SAN MIGUEL COUNTY PLANNING COMMISSION

PLANNING COMMISSION MEETING AGENDA
THURSDAY, MAY 9, 2024 – 9:00 AM

Online & 333 W. Colorado Ave, Telluride, Colorado

MEETING INFORMATION - This meeting will be held online and in person. To join the meeting: http://zoom.us/join, Meeting ID: 965 1288 5206, Password: 534277; Audio only: Dial 1-301-715-8692 or 1-253-215-8782 (long-distance rates may apply)

1. **9:00 A.M. CALL TO ORDER**

2. **APPROVAL OF MINUTES, PLANNING COMMISSION AND STAFF COMMENTS**

   a. April 4th 2024 Minutes
   4.4 minutes A.docx

3. **LAND USE CODE AMENDMENT RECOMMENDATION**

   a. Amending Land Use Code Sections 5-1304, 5-1305 and 5-1306, to update affordable housing provisions governing initial qualification and on-going compliance, implementation of fines / MOTION
   CPC Packet Materials_Amendment 2024 Updates 050924.pdf

4. **ADJOURN**

NOTE: All times are approximate; items may begin earlier (except public hearings) or later than scheduled. For more information contact Planning Department at (970) 728-3083.

If special accommodations are necessary per ADA, contact 970-728-3844, via email at bocc@sanmiguelcountyco.gov prior to the meeting.

The official, designated posting place for all meeting notices will be online at https://www.sanmiguelcountyco.gov/liveagenda. Use this link to view the live agenda with any last-minute changes. To be automatically notified, please sign up at www.sanmiguelcountyco.gov, sign up for alerts, and follow the prompts.

AGENDA ITEM 2.a

TITLE:
April 4th 2024 Minutes

Presented by:
Time needed:

RECOMMENDED ACTION/MOTION:

INTRODUCTION/BACKGROUND:

FISCAL IMPACT:

ATTACHMENTS:
4.4 minutes A.docx

Description:

SAN MIGUEL COUNTY PLANNING COMMISSION

MINUTES – REGULAR MEETING

April 4, 2024

333 West Colorado Avenue and Online Meeting

Present:	Lee Taylor, Chair Josselin Lifton-Zoline, Vice-Chair M.J. Schillaci, Secretary Ian Bald, Member Matthew Bayma, Member Galena Gleason, Alternate
Planning Staff Present:	Kaye Simonson, Planning Director John Huebner, Senior Planner Nicola Kerr, Planning Technician
County Staff Present:	Amy Markwell, County Attorney Rachel Allen, Assistant County Attorney

9:00 a.m. Chair called the meeting to order.

<u>APPROVAL OF MINUTES</u>

MOTION by Galena Gleason to approve the March 14, 2024 minutes

SECONDED by Josselin Lifton-Zoline motion **PASSED 5-0**

Lee Taylor	**<u>Aye</u>**	**Nay**	**Abstain**	**Absent**
Ian Bald	**<u>Aye</u>**	**Nay**	**Abstain**	**Absent**
M.J. Schillaci	**<u>Aye</u>**	**Nay**	**Abstain**	**Absent**
Josselin Lifton-Zoline	**<u>Aye</u>**	**Nay**	**Abstain**	**Absent**
Matthew Bayma	**<u>Aye</u>**	**Nay**	**Abstain**	**Absent**
Galena Gleason	**Aye**	**Nay**	**Abstain**	**Absent**

<u>PLANNING COMMISSION AND STAFF COMMENTS</u>

Kaye Simonson, Planning Director, updated the commission. Solar Regulations will be delayed past the May agenda, they are finding a meeting date for the subcommittee, The Master Plan has been sent off to Design Workshop for the final draft. There is a Land Use Code Amendment Regarding affordable housing deed restriction in May. Consideration of the Solar Moratorium extension will be on April 24th.

<u>9:10 A.M. PUBLIC HEARING: LAND USE APPLICATION</u>

Applicant: Marti Prohaska

Location: 772 County Road 44Z N
Parcel size: 5 acres
Zone District: Wright's Mesa
Proposal: Retail Greenhouse/ Nursery Special Use Permit

John Huebner, Senior Planner, presented the application.

Josselin Lifton-Zoline asked about dark sky requirements and water.

Martinique responded that there is both a well and cistern on the property as well as a connection to city water. There is a flood light that is motion censored and down cast.

Mathew Bayma asked what the difference will be between the Greenhouse now and after the Special Use Permit is approved.

Martinique responded that before it was delivery business rather than open for customers to buy at the brick and mortar location.

MOTION by Josselin Lifton-Zoline to approve the Special Use Permit for a Retail Greenhouse/Nursery for Wild Iris Greenhouse and Gardens, for the operation of a proposed seasonal nursery, and to adopt Planning Commission resolution #2024-4, with the following conditions:

1. The Special Use Permit is issued to the Applicant, Wild Iris Greenhouses and Gardens (Martinique David Prohaska), and does not run with the Land.
2. All written representations of the applicant, in the original submittal and all supplements, are deemed to be conditions of approval except to the extent modified by this approval.
3. All lighting shall be shielded and directed down and meet the requirements of LUC Section 5-710 II.

SECONDED by M.J Schillaci motion **PASSED 5-0**

Lee Taylor	**<u>Aye</u>**	**Nay**	**Abstain**	**Absent**
Ian Bald	**<u>Aye</u>**	**Nay**	**Abstain**	**Absent**
M.J. Schillaci	**<u>Aye</u>**	**Nay**	**Abstain**	**Absent**
Josselin Lifton-Zoline	**<u>Aye</u>**	**Nay**	**Abstain**	**Absent**
Matthew Bayma	**<u>Aye</u>**	**Nay**	**Abstain**	**Absent**
Galena Gleason	**Aye**	**Nay**	**Abstain**	**Absent**

<u>9:30 A.M. PUBLIC HEARING: LAND USE APPLICATION</u>

Applicant: Highbury Resources Inc
Location: 65 miles west of Telluride off of Highway 141, and County Roads T11, 12S, and 14R, near Slick Rock
Parcel size: Multiple Parcels, total disturbance totaling .46 acres
Zone District: West End (WE)
Proposal: Exploratory Drilling for Mineral Exploration

John Huebner, Senior Planner, presented the application.

Josselin Lifton-Zoline commented that it would be helpful to have some example photos of past revegetation successes.

Lee Taylor asked if the Planning Commission can ask the applicant to mitigate for old mining projects in the area.

Kaye Simonson responded that regulations regarding mining remediation is complicated and probably not.

Josselin Lifton-Zoline asked what the remediation efforts would entail for any test holes converted to ground water monitoring.

Alex Krieile, Highbury Resources Project Geologist, responded that it would be subject to the State permit and they would be responsible for reclaiming.

Josselin commented that access to the monitoring pits would be continued and asked how that would affect the vegetation.

Alex Kreile responded that they do not want to make roads, they would be walking to check the pits with minimal ground disturbance.

Joselin Lifton-Zoline commented that the plant survey was done in September but would be better to have been done in the Spring/ Summer during bloom.

Alex Kreile responded that plants are indeed easier to identify when flowering but the survey is still relevant.

Lee Taylor asked how long monitoring would continue after drilling and whether it would be done in person or wirelessly.

Doug Beahm, Highbury Resources, responded that it would be monitored for a year and a half at a minimum and in person depending on the flow rates from the ground water and how we obtain the water sample

Starr Jamison, County Natural Resources Director asked that gypsum cat eye be added in to the draft mitigation plan.

Harold Hutson, Highbury Resources, stated that they would be salvaging the topsoil and then immediately replacing which allows for the natural seed bank to remain in the soil.

Alex Kriele confirmed that they can add gypsum cat eye to the plan although they did not encounter any.

Starr Jamison emphasized that those operating the ATVs to access the drill pads should be educated on the rare plant life in the area.

Lee Taylor asked how much sound the drill rig going to make.

Alex Kriele responded that it is about the volume of a tractor, only audible within a close distance.

Lee Taylor asked if there is any risk of cuttings leaking into the water table through the mud pit.

Alex Kirele responded that the total material in the mud pits in negligible and total contamination not measurable. Until it is processed in a facility, the concentrations of minerals are moot. Gamma levels at the site will be no different prior to exploration.

Galena Gleason asked how many personnel will be employed.

Alex Kriele responded 3-4 per drill rig plus a geologist.

