

ORDINANCE #2022– O – 10 – 2

AN ORDINANCE OF THE TOWN OF BRIGHTON COUNCIL AMENDING SECTION 19.12.030 OF THE BRIGHTON CODE OF ORDINANCES TO ELIMINATE MINERAL EXTRACTION AND PROCESSING AS A CONDITIONAL USE AND EXPLICITLY PROHIBITING THE SAME AND SIMILAR USES IN THE FORESTRY AND RECREATION ZONES; AMENDING SECTION 19.72.190 TO ELIMINATE MINERAL EXTRACTION AND PROCESSING AS A USE FOR WHICH WAIVERS CAN BE GRANTED; AMENDING SECTION 19.76.030 REGARDING CLASSIFICATION OF PERMITTED AND CONDITIONAL USES NOT LISTED IN TITLE 19

WHEREAS, Title 19 of the Brighton Code of Ordinances governs zoning within Brighton Town; and

WHEREAS, Utah Code Annotated, Title 10-9a-501 authorizes the legislative body to weigh policy decisions and enact land use regulations; and

WHEREAS, Utah Code Annotated, Title 10-9a-503 authorizes the legislative body to amend land use regulations; and

WHEREAS, a mineral extraction use was proposed in Salt Lake County that has been identified as undesirable due to potential air and water pollution concerns, as well as visual impacts; and

WHEREAS, the Town of Brighton staff recognized that a similar application could be made within the Town of Brighton; and

WHEREAS, the Town of Brighton Planning Commission held a public hearing on the draft ordinance at their meeting on August 17, 2022; and

WHEREAS, after holding a public hearing pursuant to Utah Code Ann. § 10-9a-502, the Town of Brighton Planning Commission recommended that the Council adopt the draft ordinance prepared by the planning and development staff; and

WHEREAS, the Council has reviewed the ordinance and determined that it is in the best interest of the Town of Brighton and its citizens. to eliminate Mineral extraction and processing as a conditional use and explicitly prohibiting the same and other related uses in the Forestry and Recreation zones; and to enact related regulations; and

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF BRIGHTON TOWN COUNCIL OF, UTAH, THAT: .

SECTION I. Amended. Sections 19.12.030, 19.72.190 and 19.76.030 of the Brighton Code of Ordinances is amended as shown the attached Exhibit 1.

SECTION II. Effective date. This Ordinance shall be effective upon publication.

PASSED AND APPROVED by the Town of Brighton Town Council, Utah, this 11th day of October in the year 2022.

TOWN OF BRIGHTON



Dan Knopp, Mayor

ATTEST:



Kara John, Town Clerk



Exhibit 1: 19.12.030 Conditional Uses; 19.72.190 Waivers For Mountain Resort Improvements That Are Not Within A Mountain Resort Zone, And Public Uses And Mineral Extraction And Processing; 19.76.030 – Uses Not Listed – Administrative Determination

Exhibit 1:

19.12.030 Conditional uses.

The following conditional uses are subject to the requirements of this chapter, all general and specific conditions, criteria, and approval procedures set forth in Chapter 19.84, "Conditional Uses," and for properties situated within the foothills and canyons overlay zone, the procedures and provisions of Chapter 19.72, "Foothills and Canyons Overlay Zone" and Chapter 19.73,

"Foothills and Canyons Site Development and Design Standards." The following uses are explicitly prohibited in this chapter: mineral extraction and processing; mine; quarry; gravel pit; including crushers or concrete batching plants used in connection with and as a part of an operation for the removal of sand, gravel and/or rock aggregate.

....

[J]. Mineral extraction and processing; provided that:

1. ~~The applicant shall comply with all applicable regulations of this chapter, including but not limited to site grading and drainage, landscaping, and environmental standards, and all applicable provisions in Chapter 19.72, "Foothills and Canyons Overlay Zone," and Chapter 19.73,~~

~~"Foothills and Canyons Site Development and Design Standards," and~~

2. ~~Such use shall not be located within one thousand feet of any residential use or lot, and~~

3. ~~The perimeter of the site shall be screened from adjacent properties and roads with a buffer yard of adequate width and opacity as determined by Brighton, and~~

4. ~~The applicant submits a plan, prepared by a qualified professional, that shows the location of existing and proposed watercourses and drainage systems, including lakes, ponds, and detention basins, and~~

5. ~~Water accumulating on the site shall be removed to a drainage way and any contaminated water shall be treated before being allowed to enter a drainage way, and~~

6. ~~The applicant shall present evidence of all necessary state and/or federal permits and approvals, and~~

7. ~~Access shall be provided, either directly or over a private haul road, to an arterial street that is designed for heavy truck traffic, and~~

8. ~~A haul road entering the site from a public street or road shall be paved for at least a distance of five hundred feet from the public street or road, and~~

