



BRIAN HEAD

The Regular Meeting of the
Brian Head Town Council Acting as the Governing Board for the
Redevelopment Agency - Special Service District & Municipal Building Authority
Brian Head Town Hall – Council Chambers
56 North Highway 143 – Brian Head, UT 84719

[www.Zoom.us \(Click Here\)](https://www.zoom.us/j/85119534526)

Via Zoom Meeting ID# 851 1953 4526

TUESDAY, JUNE 13, 2023 @ 1:00 PM

AGENDA

A. CALL TO ORDER

B. PLEDGE ALLEGIANCE

C. DISCLOSURES

D. APPROVAL OF THE MINUTES:

1. April 11, 2023 Town Council Closed Session Meeting
2. May 9, 2023 Town Council Closed Session Meeting
3. May 23, 2023 Town Council Meeting

E. REPORTS / PUBLIC INPUT ON NON-AGENDA ITEMS. Public input is limited to three (3) minutes on non-agenda items.

F. AGENDA ITEMS:

- 1. PUBLIC HEARING FOR THE FISCAL YEAR 2024 BUDGET(S).** Mayor/Chair Calloway. The Council/ will hold a public hearing to receive public comment on the fiscal year budgets for the Town, Redevelopment Agency, Special Service District and Municipal Building Authority. Comments are limited to three minutes and written comments may be submitted to the Town Clerk no later than noon on Monday, June 12, 2023 to nleigh@bhtown.utah.gov.
- 2. ORDINANCE/RESOLUTIONS ADOPTING THE FISCAL YEAR 2023 BUDGET(S).** Shane Williamson, Town Treasurer. The Council/Boards will consider an ordinance/resolution adopting the FY2024 Budgets for the Town, RDA, SSD, and MBA for the budgets ending June 30, 2024.
- 3. FRAUD RISK ASSESSMENT DISCUSSION & DIRECTION.** Shane Williamson, Town Treasurer. The Council will review and discuss the results and mitigation recommendations from the FY2023 Fraud Risk Assessment as required by the State Auditor.
- 4. PUBLIC HEARING FOR AN AMENDMENT TO THE LAND MANAGEMENT CODE – CHAPTER 7 – BUILDING SPACING, CHAPTER 2, 7, & 9 – INCLUSIONARY ZONING, CHAPTER 12 – DRIVEWAY STANDARDS.** The Council will hold a public hearing to receive comment on proposed amendments to the Land Management Code, Chapters 2, 7, 9, & 12 for Building Spacing, Inclusionary Zoning, and Driveway Spacing. Comments are limited to three minutes and written comments may be submitted to the Town Clerk no later than noon on Monday, June 12, 2023 to nleigh@bhtown.utah.gov.
- 5. AN ORDINANCE AMENDING THE LAND MANAGEMENT CODE: CHAPTER 2 DEFINITIONS; CHAPTER 7 ZONE DISTRICT REGULATIONS; CHAPTER 9 SUBDIVISIONS; CHAPTER 12 DESIGN GUIDELINES FOR CONSTRUCTION.** Bret Howser, Town Manager, and Lester Ross, Building/Planning Official. The Council will consider an ordinance amending the Land Management Code for Chapters 2, 7, 9 & 12.



- 6. DARK SKIES/LIGHTING ENFORCEMENT DISCUSSION & DIRECTION..** Bret Howser, Town Manager. The Council will hold a discussion regarding research conducted on the enforcement of the lighting code on non-complying structures.
- 7. ASPEN MEADOWS ANNEXATION DEVELOPMENT AGREEMENT UPDATE.** Bret Howser, Town Manager. The Council will continue their review of an update to the Aspen Meadows Annexation Development Agreement.
- 8. FUTURE AGENDA ITEMS.** The Council will discuss potential items for future agendas.

G. ADJOURNMENT

Date: June 9, 2023

Available to Board Members as per Ordinance No. 11-003 authorizes public bodies, including the Town, to establish written procedures governing the calling and holding of electronic meetings at which one or more members of the public board may participate by means of electronic communications. In compliance with the Americans with Disabilities Act, persons needing auxiliary communications aids and services for this meeting should call Brian Head Town Hall @ (435) 677-2029 at least three days in advance of the meeting.

CERTIFICATE OF POSTING

I hereby certify that I have posted copies of this agenda in three conspicuous locations; the Post Office, The Mall, and the Brian Head Town Hall and have posted copies on the Utah Meeting Notice Website and the Brian Head Town website and have caused a copy of this notice to be delivered to the Daily Spectrum, a newspaper of general circulation.

Nancy Leigh, Town Clerk



Brian Head Town Council Update

June 1, 2023

BRIAN HEAD MARSHALS OFFICE:

May has been a good month for the Marshal's Office. We are catching up on crucial/required training hours for our POST certification. This has become more difficult over the past two years as POST has now specified training hours in a variety of areas. In the past, it was just a total of 40 hours of training. But now we have to specify our training and focus on 4 areas. These specific required trainings are Autism Spectrum Disorder, Arrest Control, De-escalation, and Mental Health Crisis Intervention. We are always pushing the time frame of getting these in on time to keep up our certifications. But with a few weeks left to get them done, we are looking like we will have everybody wrapped up.

This past month we had an "unattended death" that took a lot of extra time of our deputies. A 50-year-old female who had recently moved to Brian Head and was renting a condo with her husband passed away unexpectedly. With no medical history and the recent move we determined that we needed to conduct a full scale investigation into this death. This meant deputies had to escort the decedent to Salt Lake for the autopsy. They attended the autopsy in case there were specific questions they had for the Medical Examiner. During that time, we obtained search warrants and maintained those warrants until the autopsy was concluded. This is done so that if there are any specific questions we can still gain access to the property due to not having released it back. Deputies worked around the clock. At this time the investigation is still ongoing pending a toxicology report which takes about 6 weeks. After toxicology we will be able to conclude the investigation.

Total Incidents for May – 57

BRIAN HEAD FIRE DEPARTMENT:

We've had some good trainings this past month. Our fire department was able to go through the State Fire Marshal's Office "Fireworks" testing. We are all set for the fireworks show on July 4th. We will also be having our annual pancake breakfast and t-shirt sale on July 4th.

We responded to a few gas leaks this spring. Most likely these were caused by the amount of snow and the weight it placed on the gas meters on the side of homes. We found that some of the "bird house" boxes over the meters aren't as strong as we would like them to be. We will do a social media post reminding residents to check their meters and get repairs done on them this summer.









BRIAN HEAD

PUBLIC WORKS DEPARTMENT UPDATE JUNE 2023

The melt continues and projects are moving forward. Public Works has hired the new positions that the Council approved for this budget year. They included two Public Works Operators and two summer hires for the Parks and Trails. The following are updates on the projects that have been assigned to us.

STREETS

- Flood irrigation continues on some roads. Operators will begin working the roads that have dried enough to improve starting next week.
- Operators continue to haul up material to be placed.
- Dust control is scheduled for June 21.
- Highland drive project will begin on Monday with equipment and Operators moving in.

WATER

- Repair of the meter reading system continues with new MXU's being installed as they are arriving from back order.
- Work on the SAA of Hidden Lake and Trail Road is scheduled to begin in the next week or two as the roads are drying out.
- Dry Canyon Spring maintenance work has been completed.

SEWER

- The Canyon sewer line project is scheduled to begin after the 4th of July. Material may begin arriving on site a little earlier.
- Staff is working to identify sewer infiltration issues.

PARKS & TRAILS

- Phase 3 of the paved trail has been awarded to the Contractor. This project is anticipated to begin after July 4th.
- Repairs to the rail fencing that has been damaged during plowing operations is

being repaired.

- Manzanita Restroom Pad has been completed and is awaiting delivery from the supplier. Looking at a mid-to-late June installation.
- Welcome sign work is scheduled for the week of June 12th.
- The park project has started again with the installation of the rock wall and sod has been placed and sprinkler heads put in. Cement is scheduled for next week by the contractor.
- ATV trail work has been completed on the Brian Head Town portion of the trail. Work on Parowan's portion will continue towards the end of June when the runoff slows down.

EQUIPMENT

- Repairs on equipment continue as needed to keep up with the demands of snow removal.

IN-HOUSE PROJECTS

Public Works will continue to work on in-house projects and maintain buildings and equipment as needed. If you have any questions or concerns, please do not hesitate to call.



STAFF REPORT TO THE TOWN COUNCIL

ITEM: ORDINANCE/RESOLUTIONS ADOPTING FY 2024 BUDGETS

AUTHOR: Shane Williamson
DEPARTMENT: Administration
DATE: February 13, 2017
TYPE OF ITEM: Legislative Action

SUMMARY:

The Council acting as the governing board for the Redevelopment Agency, Special Service District and Municipal Building Authority will first hold a public hearing to receive comment on the fiscal year 2024 budget(s) and once the public hearing is closed, will consider Ordinance No 23-005, and Resolution Nos. RDA-23-039, SSD-23-035, and MBA-23-013 adopting the FY 2024 budgets. The budget(s) included for adoption are the General Fund, Wildlands Fire Fund, Debt Service Fund, Capital Projects Fund, Asset Replacement Fund, and all Enterprise Funds. Per State law, the FY 2024 budget is to be adopted by the Town Council and Town Council acting as the Redevelopment Agency, Special Service District Board and Municipal Building Authority Board. The statutory deadline for adoption is June 30, 2023.

BACKGROUND:

The Council held the annual Strategic Planning Retreat in January 2023 in which strategies and projects were identified for the upcoming year. From that process, the annual Budget Work Session took place in April 2023.

ANALYSIS:

On May 13, 2023, the tentative FY2024 budget was presented to the Council as required by state law and no changes have been made to the budget. The public hearing has been published according to state statute and no comments have been submitted at the time of this report.

FINANCIAL IMPLICATIONS:

The FY 2024 budget sets up the Town's finances for the period from July 1, 2023, to June 30, 2024. If followed, the revenues versus expenditures will balance.

BOARD/COMMISSION RECOMMENDATION:

N/A

Example: The Breakdancing Committee strongly supports this course of action. In fact, they're spinning on the floor they're so happy.

STAFF RECOMMENDATION:

Staff recommend adopting Ordinance No 23-005, Resolution No. RDA-23-039, SSD23-025 and MBA23-013 which create the FY 2024 budgets, as presented.

PROPOSED MOTION:

Town Budget:

I move to adopt Ordinance No 23-005 adopting the FY 2024 Brian Head Town budgets, as presented.

Redevelopment Agency Budget:

I move to adopt Resolution No. RDA23-039 adopting the FY 2024 Redevelopment Agency Fund budget, as presented.

Special Service District Budget:

I move to adopt Resolution No. SSD23-035 adopting the FY 2024 Special Service District Fund budget, as presented.

Municipal Building Authority Budget:

I move to adopt Resolution No. MBA23-013 adopting the FY 2024 Municipal Building Authority Fund budget, as presented.

ATTACHMENTS:

A: Budget Reports

B: Ordinance No 23-005

C: RDA Resolution No RDA23-039

D: SSD Resolution No SSD23-035

E: MBA Resolution No MBA23-013

BRIAN HEAD TOWN

ORDINANCE NO. 23-____

AN ORDINANCE ADOPTING THE BUDGET: MAKING APPROPRIATIONS FOR THE SUPPORT FOR THE TOWN OF BRIAN HEAD FOR THE FISCAL YEAR ENDING JUNE 30, 2024.

WHEREAS, a tentative budget was prepared, approved, and made available to the public by the Town Council as required by law during the first meeting in May of the Town Council held on May 13, 2023; and

WHEREAS, pursuant to law, the date, time and place of the public hearing held on June 13, 2023, the right of citizens to be heard, the location of the Town Clerks Office where the Budget was available for public inspection, was published on the Utah Public Meeting Notice website at least seven days prior to said public hearing; and;

WHEREAS, all interested persons in attendance at the public hearing were given an opportunity to be heard, for or against, the estimate of revenues and expenditures or any item thereof in the proposed Budget, and;

WHEREAS, pursuant to law, the Brian Head Town Council, at a regularly scheduled meeting of the Town Council, must adopt a final budget on or before the 30th day of June 2024, and;

WHEREAS, it is the intent and desire of the Town of Brian Head to comply with all applicable State and local laws regarding the adoption of the Budget; and;

WHEREAS, the Brian Head Town Council finds that the expenditures of the budget will provide for the health, safety and general welfare of the citizens of the Town of Brian Head.

NOW, THEREFORE, BE IT ORDINANED by the Town Council of the Town of Brian Head, Utah as follows:

**Section I:
Budget Adoption**

A. The budgeted amounts shown in EXHIBIT A, Town of Brian Head Fiscal Year 2024 Budgets, for the general fund, enterprise funds, capital improvements, and debt service attached hereto and by this reference incorporated herein, are hereby appropriated for the corporate purposes and objects of the Town of Brian Head, Utah for the fiscal year

commencing July 1, 2023, and ending June 30, 2024, and are hereby adopted as the Budget for the Town of Brian Head, Utah for the fiscal year 2024.

B. Pursuant to law, a copy of the Budget for each fund within the Budget shall be certified by the Budget Officer and shall be filed with the State Auditor within thirty (30) days after the adoption of the Budget.

C. Pursuant to law, a certified copy of the Budget shall be filed in the offices of the Brian Head Town Clerk and shall be available for public inspection during regular business hours.

Section II Further Action

A. In addition to the foregoing, the Town Manager is hereby directed to implement any other necessary actions pertinent to the adoption of the Budget and the levy of property taxes with the approval of the Town Council. Such actions may include but are not necessarily limited to, notification, reporting, and publishing as required by and consistent with applicable law.

B. The Town Manager is hereby authorized to set the property tax rate at the certified tax rate.

C. Budget surpluses in excess of the 75% maximum fund balance in the General Fund allowed by State law will be distributed to the Capital Projects Fund.

D. Modification of the adopted Budget will be set by Ordinance upon approval of the Brian Head Town Council.

Section III Severability:

If any provision of this Ordinance is declared invalid by a court of competent jurisdiction, the remainder shall not be affected thereby.

Section IV Effective Date

This Ordinance shall take effect upon a majority vote of the Town Council and deposited and recorded in the office of the Town Clerk and accepted as required herein.

PASSED AND APPROVED this ____ day of June 2023.

VOTE:

Mayor Clayton Calloway	Aye_____	Nay_____
Council Member Martin Tidwell	Aye_____	Nay_____
Council Member Larry Freeberg	Aye_____	Nay_____
Council Member Shaun Kelly	Aye_____	Nay_____
Council Member Kelly Marshall	Aye_____	Nay_____

BRIAN HEAD TOWN

By: _____
Mayor Clayton Calloway

ATTEST:

Nancy Leigh, Town Clerk

(SEAL)

CERTIFICATE OF PASSAGE AND POSTING

I hereby certify that the above Ordinance is a true and accurate copy, including all attachments, of this ordinance passed by the Town Council on the _____ day of June 2023 and have posted a complete copy of the ordinance in three conspicuous places within the Town of Brian Head, to-wit: Town Hall, Post Office, and on the Brian Head Town website.

Nancy Leigh, Town Clerk

Brian Head Town
State Budget Report
10 10 General Fund - 07/01/2023 to 06/30/2024
100.00% of the fiscal year has expired

	2022 Actual	2023 Budget	2024 Budget
Change In Net Position			
Revenue:			
Taxes			
3110 General Property Tax (Current Year)	865,012	894,300	939,800
3120 General Property Tax (Delinquent)	61,944	105,000	107,400
3130 Sales and Use Taxes	269,757	199,000	229,400
3135 PAR Tax	48,764	37,000	43,000
3140 Franchise Tax	2,748	3,800	3,853
3145 Telecommunication Tax	3,697	4,700	4,817
3151 Resort Tax	776,239	603,000	686,000
3152 Highway Tax	146,280	111,500	129,000
3153 Municipal Energy Tax	134,985	126,500	128,330
3154 Municipal Transient Room Tax	182,137	107,000	136,000
3170 Fee in Lieu	9,090	7,000	7,500
3190 Penalties on Delinquent Taxes	1,478	4,500	4,400
3200 Personal Property Taxes	52,947	29,900	31,600
Total Taxes	2,555,079	2,233,200	2,451,100
Licenses and permits			
3210 Business Licenses	36,801	30,700	33,567
3215 Alcohol Licenses	250	600	1,033
3220 Enhanced Services Business License Fee	579,223	453,000	522,000
3221.1 Building Permit Fees	25,493	15,900	103,200
3221.2 Plan Check Fee	-	-	15,900
3221.3 Tree and Grading Permit Fee	15,648	5,000	6,000
3221.4 State Building Permit Fee 1%	-	-	15,900
3222 Land Use Permit Fees	10,291	4,500	5,000
3223 Disproportionate Service STR Fee	42,480	54,000	61,300
3230 Other Permits	8	5,300	-
Total Licenses and permits	710,195	569,000	763,900
Intergovernmental revenue			
3314 Public Safety State Grant	9,963	-	-
3341 General gov't state grant	38,616	58,050	76,000
3356 Class C Road Funds	72,869	65,600	70,200
3358 State Liquor Fund Allotment	3,179	4,000	4,000
3373 County - fire agreements	40,000	40,000	40,000
Total Intergovernmental revenue	164,627	167,650	190,200
Charges for services			
3419 Administrative Charges	61,138	66,400	71,000
3422 Retail Fuel	104,995	122,500	123,300
3426 Fire Department Revenue	6,511	8,800	10,100
3428 Misc Police Revenue (Police Reports)	20	-	-
3435 Shop Charges	112,301	120,800	155,000
Total Charges for services	284,965	318,500	359,400
Fines and forfeitures			
3510 Court Fines	315	600	1,000
3520 Administrative Fines (Code Violations)	4,900	-	2,000
Total Fines and forfeitures	5,215	600	3,000
Interest			
3610 Interest	11,474	12,000	45,000
Total Interest	11,474	12,000	45,000

Brian Head Town
State Budget Report
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	2022 Actual	2023 Budget	2024 Budget
Special Events			
3570 Other Revenue	6	-	-
Total Special Events	6	-	-
Miscellaneous revenue			
3650 Sales of materials and supplies	346	250	250
3680 Building/Pavilion Rentals	4,965	-	3,600
3690 Sundry (Miscellaneous)	16	6,450	3,200
3691 Health Insurance reimbursement (to be cleared)	4,202	3,200	-
Total Miscellaneous revenue	9,529	9,900	7,050
Contributions			
3801 Contribution from Private Sources	153	-	-
3802.2 Public Safety Impact Fee/3059	7,035	2,290	500
Total Contributions	7,188	2,290	500
Transfers from other funds			
3825 Transfer from RDA	8,667	8,667	23,500
3890 Fund Balance Appropriated	-	982,125	2,063
Total Transfers from other funds	8,667	990,792	25,563
Total Revenue:	3,756,944	4,303,932	3,845,713
Expenditures:			
General government			
Council			
4111.110 Council - Salaries	14,962	16,000	17,500
4111.130 Council - Benefits	1,466	1,224	1,339
4111.230 Council - Travel, Conferences & Training	1,846	9,250	4,250
4111.240 Council - Office Supplies & Expense	345	1,250	250
4111.290 Council - Telephone/Data Plans	452	600	700
4111.610 Council - Miscellaneous Expense	140	250	250
Total Council	19,212	28,574	24,289
Administrative			
4140.110 Admin - Salaries & Wages	110,584	127,527	133,236
4140.111 Admin - Overtime Wages (Administrative)	1,028	-	-
4140.130 Admin - Employee Benefits	51,231	55,602	60,684
4140.210 Admin - Books/Subscriptions/Memberships	28,598	2,295	3,295
4140.220 Admin - Publishing/Legal Notices	2,041	1,600	1,600
4140.230 Admin - Travel, Conferences & Training	3,712	4,495	5,765
4140.240 Admin - Office Supplies/Reimb Expenses	7,292	5,000	6,000
4140.245 Admin - Bank Charges	1,671	1,500	1,500
4140.250 Admin - Equipment Supplies/Maintenance	4,595	2,250	2,550
4140.254 Admin - Vehicle Repair & Maintenance	2,891	1,000	1,800
4140.255 Admin - Fuel & Oil	2,167	1,500	1,500
4140.270 Admin - Bldgs/Grounds - Supplies/Maint	11,253	10,760	9,990
4140.280 Admin - Utilities	4,948	5,000	5,000
4140.290 Admin - Telephone	5,738	5,200	5,900
4140.310 Admin - Professional & Technical Services	9,852	20,630	20,205
4140.312 Admin - Audit & Accounting	15,500	15,500	16,000
4140.450 Admin - Elections	321	-	1,300
4140.470 Admin - Uniforms	312	-	-
4140.510 Admin - Insurance Expense	12,052	49,500	61,110
4140.540 Admin - Promotions/Incentives	3,794	6,100	13,700

Brian Head Town
State Budget Report
10 10 General Fund - 07/01/2023 to 06/30/2024
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	2022 Actual	2023 Budget	2024 Budget
4140.610 Admin - Miscellaneous Expense	405	250	350
Total Administrative	279,985	315,709	351,485
Legal			
4145.310 Legal - Professional & Technical Services	5,192	7,000	7,000
Total Legal	5,192	7,000	7,000
Building department			
4160.110 BldgDept - Salaries & Wages	24,360	-	-
4160.111 BldgDept - Overtime Wages (Building)	191	-	-
4160.130 BldgDept - Employee Benefits	15,235	-	-
4160.240 BldgDept - Office Supplies & Expenses	251	-	-
Total Building department	40,038	-	-
Planning and zoning			
4180.110 P&Z - Salaries & Wages	40,344	94,335	111,292
4180.111 P&Z - Overtime Wages (P & Z)	121	-	-
4180.130 P&Z - Employee Benefits	23,356	56,791	66,932
4180.210 Admin - Books/Subscriptions/Memberships	-	250	1,840
4180.220 Planning & Bldg - State Bldg Permit Fee	-	-	550
4180.230 P&Z - Travel, Conferences & Training	1,475	4,100	4,160
4180.240 P&Z - Office Supplies & Expense	1,468	1,850	2,650
4180.290 P&Z - Telephone	224	1,100	1,100
4180.310 P&Z - Professional & Technical Services	18,884	15,450	10,550
Total Planning and zoning	85,872	173,876	199,074
Marketing & Events			
4660.230 Marketing & Events - Travel and Training	63	-	-
4660.250 Marketing & Events - Equip Supplies/Maint	2,585	3,200	3,200
4660.310 Marketing & Events - Prof & Technical Services	415	16,450	250
4660.612 Marketing & Events - Advertising/Marketing	147,000	116,850	138,350
4660.615 Marketing & Events - Entertainment	5,425	18,400	18,400
Total Marketing & Events	155,488	154,900	160,200
Retail Fuel			
4640.245 Retail Fuel - Bank Charges	5,456	7,420	7,120
4640.250 Retail Fuel - Supplies & Maintenance	-	1,500	1,500
4640.260 Retail Fuel - Retail Fuel (Town Pump)	91,696	102,500	103,600
4640.310 Retail Fuel - Professional & Technical Services	2,452	800	900
4640.510 Retail Fuel - Insurance Expense	-	560	560
Total Retail Fuel	99,604	112,780	113,680
Transit			
4650.250 Transit - Supplies & Maintenance	1,123	1,000	1,000
4650.310 Transit - Professional & Technical Services	5,500	10,000	7,500
4650.485 Transit - Transportation Service	129,379	143,850	149,800
Total Transit	136,002	154,850	158,300
Total General government	821,392	947,689	1,014,028
Public safety			
Police			
4210.110 Police - Salaries & Wages	333,443	371,652	385,578
4210.111 Police - Overtime Wages (Police)	29,435	24,368	25,710
4210.120 Police - Part-time Officers	22,685	35,131	44,718
4210.130 Police - Employee Benefits	252,537	288,474	293,968

Brian Head Town
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	2022 Actual	2023 Budget	2024 Budget
4210.210 Police - Books/Subscriptions/Memberships	835	650	690
4210.230 Police - Travel, Conferences & Training	880	7,390	11,090
4210.240 Police - Office Supplies & Expense	1,120	800	800
4210.250 Police - Equipment Supplies & Maintenance	40,907	14,080	13,830
4210.254 Police - Vehicle Repair & Maintenance	7,134	6,040	6,540
4210.255 Police - Fuel	24,123	20,000	21,800
4210.270 Police - Bldg/Grounds Supplies & Maintenance	5,838	6,205	6,745
4210.275 Police - Public Safety Building Payment (MBA)	60,623	60,185	60,260
4210.280 Police - Utilities	4,376	4,000	4,200
4210.290.1 Police - Telephone	5,723	5,850	5,920
4210.290.2 Police - Communications	33,235	35,650	37,625
4210.310 Police - Professional & Technical Services	1,122	8,195	9,725
4210.450 Police - Uniforms	1,454	4,000	4,000
4210.451 Police - EMT Supplies	1,880	1,500	1,750
4210.452 Police - EMT Training & Travel	2,368	5,480	4,990
4210.453 Police - Search & Rescue	-	500	500
4210.610 Police - Miscellaneous Expense	585	400	500
Total Police	830,303	900,550	940,939
Fire			
4220.110 Fire - Salaries & Wages	108,851	121,460	128,526
4220.111 Fire - Overtime Wages (Fire)	9,811	8,124	8,570
4220.120 Fire - Part Time Wages	3,519	4,500	4,500
4220.130 Fire - Employee Benefits	83,800	96,520	98,340
4220.210 Fire - Books/Subscriptions/Memberships	570	335	310
4220.230 Fire - Travel, Conferences & Training	1,168	1,875	1,575
4220.240 Fire - Office Supplies & Expense	986	350	350
4220.250 Fire - Equipment - Supplies & Maintenance	10,534	5,550	9,600
4220.254 Fire - Vehicle Repair & Maintenance	6,045	7,080	7,080
4220.255 Fire - Fuel	3,470	2,000	2,000
4220.270 Fire - Bldgs/Grounds - Supplies & Maintenance	5,782	6,004	6,545
4220.275 Fire - Public Safety Building Payment (MBA)	60,598	60,185	60,260
4220.280 Fire - Utilities	4,054	4,000	4,250
4220.290 Fire - Telephone	4,949	5,850	5,850
4220.310 Fire - Professional & Technical Services	7,560	12,700	10,650
4220.450 Fire - Uniforms	-	750	750
4220.610 Fire - Miscellaneous Expense	577	2,000	2,100
Total Fire	312,273	339,283	351,256
Total Public safety	1,142,576	1,239,833	1,292,195
Highways and public improvements			
Highways			
4410.110 Streets - Salaries & Wages	92,966	168,935	249,618
4410.111 Streets - Overtime Wages (Streets)	5,166	5,000	7,500
4410.130 Streets - Employee Benefits	63,171	114,087	177,628
4410.230 Streets - Travel, Conferences & Training	4,420	4,615	8,540
4410.240 Streets - Office Supplies & Expense	132	150	150
4410.250 Streets - Equipment - Supplies & Maintenance	1,391	1,200	1,200
4410.253 Streets - Snow Removal	36,374	47,870	104,000
4410.269 Streets - Equipment Rental	22,680	31,900	17,450
4410.280 Streets - Utilities (Area Lights)	13,046	15,000	15,000
4410.310 Streets - Professional & Technical Services	2,670	4,800	3,800
4410.411 Streets - Street Signs & Signals	5,423	3,500	8,500

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100.00% of the fiscal year has expired

	2022 Actual	2023 Budget	2024 Budget
4410.415 Streets - Skier bridge O&M	-	1,800	1,800
4410.420 Streets - Road Maintenance/Improvements	46,831	52,080	33,080
Total Highways	294,270	450,937	628,266
Shop & garage			
4440.230 Shop - Travel, Conferences & Training	1,354	500	3,820
4440.240 Shop - Office Supplies & Expenses	493	500	750
4440.250 Shop - Equipment - Supplies & Maintenance	10,197	7,650	9,150
4440.252 Shop - Heavy Equipment Maintenance	22,928	34,700	39,700
4440.254 Shop - Vehicle Repair & Maintenance	14,512	9,850	13,200
4440.255 Shop - Fuel	96,916	66,000	80,000
4440.261 Shop - Equipment Lease (operating)	96,087	100,850	144,300
4440.270 Shop - Bldgs/Grounds - Supplies & Maint	4,904	2,820	2,820
4440.280 Shop - Utilities	10,551	10,000	10,000
4440.290 Shop - Telephone	5,588	7,100	7,100
4440.310 Shop - Professional & Technical Services	1,201	1,575	1,600
4440.450 Shop - Uniforms	7,733	6,700	11,200
Total Shop & garage	272,464	248,245	323,640
Total Highways and public improvements	566,735	699,182	951,906
Parks, recreation, and public property			
Recreation			
4560.110 Recreation - Salaries & Wages	9,871	33,022	43,676
4560.111 Recreation - Overtime Wages (Recreation)	278	-	-
4560.130 Recreation - Employee Benefits	3,575	19,716	21,418
4560.230 Recreation - Travel, Conferences & Training	-	160	1,360
4560.240 Recreation - Office Supplies & Expense	171	150	150
4560.250 Recreation - Supplies & Maintenance	1,066	1,000	1,000
4560.254 Recreation - Vehicle Repair & Maintenance	333	800	800
4560.269 Recreation - Equipment Rental	1,008	1,280	1,280
4560.270 Recreation - Bldgs/Grounds - Supplies & Maint	2,336	2,300	2,300
4560.310 Recreation - Professional & Technical Services	-	200	200
4560.450 Recreation - Uniforms	50	200	200
4560.621 Recreation - Beautification	2,439	28,500	6,500
4560.631 Recreation - Walking Trails	482	-	10,000
4560.633 Recreation - ATV/Snowmobile Trails	6,735	5,000	9,000
4560.634 Recreation - Trail Signs	301	2,100	500
Total Recreation	28,644	94,428	98,384
Total Parks, recreation, and public property	28,644	94,428	98,384
Miscellaneous			
4900 Operating Contingency	19,501	37,700	44,200
Total Miscellaneous	19,501	37,700	44,200
Transfers			
4846 Transfer to Capital Projects	719,000	1,129,100	275,000
4847 Transfer to Asset Replacement	150,000	156,000	170,000
Total Transfers	869,000	1,285,100	445,000
Total Expenditures:	3,447,848	4,303,932	3,845,713
Total Change In Net Position	309,097	-	-

Brian Head Town
State Budget Report
16 16 CBME SAA - 07/01/2023 to 06/30/2024
100.00% of the fiscal year has expired

	2022 Actual	2023 Budget	2024 Budget
Change In Net Position			
Revenue:			
Charges for services			
3685 CBME SAA Assessment Revenue	210,589	-	169,854
Total Charges for services	210,589	-	169,854
Interest			
3610 Interest Revenue	-	-	600
Total Interest	-	-	600
Contributions			
3890 Fund Balance Appropriated	-	-	562,356
Total Contributions	-	-	562,356
Total Revenue:	210,589	-	732,810
Expenditures:			
Highways and public improvements			
Special improvements			
4400.240 Office Supplies/Software	58	-	-
4400.310 Professional & Technical Services	88,676	-	-
4400.420 Public Improvements-Utilities	385,720	-	562,956
Total Special improvements	474,454	-	562,956
Total Highways and public improvements	474,454	-	562,956
Debt service			
4400.810 Bond Payment - Principal	-	-	119,000
4400.820 Bond Payment - Interest	-	-	50,854
Total Debt service	-	-	169,854
Total Expenditures:	474,454	-	732,810
Total Change In Net Position	(263,866)	-	-

Brian Head Town
State Budget Report
17 17 Wildlands Fire - 07/01/2023 to 06/30/2024
100.00% of the fiscal year has expired

	2022 Actual	2023 Budget	2024 Budget
Change In Net Position			
Revenue:			
Intergovernmental revenue			
3314 Wildland Fire - State Grant	-	10,000	10,000
Total Intergovernmental revenue	-	10,000	10,000
Charges for services			
3425 Wildland Fire Revenue	3,144	100,000	100,000
Total Charges for services	3,144	100,000	100,000
Interest			
3610 Interest Revenue	948	-	-
Total Interest	948	-	-
Total Revenue:	4,092	110,000	110,000
Expenditures:			
Public safety			
Fire			
4220.110 Wildland Fire - Wages	-	61,160	61,160
4220.130 Wildland Fire - Benefits	-	6,450	6,450
4220.230 Wildland Fire - Travel, Conferences & Training	-	2,500	2,500
4220.250 Wildland Fire - Materials and Supplies	-	1,000	1,000
4220.254 Wildland Fire - Vehicle Repair & Maintenance	-	5,000	5,000
4220.255 Wildland Fire - Fuel	-	5,000	5,000
4220.453 Wildland Fire - State Grants	5,124	10,000	10,000
Total Fire	5,124	91,110	91,110
Total Public safety	5,124	91,110	91,110
Transfers			
4890 Budgeted Increase in Fund balance	-	18,890	18,890
Total Transfers	-	18,890	18,890
Total Expenditures:	5,124	110,000	110,000
Total Change In Net Position	(1,032)	-	-

Brian Head Town
State Budget Report
30 30 Debt Service - 07/01/2023 to 06/30/2024
100.00% of the fiscal year has expired

	2022 Actual	2023 Budget	2024 Budget
Change In Net Position			
Revenue:			
Taxes			
3110 General Property Taxes (Current Year)	200,757	205,408	207,900
3120 General Property Taxes (Delinquent)	20,327	-	-
3170 Fee-in-Lieu/Fee Based Personal Property	2,110	-	-
3190 Penalty/Interest on Delinquent Taxes	511	-	-
3200 Personal Property	11,190	-	-
Total Taxes	234,894	205,408	207,900
Interest			
3610 Interest Revenue	1,979	750	750
Total Interest	1,979	750	750
Total Revenue:	236,873	206,158	208,650
Expenditures:			
Debt service			
4100.810 Debt Service - Principal	185,000	190,000	200,000
4100.820 Debt Service - Interest	22,713	15,408	7,900
4100.830 Trustee Fees	500	750	750
Total Debt service	208,213	206,158	208,650
Total Expenditures:	(208,213)	(206,158)	(208,650)
Total Change In Net Position	28,660	-	-

Brian Head Town
State Budget Report
46 46 Capital Projects - 07/01/2023 to 06/30/2024
100.00% of the fiscal year has expired

	2022 Actual	2023 Budget	2024 Budget
Change In Net Position			
Revenue:			
Intergovernmental revenue			
3341 General Gov't State Grant	150,000	-	320,820
Total Intergovernmental revenue	150,000	-	320,820
Interest			
3610 Interest revenue	2,256	-	-
Total Interest	2,256	-	-
Miscellaneous revenue			
3690 Sundry/Miscellaneous	150,000	-	-
Total Miscellaneous revenue	150,000	-	-
Transfers from other funds			
3810 Transfers from General Fund	719,000	1,129,100	275,000
3825 Transfer from RDA Fund	-	-	129,180
3890 Fund Balance Appropriated	-	95,000	195,000
Total Transfers from other funds	719,000	1,224,100	599,180
Total Revenue:	1,021,256	1,224,100	920,000
Expenditures:			
General government			
Administrative			
4100.700 Capital Project - Administration Vehicles	12,379	-	-
4100.710 Land Purchase	210,076	196,000	-
4100.720 Capital Project - Town Hall	-	70,000	-
4100.742 Capital Project - Public Art	50,000	-	-
Total Administrative	272,455	266,000	-
Total General government	272,455	266,000	-
Public safety			
Police			
4210.700 Capital project - Police Public Safety Vehicles	53,965	-	-
4210.720 Capital project - Public Safety Building	115,535	20,000	-
Total Police	169,500	20,000	-
Fire			
4220.730 Capital Project - Fire Equipment	-	45,000	45,000
Total Fire	-	45,000	45,000
Total Public safety	169,500	65,000	45,000
Highways and public improvements			
Highways			
4410.700 Capital project Streets	202,764	280,000	400,000
4410.710 Capital project Street Lighting	-	100,000	-
4410.715 Capital Project - Hwy 143 Corridor	-	195,100	-
4410.720 Capital Project - Pedestrian Improvements	(3,668)	117,000	450,000
4410.740 Capital Project - Public Works Vehicle	-	44,000	-
Total Highways	199,096	736,100	850,000
Shop & garage			
4410.730 Capital Projects - Shop Equipment	78,332	82,000	-
4410.750 Cold Storage Building Repairs	-	35,000	-
Total Shop & garage	78,332	117,000	-

Brian Head Town
State Budget Report
46 46 Capital Projects - 07/01/2023 to 06/30/2024
100.00% of the fiscal year has expired

	2022 Actual	2023 Budget	2024 Budget
Total Highways and public improvements	277,427	853,100	850,000
Parks, recreation, and public property			
Recreation			
4560.700 Capital project - Recreation	63,175	40,000	25,000
4560.710 Capital project - Mountain Bike Trails	8,500	-	-
Total Recreation	71,675	40,000	25,000
Total Parks, recreation, and public property	71,675	40,000	25,000
Total Expenditures:	791,057	1,224,100	920,000
Total Change In Net Position	230,199	-	-

Brian Head Town
State Budget Report
47 47 Asset Replacement Fund - 07/01/2023 to 06/30/2024
100.00% of the fiscal year has expired

	2022 Actual	2023 Budget	2024 Budget
Change In Net Position			
Revenue:			
Intergovernmental revenue			
3314 Public Safety State Grant	-	40,000	42,929
Total Intergovernmental revenue	-	40,000	42,929
Miscellaneous revenue			
3640 Sale of Assets	-	49,000	46,000
Total Miscellaneous revenue	-	49,000	46,000
Transfers from other funds			
3810 Transfer from General Fund	150,000	156,000	170,000
3890 Fund Balance Appropriated	-	20,297	55,625
Total Transfers from other funds	150,000	176,297	225,625
Total Revenue:	150,000	265,297	314,554
Expenditures:			
General government			
Administrative			
4100.720 Admin - Town Hall (Fuel Tank Replacement)	5,004	5,000	5,000
4100.721 Admin - FF&E Replacement/Renewal	740	-	3,300
4100.742 Admin - Computer/Electronic Replacement	3,026	21,700	8,410
Total Administrative	8,770	26,700	16,710
Total General government	8,770	26,700	16,710
Public safety			
Police			
4200.721 Public Safety - FF&E Replacement/Renewal	220	2,500	23,320
4200.740 Public Safety - Equipment Replacement	65,945	65,565	74,905
4200.741 Public Safety - Vehicle Replacement	-	41,037	128,369
4200.742 Public Safety - Computer/Electronics Replacement	2,566	7,090	7,290
Total Police	68,732	116,192	233,884
Total Public safety	68,732	116,192	233,884
Highways and public improvements			
Special improvements			
4400.721 Streets - FF&E Replacement/Renewal	-	4,000	5,000
4400.740 Streets - Equipment Replacement	-	35,500	55,900
4400.741 Streets - Vehicle Replacement	-	80,025	-
4400.742 Streets - Computer/Electronics Replacement	3,949	2,880	3,060
Total Special improvements	3,949	122,405	63,960
Total Highways and public improvements	3,949	122,405	63,960
Total Expenditures:	81,450	265,297	314,554
Total Change In Net Position	68,550	-	-

Brian Head Town
State Budget Report
51 51 Water - 07/01/2023 to 06/30/2024
100.00% of the fiscal year has expired

	2022 Actual	2023 Budget	2024 Budget
Income or Expense			
Income From Operations:			
Operating income			
3712 Water - Bulk Water Sales	45,159	33,000	35,000
3718 Water Lease Revenue	1,360,353	1,332,000	1,409,000
3719 Penalties	9,815	6,000	6,000
3720 Water Connection Fees	49,150	10,600	13,200
3725 Miscellaneous operating income	-	1,850	-
3749 Resort - Water Pumping Fee	74,017	54,000	-
3749.100 Uncollectible revenue	-	-	56,000
Total Operating income	1,538,494	1,437,450	1,519,200
Operating expense			
4751.110 Salaries & Wages	244,304	283,279	307,244
4751.111 Overtime Wages - Utilities	9,040	8,000	12,000
4751.130 Employee Benefits	93,096	174,477	192,930
4751.210 Books/Subscriptions/Memberships	423	415	450
4751.230 Travel, Conferences & Training	4,439	8,560	13,460
4751.240 Office Supplies/Reimbursement Expenses	926	1,700	1,700
4751.245 Bank Charges - Utilities	6,278	7,000	7,000
4751.250 Equipment Supplies & Maintenance	18,721	24,900	24,700
4751.254 Vehicle Repair & Maintenance	45	-	-
4751.256 Shop Charges	56,151	60,400	77,500
4751.261 Equipment Lease (Water)	565	-	-
4751.265 System Repairs	75,829	106,600	101,920
4751.268 Leases - Water	33,255	38,275	38,725
4751.270 Bldgs/Grounds - Supplies & Maintenance	7,254	10,200	26,700
4751.280 Utilities	126,545	130,000	130,000
4751.290 Telephone	2,282	-	2,000
4751.310 Professional & Technical Services	20,645	32,775	30,600
4751.311 Legal Services	-	2,500	2,500
4751.550 Administrative Charges	32,762	38,200	40,900
4751.620 Bad debt expense	(3,891)	-	-
4751.690 Depreciation	372,408	344,748	379,223
Total Operating expense	1,101,076	1,272,029	1,389,552
Total Income From Operations:	437,418	165,421	129,648
Non-Operating Items:			
Non-operating income			
3793 USDA Water Bond Interest	52	-	-
3794 Interest Earnings	4,644	3,200	12,500
3795 Water Impact Fees	236,288	-	-
Total Non-operating income	240,983	3,200	12,500
Non-operating expense			
4751.691 Amortization of bonding costs	(10,425)	-	-
4751.820 Debt Payment - Interest	149,414	141,893	136,190
4751.830 Administrative Fees	1,250	500	500
Total Non-operating expense	140,239	142,393	136,690
Total Non-Operating Items:	100,745	(139,193)	(124,190)
Total Income or Expense	538,162	26,228	5,458

Brian Head Town
State Budget Report
52 52 Sewer - 07/01/2023 to 06/30/2024
100.00% of the fiscal year has expired

	2022 Actual	2023 Budget	2024 Budget
Income or Expense			
Income From Operations:			
Operating income			
3731 Sewer Fees	643,247	696,000	712,000
3733 Sewer Connection Fees	8,050	3,000	3,300
Total Operating income	651,297	699,000	715,300
Operating expense			
4752.110 Salaries & Wages	125,367	123,558	122,282
4752.111 Overtime Wages - Utilities	4,491	4,000	6,000
4752.130 Employee Benefits	48,879	74,015	71,756
4752.230 Travel, Conferences & Training	2,939	1,360	1,360
4752.240 Office Supplies/ Reimbursement Expenses	840	1,250	1,250
4752.245 Bank Charges - Utilities	2,771	3,200	3,200
4752.250 Equipment - Supplies & Maintenance	1,524	5,000	5,000
4752.254 Vehicle Repair & Maintenance	2,013	2,000	2,000
4752.256 Shop Charges	42,113	45,300	58,100
4752.265 System Repairs	5,046	10,000	10,000
4752.268 Wastewater Treatment Fee (to Parowan City)	89,712	89,712	84,065
4752.269 Sewer Bond Payment (to Parowan City)	99,122	100,000	100,000
4752.280 Utilities	930	1,000	1,000
4752.310 Professional & Technical Services	46,263	31,325	31,450
4752.550 Administrative Charges	19,902	19,900	20,700
4752.620 Bad debt expense	(5,073)	-	-
4752.690 Depreciation	69,995	54,408	84,684
Total Operating expense	556,834	566,028	602,847
Total Income From Operations:	94,464	132,972	112,453
Non-Operating Items:			
Non-operating income			
3794 Interest Earnings	4,923	1,400	10,000
3795 Sewer Impact Fees	39,489	-	-
Total Non-operating income	44,412	1,400	10,000
Total Non-Operating Items:	44,412	1,400	10,000
Total Income or Expense	138,876	134,372	122,453

Brian Head Town
State Budget Report
53 53 Solid Waste - 07/01/2023 to 06/30/2024
100.00% of the fiscal year has expired

	2022 Actual	2023 Budget	2024 Budget
Income or Expense			
Income From Operations:			
Operating income			
3443 Sanitation Fees	255,580	255,000	257,000
3444 Sanitation Fees (County)	5,664	8,100	8,100
Total Operating income	261,244	263,100	265,100
Operating expense			
4753.110 Salaries & Wages	73,547	79,289	80,802
4753.111 Overtime Wages (Sanitation)	3,143	3,000	4,500
4753.130 Employee Benefits	30,712	37,706	57,786
4753.240 Office Supplies/Reimbursement Expenses	499	500	500
4753.245 Bank Charges - Utilities	1,109	1,200	1,200
4753.250 Equipment - Supplies & Maint	21,492	29,500	15,500
4753.254 Vehicle Repair & Maintenance	16,803	15,000	15,000
4753.256 Shop Charges	14,037	15,100	19,400
4753.480 Contract Services/Landfill Fees	31,805	31,500	37,150
4753.550 Administrative Charges	8,474	8,300	9,400
4753.620 Bad debt expense	(2,791)	-	-
Total Operating expense	198,829	221,095	241,238
Total Income From Operations:	62,415	42,005	23,862
Non-Operating Items:			
Non-operating income			
3510 Code Violations	1,900	-	-
3794 Interest income	2,010	500	2,500
Total Non-operating income	3,910	500	2,500
Total Non-Operating Items:	3,910	500	2,500
Total Income or Expense	66,325	42,505	26,362

**BRIAN HEAD REDEVELOPMENT AGENCY
BRIAN HEAD, UTAH**

BUDGET RESOLUTION

RESOLUTION NO. RDA-____

A RESOLUTION ADOPTING THE FISCAL YEAR 2024 BUDGET ENDING JUNE 30, 2024, OF THE BRIAN HEAD REDEVELOPMENT AGENCY, BRIAN HEAD, UTAH.