Galena Gleason pointed out that some of the drill holes are close to the edge of the canyon. What is the plan to mitigate the run off into the canyon and Dolores River during monsoon season?

Alex Kriele stated that they are sloped away from the canyon lip and they are planning to do all operations during the dry season rather than the wet season to not rut the earth.

Lee Taylor asked if a migratory bird nesting survey would be completed before.

Doug Beahm responded that their wildlife surveyor did not see any nests near the sites.

11:10 recessed

11:15 resumed

11:15 open for public comment

Suzy St. Onge spoke representing the Open Space Commission and herself, she stated that we are dealing with radioactive radium, we are going back in time. We are working on carbon sequestration and leaving out more fossil fuels so why are we going back on ourselves. The Four Corners area is still a cancer cluster from uranium mining there.

Mason Osgood, director of Sheep Mountain Alliance, pointed out that the petition that Great Old Broads brought forward has never seen so many signatures on a petition like this. Where is the balance between resources, nature, mining, and wildlife?

Kendra Ballard, a West Rnd resident, stated that within the identity of the community is providing energy and mining. The West End will be negatively impacted if we are preventing mining and the country needs uranium for batteries etc. especially if we want to reduce our reliance on other countries.

12:30 Public Comment Closed

Ian Bald commented that mining conflicts with the vision of the county that potential tourism based jobs would be better for the west end economy.

Galena Gleason reiterated her concerns regarding the proximity of certain drill holes to the Dolores River.

Mathew Bayma pointed out that we are talking about prospecting not mining, although the location is not the most desirable. The company has done their due diligence and addressed concerns in a meaningful way.

Lee Taylor stated that the question at hand is not whether we are going to allow it, since the mining is occurring on BLM land, but are their impacts sufficiently mitigated.

Galena Gleason asked if the Planning Commission could suggest not utilizing the drill holes in closest proximity to the Dolores River.

Amy Markwell asked if the applicant has already done an analysis on the impact to the water sources.

Alex Kriele re-stated that some of the surface drainage runs away from the canyon edge, and added that the company has a bond obligation of 23,000 dollars.

Harold Huston confirmed that the drill hole in section 33 close to Joe Day Canyon's surface topography drains away from the rim of the canyon. At the section 34 drill hole there is at least 800 feet between the drill hole and the rim of the canyon.

12:10 Public Comment was re-opened to allow those with technical difficulties to speak.

Kathryn Wilder, rancher and resident of Disappointment Valley, commented that Nicholas wash collects runoff during monsoon season and spills into the Dolores River. There are many routes into the Dolores River other than water going over the canyon rim.

Jennifer Singer, member of the Great Old Broads for Wilderness organization, stated that uranium mining and drilling are incompatible with protecting the Dolores River shed. The Ute have been protesting mining and processing at the White Mesa mill and continued project as such are likely to have detrimental effects to the Ute's health.

12:15 pm public comment closed.

MOTION by Mathew Bayma to recommend **APPROVAL** to the Board of County Commissioners for the Mining Special Use Permit SUP for Highbury Resources Inc. or its contractor, for mineral exploration from drill pads on unpatented mining claims under Bureau of Land Management (BLM) public lands located in the Slick Rock area in west San Miguel county, subject to the following 14 terms and conditions,

1. The Special Use Permit is issued to the Applicant, Highbury Resources Inc., and does not run with the land.
2. No future mining activity at the project site by Highbury Resources Inc., its lessees, or the property owners or its lessees is authorized by this approval.
3. Contact the Planning Department, Road and Bridge Department and County Sheriff's Office prior to mobilization of and the start of drilling activities.
4. Provide a list of onsite contacts for Highbury Resources Inc. and the drilling project contractor.
5. This Special Use Permit conditional approval is subject to the terms and conditions of the Notice of Intent approved by the Bureau of Land Management (BLM) and Colorado Division of Reclamation and Mining and Safety (CDRMS) concerning this drilling program.
6. The project drilling program and reclamation plan shall be consistent with and comply with the applicable provisions as approved by the County, unless specifically modified in the BLM and CDRMS approval action.
7. Provide monthly progress reports to County Planning.
8. All written representations of the applicant, in the original submittal and all supplements, are deemed to be conditions of approval except to the extent modified by this approval.
9. Exploration activities shall be limited to summer 2024, and shall end no later than November 30.
10. The County shall be informed of any cultural resources discovered in the course of work. Pads and road disturbance should avoid any areas with cultural resources. All appropriate mitigation measures shall be taken to protect cultural resources.
11. The revegetation plan shall include best practices to maximize available water.
12. Provide documentation regarding the water source(s) for the project.
13. It is preferred that the site located in the proposed Dolores NCA and sites located adjacent to the Dolores River not be utilized. If utilized that site will be fully protected with stormwater best management practices.
14. It is preferred that a local contractor be used and reported to the BOCC.

SECONDED by Lee Taylor. **VOTE PASSES 3-2**

Lee Taylor	**<u>Aye</u>**	**Nay**	**Abstain**	**Absent**
Ian Bald	**Aye**	**<u>Nay</u>**	**Abstain**	**Absent**
M.J. Schillaci	**<u>Aye</u>**	**Nay**	**Abstain**	**Absent**
Josselin Lifton-Zoline	**Aye**	**<u>Nay</u>**	**Abstain**	**Absent**
Matthew Bayma	**<u>Aye</u>**	**Nay**	**Abstain**	**Absent**
Galena Gleason	**Aye**	**Nay**	**Abstain**	**Absent**

12:30 pm recessed for lunch

1:00 pm reconvened

1:00 P.M PUBLIC HEARING: LAND USE CODE AMENDMENT

The Planning Commission discussed a variety of potential edits to the Community Housing Zone District.

2:10 pm public comment opened

Michelle Haynes commented that an AHPUD can function as an overlay to a district and has had confusion regarding the difference between the two zone districts.

Morgan Smith commented that the language in the Zone District is confusing.

Scott Pearson asked, please don't allow the changes to the CH zone to change the Ilium Valley project. All those who are in favor of a CH zone are in their car commuting to and from Montrose and don't have the ability or time to come to a meeting regarding this, please consider their perspective as well.

Shellie Duplan stated that the CH zone was crafted in an echo chamber with no opportunities for public comment. There should be more opportunities for fill-in rather than giant developments. It is alienating those who can help and we don't understand how to implement CH.

Pam Bennet commented we need to know how to implement the CH and AHPUD. It is confusing and they should be the same thing.

Dan Enright stated that we have to think about how these changes will impact the Alexander property and think about those who can't be here to speak today. No one wants any small margin of affordable housing in their neighborhood, we will never get anywhere if we continue this attitude.

Emily Masson requested to please eliminate the 2021 changes to the CH Zone.

James Liebler asked to please eliminate the possibility for all bonuses as it never works.

Scott Bennett commented that you need to know and understand all the densities off hand in the County to be able to make a proper decision. He thinks Mountain Village was pushed to do a CH zone.

Nick Farkouh stated that the CH zone is not clear, currently the safety net is the planning commission's best judgment but sometimes there are external pressures and there will be future commissioners who may not have the same values, there should be a small scale, medium etc. and there should be caps and upper limits.

Ray Bowers commented that the Planning Commission is still struggling to define things after three years, the confusion continues and everything is so discombobulated. The Zoline property is an area of concern.

Mathew Allen commented that the Mountain Village project does not need the Community Housing Zone District but could use the AHPUD. If Mountain Village is going to continue approving enormous hotels they need to have higher housing mitigation standards for the developers. People in Montrose are not a part of our community and we shouldn't consider their needs above those who have been paying taxes here for years.

Yolana Vankova commented that there is no public comment in support of the Community Housing zone. We need more infill housing in telluride, people only want to walk to work. People are dying driving home in blizzards.

Amy Ward stated that some people have commented that developers have no problem making money from affordable housing developments which is untrue. If you make it so difficult that no one can build anything we are tying our hands and eliminating the point of CH. Without subsidies they will not get built.

Pete Johnson, resident of Ski Ranches, said that there is a lot anxiety from people in the community who have sacrificed so much to be here, there is a tsunami of opposition. Please repeal the CH zone.

Shanna Peterson stated that the CH zone being used for medium and high density is not in the best interest of the community, results from surveys indicated that people don't want to live in Shandoka or VCA, people want single family single floor residences.

