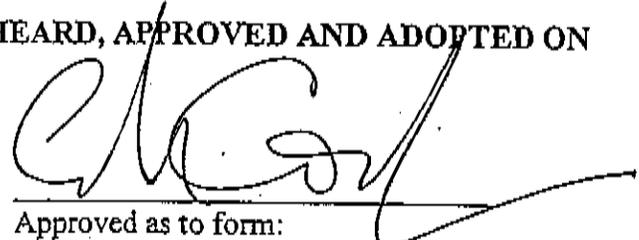
**Section 6: Ordinance Recorded with the County**

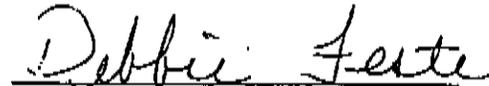
After passage and adoption by second reading, the Town Clerk of the Town of Sawpit shall cause a copy of this ordinance to be recorded with the San Miguel County Clerk and Recorder.

**FIRST READING OF THIS ORDINANCE HEARD AND APPROVED ON THIS 11<sup>TH</sup> DAY OF FEBRUARY, 1998.**

**SECOND READING OF THIS ORDINANCE HEARD, APPROVED AND ADOPTED ON THIS 19 DAY OF MARCH, 1998.**

  
Town of Sawpit, by Kevin Green, Mayor

  
Approved as to form:  
Elizabeth M. Covington, Town Attorney

  
Attest: Debbie Feste, Town Clerk

**ORDINANCE No. 2010-1**

**AMENDMENT OF THE SAWPIT LAND USE CODE  
PROVIDING FOR NEW DEFINITIONS; REVISING PROCEDURES AND STANDARDS TO  
ADDRESS CHANGES AND UPGRADES TO NON-CONFORMING BUILDINGS, USES  
AND LOTS; INCREASE OF CERTAIN SIDEYARD SETBACKS ADJACENT TO OPEN  
SPACE; ELIMINATION OF SIDEYARD SETBACKS FOR INTERIOR LOT LINES;  
INCREASING MAXIMUM BUILDING HEIGHTS, MAXIMUM FLOOR AREA OF  
PRINCIPAL AND ACCESSORY BUILDINGS, AND MAXIMUM SITE COVERAGES  
IN THE RESIDENTIAL ZONE DISTRICT; INCREASING MAXIMUM BUILDING  
HEIGHT IN THE COMMERCIAL ZONE DISTRICT; AMENDING THE OPEN SPACE  
ZONE DISTRICT TO CLARIFY INCLUSION OF PUBLIC RIGHTS OF WAY.**

**WHEREAS**, the Sawpit Planning and Zoning Commission conducted a duly-noticed public meeting on the 18th day of March, 2010, and considered proposal to amend the Sawpit Land Use Code ("LUC") and public comments thereon and recommended to the Sawpit Board of Trustees that it adopt the proposed LUC amendments with certain revisions thereto; and

**WHEREAS**, the Sawpit Board of Trustees conducted a duly-noticed public hearing on the \_\_\_\_ day of \_\_\_\_\_, 2010, and considered the application to amend the Sawpit LUC as recommended by the Sawpit Planning and Zoning Commission and public comments on said proposal; and

**WHEREAS**, the Sawpit Board of Trustees finds that the adoption of the amendments to the Sawpit LUC as set forth herein will promote the public health, safety and welfare of the citizens of Sawpit and will preserve and promote the property values in the Town of Sawpit.

**NOW, THEREFORE, THE BOARD OF TRUSTEES OF THE TOWN OF  
SAWPIT HEREBY ORDAINS:**

**SECTION 1 AMENDMENT OF ARTICLES II, III, IV, V, AND VI OF THE LAND USE  
CODE.**

The Town of Sawpit Land Use Code is hereby amended as follows:

- A. 1) Section 201, DEFINITIONS, is hereby amended by the addition of the following terms and definitions:

**Building Height, Maximum:** Maximum Building Height is the height above which the building height shall not exceed, as described in the applicable zone district article of this LUC.