WHEREAS, in accordance with the Uniform Fiscal Procedures Act for Utah, Brian Head Redevelopment Agency, is hereby adopting its budget for the fiscal year ending June 30, 2024; and

WHEREAS, in accordance with Utah State law, a public hearing was held on June 13, 2023, to receive public comment on the proposed FY2024 Budget. No comments were received on the FY 2024 Budget.

NOW, THEREFORE, BE IT RESOLVED BY THE BRIAN HEAD REDEVELOPMENT AGENCY BOARD, BRIAN HEAD, UTAH:

ADOPTION: The Fiscal Year 2024 RDA Budget is hereby adopted, including all funds and accounts as shown in the budget format attached (Attachment "A").

PASSED AND ADOPTED BY THE BRIAN HEAD REDEVELOPMENT AGENCY BOARD MEMBERS OF BRIAN HEAD, THE STATE OF UTAH on this ____ day of June 2023.

VOTING:

Chairperson Clayton Calloway	Aye____	Nay____
Board Member Shaun Kelly	Aye____	Nay____
Board Member Kelly Marshall	Aye____	Nay____
Board Member Martin Tidwell	Aye____	Nay____
Board Member Larry Freeberg	Aye____	Nay____

BRIAN HEAD REDEVELOPMENT AGENCY

By: _____
Clayton Calloway, Chair

ATTEST:

Nancy Leigh, RDA Clerk

(seal)

**ATTACHMENT “A”
FISCAL YEAR 2024 RDA BUDGET
ENDING JUNE 30, 2024**

Brian Head Town
State Budget Report
25 25 Redevelopment Agency - 07/01/2023 to 06/30/2024
100.00% of the fiscal year has expired

	2022 Actual	2023 Budget	2024 Budget
Change In Net Position			
Revenue:			
Taxes			
3110 Tax Increment Monies - Current	188,264	190,000	380,000
Total Taxes	188,264	190,000	380,000
Intergovernmental revenue			
3310 Loans/Grants from Local Units	20,000	10,000	4,000
Total Intergovernmental revenue	20,000	10,000	4,000
Miscellaneous revenue			
3610 Interest Earnings	1,604	-	-
Total Miscellaneous revenue	1,604	-	-
Contributions			
3890 Fund Balance Appropriated	-	117,067	-
Total Contributions	-	117,067	-
Total Revenue:	209,868	317,067	384,000
Expenditures:			
General government			
Administrative			
4140.310 Legal Fees	14,223	-	-
4140.311 Professional Services	66,873	-	-
4140.610 Redevelopment Activities	19,418	308,400	173,400
Total Administrative	100,515	308,400	173,400
Total General government	100,515	308,400	173,400
Transfers			
4810 Transfer to General Fund	8,667	8,667	23,500
4846 Transfer to Capital Projects	-	-	129,180
4890 Budgeted Increase in Fund Balance	-	-	57,920
Total Transfers	8,667	8,667	210,600
Total Expenditures:	109,182	317,067	384,000
Total Change In Net Position	100,686	-	-

**BRIAN HEAD SPECIAL SERVICE DISTRICT
BRIAN HEAD, UTAH**

FISCAL YEAR 2024 BUDGET RESOLUTION

RESOLUTION NO. SSD-_____

A RESOLUTION ADOPTING THE FISCAL YEAR 2024 BUDGET OF FUNDS AND ACCOUNTS FOR THE BRIAN HEAD SPECIAL SERVICE DISTRICT, BRIAN HEAD, UTAH.

WHEREAS, pursuant to State law, a final budget must be adopted by the Special Service District. As part of the process, a public hearing was held on June 13, 2023, where all interested persons in attendance were given an opportunity to be heard and written comments were received on the proposed FY2024 Budget; and

WHEREAS, the Budget was available for public inspection prior to the public hearing and notice was published on the Utah Public Meeting Notice Website at least seven days prior to said public hearing; and;

WHEREAS, it is the intent and desire of the Brian Head Special Service District to comply with all applicable State and local laws, therefore the Brian Head Special Service District must adopt a final budget on or before the 30th day of June 2023.

NOW, THEREFORE, BE IT RESOLVED by the Brian Head Special Service District, Iron County, Utah:

Section I Budget Adoption

A. The budgeted amounts are shown in "Attachment A", the Brian Head Special Service District Fiscal Year 2024 Budget, is hereby adopted, including all funds and accounts shown in the budget attached for the fiscal year ending June 30, 2024.

B. Pursuant to law, a copy of the Budget for each fund within the Budget shall be certified by the Budget Officer and shall be filed with the State Auditor within thirty (30) days after the adoption of the Budget.

C. Pursuant to law, a certified copy of the Budget shall be filed in the offices of the Special Service District Clerk and shall be available for public inspection during regular business hours.

Section II Further Action

A. In addition to the foregoing, the District Manager is hereby directed to implement any other necessary actions pertinent to the adoption of the Budget. Such actions may include but are not necessarily limited to, notification, reporting, and publishing as required by and consistent with applicable law.

B. Modification of the adopted Budget will be set by Resolution upon approval of the Brian Head Special Service District.

Section III Severability

If any provision of this Resolution is declared invalid by a court of competent jurisdiction, the remainder shall not be affected thereby.

Section IV Effective Date

This Resolution shall take effect immediately upon posting, as required by law, deposited and recorded in the office of the Special Service District Clerk, and accepted as required herein.

PASSED AND APPROVED this ____ day of June 2023.

VOTING:

Chairperson Clayton Calloway	Aye_____	Nay_____
Board Member Kelly Marshall	Aye_____	Nay_____
Board Member Marin Tidwell	Aye_____	Nay_____
Board Member Larry Freeberg	Aye_____	Nay_____
Board Member Shaun Kelly	Aye_____	Nay_____

BRIAN HEAD SPECIAL SERVICE DISTRICT

ATTEST:

By: _____
Clayton Calloway, Chair

Nancy Leigh, District Clerk

(seal)

ATTACHMENT "A"
BRIAN HEAD SPECIAL SERVICE DISTRICT
FISCAL YEAR 2024 BUDGET

DRAFT

Brian Head Town
State Budget Report
21 21 SSD Special Service District - 07/01/2023 to 06/30/2024
100.00% of the fiscal year has expired

	<u>2022 Actual</u>	<u>2023 Budget</u>	<u>2024 Budget</u>
Change In Net Position			
Revenue:			
Charges for services			
3685 Contributions from town	-	-	30,421
Total Charges for services	-	-	30,421
Miscellaneous revenue			
3610 Interest revenue	16	-	-
3668 Water Lease	35,421	30,421	-
Total Miscellaneous revenue	35,437	30,421	-
Total Revenue:	35,437	30,421	30,421
Expenditures:			
Transfers			
4890 Budgeted Increase in Fund Balance	-	30,421	30,421
Total Transfers	-	30,421	30,421
Total Expenditures:	-	30,421	30,421
Total Change In Net Position	35,437	-	-

**BRIAN HEAD MUNICIPAL BUILDING AUTHORITY
BRIAN HEAD, UTAH**

RESOLUTION NO. MBA-__

**A RESOLUTION ADOPTING THE FISCAL YEAR 2023 BUDGET OF FUNDS
AND ACCOUNTS FOR THE BRIAN HEAD MUNICIPAL BUILDING
AUTHORITY, UTAH.**

WHEREAS, in accordance with the Uniform Fiscal Procedures Act for Utah, the Brian Head Municipal Building Authority, Brian Head, Utah, is hereby adopting its budget for the fiscal year ending June 30, 2024; and

WHEREAS, in accordance with Utah State law, a public hearing was held on June 13, 2023, to receive public comment on the proposed budget. No comments on the proposed budget were given or written comments submitted.

**NOW, THEREFORE, BE IT RESOLVED BY THE BRIAN HEAD MUNICIPAL
BUILDING AUTHORITY BOARD MEMBERS OF BRIAN HEAD, STATE OF UTAH:**

Section 1. Adoption. That the Fiscal Year 2024 budget is hereby adopted, including all funds and accounts as shown in the budget format attached (Attachment "A").

Section 2. Effective Date. This resolution shall become effective upon a majority vote of the Town Council acting as the governing body for the Brian Head Municipal Building Authority.

**PASSED AND ADOPTED BY THE BRIAN HEAD MUNICIPAL BUILDING
AUTHORITY OF BRIAN HEAD, STATE OF UTAH** on this ____ day of June 2023.

VOTE:

Chairperson Clayton Calloway	Aye_____	Nay_____
Board Member Larry Freeberg	Aye_____	Nay_____
Board Member Martin Tidwell	Aye_____	Nay_____
Board Member Shaun Kelly	Aye_____	Nay_____
Board Member Kelly Marshall	Aye_____	Nay_____

***BRIAN HEAD MUNICIPAL BUILDING
AUTHORITY***

By: _____
Clayton Calloway, Chair

ATTEST:

Nancy Leigh, MBA Clerk

(SEAL)

ATTACHMENT "A"
FISCAL YEAR 2024 BUDGET
MUNICIPAL BUILDING AUTHORITY

Brian Head Town
State Budget Report
28 28 Municipal Building Authority - 07/01/2023 to 06/30/2024
100.00% of the fiscal year has expired

	<u>2022 Actual</u>	<u>2023 Budget</u>	<u>2024 Budget</u>
Change In Net Position			
Revenue:			
Miscellaneous revenue			
3620 Lease revenue	121,195	120,370	120,520
Total Miscellaneous revenue	<u>121,195</u>	<u>120,370</u>	<u>120,520</u>
Total Revenue:	<u>121,195</u>	<u>120,370</u>	<u>120,520</u>
Expenditures:			
Debt service			
4160.810 MBA Bond Principal	73,000	74,000	76,000
4160.820 MBA Interest on long term debt	48,195	46,370	44,520
Total Debt service	<u>121,195</u>	<u>120,370</u>	<u>120,520</u>
Total Expenditures:	<u>121,195</u>	<u>120,370</u>	<u>120,520</u>
Total Change In Net Position	<u>-</u>	<u>-</u>	<u>-</u>



AUTHOR: Shane Williamson
DEPARTMENT: Administration
DATE: June 13, 2023
TYPE OF ITEM: Informational

SUMMARY:

The Council will review and discuss the results and mitigation recommendations from the Fiscal Year 2023 Fraud Risk Assessment as required by the State Auditor.

BACKGROUND:

The Office of the State Auditor (Office) regularly receives complaints of fraud or abuse by local government officials. The Office is also aware of internal investigations performed by local governments of their own officials and employees. Some of these situations receive significant media coverage, while others are resolved with less publicity. In either case, the level of concern by the public and local and state officials is significant. Many have asked the Office for more direction on how to prevent such occurrences in the future. The program outlined in this guide is designed to help measure and reduce the risk of undetected fraud, abuse, and noncompliance in local governments of all types and sizes. This assessment is a starting point, it is the hope of the Office that local governments will add to and adapt this form to improve how they manage their internal controls and the risk of fraud, waste, and abuse.

ANALYSIS:

The Fraud Risk Assessment goes through several operational categories that may or may not present potential risks to the Town and its finances. In addition, the assessment and corresponding guidelines provide insight and recommendations for ways to improve operations in those categories deemed risky. As such, the results of the assessment deliver an organization in varies ranges from Very High Risk to Very Low Risk depending on the overall score. For FY 2023, Brian Head Town Scored 295 points, up from 285 points last year, placing our organization in the Moderate range of riskiness. That said, Staff feels this is not a bad starting point given our limited staff and operational size. However, there are many potential improvements that can move us closer to if not within the Low-risk range.

First, we can look at the areas we met expectations on the assessment:

- Basic Separation of Duties – 200 Points
- Conflict of Interest Policy and Code of Ethics – 5 points each
- Procurement Policy – 5 points
- Ethical Behavior – 5 Points
- Travel Policy - 5 Points
- Written Credit/Purchasing Card Policy – 5 Points
- Personal Use of Agency Equipment Guidelines – 5 – Points
- Cash receipting and deposits policy – 5 Points
- Annual commitment to ethical behavior – 20 points
- Annual State Auditor Training – 20 points
- Annual financial training for Clerk and Treasurer – 20 points

On the other hand, some areas we felt short but can easily improve are as follows:

- Written Fraud and abuse reporting procedure – 5 points
- Promotion of a fraud hotline (An effective hotline can be implemented at virtually no cost and can be as simple as providing an email address or phone number.) – 20 Points
- Implement an Internal Audit function (To eliminate added costs entirely, some entities may coordinate with peer entities and utilize each other's financial staff to act as internal auditors. – 20 points

Therefore, by working on and adopting a few of the above recommendations, we can increase our score by 45 points, placing us at 340 overall points, landing in the top end of the Low-Risk range without substantially increasing our costs.

FINANCIAL IMPLICATIONS:

N/A

BOARD/COMMISSION RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends working towards the implementation of the recommendations provided by the assessment results.

PROPOSED MOTION:

No motion necessary, item is discussion/informational only.

ATTACHMENTS:

A – FY 2023 Fraud Risk Assessment



Fraud Risk Assessment

INSTRUCTIONS:

- Reference the *Fraud Risk Assessment Implementation Guide* to determine which of the following recommended measures have been implemented.
- Indicate successful implementation by marking “Yes” on each of the questions in the table. Partial points may not be earned on any individual question.
- Total the points of the questions marked “Yes” and enter the total on the “Total Points Earned” line.
- Based on the points earned, circle/highlight the risk level on the “Risk Level” line.
- Enter on the lines indicated the entity name, fiscal year for which the Fraud Risk Assessment was completed, and date the Fraud Risk Assessment was completed.
- Print CAO and CFO names on the lines indicated, then have the CAO and CFO provide required signatures on the lines indicated.

Fraud Risk Assessment

Continued

*Total Points Earned: 295 /395 *Risk Level: Very Low Low Moderate High Very High
 > 355 316-355 276-315 200-275 < 200

	Yes	Pts
1. Does the entity have adequate basic separation of duties or mitigating controls as outlined in the attached Basic Separation of Duties Questionnaire?	✓	200
2. Does the entity have governing body adopted written policies in the following areas:		
a. Conflict of interest?	✓	5
b. Procurement?	✓	5
c. Ethical behavior?	✓	5
d. Reporting fraud and abuse?		5
e. Travel?	✓	5
f. Credit/Purchasing cards (where applicable)?	✓	5
g. Personal use of entity assets?	✓	5
h. IT and computer security?		5
i. Cash receipting and deposits?	✓	5
3. Does the entity have a licensed or certified (CPA, CGFM, CMA, CIA, CFE, CGAP, CPFO) expert as part of its management team?		20
a. Do any members of the management team have at least a bachelor's degree in accounting?		10
4. Are employees and elected officials required to annually commit in writing to abide by a statement of ethical behavior?	✓	20
5. Have all governing body members completed entity specific (District Board Member Training for local/special service districts & interlocal entities, Introductory Training for Municipal Officials for cities & towns, etc.) online training (training.auditor.utah.gov) within four years of term appointment/election date?	✓	20
6. Regardless of license or formal education, does at least one member of the management team receive at least 40 hours of formal training related to accounting, budgeting, or other financial areas each year?	✓	20
7. Does the entity have or promote a fraud hotline?		20
8. Does the entity have a formal internal audit function?		20
9. Does the entity have a formal audit committee?		20

*Entity Name: Brian Head Town

*Completed for Fiscal Year Ending: June 30, 2023 *Completion Date: 5/11/2023

*CAO Name: Bret Howser *CFO Name: Shane Williamson

*CAO Signature:  *CFO Signature: 

*Required

Basic Separation of Duties

See the following page for instructions and definitions.

	Yes	No	MC*	N/A
1. Does the entity have a board chair, clerk, and treasurer who are three separate people?	✓			
2. Are all the people who are able to receive cash or check payments different from all of the people who are able to make general ledger entries?		✓	✓	
3. Are all the people who are able to collect cash or check payments different from all the people who are able to adjust customer accounts? If no customer accounts, check "N/A".		✓	✓	
4. Are all the people who have access to blank checks different from those who are authorized signers?	✓			
5. Does someone other than the clerk and treasurer reconcile all bank accounts OR are original bank statements reviewed by a person other than the clerk to detect unauthorized disbursements?	✓			
6. Does someone other than the clerk review periodic reports of all general ledger accounts to identify unauthorized payments recorded in those accounts?	✓			
7. Are original credit/purchase card statements received directly from the card company by someone other than the card holder? If no credit/purchase cards, check "N/A".	✓			
8. Does someone other than the credit/purchase card holder ensure that all card purchases are supported with receipts or other supporting documentation? If no credit/purchase cards, check "N/A".	✓			
9. Does someone who is not a subordinate of the credit/purchase card holder review all card purchases for appropriateness (including the chief administrative officer and board members if they have a card)? If no credit/purchase cards, check "N/A".	✓			
10. Does the person who authorizes payment for goods or services, who is not the clerk, verify the receipt of goods or services?	✓			
11. Does someone authorize payroll payments who is separate from the person who prepares payroll payments? If no W-2 employees, check "N/A".	✓			
12. Does someone review all payroll payments who is separate from the person who prepares payroll payments? If no W-2 employees, check "N/A".	✓			

* MC = Mitigating Control

Basic Separation of Duties

Continued

Instructions: Answer questions 1-12 on the Basic Separation of Duties Questionnaire using the definitions provided below.

☺ If all of the questions were answered “Yes” or “No” with mitigating controls (“MC”) in place, or “N/A,” the entity has achieved adequate basic separation of duties. Question 1 of the Fraud Risk Assessment Questionnaire will be answered “Yes.” 200 points will be awarded for question 1 of the Fraud Risk Assessment Questionnaire.

⊗ If any of the questions were answered “No,” and mitigating controls are not in place, the entity has not achieved adequate basic separation of duties. Question 1 of the Fraud Risk Assessment Questionnaire will remain blank. 0 points will be awarded for question 1 of the Fraud Risk Assessment Questionnaire.

Definitions:

Board Chair is the elected or appointed chairperson of an entity’s governing body, e.g. Mayor, Commissioner, Councilmember or Trustee. The official title will vary depending on the entity type and form of government.

Clerk is the bookkeeper for the entity, e.g. Controller, Accountant, Auditor or Finance Director. Though the title for this position may vary, they validate payment requests, ensure compliance with policy and budgetary restrictions, prepare checks, and record all financial transactions.

Chief Administrative Officer (CAO) is the person who directs the day-to-day operations of the entity. The CAO of most cities and towns is the mayor, except where the city has a city manager. The CAO of most local and special districts is the board chair, except where the district has an appointed director. In school districts, the CAO is the superintendent. In counties, the CAO is the commission or council chair, except where there is an elected or appointed manager or executive.

General Ledger is a general term for accounting books. A general ledger contains all financial transactions of an organization and may include sub-ledgers that are more detailed. A general ledger may be electronic or paper based. Financial records such as invoices, purchase orders, or depreciation schedules are not part of the general ledger, but rather support the transaction in the general ledger.

Mitigating Controls are systems or procedures that effectively mitigate a risk in lieu of separation of duties.

Original Bank Statement means a document that has been received directly from the bank. Direct receipt of the document could mean having the statement 1) mailed to an address or PO Box separate from the entity’s place of business, 2) remain in an unopened envelope at the entity offices, or 3) electronically downloaded from the bank website by the intended recipient. The key risk is that a treasurer or clerk who is intending to conceal an unauthorized transaction may be able to physically or electronically alter the statement before the independent reviewer sees it.

Treasurer is the custodian of all cash accounts and is responsible for overseeing the receipt of all payments made to the entity. A treasurer is always an authorized signer of all entity checks and is responsible for ensuring cash balances are adequate to cover all payments issued by the entity.



BRIAN HEAD

STAFF REPORT TO THE TOWN COUNCIL

ITEM: LMC CHANGE - CH. 2, 7, 9 - INCLUSIONARY ZONING

AUTHOR: Bret Howser
DEPARTMENT: Administration
DATE: June 13, 2023
TYPE OF ITEM: Legislative Action

SUMMARY:

The Town Council will hold a public hearing and consider an ordinance amending the Land Management Code establishing an inclusionary zoning bonus incentive which will allow bonus density for subdivisions which provide for affordable housing.

BACKGROUND:

The Town has been seeing workforce housing as a potential issue on the horizon for many years, identifying various action steps to address it in the Strategic Plan. In 2022, the Town worked with 5 County Association of Governments to develop a Workforce Housing Plan. This study (see attached) estimates existing deficits in the affordable housing stock, evaluates the Town's Land Management Code for impediments to affordable housing development, and suggest various tools/policies the Town might employ to resolve affordable housing deficits.

When the Council received this Workforce Housing Plan in July 2022, their direction to staff included: 1) focus on workforce housing with an eye toward Employer Assisted Housing, 2) look at the "missing middle and maybe use a lighter touch approach to encourage "attainable housing", and 3) look to public transit to Parowan/Cedar as a significant strategy for resolving workforce housing issues. There was not initially much appetite for an inclusionary zoning requirement.

The Town Council and some members of the Planning Commission visited Telluride and Mountain Village, CO, in September 2022. Those communities reported that they were continually grappling with affordable/workforce housing issues, albeit the two communities differed significantly with their approaches. Notes from that visit were as follow:

- *Workforce/Affordable Housing*
 - *They're trying to build their way out of a significant problem*
 - *Their issues may be more pronounced than ours due to lack of nearby population base*
 - *Transit will always be part of the solution*
 - *If you go to deed restricted housing, get help (and ensure pricing cap rate)*
 - *Hard to decide if Brian Head needs to get into housing development?? Takes Big Pockets - Moab's situation with a mobile home park isn't going well.*
 - *If town starts to consider affordable housing, it might work best off the mountain in Parowan, as the commute up Hwy 143 is short and the cost would be significantly less.*
 - *Mountain Village had 2 types of affordable housing - rental apartments - studios, 1 bdrms, 2 bdrms in a park like setting and houses in the Meadows that are purchased and had some weak deed restrictions.*
 - *I prefer shuttle solution. Most 20 somethings do not want to live here all year anyway. All the talk of deed restricted priorities and town owned developments seemed to all come with*

many problems. Parowan and Cedar are relatively close, which is different than the situation in Telluride and MV.

- *Their affordable housing seems to be more for professionals than basic employees. So lower earning employees are forced to carpool or bus from out of town. Affordable housing just moved out of Brian Head in the last few years and I doubt it will return. We need to develop a plan now. I like the idea for developers to help with units or high “in lieu of”.*

In January 2023, the Council revisited the concept of inclusionary zoning during the strategic planning retreat. At that point, some members of the Council perceived a greater need for forward thinking on the housing issue and asked staff to take a deeper dive into the subject. Staff then contracted with Thomas Eddington of Integrated Planning and Design, LLC, to lead the Town in consideration and development of an inclusionary zoning ordinance.

On May 2, 2023, the Planning Commission and Town Council held a joint work meeting to review a report produced by Integrated Planning and Design and address policy questions precursor to developing a draft ordinance. A strong majority of members of both bodies were supportive of the concept of requiring housing developers to provide affordable housing under an incentivized structure. Most seemed to support a requirement between the 5% and 10% range. Direction was to put together an ordinance based on the Park City model, and we’ll modify it from there.

On June 6, the Planning Commission held a public hearing and forwarded a positive recommendation of the attached ordinance.

ANALYSIS:

The attached draft ordinance would do the following:

1. Reduce the base maximum densities in zones R1, R2, and R3 to
2. Allow for density bonuses (basically back to our current density limits, with a new density limit of 20 units/acre in R3) for those willing to meet inclusionary zoning requirements
3. Sets the requirement as follows:
 - a. For rental units – 2.5% @ 30% Area Median Income (AMI) or 5% @ 60% AMI
 - b. For for-sale units – 5% @ 80% AMI
4. Gives three options for fulfilling the requirement: 1) Build on-site, 2) Fee In-Lieu, or 3) land donation
 - a. The fee in-lieu calculation can be found in Attachment B
5. Puts design criteria on the affordable units (minimum size, etc) and requirements on the mix of unit types, location, and timing of construction
6. Defines affordable units, income limitations, deed restricted prices/rents, etc

A copy of the proposed language has been sent to the Town Attorney for review. Staff had not received his opinion by the writing of this report.

STAFF RECOMMENDATION:

The staff recommended ordinance was taken before the Planning Commission, who made a handful of changes. Staff concurs with the edits proposed by the Planning Commission, which are reflected in the attached proposed ordinance.

PLANNING COMMISSION RECOMMENDATION:

The attached proposed ordinance reflects the Planning Commission recommendation. Each member of the Planning Commission individually supported the 5% housing requirement to qualify for the bonus density.

PROPOSED MOTION:

I move to adopt ordinance No. 23-006 establishing inclusionary zoning density bonuses as presented by staff [or with the following provisions...]

ATTACHMENTS:

A - Proposed Ordinance Inclusionary Zoning Ordinance language

B - Fee In-Lieu Calculation



BRIAN HEAD

ORDINANCE NO. 23-__

AN ORDINANCE AMENDING BRIAN HEAD TOWN CODE, TITLE 9, LAND MANAGEMENT CODE, CHAPTER 7- ZONE DISTRICT REGULATIONS AND CHAPTER 9 SUBDIVISIONS FOR INCLUSIONARY ZONING BONUS INCENTIVES FOR SUBDIVISIONS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Brian Head Town has identified a need to amend the Brian Head Land Management Code in order to regulate land use within the Town limits of Brian Head, Utah; and,

WHEREAS, the Brian Head Planning Commission held a public hearing on June 6, 2023, giving at least fourteen (14) days' notice prior to the public hearing to receive public comment. The Planning Commission hereby forward their recommendation of approval with modifications of the Brian Head Land Management Code, Chapter 7, Zone District Regulations and Chapter 9, Subdivisions the Brian Head Town Council for their consideration and adoption; and

WHEREAS, the Brian Head Town Council held a public hearing on June 13, 2023 giving at least fourteen (14) days' notice to receive public comment on the proposed amendments Brian Head Land Management Code; and

WHEREAS, the Town Council believes that it is in the best interest of the Town to establish workforce housing with incentives to developers who desire to build within Brian Head Town; and

WHEREAS, it is in the best interests of Brian Head Town and the health, safety, and general welfare of its citizens to adopt this Ordinance:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF BRIAN HEAD, UTAH, COUNTY OF IRON, STATE OF UTAH, AS FOLLOWS:

Section 1. The Brian Head Land Management Code is hereby amended and incorporated herein by reference as Title 9, Chapter 7 Zone District Regulations and Chapter 9 Subdivisions hereby as Attachment "A". All changes are hereby identified in red font.

Section 2. Effective Date. This Ordinance shall take effect upon its passage by a majority vote of the Brian Head Town Council and following notice and publication as required by law. Upon this Ordinance being adopted by the Brian Head Town Council of Iron County, Utah, all provisions of this Ordinance shall be incorporated into Title 9 of the Brian Head Town Code.

Section 3. Conflict. To the extent of any conflict between other Town, County, State, or Federal laws, ordinances or regulations and this Ordinance, the more restrictive is deemed to be controlling.

Section 4. Severability Clause. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 5. Repealer. All provisions of the Brian Head Town Code that are inconsistent with the expressed terms of this Ordinance shall be repealed.

PASSED AND ADOPTED BY THE BRIAN HEAD TOWN COUNCIL OF IRON COUNTY, UTAH this ____ day of June, 2023 with the following vote.

TOWN COUNCIL VOTE:

Mayor Clayton Calloway	Aye____	Nay____
Council Member Martin Tidwell	Aye____	Nay____
Council Member Kelly Marshall	Aye____	Nay____
Council Member Shaun Kelly	Aye____	Nay____
Council Member Larry Freeberg	Aye____	Nay____

BRIAN HEAD TOWN COUNCIL

ATTEST:

By: _____
Clayton Calloway, Mayor

Nancy Leigh, Town Clerk

(SEAL)

CERTIFICATE OF PASSAGE AND POSTING

I hereby certify that the above Ordinance is a true and accurate copy, including all attachments, of the Ordinance, passed by the Town Council on the ____ day of June 2023 and hereby posted a summary of the adopted ordinance in three conspicuous places within the Town of Brian Head, to-wit: Town Hall, Post Office, and the Mall and a complete copy of the adopted ordinance on the Brian Head Town Website and posted on the Utah Public Meeting Notice Website.

Nancy Leigh, Town Clerk

Title 9 – Land Management Code

Chapter 7

ZONE DISTRICT REGULATIONS

[9-7-1: R-1 SINGLE-FAMILY RESIDENTIAL:](#)

[9-7-2: R-2 MEDIUM DENSITY RESIDENTIAL:](#)

[9-7-3: R-3 MULTI-FAMILY RESIDENTIAL:](#)

[9-7-4: GC GENERAL COMMERCIAL:](#)

[9-7-5: VC VILLAGE COMMERCIAL:](#)

[9-7-6: L-1 LIGHT INDUSTRIAL:](#)

[9-7-7: ROS RECREATION OPEN SPACE:](#)

[9-7-8: COS CONSERVATION OPEN SPACE:](#)

[9-7-9: C CIVIC:](#)

[9-7-10: BUILDING BONUSES:](#)

[9-7-11: CCOD COMMERCIAL CORE OVERLAY DISTRICT](#)

9-7-1: R-1 SINGLE-FAMILY RESIDENTIAL:

A. **Purpose:** The R-1 district is intended to provide sites for low density single-family residential uses, together with such public facilities as may appropriately be located in the same district. The R-1 district regulations are intended to ensure adequate light, air, open space for each dwelling, commensurate with single-family occupancy, and, along with the Town Design Standards, to maintain the desirable residential qualities of such sites by establishing appropriate site development standards. Certain nonresidential uses may be permitted as conditional uses, and where approved, are intended to blend harmoniously with the residential character of the district.

B. **Permitted Uses:** Only the following uses are permitted in the R-1 zone:

Boarding of horses for non-commercial use, subject to a horse boarding permit.

Commercial rentals of single-family residences, subject to a business license.

Home occupations identified in subsection [9-10-5](#) of this title.

Single-unit dwellings.

Other uses customarily incidental and accessory to single-family residential uses, and necessary for the operation thereof (garages or carports, play equipment, or other approved single-family use).

C. **Conditional Uses:** The following uses are conditional and require a conditional use permit:

Bed and breakfast rentals.

Churches.

Home occupations identified in subsection [9-10-5C](#) of this title.

Mother-in-law / guest house is an accessory use one lot that is equal to or greater than one acre and shall comply with accessory structure requirements in this title with a maximum of one mother-in-law/guest house per property. (ord. 18-006, 6-11-2018 amd. ord. 20-006, 7-14-2020)

Public or private schools.

Public parks.

Public utility uses.

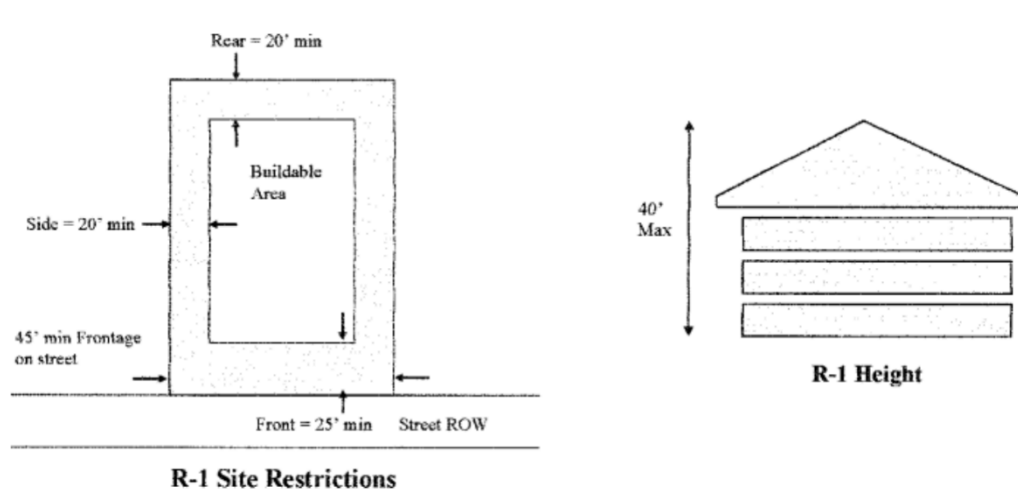
D. **Physical Restrictions:**

1. Minimum lot area: ~~Fourteen thousand five hundred twenty (14,520) square feet ($\frac{1}{3}$ acre)~~ One (1) acre or forty-three thousand five hundred sixty (43,560) square feet. Lots as small as fourteen thousand five hundred twenty (14,520) square feet or one-third (1/3) acre may be allowed where the provisions of §9-9-7 are met.
2. Minimum frontage width: Forty-five feet (45'). (amd. ord. 22-002, 5-10-22)
3. Minimum setbacks:
 - a. Front: Twenty-five feet (25'). An administrative exception may be granted for the garage only when all of the following apply:
 - i. Front yard setback exceeds twenty percent (20%) slope (11.3 degrees).
 - ii. No habitable space within the setback area.
 - iii. Required off street parking is satisfied and maintained in the garage or on the lot.
 - iv. The roof sheds snow away from the public right of way.
 - v. Adequate snow storage on the lot.

Under no circumstances will the setback be less than five feet (5'). (ord. 17-004, 7-11-2017)
 - b. Side: Twenty feet (20').
 - c. Rear: Twenty feet (20').

4. Setback exception: The following shall be allowed to encroach within the required setback, subject to compliance with the provisions of this section:
 - a. Driveway and walkways.
 - b. Roof eaves provided they encroach no more than five feet (5') into the required setback.
 - c. Pop out windows, provided the bottom of the pop out structure is no less than four (4') feet above grade, measured at the pop out structure, the total width of the pop out structure does not exceed twelve feet (12') measured at the point where the pop out structure attaches to the residential structure, the pop out structure is under and completely covered by a roof overhang or eaves, and the pop out structure encroaches no more than three and one-half feet (3 ½') into the required setback; and, (2010 Code, amd. ord. 15-004, 4-28-2015)
 - d. Decks and exterior staircases attached to the residential structure may be permitted on a case-by-case basis after written approval of the Zoning Administrator, following review. The deck or exterior staircase must be uncovered other than by a permitted roof overhang or eaves of the residential structure, and the deck or exterior staircase may encroach no more than four feet (4') into the required setback. Decks or walkways less than 30" above grade may stand within the innermost one-third (1/3) of the setback. (2010 Code, amd. ord. 15-004, 04-28-2015).
5. Maximum Building Height: Twenty-five feet (25'). (2010 Code, amd. ord. 22-002, 5-10-22)
6. Maximum building coverage:
 - a. One thousand square feet (1,000 sq. ft) footprint including garages, patios, and decks for a primary habitable structure. No more than 40% for all structures combined. (amd. ord. 15-004, 04-28-2015, amd. ord. 22-002, 5-10-22)
 - b. Minimum building coverage: 400 square feet for a primary habitable structure footprint (not including unenclosed decks and porches) and 160 square feet for a secondary habitable structure. (ord. 20-006, 7-14-20)
 - c. A property owner wishing to build larger than what is allowed in this code may refer to the Building Bonus section in 9-7-10. (ord. 22-002, 5-10-2022)
7. Minimum landscaping: Twenty-five percent (25%) of the lot shall be landscaped per section [9-12-5](#) of this title, with every effort to preserve vegetation. (2010 Code, amd. ord. 15-004-2015).
8. Parking: In accordance with section [9-12-15](#) of this title.
9. Undisturbed lot area: Fifteen (15%) of the lot shall not be disturbed during development. (2010 Code, amd. ord. 15-004, 04-28-2015)
10. Remaining undeveloped lot: The remaining area shall be landscaped as per section [9-12-5](#) of this title. (2010 Code, amd. ord. 15-004, 04-28-2015)

11. One piece of heavy equipment along with two heavy equipment attachments may be kept on premises for non-commercial use, such as private snow removal or light excavation. The equipment shall be parked in a place and manner so as to be reasonably screened from view from the public right of way. Additional equipment used for construction may be parked at the site when authorized by a current building permit or otherwise authorized by the Town. (ord. 16-007, 11-08-2016)
12. Storage Containers: Storage or cargo containers are not allowed be used as dwelling units in R-1 zones. (ord. 22-002, 5-10-22)



9-7-2: R-2 MEDIUM DENSITY RESIDENTIAL:

- A. **Purpose:** The R-2 district is intended to provide sites for medium density single- and multi- family residential use at a maximum density of eight (8) dwelling units per acre, together with such public facilities as may appropriately be located in the same district. The R-2 district regulations are intended to ensure adequate light, air, open space for each dwelling, commensurate with medium density multi-family occupancy, and along with the Town Design Guidelines, to maintain the desirable residential qualities of such sites by establishing appropriate site development standards. Certain nonresidential uses may be permitted as conditional uses, and where approved, are intended to blend harmoniously with the residential character of the district.
- B. **Permitted Uses:** Only the following uses are permitted in the R-2 zone:
- Food and beverage services (restaurant, cafe, etc.).
 - Home occupations identified in subsection [9-10-5](#) of this title.
 - Multi-family dwellings (2 or more dwelling units per structure, including townhomes).
 - Nightly rental of dwelling units, subject to a business license.
 - Property management.

Public parks and open spaces.

Single-unit dwellings.

Spa.

Other uses customarily incidental and accessory to medium density family residential uses, and necessary for the operation thereof (garages or carports, play equipment, etc.)

C. **Conditional Uses:** The following uses are conditional and require a conditional use permit:

Bed and breakfast rentals.

Churches.

Home occupations identified in subsection [9-10-5 C](#) of this title.

Public facilities.

Public or private schools. Public utility uses.

D. **Physical Restrictions:**

1. Minimum lot area: Twenty-one thousand seven hundred eighty (21,780) square feet ($\frac{1}{2}$ acre).

2. Minimum frontage: Forty-five feet (45').

3. Minimum setbacks:

- a. Front: Twenty-five feet (25'). An administrative exception may be granted for the garage only when all of the following apply:
 - i. Front yard setback exceeds twenty percent (20%) slope (11.3 degrees);
 - ii. No habitable space within the setback area;
 - iii. Required off street parking is satisfied and maintained in the garage or on the lot;
 - iv. The roof sheds snow away from the public right of way; and
 - v. Adequate snow storage on the lot.

Under no circumstances will the setback be less than five feet (5').

(ord. 17-004, 7-11-2017).

b. Side: Twenty feet (20');

c. Rear: Twenty feet (20'). (amd. ord. 22-002, 5-10-22)

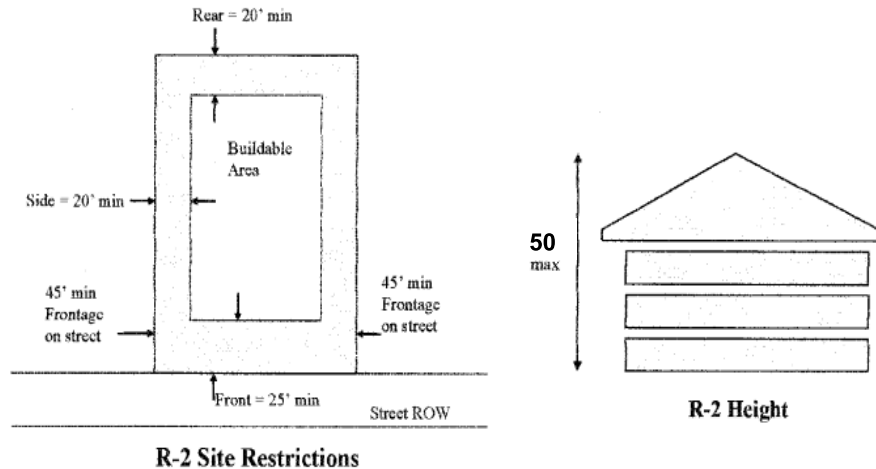
4. Setback exception: The following shall be allowed to encroach within the required setback, subject to compliance with the provisions of this section:

- a. Driveways and walkways;

- b. Roof eaves, provided they encroach no more than five feet (5') into the required setback;
 - c. Pop out windows, provided the bottom of the pop out structure is no less than four feet (4') above grade measured at the pop out structure, the total width of the pop out structure does not exceed twelve feet (12') measured at the point where the pop out structure attaches to the residential structure, the pop out structure is under and completely covered by a roof overhang or eaves, and the pop out structure encroaches no more than three and one-half feet (3½') into the required setback; and
 - d. Decks and exterior staircases attached to the residential structure may be permitted on a case-by-case basis after written approval of the Town Manager, or designee, following review. The deck or exterior staircase must be uncovered other than by a permitted roof overhang or eave of the residential structure, and the deck or exterior staircase may encroach no more than four feet (4') into the required setback. Decks or walkways less than 30" above grade may stand within the innermost one-third (1/3) of the setback. (2010 Code, amd. ord. 15-004, 04-28-2015)
5. Maximum height: Twenty-five feet (25'). (amd. ord. 22-002, 5-10-2022)
6. Maximum building coverage: One thousand five hundred square feet (1,500 sq. ft.) footprint including garages, patios, and decks. (amd. ord. 22-002, 5-10-2022)
7. A property owner wishing to build larger than what is allowed in this code may refer to the Bonus Section in [9-7-10](#) of this title.
8. Maximum density: ~~Eight (8)~~ Four (4) units per acre (or a fraction thereof) for multi-family dwellings, including constraints of this title relating to height, setback, landscaping, lot disturbance, parking, etc. ~~Up to eight (8) units per acre may be allowed where the provisions of §9-9-7 are met.~~
9. Minimum landscaping: Twenty-five percent (25%) of the lot shall be landscaped per [§ 9-12-5](#) of this title, with every effort to preserve vegetation. (2010 Code, amd. ord. 15-004, 04-28-2015).
10. Parking: In accordance with section [9-12-15](#)
11. Undisturbed lot area: Remaining undeveloped area shall be landscaped as per section [9-12-5](#) of this title (2010 Code, amd. ord. 15-004, 04-28-2015)
12. Remaining undeveloped area shall be landscaped as per section [9-12-5](#) of this title (amd. 2015 ord. 15-004, 04-28-2015)
13. One piece of heavy equipment along with two heavy equipment attachments may be kept on premises for uses such as snow removal or light excavation. The equipment shall be parked in a place and manner so as to be reasonably screened from the view of the public right of way. Additional equipment used for construction

may be parked at the site when authorized by a current building permit or otherwise authorized by the Town. (ord. 17-001, 4-11-2017)

14. Storage containers: Storage or cargo containers are not allowed to be used as a dwelling unit in R-2 zones. (ord. 22-002, 5-10-2022).



(2010 Code, amd. ord. 15-004, 4-28-2015)

9-7-3: R-3 MULTI-FAMILY RESIDENTIAL:

- A. **Purpose:** The R-3 district is intended to provide sites for multiple-family dwellings at densities restricted by constraints of this title relating to height, setback, landscaping, lot disturbance, parking, etc., together with such commercial and public facilities as may appropriately be located in the same district. The R-3 district regulations are intended to ensure adequate light, air, open space, and other amenities commensurate with multiple-family occupancy, and, with the Town Design Standards, to maintain the desirable residential qualities of the district by establishing appropriate site development standards. Certain nonresidential uses may be permitted as conditional uses and, where approved, are intended to blend harmoniously with the residential character of the district.