Jennifer Barker commented that here should be one set of rules for everyone to follow rather than one for the government and one for everyone else.

Catherine Winchester commented that she is against the CH zone maximum density number of 20 units. The County shouldn't be held hostage by Mountain Village because they purchased a piece of property that is now under CH zoning. We want to see a spreadsheet of what has been planned and how many units are still needed.

MOTION by Josselin Lifton-Zoline to recommend **APPROVAL**; to the Board of County Commissioners to amend Land Use Code Section 5-324 Community Housing Zone District with the following changes,

1. With respect to free market housing there will be a corresponding limit on square footage, e.g. add "10 % or less gross square footage"
2. Revise the maximum density to be up to 15 units per acre
3. Eliminate section 5-324 E.1 Free-market units allowed subject to a PUD

SECONDED by Galena Gleason. **VOTE PASSED 5-0**

Lee Taylor	**Aye**	**Nay**	**Abstain**	**Absent**
Ian Bald	**Aye**	**Nay**	**Abstain**	**Absent**
M.J. Schillaci	**Aye**	**Nay**	**Abstain**	**Absent**
Josselin Lifton-Zoline	**Aye**	**Nay**	**Abstain**	**Absent**
Matthew Bayma	**Aye**	**Nay**	**Abstain**	**Absent**
Galena Gleason	**Aye**	**Nay**	**Abstain**	**Absent**

Mathew Bayma exited at 4 pm

4:30 P.M PUBLIC HEARING: LAND USE CODE AMENDMENT
Discussion of the addition of section 5-712 Mining Hazards to the San Miguel County Land Use Code.

4:30 Public Comment opened

Kendra Ballard, resident of the West End, stated that the community voice in east end is heard but there are a small number of conservation groups who are overpowering the voice of the West End. The concerns of the environmental groups are based off of mining regulations from the 50's. It is possible to mine and conserve. We need to know what options are available for energy in the future.

Kaye Simonson clarified that the amendment is regarding standards and procedures for development on sites with mining waste and not regarding new active mining.

John Huebner, Senior Planner presented the amendment.

The commission discussed the amendment.

MOTION by Josselin Lifton-Zoline to recommend **ADOPTION** to the Board of County Commissioners of Section 5-712, Mining Hazards, to the San Miguel County Land Use Code

SECONDED by Galena Gleason. **VOTE PASSED 5-0**

Lee Taylor	**Aye**	**Nay**	**Abstain**	**Absent**
Ian Bald	**Aye**	**Nay**	**Abstain**	**Absent**
M.J. Schillaci	**Aye**	**Nay**	**Abstain**	**Absent**
Josselin Lifton-Zoline	**Aye**	**Nay**	**Abstain**	**Absent**
Matthew Bayma	**Aye**	**Nay**	**Abstain**	**Absent**
Galena Gleason	**Aye**	**Nay**	**Abstain**	**Absent**

4:43 pm Adjourned

Respectfully Submitted,

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Nicola Kerr, Associate Planner

Approved on ____________, 2024.

SAN MIGUEL COUNTY PLANNING COMMISSION

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M.J. Schillaci, Secretary

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AGENDA ITEM 3.a

TITLE:
Amending Land Use Code Sections 5-1304, 5-1305 and 5-1306, to update affordable housing provisions governing initial qualification and on-going compliance, implementation of fines / MOTION

Presented by:
Time needed:

RECOMMENDED ACTION/MOTION:

INTRODUCTION/BACKGROUND:

FISCAL IMPACT:

ATTACHMENTS:
CPC Packet Materials_Amendment 2024 Updates 050924.pdf

Description:

PUBLIC HEARING RECORD

County Planning Commission
Application: Amendments to the San Miguel County Land Use Code ("LUC") regarding affordable housing in LUC §§ 5-1304, 5-1305 and 5-1306, to update provisions governing initial qualification and on-going compliance, implementation of fines,

Date: May 9, 2024

1. San Miguel County Land Use Code (Adopted 11/30/90) with all amendments to date (By Reference Only).

2. San Miguel County Comprehensive Development Plan (Adopted 8/3/78) with all amendments to date (By Reference Only).

3. Memorandum to the San Miguel County Planning Commission from Lois Major, special counsel to the San Miguel County Housing Authority dated May 9, 2024.

4. Schedule of Violations and Fines-Updated 2024, San Miguel County Land Use Code §§5-1305 with suggested Draft Amendments, and Procedures adopted by the SMCHA for use with the Covenant with suggested Draft Amendments.

AGENCY COMMENTS

5. Agency Referral email dated April 1, 2024.

6. Email from Mike Bordogna, County Manager to John Huebner, Senior Planner, dated April 2, 2024

PUBLIC COMMENT

7. None

OTHER

8. None

M E M O R A N D U M

TO: San Miguel County Planning Commission
FROM: Lois Major, Special Counsel to the San Miguel County Housing Authority
RE: Consideration of Amendments to the San Miguel County Land Use Code ("LUC") regarding affordable housing in LUC §§ 5-1304, 5-1305 and 5-1306, to update provisions governing initial qualification and on-going compliance, implementation of fines,
DATE: May 9, 2024
Attachments: **A**: Schedule of Violations and Fines-Updated 2024
B: San Miguel County Land Use Code §§5-1305 with suggested Draft Amendments
C: Procedures adopted by the SMCHA for use with the Covenant with suggested Draft Amendments

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I. **Purpose:** The purpose of this memo is to present proposed changes to the LUC that impact the affordable housing program in various ways and get feedback and direction from the San Miguel County Planning Commission ("CPC"). Proposed changes include:

A. Changes to Qualification and the definition of Employee.
B. Changes to the Schedule of Fines.
C. Adoption of the Procedures with suggested Draft Amendments for the LUC.

II. **San Miguel County Affordable Housing Program:** The purpose and intent of the County Affordable Housing Program ("Program") s to provide affordable housing for people who earn a living by working in the Telluride R-1 School District.

DEED RESTRICTIONS IN THE COUNTY:
1. Land Use Code: LUC §§ 5-1304, 5-1305 and 5-1306
2. The Amended and Restated Deed Restriction and Covenant ("New Covenant")
3. The Rio Vista Covenant and Guidelines ("RVII")
3. The Rural Homes: For Sale, For Locals Deed Restriction and Covenant Pinion Park and Guidelines ("Pinion Park Covenant")

For purposes of this memo, the deed restrictions will be referred to individually as the LUC, the New Covenant, RVII, and Pinion Park Covenant, respectively, or together as the Deed Restrictions.

III. Background

A. SMCHA Authority

As a separate political subdivision and a public corporation of the state, the San Miguel County Housing Authority ("SMCHA") has the duties, privileges, immunities, rights, liabilities, and disabilities of a public body politic and corporate (C.R.S. 29-1.204.5, Part 4).

SMCHA has the power "to do or perform any acts and things authorized by this section under, through or by means of an agent…" (C.R.S. 29-1- 204.5(3)(IV)(m)). SMCHA's powers include the adoption of regulations respecting the exercise of its powers and the carrying out of its purposes (Section 204.5 (3)(k)) and to exercise any other powers essential to the provision of its functions (C.R.S. 29-1.204.5(l)). This includes enforcement that can be delegated to an agent.

In June of 2022, the SMCHA and the Town of Telluride entered an Intergovernmental Agreement (IGA) to form a multi-jurisdictional housing authority named the "San Miguel Regional Housing Authority. The IGA authorizes San Miguel Regional Housing Authority (“SMRHA”) to manage the operation of existing housing projects affordable to seasonal and long-term residents, pursuant to a multijurisdictional plan to provide affordable residential facilities and dwelling accommodations for families and individuals (a) residing in or needing to reside in Telluride, or the County, who are permanent residents of, or persons employed in, Telluride or the County; (enforce all aspects of the [County’s] affordable housing program, and all applicable statutory and regulatory requirements. The 2022 IGA, in Section 2.2, empowers SMRHA to:

Management and Enforcement:

(a) To maintain records of existing Affordable Housing (rental and resale) for deed restricted housing occupants designated in this IGA or identified by the Authority, and to assure that such housing is used and occupied in accordance with existing Telluride or County development approvals, deed restrictions, contracts, or financing requirements;

(b) To seek to assure that the owners and/or occupants of all deed restricted housing units comply with applicable regulations or resolutions concerning rental or resale of deed restricted housing, and to institute uniform administration of all deed-restricted housing units within Telluride and the County (which does not require that all deed restrictions have the same terms);

(c) To adopt by resolution procedures for investigating apparent violations of the Authority's regulations and resolutions, as well as specific penalties the Authority may impose for such violations, and to establish and implement an enforcement program therefore, including housing projects in existence prior to the date of this IGA regarding which the County and/or Telluride have contracted with the Authority for enforcement. Variances and exception requests pertaining to deed restricted properties will be decided upon by the appropriate body of the governing jurisdiction consistent with the guidelines established by Telluride and the County after being briefed by Authority staff;

(d) Omitted

(e) To establish uniform fees and charges for services provided by the Authority, which fees may only be waived by the affirmative vote of a majority of the directors of the Authority.