**Lot Line, Interior:** The property line dividing a Lot from an adjoining Lot.

**Open Space:** Open Space is land located within the Open Space District boundaries as depicted on the Sawpit Zoning Map, together with and including public rights-of-way within or adjoining such Open Space District.

2) The definition of Building Height is hereby amended in its entirety to read as follows:

**Building Height:** The maximum possible upward distance to the top of a building, measured adjacent to a building at a right angle to the horizon line from each and every point on the finished grade, or the pre-construction grade, whichever is more restrictive.

B. Subsection 1 of Section 406, MINIMUM SIDE YARD SETBACK, is hereby amended by the addition of new subsection 406.1.B, Open Space Exception, and new subsection C, Interior Sideyards, and the entire subsection 406.1 shall hereafter read as follows:

406.1. The Minimum Side Yard Setback for all structures in the Residential Zone District shall be as follows:

A. Principal and Accessory Buildings

- Lot size 0-5,000 sq.ft. ----- 7.5 ft.
- Lot size >5,000 & < or = 7,500 sq.ft. ----- 10 ft.
- Lot size >7,500 & < 10,000 sq.ft. ----- 15 ft.

B. Open Space Exception

Notwithstanding subsection 406.1 A, above, for residential lots that adjoin Open Space consisting of unpaved right-of-way, the Minimum Side Yard Setback shall be reduced to five feet along such portion of the lot that adjoins such Open Space.

C. Interior Lot Line Exception.

There shall be no Minimum Side Yard Setback for interior lot lines within a group of adjoining Lots under common ownership.

C. Section 408, MAXIMUM BUILDING HEIGHTS, is revised in its entirety to read as follows:

The maximum building heights in the Residential Zone District are as follows:

- 408.1 Residential Building-----24 ft.
- 408.2 Accessory Building-----16 ft.
- 408.3 Antennas, chimneys, flues, vents or similar structures may extend up to five feet above the specified maximum building height limit.

- D. Subsection .1 of Section 409, MAXIMUM FLOOR AREA, is revised in its entirety to read as follows:

409.1 The Maximum Floor Area, not including basement floor area, of principal buildings shall be determined by the following equation:

<u>Lot Area</u>	<u>Maximum Floor Area Formula</u>
< or = 10,000 sq. ft.	1,100 sq. ft. + .22x (lot area -5,000 sq. ft.)
> 10,000 sq. ft.	2,200 sq. ft.

- E. Subsection .2 of Section 409, MAXIMUM FLOOR AREA, is revised in its entirety to read as follows:

409.2 The Maximum Floor Area, not including basement floor area, of accessory buildings shall be determined by the following equation:

$$\text{Maximum Floor Area of accessory buildings} = \text{Lot Area} \times .055$$

Maximum Floor Area of all accessory buildings shall not exceed 1,100 sq. ft. No single accessory building shall exceed a Maximum Floor Area of 750 sq. ft.

- F. Subsection .1 of Section 410, MAXIMUM SITE COVERAGE, is revised in its entirety to read as follows:

410.1 The Maximum Site Coverage for each lot in the Residential Zone District shall be determined according to the following equation:

$$\text{Site coverage in sq.ft.} = \text{Lot Size in sq.ft.} \times .25$$

- G. Section 306, GRANDFATHER CLAUSE FOR NON-CONFORMING USE OR BUILDING, is retitled and revised in its entirety to read as follows:

Section 306, Grandfather Clause For Non-Conforming Use, Building or Lot.

All non-conforming uses existing on the date enactment of this LUC shall be allowed to continue unless abandoned or discontinued for twelve consecutive months. Where a non-conforming use has been discontinued for at least three (3) years, it may only be resumed, expanded, or replaced by a use which conforms to the provisions of this LUC, or the Planning Commission issues a special use permit in conformance with the provisions of Section 308. Non-conforming uses or buildings shall not

be allowed to expand, change, or increase the degree or intensity of a non-conforming use or building without a special use permit issued in compliance with LUC Section 308. A sub-standard parcel of land or non-conforming lot held or controlled by separate ownership from contiguous parcels of land existing prior to 1/1/94 in the Residential Zone District and which separate ownership has continuously existed since 1/1/94 shall be allowed separate residential development per ARTICLE VI.