- B. **Permitted Uses:** Only the following uses are permitted in the R-3 zone:

Bed and breakfast establishments.

Home occupations identified in subsection [9-10-5](#) of this title.

Multi-family dwellings (2 or more dwelling units per structure, including townhomes).

Nightly rentals of dwelling units, subject to a business license.

Property management.

Public open spaces (parks and trails for hiking, non-motorized biking, and Nordic skiing etc.).

Single-unit dwellings.

Other uses customarily incidental and accessory to permitted uses and necessary for the operation and maintenance thereof, such as garages, carports, play equipment and accessory structure.

C. Conditional Uses: The following uses are conditional and require a conditional use permit:

Churches.

Convention facilities.

Food and beverage services (restaurant, cafe, etc.).

Home occupations identified in subsection [9-10-5C](#) of this title.

Limited retail, food and beverage service and personal services in conjunction with lodging facilities (barber/beauty, travel, childcare, etc.) for the use of building residents (area of accessory uses may not exceed 40 square feet per residential unit).

Public institutions.

Public parking lots.

Real estate sales offices operated in conjunction with condominium rental offices when the office space is constructed as part of the project or when approved by the homeowners' association and in conformance with the projects CC&Rs.

Recreational trails and use of open space for motorized vehicles.

Schools.

Spa.

D. Physical Restrictions:

1. Minimum lot area: Twenty-one thousand seven hundred eighty (21,780) square feet ($\frac{1}{2}$ acre).

2. Minimum frontage: Forty-five feet (45').

3. Minimum setbacks:

a. Front: Twenty-five feet (25'). An administrative exception may be granted for the garage only when all of the following apply:

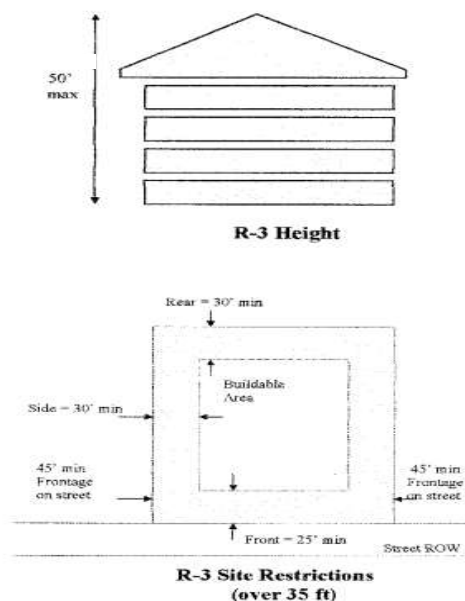
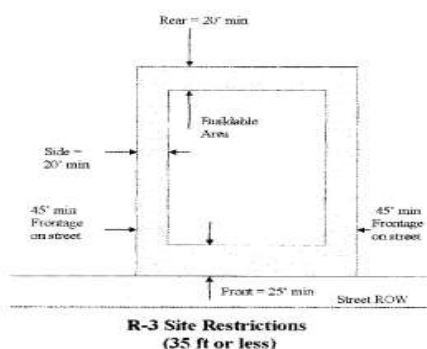
- i. Front yard setback exceeds twenty percent (20%) slope (11.3 degrees);
- ii. No habitable space within the setback area
- iii. Required off-street parking is satisfied and maintained in the garage or on the lot
- iv. The roof sheds snow away from the public right of way
- v. Adequate snow storage on the lot
- vi. Development does not exceed R-2 density. (Ord. 20-006, 7-14-20)

Under no circumstances will the setback be less than five feet (5').

- b. Side: Twenty feet (20').
 - c. Rear: Twenty feet (20').
 - d. For buildings over thirty-five feet (35') in height
 - i. Side: Thirty feet (30');
 - ii. Rear: Thirty feet (30');
 - iii. Front: Twenty-five feet (25').
4. Setback exceptions: The following may be permitted to encroach within the required setback, subject to compliance with the provisions of this section, on a case-by-case basis after written approval of the Town Manager, or designee, following review:
- a. Driveways and walkways running parallel to a property line shall not occupy more than seventy five percent (75%) of the required setback area while retaining at least twenty five percent (25%) of the required area as a landscape buffer.
 - b. Roof eaves, provided they encroach no more than five feet (5') into the required setback.
 - c. Pop out windows, provided the bottom of the pop out structure is no less than four feet (4') above grade measured at the pop out structure, the total width of the pop out structure does not exceed twelve feet (12') measured at the point where the pop out structure attaches to the residential structure, the pop out structure is under and completely covered by a roof overhang or eaves, and the pop out structure encroaches no more than three and one-half feet (3¹/₂') into the required setback; and (2010 Code amd ord. 15-004, 04-28-2015)
 - d. Decks and exterior staircases attached to the residential structure. The deck or exterior staircase must be uncovered other than by a permitted roof overhang or eaves of the residential structure, and the deck or exterior staircase may encroach no more than four feet (4') into the required setback. Decks or walkways less than 30' above grade may stand within the innermost one-third (1/3) of the setback. (2010 Code amd ord. 15-004, 04-28-2015)
4. Maximum density: ~~Restricted by constraints of this title relating to height, setback, landscaping, lot disturbance, parking, etc.~~ Eight (8) units per acre (or a fraction thereof) for multi-family dwellings, including constraints of this title relating to height, setback, landscaping, lot disturbance, parking, etc. Up to twenty (20) units per acre may be allowed where the provisions of §9-9-7 are met.
5. Maximum height: Sixty feet (60') for peaked roof, forty feet (40') for flat roof; (2010 Code. amd ord. 15-004, 04-28-2015)
6. Maximum building coverage: Forty percent (40%) of the lot area. Fifty percent (50%) is permitted if all of the required parking is within the footprint of the building. (2010 Code. amd ord. 15-004, 04-28-2015)

7. Minimum landscaping: Forty percent (40%) or all disturbed portions of the property, whichever is greater, shall be landscaped per section [9-12-5](#) of this title, with every effort to preserve existing vegetation. If the building footprint is at 50% and required covered parking is within the footprint of the building, then the landscaping minimum will be 30%. (2010 Code. amd ord. 15-004, 04-28-2015)
8. Parking: In accordance with section [9-12-15](#) of this title
9. Remaining undeveloped area shall be landscaped as per section [9-12-5](#) of this title. (2010 Code. amd Ord. 15-004, 04-28-2015)
10. One piece of heavy equipment along with two heavy equipment attachments may be kept on premises for uses such as snow removal or light excavation. The equipment shall be parked in a place and manner so as to be reasonably screened from view from the public right of way. Additional equipment used for construction may be parked at the site when authorized by a current building permit or otherwise authorized by the Town. (ord. 17-001, 4-11-2017)

60'



(2010 Code, amd. ord. 15-004, 04-28-2015)

Title 9 – Land Management Code

Chapter 9 SUBDIVISIONS

9-9-1: PURPOSE:

9-9-2: SUBDIVISION PROCESS:

9-9-3: PLAT AMENDMENTS:

9-9-4: SUBDIVISION BY METES AND BOUNDS:

9-9-5: CONVERTIBLE OR EXPANDABLE AREA FOR CONDOMINIUMS:

9-9-6: WATER ACQUISITION:

9-9-7: INCENTIVIZED INCLUSIONARY HOUSING:

9-9-7: INCENTIVIZED INCLUSIONARY HOUSING:

A. Purpose & Authority:

1. To support the 2022 Workforce Housing Plan's recommendation to implement an inclusionary housing program for Brian Head Town;
2. To facilitate and encourage development that includes a range of housing opportunities through a variety of residential types, forms of ownership, home sale prices and rental rates;
3. To increase the number of owner-occupied or 'for sale' housing units for households with an income of 80% or less of Iron County's Median Income; and
4. To increase the number of rental housing units for households with an income of 60% or less (or less than 30% for some projects) of Iron County's Median Income.
5. To provide for a range of workforce housing units to ensure the welfare and viability of the Town's resort economy operations.

B. Applicability & Minimum Project Size: Incentivized Height and/or Density Opportunities Based Upon the Provision of Workforce Housing

1. The following bonus density is allowed where the workforce housing provisions of this section are met:

- a. R1: Single Family Residential – One unit per 1/3 acre
- b. R2: Medium Density Residential – Eight units per acre
- c. R3: Multi-Family Residential – Twenty units per acre

2. On-Site Option:

a. Any new residential or commercial project may increase the allowed base density, or building height, on a site pursuant to the zoning classification bonus standards outlined in 9-9-7.2-A.1.c subject to the provision of deed-restricted affordable housing units on site with the following income restrictions

i. Rental Units:

- I. For subdivisions or condominium projects of ten (10) lots/units or more, 2.5% of the total dwelling units for rent must be affordable to households earning thirty percent (30%) or less of Iron County's Median Household Income; or
- II. For subdivisions or condominium projects of ten (10) lots/units or more, 5% of the total dwelling units for rent must be affordable to households earning sixty percent (60%) or less of Iron County's Median Household Income

ii. Ownership or 'For Sale' Units:

- I. For subdivisions or condominium projects of ten (10) lots/units or more, 5% of the total dwelling units for sale must be affordable to households earning eighty percent (80%) or less of Iron County's Median Household Income

b. For developments built by a single developer, all required workforce housing units must be constructed simultaneous to the market rate units. The final 20% of a project's building permits for the market units will not be issued until the workforce housing units are completed.

c. If the approved workforce housing units are part of a subdivision approval in which individual lots will be sold separately, the following provisions apply:

- i. All final subdivision plats shall include plat notes specifically identifying those lots that are dedicated for the construction of workforce housing units. These plat notes must include minimum/maximum size of unit requirements, household income requirements (e.g., 30%, 60% or 80% of AMI maximum allowances), etc.
- ii. These lots will also be required to have a deed-restriction recorded with the final subdivision plat that outlines the requirements and limitations associated with workforce housing.

- iii. The Applicant must provide a performance bond in the amount of the estimated construction costs for the workforce housing units. The Town Engineer will provide the construction cost estimate.
- iv. Whether the developer sells or donates these lots to a private or non-profit organization or decides to build the units themselves, all workforce housing units must be completed and a Certificate of Occupancy (CO) issued within two (2) years of the recordation of the final subdivision plat.

3. Cash-In-Lieu Option

- a. A developer may make a cash payment to the Town in lieu of providing the required number of on-site affordable units. The cash-in-lieu fee shall be calculated pursuant to the table below by multiplying the number of required affordable units by the applicable prescribed fee:

Tenure Type	Per Unit Fee
For Sale	\$350,000
Rental	\$200,000

- b. Remittance and collection of payment. Cash-in-lieu fees shall be collected in conjunction with the administration of the Town's system for planning and building review. All cash-in-lieu fees shall be paid in full prior to the recordation of the final subdivision plat. In the event that a project is phased, the cash-in-lieu fees may be paid with each applicable phase.
- c. Deposit and use of fees. All cash-in-lieu fees collected pursuant to this section shall be remitted to the housing development fund or a similar fund maintained by the Town. These funds shall be used exclusively to support the preservation or development of affordable housing for the administration and compliance of housing programs.

4. Land Donation Option

- a. A developer may dedicate land to the Town as a third option to satisfy their workforce housing units. The dedication of land shall be subject to the following requirements:

Tenure Type	Per Unit Land Dedication
For Sale	Dedication of land (or lots) that appraise at \$350,000 or more at time of dedication

Rental	Dedication of land (or lots) that appraise at \$200,000 or more at time of dedication
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- b. All land required for dedication to the Town must be deeded to the Town prior to or at the time of the recordation of the final subdivision or condominium plat.
5. Proportional Application. Any development proposing a mixture of ownership or 'for sale' dwelling units and 'rental' dwelling units shall have an obligation to satisfy the requirements of sections (1), (2), and (3) above based on the proportion of each use type to the overall development. This applies to on-site units as well as the cash-in-lieu and land donation options.
6. Rounding or Fractional Units. When calculating the number of on-site affordable units required pursuant to section (1) above, rounding shall be applied as outlined in the following example:
 - a. Example: A new 35-unit rental residential development is proposed. Application of a 5% inclusionary requirement for rental units results in a requirement for 1.75 deed-restricted affordable rental units. The proposed affordable housing plan shall (1) provide one deed-restricted affordable rental unit on-site and pay an additional cash-in-lieu fee for 0.75 units (see calculation below) or (2) provide two deed-restricted affordable rental units on-site with no additional cash-in-lieu fee.

Fractional Unit Calculation:

35 units with a 5% inclusionary requirement = 1.75 required affordable units.

One (1) deed-restricted affordable rental unit shall be constructed on-site or a fee of \$200,000 paid.

The remaining 0.75-unit requirement shall be met with the construction of one (1) affordable unit or a payment of \$150,000 (0.75 x \$200,000).

C. Standards for Income-Restricted Units

1. Design. Restricted units shall be comparable in design, size, and appearance to the market-rate units in the residential development, and shall comply with all size requirements and other design standards of the Town's Land Management Code requirements including, but not limited to, building code requirements, parking

standards, landscaping, etc. apply equally to all dwelling units, market units and affordable units alike.

- a. Minimum Square Footage Standards: In order to assure livability, the standard net livable square footage for affordable units shall be as follows:

UNIT TYPE	MINIMUM SQUARE FEET	MAXIMUM SQUARE FEET
Micro Unit/Studio	300	600
1 Bedroom	600	800
2 Bedroom	800	1,100
3 Bedroom	1,100	1,300
4 Bedroom	1,300	1,600

** Note: No development shall have more than 10% of all affordable units designated as 'Micro Unit/Studio' units. All units must be used as the homeowner's/renter's primary residence and comply with all aspects of the Town's Land Management Code and the Building Code.*

2. Type. Residential developments that include more than one type of residential unit shall provide income-restricted units in rough proportion to the types and various designs of market-rate residential units constructed. For example, in developments with a mixture of two-bedroom and three-bedroom residential units, the income-restricted units shall be comprised of each residential unit type in the same proportion and living area as the market-rate units. The Applicant may request an exception from this requirement for review and approval by the Town Council.
3. For sale or rent. Income-restricted units shall be for sale or for rent in the same proportion as the market-rate units. For example, if fifty percent (50%) of the units in the residential development are for sale, then at least fifty percent (50%) of the income-restricted units shall be for sale.
4. Location. Income-restricted units shall be located on the site on which the residential development is proposed, and shall have access to amenities equal to that of the owners and renters of the market-rate units, including without limitation: parks, outdoor play areas, pools, exercise facilities, and similar on-site amenities.
5. Timing. Income-restricted units shall be ready for occupancy no later than the date of the initial Certificate of Occupancy for any of the market-rate units in the project. If the market-rate units are to be constructed in phases, then the income-restricted units may be constructed in phases, in proportion to the phasing of the market-rate units.

D. Income Standards for All Affordable Housing Units

1. All units must remain affordable for a period not less than thirty (30) years from the initial Certificate of Occupancy. At that time, the Town Council shall determine whether to extend the inclusionary housing program and associated deed restrictions.
2. A deed restriction will be recorded on the property that stipulates the income requirements and term requirements for the units provided.
3. Household income shall be defined as the combined income of all individuals, excluding dependents, who are or will be occupying the unit regardless of legal status.
4. For ownership or 'for sale' units: qualified households cannot earn more than eighty percent (80%) of Iron County's household AMI (determined by the US Census' most recently released yearly data or equivalent source).
5. For rental units: qualified households cannot earn more than thirty percent (30%) or sixty percent (60%) of Iron County's household AMI (determined by the US Census' most recently released yearly data or equivalent source), depending on the project type submitted for review.
6. The Town Council will adopt income requirements by resolution as frequently as necessary and the requirements will be maintained by the Planning and Building Department.
7. In addition to income, the following standards will apply.
 - a. Net Assets/Net Worth Standard:
 - i. The combined net worth of the persons eighteen years of age and older in the Household shall not exceed four times the AMI for the household size. Assets include business assets, real estate, stocks, bonds, trust funds, cash and retirement accounts/
 - ii. A one-time gift of up to thirty percent (30%) of the purchase price used for the purchase of a for sale unit may be considered in net assets, and not as income, for the purposes of initial qualification.
 - iii. Disposition of Assets – Any member of a household who has assigned, conveyed, transferred or otherwise disposed of property or other assets within the last two (2) years without fair consideration in order to meet the net asset limitation or the property ownership limitation shall be ineligible.
8. Brian Head Town's Planning and Building Department staff, or designee, will serve as the entity to review and qualify households for the affordable units.
9. A list of qualified households shall be kept by the Town staff, or designee, in the order of approved application.

E. Calculation of Sale Price

1. The initial sales price for an affordable ownership unit in any development shall average a price affordable to a household earning eighty percent (80%) of Iron County's household AMI. The target household income sale price shall be calculated according to the following guidelines:

- a. Mortgage payment for the owner-occupied unit, including principal, interest, taxes and insurance ('PITI'), and HOA operating dues shall not exceed thirty percent (30%) of the target household income (gross).
- b. The assumptions used to calculate the sales price shall be: (i) a 5% down payment; (ii) a 30-year term; and (iii) an interest rate equal to the prevailing interest rates as defined by the federal government (Federal Reserve Bank of St. Louis) at the time of the offer.

F. Calculation of Rental Rates

1. In general, rental rates for an affordable unit in any development shall be affordable to a household earning either thirty (30%) or sixty percent (60%) of Iron County's household AMI (gross), depending on the project type submitted for review. Affordability standards are based on maximum rental rates which are targeted at thirty percent (30%) of the household's income. Maximum rental rates shall be calculated as follows:
 - a. Maximum rental rates shall include the cost of utilities and HOA fees, if applicable. The landlord/owner shall submit a lease which includes the proposed monthly rental rate along with proof of utility costs to Brian Head Town Planning and Building Department staff, or designee. Town staff, or designee, will evaluate the lease and either approve or deny the rental rate proposed based on the standards established herein.
 - b. Rental rates shall apply whether the units are provided furnished or unfurnished.
 - c. The owner of any designated affordable housing rental units, at their cost and expense, must keep and maintain the interior and exterior of the total structure (including all residential units therein) and the adjacent open areas in a safe and clean condition and in a state of good order and repair, reasonable wear and tear and negligent or intentional damage by tenants excepted.

G. Deed Restriction Standards for Affordable Units - Owner-Occupied Units and Rental Units

1. Owner Occupied Units. All owner-occupied affordable units will have the following requirements clearly outlined in the deed restriction recorded for the property:
 - a. The method of calculation of the allowed Maximum Resale Price ('MRP') shall include:
 - i. An increase in price of three percent (3%) per year from the date of purchase to the date of owner's notice of intent to sell (compounded annually and prorated at the rate of .25 percent per each whole month of any part of a year).
 - l. Any proposed improvements or renovations to the unit, internal or external, must be approved by the Town's

Planning and Development Department, or designee, prior to the commencement of any work. The base value of the unit may not increase more than 10% as a result of these approved eligible improvements. For example, if the base value of a unit is \$200,000, and an owner is approved to make improvements valued at \$25,000, the maximum value of the affordable unit will be capped at \$220,000 ($\$200,000 * 0.10$). The outstanding \$5,000 for improvements will not be counted in the MRP.

- ii. The notice of intent to sell must be made to the Town's Planning and Building Department staff, or designee, via USPS or email. The notice of intent shall allow the Department staff, or designee, no less than 60 days to determine whether to exercise the right-of-first-refusal or to coordinate a private transaction.
 - iii. The Town, or designee, shall either purchase the unit per a right-of-first-refusal clause included in the deed restriction or coordinate with the owner of the affordable unit to sell the unit to the qualified household at the top of the Town's qualified households list.
 - b. All owner-occupied units must be occupied by the qualified household that purchased the unit as the/their primary residence (minimum of twelve months occupancy per year).
 - c. No nightly rentals are permitted within any affordable housing unit.
2. Rental Units. All rental affordable units will have the following requirements clearly outlined in the deed restriction recorded for the property:
- a. a. All rental units must be occupied by the qualified household that rented the unit as the/their primary residence (minimum of twelve months occupancy per year unless the Town Council approves a project with part-time workforce housing units such as, but not limited to, single-room occupancy units, etc.).
 - i. The Applicant may request an exception from this requirement (e.g., a request for seasonal workforce housing, etc.) for review and approval by the Town Council.
 - b. No subleases are allowed without the written approval of the Town's Planning and Building Department, or designee.
 - c. No nightly rentals are permitted within any affordable housing unit.
 - d. The landlord/owner may not increase the monthly rental rates for the affordable units more than two percent (2%) annually.

H. Violation & Penalty

- 1. It is unlawful to operate a restricted unit in violation of this Chapter, and violations shall be punishable as set forth in Title 4 of the Town Code. Each day of violation shall be deemed a separate offense.

2. In addition to the remedies provided by this Code, the Town shall have any and all remedies provided by law and in equity for a violation of a deed restriction, including without limitation: (i) damages; (ii) specific performance; and (iii) injunctions, including without limitation an injunction requiring eviction of the occupant(s) and an injunction to prohibit the occupancy of the deed-restricted unit in violation of the deed restriction.

For Sale Unit	1,200 SF	
Construction Costs	\$245 per SF	\$294,000
Soft Costs (A & E)	8.00% of total construction costs	\$23,520
	(assumes \$125k per acre and 10 units/acre or existing max density permitted per Zoning Ordinance)	
Land Acquisition	\$12,500	\$12,500
	per Unit (e.g., roads, driveways, landscaping, stormwater infrastructure, parking, etc.)	
Infrastructure and Site Improvements	\$15,000	\$15,000
Total Cost per Owner Unit		\$345,020
Rounded Total Cost Per Owner Unit		\$350,000

For Rent Units (typ: 500 - 900 SF)	700 SF	
Construction Costs	\$230 per SF	\$161,000
Soft Costs (A & E)	8.00% of total construction costs	\$12,880
	(assumes \$250k per acre and 20 (possibly +/- 25) units/acre or blended existing typical densities permitted per Zoning Ordinance for MF, TH, etc.)	
Land Acquisition	\$12,500	\$12,500
	per Unit (e.g., roads, driveways, landscaping, stormwater infrastructure, parking, etc.); assumes economies of scale	
Infrastructure and Site Improvements	\$6,000	\$6,000
Total Cost per Owner Unit		\$192,380
Rounded Total Cost Per Renter Unit		\$200,000



ITEM:

Public Hearing & Ordinance Amending the LMC - Chp. 7 Building Spacing

AUTHOR: Lester Ross
DEPARTMENT: Administration
DATE: June 13, 2023
TYPE OF ITEM: Legislative Action

SUMMARY:

The Council will consider an ordinance amending the Land Management Code, Chapter 7, Zone District Regulations, Chapter 1 Single-Family Residential, Chapter 2 Medium-Density Residential, and Chapter 3, Multi-Family Residential by adding minimum distance between buildings.

BACKGROUND:

During past Planning Commission and Town Council meetings there have been some concerns expressed about the distance between buildings in Residential Planned developments or Master Planned developments.

An example of this was during the approval for the West Zion View subdivision and the tiny home project on Steam Engine Drive. There were several concerns about how close the buildings will be together. There are currently no restrictions in the Land Management Code except for Accessory Structures.

On May 16, 2023, the Planning Commission discussed minimum spacing between buildings. Part of this discussion the Commission stated they would like to increase setbacks between buildings as the building got bigger and taller. It was the desire to increase the amount of open space between large buildings to keep the town feeling open.

ANALYSIS:

In the Land Management Code 9-12-7 (J) Accessory Structures

1. Must be detached from the primary structure and have a minimum of ten feet (10') of clearance from other structures.

This is the only section of the Code that calls out a minimum distance between structures, but it only applies to accessory structures.

In the International Building Code

705.3 Buildings on the same lot. For the purposes of determining the required wall and opening protection, projections, and roof-covering requirements, building on the same lot shall be assumed to have an imaginary line between them.

Where a new building is to be erected on the same lot as an existing building, the location of the assumed imaginary line with relation to the existing building shall be such that the exterior wall and opening protection of the existing building meet the criteria as set forth in Section 705.5 and 705.8

705.5 Fire-resistance Ratings. Exterior walls shall be fire-resistant rated in accordance with Tables 601 and 602 and this section. The required fire-resistance rating of exterior walls with a fire separation distance of greater than 10 feet shall be rated for exposure to fire from the inside. The required fire -resistance rating of exterior walls with a fire separation distance of less than or equal to 10 feet shall be rated for exposure to fire from both sides.

705.8 Openings. Openings in exterior walls shall comply with Sections 705.8.1 through 705.8.6.

In **Table 705.8** it lets the opening you can have in an exterior wall between buildings and property lines. You cannot have any openings that are not protected (fire-rated) within 5 feet of a property line or 10 feet from another building.

To encourage openable window on the sides of dwellings it is common for a minimum of 5' side setback to property line or higher on development that will be for building that falls under R-3 Single Family/Multifamily (Townhomes) Dwellings or R-2 Multifamily(condos) Dwellings classification in the Buildings Code. In a Planned Development with common area between buildings you use the imaginary line between buildings for building separation for fire-ratings as the only setback requirement are for the outside property lines.

Other factors to consider include the look and feel of developments inside Brian Head and the requirement to have open space and maximum lot coverage. With the tiny home movement, it is becoming more popular to have multiple small footprint buildings with little spacing between them. The tiny home project on Steam Engine is an Example of this they have 6 units that are only 5 feet apart.

During the Planning Commission meeting on May 16, 2023, staff was directed to increase the minimum distance between buildings on multi-family zone and then set criteria to reduce distance between buildings with an increase of open space requirement or formula. Looking for examples from other cities and county codes a formula-based setbacks or space requirements were not found. All the formula-based requirements have to do with maximum density. You get a point for each item that you have on the check list and the total points will set you density per acre. There are several cities that have increased spacing based on building height. As the building gets higher the setbacks get bigger.

Board RECOMMENDATION:

The Planning Commission forwarded a recommendation of approval with no changes during the June 6, 2023 Commission meeting. They were in agreement with the staff's recommendations of increasing the setbacks with the increase in heights of buildings and the minimum distance between buildings. Please refer to the staff's recommendation for details.

STAFF RECOMMENDATION:

Staff recommends that Planning Commission recommended to approve updates to Chapter 7 Zone District Regulations by adding the following.

- 9-7-1 (D 3)

- d. Minimum distance between buildings: 10 feet
- 9-7-2 (D 3)
 - d. For Buildings over thirty feet (30') in height
 - i. Side: Thirty Feet (30')
 - ii. Rear: Thirty Feet (30')
 - iii. Front twenty-five feet (25')
 - e. Minimum distance between buildings
 - i. Under 20 feet in height: 10 feet
 - ii. Over 20 feet and under 30 feet in height: 15 feet
 - iii. Over 30 feet in height: 20 feet
- 9-7-3(D 3)
 - e. Minimum distance between buildings
 - i. Under 20 feet in height: 10 feet
 - ii. Over 20 feet and under 30 feet in height: 15 feet
 - iii. Over 30 feet in height: 20 feet

With the Planning Commission direction to increase the setbacks and distance between buildings and the research from other municipalities staff went with height-based approach. R-3 already has a height-based increase for setbacks for buildings over 35 feet high. In zone R-2 staff added setback increase when the building is over 30 feet high. In Zones R-3 and R-2 a tiered approach based on height was set for minimum building distance. It starts with a 10' distance between buildings for buildings under 20 feet high and increases to 20 feet for buildings over 30 feet high. Having a 10-foot requirement on accessory structures in the Land Management Code and the building code not allowing openings for buildings closer than 10 feet it is the Staff opinion that 10 feet would be a good minimum distance between buildings. It will allow for the needed fire separation but also allow for the buildings to be clustered together to allow for the required open space to be combined to preserve the open feel and natural beauty of the area following the General Plan.

Please note that both Chapter 7 and Chapter 12 (Driveway Standards) are being proposed to be adopted by one ordinance, so the Council will want to discuss both chapters prior to adoption.

PROPOSED MOTION:

Please refer to the LMC Amendment for Chapter 12 (Driveway Standards) Staff report for the proposed motion since both chapters will be combined into one ordinance.

ATTACHMENTS:

- A – Accessory Structures 9-12-7 (J)
- B – Table 705.8 2018 International Building Code
- C – Chapter 7 Proposed Changes Only.

Attachment "A"

Title 9, Land Management Code

Chapter 12 – Design Standards for Construction

Section 7.J: Accessory Structures

J. Accessory Structures: A non-habitable structure, subordinate to and located on the same lot with a primary structure, the use of which is clearly incidental to that of the main building or to the use of the land, and which is not attached by any part of a common wall or common roof to the main structure. In addition to meeting requirements A through I of this Section, accessory structures must meet the following requirements:

1. Must be detached from the primary structure and have a minimum of ten feet (10') of clearance from other structures.
2. Cannot be used as a habitable space.
3. Structure cannot be located within the setback (notwithstanding, setback exceptions that apply to the primary structure as outlined in [chapter 7](#) of this title, in the applicable zone, also apply to accessory structures).
4. Must meet snow load requirements.
5. Required to have footings or foundation for accessory structures over 450 square feet.
6. Structures being used as a garage for vehicle storage must meet all applicable International Building Code requirements.
7. Shipping containers, intermodal containers, or railroad boxes may not be used as accessory structures (Ord. 21-006, 05-25-21).
8. No more than three (3) accessory structures are allowed on a single lot of up to one (1) acre. Additional accessory structures may be allowed on lots larger than one acre, not to exceed two (2) accessory structures per additional acre.
9. Except for a building accessory to an agricultural use, the footprint of an accessory structure must not exceed fifty percent (50%) of the footprint of the primary structure. In no case shall an accessory structure exceed 3,000 square feet in footprint.
10. Maximum height of accessory structures is limited by the area of the structure as follows:
 - a. 0 – 200 square feet, 15 feet maximum height. (amd. ord. 17-004, 7-22-1017)
 - b. 201 – 400 square feet, 19 feet maximum height. (amd. ord. 17-004, 7-22-1017)
 - c. 401 – 1,000 square feet, 24 feet maximum height. (amd. ord. 17-004, 7-22-1017)
 - d. 1,001 – 1,500 square feet, 27 feet maximum height. (amd. ord. 17-004, 7-22-1017)

- e. 1,501 square feet and above, maximum height determined by Planning Commission review but shall in no case exceed thirty-two feet (32'). (ord. 15-018, 12-8-2015 amd. ord. 17-004, 7-11-2017)

TABLE 705.8
MAXIMUM AREA OF EXTERIOR WALL OPENINGS BASED ON
FIRE SEPARATION DISTANCE AND DEGREE OF OPENING PROTECTION

FIRE SEPARATION DISTANCE (feet)	DEGREE OF OPENING PROTECTION	ALLOWABLE AREA ^a
0 to less than 3 ^{b, c, k}	Unprotected, Nonsprinklered (UP, NS)	Not Permitted ^k
	Unprotected, Sprinklered (UP, S) ⁱ	Not Permitted ^k
	Protected (P)	Not Permitted ^k
3 to less than 5 ^{d, e}	Unprotected, Nonsprinklered (UP, NS)	Not Permitted
	Unprotected, Sprinklered (UP, S) ⁱ	15%
	Protected (P)	15%
5 to less than 10 ^{e, f, j}	Unprotected, Nonsprinklered (UP, NS)	10% ^h
	Unprotected, Sprinklered (UP, S) ⁱ	25%
	Protected (P)	25%
10 to less than 15 ^{e, f, g, j}	Unprotected, Nonsprinklered (UP, NS)	15% ^h
	Unprotected, Sprinklered (UP, S) ⁱ	45%
	Protected (P)	45%
15 to less than 20 ^{f, g, j}	Unprotected, Nonsprinklered (UP, NS)	25%
	Unprotected, Sprinklered (UP, S) ⁱ	75%
	Protected (P)	75%
20 to less than 25 ^{f, g, j}	Unprotected, Nonsprinklered (UP, NS)	45%
	Unprotected, Sprinklered (UP, S) ⁱ	No Limit
	Protected (P)	No Limit
25 to less than 30 ^{f, g, j}	Unprotected, Nonsprinklered (UP, NS)	70%
	Unprotected, Sprinklered (UP, S) ⁱ	No Limit
	Protected (P)	No Limit
30 or greater	Unprotected, Nonsprinklered (UP, NS)	No Limit
	Unprotected, Sprinklered (UP, S) ⁱ	No Limit
	Protected (P)	No Limit

For SI: 1 foot = 304.8 mm.

UP, NS = Unprotected openings in buildings not equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1.

UP, S = Unprotected openings in buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1.

P = Openings protected with an opening protective assembly in accordance with Section 705.8.2.

a. Values indicated are the percentage of the area of the exterior wall, per story.

b. For the requirements for fire walls of buildings with differing heights, see Section 706.6.1.

c. For openings in a fire wall for buildings on the same lot, see Section 706.8.

d. The maximum percentage of unprotected and protected openings shall be 25 percent for Group R-3 occupancies.

e. Unprotected openings shall not be permitted for openings with a fire separation distance of less than 15 feet for Group H-2 and H-3 occupancies.

f. The area of unprotected and protected openings shall not be limited for Group R-3 occupancies, with a fire separation distance of 5 feet or greater.

g. The area of openings in an open parking structure with a fire separation distance of 10 feet or greater shall not be limited.

h. Includes buildings accessory to Group R-3.

i. Not applicable to Group H-1, H-2 and H-3 occupancies.

j. The area of openings in a building containing only a Group U occupancy private garage or carport with a fire separation distance of 5 feet or greater shall not be limited.

k. For openings between S-2 parking garage and Group R-2 building, see Section 705.3, Exception 2.

705.9.1 Voids. The void created at the intersection of a floor/ceiling assembly and an exterior curtain wall assembly shall be protected in accordance with Section 715.4.

705.10 Ducts and air transfer openings. Penetrations by air ducts and air transfer openings in fire-resistance-rated exterior walls required to have protected openings shall comply with Section 717.

Exception: Foundation vents installed in accordance with this code are permitted.

705.11 Parapets. Parapets shall be provided on exterior walls of buildings.

Exceptions: A parapet need not be provided on an exterior wall where any of the following conditions exist:

1. The wall is not required to be fire-resistance rated in accordance with Table 602 because of fire separation distance.
2. The building has an area of not more than 1,000 square feet (93 m²) on any floor.

Title 9 – Land Management Code

Chapter 7

ZONE DISTRICT REGULATIONS

[9-7-1: R-1 SINGLE-FAMILY RESIDENTIAL:](#)

[9-7-2: R-2 MEDIUM DENSITY RESIDENTIAL:](#)

[9-7-3: R-3 MULTI-FAMILY RESIDENTIAL:](#)

[9-7-4: GC GENERAL COMMERCIAL:](#)

[9-7-5: VC VILLAGE COMMERCIAL:](#)

[9-7-6: L-1 LIGHT INDUSTRIAL:](#)

[9-7-7: ROS RECREATION OPEN SPACE:](#)

[9-7-8: COS CONSERVATION OPEN SPACE:](#)

[9-7-9: C CIVIC:](#)

[9-7-10: BUILDING BONUSES:](#)

[9-7-11: CCOD COMMERCIAL CORE OVERLAY DISTRICT](#)

9-7-1: R-1 SINGLE-FAMILY RESIDENTIAL:

A. **Purpose:** The R-1 district is intended to provide sites for low density single-family residential uses, together with such public facilities as may appropriately be located in the same district. The R-1 district regulations are intended to ensure adequate light, air, open space for each dwelling, commensurate with single-family occupancy, and, along with the Town Design Standards, to maintain the desirable residential qualities of such sites by establishing appropriate site development standards. Certain nonresidential uses may be permitted as conditional uses, and where approved, are intended to blend harmoniously with the residential character of the district.

B. **Permitted Uses:** Only the following uses are permitted in the R-1 zone:

Boarding of horses for non-commercial use, subject to a horse boarding permit.

Commercial rentals of single-family residences, subject to a business license.

Home occupations identified in subsection [9-10-5](#) of this title.

Single-unit dwellings.

Other uses customarily incidental and accessory to single-family residential uses, and necessary for the operation thereof (garages or carports, play equipment, or other approved single-family use).

C. **Conditional Uses:** The following uses are conditional and require a conditional use permit:

Bed and breakfast rentals.

Churches.

Home occupations identified in subsection [9-10-5C](#) of this title.

Mother-in-law / guest house is an accessory use one lot that is equal to or greater than one acre and shall comply with accessory structure requirements in this title with a maximum of one mother-in-law/guest house per property. (ord. 18-006, 6-11-2018 amd. ord. 20-006, 7-14-2020) Public or private schools.

Public parks.

Public utility uses.

D. **Physical Restrictions:**

1. Minimum lot area: Fourteen thousand five hundred twenty (14,520) square feet ($\frac{1}{3}$ acre).

2. Minimum frontage width: Forty-five feet (45'). (amd. ord. 22-002, 5-10-22)

3. Minimum setbacks:

a. Front: Twenty-five feet (25'). An administrative exception may be granted for the garage only when all of the following apply:

i. Front yard setback exceeds twenty percent (20%) slope (11.3 degrees).

ii. No habitable space within the setback area.

iii. Required off street parking is satisfied and maintained in the garage or on the lot. iv. The roof sheds snow away from the public right of way.

v. Adequate snow storage on the lot.

Under no circumstances will the setback be less than five feet (5'). (ord. 17-004, 711-2017)

b. Side: Twenty feet (20').

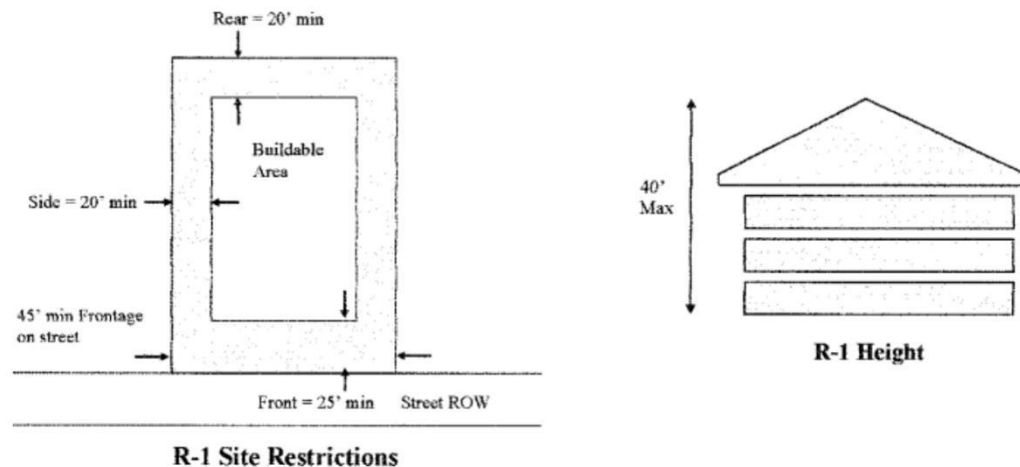
c. Rear: Twenty feet (20').

d. **Minimum distance between buildings: 10 feet**

4. Setback exception: The following shall be allowed to encroach within the required setback, subject to compliance with the provisions of this section: a. Driveway and walkways.

- b. Roof eaves provided they encroach no more than five feet (5') into the required setback.
 - c. Pop out windows, provided the bottom of the pop out structure is no less than four (4') feet above grade, measured at the pop out structure, the total width of the pop out structure does not exceed twelve feet (12') measured at the point where the pop out structure attaches to the residential structure, the pop out structure is under and completely covered by a roof overhang or eaves, and the pop out structure encroaches no more than three and one-half feet (3 ½') into the required setback; and, (2010 Code, amd. ord. 15-004, 4-28-2015)
 - d. Decks and exterior staircases attached to the residential structure may be permitted on a case-by-case basis after written approval of the Zoning Administrator, following review. The deck or exterior staircase must be uncovered other than by a permitted roof overhang or eaves of the residential structure, and the deck or exterior staircase may encroach no more than four feet (4') into the required setback. Decks or walkways less than 30" above grade may stand within the innermost one-third (1/3) of the setback. (2010 Code, amd. ord. 15-004, 04-28-2015).
5. Maximum Building Height: Twenty-five feet (25'). (2010 Code, amd. ord. 22-002, 510-22)
6. Maximum building coverage:
- a. One thousand square feet (1,000 sq. ft) footprint including garages, patios, and decks for a primary habitable structure. No more than 40% for all structures combined.
(amd. ord. 15-004, 04-28-2015, amd. ord. 22-002, 5-10-22)
 - b. Minimum building coverage: 400 square feet for a primary habitable structure footprint (not including unenclosed decks and porches) and 160 square feet for a secondary habitable structure. (ord. 20-006, 7-14-20)
 - c. A property owner wishing to build larger than what is allowed in this code may refer to the Building Bonus section in 9-7-10. (ord. 22-002, 5-10-2022)
7. Minimum landscaping: Twenty-five percent (25%) of the lot shall be landscaped per section [9-12-5](#) of this title, with every effort to preserve vegetation. (2010 Code, amd. ord. 15-004-2015).
8. Parking: In accordance with section [9-12-15](#) of this title.
9. Undisturbed lot area: Fifteen (15%) of the lot shall not be disturbed during development. (2010 Code, amd. ord. 15-004, 04-28-2015)
10. Remaining undeveloped lot: The remaining area shall be landscaped as per section [9-12-5](#) of this title. (2010 Code, amd. ord. 15-004, 04-28-2015)

11. One piece of heavy equipment along with two heavy equipment attachments may be kept on premises for non-commercial use, such as private snow removal or light excavation. The equipment shall be parked in a place and manner so as to be reasonably screened from view from the public right of way. Additional equipment used for construction may be parked at the site when authorized by a current building permit or otherwise authorized by the Town. (ord. 16-007, 11-08-2016)
12. Storage Containers: Storage or cargo containers are not allowed be used as dwelling units in R-1 zones. (ord. 22-002, 5-10-22)



9-7-2: R-2 MEDIUM DENSITY RESIDENTIAL:

- A. **Purpose:** The R-2 district is intended to provide sites for medium density single- and multi- family residential use at a maximum density of eight (8) dwelling units per acre, together with such public facilities as may appropriately be located in the same district. The R -2 district regulations are intended to ensure adequate light, air, open space for each dwelling, commensurate with medium density multi-family occupancy, and along with the Town Design Guidelines, to maintain the desirable residential qualities of such sites by establishing appropriate site development standards. Certain nonresidential uses may be permitted as conditional uses, and where approved, are intended to blend harmoniously with the residential character of the district.
- B. **Permitted Uses:** Only the following uses are permitted in the R-2 zone:
- Food and beverage services (restaurant, cafe, etc.).
 - Home occupations identified in subsection [9-10-5](#) of this title.
 - Multi-family dwellings (2 or more dwelling units per structure, including townhomes).
 - Nightly rental of dwelling units, subject to a business license.
 - Property management.

Public parks and open spaces.

Single-unit dwellings.

Spa.

Other uses customarily incidental and accessory to medium density family residential uses, and necessary for the operation thereof (garages or carports, play equipment, etc.)

C. **Conditional Uses:** The following uses are conditional and require a conditional use permit:

Bed and breakfast rentals.

Churches.

Home occupations identified in subsection [9-10-5 C](#) of this title.

Public facilities.

Public or private schools. Public utility uses.

D. **Physical Restrictions:**

1. Minimum lot area: Twenty-one thousand seven hundred eighty (21,780) square feet ($\frac{1}{2}$ acre).
2. Minimum frontage: Forty-five feet (45').
3. Minimum setbacks:
 - a. Front: Twenty-five feet (25'). An administrative exception may be granted for the garage only when all of the following apply:
 - i. Front yard setback exceeds twenty percent (20%) slope (11.3 degrees);
 - ii. No habitable space within the setback area;
 - iii. Required off street parking is satisfied and maintained in the garage or on the lot;
 - iv. The roof sheds snow away from the public right of way; and
 - v. Adequate snow storage on the lot.