The County’s general deed restriction was moved from Appendix B of the LUC into LUC Sections 5-1304 and 5-1305 in 1991 by resolution 1991-27. Several adjustments and updates were made over the course of the next decade. In January 2002, the BOCC began the process that culminated in the New Covenant. Basically, the New Covenant was crafted to ensure that the Guidelines and Rules and Regulations that apply to deed-restricted property could not be changed without the owner’s written consent and to clarify and address specific issues and matters that were not covered or not clearly addressed in either the “Original Deed Restriction” or LUC Section 5-1305, the Guidelines, Rules, and Regulations Governing Affordable Housing.

The New Covenant also intended to memorialize all the exceptions that were routinely granted by the BOCC/SMCHA in order to conform the rules with the needs of the deed-restricted community. The BOCC did not adopt separate Guidelines but did create Procedures pursuant to New Covenant §12.3 to help guide qualification and compliance with the various terms of the deed restriction. It is unclear if or when the Procedures were originally adopted but in July 2022, the BOCC formally adopted Procedures in Resolution 2022-40. The Land Use Code Guidelines are in Section 5-1305.

At all times, the option to sign the New Covenant was/is up to the affected property owner. However, once the New Covenant was executed by an owner, that piece of property continued to be covered by the New Covenant and could not revert to the LUC deed restriction, see New Covenant, Section 12: General Provisions; Section 12.2 Covenant Running with the Land-Binding Effect and Section 12.8 Severability.

B. General Discussion: The Program developed by way of the LUC was adequate for the period and demand for housing in 1991. Although many changes have been made, the LUC has not kept up with the times, the surge in housing demand, or the free-market prices in the Telluride region. The goal of the Program remains to provide housing for people who live here and who work here for a living. The price disparity between free-market properties and deed-restricted properties (although unbelievably high) makes the jump from deed-restricted to free-market that much more difficult. It puts pressure on the Owners, Occupants and the Program Administer to maintain the integrity of the Program. There are approximately 105 Housing Units or Building Lots for Housing Units that have not yet converted to the New Covenant. Rather than require those owners to execute a New Covenant, it is time to update the LUC to ensure the deed-restricted properties are owned, occupied, and transferred as intended and, to the extent possible, keep the LUC in line with the New Covenant.

Still, the goal is to keep most of the benefits in the New Covenant and to include all restrictions and limits on ownership in the LUC to promote conversion to the New Covenant.

1. Amendment to Qualification Standards and the definition of Employee.

- **a. Current Requirements:** The Owner or Occupant is subject to the standard initial qualification and on-going qualification standards.
  - i. Income: The Owner or Occupant must earn more than 50% of their income from working in the Telluride R-1 School District and there is no income earning limit.
  - ii. Residence: The Owner or Occupant must occupy the Unit as their sole and primary residence.
  - iii. Work Requirement: Average of 30 hours per week over 8 months (or 1,032 hours).
  - iv. Other Property Ownership: The Owner or Occupant may not own other residential property in the four-county area of San Miguel County, Montrose County Ouray County and Dolores County (“4-County Region”).
  - v. There are no asset limits.
- **b. Problems with the LUC**
  - i. Phrases like “income from working in the Telluride R-1 School District” and “average of 30 hours per week over 8 months” are vague and problematic in the age of remote workers and persons working 60-75 hours a week and then taking extended vacations.
  - ii. The LUC lacks clear and concise language that the Administrator can use to counsel applicants and Owners and to verify and compel compliance.
  - iii. The New Covenant has adapted to new circumstances but the LUC has not.
- **c. Conform to New Covenant:**
  - i. In July 2023, the BOCC updated the New Covenant to clarify the initial and on-going qualifications to come in line with the Pinion Park Covenant and closer to the Town of Telluride parameters.

ii. The New Covenant and the Pinion Park Covenant require Employees to work at least 1200 hours at the rate of no less than 40 hours per month for the 8 months of required residency on a rolling 12-month basis. 1200 hours over a 50-week year is 24 hours per week. Over 8 months, 1200 hours averages out to 34 hours/week. No matter how you calculate it, it is a very low threshold.

Area Work Requirements				
Entity	Employment: Minimum Hours required	Minimum per month	Rolling term before	Rolling term continuing
Town Ownership	1400	40/hrs/month	12 of 16 months	8 of 12 months
Town Rental	1400	40/hrs/month	12 of 16 months	12 months
LUC Ownership	1032	120 (30/hrs/week) x 8 months	8 months	8 months/year
LUC Rental	1032	120 (30/hrs/week) x 8 months	8 months	8 months/year
County Covenant Ownership	1200	40/hrs/month	8 of 12 months	8 of 12 months
County Covenant Rental	1200	40/hrs/month	None. Need intent to work.	8 of 12 months
Pinion Park Covenant	1200	40/hrs/month	8 of 12 months	8 of 12 months
Proposed for the LUC	1200	40/hrs/month	8 of 12 months	8 of 12 months

a) **Proposed Requirements**: The proposed requirements would make it easier to advise prospective Owners and Occupants as well as make it easier for the Administrator to verify compliance.

Proposed new language:

i. Increase the hours-worked requirement that Occupants must work to 1200 (or show a verifiable intent to work) a minimum of 1200 hours per year with a minimum of 40 hours in each of the 8 months counted, and must occupy the Unit as their primary residence for 8 of 12 months on a rolling 12-month basis.

- This means that the Employee is living here and working here for a minimum of 8 months per year. In each of the 8 months, the Employee must earn Qualifying Income for a minimum of 40 hours. Obviously, the Employee must work more than the minimum to meet to work/hours requirement. The 40 hours/month is to create a baseline and prevent Employees from fulfilling the 1200 hours in four or five months of 60-75 hours/week and then leaving and subletting their housing units.

ii. Clarify what activities can fulfill the hours worked requirement, including calculation of hours (discussed in 6., below).

iii. Add definitions of Qualifying Income and Non-qualifying Income.
   - The Occupant must earn over 50% of their income from work for which their presence is required within the boundaries of the 4-County Region (Qualifying Income).

2. **Amendment to the Schedule of Fines.**
   a. **Adoption of Penalties and Schedule of Fines:** In 2021, at the recommendation of the County Planning Commission and with the intent of promoting public education and voluntary compliance and accountability, the BOCC created a Schedule of Violations and Fines to address all types of compliance and program violations to achieve a targeted 100% compliance within the housing program. The schedule of Fines and violations was made part of the New Covenant and the LUC.
   b. **Implementation:** The SMRHA recently conducted the biennial compliance verification. Many Owners and Occupants committed violations ranging from mild to severe. Due to the current protocol that the alleged offender be notified by SMRHA of the violation (Notice of Violation (NOV)) and given an opportunity (14 days) to cure the violation, it was difficult for SMRHA to invoice and collect on the fines.
   c. Proposed Amendment: The proposed amendment to the schedule of fees and fines streamlines the notice requirement, clarifies the start date of the fine and collection procedures as follows:
      i. SMRHA shall advise Owner, Occupant, or Tenant of all deadlines for performance.
      ii. SMRHA shall advise Owner, Occupant, or Tenant when the deadline to respond has passed and begin assessing fines.
      iii. Invoices for fines shall be issued within thirty (30) days of assessment.
      iv. SMRHA may adjust the assessed fines if Owner, Occupant, or Tenant rectifies the situation in a timely manner.
      v. In the event a Notice of Violation is issued and a hearing is requested, fines shall continue to accrue until the violation is cured or the Owner, Occupant, or Tenant is found to be in compliance.

   d. **Please note** in the New Covenant, these changes will be included in the Procedures and not require a Covenant change and would be included in the LUC if the BOCC adopts the Procedures for use with the LUC.
   e. **Review of Fine Amounts:** When adopted, the Schedule of Fines was scheduled for review every five years or sooner if necessary. If you have any comment on the amount of the fines, please feel free to comment.

