

TOWN OF BLUE RIVER, COLORADO

ORDINANCE NO. 2022-07

**AN ORDINANCE AMENDING CHAPTER 22 OF THE BLUE RIVER
MUNICIPAL CODE BY AMENDMENT OF SECTION 22-3-50 (c)(8)
PERTAINING TO IDENTIFICATION OF IMPACTS UPON VISUAL
AESTHETICS, AND AMENDING SECTION 22-5-130 BY THE
ADDITION OF NEW SUBSECTIONS (aa), (bb), and (cc),
AND DECLARING AN EMERGENCY**

WHEREAS, the Town of Blue River is authorized to regulate the use and development of land under Colorado Revised Statutes Sections 31-23-101 *et seq.* and 29-20-101 *et seq.*; and

WHEREAS, the Town of Blue River, Colorado is authorized pursuant to the Areas and Activities of State Interest Act, Colorado Revised Statutes Sections 24-65.1-101, *et seq.* ("AASIA") to establish and designate certain areas and activities of state interest; and

WHEREAS, pursuant to this authority, the Board of Trustees adopted a new Chapter 22 into the Blue River Municipal Code entitled "The Town of Blue River Areas and Activities of State Interest" dated March 26, 2021 (the "Regulations") and designated the site selection of arterial highways, interchanges, and collector highways as a matter of state interest ("Highway Development"); and

WHEREAS, the criteria for approving applications for a permit to conduct Highway Development are described in Sections 22-3-110 and 22-5-120 of the Regulations; and

WHEREAS, Section 22-3-50 provides for certain Application Submittal Requirements to ensure that sufficient evidence is provided to enable a complete and thorough evaluation of the application; and

WHEREAS, Section 22-5-130 presently provides for individual approval criteria that must all be met to authorize issuance of a permit by the Town. Section 22-5-130 begins with the following introductory clause:

Sec. 22-5-130. Approval criteria. The Board of Trustees shall approve an application for a permit to locate an arterial highway or interchange or collector highway in the Town only if the proposed **location** complies with this Article V, other relevant federal, state, and local guidelines and regulations, and meets all the following requirements and criteria:

[then followed by criteria (a) through (z)]

WHEREAS, the Board of Trustees desires to amend Section 22-5-130 by the addition of new and additional subsections (aa), (bb), and (cc) to clarify the criteria the Board would consider when reviewing an application to conduct Highway Development.

BE IT ORDAINED, BY THE BOARD OF TRUSTEES OF THE TOWN OF BLUE RIVER, COLORADO:

Section 1. Amendment to Blue River Municipal Code Section 22-3-50(8). Section 22-3-50 (8) of the Blue River Municipal Code is amended to read in full as follows:

- (8) Visual aesthetics and nuisance factors:
- a. Identify viewsheds, scenic vistas, unique landscapes or land formations.
 - b. Identify and describe any structures, excavations and embankments that will be visible as a result of the project.
 - b. Identify any impact to, or deterioration of, the existing natural aesthetics, the creation of visual blight, noise pollution, smoke, exhaust fumes, or odors which may result from the proposal. Where the proposal anticipates new surface development, the identification of impact to or deterioration of natural aesthetics and the creation of visual blight shall be presented by photographic simulations of views taken from various vantage points outside the development as such views will be expected to appear after full build-out and under full or maximum operation of the proposed development. Although the applicant may propose the vantage points for the photographic simulations, vantage points to be used will be confirmed and selected by the Town following the Preapplication Conference.
 - c. Identify any proposed use of artificial lighting including images or drawings of all proposed lighting fixtures, design specifications including proposed lamp types, proposed lamp shielding or other design to minimize light trespass and impact on views, and how all proposed lighting will comply with Town-adopted lighting standards. Upon direction of the Town following the Preapplication Conference, the applicant may be required to submit a photometric light study/photometric analysis or plan illustrating in detail the location and type of each lighting fixture and the illumination levels at grade.

Section 2. Amendment to Blue River Municipal Code Section 22-5-130. Section 22-5-130 of the Blue River Municipal Code, entitled “Approval criteria,” is amended to add new subsections (aa), (bb), and (cc) to read in full as follows:

- (aa) The applicant has adequately evaluated and considered reasonable siting and design alternatives within the Town and within three (3) miles of the boundaries of the Town and established why such alternatives are not available, not reasonably feasible, or would present greater adverse impacts to the Town. Increased cost or expense for the siting and design of an alternative shall not, by itself, render an alternative unavailable or not feasible unless the applicant establishes that such increase in cost or expense is unduly excessive in comparison to the proposed arterial highway or interchange or collector highway

and to the cost or expense of other similar completed projects in terms of scope, size, or extent, as adjusted for inflation.

(bb) The proposed arterial highway or interchange or collector highway will not unreasonably decrease the fair market value of private property located within 1000 feet of the outermost boundaries of the proposed arterial highway or interchange or collector highway.

(cc) The proposed arterial highway or interchange or collector highway is designed to, and will be operated to, reasonably prevent or address likely unlawful activities or actions without adversely impacting the Town's law enforcement resources.

Section 3. No Other Amendment Intended. Other than the provisions identified in this Ordinance, no other provision of the Blue River Municipal Code is hereby amended.

Section 4. Severability. Should any one or more sections or provisions of this Ordinance or of the Code provisions enacted hereby be judicially determined invalid or unenforceable, such judgment shall not affect, impair, or invalidate the remaining provisions of this Ordinance or of such Code provision, the intention being that the various sections and provisions are severable.

Section 5. Minor Revision or Correction Authorized. The Town Manager, in consultation with the Town Attorney, is authorized to make minor revisions or corrections to the codified version of the provisions of this Ordinance provided that such revisions or corrections are grammatical, typographical, or non-substantive and do not alter or change the meaning and intent of this Ordinance.

Section 6. Emergency Declaration and Effective Date. The Board of Trustees hereby legislatively declares that the passage of this Ordinance is necessary for the immediate preservation of the public health, safety, and welfare. Specifically, the passage of this Ordinance as an Emergency Ordinance is necessary to: (i) provide prompt and timely notice to potential applicants of the requirements of Chapter 22 to directly assist applicants in the preparation of an application; and (ii) guarantee or ensure proper, full, and timely processing of applications submitted to the Town pursuant to Chapter 22 of the Blue River Municipal Code. Absent immediate effectiveness, applicants may be uninformed of application requirements and any applications submitted to the Town may not adequately address important criteria for application review and approval resulting in delay in the processing of applications. Upon passage by a supermajority of the members of the Board of Trustees in office, as required by state law, this Ordinance shall become effective immediately upon adoption.

**INTRODUCED, CONSIDERED, AMENDED, FINALLY PASSED, ADOPTED,
AND ORDERED PUBLISHED** at a regular meeting of the Board of Trustees of the Town of
Blue River, Colorado, held on the 18th day of October, 2022.

Mayor

ATTEST:

APPROVED AS TO FORM:

Town Clerk

Town Attorney

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