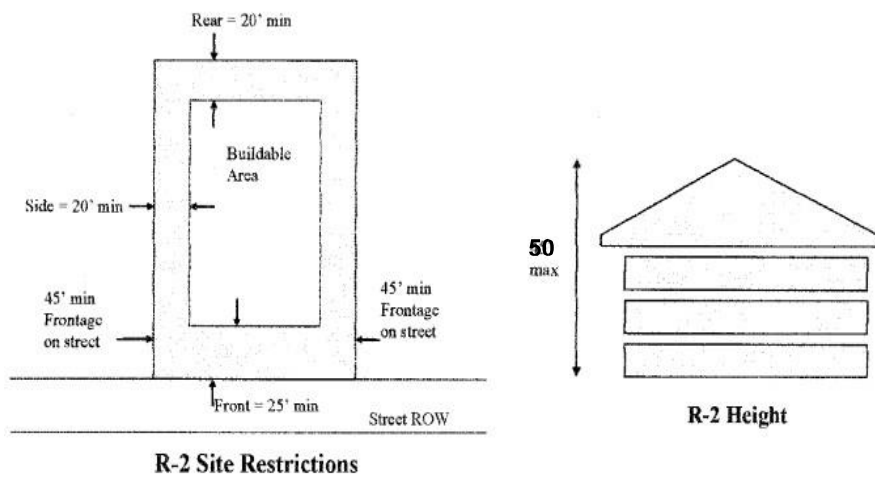
Under no circumstances will the setback be less than five feet (5'). (ord.

17-004, 7-11-2017).

- b. Side: Twenty feet (20');
- c. Rear: Twenty feet (20'). (amd. ord. 22-002, 5-10-22)
- d. **For building over thirty feet (30') in height**
 - i. **Side: Thirty feet (30')**
 - ii. **Rear: Thirty feet (30')**

- iii. Front: twenty-five feet (25')
 - e. Minimum distance between buildings
 - i. Under 20 feet in height: 10 feet
 - ii. Over 20 feet and under 30 feet in height: 15 feet
 - iii. Over 30 feet in height: 20 feet
- 4. Setback exception: The following shall be allowed to encroach within the required setback, subject to compliance with the provisions of this section:
 - a. Driveways and walkways;
 - b. Roof eaves, provided they encroach no more than five feet (5') into the required setback;
 - c. Pop out windows, provided the bottom of the pop out structure is no less than four feet (4') above grade measured at the pop out structure, the total width of the pop out structure does not exceed twelve feet (12') measured at the point where the pop out structure attaches to the residential structure, the pop out structure is under and completely covered by a roof overhang or eaves, and the pop out structure encroaches no more than three and one-half feet (3½') into the required setback; and
 - d. Decks and exterior staircases attached to the residential structure may be permitted on a case-by-case basis after written approval of the Town Manager, or designee, following review. The deck or exterior staircase must be uncovered other than by a permitted roof overhang or eave of the residential structure, and the deck or exterior staircase may encroach no more than four feet (4') into the required setback. Decks or walkways less than 30" above grade may stand within the innermost one-third (1/3) of the setback. (2010 Code, amd. ord. 15-004, 04-28-2015)
- 5. Maximum height: Twenty-five feet (25'). (amd. ord. 22-002, 5-10-2022)
- 6. Maximum building coverage: One thousand five hundred square feet (1,500 sq. ft.) footprint including garages, patios, and decks. (amd. ord. 22-002, 5-10-2022)
- 7. A property owner wishing to build larger than what is allowed in this code may refer to the Bonus Section in [9-7-10](#) of this title.
- 8. Maximum density: Eight (8) units per acre (or a fraction thereof) for multi-family dwellings, including constraints of this title relating to height, setback, landscaping, lot disturbance, parking, etc.
- 9. Minimum landscaping: Twenty-five percent (25%) of the lot shall be landscaped per § [9-12-5](#) of this title, with every effort to preserve vegetation. (2010 Code, amd. ord. 15-004, 04-28-2015).
- 10. Parking: In accordance with section [9-12-15](#)

11. Undisturbed lot area: Remaining undeveloped area shall be landscaped as per section [9-12-5](#) of this title (2010 Code, amd. ord.15-004, 04-28-2015)
12. Remaining undeveloped area shall be landscaped as per section [9-12-5](#) of this title (amd. 2015 ord. 15-004, 04-28-2015)
13. One piece of heavy equipment along with two heavy equipment attachments may be kept on premises for uses such as snow removal or light excavation. The equipment shall be parked in a place and manner so as to be reasonably screened from the view of the public right of way. Additional equipment used for construction may be parked at the site when authorized by a current building permit or otherwise authorized by the Town. (ord. 17-001, 4-11-2017)
14. Storage containers: Storage or cargo containers are not allowed to be used as a dwelling unit in R-2 zones. (ord. 22-002, 5-10-2022).



(2010 Code, amd. ord. 15-004, 4-28-2015)

9-7-3: R-3 MULTI-FAMILY RESIDENTIAL:

- A. **Purpose:** The R-3 district is intended to provide sites for multiple-family dwellings at densities restricted by constraints of this title relating to height, setback, landscaping, lot disturbance, parking, etc., together with such commercial and public facilities as may appropriately be located in the same district. The R-3 district regulations are intended to ensure adequate light, air, open space, and other amenities commensurate with multiple - family occupancy, and, with the Town Design Standards, to maintain the desirable residential qualities of the district by establishing appropriate site development standards. Certain nonresidential uses may be permitted as conditional uses and, where approved, are intended to blend harmoniously with the residential character of the district.

B. Permitted Uses: Only the following uses are permitted in the R-3 zone:

Bed and breakfast establishments.

Home occupations identified in subsection [9-10-5](#) of this title.

Multi-family dwellings (2 or more dwelling units per structure, including townhomes).

Nightly rentals of dwelling units, subject to a business license.

Property management.

Public open spaces (parks and trails for hiking, non-motorized biking, and Nordic skiing etc.).

Single-unit dwellings.

Other uses customarily incidental and accessory to permitted uses and necessary for the operation and maintenance thereof, such as garages, carports, play equipment and accessory structure.

C. Conditional Uses: The following uses are conditional and require a conditional use permit:

Churches.

Convention facilities.

Food and beverage services (restaurant, cafe, etc.).

Home occupations identified in subsection [9-10-5C](#) of this title.

Limited retail, food and beverage service and personal services in conjunction with lodging facilities (barber/beauty, travel, childcare, etc.) for the use of building residents (area of accessory uses may not exceed 40 square feet per residential unit).

Public institutions.

Public parking lots.

Real estate sales offices operated in conjunction with condominium rental offices when the office space is constructed as part of the project or when approved by the homeowners' association and in conformance with the projects CC&Rs.

Recreational trails and use of open space for motorized vehicles.

Schools.

Spa.

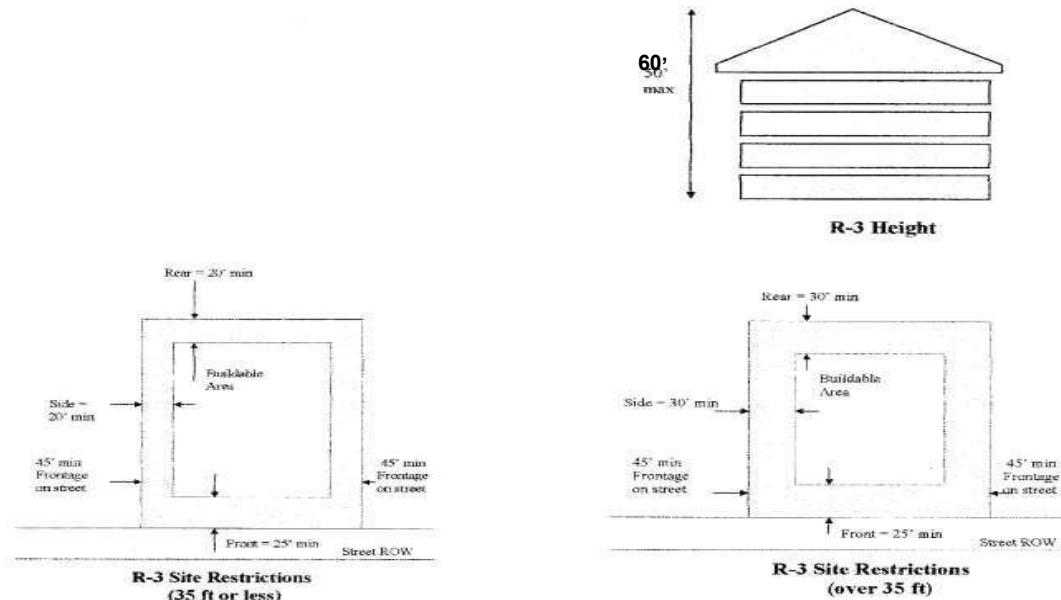
D. Physical Restrictions:

1. Minimum lot area: Twenty-one thousand seven hundred eighty (21,780) square feet ($\frac{1}{2}$ acre).

2. Minimum frontage: Forty-five feet (45').
3. Minimum setbacks:
 - a. Front: Twenty-five feet (25'). An administrative exception may be granted for the garage only when all of the following apply:
 - i. Front yard setback exceeds twenty percent (20%) slope (11.3 degrees);
 - ii. No habitable space within the setback area
 - iii. Required off-street parking is satisfied and maintained in the garage or on the lot
 - iv. The roof sheds snow away from the public right of way
 - v. Adequate snow storage on the lot
 - vi. Development does not exceed R-2 density. (Ord. 20-006, 7-14-20) Under no circumstances will the setback be less than five feet (5').
 - b. Side: Twenty feet (20').
 - c. Rear: Twenty feet (20').
 - d. For buildings over thirty-five feet (35') in height
 - i. Side: Thirty feet (30');
 - ii. Rear: Thirty feet (30');
 - iii. Front: Twenty-five feet (25').
 - e. Minimum distance between buildings
 - i. Under 20 feet in height: 10 feet
 - ii. Over 20 feet and under 30 feet in height: 15 feet.
 - iii. Over 30 feet in height: 20 feet
4. Setback exceptions: The following may be permitted to encroach within the required setback, subject to compliance with the provisions of this section, on a case-by-case basis after written approval of the Town Manager, or designee, following review:
 - a. Driveways and walkways running parallel to a property line shall not occupy more than seventy five percent (75%) of the required setback area while retaining at least twenty five percent (25%) of the required area as a landscape buffer.
 - b. Roof eaves, provided they encroach no more than five feet (5') into the required setback.
 - c. Pop out windows, provided the bottom of the pop out structure is no less than four feet (4') above grade measured at the pop out structure, the total width of the pop out structure does not exceed twelve feet (12') measured at the point where the pop out structure attaches to the residential structure, the pop out structure is under and completely covered by a roof overhang or eaves, and the pop out structure encroaches no more than three and one-half feet (3½') into the required setback; and (2010 Code and ord. 15-004, 04-28-2015)
 - d. Decks and exterior staircases attached to the residential structure. The deck or exterior staircase must be uncovered other than by a permitted roof overhang or eaves of the residential structure, and the deck or exterior staircase may encroach

no more than four feet (4') into the required setback. Decks or walkways less than 30' above grade may stand within the innermost one-third (1/3) of the setback. (2010 Code amd ord. 15-004, 04-28-2015)

4. Maximum density: Restricted by constraints of this title relating to height, setback, landscaping, lot disturbance, parking, etc.
5. Maximum height: Sixty feet (60') for peaked roof, forty feet (40') for flat roof; (2010 Code. amd ord. 15-004, 04-28-2015)
6. Maximum building coverage: Forty percent (40%) of the lot area. Fifty percent (50%) is permitted if all of the required parking is within the footprint of the building. (2010 Code. amd ord. 15-004, 04-28-2015)
7. Minimum landscaping: Forty percent (40%) or all disturbed portions of the property, whichever is greater, shall be landscaped per section [9-12-5](#) of this title, with every effort to preserve existing vegetation. If the building footprint is at 50% and required covered parking is within the footprint of the building, then the landscaping minimum will be 30%. (2010 Code. amd ord. 15-004, 04-28-2015)
8. Parking: In accordance with section [9-12-15](#) of this title
9. Remaining undeveloped area shall be landscaped as per section [9-12-5](#) of this title. (2010 Code. amd Ord. 15-004, 04-28-2015)
10. One piece of heavy equipment along with two heavy equipment attachments may be kept on premises for uses such as snow removal or light excavation. The equipment shall be parked in a place and manner so as to be reasonably screened from view from the public right of way. Additional equipment used for construction may be parked at the site when authorized by a current building permit or otherwise authorized by the Town. (ord. 17001, 4-11-2017)



(2010 Code, amd. ord. 15-004, 04-28-2015)

9-7-4: GC GENERAL COMMERCIAL:

- A. **Purpose:** The general commercial (GC) district is intended to provide sites outside of the village commercial zone, with a mixture of lodges and commercial establishments in an auto oriented setting. The GC district regulations are intended to ensure light, air, open space, and other amenities appropriate to the permitted types of buildings and uses. The GC district regulations, in conjunction with this title, prescribe site development standards that are intended to maintain the unique character and relationship of the town commercial areas and to ensure an attractive, functional commercial setting.
- B. **Permitted Uses:** Only the following uses are permitted in the GC zone:
- Banks.
 - Childcare centers.
 - Churches.
 - Food and beverage service establishments.
 - Home occupations identified in subsection [9-10-5 \(D\)](#) of this title. (amd. ord. 21-006, 5-2521)
 - Indoor entertainment (Theater, arcade, bowling alley, etc). (ord. 15-004, 04-28-2015, amd. ord. 21-006, 5-25-21)

Other uses customarily incidental and necessary to permitted uses and necessary for the operation thereof.

Light hardware (no outside storage or sales of goods).

Lodging and nightly rentals (including hotels and motels).

Mortuary (ord. 17-004, 7-11-2017)

Personal services (barber/beauty, spa, self-service laundry, etc.).

Places for retailing of goods such as necessities, sundries, groceries, and convenience items), including outdoor display. (amd. ord. 21-006, 5-25-21)

Professional offices (real estate, finance, insurance, medical and dental, etc.).

Public and private educational institutions.

Public institutions and government buildings, e.g., town hall, library, senior center, etc.

Public open spaces (parks, etc.).

Public parking lots.

Public recreation areas.

Residential dwellings in conjunction with commercial space. It is required that at least seventy-five percent (75%) of the entire main floor, facing the public street or thoroughfares, be dedicated to commercial business residential units to be located in the rear or sides of the building to maximize the commercial business exposure. On multibuilding projects, the commercial space may be cumulatively oriented toward the vehicle and pedestrian corridors rather than locations typically not accessible or visible to the general public. (amd. ord. 21-006, 5-25-21)

Retail, guest services, non-motorized equipment rental (e.g., skis, bicycles, etc.) oriented to tourists and mountain outdoor recreation (including outdoor display).

Schools.

C. **Conditional Uses:** The following uses are conditional and require a conditional use permit:

Building Material Sales (no outdoor storage or display) (ord. 17-004, 7-11-2017, amd. ord. 21-006, 5-25-21)

Car Wash (ord. 17-004, 7-11-2017) Fuel
service stations.

Home occupations identified in subsection [9-10-5\(E\)](#) of this title.

Public and private utility structures. (2010 Code, amd. ord. 15-004, 04-28-2015)

Recreational vehicle rental, sales, and service.

Rental of horses.

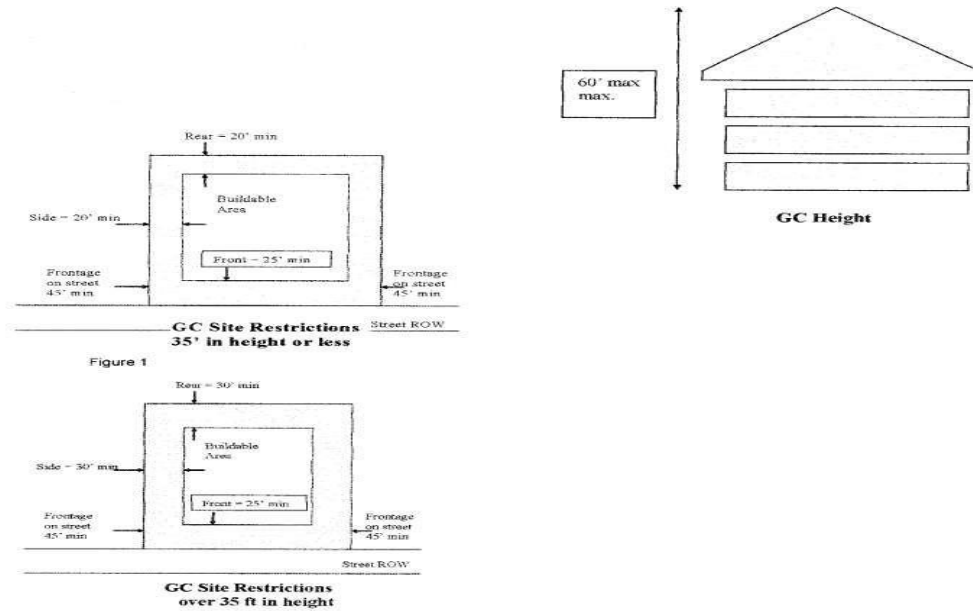
Outdoor entertainment. (amd. ord. 21-006, 5-25-21)

(amd. Ord. 21-006, 5-25-21)

D. Physical Restrictions:

1. Minimum lot area: Twenty-one thousand seven hundred eighty (21,780) square feet (1/2 acre).
2. Minimum frontage: Forty-five feet (45').
3. Minimum setbacks:
 - a. Front: Twenty-five feet (25');
 - b. Side and rear: Twenty feet (20') up to thirty-five feet (35') height.
 - c. For buildings over thirty-five feet (35') in height:
 - i. Front: Twenty-five feet (25');
 - ii. Side and rear: Thirty feet (30').
4. Setback exceptions: The following shall be allowed to encroach within the required setback, subject to compliance with the provisions of this section.
 - a. Driveways and walkways.
 - b. Roof eaves provided they encroach no more than five feet (5') into the required setback.
 - c. Pop out windows, provided the bottom of the pop out structure is no less than four feet (4') above grade measured at the pop out structure, the total width of the pop out structure does not exceed twelve feet (12') measured at the point where the pop out structure attaches to the residential structure, the pop out structure is under and completely covered by a roof overhang or eaves, and the pop out structure encroaches no more than three and one-half feet (3½') into the required setback; (2010 Code, amd. ord. 15-004, 04-28-2015)
 - d. Decks and exterior staircases attached to the residential structure may be permitted on a case-by-case basis after written approval of the Town Manager, or designee, following review. The deck or exterior staircase must be uncovered other than by a permitted roof overhang or eaves of the residential structure, and the deck or exterior staircase may encroach no more than four feet (4') into the required setback. Decks or sidewalks less than 30" above grade may stand within the innermost one-third (1/3) of the setback. (2010 Code, amd. ord. 15-004, 04-28-2015)
 - e. Portico or secondary egress stairways (when required on a second story above grade plan and higher by section 1006 in IBC) may extend into the innermost half of the setback when approved by the Planning Commission. (amd. ord. 22-004, 524-22)
5. Maximum height: Sixty feet (60') for peak roof, fifty feet (50') for flat roof.

6. Maximum density: Restricted by constraints of this title relating to height, setback, landscaping, lot disturbance, parking, etc.
7. Maximum building coverage: Forty percent (40%) of the lot area.
8. Minimum landscaping: Forty percent (40%) of the lot shall be landscaped per section [9-12-5](#) of this title, with every effort to preserve existing vegetation.
9. Parking and loading: In accordance with section [9-12-15](#) of this title. Onsite parking should be provided in the rear of the building or underground. Parking may be provided off site by participating in a parking district, or by providing parking lots jointly with other specific establishments with the approval of the Planning Commission. (2010 Code, amd. ord. 15-004, 04-28-2015)
10. Remaining undeveloped area shall be landscaped as per section [12-9-5](#) of this title. (2010 Code, amd. ord. 15-004, 04-28-2015)
11. One piece of heavy equipment along with two heavy equipment attachments may be kept on premises for uses such as snow removal or light excavation. The equipment shall be parked in a place and manner so as to be reasonably screened from view from the public right of way. Additional equipment used for construction may be parked at the site when authorized by a current building permit or otherwise authorized by the Town. (ord. 20-011, 12-08-2020)
12. Storage containers: Storage containers or cargo containers are now allowed to be used as a building in General Commercial zones unless the applicant follow the Building Bonus process listed in 9-7-10 of this title. (ord. 22-004, 5-10-2022)



(2010 Code, amd. ord. 15-004, 04-28-2015)

9 -7-5: VC VILLAGE COMMERCIAL:

- A. **Purpose:** The village commercial VC district is intended to provide for village core area with a mixture of lodges, business, and commercial establishments in a predominantly pedestrian setting. The VC district regulations are intended to ensure light, air, open space, and other amenities appropriate to the permitted types of buildings and uses. The district regulations, in conjunction with the town design guidelines, prescribe site development standards that are intended to maintain the unique character of the Town commercial areas and to ensure an attractive, functional village resort setting. It is encouraged that development in the village core would be by development agreement. (2010 Code, amd. ord. 15-004, 04-28-2015)
- B. **Permitted Uses:** Only the following uses are permitted in the VC zone:
- Banks.
 - Entertainment establishments (not including sexually oriented business establishments).
 - Food and beverage establishments.
 - Guest services
 - Non-motorized recreation equipment rental.
 - Home occupations identified in subsection [9-10-5](#) of this title.

Multi-family housing: Hotel type lodging in conjunction with commercial space. It is required that at least seventy five percent (75%) of the entire main floor, facing the public street or thoroughfares, be dedicated to commercial business with provisions for ADA compliant residential units to be located in the rear or sides of the building to maximize the commercial business exposure. On multi-building projects, the commercial space may be cumulatively oriented toward the vehicle and pedestrian corridors rather than locations typically not accessible or visible to the general public.

Pedestrian oriented retail stores (including outdoor display).

Professional and personal services (beauty shops, travel agencies, real estate, law, medicine),

Professional offices.

Spas.

Other uses customarily incidental and necessary to permitted uses and necessary for the operation thereof.

C. **Conditional Uses:** The following uses are conditional and require a conditional use permit:

Home occupations as identified in subsection [9-10-5C](#) of this title.

Recreational activities and supporting appurtenances. (ord. 15-004, 4-28-2015)

OHV rental offices for which rental vehicles are stored and displayed outside of the village core zone. The conditional use permit will be no longer than a five-year period. (ord. 15-004, 4-28-2015, amd. ord. 20-002 4-28-2020)

D. **Physical Restrictions:**

1. Minimum lot area: Three thousand (3,000) square feet.

2. Minimum frontage: Thirty feet (30').

3. Setbacks:

a. Minimum: Rear, twenty feet (20'), side and front, zero feet (0');

b. Maximum: Front, ten feet (10'), i.e., the front line of the building shall be located no further than ten feet (10') from the front lot line.

4. Rear setback exceptions: The following shall be allowed to encroach within the required setback, subject to compliance with the provisions of this section (amd. ord. 17-004, 7-11-2017):

a. Driveways and walkways.

- b. Roof eaves provided they encroach no more than five feet (5') into the required setback.
 - c. Pop out windows, provided the bottom of the pop out structure is no less than four feet (4') above grade measured at the pop out structure, the total width of the pop out structure does not exceed twelve feet (12') measured at the point where the pop out structure attaches to the residential structure, the pop out structure is under and completely covered by a roof overhang or eaves, and the pop out structure encroaches no more than three and one-half feet (3^{1/2}') into the required setback; and (2010 Code, amd. ord. 15-004, 04-28-2015).
 - d. Decks and exterior staircases attached to the residential structure may be permitted on a case-by-case basis after written approval of the Town Manager, or designee, following review. The deck or exterior staircase must be uncovered other than by a permitted roof overhang or eaves of the residential structure, and the deck or exterior staircase may encroach no more than four feet (4') into the required setback. Decks or sidewalks less than 30" above grade may stand within the innermost 1/3 of the setback. (2010 Code, amd. ord. 15-004, 04-28-2015)
5. Maximum height: Sixty feet (60') for peaked roof, fifty feet (50') for flat roof.
6. Density: Restricted by constraints of this title relating to height, setback, landscaping, lot disturbance, parking, etc.
7. Maximum building coverage: Eighty percent (80%) of the lot area. Commercial structures which existed prior to the year 2000 in the Village Commercial zone district may expand the building coverage up to 90% of the lot area. (ord. 23-001, 1-10-23)
8. Landscaping: No minimum requirement. Planters, decorative paving, and tree s in tree grates are appropriate in conformance with section [9-12-5](#) of this title, with every effort to preserve existing vegetation.
9. Parking and loading:
- a. Surface level parking areas are limited to 30% of the building footprint.
 - i. Location of surface parking must be approved by the Planning Commission to ensure the purpose of the Village Core is met.
 - ii. Surface level parking may not be located between pedestrian walkways and entrances to the commercial building.
 - b. Required residential parking must be placed onsite.
 - c. Required employee parking must be onsite or adjacent to property.
 - d. Patron parking may be located off-site, as agreed upon through a Development Agreement with the Town or in accordance with a shared parking agreement approved by the Planning Commission following review of a parking demand study of the uses in question.

- i. Shared parking agreements must designate off-site parking facility that is within 500 feet of a Town transit stop.
 - ii. The primary uses of the designated shared off-site parking facility must have clearly distinct hours of peak parking demand from the proposed uses.
 - iii. Any development permitted with a shared parking agreement shall be required to develop additional parking, if and when the use changes in the future rendering the shared parking agreement deficient.
- e. All parking must be in accordance section [9-12-15](#) with the following exceptions:
- i. Required number of parking spaces:
 - 1) Patron Parking: 30% less than the requirements in section [9-12-15](#) of this title.
 - 2) Each underground parking space will satisfy 1.5 spaces against the requirement of section [9-12-15](#) of this title.

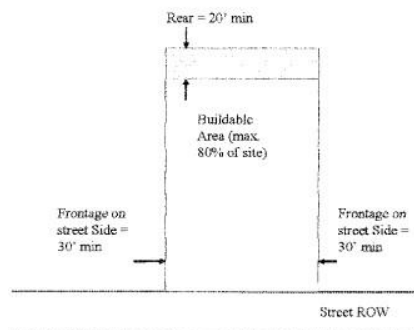
(Ord. 22-008, 7-26-2022)

- f. Commercial structures which existed prior to the year 2000 in the Village Commercial zone district may expand the footprint of the building by up to 25% without additional parking requirements. (ord. 23-001, 1-10-23)

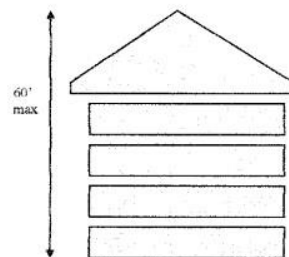
10. Pedestrian Traffic: Provisions for pedestrian traffic, integrated with neighboring walkways, must be provided. (2010 Code)

11. Remaining undeveloped area shall be landscaped as per section [12-9-5](#) of this title. (ord. 17-004, 7-11-2017)

12. Storage containers: Storage or cargo containers are not allowed to be used as a building in Village Commercial unless the applicant abides by the Building Bonus process in [9-7-10](#) of this title. (ord. 22-004, 5-10-2022)



VC Site Restrictions



**VC Height
Typical**

9-7-6: L-1 LIGHT INDUSTRIAL:

- A. **Purpose:** To provide sites for light industrial uses which are not appropriate in other commercial districts. Because of the varied nature and potential impacts of the uses, all permitted uses are subject to the restrictions below and the Town Design Guidelines as a condition of approval. The physical restrictions set out below shall be considered minimum, and more restrictive standards may be prescribed as conditions of a permit for any use.
- B. **Permitted Uses:** Only the following uses are permitted in the L-1 zone:
- Firewood preparation, storage, and sales.
 - Fuel and oil storage, sales, or distribution.
 - Recreational vehicle rental, sales, and service (e.g., snowmobiles, ATVs, etc.).
 - Residential dwellings in conjunction with industrial space (owner/employee housing). (ord. 15-004, 04-28-2015)
 - Storage and/or sales of construction/building materials.
 - Utility substations.
 - Vehicle and equipment storage yards (including recreational vehicles).
 - Vehicle service yards and service garages (including recreational vehicles).
 - Warehouses or storage unit rental facilities.
 - Other similar uses.
- C. **Conditional Uses:** The following uses are conditional and require a conditional use permit: (2010 Code, amd. ord. 15-004, 4-28-2015)
- Light Manufacturing (amd. ord. 17-004, 7-11-2017)
 - Car Wash (ord. 17-004, 7-11-2017)
 - Rental of horses.
 - Sexually oriented businesses (SOB).
- D. **Physical Restrictions:** The restrictions below shall be considered minimum, and more restrictive standards may be prescribed as conditions of a conditional use permit for any use:
1. Minimum lot area: Twenty-one thousand seven hundred eighty (21,780) square feet (1/2 acre).

2. Minimum frontage: Forty-five feet (45').
3. Minimum setbacks:
 - a. Front: twenty-five feet (25');
 - b. Side and rear: twenty feet (20') (from residential property);
 - c. Side and rear: ten feet (10') (from adjoining L-1 property).
4. Maximum height: Fifty feet (50') maximum structure height.
5. Density: Not applicable.
6. Maximum building coverage: Fifty percent (50%) of lot area.
7. Minimum landscaping: Twenty five percent (25%) of the lot area shall be landscaped per section [9-12-5](#) of this title, with every effort to preserve existing vegetation.
8. Parking and loading: In accordance with section [9-12-15](#) of this title.
9. Screening: All outdoor storage, including vehicles, machinery, and equipment, shall be screened from the public view as seen from any public roadway or from adjacent residential lots. Landscaping, fencing, and building orientation are acceptable methods to minimize the adverse visual impacts. (2010 Code amd. ord.16-007, 11-8-2016)
10. Noise: No use shall be permitted or conducted which creates noise, objectionable by reason of volume, pitch, intermittence, or frequency, which is audible at the boundaries of the site.
11. Other restrictions: Design should provide for all servicing of vehicles and equipment to be within structures, except for delivery of gas and other fluids. (2010 Code).
12. Storage containers: Storage or cargo containers are not allowed to be used as a building in Light Industrial zones unless the applicant abides by the Building Bonus process in [9-7-10](#) of this title. (ord. 22-002, 5-10-2022)

9-7-7: ROS RECREATION OPEN SPACE:

- A. **Purpose:** To preserve areas for land uses requiring substantial areas of open land and substantially free from structures, roads, and parking lots, while permitting recreational pursuits such as ski runs, parks, golf courses and trails. Public or private recreational facilities are suitable uses in this district; provided, that such uses maintain the open, undeveloped character of the land.

B. **Permitted Uses:** Only the following uses are permitted in the ROS zone:

Multi-use roads and trails for OHVs, biking, hiking, and equestrian use (motorized and non-motorized roads and trails).

Outdoor recreation, including golf courses, swimming facilities, riding or bridle paths, related facilities and uses, picnic areas, tennis courts.

Parks, playgrounds, and other open recreational facilities.

Ski runs and ski lifts, tubing parks, mountain bike parks and non-motorized trails.

Unpaved maintenance roads. (2010 Code, amd. ord. 15-004, 04-28-2015)

C. **Conditional Uses:** The following uses are conditional and require a conditional use permit:

Buildings and parking related to permitted uses, such as stalls, shelters, ticket booth, pavilion, clubhouse, or warming hut, with maximum building area of one thousand five hundred (1,500) square feet

Recreational vehicle parking and campground facilities (ord. 21-006, 05-25-21)

Rental of horses with horse boarding permit. (2010 Code, amd. ord. 15-004, 04-28-2015)

D. **Physical Restrictions:** The restrictions below shall be considered minimum, and more restrictive standards may be prescribed as conditions of a conditional use permit for any use:

1. Minimum lot area: Twenty-one thousand seven hundred eighty (21,780) square feet (1/2 acre).
2. Minimum frontage: Fifty feet (50').
3. Minimum setbacks: Front, twenty-five feet (25'), side and rear, twenty feet (20').
4. Maximum height: Thirty-five feet (35') for peaked roof, twenty-five feet (25') for flat roof.
5. Density: Not applicable.
6. Maximum building coverage: Ten percent (10%) of lot area.
7. Minimum Undisturbed Area: Fifty percent (50%) of lot area, unless an alternate plan is approved by the Planning Commission which satisfies the intent of [9-12-3\(J\)](#). (ord. 21-006, 05-25-21)

8. Minimum landscaping: Seventy five percent (75%) of the lot area shall be landscaped per section [9-12-5](#) of this title, with every effort to preserve existing vegetation (undisturbed area counts toward landscaping requirement). (amd. ord. 21-006, 05-25-21).
9. Parking and loading: In accordance with section [9-12-15](#) of this title. (ord. 08-016, 8-12-2008)

9-7-8: COS CONSERVATION OPEN SPACE:

- A. **Purpose:** To identify and preserve land that is, by virtue of ownership or easement, precluded from development, and to preserve the historic and natural beauty of those areas. Qualifying land includes property owned by a governmental entity, or parcels for which a scenic or conservation easement has been granted to a governmental entity, land trust or conservation organization.
- B. **Permitted Uses:** Only the following uses are permitted in the COS zone:
 - Conservation areas.
 - Recreational trails.
 - Ski lifts (limited to towers and terminals)
 - Waterways, streams, lakes, water features.
- C. **Conditional Uses:** The following uses are conditional and require a conditional use permit:
 - Bridges over natural vegetation and water features to preserve open space.
 - Public Restrooms.
- D. **Restrictions:** All lands are to remain free of structures other than those specifically mentioned above. (2010 Code)

9-7-9: C CIVIC:

- A. **Purpose:** The Civic zone C is intended to provide areas for the location and establishment of facilities which are maintained in public and quasi-public ownership. This zone is intended to provide immediate recognition of such areas on the official Zoning Map of the Town, and to reduce the affect which the location of these facilities may have upon neighborhoods in residential, commercial, or industrial areas. Typical uses

permitted in the C zone are public schools, public parks, hospitals, airports, public utilities, public equipment storage areas, municipal offices and meeting halls, and public shop areas. Though some of these uses will be allowed in other zones to initially accommodate public facilities in appropriate areas without undue difficulty, it is intended that the C zone would then be applied to all such facilities for ease of recognition and minimizing impacts. (amd. ord. 22-008, 7-26-22)

B. Permitted Uses: Only the following uses are permitted in the C zone:

Cultural activities and nature exhibits (public only).

Forest reserves (public only).

Governmental services.

Public school facilities.

Recreational activities (public only).

Public Parking lots. (ord. 22-008, 7-26-22)

C. Permitted Accessory Uses: Accessory uses, and structures are permitted in the C zone, provided they are incidental to, and do not substantially alter the character of the permitted use or structure, including, but not limited to, the following:

Accessory buildings such as garages, carports, bath houses, green houses, gardening sheds, recreation rooms, and similar structures which are customarily used in conjunction with and incidental to a principal use or structure.

Detached single-family residence used only for the use of a caretaker, watchman or similar employee of a permitted use, when located upon the same site as said permitted use, i.e., RV park camp host.

Fishing activities.

Swimming pool.

Nothing herein shall be construed to permit the open storage of materials or equipment used in conjunction with permitted uses. All such materials or equipment shall be screened from view from public or private streets.

D. Conditional Uses: The following businesses are conditional uses and require a conditional use permit:

Airports, Heliports, and general aircraft flying fields.

Ambulance services.

Cemetery.

Combination utilities company storage yards and equipment storage.

Communications.

Golf courses.

Group or organized camps.

Hospitals.

Parks.

Religious activities.

Public Utilities and Supporting Facilities

(2010 Code, amd. ord. 15-004, 04-28-2015)

E. Physical Restrictions:

1. Minimum lot area: Ten thousand eight hundred ninety (10,890) square feet ($\frac{1}{4}$ acre).
2. Minimum frontage: Fifty feet (50').
3. Minimum setbacks:
 - a. Front: twenty-five feet (25');
 - b. Side and rear: ten feet (10') (adjoining L-1 property); or twenty feet (20') when adjoining property in all other zones. (2010 Code)
4. Maximum height: forty feet (40') for peaked roof, thirty feet (30') for flat roof. (ord. 11-007, 6-28-2011)
5. Maximum building coverage: fifty percent (50%) of lot area.
6. Minimum landscaping: Twenty percent (20%) of lot area shall be landscaped per section [9-12-5](#) of this title, with every effort to preserve existing vegetation. (amd. ord. 22-008, 7-26-22)
7. Screening: All outdoor storage, including vehicles, machinery, and equipment, shall be screened from the public view as seen from any public roadway. Landscaping, fencing, and building orientation are acceptable methods to minimize the adverse visual impacts.
8. Parking and loading: In accordance with section [9-12-15](#) of this title.
9. Noise: No use shall be permitted or conducted which creates noise objectionable by reason of volume, pitch, intermittence, or frequency which is audible at the boundaries of the site.

10. Other restrictions: No service facilities may be located within setbacks. Design should provide for all servicing of vehicles to be within structures, except for delivery of gas and other fluids. (2010 Code) (amd. ord. 21-006, 05-25-21).

9-7-10: BUILDING BONUSES:

- A. Except as provided under paragraph B below, single family and two-family structures as permitted in sections [9-7-1](#) and [9-7-2](#) of this title are not required to follow section [9-12-5](#) (as it relates to backyard landscaping plans so long as the landscaping remains “affordable”, remains water efficient, and attempts to keep as many trees on the property as possible to conform with the spirit of living in a rustic alpine resort town) [9-12-7-B](#), or [912-7-F](#) of this title.

1. An owner who wishes to build a dwelling unit larger than what is allowed in Section 97-1 and 9-7-2, or an owner who wishes to build a container dwelling unit, may submit a Bonus Request to do so, provided that the Owner requests the Town to apply Sections [9-12-5](#), [9-12-7B](#) (Exterior Walls) and [9-12-7F](#) (Windows) of this title to their property for larger residential homes. For container dwelling units, an owner must request Section [9-7-10C\(3\)](#) of this title.
 - a. In doing so, Brian Head Town will require a signed and notarized Bonus Request Statement between the Town and the legal property owner agreeing that the Town will grant a larger home so long as the property owner agrees to abide by the Design and Building Standards listed in this code. The Town has a notary onsite and will provide a standard request form for owners to help with the process.
 - b. The Town will require proof of ownership or title to the property.
 - c. Upon the Town’s receipt of the requested Bonus Statement listed in (a) above, all Design Standards listed in Section [9-12](#) of this title will apply to the selected property. If the Requested Bonus Statement is incomplete, altered, or has any other defect not listed here, it will be deemed invalid, and the request will not be granted.
 - d. After receipt of the signed and notarized Bonus Request Statement, the Town will record the statement with Iron County Recorder’s office. Failure to record a requested statement has no effect on the Town’s authority to enforce regulations against a property owner for which a Bond Request has been received.
 - e. If the property owner is found to have violated the signed Bonus Request Statement, the Certificate of Occupancy may be withheld until all provisions are in compliance with the Town’s standards and regulations.

- B. **The following bonuses shall be granted** if Section A above is appropriately complied with:

1. For Single-Family Residential Zones (R-1) as referred to in [9-7-1](#) of this title:
 - a. Building Height: Increased up to forty-five feet (45’).

- b. Building coverage including garages, patios: Increased up to 40% of the lot area.
2. For Medium-Family Residential Zones (R-2) as referred to in [9-7-2](#) of this title:
- a. Building Height: Increased up to fifty feet (50') for peaked roofs and thirty five feet (35') for flat roofs.
 - b. Building coverage including garages and patios increased up to forty percent (40% of the lot area.
3. For container dwelling units in R-1 and R-2 zones only:
- a. No more than 25% of the overall structure shows the metal walls of the storage container:
 - i. The metal of the storage container that is visible must be painted with premium, exterior, rust-resistant paint, and color matched to soil or vegetation on the property which the container will sit on. The paint color shall strive to make the storage container blend into the surroundings and maintain the rustic feel of Brian Head.
 - b. A minimum of 75% of the dwelling unit (not including windows) must be made of cladding requirements in section [9-12-7F](#) (Exterior Walls) of this title.
 - c. Windows and Doors: Windows and doors should be trimmed or framed by wood, timber, wood shutters, stone or wood lintels and sills that are of a scale, color and mass that reflect styles of a mountain resort community. Windows shall comply with section [9-12-7B](#) (Windows) of this title. Doors: Container doors must be covered to camouflage the raw storage container door made of metal and roads. All door designs are subject to the Zoning Administrator's approval.
 - d. Roof Pitch: The roof pitch should be a 2-12 to 12-12. The Mountain Modern style may be allowed. An entirely flat roof with no pitch shall not be allowed.
 - e. Roof Colors: The roof color must have a LRV of less than 30 and must complement the rest of the dwelling unit.
 - f. Landscaping: Landscaping requirements remain the same as identified in [chapter 7](#) of this title.
4. Container Buildings in Village Commercial (VC), General Commercial (GC) and Light Industrial (IL) zones only.
- a. No more than 25% of the overall structure shows metal walls of the storage container.
 - i. The metal of the dwelling unit that is visible must be painted with premium, exterior, rust-resistant paint and the color matched to soils or vegetation on the property which the dwelling unit will be located. The paint color shall strive to make the dwelling unit blend into the surroundings and maintain the rustic feel of Brian Head Town.
 - b. A minimum of 75% of the dwelling unit (not including windows) must be made of cladding requirements found in section [9-12-7B](#) (Exterior Walls) of this title.
 - c. Windows and Doors: Windows and doors should be trimmed or framed by wood, timber, wood shutters, stone or wood lintels and sills that are of a scale, color and mass that reflect styles of a mountain resort community. Windows shall

comply with section [9-12-7B](#) (Windows) of this title. Doors: The storage container door is prohibited and must be changed or shielded to reflect the style of a mountain resort community.

- d. Roof Pitch: The roof pitch should be 2:12 to 12-12. The Mountain Modern style may be allowed. An entirely flat roof with no pitch shall not be allowed.
- e. Roof Colors: The roof color must have a LRV of less than 30 and must complement the rest of the dwelling.
- f. Landscaping: Landscaping requirements remain the same as listed in [Chapter 7](#) of this title.

(ord. 22-004, 5-10-2022)

9-7-11: CCOD COMMERCIAL CORE OVERLAY DISTRICT

- A. Purpose Statement:** The purpose of the Commercial Core Overlay District is to guide development in the commercial core in a manner that achieves the aesthetics desired in a mountain resort community and improves the first impression of the town. This overlay district employs stricter design standards in order to achieve the Town's goals in return for relaxing other standards that may not be as critical to the Town's goals specifically in the commercial core.
- B. District Locational Criteria:** The Commercial Core Overlay District will be identified on the Zone District map as prescribed in Chapter 6 of this title. Areas covered by the district are characterized by the following:
 - 1. Uses compatible with mountain resort-complimentary commercial and residential activity.
 - 2. Located adjacent to transportation corridors; and
 - 3. Frequented by guests and visitors to the town.
- C. Permitted Uses:** The uses specified as permitted uses set forth in this chapter for the underlying zone shall be permitted uses and no other.
- D. Eligibility for District:** Applicants proposing a project under the allowances and requirements of the Commercial Core Overlay District should make application according to the requirements outlined in Chapter 4 of this Title and state on their application that they intend to develop under the requirements of the overlay district rather than the underlying zone. The designated review authority shall determine eligibility of the application to be considered under the overlay district regulations according to the following standards:

1. The proposed use and development are consistent with the Town General Plan
2. The proposed use and development enhance the character of the overlay district, as set forth in the purpose of the overlay district, in a manner which could not be reasonably achieved under the regulations and standards of the underlying zone.
3. The proposed use and development strictly adhere to or exceeds the enhanced design standards set forth in this section.

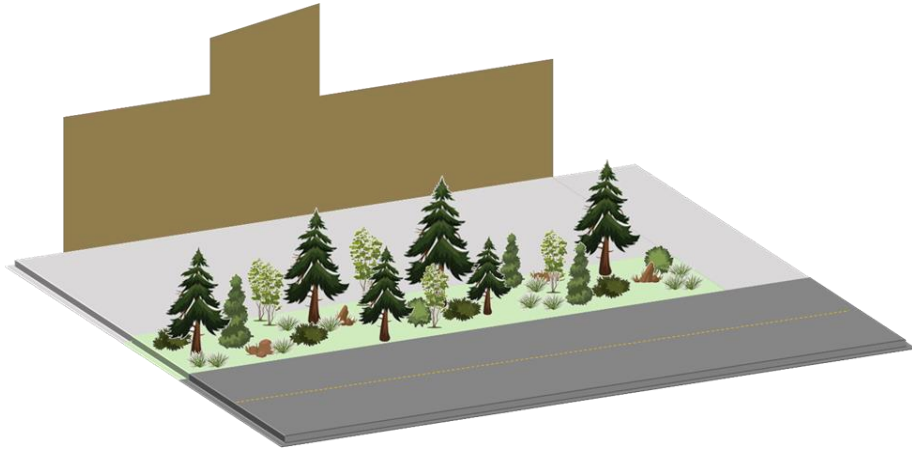
E. Conditional Uses: The uses specified as conditional uses set forth in this chapter for the underlying zone shall be conditional uses and no other.