3. **Adoption of Procedures:** The BOCC and SMCHA adopted the Covenant Procedures on July 20, 2022, by Resolution Number 2022-40. They will be asked to update them in the near future. The proposed changes are attached in a hard redlined format as Attachment C. In order to promote consistency in administration of the Program and treat all deed-restricted property owners similarly, the LUC should adopt the Procedures and give them authority in the event of conflict with the current Guidelines, Rules and Regulations in LUC §5-1305, et al. If recommended for adoption to the LUC, the terminology would be changed to comport with the language and format of the LUC.

   In the event you do not recommend wholesale adoption of the Procedures, consider some key elements for adoption:
   i. Exceptions: No exceptions shall be heard or granted to an Owner or Occupant not in full compliance or under a Notice of Violation.

   ii. Compliance and how to document it (Procedures, §V).
   iii. Calculation of hours (Procedures, §V).

4. **Proposed Amendment**: The draft amendments to the San Miguel County Land Use Code are attached as
   A: Schedule of Violations and Fines-Updated 2024
   B: San Miguel County Land Use Code §§5-1305 with suggested Draft Amendments
   C: Procedures adopted by the SMCHA for use with the Covenant with suggested Draft Amendments

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5. **Public Noticing:** The agenda for the Planning Commission meeting was published in the Norwood Post and the Telluride Daily Planet on May 3, 2024.

6. **Referral Agencies:** The proposed Land Use Code text amendment was sent to the County Attorney; County Building Department; County Planning Department; San Miguel Regional Housing Authority and the Towns of Telluride, Mountain Village, Ophir, Sawpit and Norwood. Additionally, e-mails were sent as a courtesy to Homeowner Associations who are not referral agents but could be affected, including Lawson Hill Property Owners Company, Aldasoro Ranch Homeowners Company, Two Rivers HOA, San Bernardo HOA, Telluride Ski and Golf Corporation, and the Telluride School District. As of the writing of this report, no public comments have been received.

7. **Public Comments:** As of the writing of this report, no public comments have been received.

8. **Review Standards:** Review Standards for Land Use Code Amendments are contained in LUC Section 5-1802 and state, "Land Use Code Amendments may be initiated by the County or by persons who are residents of, or own property in, San Miguel County subject to compliance with the following standard." Initiation of this amendment was considered at the BOCC meeting on January 13, 2021. LUC Section 5-1802 A., states "Land Use Code Amendments shall be drafted in a form consistent with the organizational format and style of the code." The proposed amendment has been drafted in the format and style of the code. The normal process to amend the LUC is through a public hearing before the County Planning Commission who may recommend an action to the BOCC. All hearings are subject to statutory notices for hearings with opportunities for the general public and affected property owners to speak. Any change to the LUC must be by resolution.

IV. Recommendation:

The purpose and intent of the County Affordable Housing Program is to provide affordable housing for people who earn a living by working in the Telluride R-1 School District. Ensuring consistency, clarity, and ease of understanding with initial qualification and ongoing compliance with the LUC furthers the County Affordable Housing Program goals. The SMRHA's efforts to educate applicants, Owners, and Occupants to keep the deed-restricted housing occupied by the target population is at the core of their administration.

The LUC changes would be prospective and implemented once the resolution is passed. Owners currently under the LUC would be impacted by any changes. Owners under other covenants would not.

Sample Motion:

I move to recommend the Board of County Commissioners adopt the amendment to San Miguel County Land Use Code Sections 5-1305 as noted in the packet and based on the finding that the proposed actions comply with the standards of Land Use Code Section 5-1802, Land Use Code Amendments, are consistent with Land Use Code Section 1-4, Purposes of the Land Use Code, and meets the intent of the Guidelines, Rules and Regulations Governing Affordable Housing in the Telluride R-1 School District and furthers the County Affordable Housing Program goals.

- With the following additions: ____

- With the following deletions: ____

COVENANT PROCEDURES

Adopted by the San Miguel County Housing Authority and the San Miguel County Board of County Commissioners on July 20, 2022
By Resolution Number 2022-40
Amended on XXX, 2024 by Resolution Number 2024-XX

These Covenant Procedures ("Procedures") are adopted pursuant to the General Provisions of the Amended and Restated Deed Restriction and Covenant ("Covenant"), (found most often at Section 12.3 or 13.3) burdening certain real property in San Miguel County. The Procedures shall remain in full force in effect until amended or revoked.

The purpose of these Procedures is to provide clarity to housing ownership and rental applicants, Owners, and Occupants, to provide interpretation and protocol direction for staff, and to provide consistency across neighborhoods over time.

All capitalized terms shall have the same meaning as set forth in the Covenant.

I. PURCHASE

A. **Submission of Notice of Intent to Sell.** An Owner who desires to offer their property for sale shall submit a Notice of Intent to Sell (available from the SMRHA) to the SMRHA at least seven days prior to offering the property for sale.

B. **Pre-Application/Pre-Contract Conference.** Ownership Applicants are encouraged to meet with SMRHA staff to review the Purchase Application and the documentation necessary for approval as a Qualified Purchaser prior to executing a Purchase Contract and prior to formally submitting a Purchase Application. Administrator shall provide Ownership Applicants a brief overview of the responsibilities that come with the ownership of deed-restricted property.

C. **Submission of Purchase Application.** Ownership Applicants are encouraged to formally submit a Purchase Application at least six weeks prior to the date that the Ownership Applicant's earnest money on the Purchase Contract becomes non-refundable. The application and approval process can be time consuming and neither the County nor the SMRHA is responsible for an Ownership Applicant losing their earnest money due to a time delay. [Ownership Applicants are strongly encouraged to include a clause in the Purchase Contract stating that the buyer will not lose their earnest money if the buyer is not approved as a Qualified Purchaser.]

D. **Determination of Application Completeness**. Within three working days of receipt of a Purchase Application, the SMRHA shall complete a preliminary review to determine whether the Purchase Application is complete. If the Purchase Application is not complete, the SMRHA shall notify the Ownership Applicant of what materials are missing and the Ownership Applicant shall provide the missing materials to the SMRHA within seven days of the date on which the SMRHA so notified the Ownership Applicant. If the Purchase Application is complete, the SMRHA shall so notify the Ownership Applicant. The SMRHA shall enter the date on which the Purchase Application is determined complete on the front page of the Purchase Application.

E. **Review and Decision by SMRHA.** Once a Purchase Application is determined complete, the SMRHA shall review the Purchase Application for compliance with the current applicable Standard. SMRHA shall issue a written approval or denial of the Ownership Applicant as a Qualified Purchaser within seven days after the Purchase Application is determined complete.

F. **Documentation.** Examples of documents that tend to verify an Ownership Applicant's compliance with the current applicable Standard include, but are not limited to: (a) fully executed lease or rental agreements; (b) a Landlord Verification of Residency Form (available from the SMRHA); (c) voter registration; (d) valid driver's license; (e) valid automobile registration; (f) current utility bills; (g) copies of recent W2 forms or paycheck stubs; (h) copies of recent 1099 forms; (i) copies of recent federal tax returns, including all completed schedules; (j) copies of recent state tax returns; (k) copies of a current business license from either the Town of Telluride or the Town of Mountain Village or a personal property tax account number for personal property located on commercial real property within the Telluride R-1 School District; (l) copies of a current detailed work log or appointment book listing the number of hours worked each day for each employer, job or appointment, and customers' and/or clients' names and local addresses, to the extent permitted by law; (m) copies of invoices sent to customers and/or clients, particularly if the invoices reflect the amount of time spent on the job invoiced, and copies of payment for invoiced work, to the extent permitted by law; (n) a customer and/or client list that includes customer and/or client names with local telephone numbers and local addresses, type of work done, and approximate time spent with the customer and/or client per appointment, to the extent permitted by law; and (o) other miscellaneous documents such as business and personal banking records, bills, payments received, etc.

The documentation listed above is illustrative of the type of documentation that may provide the information necessary to establish that a person meets or complies with an applicable requirement or standard. Submission of all listed documentation does not guarantee approval, and failure to submit any such documentation does not necessarily preclude approval.