- H. There is hereby added to the LUC a new Section 308, RESUMPTION OF A DISCONTINUED NON-CONFORMING USE AND EXPANSION, CHANGE IN USE, OR RELOCATION OF NON-CONFORMING USES, BUILDINGS AND LOTS:

Section 308, Resumption of a Discontinued Non-conforming Use and Expansion, Change in Use, or Relocation of Non-Conforming Uses, Buildings and Lots.

- A. Adoption of land use controls and development limitations in the LUC have resulted in buildings which lawfully existed at the time of their creation, but which do not conform to provisions of the LUC. The purpose of this section is to allow such nonconforming buildings to be changed and upgraded without requiring the complete reduction or elimination of the non-conformity, if certain adverse effects are reduced or mitigated and a special use permit is issued.
- B. Certain changes and upgrades of non-conforming buildings should be permitted if they promote the public health, safety or welfare and do not adversely affect traffic or the surrounding environment. Examples may include but are not limited to: a remodel that brings all or a portion of a non-conforming building into compliance with applicable fire, electrical, building, mechanical or plumbing codes; a change would reduce the degree of nonconformity of the use or improve the physical appearance of the structure or site; an upward extension of a structure within a setback area if neighbor's access to light and air is not substantially diminished. Nothing in this section, however, shall be construed to permit expanding the height of a building any part of which exceeds the maximum building height.
- C. Planning Commission may issue a special use permit approving or approving with conditions an application for the resumption of a discontinued non-conforming use, or for the expansion or change in use of a non-conforming use or structure or of a building on a non-conforming lot, when it determines all of the following criteria have been met in addition to those of LUC section 1004:
1. The applicant has agreed to undertake all reasonable measures to reduce or alleviate the effects of the non-conformity upon the surrounding neighborhood including, without limitation, visual or noise pollution, vehicular traffic, storage of necessary equipment, materials and refuse, and on street parking.

2. The proposed change or expansion will either reduce the degree of nonconformity of the use, building or lot, or improve the physical appearance of the structure of the site without substantially increasing the degree of nonconformity.
3. The proposed change or expansion in use complies with all requirements of this Code, unless a variance to these requirements has been granted.
4. The existing building or lot cannot otherwise reasonably be utilized or made to conform to the requirements of the underlying zone district.

**I. AMENDMENT OF COMMERCIAL ZONE DISTRICT**

Subsection 5.5.1 of Section 505, MAXIMUM BUILDING HEIGHTS, is hereby revised in its entirety, to read as follows:

The maximum building height in the Commercial District is 24 ft.

**J. AMENDMENT OF OPEN SPACE DISTRICT**

Section 601 of the Open Space Zone District, "Intent and Purpose", is revised in its entirety to read as follows:

The Open Space Zone District is intended to preserve the natural values of undeveloped land for the benefit and enjoyment of the residents of the Town of Sawpit. Uses are generally restricted to non-motorized, minimal impact recreation activities, except that motorized uses and underground utility uses with small surface appurtenances may occur on and within Open Space consisting of public rights-of-way.

**SECTION 3. PUBLICATION.** After final adoption, notice of passage shall be published in the manner prescribed by C.R.S. 31-16-101, et seq.

**SECTION 4. SEVERABILITY.**

If any one or more sections or parts of this Ordinance is adjudged unenforceable or invalid by a court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remaining provisions of this Ordinance, the intention being that the various provisions herein are severable.

**SECTION 5: EFFECTIVE DATE.**

This Ordinance is necessary for the immediate preservation of the public health and safety and shall take effect immediately upon final adoption.

**Introduced, Read and Referred to Public Hearing by the Board of Trustees of the Town of Sawpit on the \_\_\_\_\_ day of \_\_\_\_\_, 2010.**

**Approved and Adopted on Second and Final Reading by the Board of Trustees of the Town of Sawpit on the \_\_\_\_\_ day of \_\_\_\_\_, 2010.**

**By: \_\_\_\_\_  
Mike Kimball, Mayor**

**Attest: \_\_\_\_\_  
Debbie Feste, Town Clerk**

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Approved as to Form: Stephen B. Johnson, Town Attorney**