F. Physical Restrictions: The physical restrictions specified as set forth in this chapter for the underlying zone shall be applied unaltered in this overlay district with the following exceptions:

1. Minimum Landscaping: Minimum requirement may be reduced to 20% in L-1, R-1 and R-2 underlying zones and may be reduced to 25% in R-3 and GC underlying zones. Minimum requirement remains unaltered in all other zones.

G. Design Standards: The Design Standards specified as set forth in [chapter 12](#) of this title shall be applied unaltered in this overlay district with the following exceptions:

1. Landscaping: Landscaping shall be incorporated along frontages between any buildings, structures or parking area and the public right-of-way to achieve enhanced screening. Landscaping used for screening shall consist of mature trees and shrubs, varied in height but a minimum of six (6) feet in height and four (4) inches in trunk diameter for trees. While landscaping intended for screening does not need to completely block buildings and parking area from sight, it shall be of sufficient density to render any structures significantly less imposing on views from the right-of-way. Evergreen trees shall be used predominantly to ensure that screening is effective year-round. Spacing between the foliage of mature trees shall be no greater than four (4) feet with shrubs interspersed in the spaces between and beneath tree foliage, except where driveways and walkways intersect the frontage. Placement of trees and shrubs shall be staggered and varied to avoid unnaturally linear appearance of vegetation. Enhanced landscaped areas shall not be designated for snow storage. Landscape screening shall not impede visibility for drivers entering and exiting driveways.
2. Landscape Maintenance. The developer or applicant shall maintain the landscaping plan as originally approved and may be required to provide a financial guarantee for replacement of plant materials that have died, for a period of two (2) years from the issuance of a certificate of occupancy or certificate of completion.



Example of Enhanced Landscaping Requirement required by 9-7-11(G)(1)
(ord. 22-004, 5-24-22)



ITEM: Public Hearing & LAND MANAGEMENT CODE AMENDMENT FOR 9-12-10 (B) Driveway Standards.

AUTHOR: Lester Ross
DEPARTMENT: Administration
DATE: June 13 , 2023
TYPE OF ITEM: Legislative Action

SUMMARY:

The Council will hold a public hearing for several chapters of the Land Management Code amendments. One of the proposed amendment is Chapter 12, Section 10-B Driveway Standards for adding Driveway Spacing as a requirement. The Council will then consider an ordinance amending the Land Management Code, Chapter 12 Design Standards for Construction and Development, Section 10-B Driveway Standards by adding Driveway Spacing. Please Note that this Chapter and Chapter 7 for the Building Setbacks/Separations will be considered under one ordinance (No. 23-007).

BACKGROUND:

During past Planning Commission and Town Council meetings there have been some concerns expressed about proximity of a proposed driveway to an intersection or other driveways. In reviewing the Land Management Code, the Town does not currently have any restriction or regulations on the spacing of driveways.

The most recent example of this is during the plat amendment for the West Zion View subdivision the new layout with four units along Zion View Drive the distance from the proposed West Zion View Cabins Drive to the driveway for the first unit will be 21 feet.

On May 16, 2023, the Planning Commission discussed access management and driveways. The discussion covered exceptions to the standards, driveways for multi-family dwellings and snow storage. The Planning Commission recommended adding an exception to the driveway's separation based on lot shape and slope. There were a few concerns regarding driveways for town homes with the space between each driveway being too small. Snow storage was a concerns on multi-family and along driveways with the area being used as for snow storage being too small to be able handle the snow with out going onto the neighboring properties.

ANALYSIS:

Principles of Access Management (Driveways)

Access points are an essential element of any roadway network as they represent the start and end points of any trip. Access points can range from large, complex intersections to simple, unpaved field entrances. Every driveway represents potential conflict points between motor vehicles, pedestrians, and bicyclists. The number and complexity of these conflict points relate to the safety performance of the roadway. Therefore, access should be managed through thoughtful consideration of context, function, and location. Good access management begins at the planning level and proceeds through design, construction, and ongoing maintenance. When well executed, access management will result in an appropriate balance between the safety and operation efficiency of the roadway and effective ingress and egress to adjacent properties. (Access management FHWA.dot.gov)

To determine what the appropriate balance between safety and operation efficiency we need to look and several factors.

- Context
 - Speed
 - Traffic type and volume
 - Spacing of existing driveways
 - Property lines
- Degree of Access
 - Sight distance
 - Reducing the number of conflicting movements
 - Proximity to intersections
 - Commercial entrances
- Geometry
 - Physical location
 - Grade
 - Sight distance
 - Turning radius
- Other Considerations
 - Parking
 - Drainage
 - Pavement type

The US Department of Transportation has 4 road Classifications (types).

- Interstate
- Arterial
- Collectors
- Local

Brian Head only has 3 types of roads that we work with
Arterial

- Arterial Highways and other important roadways that supplement the interstate system. They connect, as directly as practicable, to the Nation's principal urbanized areas, cities, and industrial centers. Land access is limited.
- Average Speed 45-70 MPH

Collectors

- Collectors are major and minor roads that connect local roads and streets with arterials. Collectors provide less mobility than arterials at lower speeds and for shorter distances.
- Average Speed 25-35 MPH

Local Roads

- Local Roads Provide limited mobility and are the primary access to residential areas, businesses farms and other local areas.
- Average speed 25 MPH or less

The Brian Head Master Plan identifies the road type (see attachment).

Suggested sight distances for passenger cars entering two lane roadway from stop with various speed limits are shown in the table below:

Operating Speed on Roadway (Mph)	Safe Sight Distance Looking Left from Driveway (ft.)	Safe Sight Distance Looking Right from Driveway (ft.)
20	225	195
30	335	290
40	445	385
50	555	480
60	665	575

Source: American Association of State Highway and Transportation Officials (AASHTO), A Policy on Geometric Design of Highways and Streets 2011 (AASHTO: Washington, DC, 2011).

Access radii. The turning radii of an access must accommodate the turning radius of the largest vehicle using the access on a regular basis.

(i) Minimum and maximum radii ranges:

(A) Commercial, industrial, or agricultural land uses:

(I) Urban areas: 30 feet minimum to 60 feet maximum.

(II) Rural areas: 20 feet minimum to 60 feet maximum.

(ii) Residential land uses:

(I) Urban areas: 10 feet minimum to 15 feet maximum.

(II) Rural areas: 20 feet minimum to 30 feet maximum.

Cornell Law School Access Design Requirements.

In researching how different towns, cities, and counties handle their access management there have been 2 different methods. One size fit all or different spacing per road classification and use type.

1. Enoch City

- a. Minimum spacing from property line 3 feet
- b. Minimum spacing between driveways 12 feet
- c. Minimum spacing from intersection 10 feet

2. Cedar City

- a. Minimum spacing from property line 3 feet
- b. Minimum spacing between driveways 12 feet
- c. Minimum spacing from intersection 15 feet

3. Parowan City

- a. Residential Lots
 - i. Minimum spacing between driveways 12 feet
 - ii. Minimum spacing from intersection 10 feet
- b. All other lots
 - i. Minimum spacing from property line 3 feet
 - ii. Minimum spacing between driveways 12 feet
 - iii. Minimum spacing from intersection determined by Planning Commission

4. Telluride Colorado

- a. Minimum spacing from property line 10 Feet (except when shared access)

- b. Minimum spacing from intersection 50 feet

5. Park City

STREET CLASSIFICATION	MINIMUM SPACING BETWEEN DRIVEWAYS	MINIMUM SPACING FROM INTERSECTION
LOCAL	15'	25'
COLLECTOR	50'	75'
ARTERIAL	75'	150'
HISTORIC DISTRICT	7.5'	10'

6. Iron County

- a. They are currently working on Driveway Spacing but they do not have anything in their code currently. They are looking at going with a spacing based on the speed limit of the road. See attachment B GDOT Spacing of Driveways

STAFF RECOMMENDATION:

Due to the unique nature and terrain of the mountain roads in Brian Head. Having steep winding roads and low sight distance the staff recommends using road classification and use type for driveway spacing. We also recommend setting a minimum spacing of the driveway from the property line.

During Planning Commission on May 16, 2023, staff were directed to add exception to the driveway separation based on lot shape and slope and to address snow storage between driveways on multi-family dwellings. A new column was added splitting the single-family dwellings and multi-family dwellings allowing for different standards between them. In the new multi-family column, the standards are a mix of the residential and commercial requirements as they share similarities between both. The spacing requirements in the multi-family are higher on the arterial and collector road to encourage shared driveways or private roads to reduce the number of vehicles backing into the roadway. A footnote was added to require a design for the driveways or private road to prevent vehicles from backing into the roadway. Private roads were added to set a standard for planned developments along with a footnote allowing for exception to the spacing requirements to allow for different designs. Footnotes were added to the table to add clarification, allow exceptions and to add snow storage restrictions.

Recommend updates to Driveway Standards.

B. Driveway Standards:

Standards	Residential Single-Family Dwelling (SFD)	Residential Multi-Family Dwelling	Commercial (all others)
Minimum width	16 Feet	20 feet (4 or fewer units) (7) 24 Feet (5 or more units) (7)	20 Feet (one-way); 24 feet (two-way)
Maximum width at street line	24 feet	36 Feet	36 Feet

Maximum number of driveway accesses per lot	1 per each 100 feet of frontage (or fraction thereof) Maximum 2 interior, 3 corners	1 per each 100 feet of frontage (or fraction thereof) Maximum 2 interior, 3 corners	1 per each 200 feet of frontage (or fraction thereof)
Minimum Spacing Between Driveway	LOCAL 15 Feet	Local 15 Feet (1)	LOCAL 75 Feet
	Private 10 Feet	Private 10 Feet (1,5)	NA
	Collector 50 Feet (2)	Collector 75 Feet (2)	COLLECTOR 75 Feet
	Arterial 150 Feet (2)	Arterial 150 Feet (2)	ARTERIAL 150 Feet
Minimum Spacing From Intersection	LOCAL 25 Feet	Local 25 Feet	LOCAL 75 Feet
	Collector 70 Feet (2)	Collector 100 Feet (2)	COLLECTOR 100 Feet
	Arterial 150 Feet (2)	Arterial 150 Feet (2)	ARTERIAL 150 Feet
Minimum Spacing from Property Line(3)	5 Feet	5 Feet (6)	10 Feet (6)
Driveway angle to street	45 degree – 90 degree	45 degree – 90 degree	70 degree – 90 degree
Snow Storage	20% additional area (4) Maintain clear view at intersection	20% additional area (4) Maintain clear view at intersection	20% additional area (4) Maintain clear view at intersection
Drainage	May not drain to road surface	To approved storm drain collection system	To approved storm drain collection system
Retaining walls	May extend into public right of way with town staff approval	May extend into public right of way with town staff approval	May extend into public right of way with town staff approval

1. Driveway Spacing between 2 units in the same building that share a common wall or property line between garage and/or parking area is not required or can be reduced. Driveways for other units in the same building will need to meet minimum spacing.
2. Driveways or private roads need to be designed to allow vehicles to turn around to prevent vehicles backing into roadways.
3. An administrative exemption may be granted for the minimum spacing based on lot shape and slope.
4. Snow storage shall be provided on the subject property within the parking lot, adjacent landscaping or other area that allows for safe snow storage without damage to the structures or landscaping. Area less than 5 feet to property line or less than 5 feet to imaginary line between units on the same property cannot be counted for snow storage.
5. Driveway spacing is not required or can be reduced if rear loading garage or parking is used.
6. Excerpt where it is possible to provide one access point that will serve both adjacent properties with recorded access and maintenance agreement.
7. Driveways for individual units connected to a local or private road can be reduced to 16 feet.

PROPOSED MOTION:

The Planning Commission can make a Recommended to Approval, Denial, or Approval with conditions to Town Council to update the Land Management Code Chapter 12 section 10 (B) Driveway Standards

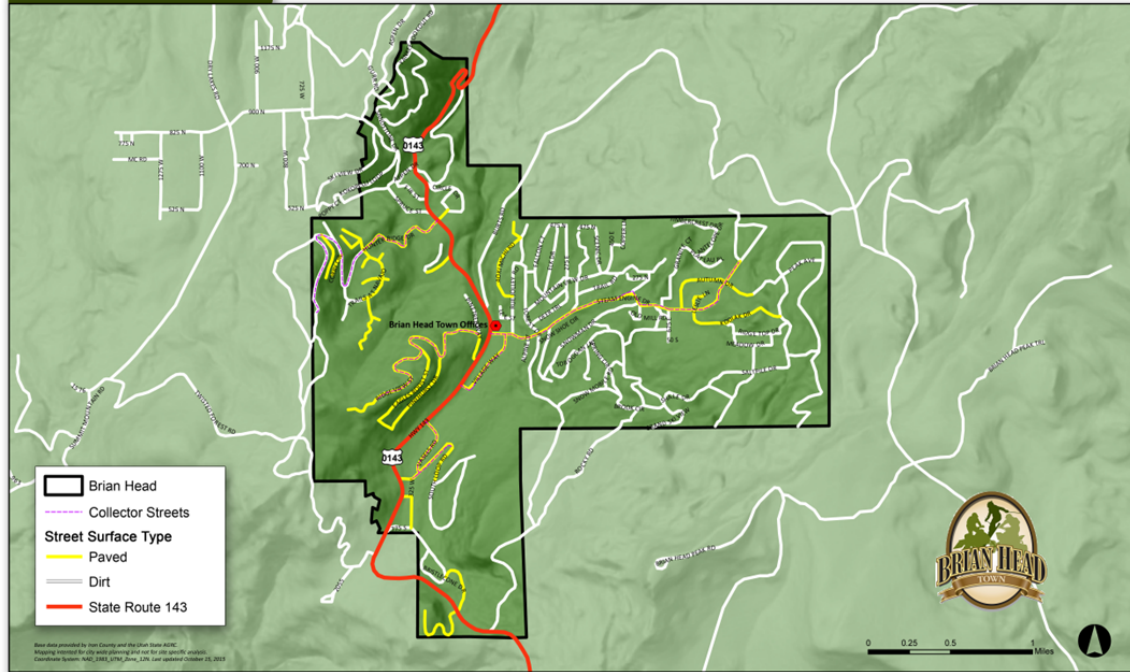
Recommended Motion: I move to recommend approval for the proposed change to Chapter 12 section 10 (B) Driveway Standards in the Land Management Code as presented by staff.

ATTACHMENTS:

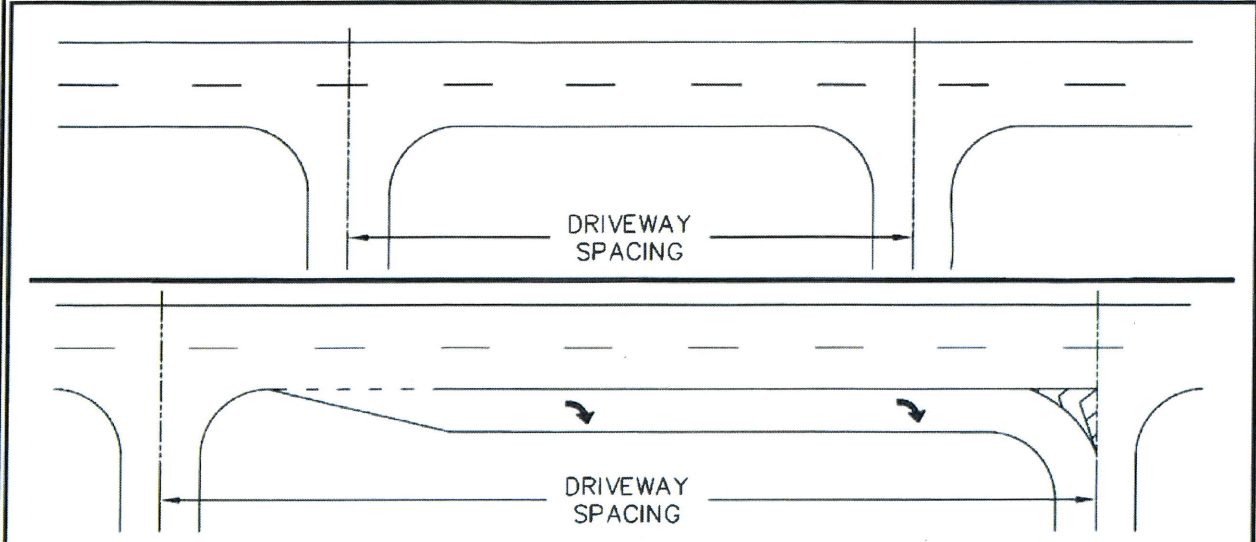
A – Brian Head Streets

B - GDOT spacing of driveways
C - Current driveway standards
D- Updated driveway standards
E- Chapter 12 with changes

Brian Head Streets



SPACING OF DRIVEWAYS



POSTED SPEED, MPH	MINIMUM DRIVEWAY SPACING WITHOUT RIGHT TURN LANE (FEET)	MINIMUM DRIVEWAY SPACING WITH RIGHT TURN LANE (FEET)
25	125	125
30	125	219
35	150	244
40	185	294
45	230	369
50	275	419
55	350	444
60	450	494
65	550	550

TABLE 3-1 SPACING CRITERIA FOR DRIVEWAYS, PUBLIC ROADS AND SIDE STREETS

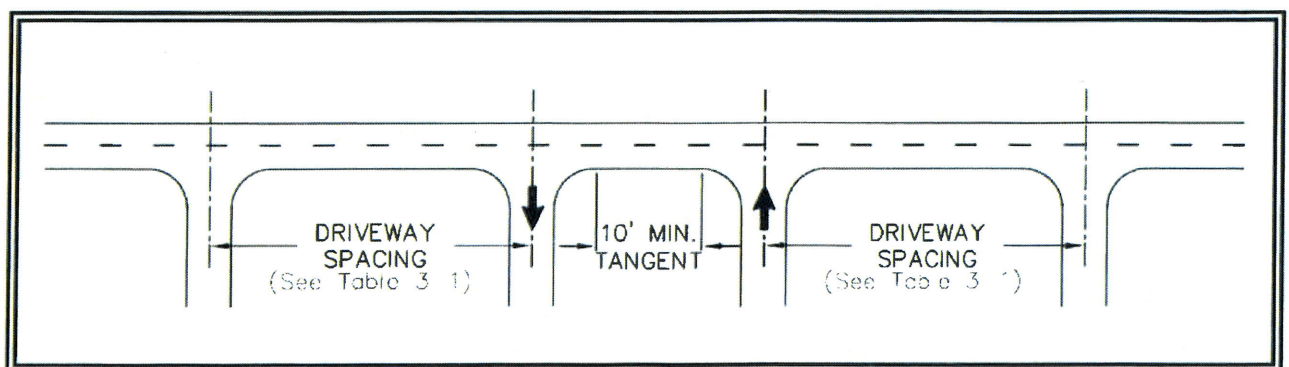


FIGURE 3-1 SPACING CRITERIA FOR ONE-WAY DRIVEWAYS

Driveway Standards

Park City

STREET CLASSIFICATION	MINIMUM SPACING BETWEEN DRIVEWAYS	MINIMUM SPACING FROM INTERSECTION
LOCAL	15'	25'
COLLECTOR	50'	75'
ARTERIAL	75'	150'
HISTORIC DISTRICT	7.5'	10'
Driveway widths		
PROPOSED USE	MINIMUM WIDTH	MAXIMUM TOTAL WIDTH
RESIDENTIAL Single-Family Duplex Shared Driveways	10'	27'
RESIDENTIAL Multi-Unit, 5 or more Parking Spaces	18'	30'
COMMERCIAL Requiring 5 or more Parking Spaces	24'	30'
COMMERCIAL Requiring 4 or fewer Parking Spaces	18'	30'

CLEAR VIEW OF INTERSECTING STREETS. In all Zoning Districts, no obstruction is allowed in excess of two feet (2') in height above Street Grade on any corner Lot within the Site Distance Triangle. See 15-3-3(D)(8).

A reasonable number of trees with lower branches pruned to six feet (6') to permit automobile drivers and pedestrians an unobstructed view of the intersection may be allowed by Administrative Permit.

Enoch City

Adequate ingress and egress to and from all uses shall be provided as follows:

A. Residential Lots. For each residential lot, not more than two (2) driveways, each of which shall be a maximum of twenty (20) feet wide at the street lot line, and such driveways shall not be closer than twelve (12) feet to each other.

B. Other than Residential lots. Access shall be provided to meet the following requirements:

1. Not more than two (2) driveways shall be used for each one hundred (100) feet or fraction thereof of frontage on the street.
2. No two (2) of said driveways shall be closer to each other than twelve (12) feet and no driveway shall be closer to a side property line than three (3) feet.
3. Each driveway shall be no more than thirty-five (35) feet wide, measured at right angles to the center line of the driveway, except as increased by permissible curb return radii. The entire flare of any return radius shall fall within the right-of-way.
4. No driveway shall be closer than ten (10) feet to the point of intersection of two property lines at any corner as measured along the property line, and no driveway shall extend across such extended property line.

5. In all cases where there is an existing curb and gutter or sidewalk on the street, the applicant for a permit shall provide a safety island along the entire frontage of the property, except for the permitted driveways. On the two ends and street side of each such island there shall be constructed a concrete curb, the height, location and structural specifications of which shall be approved by the local surveyor or engineer.

6. Where there is no existing curb and gutter or sidewalk, the applicant may at his option install such safety island and curb, or in place thereof, shall construct along the entire length of the property line (except in front of the permitted driveways) a curb, fence, or pipe rail not exceeding two (2) feet or less than eight (8) inches in height.

Cedar City

On corner lots no driveway shall be closer than fifteen (15) feet to the point of intersection of the front property line with the side property line which abuts upon a street. No driveway shall be located across any curved section of frontage lying between said point of intersection and point of tangent.

Driveways shall not be closer to each other than twelve (12) feet measured four (4) feet on each curb taper and four (4) feet between the curb tapers and no driveway shall be closer to a side lot line than three (3) feet. Twin home lots are not required to have driveway separation when garages are connected. When a commercial or industrial lot abuts any residential zone, a driveway shall be at least twenty feet (20') from the side lot line.

Access shall be by not more than two driveways from any one street upon which there is One Hundred Feet (100') of frontage or less. Any structure with more than One Hundred Feet (100') of frontage shall be allowed one (1) additional driveway for every additional One Hundred Feet (100').

Parowan

Residential Lots.

For each residential lot not more than two (2) driveways, each of which shall be a maximum of twenty (20) feet wide at the street lot line, and such driveways shall not be closer than twelve (12) feet to each other. No driveway shall be closer than twenty (20) feet of any intersection at any corner as measured along the property line.

Other than Residential Lots.

Access shall be provided to meet the following requirements:

1. Not more than two (2) driveways shall be used for each one hundred (100) feet or fraction thereof of frontage on any street with the exception of u-shaped driveways.
2. No two (2) of said driveways shall be closer to each other than twelve (12) feet, and no driveway shall be closer to a side property line than three (3) feet.
3. No driveway shall be closer than twenty (20) feet of any intersection at any corner as measured along the property line.
4. Where there is no existing curb and gutter or sidewalk, the applicant may at his option install a safety island and curb, or, in place thereof shall construct along the entire length of the property line (except in front of the permitted driveways) a curb, fence, or pipe rail not exceeding two (2) feet or less than eight (8) inches in height.
5. All other uses not listed above as determined by the Parowan City Planning Commission, based on the nearest compatible use standards.

Telluride

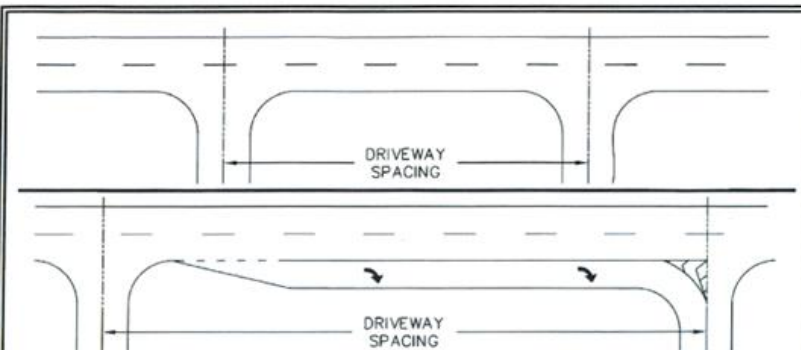
No entrance or exit shall be located nearer than fifty feet (50') to any intersecting street right of way or nearer than ten feet (10') to any adjacent property line, except where it is possible to provide one access point that will serve both adjacent properties, or except onto an alle

Iron County

They are currently working on Driveway Spacing but they do not have anything in their code currently. They are looking at going with a spacing based on the speed limit of the road.

CHAPTER 3

SPACING OF DRIVEWAYS

POSTED SPEED, MPH	MINIMUM DRIVEWAY SPACING WITHOUT RIGHT TURN LANE (FEET)	MINIMUM DRIVEWAY SPACING WITH RIGHT TURN LANE (FEET)
25	125	125
30	125	219
35	150	244
40	185	294
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65	550	550

TABLE 3-1 SPACING CRITERIA FOR DRIVEWAYS, PUBLIC ROADS AND SIDE STREETS

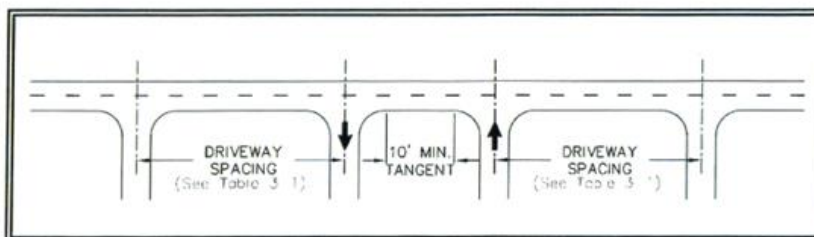


FIGURE 3-1 SPACING CRITERIA FOR ONE-WAY DRIVEWAYS

B. Driveway Standards:

Standards	Residential Single-Family Dwelling (SFD)	Residential Multi-Family Dwelling	Commercial (all others)
Minimum width	16 Feet	20 feet (4 or fewer units) ⁽⁷⁾ 24 Feet (5 or more units) ⁽⁷⁾	20 Feet (one-way); 24 feet (two-way)
Maximum width at street line	24 feet	36 Feet	36 Feet
Maximum number of driveway accesses per lot	1 per each 100 feet of frontage (or fraction thereof) Maximum 2 interior, 3 corners	1 per each 100 feet of frontage (or fraction thereof) Maximum 2 interior, 3 corners	1 per each 200 feet of frontage (or fraction thereof)
Minimum Spacing Between Driveway	LOCAL 15 Feet	Local 15 Feet ⁽¹⁾	LOCAL 75 Feet
	Private 10 Feet	Private 10 Feet ^(1,5)	NA
	Collector 50 Feet ⁽²⁾	Collector 75 Feet ⁽²⁾	COLLECTOR 75 Feet
	Arterial 150 Feet ⁽²⁾	Arterial 150 Feet ⁽²⁾	ARTERIAL 150 Feet
Minimum Spacing From Intersection	LOCAL 25 Feet	Local 25 Feet	LOCAL 75 Feet
	Collector 70 Feet ⁽²⁾	Collector 100 Feet ⁽²⁾	COLLECTOR 100 Feet
	Arterial 150 Feet ⁽²⁾	Arterial 150 Feet ⁽²⁾	ARTERIAL 150 Feet
Minimum Spacing from Property Line ⁽³⁾	5 Feet	5 Feet ⁽⁶⁾	10 Feet ⁽⁶⁾
Driveway angle to street	45 degree – 90 degree	45 degree – 90 degree	70 degree – 90 degree
Snow Storage	20% additional area ⁽⁴⁾ Maintain clear view at intersection	20% additional area ⁽⁴⁾ Maintain clear view at intersection	20% additional area ⁽⁴⁾ Maintain clear view at intersection
Drainage	May not drain to road surface	To approved storm drain collection system	To approved storm drain collection system
Retaining walls	May extend into public right of way with town staff approval	May extend into public right of way with town staff approval	May extend into public right of way with town staff approval

1. Driveway Spacing between 2 units in the same building that share a common wall or property line between garage and/or parking area is not required or can be reduced. Driveways for other units in the same building will need to meet minimum spacing.
2. Driveways or private roads need to be designed to allow vehicles to turn around to prevent vehicles backing into roadways.
3. An administrative exemption may be granted for the minimum spacing based on lot shape and slope.
4. Snow storage shall be provided on the subject property within the parking lot, adjacent landscaping or other area that allows for safe snow storage without damage to the structures or landscaping. Area less than 5 feet to property line or less than 5 feet to imaginary line between units on the same property cannot be counted for snow storage.
5. Driveway spacing is not required or can be reduced if rear loading garage or parking is used.
6. Excerpt where it is possible to provide one access point that will serve both adjacent properties with recorded access and maintenance agreement.
7. Driveways for individual units connected to a local or private road can be reduced to 16 feet.

Title 9 – Land Management Code

Chapter 12

DESIGN STANDARDS FOR CONSTRUCTION AND DEVELOPMENT

9-12-1: PURPOSE:

9-12-2: LOT STANDARDS:

9-12-3: DEVELOPMENT DESIGN AND LAYOUT:

9-12-4: CONSTRUCTION ON SLOPES EXCEEDING TWENTY FIVE PERCENT:

9-12-5: LANDSCAPING AND FENCES:

9-12-6: LIGHTING:

9-12-7: BUILDINGS:

9-12-8: CONSTRUCTION DEBRIS REMOVAL:

9-12-9: ROADS:

9-12-10: DRIVEWAYS:

9-12-11: CUTS, FILLS AND RETAINING WALLS:

9-12-12: BRIDGE AND TUNNEL REGULATIONS:

9-12-13: WATERWAYS, DRAINAGES AND FLOOD HAZARD AREAS:

9-12-14: UTILITY IMPROVEMENTS:

9-12-15: PARKING:

9-12-16: PUBLIC IMPROVEMENTS:

9-12-17: TRASH ENCLOSURES:

9-12-18: COMPLIANCE:

9-12-19: PUBLIC UTILITIES:

9-12-20: CAMPGROUNDS:

9-12-1: PURPOSE:

To enhance our mountain community, the regulations hereinafter set forth in this chapter qualify or supplement, as the case may be, the regulations appearing elsewhere in this title. (ord. 08-016, 8-12-2008)

9-12-2: LOT STANDARDS:

- A. **Minimum Area, Dimensions:** The minimum area and dimensions of all lots shall conform to the requirements of the zone district in which the lot is located.
- B. **Frontage:** Except as otherwise provided herein, all lots or parcels created by subdivision shall have frontage upon a dedicated street improved to standards hereinafter required. Land designated as public right of way shall be separate and distinct from lots adjoining such right of way and shall not be included in the area of such lots.
- A. **Developable Lots:** All subdivisions shall result in the creation of lots which are developable and capable of being built upon. A subdivision shall not create lots and no building permit shall be issued for any lots that would make building or access impractical due to size, shape, steepness of terrain, location of watercourses, problems of sewerage or driveway grades, or other physical conditions, except where such lots are suitable and dedicated for a common open space, private utility, or public purpose.
- B. **Side Lines:** The side lines of all lots, so far as possible, shall be at right angles to each street on which the lot faces, or approximately radial to the center of curvatures. Exceptions may be made to this requirement for considerations such as solar orientation, grades, line of site or other traffic safety issues.
- C. **Corner Lots:** Corner lots for residential use shall be platted wider than interior lots in order to permit conformance with the required front setback requirements along all streets bordering such lots.
- D. **Lot Lines:** A town or zoning boundary line shall not divide a lot. Lot lines shall be made along such boundary lines. Zoning boundaries shall generally follow the lot lines and centerline of the public right of way.
- E. **Lot Numbers:** Lot numbers shall begin with the number "1" and shall continue consecutively through the subdivision with no omissions or duplications; no block designations shall be used. Phased subdivisions shall maintain continuous numbering throughout all phases.
- F. **Number Of Dwelling Units Permitted:** The number of dwelling units shall be in compliance with [chapter 7](#) of this title.

- G. **Area Of Lot:** The area within a lot shall not be considered as providing a yard or open space for any other building or lot.
- H. **Minimum Area Maintained:** No area needed to meet the minimum width, yard area, coverage, parking, or other requirements of this title for a lot or building may be sold or leased away from such lot or building for the purpose of installing any kind of structure.
- K. **Contiguous Lots:** Except as otherwise provided in this title, all lots must be contiguous.
- L. **Frontage On Private Streets:** Lots with frontage on private streets shall only be allowed by conditional use within a planned unit development with an approved master development plan and subject to all applicable requirements of this title and other applicable ordinances. (ord. 08-016, 8-12-2008)

9-12-3: DEVELOPMENT DESIGN AND LAYOUT:

- A. **Hazardous Site Conditions Avoided:** The design of the development shall avoid or fully mitigate hazardous site conditions (unstable slopes, geologic faults, seismic zones, wildland fire, avalanche, or flood potential, etc.).
- B. **Drainage:** Drainage from individual lots shall be coordinated with the general storm drainage pattern for the area and shall avoid conveying to adjacent lots of runoff flows higher than historic patterns.
- C. **Centrally Located Recreation Facilities:** Recreation facilities should be located central to all residents of the development whenever possible.
- D. **Access:** All lots should have reasonable access to open space, trails, park land or recreation facilities that are set aside for either development use or use by the general public.
- E. **Trails And Open Space Access:** Access to public trails and open space abutting the property shall be provided.
- F. **Extension Of Infrastructure:** Public utilities, streets and other public infrastructure shall extend to the farthest border of the development to allow for future development to continue.

- G. **Maintenance Of Common Facilities:** Maintenance of common facilities must be accomplished through CC&Rs, a homeowners' association, a separate maintenance agreement, or some other perpetual agreement to ensure that sufficient funds are collected for this purpose.
- H. **Layout:** The layout of lots should provide desirable settings for structures by making use of natural contours, maintaining views, affording privacy, and providing protection from wind, noise and vehicular traffic.
- I. **Development Design:** Development design should provide for efficiency in the installation and provision of all public and private utilities and services.
- J. **Preservation Of Features:** Where trees, groves, waterways, scenic points, historic spots or other town assets and landmarks exist, as determined by the town, every possible means shall be provided to preserve these features. The development is encouraged to maintain a minimum of twenty percent (20%) of the lot area in natural vegetation in order to preserve the natural environment and topography or demonstrate to the Planning Commission satisfaction that an alternate plan will satisfy this intent. Undisturbed natural vegetation areas that are shown on the approved plan shall be properly marked and protected against damage.
- K. **Placement Of Buildings:** The placement of buildings shall be designed to preserve the natural terrain, drainage, existing topsoil, tree groupings, large trees and large rocks as much as possible so as to screen the building and parking areas from public view.
- L. **Removal Of Hazardous Materials:** Trees, brush, deadfall, natural vegetation or combustible materials shall be removed and maintained at least fifteen feet (15') from structures as a defensible space for firefighting purposes. Additional area may be required by the public safety department. Fire resistant plant materials may be planted in the defensible space as approved by the public safety department.
- M. **Building Placement:** Building placement shall be considerate of the following:
(Ord. 20-002, 4-28-2020)
 - 1. Preserving views of nature, creating a comfortable pedestrian environment with outdoor spaces that do not feel "boxed in" from tall buildings surrounding the space that create a "canyon effect".

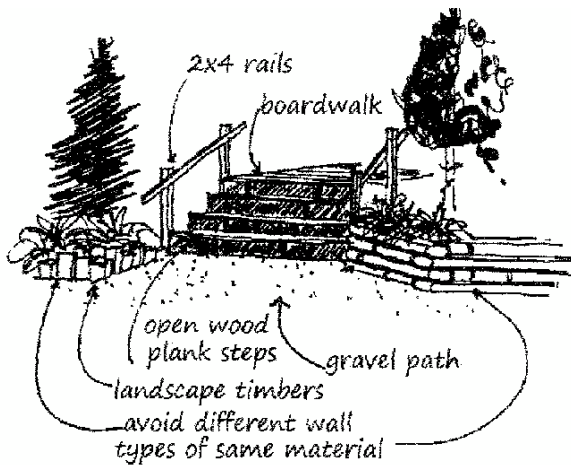
2. Sun and shade areas to enhance the seasonal experience and make best use of environmental conditions for snow melting, outdoor seating areas and building efficiency.
3. Service and delivery areas should be screened from public areas and provide sufficient room for vehicular movement.
4. Pockets and enclosures are encouraged to create "outdoor rooms" adjacent to buildings, pedestrian traffic, and recreation areas. These spaces should blend with the topography, have varied floor heights to add interest, incorporate vegetation and plantings, and incorporate both open and covered space for multi-seasonal use. (ord. 08-016, 8-12-2008)
5. Incorporate non-linear and staggered placement of buildings to avoid straight rows of similar-styled buildings (the "cookie-cutter" effect). (ord. 20-002, 4-28-20)

9-12-4: CONSTRUCTION ON SLOPES EXCEEDING TWENTY FIVE PERCENT:

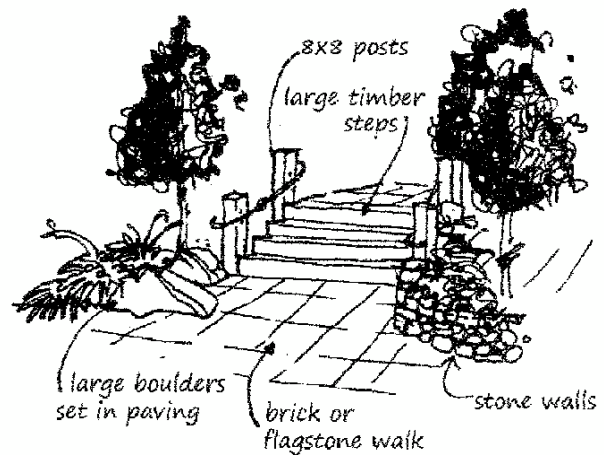
Lots with the building or disturbance area identified on slopes of twenty five percent (25%) (14 degrees) to forty percent (40%) (21.8 degrees) warrant especially close review to assure that all grading, retaining wall, cut/fill and road/driveway grade standards will meet the requirements of this title and currently adopted building codes. Construction or lot disturbance shall not take place on slopes exceeding forty percent (40%) (21.8 degrees), except for lots legally subdivided prior to the adoption date hereof. The design shall minimize lot disturbance and removal of existing vegetation and provide erosion protection. (ord. 08-016, 8-12-2008)

9-12-5: LANDSCAPING AND FENCES:

- A. **Purpose:** Development shall attempt to blend with the natural terrain and to preserve drainage/waterways, existing topsoil, tree groupings, large trees and rocks. Landscaping design shall provide for new trees, shrubs and vegetation to screen buildings, parking lots and service areas from public view.



UNDESIRABLE LANDSCAPE MATERIALS



DESIRABLE LANDSCAPE MATERIALS

B. Landscaped Areas Of Development:

1. Shall incorporate natural, informal landscape design, rather than formal, geometric patterns.
2. Create buffer zones between adjacent uses and screen parking, service, and equipment areas from view within and between developments through the use of extensive tree, shrub and natural grass planting.
3. Preserve natural vegetation, rock outcroppings and other natural features to blend the new development to the natural environment.
4. Incorporate paths, trails and gathering areas into the natural environment and use materials that blend with the area, such as timbers, pavers, colored concrete, boulders, etc.

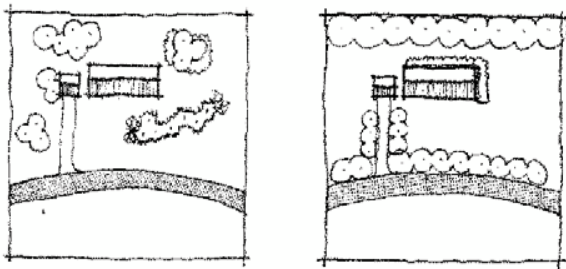
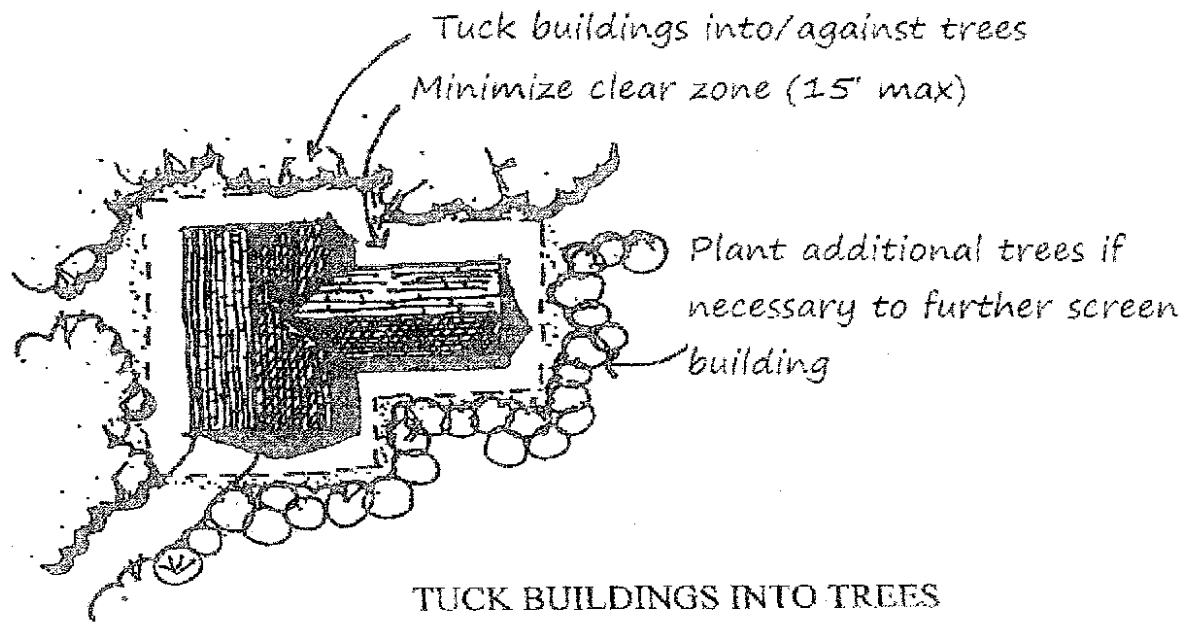


Figure 11.1: Informal planting (left) is preferred. Formal planting (right) is discouraged in Brian Head.



- C. **Fences:** Fences and gates should be avoided to preserve a sense of openness and continuity. When fences are implemented for landscaping, safety, animal containment, or privacy they shall comply with the following:
1. Fences and gates shall be set back at least ten feet (10') behind the building front facade.
 2. Perimeter fencing of a property is prohibited without specific Planning Commission approval.
 3. Fences shall not exceed four feet (4') in height, except where required for safety reasons (swimming pool and attractive nuisances) or where necessary to meet screening requirements or where not visible from off site. (ord. 08-016, 8-12-2008 amd ord. 15-018, 12-8-2015)
 4. Fence materials shall be wood, timbers, rock or materials indigenous to the area. Wrought iron fencing should be used primarily at swimming pools and painted or treated to blend in with the surrounding environment or building facade.
 5. Vegetation should be planted in and around fencing to soften the appearance except where no visible from off site. (ord. 08-016, 8-12-2008 amd ord. 15-018, 12-8-2015)
 6. Inappropriate wall and fence materials are railroad ties, stucco, chain-link, concrete blocks and vinyl. Use of these or similar materials must be consistent with the General Plan and approved by the Planning Commission. (ord. 08-016, 12-2008, amd ord. 16-007, 12-8-2016).