II. OWNERSHIP EDUCATION. SMRHA staff should meet with new Owners to review the rights and responsibilities of ownership of deed-restricted housing after purchase and before 180 days have passed. If Owner declines the meeting, SMRHA may request compliance verification to ensure the new Owner is in compliance.

III. RENTAL

A. **Submission of Notice of Intent to Rent.** An Owner who desires to offer their Subject Property for rent shall submit a Notice of Intent to Rent (available from the SMRHA) to the SMRHA at least seven days prior to offering the Subject Property for rent. The Notice of Intent to Rent shall include: (1) a statement as to whether the Owner will continue to occupy the Subject Property as his or her Primary Residence and share occupancy with a tenant(s), or if the Subject Property will not be Owner occupied during the term of the rental; and (2) if the Owner intends to rent the Subject Property through an agent, the agent's name and contact information. Please note: If Owner does not intend to occupy the Subject Property, a Leave of Absence exception shall be required unless the Subject Property is a multi-family Housing Unit or is a Rental Property.

B. **Determination of Completeness of Notice of Intent to Rent.** If the Notice of Intent to Rent is not complete or if the SMRHA determines that additional process is required (for example, an exception may be necessary) the SMRHA shall, within two working days after receipt, notify the Owner that it is not complete and identify what additional information and/or process is required. The Owner shall provide the SMRHA with the additional information no later than seven days after receiving notification that such additional information and/or process is required.

C. **Review and Decision by SMRHA.** If the Owner will continue to occupy the Subject Property and will share occupancy with a tenant(s), the SMRHA shall issue a written Approval to Rent within seven days after the Notice of Intent to Rent is submitted. If the Subject Property will not be Owner occupied, the SMRHA will not issue an approval to rent until the Owner receives an appropriate exception from the County, if required.

D. **Approval of Tenant(s).** Any person who desires to occupy property subject to the Covenant as a renter shall submit a Rental Application to the SMRHA. If the Rental Application is not complete, the SMRHA shall, within two working days after receipt, notify the applicant that it is not complete and identify what additional information is required. The applicant shall provide the SMRHA with the additional information no later than seven days after receiving notification that such additional information is required. SMRHA shall issue a written approval or denial for the applicant to occupy the Subject Property no later than seven days after the Rental Application is determined complete.

IV. EXCEPTIONS

A. **Submission of Exception Application.** Request must be presented in writing to SMRHA on forms available on the SMRHA website and in paper at the SMRHA offices and must include a fully completed Request for Exception Form, including:

1. The name, mailing and electronic addresses and telephone number of the exception Applicant and similar information of exception Applicant's representative, if any;
2. The standard(s) or prohibition to which the applicant seeks an exception;
3. The action or remedy requested;
4. An affidavit from the Applicant describing the circumstances and reasons why an exception is necessary;
5. Proof of history of employment within the Telluride R-1 School District boundary, if applicable;
6. Verification from SMRHA that Applicant is currently in compliance and not subject to a Notice of Violation.
7. The nature and extent of the applicant's community commitments and involvement;
8. A statement describing any change in circumstances warranting the requested exception;
9. The compelling circumstances that the applicant believes justify the exception, together with supporting documentation or information, if available; and
10. Verification that notice of the Request for Exception was sent to the HOA, by Applicant, if applicable.
11. An Exception Fee in an amount set by BOCC Resolution.
12. NOTE: No exception requests shall be heard for Purchasers until the Subject Property has been listed on the SMRHA website at a price that is consistent with the Policy Considerations listed in D, below, for a minimum of six (6) months from the date of the Notice of Intent to Sell.

B. **SMRHA Staff Review of Exception Application**. SMRHA Staff shall review the Exception Application for completeness and may request additional information or documentation from the applicant. The applicant shall provide any such information or documentation within seven days of the date that SMRHA Staff requests such additional information or documentation. If the applicant does not provide such additional information or documentation when requested, then SMRHA Staff will review the application with only the information and documentation that the applicant has submitted.

The SMRHA shall refer a copy of the proposed exception to any Association governing the Subject Property and the Association shall be given a reasonable opportunity to review and comment on the proposed exception prior to final review and action.

C. **SMRHA: Memo and Recommendation**. Once certified complete, the SMRHA shall schedule the Exception Application for review at the next regularly-scheduled public meeting that allows a minimum of fourteen days from the submission of a complete application to the packet submission date or as soon as practicable thereafter for the Exception Applicant and the SMCHA. SMRHA Staff shall provide the SMCHA with a written memo that includes a list of all exception requests and determinations in the past ten years, the relevant history of the Subject Property, the Exception Applicant's relevant history, including compliance with all deed restricted property regulations in San Miguel County, list of ownership of other real property and business assets, whether owned directly or indirectly, a statement of the current AMI for San Miguel County with an extrapolation of purchase power for the average Employee, a report analyzing the impact of the exception on the County's Housing Program, and all other relevant information so that the SMCHA may make an informed decision. SMRHA shall also provide a recommendation to approve, deny, or approve with conditions at least two working days before the public meeting to the exception applicant and the SMCHA.

D. **SMCHA Policy Considerations.** Covenant recitals and requirements establish the following:

1. The purpose of the Affordable Housing Programs is to help preserve a sufficient supply of Deed Restricted Property to meet the needs of locally employed residents of the Telluride R-1 School District boundary while allowing customary free-market (unrestricted) practices [among the local employees] to influence the sale and/or rental of Deed Restricted Property as much as possible. This was modeled on LUC 5-1305 A. Purpose language.
2. The Affordable Housing Programs program is intended to limit use and occupancy to persons (and their families) who live and earn their livings primarily in the Telluride R-1 School District of San Miguel County.
3. The granting the requested exception shall be consistent with the purpose and intent of this Covenant.
4. The exception applicant must establish compelling circumstances upon which the exception is justified. Compelling is not defined in the Covenant.
5. Factors to consider in determining whether an exception should be granted include: a. Stable Resident Population; b. Deed Restricted Property Market, specifically creates a housing market for employees in which sales prices directly relate to the income earned by those who live and work in the Telluride R-1 School District (Qualified Purchasers); and c. Consistency and Uniformity; <u>d. The amount of hours Exception Applicant actually worked in the R-1 School District; e. The amount of time Exception Applicant actually lived in the Housing Unit; and f. Past covenant violations</u>. Other factors may be considered.
6. Community commitments and involvement are appropriate factors to consider but will not, standing alone, be grounds upon which to grant an exception for <u>more than 10%</u> ~~all~~ of the earned Qualifying Income requirement.

E. **SMCHA Determination.** The exception applicant may submit additional information or documentation in support of the exception request up to and including the date of the public meeting. The SMCHA shall review the Exception Application at the scheduled public meeting and at the conclusion of the meeting shall: (1) approve of the Exception Application, with or without additional conditions, which approval shall become effective upon execution of an Exception Agreement between the SMRHA and the applicant; (2) issue a written denial of the Exception Application which shall state the reasons for denial; or (3) continue consideration of the Exception Application to a specified date and time. An applicant may withdraw an Exception Application at any time. All exception approvals and denials shall be recorded with the Clerk and Recorder's Office, San Miguel County within seven days of full execution

V. COMPLIANCE: SMRHA may request verification of compliance from an Owner, Occupant, or Tenant for any reason or no reason at all. Compliance verification should be requested by SMRHA at least biennially.

A. Changes: Owners shall update SMRHA of all Household changes and contact information changes within twenty-one (21) days of such change.

B. Verification and Valuation of Information:

1. Hours worked. When number of hours is difficult to verify, SMRHA may use the following formula to establish hours worked:
    a) Dollar amount stated on the W2 or claimed in Federal Tax return divided by the minimum wage at the time of compliance.
    b) In 2024 the minimum wage in Colorado for regular employees is $14.42/hour.
    c) Hours worked for two jobs at once will not be counted twice. For example, if a person is babysitting and working as a landscaper for 8 hours for separate clients, 8 hours is the maximum hours that can be claimed.
2. Self-employed individuals. SMRHA may require any or all of the following:
    a) Current Local Business License
    b) Profit & Loss Statement
    c) Detailed Time Logs
    d) Invoices
    e) Proof of Payment of Services
    f) Client Verification
    g) Federal and State Tax Returns, including all business schedules and independent business tax filings.
3. On-call hours: Individuals who work on-call hours must separate the hours actually worked from the on-call hours. SMRHA may use discretion in whether to award any employment credit for on-call hours.
4. Commissioned Employees. Should we create a policy for persons who go through a dry spell and then hit paydirt?