9. ~~The property shall be posted with a notice of dangerous conditions and warning trespassers away, and~~ 10. ~~Operations shall be conducted in compliance with health department regulations and standards regarding noise, odor, vibrations, dust, blowing debris, hazardous materials, and air quality, and~~

11. The applicant shall submit a general plan for proposed rehabilitation of the site, including a schedule of rehabilitation measures and proposed ground cover and landscaping to be installed following the completion of the operation or the expiration of the conditional use approval (see Sections 19.72.030H, "Tree and Vegetation Protection," and 19.72.030C, "Grading Standards"), and

12. If a change in ownership occurs, the new owner shall submit a new application for conditional use approval. Approval of the new application shall not be granted until all new federal and/or state permits are issued to the new owner, and

13. Any suspension or revocation of required state or federal permits shall constitute a violation of this chapter and will result in automatic suspension or revocation of all Brighton approvals and permits, and

14. Brighton may require a bond in favor of Brighton to be posted by the applicant to cover damages that may occur to Brighton roads as a result of hauling materials excavated from the permitted site. The amount of the bond less any sums needed to correct damages shall be refunded to the excavator within one year after the conclusion of the excavation, and

15. Brighton may impose additional conditions addressing access, circulation, operations, noise, hours of operation, and similar impacts it deems necessary to minimize potential significant impacts on adjacent properties and streets;]

....

Section 19.72.190 of the Brighton Code of Ordinances is amended as follows to eliminate mineral extraction and processing as a use for which waivers can be granted.

19.72.190 Waivers For Mountain Resort Improvements That Are Not Within A Mountain Resort Zone, and Public Uses And Mineral Extraction And Processing -

The general purpose of the foothills and canyons overlay zone is to promote safe, environmentally sensitive development that strikes a reasonable balance between the rights and long-term interests of property owners and those of the general public. Specifically, these standards are intended to:

A. Preserve the visual and aesthetic qualities of the foothills, canyons, and prominent ridgelines as defined herein, contributing to the general attractiveness and, where appropriate, the commercial viability of these areas.

B. Protect public health and safety by adopting standards designed to reduce risks associated with natural and man-made hazards.

C. Provide efficient, environmentally sensitive, and safe vehicular and pedestrian circulation.

D. Encourage development that conforms to the natural contours of the land and minimizes the scarring and erosion effects of cutting, filling and grading on hillsides, ridgelines, and steep slopes.

E. Balance private and commercial needs against the risk of destabilizing fragile soils, defacing steep slopes and degrading water quality.

F. Minimize disturbance to existing trees and vegetation, conserve wildlife habitat, protect aquifer recharge areas, and otherwise preserve environmentally sensitive natural areas by encouraging clustering, the transfer of development rights, or other design techniques to preserve the natural terrain.

G. Reduce flooding by protecting streams, drainage channels, absorption areas, and floodplains. H. Protect property rights and commercial interests and encourage economic development.

I. Recognize the link between environmental protection and economic prosperity in the canyons.

...

Section 19.76.030 of the Brighton Code of Ordinances is amended as follows to clarify the classification of permitted or conditional uses not listed in Title 19.

19.76.030 – Uses not listed - Administrative Determination

~~[Determination as to the classification of]~~ Permitted or Conditional uses not specifically listed in this title shall be prohibited, unless allowed by the following process. If a previously unidentified use not contemplated in this Title is proposed, a property owner may submit a written request for [made by] the planning and development services division director to interpret the zoning ordinance pursuant to the procedural steps of this Section to determine whether the proposed use has the same character as an existing permitted or conditional use allowed in the zone designated for the owner's property . ~~[and]~~ The

Director's determinations shall be subject to appeal to the planning commission as provided in this Title. Such appeal shall be filed in writing within ten days after written notification to applicant of the planning and development services division director's determination. The procedure shall be as follows:

A. Written Request. A written request for such a determination shall be filed with the planning and development services division director. The request shall include a detailed description of the proposed use and such other information as may be required.

B. Investigation. The planning and development services division director shall thereupon make such investigations as are deemed necessary to compare the nature and characteristics of the proposed use with those of uses specifically listed in this title, and to make a determination of its classification.

C. Determination. The determination of the planning and development services division director shall be rendered in writing within thirty days unless an extension is granted by the planning commission. The determination shall state the zone classification in which the proposed use will be permitted as well as the findings which established that such use is of the same character as uses permitted in that zone classification. If the director determines that the proposed use does not have the same character as an existing permitted or conditional use allowed in the designated zone, the proposed use is prohibited. Upon making this decision, the planning and development services division director shall forthwith notify the applicant, the planning commission and the development services division.

D. Effect. The determination and all information pertaining thereto shall become a permanent public record in the office of the planning and development services division director. Such use shall thereafter become a permitted or conditional use in the class of district specified in the determination, and shall have the same status as a permitted or conditional use specifically named in the regulations for the zone classification