9-12-6: LIGHTING:

Purpose: It is the intent of this section to encourage lighting practices and systems which preserve Brian Head's special resource of dark skies and support the Dark Sky Certification of neighboring Cedar Breaks National Monument by minimizing light pollution, glare, and light trespass, and by eliminating unnecessarily bright light color spectrums. The Town intends to accomplish these objectives without sacrificing nighttime safety, mobility, or the ability of businesses to operate reasonably. This section does not apply to indoor lighting. (ord. 18-006, 6-11-2018 amd. ord. 19-014, 11-12-2019)

- A. **All light fixtures**, including security lighting and sign lighting, except streetlamps, shall be placed at a location, angle and height and shielded so that upward light pollution is minimized: (ord. 19-014, 11-12-2019)
 - 1. Light fixtures shall be mounted to the building or of a pole that directs light towards the ground and focuses on the object to be lit. Where signs and similar objects can be lit from above with lighting directed downward, this option should be employed. Where it is not possible, sufficient shielding should be employed to focus the light on the object rather than allowing it to escape upward and pollute the night sky. (2010 Code. amd. ord. 19-014, 11-12-2019)
 - 2. Light fixtures shall be fully shielded on top with opaque material that disallows light from the sources to travel upward into the sky. The sides of the fixture shall be at least partially shielded with either transparent or translucent material. Fixtures which are not fully shielded with opaque material shall be limited to 800 lumens per fixture in residential zones and 2,000 lumens per fixture in commercial zones. (amd. ord. 19-014, 11-12-2019)
- B. **The correlated color temperature** of any outdoor lighting fixture shall not exceed three thousand degrees kelvin (3,000°k). (ord. 19-014, 11-12-2019)
- C. **Light fixtures shall not emit more light than is necessary to accomplish its purpose:**
 - 1. Fixtures shall be spaced sufficiently to provide adequate light as required by the building code. (ord. 19-014, 11-12-2019)
 - 2. Parking lot lights, yard lights, or both, may be required for multi-family, commercial and industrial projects. The Planning Commission shall review the proposed lighting plan of a project to determine that it meets the minimum lighting requirement for safety while maintaining sensitivity to night sky preservation.
 - 3. Total outdoor lighting shall not produce more than 25,000 lumens per acre or more than five (5) lux at any property boundary for commercial properties or more than 5,000 per

acre or more than one (1) lux at any property boundary for residential properties. (ord. 19-014, 11-12-2019)

4. Architectural and aesthetic lighting shall use low lumen light sources. (ord. 19-014, 11-12-2019)

D. **Outdoor lighting** shall only be used when necessary to accomplish its purpose:

1. Security lights shall be operated on a motion sensor. Any light on a functioning motion sensor will not count toward the light maximum in subsection [C\(3\)](#) of this title. (ord. 19-014, 11-12-2019)

E. **Subdivision and Street Lighting:**

1. Street lighting will be used to ensure safety and mobility. (amd. ord. 19-014, 11-12-2019).
 - a. Streetlights will be placed at all intersections with a state highway and all intersections with a Town collector road (as defined in the Brian Head Transportation Master Plan).
 - b. The Public Safety Director may order the placement of additional streetlights where necessary to preserve public safety.
 - c. The specifications of street lighting fixtures will be in accordance with the Town's Public Works Standards and shall utilize lamp types that are energy efficient, are dark sky compliant, and mitigate the other negative impacts of artificial lighting.
 - d. Pedestrian trails, sidewalks and walkways may be lit with minimum light necessary to ensure pedestrian safety and in accordance with Public Works Standards.
 - e. Additional streetlights may be used to establish a sense of place in accordance with a Street Lighting Master Plan approved by the Town Council.(ord. 19-014, 11-12-2019).
2. Subdivision plans (either residential or non-residential) shall provide for lighting of all streets in accordance with subsection [9-12-\(E\)\(1\)](#) and the Town's Public Works Standards. (amd. ord. 19-014, 11-12-2019)
 - a. Additional streetlights along the public right of way may be required by the Planning Commission in order to better establish a sense of place. Said streetlights, when

required, shall conform to the Town's Public Works Standards. (amd. rd. 19-014, 11-12-2019)

b. Subdivision plans shall include:

- i. The location, height and overhand of each light.
- ii. The size of lights in lumens and type of laminator, and the color of the lights (expressed in Kelvin). Where practicable, the most energy efficient laminators shall be used.
- iii. A drawing or photograph of the typical streetlight and standard proposed and location of energy meter, switches, cutoffs, etc., if any.

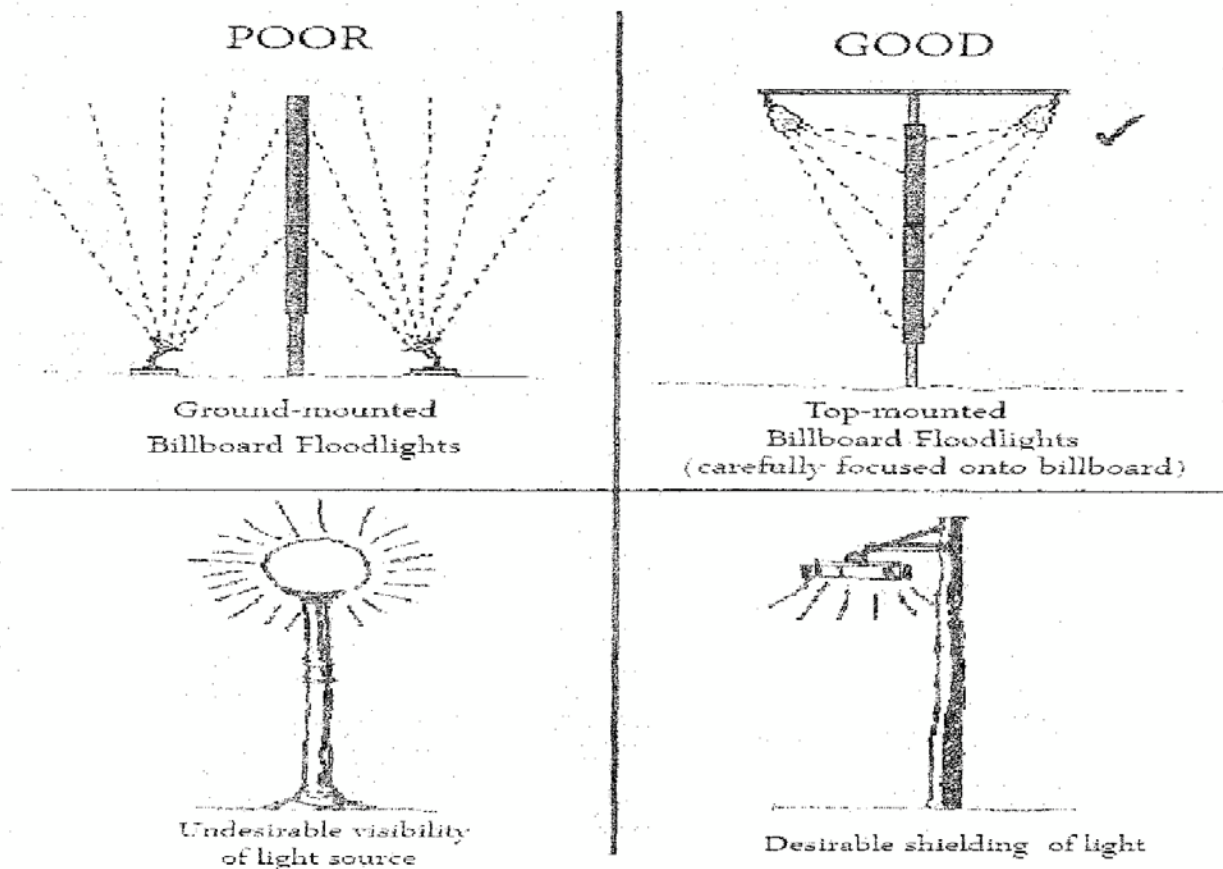
(amd. ord. 19-014, 11-12-2019)

F. **Exceptions:** The following shall be exempt from the requirements of this chapter:

1. Holiday lighting from November 15 to January 15 as long as it does not create a safety hazard or nuisance to surrounding businesses or residences.
2. Traffic control signals and devices or temporary emergency lighting in use by law enforcement or government agencies or at their direction.
3. The lighting of federal or state flags, provided that the light is a narrow beam aimed and shielded to illuminate only the flag. Flag lighting should use appropriate illumination levels to the light the flag, while at the same time fulfilling the purpose of this chapter. Upward lighting of flags is permitted with a limit of three (3) fixture per flagpole with a maximum of two thousand (2,000) lumens each. The fixtures must be shielded such that the point source is not visible outside of a fifteen (15') foot radius.
4. Lights on snow removal or grooming equipment engaged in water snow operations.
5. Lighting for recreational uses (such as ballfields, parks, or night skiing) which do not strictly adhere to the requirements of this section may be approved by the Planning Commission following a determine that the lighting meets the intent of the requirements of this section and up on the condition that lighting will be subject to a reasonable curfew.

(ord. 19-014, 11-12-2019)

EXAMPLES OF SOME COMMON LIGHTING FIXTURES



(ord. 08-016, 8-12-2008)

9-12-7: BUILDINGS:

- A. **Purpose:** All buildings and structures are to blend into and be in harmony with surrounding natural vegetation patterns and landforms of the mountain setting. Buildings are to be located to minimize tree removal and site disturbance, while being oriented to the outdoor lifestyle and weather and climate conditions. Existing structures are encouraged to remodel or modify their appearance following the requirements of this chapter. (amd. ord. 17-004, 7-11-2017)

- B. **Architectural Design And Style:** Buildings should implement a rustic composition such as the craftsman, historic mountain lodge, log cabin, national park, or mountain modern style architecture that will blend with the mountain setting, as well as topography, landscape and natural environment found in and around that site. These styles include

gabled roofs, exposed rafters and beams, and multi-paned windows, varied exterior materials, stone and brick wainscots, dormers, large picture windows, decks and railings, and other features intended to break up the mass and scale of the buildings and help them blend in better to the natural surroundings. Building materials shall include large wooden beams and timbers, stone covered columns, chimneys, and foundation and exterior wall materials reflecting simple, rustic design. Other materials may be considered at the approval authority's written discretion. (ord. 17-004, 7-11-2017 amd. ord. 22-004, 5-10-2022)

ARCHITECTURAL TYPE	STRUCTURE TYPE		
	Commercial	Condo	Residential
			
			
			
			
	 Modern design offers a contemporary interpretation of mountain architecture, creating a new and unique mountain environment. The building is designed to be a part of the mountain environment, blending in with the natural surroundings.		

(ord. 17-004, 7-11-2017, amd ord. 19-014, 11-12-2019)

C. Height:

1. Building heights are specified in each zone district.
2. Public and quasi-public utility buildings, when authorized in a district, may be erected to a height greater than the zone district height limit by obtaining a conditional use permit.

3. No dwellings shall be erected to a height less than one story above grade, unless specifically designed and approved as an earth sheltered structure.

D. Mass, Scale And Composition:

1. Building mass and scale should be sensitive to the site and surrounding structures in the neighborhood so as not to stand out or draw attention away from the natural environment.
2. Rooflines, foundations, and walls shall have steps, offsets and architectural features to follow existing slopes and reduce mass. Multi-unit structures should appear to be a cluster or collection of individual masses so as not to create the appearance of stacks or rows of identical "products".

E. Roofs:

1. Single and double gabled roofs are permitted with hips and sheds used on smaller sections, secondary roofs, or dormers. Monoslope roofs are allowable consistent with the mountain modern architectural style. Flat roofs are discouraged. (amd. ord. 19-014, 11-12-2019)
2. Wood shake shingles are prohibited.
3. Roof pitches should range between four to twelve (4:12) and twelve to twelve (12:12).
4. Valleys, dormers, rain gutter and associated roof features should be designed with consideration to retention of snow on the roof. Care should be taken to avoid ice dams and snow sliding that may damage roofing materials or landscaping and building elements below. Special consideration should be given to protecting public entries, patios and balconies, where the weight of falling snow may damage such structures and endanger human life.

F. Exterior Walls:

1. Exposed foundations under four feet (4') in height may be rubbed or finished in natural earth tone color. Walls over four feet (4') must be covered in stone, wood, or similar materials to blend with the rest of the structure and must be resistant to snow piling and water damage. (amd. ord. 17-004, 7-11-2017)
2. Building wall finish shall include full log or log faced siding, stone (cultured or natural), wood shingles, horizontal wood board and batten siding, or other synthetic material textured to simulate natural materials. Consistent with the rustic composition

architectural style as identified in [subsection B](#) of this title. Stucco, milled wallboard, brick, non-reflective metal similar material may be used in limited quantities provided they are broken up with contrasting materials, colors, and textures consistent with the architectural styles identified in [subsection B](#) of this title. Reflective metal is not permitted. (amd. ord. 16-007, 12-8-2016. amd ord. 17-004, 7-11, 2017).

G. Colors:

1. Exterior building colors should be subdued, complementary colors found in the natural landscaping. Browns, greys, and greens are encouraged for large mass areas. Bright colors, including bright white, are not allowed for large mass areas. Trim colors of golds, reds, blues and greens in darker shades found in or around the site are permissible as long as they blend with the overall building design and do not create a strong contrast. Buildings or building materials that stand out against the landscape because of color or light reflection are prohibited. (amd. Ord. 17-004, 7-11-2017)
2. Roof colors should resemble natural earth tone hues that blend with the surrounding landscape. Reflective materials reflective light value (LRV) exceeding 30 shall not be used. Bright red, bright blue, bright green, bright white, bright cream, or similar colors that stand out from the surrounding landscape, or draw attention to the structure, shall not be used. (2010 Code amd. ord. 18-009, 9-10-2018)

H. Windows And Doors:

1. Large glass surfaces should have features (structural or grid) that break the window up into multi-pane units.
2. Large windows and doors should be recessed and/or shaded by eaves, overhangs, decks or similar architectural features that reduce glare and reflection.
3. Window and door frame colors shall comply with [subsection G](#) of this section.
4. Glass shall not create a mirrored finish but may be treated or coated to control solar heat gain.
5. Windows and doors should be trimmed or framed by wood, timber, wood shutters, stone or wood lintels and sills that are of a scale, color and mass that reflect styles such as the craftsman, historic mountain lodge, log cabin or national park style architecture.

- I. **Design Factors:** Snow loads, fire standpipes, provisions for handicapped, elevator emergency requirements, footing specifications, and house address: Requirements for these design factors are defined in the building codes currently adopted by the state, with specific design criteria available from the Town Building Department. Building addresses shall be assigned by the Town. (ord. 08-016, 8-12-2008)

- J. **Accessory Structures:** A non-habitable structure, subordinate to and located on the same lot with a primary structure, the use of which is clearly incidental to that of the main building or to the use of the land, and which is not attached by any part of a common wall or common roof to the main structure. In addition to meeting requirements A through I of this Section, accessory structures must meet the following requirements:
1. Must be detached from the primary structure and have a minimum of ten feet (10') of clearance from other structures.
 2. Cannot be used as a habitable space.
 3. Structure cannot be located within the setback (notwithstanding, setback exceptions that apply to the primary structure as outlined in [chapter 7](#) of this title, in the applicable zone, also apply to accessory structures).
 4. Must meet snow load requirements.
 5. Required to have footings or foundation for accessory structures over 450 square feet.
 6. Structures being used as a garage for vehicle storage must meet all applicable International Building Code requirements.
 7. Shipping containers, intermodal containers, or railroad boxes may not be used as accessory structures (Ord. 21-006, 05-25-21).
 8. No more than three (3) accessory structures are allowed on a single lot of up to one (1) acre. Additional accessory structures may be allowed on lots larger than one acre, not to exceed two (2) accessory structures per additional acre.
 9. Except for a building accessory to an agricultural use, the footprint of an accessory structure must not exceed fifty percent (50%) of the footprint of the primary structure. In no case shall an accessory structure exceed 3,000 square feet in footprint.
 10. Maximum height of accessory structures is limited by the area of the structure as follows:
 - a. 0 – 200 square feet, 15 feet maximum height. (amd. ord. 17-004, 7-22-1017)
 - b. 201 – 400 square feet, 19 feet maximum height. (amd. ord. 17-004, 7-22-1017)
 - c. 401 – 1,000 square feet, 24 feet maximum height. (amd. ord. 17-004, 7-22-1017)
 - d. 1,001 – 1,500 square feet, 27 feet maximum height. (amd. ord. 17-004, 7-22-1017)

- e. 1,501 square feet and above, maximum height determined by Planning Commission review, but shall in no case exceed thirty-two feet (32'). (ord. 15-018, 12-8-2015 amd. ord. 17-004, 7-11-2017)
- f. If the proposed accessory structure sits at a lower elevation than the primary structure, an addition of one foot (1') of height may be allowed for each one foot (1') of elevation difference up to five feet (5') of additional height following a determination of the Planning Commission that the height of the accessory structure does not conflict with the general plan or detract from the intended character of the zone. (ord. 17-006, 8-8-2017).
- g. Under no circumstances shall an accessory structure exceed 80% of the height of the primary structure. (ord. 17-006, 8-8-2017).

9-12-8: CONSTRUCTION DEBRIS REMOVAL:

All building/construction sites shall provide debris removal sufficient to facilitate the regular cleanup and removal of construction debris from the site. The debris container or containment area must prevent debris from being blown off the property and screen the debris/garbage from public view or maintain the material in a neat orderly manner. It may not become a fire hazard or nuisance to the public or attract vermin. Failure to comply with this section may result in the suspension of building permits, fines or other such appropriate penalties. (ord. 08-016, 8-12-2008)

9-12-9: ROADS:

A. Road Layout And Geometry:

- 1. The design and arrangement and construction of all roads, public and private (unless otherwise provided), shall be in conformance with the town public works standards, the provisions of this title, and the Town Design Standards.
- 2. Road systems shall provide efficient internal circulation and reasonable access to public highways, minimize congestion and unsafe conditions, and be in conformance with the town General Plan.
- 3. The arrangement of roads shall provide for the continuation of roads between adjacent properties when the continuation is necessary for the convenient movement of traffic, pedestrians, emergency or maintenance vehicles, or the efficient provision of utilities. Proposed streets shall be continuous and in alignment with existing planned or platted streets with which they are to connect.
- 4. Roads shall be designed in compliance with applicable codes to provide emergency access and egress for residents and occupants, which should encourage two (2) or more points of access to a development or neighborhood wherever possible.

5. Where the potential traffic impacts on the existing street systems are considered to be great, or in the case of unique circumstances concerning topography or street layout, the subdivider may be required to prepare a detailed engineering study of the road system.
6. Proposed streets shall intersect one another as nearly at right angles as topography and other limiting factors of good design permit. No intersection may be closer than one hundred fifty feet (150') to any other intersection as measured from the centerlines of the intersections.
7. Where a road does not extend to the boundary of the development and its continuation is not required, its terminus shall provide for a cul-de-sac or turnaround as required by the town public works standards or applicable building codes.
8. Protection strips reserved to control or restrict access to a property shall be utilized only where the reserve strip is deeded to and accepted by the Town.
9. Public or private roads must provide legal access to each building lot within the subdivision.
10. Curbs, gutters and sidewalks shall be of a type approved by the town public works standards on any existing or proposed street adjoining a lot on which a building is to be constructed or remodeled, or on which a new use is to be established. All materials and workmanship shall be sensitive to appearance and durability, due to a harsh weather climate. Such curbs, gutters and sidewalks may be required as a condition of building or use permit approval.
11. Excessively long and straight streets which are conducive to high speed traffic shall be prohibited.
12. Every cul-de-sac and permanent dead-end street shall comply with the following requirements:
 - a. End at a turnaround area having a radius no less than fifty feet (50') and be of hard surface material.
 - b. Not exceed eight hundred feet (800') in total length unless additional turnaround areas (each having at least a 50-foot radius) are also provided at intervals of no less than eight hundred feet (800') throughout the length of such cul-de-sac or permanent dead-end street.
 - c. Hammerhead turnaround areas may be allowed in special circumstances when recommended by the public safety department and approved by the land use authority.
13. Temporary dead-end streets, intended as access to future development parcels, shall be a minimum of one lot depth in length and shall meet all of the other requirements for permanent dead-end streets set forth in subsection A-12 of this section.
14. Driveways, mailboxes, fire hydrants and all other obstructions at such turnaround areas shall be designed in such a way as to provide an area for snow storage.
15. Road edges shall be:
 - a. Finished and landscaped to eliminate raw cuts in the land.

- b. Cuts shall be graded to provide for vegetation, without damaging existing vegetation and trees.
- c. Re-vegetated on road edges and cuts.
- d. Constructed to support a vehicle.
- e. Riprapped and graded to reduce erosion in drainage ways.
- f. Constructed to provide driveway and road swales or culverts to protect intersections.

16. Retaining soils on roadways shall comply with section [9-12-11](#) of this chapter.

B. Road Grades:

- 1. Road grades shall be in compliance with the Town Public Works Standards, the Building Codes currently adopted by the state and this code.
- 2. All road grades greater than twelve percent (12%) (6.8 degrees) shall be submitted for approval to the land use authority with the recommendation of the Town staff.
- 3. Intersections, switchbacks, hammerheads and cul-de-sacs shall not exceed a four percent (4%) grade. Roadway sections extending from these areas shall not exceed ten percent (10%) for a distance of at least two hundred feet (200').
- 4. Roadway sections exceeding ten percent (10%) (5.7 degrees) shall be no longer than four hundred feet (400') in length and at the bottom of such section shall be provided a straight "braking section" less than ten percent (10%). The length of the braking section must be at least one-half ($\frac{1}{2}$) of the length of the roadway that exceeds the ten percent (10%) (5.7 degrees) grade.

C. Private Road Maintenance: A maintenance plan must be established to the satisfaction of the Town Manager, or designee, before a private road may be approved. The plan shall define private road construction, surface material and schedule of maintenance, and ensure that sufficient funds will be available to maintain the road.

D. Street Names:

- 1. Street names shall be proposed by the developer and/or citizen and approved by the land use authority, with the recommendation of Town staff. (ord. 08-016, 8-12-2008, amd ord. 15-018, 12-8-2015)
- 2. Developers or citizens are encouraged to do an investigation of local history regarding the names and references to geological and historical features located in the subdivision and, wherever possible, to incorporate the historical names and references into the names and designations of streets. (ord. 08-016, 8-12-2008)
- 3. The Town may change the name of a street without petition or after petition by a property owner under the following conditions:
 - a. A notice of the hearing is:

- i. Published;
 - a) In a newspaper of general circulation in the county once per week for four consecutive weeks before the hearing; and
 - b) On the Utah Public Notice Website created in [UCA §63A-12-114](#), for four consecutive weeks prior to the hearing; and
 - ii. Posted in three places for four consecutive weeks prior to the hearing; and
 - iii. Mailed to all owners of property abutting the town road.
4. All street names must be coordinated with the appropriate county official. (amd. ord. 15-018, 12-8-2015)

9-12-10: DRIVEWAYS:

The following shall apply to all driveways connecting the public right of way to a private or public parking lot or structure:

- A. **When Approval Required:** Driveways exceeding one hundred fifty feet (150') in length and/or twelve percent (12%) (6.8 degrees) grade must be approved by the Director of Public Sand/or designee.

B. **Driveway Standards:**

Standards	Residential Single Family Dwelling (SFD)	Commercial (All Others)
Minimum width	16 feet (4 or fewer units)	20 feet (one-way); 24 feet (two-way)
Maximum width at street line	24 feet	36 feet
Maximum number of driveway accesses per lot	1 per each 100 feet of frontage (or fraction thereof), maximum 2 interior, 3 corners	1 per each 200 feet of frontage (or fraction thereof)

Driveway angle to street	45 degree – 90 degree	70 degree – 90 degree
Snow storage	Maintain clear view at intersection	Maintain clear view at intersection
Drainage	May not drain to road surface	To approved storm drain collection system
Retaining walls	May extend into public right of way with town staff approval	May extend into public right of way with town staff approval

(ord. 08-016, 8-12-2008, amd ord. 16-007, 11-8-2016)

B. Driveway Standards:

Standards	Residential Single-Family Dwelling (SFD)	Residential Multi-Family Dwelling	Commercial (all others)
Minimum width	16 Feet	20 feet (4 or fewer units) ⁽⁷⁾ 24 Feet (5 or more units) ⁽⁷⁾	20 Feet (one-way); 24 feet (two-way)
Maximum width at street line	24 feet	36 Feet	36 Feet
Maximum number of driveway accesses per lot	1 per each 100 feet of frontage (or fraction thereof) Maximum 2 interior, 3 corners	1 per each 100 feet of frontage (or fraction thereof) Maximum 2 interior, 3 corners	1 per each 200 feet of frontage (or fraction thereof)
Minimum Spacing Between Driveway	LOCAL 15 Feet	Local 15 Feet (1)	LOCAL 75 Feet
	Private 10 Feet	Private 10 Feet (1,5)	NA
	Collector 50 Feet (2)	Collector 75 Feet (2)	COLLECTOR 75 Feet
	Arterial 150 Feet (2)	Arterial 150 Feet (2)	ARTERIAL 150 Feet
Minimum Spacing From Intersection	LOCAL 25 Feet	Local 25 Feet	LOCAL 75 Feet
	Collector 70Feet (2)	Collector 100 Feet (2)	COLLECTOR 100 Feet
	Arterial 150 Feet (2)	Arterial 150 Feet (2)	ARTERIAL 150 Feet
Minimum Spacing from Property Line(3)	5 Feet	5 Feet ⁽⁶⁾	10 Feet ⁽⁶⁾

Driveway angle to street	45 degree – 90 degree	45 degree – 90 degree	70 degree – 90 degree
Snow Storage	20% additional area (4) Maintain clear view at intersection	20% additional area (4) Maintain clear view at intersection	20% additional aera (4) Maintain clear view at intersection
Drainage	May not drain to road surface	To approved storm drain collection system	To approved storm drain collection system
Retaining walls	May extend into public right of way with town staff approval	May extend into public right of way with town staff approval	May extend into public right of way with town staff approval

1. Driveway Spacing between 2 units in the same building that share a common wall or property line between garage and/or parking area is not required or can be reduced. Driveways for other units in the same building will need to meet minimum spacing.
2. Driveways or private roads need to be designed to allow vehicles to turn around to prevent vehicles backing into roadways.
3. An administrative exemption may be granted for the minimum spacing based on lot shape and slope.
4. Snow storage shall be provided on the subject property within the parking lot, adjacent landscaping or other area that allows for safe snow storage without damage to the structures or landscaping. Area less than 5 feet to property line or less than 5 feet to imaginary line between units on the same property cannot be counted for snow storage.
5. Driveway spacing is not required or can be reduced if rear loading garage or parking is used.
6. Excerpt where it is possible to provide one access point that will serve both adjacent properties with recorded access and maintenance agreement.
7. Driveways for individual units connected to a local or private road can be reduced to 16 feet.

- C. **Surface Material:** Hard surface is required in commercial and multi-family residential zones. Other materials that make the surface effectively hard but aren't asphalt or concrete may be used with the approval of the Planning Commission. All weather surface may be used for overflow parking (parking in excess of the requirement) as well as in all other zones. (ord. 16-007, 11-8-2016)
- D. **Design of access point** (where driveway meets pavement) must be approved by the Public Works Director to minimize snow removal and drainage issues. (ord. 17-004, 7-11-2017)
- E. **Where multi-family or commercial developments are situated with frontage** on both a collector road and residential road, driveway access point shall be from the collector road. (ord. 20-002, 4-28-2020)

9-12-11: CUTS, FILLS AND RETAINING WALLS:

- A. **Purpose:** Because of the dramatic visual impact of cuts, fills and retaining walls in the town, and the public safety factors that may arise with significant cuts and fills in unsuitable soils, cuts, fills and retaining walls shall be designed to mitigate visual impact and ensure safe soil retention.
- B. **Cuts And Retaining Walls:** Cuts, fills and retaining walls shall conform to the following criteria:
1. Un-retained cuts shall not exceed one (1) slope unit vertical for each two (2) units horizontal (50 percent slope) (unless a steeper slope is designed by a state licensed engineer) and must be re-vegetated to prevent erosion.
 2. Any single retaining wall or retaining mechanism, within the same plane, exceeding twelve feet (12') in height or one hundred feet (100') in length of exposed wall shall be reviewed by the Planning Commission.
 3. Up to three (3) terraced cuts may be created under a terraced cut retaining system, so long as each wall is separated by a minimum four-foot (4') setback (measured from face to face) for visual relief and re-vegetation. Total maximum height of a terraced retaining system exceeding eighteen feet (18') in height shall be reviewed by the Planning Commission as part of the approval process. In cases where re-vegetation will be detrimental to the structural integrity of the wall, the applicant shall propose and implement design strategies to create visual relief or contrast to enhance the appearance and mitigate the mass of the wall. (amd. ord. 15-018, 12-8-2015)
 4. Retaining wall height shall be measured as the exposed face of a single wall or combined faces of a terraced retaining system.
- C. **Measuring Cut/Fill Heights:** Cuts and/or fills shall be measured vertically at natural grade from the lowest to the highest point of disturbance.
- D. **Retaining Wall Appearance:** Retaining walls and/or retaining systems shall be constructed of decorative, natural, or rustic materials, such as stone or heavy timbers. Concrete or masonry materials (including split face block) may be used when structural design requirements exceed natural material capabilities. Walls shall be colored or tinted and have a surface texture to blend with the surrounding soil or rock colors, and must be approved by the Town Manager, or designee, before excavation permits shall be granted.
- E. **Retaining Wall Design:** All retaining walls greater than four feet (4') in height shall be designed by a professional engineer or architect licensed in the state for the loads imposed on it. Plans shall be submitted at the preliminary plan stage to demonstrate that the hillside above any proposed cut will remain stable after the proposed cut/fill and retaining system, if any, has been completed.

F. Re-vegetation/Erosion Control:

1. All cut and fill slopes must be naturalized and re-vegetated within one growing season after the cut or fill is made.
2. Cuts and fills should be naturalized by rounding edges, placing boulders in natural fashion and planting native plants, including trees, brush and ground cover, to match surrounding areas. A landscape/re-vegetation plan in compliance with the town design standards shall be submitted to the town staff for review with the cut/fill design plans.
3. All re-vegetated areas must be maintained and replanted as necessary to control erosion and maintain the aesthetic value of the site.
4. Foot bridges and private vehicle bridges shall be reviewed and approved by the building department in conjunction with the single-family dwelling approval per [chapter 8](#) of this title. (Ord. 08-016, 8-12-2008)

G. Standards for Review: All retaining walls approved under this section either by the Planning Commission, or the Town Manager or designee shall comply with the following standards:

1. Retaining wall complies with all of the design standards of this section.
2. The height and length of the retaining wall is the minimum necessary for the needed functionality. The mass of the wall has been broken up using terracing, vegetation, and/or other visual relief strategies.
3. The wall does not create an attractive nuisance or hazard to the general public.
4. The wall shall preserve the natural scenic beauty of the area by rounding off sharp angles and otherwise blending with the natural contours of the land, and by preserving trees and other native vegetation.
5. If retaining wall is being done in preparation for development, a building permit has been obtained and work has been approved to proceed. If applicant is in the process of obtaining a building permit, approval may be made contingent on the finalization of the building permit, but work may not begin on grading or the retaining wall until the building permit is issued.

(Ord. 17-004, 7-11-2017)

9-12-12: BRIDGE AND TUNNEL REGULATIONS:

The design of bridges and/or tunnels shall conform to the following regulations:

- A. **Design Plans:** All bridges and tunnels must be detailed in design plans submitted to the Planning Commission for its review and comply with [chapter 8](#) of this title, as applicable.
- B. **State Code Compliance:** Highway bridge abutments shall comply with state code.
- C. **Retaining Wall Applicability:** All wing walls and bridge abutments shall be constructed in conformity with the retaining wall section of this code (section [9-12-11](#) of this chapter). (ord.08-016, 8-12-2008)
- D. **Exception:** Foot bridges and private vehicles bridges shall be reviewed and approved by the building department in conjunction with the single-family dwelling approval per Chapter 8 of this title and shall be review and approved by the building department. (ord. 15-018, 12-82-15)

9-12-13: WATERWAYS, DRAINAGES AND FLOOD HAZARD AREAS:

Special attention shall be given to ensure that development is setback sufficiently from waterways, drainages and flood hazard areas to prevent erosion, flooding and damage to development and the waterways per state and federal standards. Such features should be constructed to give a natural "streambed" appearance to the waterway or drainage area by making small meanders, placing rocks of various sizes (pebbles, cobble, rocks and boulders) in the streambed and banks, and planting clumps of trees and shrubs along the outside edge.

- A. **Design Storm:**
 - 1. As each site is unique for elevation and time of concentration, the following website can be used for determining the precipitation intensity, currently found at:
http://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.htm
 - 2. The user will input the latitude and longitude for the particular site and choose "precipitation intensity" from the drop-down menu on screen (the user will verify the elevation is within acceptable limits for the project area).
 - 3. If a storm distribution is being utilized for the stormwater design, a standard SCS type II distribution should be used. This distribution shows approximately fifty (50) to seventy five percent (75%) of total rainfall to occur in a brief period (approximately 2 hours), which is typical of the intense short duration storms experienced in the town area.

B. **Detention Ponds:** On site detention ponds are to be sized for the 100-year 24-hour storm.

C. **Stormwater Conveyance:** Stormwater conveyance pipes are to be sized based on a 10-year 24-hour storm.

1. Pipes will be sized using a rainfall intensity determined by the time of concentration for the applicable drainage basin with a minimum pipe size of fifteen inches (15").
2. The time of concentration will be estimated using the soil conservation service technical release 55 (SCS TR-55) method. SCS TR-55 method uses three (3) distinct runoff patterns in a watershed: a) sheet flow; b) shallow concentrated flow; and c) channel flow. Sheet flow occurs in the upper reaches of a watershed and persists for a maximum of three hundred feet (300'). The minimum time of concentration to be used for design shall be five (5) minutes.

After flowing in sheets, water then typically becomes less sheet like and more concentrated. Following shallow concentrated flow, water typically collects in natural or manmade channels (U.S. soil conservation service, 1986).

D. **Other Permits:** Below is a list of other permits that may be required for construction projects in the town. This list is for informational purposes only and may not include all necessary permits, depending on the project location:

1. Utah pollutant discharge elimination system (UPDES) general permit for storm water discharges associated with construction activities. This permit is required for any land disturbance of one acre or greater. The permit requires submittal of a notice of intent (NOI) to the Utah division of water quality (DWQ) with appropriate fee, preparation of a stormwater pollution prevention plan (SWPPP) and erosion control plan. Additional information regarding this permit can be found at:

<http://www.waterquality.utah.gov/UPDES/stormwaterco>

2. Utah stream alteration permit: This permit is required for any construction activity occurring along a creek or stream. The permit requires submittal of a stream alteration permit to the Division of Water Rights with applicable design drawings and calculations. Additional information regarding this permit can be found at:

<https://waterrights.utah.gov/strmalt/default.asp>

3. U.S. army corps of engineers (USACE) wetland permits. Potential wetlands need to be assessed and jurisdiction needs to be determined and approved by the USACE. Possible requirements are a wetland boundary delineation, drawings, meetings with the USACE and permits. (Ord. 08-016, 8-12-2008)

9-12-14: UTILITY IMPROVEMENTS:

- A. Purpose: The provisions of this section are intended to regulate utility installations within subdivisions and private improvements and not major utility installations relating to distribution lines, etc.
- B. Construction: All utility connections and lines shall be installed underground. Before any installations are covered, material and service must be inspected and approved by the town or applicable utility. During the construction period, temporary power poles and lines shall be allowed within the boundaries of the construction project; however, such poles and lines must be removed before final certificate of occupancy for the project is granted.
- C. Easements:
 - 1. All utilities shall be placed within public road rights of way or specific rights of way or easements. Multiple use of a given easement is encouraged. The final plat shall note all easements, and associated construction drawings define the location of each utility.
 - 2. Easements shall be provided at the rear and at least one side of each lot (so that they adjoin each other on common lot lines) or be provided in such a way as to demonstrate that utilities can be provided to each lot.
 - 3. Recreational easements are required for all proposed motorized and non-motorized trails, ski runs or open space to promote recreational opportunities in the community, unless otherwise approved by the Planning Commission. Easements shall be required during land use approval (i.e., zone change, subdivision, building permit) for existing trails, ski runs, and open space established by historic use (see subsection 9-12-16B1 of this chapter).
 - 4. Easement locations should be established to ensure the best use of the land and to provide corridors for utility services through raw land for the future development or subdividing of land according to the town general plan. (Ord. 08-016, 8-12-2008)

9-12-15: PARKING:

- A. **Purpose:** There shall be provided at the time of erection of any main building, or creation of a land use, or at the time such buildings or uses are altered, enlarged, converted or increased in capacity, minimum off street parking space with adequate provision for ingress and egress by standard sized vehicles in accordance with the requirements of this section. Whenever feasible, parking shall be placed underground.
- B. **Parking Space Requirements:** Parking spaces shall be determined in accordance with this section. Variations may be made to these provisions when justified by a parking study prepared by a licensed engineer and approval of the land use authority.
- D. **Required Number; Table:** The off-street parking spaces required for each use permitted by this code shall not be less than that found in table 1 of this subsection.

When a computation of spaces results in a fractional number, the fractional part shall be computed as a whole space.

E. TABLE 1

OFF STREET PARKING SCHEDULE

Land Use	Required Spaces for Patrons	Required Spaces for Employees (Measured in Gross sq. ft. of Entire Building)
Bed and breakfast inn	1 per bedroom	2
Civic buildings and conference center	Determined by specific review of Planning Commission	Determined by specific review of Planning Commission
Commercial outdoor recreation, including skiing, biking, stables/riding academy	1 per 3 persons maximum rated capacity	Determined by specific review of Planning Commission
Financial institution	3 per 1,000 sq. ft. of leasable floor area	2 for first 2,000 sq. ft. and 1 per each additional 1,000 sq. ft.
Hospital or clinic	3 per bed or patient room	2 for first 2,000 sq. ft. and 1 per each additional 1,000 sq. ft.
Hotel/motel (2 bed maximum per unit)	1 per guest room, plus 1 per 500 sq. ft. of interior common area	2 for first 40 guest rooms and 1 per each additional 20 guest rooms
Indoor entertainment, recreation/theater	The greater of 1 per 4 seats, or 5 per 1,000 sq. ft. of floor area	2 for first 2,000 sq.

Industry	By review of the Planning Commission	By review of the Planning Commission
Multi-family dwelling unit greater than 650 square feet, but less than 1,000 sq. ft.	2 per dwelling unit	N/A
Multi-family dwelling unit greater than 1,000 square feet, but less than 2,500 sq. ft.	2.5 per dwelling unit	N/A
Multi-family dwelling unit greater than 2,500 sq. ft.	3.5 per dwelling unit	N/A
Multi-family dwelling unit not greater than 650 sq. ft.	1 per dwelling unit	N/A
Office	1 per 2,000 sq. ft. of leasable space	2 for first 2,000 sq. ft. and 1 per each additional 1,000 sq. ft
Restaurant/food beverage establishment	1 per 150 sq. ft. of dining area.	2 for first 2,000 sq. ft. and 1 per each additional 1,000 sq. ft.
Retail	1 per 300 sq. ft. of retail space.	2 for first 2,000 sq. ft. and 1 per each additional 1,000 sq. ft
Shopping center or complex of multi-tenant retail spaces	4 per 1,000 sq. ft. of leasable floor area, plus 1 per 500 sq. ft. of interior common area	1.5 per each 1,000 sq. ft.
Grocery / convenience store	1 per 200 sq. ft. of retail space	1 for first 2,000 sq. ft. and 1 per each additional 1,000 sq. ft

Single-family dwelling unit and multi- dwelling unit up to 3 units	2 per dwelling unit, plus 1 additional stall per each 2,500 square feet, or fraction thereof, when a single dwelling exceeds 2,500 square feet	N/A
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(ord. 22-008, 7-26-22)

- E. **Combination Of Uses:** Where there is a combination of uses on a lot, the required number of parking spaces shall be the sum of that required for each use. In cases where multiple uses are not in competition for the same parking space, relief may be granted by the land use authority.
- E. **Location Of Lot:** The parking spaces required by this section shall be provided on the same lot or parcel as the use, or where the exclusive use of such is provided on another lot or parcel, not more than five hundred feet (500') radially from the subject lot and within the same or less restrictive zoning district.
- F. **Parking Stall Dimensions:** Parking stall dimensions shall be in accordance with this subsection:
1. Width:
 - a. A minimum width of ten feet (10') shall be provided for each interior (protected from weather) parking stall and ten feet (10') for exterior parking stalls. (amd. Ord. 18-006, 6-11-2018)
 - b. Exceptions:
 - i. Parallel parking stalls shall be permitted to be eight feet (8') wide.
 - ii. The width of a parking stall shall be increased ten inches (10") for obstructions (columns, walls, etc.) located on either side of the stall within fourteen feet (14') of the access aisle.
 2. Length: A minimum length of twenty feet (20') shall be provided for each stall. Parallel parking stalls shall be a minimum twenty-two feet (22') in length.
- G. **Design Of Parking Facilities:** The design of parking facilities shall be in accordance with this subsection, subsection H of this section, and section [9-12-10](#) of this chapter for driveways connecting to the public rights of way:
1. Driveway Widths: Every parking facility shall be provided with one or more access driveways, the width of which shall be the following:

- a. Private parking lot access at least sixteen feet (16'). (Ord. 08-016, 8-12-2008, amd Ord. 16-007, 11-8-2016)
 - b. Commercial driveways:
 - i. Twenty-feet (20') for one-way enter/exit. (Ord. 08-016, 8-12-2008, amd Ord. 16-007, 11-8-2016)
 - ii. Twenty-four feet (24') for two-way enter/exit.
2. Driveway And Parking Slopes:
- a. Maximum Slope: The maximum slope of any driveway or ramp shall not exceed twelve percent (12%) (6.8 degrees). Transition slopes in driveways and ramps shall be provided in accordance with the standards set by the building official and the jurisdiction's engineer.
 - b. Exception: Where a ramp is covered or heated and will not be susceptible to snow or ice buildup, the ramp slope may not exceed sixteen percent (16%) (9.1 degrees) and shall provide sufficient landings at top and bottom of ramp to provide for safe starting and stopping.
3. Stall Accessibility: Each required parking stall shall be individually and easily accessible. No automobile shall be required to back onto any public street or sidewalk to leave any parking stall except in single family residential uses and where the parking stalls themselves are in the public right of way. All portions of a public lot or garage where the lot itself is not in the public right of way shall be accessible to other portions thereof without requiring the use of any public street. (Ord. 08-016, 8-12-2008, amd Ord. 16-007, 11-8-2016)
- An exception may be granted in multi-family residential zones where deemed safe by the Public Safety Director (Ord. 20-006, 7-14-20)
4. Screening: A buffer shall be created whenever a parking area with associated ramps and driveways abuts a public way. The buffer shall consist of a landscaped earthen berm, rock wall, vegetation, or similar natural materials to complement the environment for a height of at least three feet (3'), or a width of at least ten feet (10').

H. **Surfacing:** Hard surface is required in commercial and multi-family residential zones. Other materials that make the surface effectively hard but aren't asphalt or concrete may be used with the approval of the Planning Commission. All weather surfaces may be used for overflow parking (parking in excess of the requirement) as well as in all other zones. Each parking lot and associated ramps and driveways shall be maintained in good condition and kept clear and in unobstructed and usable condition at all times. Responsibility for maintenance of the parking lot shall rest with the property owner. The parking lot shall provide adequate access to a street or alley. Parking spaces in excess of the minimum spaces required may be used for snow storage in winter (Ord. 08-016, 8-12-2008, amd Ord. 16-007, 11-8-2016)

- I. **Grading, Erosion Control And Existing Waterway Provisions:** Parking lots shall be graded for proper drainage, with surface water diverted in such a way as to keep the parking area free of accumulated water or ice and to prevent erosion, and comply with requirements of section [9-12-13](#) of this chapter.