C. DEADLINES. SMRHA may demand response to request for verification of compliance within twenty-one (21) days. SMRHA shall notify Owner, Occupant, or Tenant of deadline. Failure to meet the deadline shall result in assessment of fines.

D. VIOLATIONS and FINES.

1. SMRHA shall advise Owner, Occupant, or Tenant when the deadline to respond has passed and begin assessing fines.
2. Invoices for fines shall be issued within thirty (30) days of assessment.
3. SMRHA may adjust the assessed fines if Owner, Occupant, or Tenant rectifies the In the event a Notice of Violation is issued and a hearing is requested, fines shall continue to accrue until the violation is cured or the Owner, Occupant, or Tenant is found to be in compliance.
4. situation in a timely manner.

VI. APPEALS

A. **Appeal of SMRHA Staff Decision.** An appeal is appropriate when the Applicant understands and acknowledges the criteria and believes that after an initial determination the criteria have been applied incorrectly. Any person who is affected or aggrieved by an incorrect decision of the SMRHA Staff may appeal the decision to the SMRHA by preparing a letter addressed to the SMRHA requesting an appeal ("Appeal"). The Appeal must be presented in writing to SMRHA on forms available from SMRHA and within twenty-one (21) days of the decision or determination being appealed.

B. **Appeals must include:**

1. The name, address, telephone number of the appellant and similar information of appellant's representative, if any;
2. Verification that Applicant has fully completed the application process;
3. The particular ground(s) upon which the appeal is based, include the specific action taken by staff and the specific grounds why the staff decision was incorrect;
4. The action or remedy requested;
5. Proof of notification of the appeal request to the Subject Property's homeowners association, if applicable; and
6. Appeal Fee, in an amount set by SMCHA Resolution.

C. **Process**– All appeals will be reviewed by SMRHA Staff for completeness and forwarded to SMCHA Board within twenty-one (21) days.

D. **Timing.** The SMCHA Board shall address the appeal at the next scheduled board meeting. The appellant shall be afforded a fair hearing providing the basic safeguards of due process, including notice and an opportunity to be heard in a timely, reasonable manner. The SMCHA Board may continue the hearing based upon consent of the parties.

E. **Discovery.**

1. All materials that any party to the appeal would like the SMCHA to consider must be submitted to the SMCHA no later than seven days prior to the date of the meeting, and, to the extent permitted by law, shall be included in the public record.
2. The appellant and SMRHA Staff shall have the opportunity to examine all documents, records and regulations of SMCHA that are relevant to the hearing.
3. Appellant shall be responsible for all photocopying expenses. Any document not made available after written request may not be relied upon at the hearing.

E.

F. **Representation**. Appellant has the right to be represented by counsel.

G. **Failure to Appear**. If the appellant fails to appear at the hearing, the SMCHA Board may make a determination to postpone the hearing or make a determination based upon the evidence submitted.

H. **Hearing**. The hearing shall be conducted by a designated member of the SMCHA Board, the "Hearing Officer".

1. The hearing shall be recorded. Oral or documentary evidence may be received without strict compliance with the Colorado Rules of Evidence.
2. The right to cross-examine shall be at the discretion of the Hearing Officer and may be regulated by the Hearing Officer as it deems necessary for a fair hearing.

I. **Decision**. At the public meeting, the Hearing Officer, in consultation with and on behalf of the SMCHA, shall either affirm or reverse the staff decision, or shall continue the meeting to a specified date and time.

J. **Binding Determination**. The final determination of the SMCHA shall be binding and SMRHA shall take all actions necessary to carry out the decision.

VII. **AMENDMENTS:** These Procedures may be amended or revoked by Resolution of the Board of Commissioners of San Miguel County, Colorado (BOCC).

A. Review: These Procedures shall be reviewed at least every five (5) years by the San Miguel County Housing Authority (SMCHA) or its Designee and changes based on the success and failure of the previous policy, if any, will be recommended to BOCC.

B. Amendments to these Guidelines requiring BOCC approval shall be made according to the following procedure:

i. Any proposed amendment shall be presented to the BOCC for its consideration and recommendation who shall consider such amendment in a timely manner, and who shall adopt, adopt with conditions or reject the proposed amendment.

ii. If an amendment is adopted, it will be adopted in form of a written resolution of the BOCC.

VIII. **Anti-Harassment Policy:** the County and SMRHA demand a work environment free from unlawful harassment, including hostile or abusive conduct form the general public, from potential Applicants for any service provided by SMRHA, and from Owners, Occupants and Tenants who are required to interact with SMRHA. Hostile or abusive conduct is unwelcome or offensive verbal or physical conduct that does not reach the level of actionable harm. Please note that all actionable harm shall be reported to the proper authorities. SMRHA expects and encourages all employees to comport themselves in a civil, respectful, and professional manner, and expects the same from those who interact with the employees. An employee who believes he or she has been subjected to, or witnessed, harassment, or hostile or abusive should immediately report the incident to his or her manager or supervisor, who must determine the appropriate corrective action to be taken to address the misconduct and prevent its recurrence. The corrective action may include requiring that all communication with staff be in writing and shared with a third party to ensure civil discourse and reduce hostile and abusive interaction.

IX. ADMINISTRATIVE PROCEDURES

A. **Fair Housing Standards** – SMCHA and SMRHA shall administer these Procedures in compliance with all applicable fair housing standards, including but not limited to the Fair Housing Act. These standards prohibit discrimination in housing on the basis of age, race, color, religion, sex, or sexual identity, familial status, national origin, and handicapped or disabled status.

B. **Reasonable Accommodation** – SMCHA and SMRHA shall administer this policy in compliance with all reasonable accommodation standards, including but not limited to the Americans with Disabilities Act.

C. **Assignment of Administrative Responsibilities** – SMCHA and SMRHA shall have the right to contract with any qualified person or entity for the purpose of administering these Procedures.

CPC Memo
May 9, 2024
Exhibit A

5-1305 B. Definitions

VII. "Employee" shall mean a person who meets the Current Local Employee Standard at the time of application and continues to meet the Continuing Employment Standard OR who meets the Retired Local Employee Standard and has been certified by the Housing Authority as such. ~~who has earned his living primarily within the Telluride R-1 School District by having worked there an average of 30 hours per week for at least eight months of the past year and maintains primary and sole Residence in San Miguel County, Montrose County, Ouray County or Dolores County.~~ ~~The Housing Authority shall determine whether a person qualifies as an Employee based on criteria including, but not limited to, percent of income earned within the Telluride R-1 School District, place of voter registration, place of automobile registration, drivers license address, income tax records and public service involvement within the Telluride R-1 School District community. A person not otherwise meeting the definition of Employee may be qualified as an Employee by the Housing Authority or its designee if that person is more than 60 years of age and has been employed in the Telluride R-1 School District for at least five out of the previous eight years.~~ Determination of Employee eligibility by the Housing Authority's designee may be appealed to the Housing Authority pursuant to the Procedures adopted July 20, 2022, as amended.

a. **Current Local Employee Standard**. The Ownership Applicant: (a) has maintained his or her Primary Residence within the Four County Region for at least eight of the twelve months immediately preceding the date that the Administrator receives the Ownership Applicant's Purchase Application (Application Date); (b) has earned Qualifying Income for at least 1200 hours with a minimum of 40 hours in each of the eight months counted immediately preceding the Application Date and is currently earning Qualifying Income; and (c) for the particular eight of twelve months that establish the Ownership Applicant's residency, the Ownership Applicant's Household Non-Qualifying Income calculated during that period does not exceed the Ownership Applicant's Household Qualifying Income.

b. **Continuing Employment Standard.** The Subject Property Owner supplies documentation that the Administrator acknowledges is sufficient to verify the following:

i. The Subject Property Owner has been employed for and earning Qualifying Income on at least 1200 hours per year with a minimum of 40 hours in each of 8 months on a rolling 12-month cycle immediately preceding the Compliance Date and is currently earning Qualifying Income, and

ii. The Subject Property Owner's Household Qualifying Income exceeds the Households Non-Qualifying Income.

c. **Retired Local Employee Standard**. The Ownership Applicant is Retired and for at least five (5) of the eight (8) years immediately preceding the date that the Administrator receives their Purchase Application, the Ownership Applicant:

i. is sixty (60) years of age or greater;

ii. has maintained his or her Primary Residence within the Four County Region for at least eight (8) months of each applicable year;

iii. was earning Qualifying Income for at least one thousand two hundred (1200) hours of each applicable year; and

iv. for each applicable year, the Ownership Applicant's Household Non-Qualifying Income did not exceed the Ownership Applicant's Household Qualifying Income.

X. Income.

1. **Non-Qualifying Income**: All income that is not Qualifying Income. With respect to any person or entity, Non-Qualifying Income includes, but is not limited to, any money, and the cash value of any goods or services in lieu of money, received from any source whatsoever, including but not limited to remuneration for labor, products or services; money received from governmental assistance programs; tax refunds; prize winnings; gifts; pensions; investments; and money, or goods or services in lieu of money, received from any other source. Except, however, Non-Qualifying Income shall not include any of the following: (a) income taxed by the federal government but not distributed to such person or entity, or funds distributed to cover the anticipated tax liability of the non-distributed income, but only to the extent that such funds do not exceed the tax liability of the non-distributed income; or (b) equity from the proceeds of a sale of the Ownership Applicant's previous Primary Residence that was sold within the twelve months immediately preceding the date that the Administrator receives the Ownership Applicant's Purchase Application or (c) a gift or any other funds up to 30% of the Contract Price of the Subject Property.

2. **Qualifying Income.** Income earned from employment that either requires one's physical presence in the Telluride R-1 School District or that necessitates one's physical presence in the Telluride R-1 School District in order to provide goods or services to residents or visitors in the Telluride R-1 School District.

[Note: All subsequent definitions (X. "Live-work Housing" through XVII "Residence" shall be renumbered accordingly.]

Schedule of Violations and Fines *
San Miguel County Housing Authority
APPROVED BY RESOLUTION NO. 021 (SERIES OF 2021)
Effective July 7, 2021

Attachment A
CPC Memo
5.9.2024

	Violation	Fine per day	Maximum Fine
1	Failure to submit accurate and all documentation required to establish continued compliance by original deadline set by SMRHA.	$20.00	$140.00
2	Failure to submit accurate and all documentation required to establish continued compliance by second deadline set by SMRHA.	$25.00	$350.00
3	Failure to submit accurate and all documentation required to establish continued compliance by third deadline set by SMRHA.	$30.00	$1,000.00
4	Failure to maintain eligibility (generally).	$20.00	$5,000.00
5	Failure to occupy unit as sole and exclusive place of residence.	$20.00	$5,000.00
6	Failure to work full-time in San Miguel County as required by Deed Restriction and/or Regulations.	$20.00	$2,000.00
7	Purchasing other developed residential property in San Miguel County while owning a SMC deed-restricted property.	$20.00	$2,000.00
8	Advertising rental without mention of deed restriction status as required by Deed Restriction.	$20.00	$2,000.00
9	Failure to get roommate approved prior to move-in.	$25.00	$5,000.00
10	Failure to provide SMRHA with copy of signed lease prior to occupancy by roommate or tenant.	$20.00	$2,000.00
11	Rental of all or part of a unit in violation of the Deed Restriction, Regulations, and/or the SMC LUC.	$25.00	$5,000.00
12	Use of premises for other than residential purposes.	$100.00	$5,000.00
13	Using deed restricted property as income producing property.	$100.00	$5,000.00
14	Creating an additional dwelling unit as defined in the SMC LUC.	$100.00	$5,000.00
15	Failure to obtain approved Leave of Absence (LOA).	$20.00	$2,000.00
16	Submitting false/inaccurate information (per offense).	-	$750.00
17	All other violations not specifically named.	$20.00	$2,000.00

*~~All violations shall be given 14 days from Notice of Violation by SMRHA to owner to cure prior to the assessment of fines.~~

Fines will be assessed and invoiced according to the LUC Affordable Housing Procedures adopted by the BOCC and SMCHA on [date].

*Violation and Fine Schedule will be reviewed and updated every five years or sooner as determined by SMRHA

Agency Referral: Amendments to LUC Sections 5-1304 & 5-1305 & 5-1306 Changes to Qualifications Definition of Employee / Changes to Fines Schedule / Covenant Procedures

1 message

John Huebner <johnh@sanmiguelcountyco.gov> Mon, Apr 1, 2024 at 1:48 PM
To: Amy Markwell <amym@sanmiguelcountyco.gov>, Rachel Allen <rachela@sanmiguelcountyco.gov>, Mike Bordogna <mikeb@sanmiguelcountyco.gov>, Paul Wisor <pwisor@mtnvillage.org>, srobson@telluride-co.gov, Mike Kimball <michaelnjoyce@msn.com>, dsheriff@norwoodtown.com, Courtney McEleney <courtney@smrha.org>
Cc: Kaye Simonson <kayes@sanmiguelcountyco.gov>, Nicola Kerr <nicolak@sanmiguelcountyco.gov>, admin@lawsonhill.org, Shellie Duplan <director@aldasororanch.com>, tworiverstelluride@gmail.com, "Solomon, Stefanie" <ssolomon@tellurideskiresort.com>, John Pandolfo <jpandolfo@telluride.k12.co.us>, debitdinkins@gmail.com, David Allen <dgallen2@gmail.com>, Scott Stewart <scott@goeasytours.com>, Josh Blakeman <blake802@gmail.com>

All,
Please find attached the following Two-step Code Amendments to the San Miguel County Land Use Code. Thank you for reviewing these draft amendments and providing your feedback.

A: Schedule of Violations and Fines
B: Draft Amendments to the San Miguel County Land Use Code 5-1305
C: Covenant Procedures adopted and with draft changes

The Planning Department requests that you please provide your review comments by June 1, 2021 to Kaye Simonson,Planning Director, kayesimonson@sanmiguelcountyco.gov.

The Amendments to the San Miguel County Land Use Code ("LUC") regarding affordable housing in LUC §§ 5-1304, 5-1305 and 5-1306, to update provisions governing initial qualification and on-going compliance, implementation of fines are scheduled for review by the Planning Commissionon on May 9, 2024. Best regards,

John Huebner, AICP
Senior Planner
San Miguel County Planning Department
Office: (970)728-3083
www.sanmiguelcountyco.gov

For information about the San Miguel County East End Master Plan Update, go to www.sanmiguelcountyco.gov/eastendmasterplan

Click **HERE** to go to the **SmartGov** public portal to apply for permits, check permit status, or view permit history.

3 attachments

LUC Definition Employee_Hard.Redline_May.2024.docx
18K

Covenant Procedures_2022_Final + updates 2024 Hardline.docx
36K

Schedule of Violations and Fines SMC-CPC_2024-ExA.docx
21K

John Huebner <johnh@sanmiguelcountyco.gov>

Re: Agency Referral: Amendments to LUC Sections 5-1304 & 5-1305 & 5-1306 Changes to Qualifications Definition of Employee / Changes to Fines Schedule / Covenant Procedures

1 message

Mike Bordogna <mikeb@sanmiguelcountyco.gov> Tue, Apr 2, 2024 at 9:17 AM
To: John Huebner <johnh@sanmiguelcountyco.gov>, Amy Markwell <amym@sanmiguelcountyco.gov>, Rachel Allen <rachela@sanmiguelcountyco.gov>

Hi John, in the second memo, there is a misspelling:including hostile or abusive conduct form the general public- it should say frm instead of form. Also, it says that the written interactions shall be turned over to a third party, but does not specify who- it should be to the Grievance officers- if we are aligning this with the new SMRHA grievance policy, which it appears to be doing. I wonder if it'd be better to refer to that SMRHA policy, Amy, thoughts? Otherwise, I think it all looks good. Thanks, mike

On Mon, Apr 1, 2024 at 1:49 PM John Huebner <johnh@sanmiguelcountyco.gov> wrote:

> All,
> Please find attached the following Two-step Code Amendments to the San Miguel County Land Use Code. Thank you for reviewing these draft amendments and providing your feedback.
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> San Miguel County
> **East End | Master Plan**
>
> AICP CERTIFIED
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--
Mike Bordogna
San Miguel County Manager
www.sanmiguelcountyco.gov
970/708-8648 (cell)
(He/His/Him)
San Miguel County is hiring! Take a look at our open positions.