- I. **Snow Storage:** All parking lots, sidewalks and other hard surface areas requiring snow removal shall provide twenty percent (20%) additional area to accommodate snow storage (15 percent for parking with snow melting equipment). Snow storage shall be provided on the subject property within the parking lot, adjacent landscaping or other area that allows for safe snow storage without damage to the structures or landscaping. (Ord. 08-016, 8-12-2008, amd Ord. 15-018, 12-8-2015)

- K. **Loading Spaces:**
 - 1. General: Loading spaces shall be provided on the same lot for every building in the commercial zones. No loading space is required if prevented by an existing lawful building. The building official/zoning administrator shall be authorized to waive this requirement on unusual lots.
 - 2. Size: Each loading space shall have a clear height of fourteen feet six inches (14'6") and shall be directly accessible through a usable door not less than three feet (3') in width and six feet eight inches (6'8") high. The minimum area of a loading space shall be four hundred (400) square feet and minimum dimensions shall be twenty feet (20') long and ten feet (10') wide. (Ord. 08-016, 8-12-2008)

9-12-16: PUBLIC IMPROVEMENTS:

A. Design Standards:

- 1. Design and construction specifications for public improvements such as curbs, gutters, sidewalks, storm drainage, flood control facilities, water, sewer distribution systems and fire protection shall be in accordance with the town public works standards as currently adopted, or other applicable codes.
- 2. The design for all such facilities which are or will be under the control of the town shall be submitted to the Town Manager, or designee, for review and approval. The design of streets, blocks, lots, open spaces and other design functions shall be consistent with the general plan and this title.

B. Required Improvements:

- 1. The subdivider shall improve all streets, trails, pedestrian ways or easements and water and sewer facilities in the subdivision necessary to service the subdivision, and enhance the recreational opportunities in the town, along with streets which abut, or serve access

to, the subdivision. No improvement work shall be commenced until improvement plans and profiles have been approved by the Town Manager, or designee, and the Town has approved the final plat of the subdivision. The final plat shall not be recorded in the office of the County Recorder prior to obtaining sufficient guarantee for improvements as provided in [chapter 13](#) of this title.

2. Improvements shall be installed to permanent line and grade and to the satisfaction of the Town Manager, or designee, and in accordance with the standard specifications adopted by the Town Council. Cost of inspection shall be paid by the subdivider as outlined in the consolidated fee schedule.
3. Notwithstanding the fact that the land on which the improvements are or will be located is dedicated at the time of the recording of a plat, the subdivider shall be required to maintain all improvements until accepted by the Town provided for in section [9-9-6](#) of this title. (Ord. 08-016, 8-12-2008)

9-12-17: TRASH ENCLOSURES:

Trash dumpsters shall be as approved by the Town. Dumpsters are encouraged to be screened from public view with vegetation or walls and located in an area accessible by the refuse vehicle and sensitive to limiting backing of the vehicle. If an enclosure is proposed, it shall comply with the building material requirements and be sensitive to the snow and ice accumulations common to the town. Trash dumpsters shall be purchased by the town with the cost being borne by the developer. The town shall require one dumpster for every twenty (20) single-family building lots or condo units, and one dumpster for every four thousand (4,000) square feet of commercial/office space, unless other rationale is justified on a case by case basis. (Ord. 08-016, 8-12-2008)

9-12-18: COMPLIANCE:

Any time a permit under [chapter 8](#) or [chapter10](#) of this title is applied for, the applicant shall demonstrate compliance with the provisions of this chapter as they relate to the work applied for. (Ord. 08-016, 8-12-2008)

9-12-19: PUBLIC UTILITIES

- A. Structures associated with public utility uses will comply with the design standards put forth in this chapter, including color, exterior materials, roof design, etc.

- B. Above-ground utility equipment and other visible utility infrastructure will be housed in a structure designed to reduce any potential visual and noise impact on neighbors in residential and commercial zones. In industrial zones, the equipment and infrastructure may be screened in a manner compliant with the requirements for that zone.

(Ord. 17-004, 7-11-2017)

9-12-20: CAMPGROUNDS

In an effort to mitigate the potential impacts of overnight outdoor uses such as RV / Campgrounds, tent campgrounds, and non-permanent structure (such as KOA-style cabin or yurt) campgrounds, the following design standards shall be applied: (amd. Ord. 20-006, 7-14-20, amd. Ord. 21-006, 05-25-21)

- A. **Campgrounds will be designed** in a manner that is sensitive to the natural environment and consistent with the Town General Plan. Vegetation will only be cleared as necessary for installation of camping and recreational appurtenances (tent sites, campfire rings, RV pads, etc.) or fire mitigation in accordance with Wildland Urban Interface requirements. (amd. Ord. 21-006, 05-25-21)
- B. **Development of the campground area** shall be restricted to the portion of the property not required to be landscaped or undisturbed.
 - 1. All buildings and structures, camping sites, driveways, private roads, parking, restrooms, pavilions, picnic pads, day use areas, snow storage areas, etc. shall fit within the remainder of the property not reserved for minimum landscaping and minimum undisturbed area.(Ord. 21-006, 05-25-21)
- C. **Lighting** will strictly meet Tow Code for night sky standards. (Ord. 21-006, 05-25-21)
- D. **Fire pits** will be limited to two (2) per acre and will meet the requirements for improved campfire rings under Stage 1 Fire Restrictions. (Ord. 21-006, 05-25-21)
- E. **Design of campground access** will minimize the impact of vehicular traffic and parking on surrounding recreational uses. (amd. Ord. 21-006, 05-25-21)

- F. **Water, wastewater, plumbing, and operations** and maintenance plans will comply with Utah State R392-300. Camping cabins which are intended to be inhabited overnight year-round shall be equipped with indoor plumbing and sanitation facilities. (Ord. 17-004, 7-11-2017, amd. Ord. 21-006, 05-25-21)
- G. **Campsites** shall be appropriately spaced to allow for the open feeling anticipated in the General Plan:
1. Building setbacks for the zone shall apply to campsites.
 2. Additional setbacks may be required for visual and noise mitigation.
 3. A minimum ten-foot (10') buffer shall be applied on all sides of an RV campsite or cabin, and a twenty-foot (20') buffer applied on all sides of a tent campsite. (Ord. 21-006, 05-25-21)
 4. The minimum size for a tent or RV campsite shall be eight hundred (800) square feet. (Ord. 21-006, 05-25-21)
 5. Snow storage area will be provided for year-round campsite usage. (Ord. 21-006, 05-25-21)
- H. **Natural screening** (such as mature trees, and shrubs, slopes, etc.) will be utilized to minimize visual impacts from public rights of way and adjacent uses. Vegetative screening shall be in natural groupings/clusters and shall be fashioned to create a mostly opaque visual barrier to campsites, RV sites, restrooms, etc. from the public right of way and neighboring uses. Vegetative screening shall be kept clear of snow storage areas and shall be maintained in perpetuity. (Ord. 20-006, 7-14-20, amd. Ord. 21-006, 05-25-21)



ORDINANCE NO. 23-____

AN ORDINANCE AMENDING BRIAN HEAD TOWN CODE, TITLE 9, LAND MANAGEMENT CODE, CHAPTER 7 ZONE DISTRICT REGULATIONS, SECTION 1 R1 ZONES, R2 ZONES AND R3 ZONES AS THEY PERTAIN TO BUILDING SEPARATIONS AND SPACING AND CHAPTER 12 DESIGN STANDARDS FOR CONSTRUCTION, SECTION 10-B DRIVEWAY STANDARDS. AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Brian Head Town has identified a need to amend the Brian Head Land Management Code in order to regulate land use within the Town limits of Brian Head, Utah; and,

WHEREAS, the Brian Head Planning Commission held a public hearing on June 6, 2023 Planning Commission hereby forward their recommendation of approval to the Brian Head Town Council for their consideration and adoption; and

WHEREAS, the Brian Head Town Council held a public hearing on June 13, 2023 giving at least fourteen (14) days' notice to receive public comment on the proposed amendments Brian Head Land Management Code; and

WHEREAS, the Council determined that establishing standards for minimum distance between buildings for Single-Family, Medium Density and Multi-Family Residential Zones and would allow for an more open area; and

WHEREAS, the Council determined that in reviewing the driveway standards that it was in the best interest and safety of its citizens to amend the driveway standards to include spacing in driveway as a safety measure; and

WHEREAS, it is in the best interests of Brian Head Town and the health, safety, and general welfare of its citizens to adopt this Ordinance:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF BRIAN HEAD, UTAH, COUNTY OF IRON, STATE OF UTAH, AS FOLLOWS:

Section 1. The Brian Head Land Management Code is hereby amended and incorporated herein by reference as Title 9, Chapter 7, Zone District Regulations, Section 1 (R1), 2 (R2), and 3 (R3) and Chapter 12, Design Standards for Construction, Section 10-B Driveway Standards are identified in red font and as follows:

Title 9 – Land Management Code

Chapter 7 – Zone District Regulations:

9-7-1: R-1 SINGLE-FAMILY RESIDENTIAL:

A. Physical Restrictions:

1. Minimum lot area: Fourteen thousand five hundred twenty (14,520) square feet ($\frac{1}{3}$ acre).
 2. Minimum frontage width: Forty-five feet (45'). (amd. ord. 22-002, 5-10-22)
 3. Minimum setbacks:
 - a. Front: Twenty-five feet (25'). An administrative exception may be granted for the garage only when all of the following apply:
 - i. Front yard setback exceeds twenty percent (20%) slope (11.3 degrees)
 - ii. No habitable space within the setback area.
 - iii. Required off street parking is satisfied and maintained in the garage or on the lot.
 - iv. The roof sheds snow away from the public right of way.
 - v. Adequate snow storage on the lot.
- Under no circumstances will the setback be less than five feet (5'). (ord. 17-004, 711-2017)
- b. Side: Twenty feet (20').
 - c. Rear: Twenty feet (20').
 - d. **Minimum distance between buildings: 10 feet**

9-7-2: R-2 MEDIUM DENSITY RESIDENTIAL:

D. Physical Restrictions:

1. Minimum lot area: Twenty-one thousand seven hundred eighty (21,780) square feet ($\frac{1}{2}$ acre).
 2. Minimum frontage: Forty-five feet (45').
 3. Minimum setbacks:
 - a. Front: Twenty-five feet (25'). An administrative exception may be granted for the garage only when all of the following apply:
 - i. Front yard setback exceeds twenty percent (20%) slope (11.3 degrees);
 - ii. No habitable space within the setback area;
 - iii. Required off street parking is satisfied and maintained in the garage or on the lot;
 - iv. The roof sheds snow away from the public right of way; and
 - v. Adequate snow storage on the lot.
- Under no circumstances will the setback be less than five feet (5'). (ord. 17-004, 7-11-2017).
- b. Side: Twenty feet (20');
 - c. Rear: Twenty feet (20'). (amd. ord. 22-002, 5-10-22)
 - d. **For building over thirty feet (30') in height**

- i. Side: Thirty feet (30')
 - ii. Rear: Thirty feet (30')
 - iii. Front: twenty-five feet (25')
- e. Minimum distance between buildings
 - i. Under 20 feet in height: 10 feet
 - ii. Over 20 feet and under 30 feet in height: 15 feet
 - iii. Over 30 feet in height: 20 feet

9-7-3: R-3 MULTI-FAMILY RESIDENTIAL:

D. Physical Restrictions:

1. Minimum lot area: Twenty-one thousand seven hundred eighty (21,780) square feet ($\frac{1}{2}$ acre).
2. Minimum frontage: Forty-five feet (45').
3. Minimum setbacks:
 - a. Front: Twenty-five feet (25'). An administrative exception may be granted for the garage only when all of the following apply:
 - i. Front yard setback exceeds twenty percent (20%) slope (11.3 degrees);
 - ii. No habitable space within the setback area
 - iii. Required off-street parking is satisfied and maintained in the garage or on the lot
 - iv. The roof sheds snow away from the public right of way
 - v. Adequate snow storage on the lot
 - vi. Development does not exceed R-2 density. (Ord. 20-006, 7-14-20)

Under no circumstances will the setback be less than five feet (5').

- b. Side: Twenty feet (20').
- c. Rear: Twenty feet (20').
- d. For buildings over thirty-five feet (35') in height
 - i. Side: Thirty feet (30');
 - ii. Rear: Thirty feet (30');
 - iii. Front: Twenty-five feet (25').
- e. Minimum distance between buildings
 - i. Under 20 feet in height: 10 feet
 - ii. Over 20 feet and under 30 feet in height: 15 feet.
 - iii. Over 30 feet in height: 20 feet

Title 9 – Land Management Code

Chapter 12 – Design Standards for Construction

9-12-10: DRIVEWAYS:

B. Driveway Standards:

Standards	Residential Single-Family Dwelling (SFD)	Commercial (All Others)
Minimum width	16 feet (4 or fewer units)	20 feet (one-way); 24 feet (two-way)
Maximum width at street line	24 feet	36 feet
Maximum number of driveway accesses per lot	1 per each 100 feet of frontage (or fraction thereof), maximum 2 interior, 3 corners	1 per each 200 feet of frontage (or fraction thereof)
Driveway angle to street	45 degree - 90 degree	70 degree - 90 degree
Snow storage	Maintain clear view at intersection	Maintain clear view at intersection
Drainage	May not drain to road surface	To approved storm drain
		collection system

Retaining walls	May extend into public right of way with town staff approval	May extend into public right of way with town staff approval
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ord. 08-016, 8-12-2008, amd ord. 16-007, 11-8-2016)

B. Driveway Standards:

Standards	Residential Single-Family Dwelling (SFD)	Residential Multi-Family Dwelling	Commercial (all others)
Minimum width	16 Feet	20 feet (4 or fewer units) (7) 24 Feet (5 or more units) (7)	20 Feet (one-way); 24 feet (two-way)
Maximum width at street line	24 feet	36 Feet	36 Feet
Maximum number of driveway accesses per lot	1 per each 100 feet of frontage (or fraction thereof) Maximum 2 interior, 3 corners	1 per each 100 feet of frontage (or fraction thereof) Maximum 2 interior, 3 corners	1 per each 200 feet of frontage (or fraction thereof)
Minimum Spacing Between Driveway	LOCAL 15 Feet	Local 15 Feet (1)	LOCAL 75 Feet
	Private 10 Feet	Private 10 Feet (1,5)	NA
	Collector 50 Feet (2)	Collector 75 Feet (2)	COLLECTOR 75 Feet
	Arterial 150 Feet (2)	Arterial 150 Feet (2)	ARTERIAL 150 Feet
Minimum Spacing From Intersection	LOCAL 25 Feet	Local 25 Feet	LOCAL 75 Feet
	Collector 70 Feet (2)	Collector 100 Feet (2)	COLLECTOR 100 Feet
	Arterial 150 Feet (2)	Arterial 150 Feet (2)	ARTERIAL 150 Feet
Minimum Spacing from Property Line(3)	5 Feet	5 Feet (6)	10 Feet (6)
Driveway angle to street	45 degree – 90 degree	45 degree – 90 degree	70 degree – 90 degree
Snow Storage	20% additional area (4) Maintain clear view at intersection	20% additional area (4) Maintain clear view at intersection	20% additional area (4) Maintain clear view at intersection
Drainage	May not drain to road surface	To approved storm drain collection system	To approved storm drain collection system

Retaining walls	May extend into public right of way with town staff approval	May extend into public right of way with town staff approval	May extend into public right of way with town staff approval
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1. Driveway Spacing between 2 units in the same building that share a common wall or property line between garage and/or parking area is not required or can be reduced. Driveways for other units in the same building will need to meet minimum spacing.
2. Driveways or private roads need to be designed to allow vehicles to turn around to prevent vehicles backing into roadways.
3. An administrative exemption may be granted for the minimum spacing based on lot shape and slope.
4. Snow storage shall be provided on the subject property within the parking lot, adjacent landscaping or other area that allows for safe snow storage without damage to the structures or landscaping. Area less than 5 feet to property line or less than 5 feet to imaginary line between units on the same property cannot be counted for snow storage.
5. Driveway spacing is not required or can be reduced if rear loading garage or parking is used.
6. Excerpt where it is possible to provide one access point that will serve both adjacent properties with recorded access and maintenance agreement.
7. Driveways for individual units connected to a local or private road can be reduced to 16 feet.

End.

Section 2. Effective Date. This Ordinance shall take effect upon its passage by a majority vote of the Brian Head Town Council. Upon this Ordinance being adopted by the Brian Head Town Council of Iron County, Utah, all provisions of this Ordinance shall be codified into Title 9 of the Brian Head Town Code.

Section 3. Conflict. To the extent of any conflict between other Town, County, State, or Federal laws, ordinances or regulations and this Ordinance, the more restrictive is deemed to be controlling.

Section 4. Severability Clause. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 5. Repealer. All provisions of the Brian Head Town Code that are inconsistent with the expressed terms of this Ordinance shall be repealed.

PASSED AND ADOPTED BY THE BRIAN HEAD TOWN COUNCIL OF IRON COUNTY, UTAH this _____ day of June 2023 with the following vote.

TOWN COUNCIL VOTE:

Mayor Clayton Calloway	Aye_____	Nay_____
Council Member Martin Tidwell	Aye_____	Nay_____
Council Member Kelly Marshall	Aye_____	Nay_____
Council Member Shaun Kelly	Aye_____	Nay_____
Council Member Larry Freeberg	Aye_____	Nay_____

BRIAN HEAD TOWN COUNCIL

ATTEST:

By: _____
Clayton Calloway, Mayor

Nancy Leigh, Town Clerk

(SEAL)

DRAFT

CERTIFICATE OF PASSAGE AND POSTING

I hereby certify that the above Ordinance is a true and accurate copy, including all attachments, of the Ordinance, passed by the Town Council on the 24th day of May 2022 and have posted a summary of the adopted ordinance in two conspicuous places within the Town of Brian Head, to-wit: Town Hall and Post Office. A complete copy of the adopted ordinance on the Brian Head Town Website and posed on the Utah Public Meeting Notice Website.

Nancy Leigh, Town Clerk



STAFF REPORT TO THE TOWN COUNCIL

ITEM: DARK SKIES/LIGHTING ENFORCEMENT

AUTHOR: Bret Howser
DEPARTMENT: Administration
DATE: June 13, 2023
TYPE OF ITEM: Informational

SUMMARY:

The Council will hear a report from staff regarding research on enforcement of lighting code on non-complying structures and may have discussion/give direction

BACKGROUND:

Brian Head Town has been pursuing preservation of the night skies over the past few years by implementing new lighting ordinances. While these new ordinances will help ensure that new structures in town have dark-sky-friendly lighting, Council has asked staff to research how these new laws can be applied to existing structures with non-compliant lighting.

ANALYSIS:

Staff initially reached out to the Town Attorney to determine what can be done. The response from the Town Attorney was that structures which were constructed prior to the implementation of the new code were considered “non-complying” structures and were essentially grandfathered in. However, knowing that the Dark Sky Certification process requires communities to have a plan to bring non-complying lighting into conformity with the lighting code, we reached out to the two communities in Utah known to have gone further down the path of dark sky certification than any others – namely Torrey UT and Springdale UT – to see how they are bringing non-complying structures along.

Torrey, UT: Staff had a conversation with the Planning Commission Chair from Torrey UT and received the following information –

- Advised to continue soft approach
- Make an economic based argument
- "If somebody learns that they can fight you, you're gonna lose"
- Strong-arming has backfired on them
- The soft/incentive based approach has been satisfactory for dark-skies certification so far

Springdale, UT: Staff had a conversation with Director of Community Development, Tom Dansie, and found the following information –

- Springdale has created an “amortization” of non-complying lighting
 - Legally, requiring a non-complying structure to come into compliance is not considered a taking if the owner has gotten full useful life out of their investment
 - See attached references to amortization of non-complying structures in State Statute and Town Code
- Springdale uses a 7-year amortization for lighting
 - 10-year amortization is recommended by International Dark Skies Association
 - Springdale looked at light fixture life span data to make their determination

- They set their amortization in 2009, with a deadline for people to replace by 2016
 - After 4 yrs they did a townwide lighting audit (using volunteers) and notified each property owner of changes that were required
 - Most came into compliance without any enforcement needed
 - Some did not and were sent code enforcement warnings
 - Eventually all came into compliance without any fines
- Springdale has since changed their lighting code again and reset their 7 year amortization

FINANCIAL IMPLICATIONS:

N/A

BOARD/COMMISSION RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends following the Springdale model. While it's more aggressive than what we've heretofore done, and more than what Torrey recommends, we believe it is legally sound and will help us make the progress that has eluded us to date.

However, staff recommends that we pair the amortization approach with a financial incentive. Council has already modified the Business Beautification Grant to allow for lighting improvements. Staff would recommend scrapping the Business Beautification Grant in favor of a Dark Skies Lighting Grant which phases out over time and proceed as follows:

1. Conduct a lighting audit
2. Proceed with the process necessary to set amortization deadline (still looking into that)
3. Send a notice informing property owners of:
 - a. the Town's push for dark sky preservation, and the new lighting codes
 - b. the amortization deadline
 - c. the required changes for their property found in the audit
 - d. availability of grant money to assist in retrofit
 - i. the phasing out of grant money over time
 - ii. maybe 50% if retrofit completed within 1 year, 40% within two years, etc

PROPOSED MOTION:

No motion necessary, item is discussion/informational only

ATTACHMENTS:

A – Excerpts from LUDMA and Town Code

Utah Land Use Development & Management Act (LUDMA)

10-9a-511 Nonconforming uses and noncomplying structures.

(1)

- (a) Except as provided in this section, a nonconforming use or noncomplying structure may be continued by the present or a future property owner.
- (b) A nonconforming use may be extended through the same building, provided no structural alteration of the building is proposed or made for the purpose of the extension.
- (c) For purposes of this Subsection (1), the addition of a solar energy device to a building is not a structural alteration.

(2) The legislative body may provide for:

- (a) the establishment, restoration, reconstruction, extension, alteration, expansion, or substitution of nonconforming uses upon the terms and conditions set forth in the land use ordinance;
- (b) the termination of all nonconforming uses, except billboards, by providing a formula establishing a reasonable time period during which the owner can recover or amortize the amount of his investment in the nonconforming use, if any; and
- (c) the termination of a nonconforming use due to its abandonment.

(3)

- (a) A municipality may not prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure that is involuntarily destroyed in whole or in part due to fire or other calamity unless the structure or use has been abandoned.
- (b) A municipality may prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure if:
 - (i) the structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six months after the day on which written notice is served to the property owner that the structure is uninhabitable and that the noncomplying structure or nonconforming use will be lost if the structure is not repaired or restored within six months; or
 - (ii) the property owner has voluntarily demolished a majority of the noncomplying structure or the building that houses the nonconforming use.
- (c)
 - (i) Notwithstanding a prohibition in the municipality's zoning ordinance, a municipality may permit a billboard owner to relocate the billboard within the municipality's boundaries to a location that is mutually acceptable to the municipality and the billboard owner.
 - (ii) If the municipality and billboard owner cannot agree to a mutually acceptable location within 180 days after the day on which the owner submits a written request to relocate the billboard, the billboard owner may relocate the billboard in accordance with Subsection 10-9a-513(2).

(4)

- (a) Unless the municipality establishes, by ordinance, a uniform presumption of legal existence for nonconforming uses, the property owner shall have the burden of establishing the legal existence of a noncomplying structure or nonconforming use through substantial evidence, which may not be limited to municipal or county records.
- (b) Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment.

- (c) Abandonment may be presumed to have occurred if:
 - (i) a majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the municipality regarding an extension of the nonconforming use;
 - (ii) the use has been discontinued for a minimum of one year; or
 - (iii) the primary structure associated with the nonconforming use remains vacant for a period of one year.
- (d) The property owner may rebut the presumption of abandonment under Subsection (4)(c), and has the burden of establishing that any claimed abandonment under Subsection (4)(b) has not occurred.
- (5) A municipality may terminate the nonconforming status of a school district or charter school use or structure when the property associated with the school district or charter school use or structure ceases to be used for school district or charter school purposes for a period established by ordinance.

Brian Head Town Code

9-6-4: NONCONFORMING BUILDINGS AND USES:

- A. Maintenance Permitted: A nonconforming building or structure may be maintained.
- B. Continuance Of Nonconforming Use Of Buildings, Structures And Land: Except as otherwise provided in this title, a nonconforming use of land or a structure may be continued:
 - 1. Determination Of Nonconforming Buildings And Uses: Except as provided for in this subsection, all matters regarding the nonconforming use of structures and land shall be determined by the Appeal Authority. Upon application, after public hearing on the matter, the Appeal Authority shall determine if the use or structure is nonconforming with respect to the current provisions of this chapter. The Zoning Administrator may verify and determine routine and uncontested requests to verify nonconforming uses as provided in this section and the rules adopted by the Appeal Authority.
 - 2. Alterations Or Modifications To Nonconforming Buildings And Structures: Nonconforming buildings and structures with respect to setbacks or height may be continued. Additions, enlargements or structural alterations may be made to the extent that they comply with all requirements of this code.
 - 3. Nonconforming Use Of Land: Except as otherwise provided by law, including statutory and case law, nonconforming use of land lawfully existing on the effective date of the ordinance rendering it nonconforming may be continued and maintained, provided such nonconforming use shall not be expanded or extended into any other open land, except as otherwise provided in this chapter. If the nonconforming use is discontinued for a continuous period of more than one year, it shall constitute an abandonment of the use, and any future use of such land shall conform to the provisions of the zone in which it is located.

4. **Nonconforming Use Of Buildings And Structures:** The nonconforming use of a building or structure lawfully existing on the effective date of the ordinance rendering it nonconforming may be continued and the building or structure maintained, and the use may be expanded or extended throughout such building or structure, provided no structural alterations, except those permitted by law, are proposed or made for the purpose of extension or expansion. (The addition of a solar energy device to a building shall not be considered a structural alteration.) If such nonconforming use is discontinued for a continuous period of more than one year, it shall constitute an abandonment of the use, and any future use of the building or structure shall conform to the provisions of the zone in which it is located.
5. **Change In Status Of Nonconforming Use:** If a nonconforming use is discontinued, it may be succeeded, upon approval of the Zoning Administrator, as provided in this section, by an equally intensive or less intensive nonconforming use, provided such change is effected within one year from the first day of discontinuance. After a change to a less intensive use occurs, the use may not change back to a more intensive use
6. **Alterations Or Modifications To Nonconforming Use:** A use which has been declared nonconforming shall not be enlarged or moved, except as provided in this section.
7. **Reconstruction Of Nonconforming Building Or Structure Partially Destroyed:** A nonconforming building or structure occupied by a nonconforming use which is damaged or is destroyed by fire, flood, wind, earthquake or other calamity or act of God, or the public enemy, or is removed due to dilapidation, may be restored and the occupancy or use of such building, structure, or part thereof, which existed at the time of such damage or destruction, may be continued or resumed; provided, that such restoration is started within a period of one year and is diligently prosecuted to completion as evidenced by an active building permit. If any such restoration is not commenced within one year, the structure shall be deemed to be abandoned, and every future building or structure occupying the portion of the land on which the building or structure was located shall conform to the current provisions of this title.
8. **Amortization Of Nonconforming Uses:** Except as otherwise provided by Utah Code Annotated, the Appeal Authority, under authorization of Utah Code Annotated, may provide for the timely modification or removal of a nonconforming structure or use of land. After appropriate financial studies to determine a valid amortization schedule, the Appeal Authority may establish a reasonable time period during which the owner may recover or amortize the amount of investment in the nonconforming use, and after which the nonconforming use shall be modified or removed in order to comply with the General Plan and this title. (ord. 08-016, 8-12-2008)



AUTHOR: Bret Howser
DEPARTMENT: Administration
DATE: June 13, 2023
TYPE OF ITEM: Discussion

SUMMARY:

The Town Council will continue their review of the most recent draft of a proposed Development & Annexation Agreement from Gardner Plumb, LLC.

BACKGROUND:

Gardner Plumb LLC owns 1,700+ acres to the northeast of Brian Head Town which is currently unincorporated. While they have a development agreement in place with Iron County that addresses a previously conceived golf-centric development (Alpine Creek) that was agreed to by a prior owner of the property, Gardner Plumb wishes to establish a new development agreement with Brian Head Town and annex into the Town. The Town has not received an official annexation petition from Gardner Plumb at this point, but staff has been working with the developer on a draft of an Annexation & Development Agreement which would set the terms for an annexation and entitle the developer to certain density and rights under the development agreement and under the Town's Land Management Code which is in place at the time of the development agreement.

In the winter of 2021-22, Gardner Plumb and Mountain Capital Partners held an open house in which they laid out some preliminary plans, largely focused on ski resort and terrain expansion. Mr. Flint Decker, President of Aspen Meadows Development, has presented preliminary design and development concepts to the Town Council before, including at the Strategic Planning Retreat in January 2022. Staff received a draft of the Annexation & Development Agreement in October 2022, and the Town Council gave preliminary feedback on the draft at a Council Meeting in December 2022.

Staff received an official application for development agreement from Gardner Plumb LLC on Dec 29, 2022. Pursuant to §9-11-5 of the Town Code, a public hearing was advertised for and held on January 17, 2023 at the regularly scheduled Planning Commission meeting as well as February 14, 2023 at the regularly scheduled Town Council meeting. The item was tabled at both meetings pending engineering review.

ANALYSIS:

Since February, staff has been working with the applicant on outstanding issues identified during the Council review on 2-14-23, namely:

- More specificity on sewer requirements
- Engineering review on water rights/sources
- Inclusion of fire station
- Workforce/attainable/affordable housing provision
- Parks/open space requirement

- Specificity on Public Works land donation

The attached redlined draft agreement shows changes proposed since 2-14-23. Those changes are summarized as follows:

1) Sewer –

- a. Staff continues to work with Parowan City and their engineer (Bowen Collins) to try to ascertain capacity of the existing Parowan sewer lagoons and determine whether there is excess treatment capacity which may be allocated to Aspen Meadows. This is proving to be difficult, but at this point it does not seem that there will be excess capacity. And even if there were, it's not clear that Aspen Meadows would be entitled to that capacity. Parowan City also has a proposed annexation, and Paragonah and unincorporated Iron County in Parowan Valley will eventually need sewer treatment as they are dealing with septic density issues. It appears that the long-term solution will be a sewer treatment district, the details of which and the proportionate cost shares of the various actors – including Aspen Meadows – will take years to determine.
- b. Staff continues to propose incorporating language in this agreement that points to a future solution rather than detailing an immediate solution for sewer treatment. The currently proposed language is more explicit regarding the anticipated sewer treatment district and the expectation of Aspen Meadows' equitable participation in that district.
- c. Deadline for sewer treatment solution to be in place – Staff proposed that there be a deadline for Aspen Meadows to either participate in treatment district or implement an alternative sufficient treatment solution. Staff suggested that this deadline be set at a certain number of units being developed with a backstop of a date certain (ie: X units or Y year, whichever comes sooner). The applicant has proposed 50% of the units (or 734 units) with no date certain specified. **Staff does not recommend that the Town agree to these terms and asks Council to clarify how many units they would be comfortable allowing to be built prior to the sewer treatment solution being finalized.**

2) Water –

- a. Parenthetical statement reminding us to get water attorney's review was removed. Staff is currently working with our water attorney, who is checking on potential conflicts of interest, and may recommend another attorney to review it.
- b. Developer added language that seems to allow the developer to change the water right requirement down the line. **Staff does not recommend including that language as currently drafted.**
- c. The Town Engineer (Alpha Engineering) has reviewed the calculations of water rights and source needs, and generally agrees with the methodology and conclusions. We are still working on one aspect of the commercial water calculation that we have a slight disagreement on, but we don't believe that will have a significant impact on the total number of water rights required. It's just a clean-up item.
 - i. Specifically, Ensign Engineering is assuming that the same ratio of observed residential usage relative to the State residential requirement will apply to actual commercial use vs. State commercial requirement. We are suggesting that they use an actual measurement of commercial usage from

somewhere (as they did with residential analysis) and compare that to the state requirement.

3) Fire Station –

- a. The agreement now includes requirement for the construction of a fire station in Aspen Meadows. The language allows for a Public Improvement District (PID) to finance the fire station (basically, each resident in Aspen Meadows would pay an additional property tax against a bond issued by the developer until the debt is retired).
- b. The fire station wouldn't need to be constructed until 50% of units are built (or 734 units). Again, no backstop date is provided, as staff requested. **Council should specify how many units they are comfortable allowing prior to requiring the construction of the fire station.**
- c. Staff recently took a tour with Flint Decker of a few fire stations in Iron County to get an idea of what such a facility would look like in Aspen Meadows. Staff recommends agreeing with the developer on a rough scope of the facility and including that in the agreement.

4) Housing –

- a. The developer proposes to include 5% “attainable” units (or 73 units)
- b. The developer can provide land instead of building the units to cover up to 4% of that requirement, but must build at least 1% (or 15 units) by the time half the development is built out.
- c. The proposed draft alters the definition of “Attainable Housing” such that deed restriction is not required.
- d. Based on the most recent discussion between Council and Planning Commission, staff is currently working on a draft inclusionary zoning ordinance which would require 10% affordable/attainable housing. Staff recommends that process be concluded prior to settling on a figure in this agreement. If Council ultimately adopts a 10% requirement, and this agreement stipulated 5%, it would be fair to ask the developer what additional value they are giving to justify having a lower requirement than all other future developers will have...
- e. The current language allows the developer to provide land instead of building attainable units, but **no ratio of conversion between units/land is provided**. So would the developer be able to meet their requirement with half an acre? This needs to be clarified.
- f. **The attainable housing definition in this agreement is unclear, and may not result in any perpetually affordable units at all.**

5) Parks/Open Space

- a. The new language includes a required 10 acre land donation for parks/open space. This requirement may be met by a combination of straight land donation or by providing access to Town-owned land which may be used as parks/open space.
- b. Staff is largely satisfied with the proposed language, with some small clarifications needed

6) Public Works land

- a. The agreement currently states that the developer “may” provide 5 to 10 acres of land for a public works facility. This is inconsistent with what the developer has heretofore represented to staff. **Staff recommends that a certain acreage for a future public works facility be required.**

7) Other Changes

- a. The provision for temporary parking accessible through Steam Engine Meadows subdivision was removed. The applicant observed traffic and snow removal patterns in that neighborhood during this past winter and concluded that routing commercial traffic through the area, even temporarily, would have a significant impact on the neighborhood and does not want to do that.

Other issues brought up during 2-14-23 review:

- 3-yr warranty on road settling/subgrade: The applicant is not offering to include this provision in the agreement.
- Time Limit on

FINANCIAL IMPLICATIONS:

This development may be the single most significant advent for Brian Head Town since the incorporation of the Town itself. It could propel Brian Head from being a 250,000 skier day town to a 500,000 skier day town. The potential financial ramifications are difficult to detail without a professional financial analysis (which has been requested as part of the development agreement).

BOARD/COMMISSION RECOMMENDATION:

Planning Commission tabled the item pending Engineering review and recommendations. They picked the item back up on February 21, and gave input on the proposed "Mountain Zoning". The input was as follows:

- Height exceptions for lower village should be by development agreement, not by CUP/variance
- ROS outbuildings may exceed 1500 square feet "by development agreement"
- Planning Commission was fine with the remaining mountain zoning stipulations

STAFF RECOMMENDATION:

Staff seeks additional input from the Council at this point as we work with the developer to fill in many of the details.

PROPOSED MOTION:

I move to table this item until additional details of the agreement are negotiated and refined between staff and the developer.

ATTACHMENTS:

A – Redlined Development Agreement Draft of 5-18-2023

RECORDING REQUESTED BY

AND WHEN RECORDED RETURN TO:

Mark B. Durrant
Dorsey & Whitney LLP
111 South Main Street, Suite 2100
Salt Lake City, UT 84111

G & P Ranch, LLC & Goliath Properties LLC
201 S Main Street, STE 2000
Salt Lake City, Utah 84111

Plumb Investment LC
201 S Main Street, STE 2000
Salt Lake City, Utah 84111

Aspen Meadows
PO Box 190249
Brian Head, Utah 84719-0249
Attention: A. Flint Decker

Town of Brian Head
Town Manager
56 N. Highway 143
Brian Head, Utah 84719

(Above space for recorder's use only)

ASPEN MEADOWS

ANNEXATION AND DEVELOPMENT AGREEMENT

between

Brian Head Town

and

G & P Ranch, LLC & Goliath Properties LLC & Plumb Investment LC

ANNEXATION AND DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (“Agreement”) is made and entered into on this ____ day of _____, 2023, by and between Brian Head Town, a municipal corporation and subdivision of the State of Utah (“Town”), and G & P Ranch, LLC, a Utah limited liability company, Goliath Properties LLC, a Utah limited liability company, and Plumb Investment LC, a Utah limited liability company and their assigns, collectively referred to as (“Developer”) and Developer and Town collectively referred to as the (“Parties”) for the land to be included in what is known as Aspen Meadows to be referred to as the (“Property”), the Property subject to the terms and conditions of this agreement to be referred to as the (“Development”).

WHEREAS, Developer owns and controls approximately 1,910.76 acres of real property located in Iron County, Utah (“Developer Property” or “Property”), legally described in Exhibit A, which is depicted on the Aspen Meadows Conceptual Master Plan (defined below) and the maps and site plans attached hereto as Exhibit B (“Plats”). Developer desires to design, develop, in phases, the Property in the future as a planned mountain resort community known as Aspen Meadows – A Planned Master Community (Aspen Meadows), including residential, commercial, recreational, resort and other areas of uses, including, but not be limited to, several residential neighborhoods, condominiums, townhouses, planned unit developments, commercial developments, light industrial developments, recreational areas which may include, without obligation, ski trails, ski ways, ski lifts, open spaces, outfitters cabins, horse stables, swimming pools, sport courts, clubhouses and other social, commercial, civic, cultural buildings, in addition to various public support facilities and/or resort maintenance and operation facilities; and

WHEREAS, a portion of the Development known as Aspen Meadows Southeast Neighborhood (the “Southeast Neighborhood”, consisting of approximately 160 acres, created pursuant to that certain Community Declaration dated _____, 2022 and that certain subdivision plat for “Aspen Meadows Southeast Neighborhood” duly recorded, is already located within the Town limits and will not be subject to annexation and shall not be subject to this Agreement. Consistent with the Aspen Meadows Conceptual Master Plan, which has been attached hereto as Exhibit C (the “Aspen Meadows Conceptual Master Plan”) the Southeast Neighborhood may be incorporated, included, or otherwise combined with the Development, in portions or in entirety, at Developer’s sole discretion, into the larger planned mountain resort community of the present Development under this Agreement, provided, however that in the event Developer intends to extend the Mountain Zoning contemplated hereby for the Development to the existing Southeast Neighborhood, Developer shall be required to go through the existing Town formal rezoning process in order to do so and otherwise in accordance with the requirements of this Agreement; and

WHEREAS, as part of the various phases of development of the Property, Developer intends, but shall not incur any obligations until such actions are affirmatively taken, to record various plats; to dedicate portions of the Property to the public for either, roadways, utilities, drainage, flood control, public works, and/or general public use; and to record various “Neighborhood Declarations” and/or “Supplemental Declarations” covering portions of the Property, which Neighborhood Declarations and/or Supplemental Declarations will designate the purposes for

which such portions of the Property may be used and may set forth additional covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and easements applicable to such portions of the Property. The parties acknowledge and agree that under no circumstances shall Town have any enforcement obligations under the Neighborhood or Supplemental Declarations; and

WHEREAS, Town, subject to its standard annexation processes and approvals, will annex all or any portion of land in the Development, that is not already in Town, into Town, and both Town and Developer have made such annexation conditioned upon entry into this Development Agreement; and

WHEREAS, Developer intends to phase the development of the Project into multiple phases, and Developer shall have the flexibility and sole discretion to amend the number of phases, the size of each phase, and, consistent with Town standards and approvals, the improvements to be included in each phase; and

WHEREAS, the Parties desire numerous infrastructure and public amenity improvements including, but not limited to, open spaces, public trail access, private trail easements, ski run, ski way, ski lift easements, and other uses common to a larger planned mountain resort community and gated neighborhoods, within phases of the development; and

WHEREAS, the Town, acting pursuant to its authority under Utah Code Section 10-9a 101, et seq. and its ordinances, resolutions, and regulations and in furtherance of its land use policies, has made certain determinations with respect to Aspen Meadows, and, in the exercise of its legislative discretion, has elected to approve this Agreement, provided, however, that Town makes no representation that the above referenced statutes are satisfied in full by entering into this Agreement; and

WHEREAS, the parties acknowledge that this Agreement between Developer and Town will result in planning and economic benefits to the Town and its residents by increasing property tax and other revenues to the Town based on improvements to be constructed on the Property; and

WHEREAS, the parties acknowledge that this Agreement between Developer and Town will also result in planning and economic benefits to the Developer by providing assurances to Developer that it will have the ability to develop the Property in accordance with agreed terms and conditions within this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, **Town and Developer mutually agree, covenant and promise, as follows:**

1. **DEFINITIONS.**

1.1. **Association.** "Association" means and refers collectively to the "Master Association" organized pursuant to the Master Declaration and any "Sub-Associations"

organized pursuant to any Neighborhood or Supplemental Declarations. Associations of the private owners of lots and parcels in the Project which will have, after the period of Developer administrative control, certain responsibilities including but not limited to: preserving and maintaining common areas, facilities, and amenities which are retained and developed for the common use and benefit of all the owners, including commonly owned streetscapes; the development and enforcement of architectural and landscaping design guidelines for individual homesite lots and development parcels in the Project; developing and enforcing rules and regulations for the continuing operation of the various gated neighborhoods within the Project; and collecting regular and special assessments, transfer fees, fines, and penalties from the owners in the Project. Each Association shall be created by the Developer as a non-profit corporation organized under the laws of the State of Utah. It is anticipated that there will be one Master Association, and various other Sub-Associations created with respect to the future Phases of the Project or where the Project is incorporated or combined with other developments. The Association(s) shall (1) acquire, construct, operate, own, manage, lease, and/or maintain a variety of community areas and other areas within the Property, perform and provide certain services and functions including, without limitation or obligation, resort-based activities and facilities, club membership-based activities and facilities, contracting for maintaining certain public, ski trails, ski ways, ski lift throughways and providing security measures for portions of Aspen Meadows; (2) be responsible for maintenance and repair of common nonpublic improvements upon property in the Project owned or controlled by the Association(s) in addition to annual, usual and special assessments for maintenance of common nonpublic improvements in the Project; (3) the Association(s) shall levy such assessments as may be necessary from time to time to repair, restore or replace landscaping, or other common nonpublic improvements, when necessitated by the installation, maintenance, repair, or replacement of public water, sewer, power, natural gas, and drainage infrastructure; (4) upon the transfer of any lot, homesite, building site, parcel or other division of the Property, levy, collect and disburse the transfer assessment imposed hereunder; and (5) as the agent or representative of the members of the Master Association and residents of the Aspen Meadows planned community, administer and enforce all provisions hereof and enforce use and other restrictions imposed on various parts of the Property.

1.2. **Attainable Housing.** “Attainable Housing” means affordable, employee or workforce housing for employees working in Brian Head Town. Types of housing may include, congregate housing facilities with additional lobby, facilities such as storage, laundry, workout room, etc. provided, or single-family, townhome or condominium envisioned complexes with potentially restricted deed portions or units of one bedroom, one bath units with kitchen and living areas, or two bedroom, one and three quarters bathrooms with kitchen and living areas, meeting HUD standards, as an example, and available at a reasonable market rental rate.

1.3. **Conceptual Master Plan.** “Conceptual Master Plan” means Developer’s overall concise development plan for its own benefit and the mutual benefit of all future owners, residents, occupants, businesses, other holders of an interest in the Property, or any part thereof, and the community as to certain mutually beneficial covenants, restrictions, and obligations with respect to the proper development, use, stewardship and maintenance of the Property. Developer further desires and intends that all persons or entities hereafter acquiring any interest in or otherwise utilizing portions of the Property shall at all times enjoy the benefits of, and shall hold

their interest subject to the rights, privileges, covenants, and restrictions set forth in this Agreement, all of which are declared to be in furtherance of an overall Conceptual Master Plan to promote and protect the aesthetic and cooperative character and aspects of the overall Aspen Meadows planned mountain resort community and are established for the purposes of enhancing and perfecting the value, desirability, and attractiveness of Aspen Meadows.

1.4. **Density Units.** “Total Density Units” means and refers to the one thousand four hundred sixty-seven (1,467) residential density units approved within the approximate one thousand nine hundred ten and 76/100ths (1,910.76) acre Property. Town and Developer acknowledge and agree that the above total density units and acreage shall include the Southeast Neighborhood and that the Southeast Neighborhood is currently comprised of sixty-five (65) approved residential density units and one hundred sixty (160) acres of Property. Each Density Unit may be allocated for the construction of a house, cottage, ranch, townhome, condominium, or other residential dwelling; however, employee housing and/or Attainable Housing developed shall not be counted against the approved number of Density Units.

1.5. **Declaration.** “Declaration” means and refers to one or more declarations of covenants, conditions and restrictions upon the Property within the Project which shall be recorded in the Iron County Recorder’s Office and shall run with the land. The Declaration(s) shall set forth the rights and obligations of the Developer, the Association, and the individual owners with respect to one another, shall establish a lien for the collection of assessments, and serve other purposes ordinary to declarations in similar projects. The parties acknowledge and agree that under no circumstances shall Town have any enforcement obligations under the Declarations.

1.6. **Design and Development Guidelines.** “Design and Development Guidelines” means the written review standards, if any, promulgated by the Site and Architectural Review Committee (“SARC”) created pursuant to the Master Declaration of the development criteria adopted and from time to time, amended by the Developer and implemented by SARC to provide design and development guidelines for the construction of residential properties, commercial properties, industrial properties, cultural centers, and other improvements, and/or carry on any other development activity in the Aspen Meadows Development. The initial Design and Development Guidelines are attached hereto as Exhibit D.

1.7. **Developer.** “Developer” means collectively, G & P Ranch, LLC, Goliath Properties LLC, and Plumb Investment LC. The term shall extend to Developer’s successors and assigns of all or any portion of the Property, provided such successors and assigns acquire all of the rights to the development of the Project which are currently held by G & P Ranch, LLC, Goliath Properties LLC, and Plumb Investment LC or for a particular parcel or development area of the Development Property to be developed by such successor or assign (each successor or assign shall be a “Secondary Developer”).

1.8. **Master Declaration.** “Master Declaration” means and refers to the Master Declaration of Covenants, Conditions, Easements and Restrictions upon the Property within the Project, attached hereto as Exhibit E, which shall be recorded in the Iron County Recorder’s Office and shall run with the land. The Master Declaration shall set forth the rights and

obligations of the Developer, the Association, and the individual owners with respect to one another, shall establish a lien for the collection of assessments, and serve other purposes ordinary to declarations in similar projects.

1.9. **Motorized Vehicles.** "Motorized Vehicles" means any automobile or other type of winter or summer intended motorized transportation, recreational designed, on or off-road purposely designed vehicle such as snowmobile, golf cart, motorcycle, side-by-side or ATV vehicle or any off-road vehicle whether licensed or not.

1.10. **Mountain Zone,** "Mountain Zone" or "Mountain Zoning" means zoning requirements which may meet, or exceed the Town's general plan and planned residential and commercial zoning ordinances, or are specific to the Aspen Meadows planned mountain resort community.

1.11. **Off-site Improvements.** Off-site Improvements" means and refers to all public envisioned developer improvements including, sewer, storm drainage, rock lined drainage swales, culinary water, natural gas, lighting, underground utility systems, streets, streetscapes, common areas designated outside of the Project, snow storage areas, trails, ski trails, ski ways, ski lifts, or other improvements outside the boundaries of the Project but serving the Project.

1.12. **On-site Improvements.** "On-site Improvements" means and refers to all public envisioned developer improvements including, sewer, storm drainage, rock lined drainage swales, culinary water, natural gas, lighting, underground utility systems, streets, streetscapes, common areas designated within or adjacent to the Project, snow storage areas, trails, ski trails, ski ways, ski lifts, or other improvements within the boundaries of the Project.

1.13. **Open Space.** "Open Space" means land outside of designated Planning Areas and outside of the On-Site Improvement areas in this Agreement.

1.14. **Planning Area.** "Planning Area" means and refers to any one of the various distinct and individual phases of the Project. Each Planning Area may consist of subphases and may be developed in the order Developer chooses.

1.15. **Plats.** "Plats" means and refers to the various site plats of the Property to be updated with each phase of development. Each phase shall be submitted to the Town for review and approval, in such order and at such time as Developer may choose in its discretion. The Parties acknowledge and agree that the actual number of Density Units in any one particular phase of the Project may differ from those set forth in the Aspen Meadows Conceptual Master Plan and Plats, and that Developer may shift the number of Density Units from one phase of the Project to another so long as the total aggregate number of Density Units does not exceed the number of units approved for the Property. In no event shall the Density Units exceed 1,467 and this maximum density shall run with the land. Anytime Developer sells, alienates, or otherwise transfers any portion of the Property, whether voluntarily or by action of law, the portion of the total Density Units applicable to such transfers shall be identified such that the total density on the Property shall never exceed 1,467 units.

1.16. **Project.** "Project" means and refers to the project known as Aspen Meadows consisting of the acreage and density units set forth in this Agreement, anticipated to be developed pursuant to the terms of this Agreement and generally in accordance with the Conceptual Master Plan.

1.17. **Property.** "Property" or "Development Property" shall have the meaning set forth above and that is more specifically defined and depicted in Exhibit A hereto. Property may be expanded at Developer's sole discretion to include other property Developer owns or acquires. In the event the Property is expanded by the Developer to include other property Developer owns or acquires, then the Density Units on the expanded portion of the Property may exceed 1,467 in an amount to be agreed upon between the Developer and the Town at the time of expansion. Any expansion of the Property for areas already within the Town shall comply with the Town's land use laws in effect at the time of expansion. Any expansion of the Property for areas outside of the incorporated boundaries of the Town shall only be included as part of the Property if annexed into the Town pursuant to the annexation laws in effect at the time of annexation.

1.18. **Public Safety Department.** "Public Safety Department" means and refers to the agencies acting within their official capacity to perform duties relating to community public safety, law enforcement, emergency response, search and rescue, community fire education and fire prevention services for Town.

1.19. **Public Works Department.** "Public Works Department" means and refers to the Town department which is responsible for the public works, and operation and maintenance of public infrastructure within the Town.

2. **ANNEXATION.** Developer agrees to petition to annex the Developer Property into the Town. And the Town agrees to process Developer's annexation petition as provided in the Utah Code and the Town's land use code. Developer desires the Property to be in a new zoning designation that has never existed in the Town, which new zoning designation the Developer shall provide to the Town and which is called a "Mountain Zone." The Town agrees to process the annexation petition, such that upon annexation approval the Property will be zoned as "Mountain Zone", as defined within zoning standards adopted and attached hereto as Exhibit F ("Mountain Zone"). The lawful annexation of the Property zoned Mountain Zone shall be an express condition precedent for all other agreements and obligation herein. If the Property is not annexed into the Town under the Mountain Zone then this agreement shall be void and neither Party shall have any further obligation hereunder.

3. **PHASED DEVELOPMENT; DENSITY.**

3.1 **Phased Development of Infrastructure and Lot Releases.** The Project will be developed in a series of infrastructure phases and site releases for residential, commercial, industrial, community, or civic and cultural construction. Each phase shall have its own Planning Area, which shall each enjoy the rights conferred by and be subject to the terms of this Agreement. Each phase shall be developed in accordance with the Town's ordinances, regulations, and an overlay of zoning requirements, including Mountain Zones, specific to the Aspen Meadows planned mountain resort community adopted as a part of this Agreement, and

process with respect to entitlements and construction, and Developer shall have the sole discretion to: decide in what order such development proceeds care of either, infrastructure and or site releases, alter the number of Density Units within a phase, shift the number of Density Units from one individual Planning Area depicted in the schematic plan to another so long as the required infrastructure is accessible, maintained, and constructed to Town's standards and the total number of approved Density Units referenced in the Aspen Meadows Conceptual Master Plan is not exceeded, provided, however, that once a plat is approved for a particular Planning Area, the phasing shall be set with respect to such Planning Area, unless such plat is amended through the normal Town plat amendment process.

3.2 **Residential Density of the Project.** The Parties agree that the overall Conceptual Master Plan shows intended residential, commercial, industrial, community, and cultural uses and these anticipated land uses are in substantial conformance to the Town's general plan, and that the Density Units shall be considered an entitlement number and that number shall not be altered by any zoning ordinances including, but not limited to, hillside development regulations, setback and open space requirements; with the sole exception that the density calculation shall exclude any areas with steep slopes (over 40% grade), elevation above 10,500 feet, or other unbuildable land such as streambeds. Densities are set forth in the Conceptual Master Plan; however, Developer shall have the right to shift units from one Planning Area to another, thus modifying the relative densities in the affected Planning Areas, without being required to receive Town approval or to amend the Conceptual Master Plan, provided that the overall maximum Density Units for the entire Project is not exceeded. The development of the Project to less than the full maximum Density Units permitted shall not release Developer from any obligations to the Town as set forth herein, unless as a result of a General Plan amendment which is not requested by Developer, or unless the reduction in total units results in a corresponding reduction in public facilities and/or improvements supported by the appropriate engineering/planning studies as approved by the Town and incorporated in an amendment to this agreement.

4. **VESTED RIGHTS AND RESERVED LEGISLATIVE POWERS.** Subject to Utah Code Sections 10-9a-509 and _____, with the recording for public record of this Agreement, Developer's right to develop the Project as described herein is hereby vested subject to the conditions precedent expressly set forth in this Agreement with respecting to the phased vesting of Density Units, as well as such other provisions hereof allowing for modification of specific requirements as development of the Project progress toward completion. Nothing in this Agreement shall limit the current or future exercise of the police power by the Town in enacting zoning, subdivision, development, transportation, environmental, open space and related land use plans, policies, ordinances and regulations after the date of this agreement provided that the adoption and exercise of such power is directed at a critical health, welfare and safety concern and shall not restrict Developer's vested rights to develop the Project as provided herein. Furthermore, the Project is still subject to the administrative procedures applicable to the development of the Project, including but not limited to all subdivision and permit applications, approvals and inspections applicable to the Project. In order to preserve the rights vested to Developer herein, Developer must reasonably pursue the development of the Project, including the creation of the individual Planning Areas as contemplated herein and the completion of infrastructure improvements to be made concurrently with the respective phase for which the infrastructure serves, as determined by Developer. This Agreement is not intended to and does

not bind the Town Council in the independent exercise of its legislative discretion with respect to such zoning regulations, except to the extent specifically covenanted as set forth herein, the provisions of this Agreement by recording intended to run with the land to the benefit and burden of Developer and its successors and assigns. Notwithstanding any of the foregoing, nothing herein shall prohibit Developer from relying on the zoning in effect at the time any given subdivision application has been submitted, and pursuant to Utah Code Section 10-9a-509, Developer shall be entitled to approval of all completed applications on the basis of the zoning laws and regulations in effect at the time such application was submitted without regard to any subsequent changes to such laws or regulations.

5. COMPLIANCE WITH TOWN DESIGN AND CONSTRUCTION STANDARDS.

Developer acknowledges and agrees that unless expressly stated otherwise, nothing in this Agreement shall be deemed to relieve it from the obligation to comply with all applicable laws and requirements of the Town necessary for development of the Project, including the payment of fees, and compliance with the Town's design and construction standards for public improvements which are approved at the time of construction, except as may be specifically set forth otherwise herein.

6. TIME FOR CONSTRUCTION AND COMPLETION OF THE PROJECT. Except as otherwise provided in this Agreement, Developer shall have the discretion as to the time of commencement, construction, infrastructure phasing and completion of any and all development of the Project. Developer's discretion shall be confined within the time limitations set forth in Town code such as final plat expiration.

7. ROADS.

7.1 Aspen Meadows Drive Road Dedication. Town and Developer will cooperate in the dedication of Aspen Meadows Drive (Burt's Road to Nowhere) to the Town wherein Aspen Meadows Drive is planned to serve as a public town road, the primary road spanning through the majority of the Project, starting at Utah State Highway SR-143, with a manned gated monument entrance, serving to provide both public and private access to areas designated for public use or public access and to provide access to private gated neighborhood interior roads of the Project. Developer agrees to pave and improve Aspen Meadows Drive to the standards of the Town for a major road and to dedicate Aspen Meadows Drive to the Town as a prerequisite to the Developer obtaining any development rights hereunder and in conjunction with any approved plats for the Project including any portion of Aspen Meadows Drive. In addition, Developer shall dedicate any completed rights-of-way within the Project constructed to Town standards as plats are approved for that portion of the Property containing such rights-of-way

7.2 Road Access Provided To Town. Aspen Meadows Drive (Burt's Road to Nowhere), Peak Drive and Steam Engine Drive shall be gated, monitored, maintained and programmed to provide the Town's Public Works and Public Safety Departments year-round normal maintenance and emergency 24/7 access for fire prevention, code enforcement, marshals monitoring, together with access to the water wells, water tanks, and the existing Salt Pile water storage facility or any other public purpose.

7.3 **Road Standards.** Developer shall coordinate with Town through Developer's engineer, to ensure all improvements meet or exceed Town's standards and requirements for road design and construction. All proposed roads shall be 50' row and 26' asphalt and to be constructed per Town standards (See plan 102 of Brian Head Town Standards). Roads shall be private with plowing service to meet or exceed the Town four hour rule. All private roadways will also serve as water and sewer and utility easements.

7.4 **Road Costs and Ongoing Maintenance.** Developer shall convey ownership of Aspen Meadows Drive (Burt's Road to Nowhere) initially, within the Development, to Town for use as a gated quasi-public-private road (public access road with a manned gate) and potentially more roads which will service any and all public use areas such as planned public use buildings, ski related lodges or civic centers, including all storm drainage within such roadways. All other interior roadways planned in the Project servicing planned gated neighborhoods will be private. Developer will bear the initial costs of below and above surface construction comprised by Aspen Meadows Drive and all other interior roadways within the Development. Developer will construct and install all utilities within road rights of way whether public or private. Once completed, the Town shall be responsible for the maintenance of all utilities within and along all finished roadways, including Aspen Meadows Drive and all other interior roadways, and ongoing maintenance of the above ground improvements on public roads such as Town road signage maintenance. Developer shall be responsible for maintaining all above and below ground improvements on private roads. Except as requested by Developer, In the event Town removes asphalt pavement for normal or emergency access and/or underground maintenance or repair of utilities, Town shall be responsible to repair where the pavement was removed, Town shall be responsible for all future replacement paving or repairs on all public designated roadway(s).

7.5 **Road Snow Plowing.** The Town shall be responsible for snow removal on all portions of planned public access roads, including Aspen Meadows Drive (Burt's Road to Nowhere) and the future interior public roadway to the Town's Public Works facility, and/or future planned public-owned facilities. Developer, Developer's designee (including any homeowner's association for any particular Neighborhood as more particularly set forth in the corresponding Neighborhood Declaration), shall be responsible for snow removal of all private interior neighborhood roadways and private facilities. The Developer will strive to meet or exceed the Town's 4-hour goal of snow plowing response times for each planned neighborhood.

7.6 **Roadside Snow Storage Area.** Developer shall construct roadside snow storage areas on the sides of the roadways and/or designated areas to serve the Development, meeting or exceeding Town's standards.

7.7 **Street and Traffic Control Safety Signage.** Developer shall bear sole responsibility for costs to purchase, construct, and install all public street signage, including related or required permanent structures, mounts, or supports, and shall include all permanent road signage and traffic control devices and signs, which shall be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and Town standards. Upon completion and installation of such traffic control devices, the Town shall maintain, repair and replace such devices at Town's sole cost.

7.8 **Gates.** Developer shall install a manned gate at the main entrance road entrance located on Aspen Meadows Drive (Burt's Road to Nowhere) and secondary locking, un-manned gates, where private roads branch off from Aspen Meadows Drive, and/or Steam Engine Drive, and/or Peak Drive, with 24/7, year-round access for Town Public Safety and Town Public Works Departments. Developer and Association shall be responsible for the installation and maintenance of all such gates.

7.9 **Roadside Drainage System.** Developer, at its sole cost and expense, shall construct water drainage system along the roadsides, with culverts under the system as needed, and rock lined drainage swales to serve the Development Area. After installation, Town shall be responsible for the maintenance, repair and replacement of the above drainage systems.

8. UTILITIES.

8.1 **Responsible Parties.** Developer shall bear sole responsibility for costs to initially construct all underground utilities within the Development including water, sewer, power, natural gas, fiber, internet and/or telephone infrastructure together with those third-party providers. Town shall bear sole responsibility for costs to maintain, and repair below surface utility improvements for water and sewer utilities Developer and/or individual purchasers and owners will be responsible for their own ongoing maintenance of lines and pump systems from their "lateral-lines" into all structures, buildings, accessory dwellings, model homes, or new residential homes serviced on each parcel. The parties anticipate that Third-party providers such as Rocky Mountain Power, Dominion Gas, fiber, internet, and/or telephone providers, and other service providers shall bear sole responsibility for costs to maintain, and repair below surface related utility improvements or repairs for their respective utilities.

8.2 **Water; Vesting of Density Units.** ~~This provision subject to further review and input from Town water attorney. Include well logs exhibit. Aquifer study to be provided to Town. Confirm priority dates.~~ Developer shall construct water source, storage and distribution improvements connecting to Town's water supply, adhering to Town's standards to serve the Development Area in accordance with the Water exhibit attached hereto as Exhibit H. ~~Developer will transfer water right amount (acre feet) as outlined in Exhibit H. Developer will transfer _____ [TBD] acre feet of water to the Town sufficient to provide municipal service for the density/units contemplated in this Agreement. Town and Developer acknowledge and agree that Exhibit H may be updated from time to time to reflect any changes to the Density Units available to Developer within the Development Area.~~ Developer shall coordinate with Town through Developer's engineer, to ensure all water improvements meet or exceed Town's standards and requirements for design and construction. The transfer and use of such water rights shall be governed by that certain Water Rights Transfer and Holding Agreement between Town and Developer, such agreement to be negotiated and agreed to prior to finalization of this Agreement and included as part of the documents comprising Exhibit H attached hereto.

Developer acknowledges and agrees that, notwithstanding anything in this Agreement to the contrary, in order for any vesting of rights of Density Units hereunder, it shall be a condition precedent to such vesting, that Developer shall have completed all water infrastructure to

accommodate such Density Units, including the completion of all wells and infrastructure necessary to service the applicable number of Density Units. However many Density Units that are able to be served by the completed wells and water infrastructure, Developer shall be entitled to that number of Density Units upon completion, all in accordance with the schedules attached hereto as Exhibit H.

8.3 **Sewer.** Developer shall, at its sole cost and expense, construct improvements connecting the Town's sewer, using both a combination of the Town's Traditional System and an Approved Hybrid Gravity / E-1 Branded System, adhering to Town's standards to serve the Development Area and in accordance with the Sewer exhibit attached hereto as Exhibit G. In no event shall Developer be entitled to consume capacity needed for the buildout of the existing Town or increase the cost burden on the community. Developer shall coordinate with Town through Developer's engineer, to ensure all sewer improvements meet or exceed Town's standards and requirements for design and construction. In the event Developer consumes sewer capacity that approaches or exceeds the total available Town sewer capacity, as part of any approved plats for the Development, Town shall not be required to approve any additional plats until such time as Town and Developer are mutually in agreement that there is sufficient sewer capacity in accordance with this Agreement.

It is estimated by the parties that the necessary treatment capacity for the Development shall be [Include Town's existing capacity if known?] Town and Developer acknowledge and agree that the creation of a mutually acceptable regional sewer service district (the "SSD") would likely resolve the sewage treatment issues at the Development. Town and Developer agree to cooperate and participate in the formation ~~of~~ coming up of the SSD, accomplishing the above on or before the completion of 50% of Density Unit development at the Development (the "Sewage Treatment Deadline"). Town and Developer anticipate the formation of such SSD on or before the Sewage Treatment Deadline wherein Developer and the owners of the property within the Development Area shall fund their equitable portion of any required sewage treatment facilities for the SSD.- Notwithstanding the above, Developer shall be under no obligation to create an SSD but may propose to Town such other alternative sewage treatment solutions as it deems satisfactory subject to the Town's approval, such approval not to be unreasonably withheld. All land owned by the Developer prior to the date of this Agreement located within Town shall be exempt from any cost impacts resulting from the creation and implementation of the SSD.

~~Developer shall coordinate with Town through Developer's engineer, to ensure all sewer improvements meet or exceed Town's standards and requirements for design and construction. In the event Developer consumes sewer capacity that approaches or exceeds the total available Town sewer capacity, as part of any approved plats for the Development, Town shall not be required to approve any additional plats until such time as Town and Developer are mutually in agreement that there is sufficient sewer capacity in accordance with this Agreement.~~

8.4 **Utility Easements for Sewer and Water Extensions.** If a sewer or water easement becomes necessary for any extension of sewer or water systems planned, into adjoining land owned and controlled by the Developer, the Town shall agree to acquire such easements

from Developer at no cost to the Town, so long as such easement shall reasonable service or otherwise provide benefit to any portion of Aspen Meadow.

8.5 **Gas and Power.** Developer shall, at its sole cost and expense, construct improvements connecting both, the gas-line supply and power-line supply provided by Dominion Gas Co. and Rocky Mountain Power to serve the Development Area. After installation, the applicable utility provider shall be responsible for the maintenance, repair and replacement of the above improvements.

9. **SALE OF INDIVIDUAL DEVELOPMENT PLANNING AREAS.** Following approval and official filing for a record of survey map and associated deeds creating individual Planning Area(s) within the Project, for legally subdivided lots and areas subject to the Aspen Meadows Annexation and Development Agreement and Design and Development Guidelines for Aspen Meadows, Developer may, without obligation, proceed with sale of the Neighborhood Planning Areas, individually, in groups, or as a whole, to third-party purchasers such as various “Market Merchant Builders,” who have been assigned Developer's rights under this Agreement for that particular parcel, subject to Developer’s approval.

10. **EASEMENTS.**

10.1 **Town Public Trail Easement, Operation and Maintenance.** The Developer agrees to provide land for non-exclusive easements supporting a connection and an expansion of the Town’s public trail network through the Aspen Meadows Development, identified as the “Aspen Meadow Loop Trails,” Consistent with existing level of difficulty and trail looping and all new trails shall plug into existing trails on Town and Forest Service Land to the extent possible. Developer shall develop, construct and dedicate trails to the Town on such non-exclusive easements at Developer’s sole cost and expense. Once dedicated to the Town, the Town shall maintain dedicated trails. If Developer, at Developer’s sole discretion, finds the Town's maintenance to be insufficient then Developer upon notice to the Town and in cooperation with the Town may upgrade and/or maintain public trails to the standards of the Town. The Developer and Town agree to jointly design all public trails envisioned within Aspen Meadows. Developer will be responsible for the total, combined costs for the infrastructure improvements necessitated by public access to the Project, including planned trail heads, improvements specifically related to trail access, trail signage and initial trail improvements within the public trail and for a planned public trail connection, allowing access back to the existing Town Trail network. Improvements donated to Town by the Developer will include a Trail Easement Agreement for the use of the land to the Town and public benches with way-finding areas defined and plaques citing past historical and educational references to the land in key areas along the trail network within Aspen Meadows.

10.2 **Easements and Right Of Way Dedications.** Any record of survey filed at the Iron County Recorder's office with respect to the entire Project shall designate, both the streets and utility plan easements, in addition to all other easements including dedicated private trail easements relating to specific lot parcels within the Development, Town sewer easements, public trails, and public ski trail. ski ways, ski lift throughways or rights of way as are reasonably necessary for servicing of each individual Planning Area and which shall be configured to

minimize the impact on the servient property. Easements and public rights of way shall be granted or dedicated to the Town and/or other applicable third parties, as the case may be, as a part of any record of survey to benefit each Planning Area in an overall comprehensive plan for the Project. Town and Developer will mutually cooperate to grant cross easements as may be shown on the applicable record of survey. The Developer shall reserve such easements as are reasonably necessary for all ski-related activities, sewer, utilities, water storage, snow making ponds, snow storage, or drainage of the Project's runoff water control. Such easements shall be located so as to minimize impact on the servient property.

11. **DENSITY AND CLUSTERING.** So long as the density for the development does not exceed the approved residential Density Units over the entire Project, Developer may cluster or concentrate the residential density in certain areas of the Project to create neighborhoods of high density use while fostering Open Space. Prior to plat approval, Developer has flexibility and sole discretion in adjusting site development envelopes, driveway or parking design envelopes, and Open Space areas from the Project's Design and Development Guidelines and with oversight of the Site and Architectural Review Committee (SARC), associated road layouts, private and public trail easements for hiking, biking, and skiing, and utility easements, provided, however, that Developer and Town shall agree upon the final location of that part of the trail system known as "Scout Camp Loop" located within the Project and such agreed upon location may not be altered unless consented to by the Town.

12. **OPEN SPACE.** Developer has flexibility in adjusting Open Space boundaries and may designate Open Space for private use, for public access, or to preserve the unique and natural features of such parcels, including but not limited to trails for bicycling, skiing and or other summer or winter sport activities. At the sole discretion and election of Developer, Open Space may be encumbered with an easement restricting its use accordingly. Notwithstanding anything herein to the contrary, Developer shall not have the right to alter any trails included in the Town Trails Master Plan included as Exhibit K hereto without the consent of Town.

Developer may donate Open Space to Town or any other entity of its choice, in conjunction with Town's approval of the initial records of survey. In addition to the above, Developer ~~may shall~~ donate a parcel or parcels to the Town for use as a civic or park space at a location to be determined within the Development, such park parcel(s) (up to ten (10) acres) to be relatively similar to the size of the existing public park (approx. eleven (11) acres) within the Town. Alternatively, Town may ~~elect request to have that~~ Developer grant access over a portion of the Property to access existing Town property for use of such Town property for open space, park or other civic uses and the Town and Developer may agree to such conveyance or grant of access as full satisfaction of any Developer obligations with respect to Open Space.

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12.13. **LAND USES; RESTRICTIONS.**

13.1 **Land Uses:** Residential spaces are intended and planned in the Development including but not limited to, residential single-family homes, townhomes, condominiums, ranches, PUD's, lodges, hotels, and live and work Facilities. Commercial Space is intended and planned in the Development. Ski Resort oriented spaces are intended and planned in the Development including but not limited to Ski Village Developments, Ski Lifts, Ski Lodges, Ski-

Resort Related Support Facilities such as Ski Patrol, Ski Maintenance Facilities Light Industrial Space is intended and planned in the Development and Snow Making Ponds. Civic and cultural spaces are intended and planned in the Development. Specialized spaces are intended and planned in the Development including but not limited to SUU Mountain Campus

13.2 **Snowmobiles.** The operation of snowmobiles within Aspen Meadows is strictly prohibited except when approved by the Developer or Association Board for: (i) wintertime land and trail management and maintenance purposes, or (ii) organized operations in designated open space areas identified at the sole discretion of the Developer, and only when any associated impacts can be adequately mitigated.

13.3 **Trails.** Pedal bicycles or mountain bikes (including e-bikes, excepting on specified trails for such use), motorcycles, all-terrain vehicles (ATV's), other off-road vehicles, and all means of transport whatsoever, (excepting snowmobiles which are prohibited), shall be allowed only on Aspen Meadows Roads, or specified trails or easements designated for such use, and homesite driveway access. Subject to the foregoing, The Developer and/or the Association(s) board shall have the authority; (a) to prohibit entirety from Aspen Meadows certain motor vehicles that may be considered to emit noise or other pollution in excess of levels or standards promulgated by the Developer, or Association(s) board, and (b) to promulgate such other rules, regulations and restrictions as it deems appropriate with respect to the operation of motor vehicles, non-motorized vehicle, and all means of transport whatsoever nature on the Aspen Meadows lands.

~~13.14.~~ **INTENDED DEVELOPMENT AND DESIGN ENVELOPES.** All structures, including but not limited to, dwellings, garages, out buildings, driveway corridors, open spaces, accessory structures, commercial buildings, parking areas, public trail heads, industrial buildings, community centers, civic and cultural centers shall only be permitted within the boundaries of the site development areas and Design Envelopes, as referenced in the project's Master Declaration and as defined in the Design and Development Guidelines for each home or building site in Aspen Meadows. The Developer has flexibility and sole discretion to amend Design Envelopes, driveway corridors, and natural Open Space zone areas subject to the applicable Declarations for such Property, the Design Development Guidelines and the Master Declaration for the Project.

~~14.15.~~ **LOCALLY SOURCED MATERIALS.** Town agrees to allow Developer to utilize on site, stone-crushing activities and batch plant activities within Aspen Meadows. Developer will identify locations to facilitate Developer's access, processing, and use of locally sourced materials from time to time, as development phases come on line. Town acknowledges that Developer may develop multiple stone-crushing, aggregate processing, and portable concrete batching plant operations and sell the products of such operations within and outside the Project. Notwithstanding any of the foregoing, it is not Developer's intent to own or operate any long-term commercial stone-crushing and aggregate processing batch plant facilities. Accordingly, all stone crushing and aggregate concrete batching processing activities shall cease once the Project has been fully developed and constructed.

~~45.16.~~ **NOTICE OF ZONING ACTIONS.** Developer will make substantial investments in reliance on the Conceptual Master Plan and the expectation of being able to obtain Development approvals based on applicable current zoning rules and regulations, including the Development's Mountain Zoning regulations. Town agrees to use its best efforts to provide written notice, which notice will include details of the proposed changes, to Developer at least one hundred and eighty (180) days prior to considering any changes to zoning rules or regulations which is not considered in conjunction with an application or proposed amendment initiated by Developer.

~~46.17.~~ **PROJECT PERMANENT AND TEMPORARY SIGNAGE.** Developer may, at Developer's cost, elect to design, construct, install, maintain, and repair, both, temporary and permanent decorative project-themed signage on private roads within the Development, including but not limited to community-naming and roadside numbering, custom monument, rock inspired style signage for fire prevention and home identification purposes. In addition, Developer is allowed signage related to project and real estate sales activities, including open model home signage, flags and banners, for purposes related to real estate sales activities per Town sign code requirements. All signage shall meet the requirements of the final approved Mountain Zoning for the Project and the Town agrees to allow Development project signage to be consolidated in key areas for the benefit of communications of the thirty year Master Plan.

~~47.18.~~ **REGULATORY MATTERS.** Town and Developer shall cooperate in all regulatory matters, which affect both parties. Other requirements of law and processes typical to the development process are not waived by this Agreement, but all such processes shall proceed consistent with the Town Code. Any items or developmental processes not addressed by this Agreement shall be governed by the normal Town Code existing at the time of the submittal of any development application with respect thereto. To the extent the Development does not utilize current capacities included within the existing Town infrastructure, Developer shall not incur any impact fees with respect thereto. Developer may be subject to other impact fees as the Town generally imposes as part of any development application.

~~48.19.~~ **STANDARD LOT SETBACK AND DESIGN REQUIREMENTS.** The standard minimum lot setbacks shall be in accordance with Town's zoning ordinances for the intended respective use for each given site or parcel, as of the date the Parties entered this Agreement, and Developer reserves the right to define, publish, communicate, and enforce more stringent setbacks, height restrictions and overall design guidelines and requirements specific to Aspen Meadows, at Developer's sole discretion, without obligation, within its own Design and Development Guidelines which shall be subject to Town's approval and may change and be amended time to time.

~~49.20.~~ **ALL ASSOCIATED LIGHTING.** Developer shall bear sole responsibility for costs to construct, maintain, and repair mountain lighting standards in accordance with Town's code requirements with additional stringent standards which meet or exceed Town's current standards, as defined within the Design and Development Guidelines. Best practices to be taken from the International Dark Sky Association and its recommended Night Sky Standards, consistent of low to ground lighting systems and direct ground lighting systems.

~~20.21.~~ **ADDITIONAL DEVELOPER'S OBLIGATIONS.** In addition to the Developer obligations set forth elsewhere in this Agreement, the Developer shall meet the following requirements in the times and manner set forth herein.

21.1 **Commitment of Developer.** The obligations of Developer described by this Agreement and the Town Code and the Conceptual Master Plan are intended by the parties to be comprehensive of all obligations required of Developer by the Town.

21.2 **Construction of Improvements.** The Improvements servicing each Planning Area shall be completed, or security for the completion of the same shall be posted by Developer, or Secondary Developer as a condition of approval for any neighborhood final plat within a Project requiring the Improvements or portions thereof.

21.3 **Trash.** Developer shall install trash receptacles, per Town standards, to serve all Development Areas.

21.4 **Fire Hydrants.** Developer shall, at its sole cost and expense, install Fire Hydrants, per Town standards, to serve the Development Area. After installation, Town shall be responsible for the maintenance, repair and replacement of the Fire Hydrants.

21.5 **Fiber.** Developer shall, at its sole cost and expense, install fiber for internet and telephone service with Town's preferred provider. After installation, the internet provider in the Town shall be responsible for the maintenance, repair and replacement of the internet fiber improvements.

21.6 **Shuttle Stops.** Developer shall be required to construct shuttle stops to serve the Development Area as identified in the plat process.

21.7 **Public Common Spaces.** Developer agrees to designate "Public Common Space Areas" to serve the Development Area for purposes of various ski trail, ski way, ski lift and/or ski related facilities and locations, future potential Public Ski Shuttle stop(s) and Developer may donate a Public Trail Head access off State Highway SR-143 within the Development Area.

21.8 **Financial Analysis.** Prior to finalization of this Agreement, Developer shall provide to Town a professional financial analysis to the Town examining the financial benefits, ramifications and impacts for the Town.

21.9 **Attainable Housing.** Developer may include Attainable Housing as part of its Development as may be required by applicable law or as otherwise determined by Developer. All Attainable Housing provided will be exempt from, and not counted as a part of the approved Density Units for Aspen Meadows. Town and Developer acknowledge and agree that Developer shall devote at least five percent (5%) of the Density Units available at the Development, towards the construction of Attainable Housing within the Development Area. Notwithstanding the above, such Attainable Housing requirement may be satisfied by a donation of land in the Development from Developer to Town for Attainable Housing purposes, provided, however, that Developer shall be required to construct at least 1% of available Density Units as Attainable

Housing on or before the completion of 50% of Density Unit development at the Development (the “Attainable Housing Deadline”). The remaining percentage may be satisfied through the deed in lieu as contemplated above.

21.10 **Land Donation for LDS Church Building**. Developer intends to donate an approximately 2.5 acre parcel to The Church of Jesus Christ of Latter-day Saints for the construction of a church building at a location to be determined within the Development.

21.11 ~~Potential Second Site-Future for Public Safety Department Site. [TBD- Discuss specific plan prior to finalization of this Agreement. Developer may donate 5-10 Acres for Public Works.]~~ Town and Developer acknowledge and agree that a second site for the construction of a fire station servicing the Town and the Development Area (the "Public Safety Facility Site #2") shall be required during the term of this Agreement. The Public Safety Facility #2 shall be a secondary facility within the Town. The land for such Public Safety Facility #2 shall be donated by Developer to Town, consisting of approximately _____ acres in the location shown on Exhibit _____ (the "Public Safety Site"). It is anticipated that the Public Safety Facility #2 shall be built through the creation and formation of a public infrastructure district to finance such construction (the "PID"), such creation and formation to be pursuant to applicable State code and other applicable legal requirements. Town and Developer agree to cooperate in forming the PID (and Town shall approve such acceptable PID), or shall agree on a reasonable alternative for the funding of the Public Safety Facility on or the completion of 50% of Density Unit development at the Development (the "Public Safety Facility Deadline"). Town and Developer anticipate the formation of such an PID on or before the Public Facility Treatment Deadline wherein the required Public Safety Facility #2 will be funded by Developer and owners of property within the Development Area in an equitable manner. Town and Developer shall reasonably cooperate in the creation and formation of the PID. In no event shall any existing residents within the Town have any obligation or responsibility for any costs to implement or form any such new PID. Notwithstanding the above, Developer shall be under no obligation to create a PID but may propose to Town such other alternative solutions for the funding of the Public Safety Facility as it deems satisfactory subject to the Town's approval, such approval not to be unreasonably withheld. In addition, Developer may elect to form the PID on or before the closing of any sales at the Development but may choose not to elect to implement such PID until on or before the Public Safety Facility Deadline.

21.12 ~~Future Public Works Department Site – Land Donation.~~ Developer may donate five (5) to ten (10) acres to the Town for use by the Town's public works at a location to be determined within the Development (the "Public Works Site #2").

21.13 ~~2 Remedies.~~ In the event the Town determines, in its sole and exclusive discretion, that Developer or Association have failed to fully satisfy and comply with any obligation in this Section 21.7 and all of its subsections, the Town shall provide written notice to Developer of such failure and Developer shall have a period of thirty (30) days to cure such default, provided that if such cure requires more than 30 days and Developer is using commercially reasonable efforts to effectuate such cure, then Developer shall have such additional time as necessary to cure the default. In the event Developer fails to remedy such default, the Town shall have all remedies at law or equity. ~~In addition, the Town may elect to suspend any of its obligations under Section 22.~~

21. ~~ADDITIONAL TOWN OBLIGATIONS.~~ In addition to the Town obligations set forth elsewhere in this Agreement, the Town shall do the following:

22.1 ~~Upper Temporary Residential Access to Parking Lot.~~ Town hereby acknowledges and agrees that Developer shall have temporary access, for commercial recreation operations at the Project, through that certain residential neighborhood bordering the Project in

~~the location identified on Exhibit C (the "Christmas Tree Neighborhood") in order for Developer and its invites to access a temporary parking lot serving the new lifts created at the Project (Developer intending at Project inception to install 2 new ski lifts) up to 65 spaces on road base conditions. Such temporary access shall not be for more than two (2) years, with such use and approval contingent on annual Town council review and approval. The parties acknowledge and agree that any long term access to the parking lot or ski lifts shall be through Aspen Meadows Drive only and not through any residential neighborhoods located outside of the Project.~~

22. **AGREEMENT TO RUN WITH THE LAND.** This Agreement shall be recorded against the Property prior to commencement of any work related to Development of the Project with the exception of the existing Aspen Meadows Southeast Neighborhood approval already in place with the Town. This Agreement shall be recorded in the Office of the Iron County Recorder, shall be deemed to run with the Property, shall encumber the same, and shall be binding on and inure to the benefit of all successors and assigns of Developer in the ownership or development of any portion of the Property for a period of 30 years. This agreement shall not extend beyond 30 years in any respect, including vested rights, except as may be mutually agreed upon in writing between the Parties. The Parties agree that the term of 30 years is reasonably necessary to enable Developer to implement the Aspen Meadows development as contemplated herein.

23. **ASSIGNMENT.** Neither this Agreement nor any of the provisions, terms or conditions hereof can be assigned to any other party, individual or entity without assigning also the responsibilities arising hereunder. This restriction on assignment is not intended to prohibit or impede the sale by Developer.

24. **AUTHORITY.** The parties to this Development Agreement each warrant that they have all of the necessary authority to execute to terms of this Agreement. The Town agrees that is shall be bound by this Agreement upon completion of the annexation process as set forth in State Code and in the Town Code for all portions of Aspen Meadow that are to be annexed into the Town.

25. **APPOINTMENT OF REPRESENTATIVES.** To further the commitment of the parties to cooperate in the implementation of this Agreement, the Town, Developer each shall designate and appoint a representative to act as a liaison between the Town and its various departments and the Developer. The initial representative for the Town shall be the Town Manager, Bret Howser and the initial representative for the Developer shall be A. Flint Decker. The parties may change their designated representatives by Notice. The representatives shall be available at all reasonable times to discuss and review the performance of the parties to this Agreement and the development of the Project.

26. **NO JOINT VENTURE, PARTNERSHIP OR THIRD-PARTY RIGHTS.** This Agreement does not create any joint venture, partnership, undertaking or business arrangement

between the parties hereto nor any rights or benefits to third parties; except as expressly provided herein.

27. **INTEGRATION.** This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and integrates all prior conversations, discussions or understandings of whatever kind or nature and may only be modified by a subsequent writing duly executed and approved by the parties hereto.

28. **NOTICES.** Any notices, requests, or demands required or desired to be given hereunder shall be in writing and should be delivered personally to the party for whom it is intended, or, if mailed by certified mail, return receipt requested, postage prepaid to the parties as communications under this Agreement shall be deemed to have been given and received and shall be effective three (3) days after deposit in the U.S. Mail to the recipient's address as set forth herein:

Town:

Developer:

Any party may change its address by giving written notice to the other party in accordance with the provision of this section.

29. **SEVERABILITY.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid for any reason, the parties consider and intend that this Agreement shall be deemed amended to the extent necessary to make it consistent with such decision and the balance of this Agreement shall remain in full force and effect.

30. **TIME IS OF THE ESSENCE.** Time is of the essence to this Agreement and every right or responsibility shall be performed within the times specified.

31. **LAW AND USAGE.** Any dispute regarding this agreement shall be brought only in Iron County, State of Utah, and heard and settled under the laws of the State of Utah. Whenever the context requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, any gender shall include both genders, and the term "person" shall include an individual, partnership (general or limited), corporation, trust, or other entity or association, or any combination thereof. This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns. The provisions of this Agreement shall be constructed as both covenants and conditions in the same manner as though the words importing such covenants and conditions were used in each separate provision hereof.

32. **MUTUAL DRAFTING.** Each party has participated in negotiating and drafting this Agreement and therefore no provision of this Agreement shall be construed for or against either party based on which party drafted any particular portion of this Agreement.

33. **FORCE MAJEURE.** Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor,

materials, equipment or reasonable substitutes therefor; acts of nature, environmental testing and remediation, governmental restrictions, regulations or controls, judicial orders, enemy or hostile government actions, wars, civil commotions, fires or other casualties or other causes beyond the reasonable control of the party obligated to perform hereunder shall excuse performance of the obligation by that party for a period equal to the duration of that prevention, delay or stoppage, and the same duration of time shall be added to extend the Term of Agreement.

34. **COURT COSTS.** In the event of any litigation between the parties arising out or related to this Agreement, the prevailing party shall be entitled to an award of reasonable court costs, including reasonable attorney fees.

35. **EXPENSES, FEES.** Except as expressly provided otherwise in this Agreement, Developer agrees to pay all costs and expenses of the Town associated with all applications and approvals associated with Aspen Meadows, including, but not limited to, professional fees (including attorney's fees, engineering review fees, design review fees etc.) related to this Agreement and that the Town would not have occurred otherwise in its normal development planning and operations for the Town. Developer agrees to pay the Town's legal costs and expenses incurred in preparation and execution of this Agreement.

36. **ENTIRE AGREEMENT.** This Agreement, and all Exhibits thereto, is the entire agreement between the Parties regarding the subject matter set forth herein and may not be amended or modified except either as provided herein or by a subsequent written amendment signed by all parties.

37. **WAIVER.** Acceptance by either party of any performance less than required hereby shall not be deemed to be a waiver of the rights of such party to enforce all of the terms and conditions hereof. No waiver of any such right hereunder shall be binding unless reduced to writing and signed by the party to be charged therewith.

38. **EFFECTIVE DATE.** This Agreement shall be effective as of the date filed for public record in the office of the Recorder for Iron County, Utah.

[Signature Page to Follow]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the date first above written.

BRIAN HEAD TOWN, a municipal corporation and
subdivision of the State of Utah

By: _____
Name: _____
Its: _____

Approved as to legal form:

By: _____

G & P RANCH, LLC, a Utah limited liability company

By: _____
Name: _____
Its: _____

GOLIATH PROPERTIES LLC, a Utah limited liability
company

By: _____
Name: _____
Its: _____

PLUMB INVESTMENT LC, a Utah limited liability
company

By: _____
Name: _____
Its: _____

STATE OF UTAH)
 : ss.
COUNTY OF _____)

On the ____ day of _____, 2023, personally appeared before me _____, the _____ of BRIAN HEAD TOWN, a municipal corporation and subdivision of the State of Utah, and that the within and foregoing instrument was signed on behalf of said Town.

NOTARY PUBLIC
Residing at: _____

My Commission Expires:

STATE OF UTAH)
 : ss.
COUNTY OF _____)

On the ____ day of _____, 2023, personally appeared before me _____, the _____ of G & P RANCH, LLC, a Utah limited liability company, and that the within and foregoing instrument was signed on behalf of said limited liability company.

NOTARY PUBLIC
Residing at: _____

My Commission Expires:

STATE OF UTAH)
 : ss.
COUNTY OF _____)

On the ____ day of _____, 2023, personally appeared before me _____, the _____ of GOLIATH PROPERTIES LLC, a Utah limited liability company, and that the within and foregoing instrument was signed on behalf of said limited liability company.

NOTARY PUBLIC
Residing at: _____

My Commission Expires:

STATE OF UTAH)
 : ss.
COUNTY OF _____)

On the ____ day of _____, 2023, personally appeared before me _____, the _____ of PLUMB INVESTMENT LC, a Utah limited liability company, and that the within and foregoing instrument was signed on behalf of said limited liability company.

NOTARY PUBLIC

Residing at: _____

My Commission Expires: