



AGENDA
CITY OF GLENWOOD SPRINGS
REGULAR CITY COUNCIL MEETING
AUGUST 1, 2019
101 W. 8TH STREET
6:00 PM

The agenda is subject to *change, including the addition of items 24 hours in advance or the deletion of items at any time.*
The order and times of agenda items listed are approximate and intended as a guideline for the City Council.

TIME	ITEM	PRE-MEETING	ACTION
3:30pm	1.	Review of Regular Session Agenda	Information/Discussion
3:50pm	2.	Council Comments	Information/Discussion
		WORK SESSIONS	Information/Discussion
4:00pm	A.	Draft Presentation of 2020-2025 Strategic Plan	Information/Discussion
	B.	2020 Budget and Priorities Process	Information/Discussion
		Meeting Set-up	
		REGULAR SESSION	
6:15pm	1.	Roll Call	Quorum
	2.	Pledge of Allegiance	
	3.	Agenda Changes & Conflicts	Information Only
	4.	Citizens Appearing Before Council (for items not on the Agenda-comments limited to 3 minutes)	Information Only
6:20pm	5.	Council Comments	Information/Discussion
6:25pm	6.	Proclamation - 75th Anniversary of Kiwanis in Glenwood Springs	Presentation
6:30pm	7.	Consent Agenda	Discussion and/or Action
		<i>All matters under consent are considered to be routine and will be enacted by one motion and vote. The titles will not be read aloud. There will be no separate discussion on these items unless a Councilmember or Audience Member so requests.</i>	
	A.	Resolution 2019 -31; A Resolution of the City Council of the City of Glenwood Springs, Colorado, Adopting an Amended Landfill Fee Schedule	
	B.	Minutes from the July 8, 2019 Special Meeting and the July 18, 2019 Regular Meeting	
	C.	Iron Mountain Hot Springs Cost Savings Agreement	
	D.	Ordinance No 18, Series of 2019; An Ordinance of the City Council of the City of Glenwood Springs, Colorado, Amending Sections 010.020.080, 010.020.081, 050.070.185, and 120.030.150 of the Municipal Code to Conform Penalty Provisions with State Law (SECOND READING)	
	E.	Ordinance No 20, Series of 2019, An Ordinance of the City Council of the City of Glenwood Springs, Colorado, Amending Section 100.020.120 of the Municipal Code to Authorize the Issuance of Penalty Assessment Fines for Animal related Nuisance Violations (SECOND READING)	

ACTIONS AND/OR PRESENTATIONS

6:35pm	8.	Introduction of Valley Settlement's New Director	Presentation
6:40pm	9.	Hanging Lake Update from H2O Ventures	Presentation
6:50pm	10.	Ordinance No 16, Series 2019: Consideration of various amendment to Municipal Code Section 050.030.010 and to Title 070 to correct errors and omissions relating to the Glenwood Springs Development Code that was adopted August 2, 2018 (FIRST READING)	Discussion and/or Action
7:00pm	11.	Youth Smoking Prevention	Discussion and/or Action Information/Discussion
7:30pm	12.	Ordinance No 21, Series of 2019; An Ordinance of the City of Glenwood Springs, Colorado, Establishing License Twenty-One Years of Age, Further Regulating the Sale of Tobacco Products, and Amending Titles 050 and 120 of the Glenwood Springs Municipal Code (FIRST READING)	Discussion and/or Action
7:45pm	13.	Local Preference	Discussion and/or Action
7:55pm	14.	DDA and Tourism Partnership for the 2020 Budget	Discussion and/or Action
8:05pm	15.	2020 Budget and Priorities Process	Discussion and/or Action
8:15pm	16.	Report from City Administration	Information/Discussion
		A. City Manager	
		B. City Attorney	
		C. Correspondence Incoming/Outgoing	
		Approval of letter to US Department of Transportation	
8:30pm		Executive Session to Conduct a Conference with the City Manager and City Attorney for the Purpose of Discussing the City's Purchase, Acquisition, Lease, Transfer or Sale of Real Property; Determining Positions Relative to Matters That May be Subject to Negotiations, Developing Strategy for Negotiations, and Instructing Negotiators; and to Conduct a Conference with the City Attorney to Receive Legal Advice in Accordance with C.R.S. 24-6-402(4)(a), (b), and (e), related to Adventure Paragliding, 112 Melray Road, Purchase Offer on MOC and RMR	Information/Discussion
	18.	Adjournment	



City Council
STAFF REPORT
City of Glenwood Springs
August 1, 2019

Agenda Item: Draft Presentation of 2020-2025 Strategic Plan

Action Requested: Provide General Guidance on how to move forward with the 2020 -2025 Strategic Plan and how it should inform the 2020 Budget.

Department: City Administration

Presented By: Debra Figueroa, City Manager

Background Info: Staff will present some options to City Council on how to move forward with the 2020-2025 Strategic Plan and 2020 Budget.

Issues: The 2020 budget is due to be submitted in the first October meeting and adopted in the first November meeting. The strategic planning process will inform the budget.

Staff Recommendation: N/A



City Council
STAFF REPORT
City of Glenwood Springs
August 1, 2019

Agenda Item: 2020 Budget and Priorities Process

Action Requested: Provide staff with direction on presenting the draft budget to Council and the associated timeline.

Department: City Administration

Presented By: Debra Figueroa, City Manager

Background Info:

Issues:

Staff Recommendation:



City Council
STAFF REPORT
City of Glenwood Springs
August 1, 2019

Agenda Item: Proclamation - 75th Anniversary of Kiwanis in Glenwood Springs

Action Requested: Proclaim August 10, 2019 Kiwanis Club of Glenwood Springs Day.

Department: City Administration

Presented By:

Background Info: NA

Issues:

Staff Recommendation:

PROCLAMATION

KIWANIS CLUB OF GLENWOOD SPRINGS DAY

AUGUST 1, 2019

WHEREAS, Kiwanis International is one of the largest service organizations in the world with more than 551,000 members of all ages and abilities in more than 80 nations; and

WHEREAS, the members of Kiwanis Club of Glenwood Springs are devoted to improving the world, one child and one community at a time by seeking primacy to the human and spiritual rather than the material values of life; and

WHEREAS, in addition to improving the lives of children in Glenwood Springs and the Roaring Fork Valley and in communities around the world, Kiwanis club members promote the development of community leaders, positive role models, intercultural understanding and cooperation, and opportunities for fellowship, personal growth, professional development and community service; and

WHEREAS, the first Kiwanis club started its service in Detroit, Michigan, USA, in 1915; and the Kiwanis Club of Glenwood Springs was formed in 1944, 75 years ago; and

WHEREAS, the service provided by the Kiwanis Club of Glenwood Springs will continue to have a positive impact on our community and citizens; and

WHEREAS, the service provided by the Kiwanis Club of Glenwood Springs will continue to have a positive impact on our community and citizens; and

NOW, THEREFORE, I, Jonathan Godes, Mayor of the City of Glenwood Springs, Colorado, on behalf of the entire Council and its residents we serve, do hereby proclaim **August 10, 2019**, as the **KIWANIS CLUB OF GLENWOOD SPRINGS DAY** in the City of Glenwood Springs in recognition of the 75 years of continuous service the Kiwanis Club of Glenwood Springs has made to the community, and whose members this day are providing meaningful service to children in our community. I

Given under my hand and the official seal of the
City of Glenwood Springs, in the State of Colorado,
this 1st day of August, 2019.

Jonathan Godes, Mayor



City Council
STAFF REPORT
City of Glenwood Springs
August 1, 2019

Agenda Item: Resolution 2019 -31; A Resolution of the City Council of the City of Glenwood Springs, Colorado, Adopting an Amended Landfill Fee Schedule

Action Requested: The City of Glenwood Springs Landfill is requesting the addition of a new flat rate fee for the disposal of two (2) 30 gallon residential trash bags within 4 yard trash containers located at the recycling center are at the landfill.

Department: Public Works

Presented By: Matthew Langhorst, Public Works Director

Background Info: The City of Glenwood Springs is always looking at ways to meet the needs of the citizens of Glenwood Springs. The staff is proposing to add two 4 yard trash containers at the Recycle Center to help our customers be able to recycle and dispose of trash at the same time without having to drive their vehicles to the top of the landfill to the working face. Staff is proposing an \$8 fee that would allow a resident to drop off (2) 30 gallon residential trash bags with household waste at the recycling center. The fee would be collected at the scale house prior to the resident entering the recycling center. When the 4 yard containers are full, the landfill employees will move these containers to the working face for disposal. The landfill has the equipment and cans available to provide this service today.

Issues: Staff does not see an issue with this arrangement, only resident benefit.

Staff Recommendation: Approval of a new \$8 flat rate fee for the disposal of two residential bags of trash within existing trash containers located at the recycling center at the landfill.

RESOLUTION 2019 - 31

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF GLENWOOD SPRINGS, COLORADO, ADOPTING AN
AMENDED LANDFILL FEE SCHEDULE.**

WHEREAS, City Council sets fees for the Glenwood Springs Landfill Enterprise (the “Landfill”) pursuant to Section 080.080.030(5) of the Municipal Code; and

WHEREAS, on April 4, 2019, through Resolution 2019-20, City Council adopted an updated Landfill Fee Schedule that went into effect on May 1, 2019; and

WHEREAS, the City Council wishes to better serve and meet the needs of the citizens of Glenwood Springs by allowing customers to drop off recyclables and non-recyclable residential waste at one location; and

WHEREAS, the Landfill intends to add two (2) 4-yard trash containers at the Recycle Center where customers can dispose of up to two (2) 30 gallon residential trash bags per household without having to drive to the top of the landfill to the working face; and

WHEREAS, City Council wishes to amend the Landfill Fee Schedule to add fees for this service.

**NOW, THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY
OF GLENWOOD SPRINGS, COLORADO, THAT:**

Section 1. The above recitals are hereby incorporated as findings by the City Council of the City of Glenwood Springs.

Section 2. The City Council of the City of Glenwood Springs hereby adopts the revised Landfill Fee Schedule as set forth on **Exhibit A** attached hereto and incorporated herein, effective August 2, 2019.

INTRODUCED, READ, AND PASSED THIS 1st DAY OF AUGUST 2019.

CITY OF GLENWOOD SPRINGS, COLORADO

Jonathan Godes, Mayor

ATTEST:

Catherine Mythen Fletcher, City Clerk

Exhibit A

South Canyon Landfill Tipping Fees

Waste Stream	In County	Out of County
Municipal Solid Waste	\$49.00/ton*	\$49.00/ton*
Residential/Mixed	\$0.02/lb.*	\$0.02/lb.*
Residential Waste (2) 30 Gallon Trash Bags Unloaded at Recycle Center	\$8.00/Unit**	\$8.00/Unit**
Construction/Demolition	\$48.00/ton*	\$68.00/ton*
Concrete, clean (No rebar or mesh)	\$20.00/ton*	\$20.00/ton*
Concrete, dirty (With rebar or mesh)	\$40.00/ton*	\$40.00/ton*
Contaminated Soil	\$52.00/ton*	\$52.00/ton*
Brush and Wood (separated)	\$ 3.20/cubic yard*	\$ 3.20/cubic yard*
Metal Appliances	\$10.00/each*	\$10.00/each*
Other Recyclable Metal (separated)	\$20.00/ton*	\$20.00/ton*
Large Animal (elk, cow, etc. - over 300lbs)	\$12.00/each*	\$12.00/each*
Medium Animal (deer, etc. - up to 300lbs)	\$10.00/each*	\$10.00/each*
Small Animal (dog, cat, etc. - up to 100lbs)	\$8.00/each*	\$8.00/each*
Yard Waste and Clean Fill	No Charge	No Charge
Non-friable Asbestos	\$50.00/ton*	\$50.00/ton*
Septic Sludge	\$0.20/gals*	\$0.30/gals*
Car Wash Sludge	\$0.25/gals*	\$0.30/gals*
Grease Sludge	\$0.30/gals*	\$0.35/gals*
Sludge	\$39.14/ton*	\$45.00/ton*
Tires:		
Passenger Car/Light Truck	\$5.00/each*	\$5.00/each*
Passenger Car/Light Truck with Rim	\$10.00/each*	\$10.00/each*
Large Truck	\$10.00/each*	\$10.00/each*
Large Truck with Rim	\$20.00/each*	\$20.00/each*
Equipment	\$30.00/each*	\$30.00/each*
Equipment with Rim	\$40.00/each*	\$40.00/each*
Tires Cut (quartered or sidewall cut out)	\$89.00/ton*	\$89.00/ton*
Minimum Charge	\$8.00/load*	\$8.00/load*
Each Uncovered Load	\$20.00*	\$20.00*

* = Plus State User Fee

** = Includes State User Fee



MINUTES
CITY OF GLENWOOD SPRINGS
SPECIAL CITY COUNCIL MEETING
JULY 8, 2019
101 W. 8TH STREET
1:30 P.M.

Special Council Meeting

1. Walk-through of the Former Wastewater Treatment Site

City Council and Staff walked through the former Wastewater Treatment site located at the confluence of the Colorado and Roaring Fork rivers.

2. Confluence RFQ Interviews

Jenn Ooton, Assistant City Manager, presented that the purpose of the Request for Qualifications is to find a qualified, visionary development partner to participate in the City of Glenwood Springs' efforts to develop approximately 12.2 acres of land located at the Confluence of the Colorado and Roaring Fork rivers. The following three teams were selected for an interview with City Council, each interview was scheduled for 1 hour 15 minutes.

- A. Development Partners, Andrew and Jim Light and Tim Belinski
- B. Trail Break Partners, Douglas A Elenowitz
- C. The Confluence Development Group, Brian Marshack



MINUTES
CITY OF GLENWOOD SPRINGS
REGULAR CITY COUNCIL MEETING
JULY 18, 2019
101 W. 8TH STREET
6:15 P.M.

1. Roll Call

Mayor Pro-Tem Shelley Kaup called the meeting to order at 6:15pm. Present at roll call: Charlie Willman, Rick Voorhees, Shelley Kaup, Steve Davis, Paula Stepp, and Tony Hershey. Absent: Jonathan Godes.

Also present were Debra Figueroa, City Manager; Karl Hanlon, City Attorney; Steve Boyd, COO; Jenn Ooton, Assistant City Manager, Economic and Community Development Director; Catherine Mythen Fletcher, City Clerk; Matt Langhorst, Public Works Director; Yvette Gustad, Finance Director; Brian Smith, Parks and Recreation Director; Terry Wilson, Police Chief; Katie Mulkey, Police Department Admin Assistant; Hannah Klausman, Senior Planner; Jessica Bowser, Assistant City Engineer; and Terri Partch, City Engineer.

2. Pledge of Allegiance

Mayor Pro-Tem Kaup led in the Pledge of Allegiance.

3. Agenda Changes & Conflicts

None were noted.

4. Citizens Appearing Before Council (for items not on the Agenda-comments limited to 3 minutes)

Cheryl Gaye-explained that she received a notice about having a sandwich board in front of her business and to keep it out of the right-of-way. She stated the reason for the board was to slow down bikers. She also expressed that smoking was a major problem on the block.

Gary Vick-read a letter addressed to council into the record concerning the development of the confluence area.

Richard Todd-expressed that he too was concerned about the development of the confluence area and felt there was a lack of public input.

Dean Moffat-spoke about his concern that the process for the planning of the confluence area was upside down and that the public should be the first group of people to be engaged concerning a plan.

5. Council Comments

Councilor Hershey – expressed that Council needed to focus on the needs not the wants of the City especially as discussions concerning the 2020 budget began.

Councilor Willman – explained that his neighbors ask him about the sick Walnut trees on his block and if the City would remove them or if it was the property owner's responsibility. He also brought up some concerns about the weeds in public spaces. He recommended that the City and Council sponsor a picnic for the dedication of Bethel Plaza. Finally he addressed that the City website had ways for the public to receive a notice via email concerning upcoming meetings.

Councilor Stepp – stated she appreciated all the people who volunteer in the community, she also expressed that AGNC was very excited that BLM may set up their headquarters in Grand Junction.

Mayor Pro-Tem Kaup – explained that the City Staff, Council, and Administration made every effort to involve the public in the confluence planning and there would be more opportunities to be involved.

6. Consent Agenda

All matters under consent are considered to be routine and will be enacted by one motion and vote. The titles will not be read aloud. There will be no separate discussion on these items unless a Councilmember or Audience Member so request.

- A. Minutes from June 27, 2019 Regular Meeting
- B. AT&T Airport Road Cell Tower Lease Extension
- C. Pool LED Award of Proposal

Councilor Hershey moved, seconded by Councilor Willman to approve the consent agenda.

Motion passed by all present, Godes absent.

ACTIONS AND/OR PRESENTATIONS

7. Glenwood Springs 2018 Comprehensive Annual Finance Report

Yvette Gustad explained that the audit firm, McMahan and Associates LLC, completed the City audit for fiscal year 2018 on June 30, 2019. Paul Backes was the partner in charge of City engagement, and he presented the results of the audit to Council.

Councilor Stepp moved, seconded by Councilor Hershey, to accept the Glenwood Springs 2018 Comprehensive Annual Finance Report.

Motion passed by all present, Godes absent.

8. REVISED Ordinance No 9, Series of 2019; An Ordinance of the City Council of the City of Glenwood Springs, Colorado, Revising Code Provisions to Vacation Rentals (SECOND READING)

Hannah Klausman presented to council the revised Ordinance No 9, Series of 2019 which reflected additional changes that were requested by a member of City Council regarding the “whereas” recitals.

Mayor Pro-Tem Kaup opened the item for public comment.

Jennifer Vanian-stated that the only thing she saw lacking was a limit on how many a single person could own.

Mayor Pro-Tem Kaup closed public comment.

Councilor Voorhees moved, seconded by Councilor Stepp, to move the 7% down to 5%.

Ayes: Hershey, Stepp, Kaup, Voorhees, Willman

Nays: Davis

Motion passed, Godes absent.

Councilor Davis moved, seconded by Councilor Willman, to approve Ordinance No 9, Series of 2019; An Ordinance of the City Council of the City of Glenwood Springs, Colorado, Revising Code Provision to Vacation Rentals, as amended by staff, and the 7% changed to 5%.

Ayes: Hershey, Stepp, Kaup, Voorhees, Willman

Nays: Davis

Motion passed, Godes absent.

9. Roaring Fork Mountain Bike Association Trails Update

Brian Smith spoke to Council about the Roaring Fork Mountain Bike Association partnership with the City. This partnership over the last few years was to complete two major trail systems, the Red Mountain trail system and the South Canyon trail system. The RFMBA worked with the Parks and Recreation Department to help maintain the trails, provide signage, inform the biking community of rules and best practices when using the trails, and other volunteer activities.

Mayor Pro-Tem Kaup opened the item for public comment.

Cheryl Bower-thanked council for building Grand Staff Trail and also complimented the trails in South Canyon.

Jennifer Vanian-complimented the presentation, however expressed that one thing missing was discussion about the elk habitat in South Canyon.

Brianna McCallum-stated that she used the trails in South Canyon but suggested that any more funding going forward should be used for maintenance, adding signage, and other amenities to the trails in order to preserve them.

Craig Amershel-complimented the City and RFMBA on the work that has been done, however brought up his concern about secondary impacts.

Steve Harvey-encouraged that the second phase in South Canyon be considered.

McKayla Richardson-suggested that if anymore expansion of trails in South Canyon was done then wildlife studies should be considered.

Mayor Pro-Tem Kaup closed public comment.

10. 27th Street Update

Jessica Bowser and Bryana Starbuck gave a brief update concerning the 27th Street Bridge project.

11. American Flags

Jenn Ooton, Terri Partch, and Matt Langhorst explained that earlier this year, the Glenwood Springs Rotary Club approached the Downtown Development Authority about placing 34 flag pole brackets on the Grand Avenue Pedestrian Bridge. Before the DDA considered expending funds in engineering costs, the DDA asked the City staff to present the concept to City Council.

Mayor Pro-Tem Kaup opened the item for public comment and no comments were noted. Mayor Pro-Tem Kaup closed public comment.

Councilor Hershey moved, seconded by Councilor Voorhees, to not put flags where they are going to fall on people on the highway or in a dangerous place.

Ayes: Hershey, Stepp, Davis, Kaup, Voorhees

Abstained: Willman

Motion passed, Godes absent.

12. Review and Approval of Funding for a Combined Scope of Work for Parking, Transit Operations and Intersection Operations

Terri Partch and Jenn Ooton presented to council that in November 2018, RFTA passed a valley wide property tax measure to support and partially support capital projects and improved operations. The study was currently unfunded in the 2019 budget. RFTA and the City would split the cost of the study based on the cost of each task order. The estimate City costs were in the range of \$300,000 over two years. Staff suggested funding the study by splitting the cost between the GID and Bus funds as well as money from the Pedestrian Bridge Study.

Mayor Pro-Tem Kaup opened the item for public comment and no comments were noted. Mayor Pro-Tem Kaup closed public comment.

Councilor Willman moved, seconded by Councilor Stepp, to cooperate in the issuance of the RFQ for the Glenwood Springs State Highway 82 corridor study.

Ayes: Stepp, Kaup, Voorhees, Willman

Nays: Hershey

Abstained: Davis

Motion passed, Godes absent.

Mayor Pro-Tem Kaup called for a 5-minute break and for the meeting to reconvene at 8:50pm.

13. Youth Smoking Prevention/Tax Question

Debra Figueroa and Karl Hanlon spoke to Council explaining that at the June 27th City Council Work Session, Council indicated interest in pursuing strategies to reduce tobacco usage in youths. Staff needed to inform the County Clerk by the end of July if City Council wanted to add a tax question to the ballot.

Mayor Pro-Tem Kaup opened the item for public comment and no comments were noted. Mayor Pro-Tem Kaup closed public comment.

Councilor Hershey moved, seconded by Councilor Davis, to potentially add this item to the ballot in November 2019.

Motion passed by all present, Godes absent.

14. Downtown Issues

A. Downtown Maintenance

Brian Smith presented to Council that City staff established a Downtown Maintenance Fund in the 2017 A&I Budget. Over the last two years, the required level of maintenance downtown had increased significantly as well as the contract awarded to Birds Beware. City Council, staff, and the general public had not always been satisfied with the level of service provided under the contract with Birds Beware. To address this, staff was requesting that Parks and Recreation take over maintenance.

Mayor Pro-Tem Kaup opened the item for public comment and no comments were noted. Mayor Pro-Tem Kaup closed public comment.

Councilor Willman moved, seconded by Councilor Hershey, to approve bringing Downtown Maintenance in-house and to include in that approval in this years budget the purchase of a Hotsy Power Washer and one of the 4x4 fleet additions which would include a snow plow from the A&I funds.

Motion passed by all present, Godes absent.

B. Smoking Ordinance/Enforcement Strategies for Homeless Enforcement

Terry Wilson explained that the Police Department was recommending some fairly significant changes to the City Smoking Ordinance. Staff had initial conversations with a member of the City Attorney's Office and would propose they draft changes to include a different boundary, fine schedule, smoke zone, and prohibit ashtrays.

Mayor Pro-Tem Kaup opened the item for public comment.

Reesa Teretsky-stated she coordinated the tobacco program for Pitkin, Garfield and Eagle counties, and was in support of the suggestions made.

Mayor Pro-Tem Kaup closed public comment.

15. Ordinance No 18, Series of 2019; An Ordinance of the City Council of the City of Glenwood Springs, Colorado, Amending Sections 010.020.080, 010.020.081, 050.070.185, and 120.030.150 of the Municipal Code to Conform Penalty Provisions with State Law (FIRST READING)

Karl Hanlon spoke to Council about the new changes in legislation. House Bill 19-1148 reduced the maximum period of imprisonment for a violation of a municipal ordinance to 364 days. The Municipal Code currently provided for a maximum penalty of \$1000 and one year in prison for violations of the Code. This Ordinance would amend those penalty provisions so that the one year maximum penalty was reduced to 364 days throughout the Code.

Mayor Pro-Tem Kaup opened the item for public comment and no comments were noted. Mayor Pro-Tem Kaup closed public comment.

Councilor Hershey moved, seconded by Councilor Voorhees, to approve ordinance 18 to have the City municipal code conform with state statute specifically with regards to 364 as opposed to a year in jail.

Motion passed by all present, Godes absent.

16. Ordinance No 19, Series of 2019; An Ordinance of the City Council of the City of Glenwood Springs, Colorado, Amending Section 090.030.030 of the Municipal Code to Grant the Parks Director Authority to Adopt Rules and Regulations to Promote the Public Health, Safety and General Welfare of those Persons Utilizing Park Lands of the City of Glenwood Springs (FIRST READING)

Brian Smith explained that pursuant to the Municipal Code, the Parks Director had authority to administer the City's park lands, recreational facilities, open spaces and recreational programs, but did not have authority to issue rules and regulations that could be enforced by Code Enforcement. City Council only had the authority to adopt rules and regulations relating to park lands.

This item was tabled for a later date.

17. Ordinance No 20, Series of 2019; An Ordinance of the City Council of the City of Glenwood Springs, Colorado, Amending Section 100.020.120 of the Municipal Code to Authorize the Issuance of Penalty Assessment Fines for Animal related Nuisance Violations (FIRST READING)

Terry Wilson spoke to council about recommendations from the City's Municipal Judge concerning the efficient administration of justice in the Municipal Court. The Judge recommended that animal control and law enforcement officials should have authority to issue penalty assessment fines, instead of a court summons, for animal-related nuisance violations described in Section 100.020.120 of the Municipal Code.

Mayor Pro-Tem Kaup opened the item for public comment and no comments were noted. Mayor Pro-Tem Kaup closed public comment.

Councilor Davis moved, seconded by Councilor Stepp, to approve Ordinance No 20, Series of 2019 Animal related Nuisance.

Motion passed by all present, Godes absent.

18. Report from Administration

A. City Manager

i. Project Updates for South Midland and 6th and Laurel Landscaping

- B. City Attorney
- C. Correspondence Incoming/Outgoing
 - i. Letter of support for Colorado Wilderness Act of 2019

19. Adjournment

The meeting was adjourned at 10:10pm.



City Council
STAFF REPORT
City of Glenwood Springs
August 1, 2019

Agenda Item: Iron Mountain Hot Springs Cost Savings Agreement

Action Requested: Approve Letter of Intent between the City of Glenwood Springs and Iron Mountain Hot Springs (IMHS)

Department: Public Works

Presented By:

Background Info: The City and IMHS have negotiated the terms of a proposed agreement regarding the upgrade and possible relocation of Lift Station #16000, access to the lift station and any utility upgrades needed to relocate or upgrade the lift station (the "Project"). The proposed agreement contemplates IMHS providing the design and construction management of the Project and then invoicing the City for one-half of incurred costs on a monthly basis. The total estimated cost of the Project is \$500,000. The City will retain the right to approve the design prior to construction and monitor the performance of the work. The document currently before City Council for approval is a non-binding letter of intent setting forth the proposed terms.

Issues: None

Staff Recommendation: Approve the non-binding letter of intent

NON-BINDING LETTER OF INTENT

July 22, 2019

Between:

IRON MOUNTAIN HOT SPRINGS LLC ("IMHS")

And

CITY OF GLENWOOD SPRINGS ("City")

Dear City:

This letter is intended to outline the terms of the proposed agreement between the parties regarding the upgrade and possible relocation of Lift Station #16000, access to the lift station and any utility upgrades needed to relocate or upgrade the lift station (the "Project"). This Project is being brought forward as a collaboration between IMHS site planning and City long-term goals for Lift Station #16000. This letter does not constitute a binding agreement other than mutual protection of confidentiality and exclusivity of negotiation. IMHS and the City desire to enter into said proposed agreement, the terms of which will include, but not be limited to, the following:

1. Construction. IMHS will be the construction manager for the Project and provide the design of the Project. The City will have the right to approve the design prior to construction. It is anticipated that the City will hire its own separate consultant to observe the ongoing Project in this matter. Such individual will be paid for separately by the City and will be allowed to have access to the Project at all times. In the event the consultant has concerns about any aspect of the Project, the consultant should first orally address any concerns with the on-site construction manager for IMHS. In the event that any concerns are not resolved with this initial step, the consultant should then be in touch with an appropriate representative of the City and the City representative will then be in touch with the construction manager for IMHS in order to address any current or ongoing concerns regarding the Project.
2. Contract. The parties desire to enter into a Construction Agreement ("Agreement"), containing the usual and customary representations, warranties and indemnifications, as soon as possible.
3. Cost. The estimated cost of the Project is \$500,000.00. IMHS and the City will split all associated cost of the Project, including design, fabrication, equipment and installation. IMHS will bill the City in AIA format for its one-half portion of any and all bills received for associated costs of the Project every thirty (30) days and the City will remit payment to IMHS within fifteen (15) days of the City's receipt of the bill. Any Project costs in excess of \$500,000.00 shall be approved by the City in advance of IMHS incurring those costs.

4. Easements. Any easements that may be necessary for the lift station and accompanying access and utilities will be conveyed to the City at no charge.
5. Inspection and Acceptance. The City will inspect the Project during and after construction. Upon the City's acceptance of the finished product, the City will assume responsibility of the lift station.
6. Warranty. IMHS will obtain a two (2) year warranty from all subcontractors and equipment vendors.
7. Expenses of the Parties. Each party will pay its own legal, accounting, tax, and other costs associated with the Project.
8. Final Definitive Agreement. IMHS and the City understand and agree that no contract or agreement shall be deemed to exist between IMHS and the City unless and until a final definitive agreement has been executed and delivered, and the City hereby waives, in advance, any claims involving IMHS unless and until the City and IMHS have entered into a final definitive agreement. IMHS and the City agree that both IMHS and the City reserve to themselves the right to reject any and all proposals made with regard to any agreement between IMHS and the City, and the right to terminate discussions and negotiations at any time without liability.
9. Exclusivity Period. The City will provide IMHS a 45 day exclusive dealing period from the date of mutual signatures on this letter. The City will not discuss the transaction with any interested third party during this period. This agreement may be terminated with mutual agreement to terminate between IMHS and the City before expiration of said time period.
10. Confidentiality Agreement. All information previously disclosed or disclosed hereafter to the City concerning IMHS and its business operations, including without limitation, all customer lists, suppliers, assets, inventories, cash flow, costs, profits and other financial information (the "Confidential Information") will be kept in strict confidence and will only be disclosed to the City's officers, employees, managers, advisors and consultants in connection with the City's evaluation of whether or not to enter into this transaction. The City agrees that the Confidential Information provided will be used only for the purpose of evaluating and determining whether or not to enter into this transaction, and that the information shall not be disclosed to third parties or to approach any customer or supplier of IMHS for the purpose of competing with or interfering with IMHS's business operations or for any other purpose. The City shall be responsible for any breach of this Confidentiality Agreement by the City's representatives. Excepting the confidentiality requirements contained herein, which shall be and remain binding upon the parties, THIS LETTER OF INTENT CONSTITUTES ONLY AN EXPRESSION OF INTENT. IT IS NOT AN AGREEMENT, REPRESENTATION OR COMMITMENT TO CONSUMMATE AN AGREEMENT FOR THE PROJECT OR TO ENTER INTO ANY OTHER BINDING AGREEMENT. Each party agrees that any actions taken on its part in anticipation of a

binding Agreement shall be taken at its sole risk and expense. Notwithstanding any indications of assent to any matter under negotiation, no party shall be under any legal obligation to the other until the parties have entered into and executed a mutually acceptable Agreement.

This Letter of Intent shall be void and of no effect unless executed by all parties within _____ (____) days of the date hereof and may be executed electronically and in various counterparts.

IRON MOUNTAIN HOT SPRINGS LLC

CITY OF GLENWOOD SPRINGS

By: _____
Name:
Title:

By: _____
Name:
Title:



City Council
STAFF REPORT
City of Glenwood Springs
August 1, 2019

Agenda Item: Ordinance No 18, Series of 2019; An Ordinance of the City Council of the City of Glenwood Springs, Colorado, Amending Sections 010.020.080, 010.020.081, 050.070.185, and 120.030.150 of the Municipal Code to Conform Penalty Provisions with State Law (SECOND READING)

Action Requested: Approve Ordinance No. 18, Series of 2019 amending penalty provisions in the Municipal Code to conform to new legislation.

Department: Attorney

Presented By: Glenwood Springs Legal, Legal

Background Info: House Bill 19-1148 reduces the maximum period of imprisonment for a violation of a municipal ordinance to 364 days. The Municipal Code currently provides for a maximum penalty of \$1000 and one year in prison for violations of the Code. This Ordinance amends those penalty provisions so that the one year maximum penalty is reduced to 364 days throughout the Code.

Issues: None.

Staff Recommendation: Approve Ordinance No. 18, Series of 2019 to ensure the Code timely conforms to the new legislation.

ORDINANCE NO. 18

Series of 2019

AN ORDINANCE OF THE CITY OF GLENWOOD SPRINGS, COLORADO AMENDING SECTIONS 010.020.080, 010.020.081, 050.070.185 AND 120.030.150 OF THE MUNICIPAL CODE TO CONFORM PENALTY PROVISIONS WITH STATE LAW.

WHEREAS, the City of Glenwood Springs (“Glenwood Springs” or the “City”) is a home-rule municipality organized under Article XX of the Colorado Constitution and with the authority of the Glenwood Springs Home Rule Charter; and

WHEREAS, the Glenwood Springs Municipal Code (the “Code”) currently provides for a maximum penalty of \$1,000 and one year in person for violations of the Code; and

WHEREAS, by HB19-1148 the Colorado General Assembly reduced the maximum penalty permitted for the violation of a municipal ordinance to 364 days; and

WHEREAS, the Glenwood Springs City Council finds and determines that it is in the best interest of the public health, safety, and welfare to amend Sections 010.020.080, 010.020.081, 050.070.185 and 120.030.150 of the Code to conform to HB19-1148.

NOW, THEREFORE, THE CITY COUNCIL OF CITY OF GLENWOOD SPRINGS, COLORADO, ORDAINS:

Section 1. The foregoing recitals are incorporated herein as if set forth in full.

Section 2. Section 010.020.080 of the Code is hereby amended as follows, with double underlined text added and ~~strike through language deleted~~:

010.020.080 – General penalty for violations of Code, continuing violations.

Unless otherwise specifically provided, any person eighteen (18) years of age or older violating any provision of this Code by performing an act prohibited or declared to be unlawful by this Code or by failing to perform an act required by or otherwise made mandatory by this Code shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or by incarceration not to exceed ~~one (1) year~~ three hundred sixty-four days or by both such fine and incarceration. Any person under eighteen (18) years of age convicted of violating any provision of this Code, except the provisions of the Model Traffic Code as adopted in Title 120, may be punished by a fine of not more than one thousand dollars (\$1,000.00). Any person under the age of eighteen (18) years convicted of violating any provision of the Model Traffic Code as adopted in Title 120 may be punished by a fine of not more than one thousand dollars (\$1,000.00) or by incarceration not to exceed ~~one (1) year~~ three hundred sixty-four days, or by both such fine and incarceration. Each person violating any provision of this Code shall be guilty of a separate offense for each and every day during any portion of which any

violation of this Code is committed, continued or permitted by such person, and he/she shall be punished accordingly.

Section 3. Section 010.020.081 of the Code is hereby amended as follows, with double underlined text added and ~~strike through language deleted~~:

010.020.081 – Contempt of Court.

Any person eighteen (18) years of age or older found in contempt of court by failing to perform an act required by or otherwise made mandatory by this Code or the Municipal Court shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or by incarceration not to exceed ~~one (1) year~~ three hundred sixty-four days or by both such fine and incarceration. Any person under eighteen (18) years of age found in contempt of court by failing to perform an act required by or otherwise mandatory by this Code or Municipal Court, may be punished by a fine of not more than one thousand dollars (\$1,000.00) and juvenile detention not to exceed ten (10) days.

Section 4. Section 050.070.185 of the Code is hereby amended as follows, with double underlined text added and ~~strike through language deleted~~:

050.070.185 – Criminal penalties.

If any person fails or refuses to obey or comply with or violates any of the criminal provisions, such person upon conviction of such offense shall be guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment not to exceed ~~one (1) year~~ three hundred sixty-four days, or both, in the discretion of the court. Each violation of noncompliance shall be considered a separate and distinct offense. Further, each day of continued violation shall be considered as a separate offense.

Section 5. Section 120.030.150(c) of the Code is hereby amended as follows, with double underlined text added and ~~strike through language deleted~~:

120.030.150 – Unlawful solicitation.

- (c) Penalties. A violation of this section may be punished by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment for a term not to exceed ~~one (1) year~~ three hundred sixty-four days, or by both.

INTRODUCED, READ ON FIRST READING, PASSED AND ORDERED
PUBLISHED IN FULL THIS 18TH DAY OF JULY 2019.

CITY OF GLENWOOD SPRINGS, COLORADO

Jonathan Godes, Mayor

ATTEST:

Catherine Mythen Fletcher, City Clerk

INTRODUCED, READ ON SECOND READING, AND ORDERED PUBLISHED BY
TITLE ONLY TO BE EFFECTIVE TEN DAYS FOLLOWING THE DATE OF SECOND
PUBLICATION THIS 1ST DAY OF AUGUST 2019.

CITY OF GLENWOOD SPRINGS, COLORADO

Jonathan Godes, Mayor

ATTEST:

Catherine Mythen Fletcher, City Clerk



City Council
STAFF REPORT
City of Glenwood Springs
August 1, 2019

Agenda Item:	Ordinance No 20, Series of 2019, An Ordinance of the City Council of the City of Glenwood Springs, Colorado, Amending Section 100.020.120 of the Municipal Code to Authorize the Issuance of Penalty Assessment Fines for Animal related Nuisance Violations (SECOND READING)
Action Requested:	Pass Ordinance No. 20, Series of 2019 Amending Section 100.020.120 of the Municipal Code to Authorize the Issuance of Penalty Assessment Fines for Animal-Related Violations.
Department:	Police Department
Presented By:	Terry Wilson, Police Chief
Background Info:	The City's Municipal Judge recommends that for the efficient administration of justice in the Glenwood Springs Municipal Court, animal control and law enforcement officials should have authority to issue penalty assessment fines, instead of a court summons, for animal-related nuisance violations described in Section 100.020.120 of the Municipal Code. The amount of the fine is set forth in the Ordinance and depends on the number of offenses that have occurred within a one year period measured from the date of any prior violation of Section 100.020.120. After three violations in one year, the person is no longer eligible for a penalty assessment and must go to Court. This penalty assessment structure is similar to the provision currently contained in Code Section 100.010.065, Animal and Wildlife Protection.
Issues:	None at this time. This was requested by the Municipal Judge.
Staff Recommendation:	Pass Ordinance No. 20, Series of 2019

ORDINANCE NO. 20

Series of 2019

AN ORDINANCE OF THE CITY OF GLENWOOD SPRINGS, COLORADO AMENDING SECTION 100.020.120 OF THE MUNICIPAL CODE TO AUTHORIZE THE ISSUANCE OF PENALTY ASSESSMENT FINES FOR ANIMAL-RELATED NUISANCE VIOLATIONS.

WHEREAS, the City of Glenwood Springs (“Glenwood Springs” or the “City”) is a home-rule municipality organized under Article XX of the Colorado Constitution and with the authority of the Glenwood Springs Home Rule Charter; and

WHEREAS, Section 100.010.120 of the Glenwood Springs Municipal Code makes it unlawful to create, contribute to or permit an animal-related nuisance as defined in Section 100.010.120; and

WHEREAS, for the efficient administration of justice in the Municipal Court, the Glenwood Springs Municipal Judge has recommended that animal control or law enforcement officials have authority to issue penalty assessments for violations of Section 100.010.120; and

WHEREAS, the Glenwood Springs City Council has considered the recommendation of the Municipal Judge and finds and declares that it is in the interest of judicial efficiency and the public health, safety, and welfare to amend Section 100.010.120 to authorize the issuance of penalty assessments for animal-related nuisance violations.

NOW, THEREFORE, THE CITY COUNCIL OF CITY OF GLENWOOD SPRINGS, COLORADO, ORDAINS:

Section 1. The foregoing recitals are incorporated herein as if set forth in full.

Section 2. Section 100.010.120 of the Glenwood Springs Municipal Code is hereby amended as follows, with double underlined text added and ~~strike through language deleted~~:

Section 100.010.120 - Animal-Related Nuisance.

- (a) Circumstances in which animal ownership, custody, maintenance or control creates, contributes to, or permits any of the following undesirable animal conduct or conditions upon public or private property causing injury or substantial annoyance, or discomfort to the health and welfare of others shall be unlawful.
 - (1) Molesting pedestrians or passing vehicles;
 - (2) Attacking or chasing people or other animals, with the exception of trespassers upon the private premises of the animal owners;

- (3) Damaging public or private property, including failure of the owner or custodian of an animal to immediately remove feces deposited by such animal upon any public or private property (other than property of the owner);
 - (4) Running at large;
 - (5) Making continuous noise in an excessive manner which is persistent and loud enough to be heard beyond the premises where the animal(s) is kept or harbored, and which substantially interferes with the reasonable use and enjoyment of other nearby properties in the community.
 - (6) The existence of substantial stench/offensive odor, or general unsanitary conditions in which the animal(s) is kept, so as to interfere with the reasonable use and enjoyment of other nearby properties or otherwise make their physical occupation unreasonably uncomfortable.
- (b) No animal owner shall permit any animal-related nuisance or condition caused by animal(s) in his/her temporary or permanent care, custody, control, maintenance or possession.
- (c) Animal control or law enforcement officials shall have the specific authority to impound an animal(s) upon violation of this Code section and to issue ~~uniform~~ citations to the animal's owner or custodian. Officials shall possess the power to enter private property in the performance of their duties only if consent of the owner or occupant of the property is freely given or a search warrant is obtained or in the event of the imminent actual harm to the animal or others.
- (d) A person violating this section shall be subject to the penalty assessment fines outlined below. Penalty assessment fines shall be determined within a one-year period measured from the date of any prior violation of this section.
- (1) First offense: Fifty dollar (\$50) fine
 - (2) Second offense: Seventy-five dollar (\$75) fine
 - (3) Third offense: One hundred dollar (\$100) fine
 - (4) Subsequent offense: The Municipal Court may impose such fines and penalties as it is authorized pursuant to Municipal Code Section 010.020.080.

INTRODUCED, READ ON FIRST READING, PASSED AND ORDERED
PUBLISHED BY TITLE ONLY THIS 18TH DAY OF JULY 2019.

CITY OF GLENWOOD SPRINGS, COLORADO

Jonathan Godes, Mayor

ATTEST:

Catherine Mythen Fletcher, City Clerk

INTRODUCED, READ ON SECOND READING, AND ORDERED PUBLISHED BY
TITLE ONLY TO BE EFFECTIVE TEN DAYS FOLLOWING THE DATE OF SECOND
PUBLICATION THIS _____ DAY OF _____ 2019.

CITY OF GLENWOOD SPRINGS, COLORADO

Jonathan Godes, Mayor

ATTEST:

Catherine Mythen Fletcher, City Clerk



City Council
STAFF REPORT
City of Glenwood Springs
August 1, 2019

Agenda Item: Introduction of Valley Settlement's New Director

Action Requested: NA

Department: City Administration

Presented By:

Background Info: Alex Sánchez, the new Executive Director of Valley Settlement, will be introduced.

Issues:

Staff Recommendation:



City Council
STAFF REPORT
City of Glenwood Springs
August 1, 2019

Agenda Item: Hanging Lake Update from H2O Ventures

Action Requested: NA

Department: City Administration

Presented By: Debra Figueroa, City Manager

Background Info: Ken Murphy will present an update on the Hanging Lake Shuttle System. The Forest Service will also be in attendance as well as the Tourism Promotion Board. Mr. Murphy will bring the presentation to the meeting.

Issues:

Staff Recommendation:



City Council
STAFF REPORT
City of Glenwood Springs
August 1, 2019

Agenda Item:	Ordinance No 16, Series 2019: Consideration of various amendment to Municipal Code Section 050.030.010 and to Title 070 to correct errors and omissions relating to the Glenwood Springs Development Code that was adopted August 2, 2018 (FIRST READING)
Action Requested:	Ordinance 16, Series 2019: Consideration of various amendment to Municipal Code Section 050.030.010 and to Title 070 to correct errors and omissions relating to the Glenwood Springs Development Code that was adopted August 2, 2018
Department:	Economic and Community Development
Presented By:	Gretchen Ricehill, Assistant Director of Economic and Community Development
Background Info:	In August 2018, the City adopted a new Land Use Development Code and in December of that same year the Planning and Zoning Commission recommended certain corrections which subsequently were adopted through Ordinance 3, Series 2019. As staff applies the new code, we continue to find errors and omissions that require correction, as well as certain provisions that require clarification. These second round of code corrections are detailed in a spreadsheet which is attached to and made a part of this staff report. The spreadsheet includes an explanation of the issues and the recommended corrections. The Planning and Zoning Commission considered these code amendments at their meeting April 23, 2019. In a unanimous 7-0 vote, the Commission recommended approval of the amendments with the following exceptions which are noted below and highlighted in red font in the attached spreadsheet: • Sign Code Revisions, spreadsheet entry #5: For freestanding monument signs, the Commission recommended setting a maximum sign area of 100 square feet. This would apply to residential applications in commercial zoning districts. Currently the Code allows 10 square feet of signage. The Commission discussed revisiting sign allowances for all uses at some point in the future. • Appeals, spreadsheet entry #10: The Commission discussed changing the current references to "administration official", "agency" and "officer" to "decision-making body or authority" and clarifying paragraph 3, Stay of Proceedings. The Commission left the final text to the discretion of the City Attorney's office. • Automotive Fuel Sales and Service Station, spreadsheet entry #13: The Commission requested additional information regarding the issue and need for changing the definition prior to rendering a decision. It is important to note that the recommended amendments do not substantially change existing requirements or add new code provisions. They simply correct errors and omissions and provide clarification to existing requirements. As staff continues to administer the new Development Code we fully expect to find other errors that will need correction.
Issues:	None.
Staff Recommendation:	City Council may take one of the following actions: 1. <u>Approve</u> of all or some of the amendments; 2. <u>Deny</u> all or some of the amendments; or, 3. <u>Continue</u> the hearing with a requirement that staff submit changes or provide additional information regarding some or all the amendments.

Action 1:

Consideration of Ordinance 16, Series 2019: An ordinance of the City of Glenwood Springs, Colorado, amending section 050.030.010 and Title 070 of the Glenwood Springs Municipal Code.

Staff recommends that Council **uphold** the Planning and Zoning Commission's recommendation and approve Ordinance 16, Series 2019 (first reading).

ORDINANCE NO. 16

Series of 2019

**AN ORDINANCE OF THE CITY OF GLENWOOD SPRINGS,
COLORADO, AMENDING SECTION 050.030.010 AND TITLE 070 OF
THE GLENWOOD SPRINGS MUNICIPAL CODE.**

WHEREAS, the City of Glenwood Springs (“Glenwood Springs” or the “City”) is a home-rule municipality organized under Article XX of the Colorado Constitution and with the authority of the Glenwood Springs Home Rule Charter; and

WHEREAS, on August 2, 2018, City Council approved a revised development code as set forth in Title 070 of the Municipal Code; and

WHEREAS, in the process of applying the revised development code, City staff discovered errors and omissions that require correction and provisions that warrant clarification as set forth in **Exhibit A** attached hereto; and

WHEREAS, the Planning and Zoning Commission recommends approval of the corrections and clarifications to the development code and Section 050.30.010 as set forth on **Exhibit A**; and

WHEREAS, the City Council finds that the amendments set forth on **Exhibit A** are necessary to correct and clarify the development code.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GLENWOOD SPRINGS, COLORADO, ORDAINS:

Section 1. The foregoing recitals are incorporated herein as if set forth in full.

Section 2. Title 070 of the Glenwood Springs Municipal Code is hereby amended as set forth in **Exhibit A** attached hereto.

INTRODUCED, READ ON FIRST READING, PASSED AND ORDERED
PUBLISHED BY TITLE ONLY THIS 16TH DAY OF MAY 2019.

CITY OF GLENWOOD SPRINGS, COLORADO

Jonathan Godes, Mayor

ATTEST:

Catherine Mythen Fletcher, City Clerk

INTRODUCED, READ ON SECOND READING, AND ORDERED PUBLISHED BY
TITLE ONLY TO BE EFFECTIVE TEN DAYS FOLLOWING THE DATE OF SECOND
PUBLICATION THIS ____ DAY OF _____ 2019.

CITY OF GLENWOOD SPRINGS, COLORADO

Jonathan Godes, Mayor

ATTEST:

Catherine Mythen Fletcher, City Clerk

Exhibit A

New language is double underlined

~~Strike through language is deleted~~

ARTICLE 050.030 - TEMPORARY SALES AND STRUCTURES

050.030.010 Permit Required

- (d) Temporary use permits may be allowed in the ~~C-1, C-2, C-3 and C-4~~ M1, M2, M3, CO, and RE zone districts only and shall be prohibited at all times on the Wing Street Pedestrian Mall, defined as the east wing street of Grand Avenue between the Seventh Street Esplanade and the curb line of Eighth Street and the Seventh Street Esplanade, except during special community events and subject to a special community event permit.

ARTICLE 070.010 GENERAL PROVISIONS

070.010.070 - Nonconformities

(d) Nonconforming Structures

- (1) A nonconforming structure may ~~only be expanded pursuant to 070.010.070(b)(3), Maintenance and Minor Repair, and~~ provided that any such expansion shall be in full compliance with this Code.

ARTICLE 070.030 USE REGULATIONS

070.030.030 - Use-Specific Standards

(e) *Commercial Uses*

(9) *Short-Term Rental*

a. e. Operation

b. f. Permit Procedures

ARTICLE 070.040 DEVELOPMENT STANDARDS

070.040.060 - Off-street Parking and Loading

(h) *Parking and Loading Area Use and Design*

(3) *Parking Area Layout*

a. *Parking Stall and Aisle Design*

Parking areas shall be designed according to ~~Table 040.9: Parking Space and Drive Aisle Layout, and Figure 040-10: Parking Stall and Aisle Dimension Measurements~~ the Engineering Standards.

070.040.070 - Access and Circulation

(e) Streets, Alleys, and Vehicular Circulation

(4) Public Street Connectivity

c. Public Street Connectivity

3. Unobstructed, direct, and convenient access for vehicles to and from a public street shall be provided for all off-street parking spaces. Access from any parking area to a public street shall be designed ~~to allow vehicles to enter and exit in forward drive~~ according to the Engineering Standards.

070.040.110

(i) Summary of Permanent Sign Standards.

(3) Nonresidential Uses in Residential Zone Districts. Nonresidential uses shall be allowed signage subject to the requirements of a through d below. Home occupation signs shall not be considered nonresidential uses for purposes of this subsection.

- a. Number, Maximum. One attached or one freestanding sign shall be allowed.
- b. Sign Area, Maximum. Ten square feet.
- c. Sign Height, Maximum. 42 inches.
- d. Sign Location. Detached signs shall observe a minimum five-foot setback from any property line.

Table 040.13: Summary of Permanent Sign Standards					
Sign Type	Where allowed	Number of Signs, Maximum	Sign Area, Maximum	Sign Height, Maximum	Sign Location

Freestanding Signs					
Freestanding monument	Residential applications in all sign commercial zoning districts	One freestanding sign per street frontage	10 100 square feet	Six feet	Setback five feet from property line
	Mixed-use and nonresidential applications in all sign districts	One freestanding monument sign per street frontage per property	Hwy 6 and 82 sign districts: 200 square feet Downtown districts: 64 square feet Others: 120 square feet	Eight feet	Setback a minimum of 10 feet from back of curb or back of pavement; shall be separated from other permanent detached signs by at least 25 feet

070.040.120 Affordable and Workforce Housing

(b) *Voluntary Provisions.*

(1) *Deed-Restricted Development.*

d. *Impact Fees.* The deed restriction shall provide for a waiver of the following impact and improvement fees required by this Code according to the percentage of new for-rent units restricted thereby:

1. Any water or sewer tap fee required under 080.040.010(c) or 080.030.010(c), respectively.
2. Any water or sewer system improvement fee required under Article 080.060.
3. Any school land dedication required under Subsection 070.040.030(g)4, School Land Dedication.

4. Any fire and emergency service impact fees required under Subsection 070.040.030(g)5, Fire and Emergency Services Impact Fee.
5. Any parkland dedication fees required under 070.040.030(g)(2), Parkland Dedication.

ARTICLE 070.060 – ADMINISTRATION AND PROCEDURES**070.060.020 – Summary Table of Development Review Procedures.**

Table 060.1: Summary of Development Review Procedures										
Key: R= Review and Recommendation D= Review and Decision A= Appeal ✓= required										
Procedure	Code Reference	Notice			Pre-App Neigh. Meeting	Pre-Application Conference	Review and Decision-Making Bodies			
		Published	Written Mailed	Posted			Staff	DRC	Planning Comm.	City Council

Development Permits										

Construction Plans	***	***	***	***	***	✓	***	***	***	***
***	***	***	***	***	***	***	***	***	***	***
ROW Encroachment License		✓	✗							

070.060.050 – Development Permits.

(a) Site/Architectural Plan Review

(2) Applicability

c. Referral and Call-up Procedures.

1. Administrative Site/Architectural Plans.

ii. Planning Commission Call-Up

~~c. For plans that are called up by the Commission, the The Director shall provide public notice for those proposing five or more new residential units in accordance with 070.060.030(f).~~

(b). Master Plan.

(3). Master Plan Procedure.

g. Post-Decision Actions and Limitations.

1. Effect of Approval. Master plan approval authorizes the subsequent submittal of site/architectural plan applications for all development consistent with the approved master plan through the administrative site/architectural plan procedures according to 070.060.050(a)(3). Master plan approval does not itself authorize specific development activity. If the Director determines, in the consideration of a site/architectural plan application pursuant to this section, that such development is not consistent with the approved master plan, the Director shall process the application as a minor or major site/architectural plan, as applicable, based on the type of development proposed.

(f) Right of Way Encroachment License.

(3). *Right of Way Encroachment License Procedure.*

- d. *Scheduling and Notice of Public Hearings.* If required, the right-of-way encroachment license application shall be scheduled for a public hearing before the City Council and noticed in accordance with Subsection 070.060.030(f)(3)a2.

070.060.070 – Flexibility and Relief Procedures.

(c) *Appeal of Administrative Decision Appeals*

- (1) *Purpose.* The appeal procedure establishes an administrative a mechanism for persons claiming to have been aggrieved by a decision of the Director or other administrative official in appealing decisions made in the administration or enforcement of by the Director, administration officials or the Planning Commission while administering this Code to appeal that decision.
- (2) *Applicability.* Any interested party person may appeal a decision of an administrative office or agency made in the administration or enforcement of this Code. Appeals shall be made to the appropriate appellate body as indicated in Table 060:1: Summary of Development Review Procedures, except that appeals of decisions by the City Council shall be made to the District Court in accordance with state law.
- (3) *Appeal Procedure.* Figure 060-18 identifies the applicable steps from the common review procedures in Section 070.060.030 that apply to the review of appeals. Additions or modifications to the common review procedures are noted below.

1	2	3	4	5	6
Pre-Application Conference	Application Submittal and Handling	Staff Review and Action	Scheduling and Notice of Public Hearings	Review and Decision (Planning Commission and/or City Council)	Post-Decision Actions and Limitations
Optional at applicant's discretion	Submit to Director within seven days of decision being appealed	Staff determines <u>appropriate appellate body</u> appeal decision authority and documents facts	Hearing required with <u>appellate body</u> appeal decision authority depending on <u>application type of appeal</u>	Review and decision depends on <u>application type of appeal</u>	Further appeals to the courts

b. Application Submittal and Handling. The appeal application shall be submitted, accepted, and revised, and may be withdrawn, in accordance with 070.060.030(d), with the following modifications:

1. *Burden of Proof on Appellant.* The party making the appeal (the appellant) shall have the burden of proving the necessary facts to warrant reversal or amendment of the decision being appealed ~~approval of an appeal by the appropriate decision-making body~~. Such proof shall include applicable specific section references within this Code and shall be provided with ~~at the time of~~ the application.

2. *Stay of Proceedings.* An appeal automatically stays all proceedings from further action on the subject decision unless the ~~Planning Commission determines that~~ decision-making authority from whom the appeal is taken certifies to the appellate body, after the appeal application has been filed, that by reason of facts stated in the certificate, a stay would create adverse impacts to the health, safety, or welfare of the City or would cause imminent peril to life and property-, in which case proceedings shall not be stayed absent a restraining order which may be granted by the appellate body. ~~Such determination shall be made only after written request to the Director and a public hearing by the Planning Commission. The public hearing shall be held within two (2) business days of receipt of the request. Notice for such a hearing shall be provided on the City's website and shall be posted at City Hall.~~

- d. *Scheduling and Notice of Public Hearings.* The appeal shall be scheduled for a public hearings before the ~~Planning Commission or City Council~~ appropriate appellate body and noticed in accordance with Subsection 070.060.030(f).
- e. *Review and Decision* ~~(Planning Commission, and/or City Council).~~
1. The appropriate ~~decision-making authority~~ appellate body shall consider the following in determining whether to affirm, reverse or amend a decision or interpretation made by the decision-making body:
 - i. The facts stated in the application, as presented by the appellant ~~and/or the Director~~;
 - ii. The requirements and intent of the applicable standards from this Code compared to the ~~written~~ decision that is being appealed;
 - iii. Evidence related to how the applicable standards from this Code have been administered or interpreted in the past; and
 - iv. Consistency with the Comprehensive Plan.
 2. The ~~appeal decision-making authority~~ appellate body may reverse a previous decision in whole or in part, or may modify the order, requirement, decision, or determination appealed from.
 3. The ~~appeal decision-making authority~~ appellate body may attach conditions of approval on any appeal to ensure the health, safety, and welfare of the City.
- f. *Post-Decision Actions and Limitations.* Post-decision actions and limitations in Subsection 070.060.030(i) shall apply. Any further appeals from ~~the appropriate appeal decision-making body~~ City Council shall be made to the courts in accordance with state law.

ARTICLE 070.070 – RULES OF CONSTRUCTION AND DEFINITIONS

070.070.030 – All Other Terms Defined.

Building Form.

Building Frontage. The horizontal, linear dimension of that side of a building that abuts a street, parking area, mall or other circulation area open to the general public and that has either a main window display of the business or a public entrance to the building.

Title 070 Adoption Draft
Glenwood Springs Development Code
Errata Sheet
Post Adoption 2nd Amendment
Text being deleted is ~~stricken~~; added text is **bold and underlined**

Note: Unless otherwise stated in **red font**, Planning & Zoning Commission recommended approval of all amendments

	Code Reference	Error	Correction
	Article 050.030	Section 050.030.010 of the Municipal Code addresses permitting requirements for temporary sales and structures. This section of the code defines temporary uses as: "... any outdoor retail and/or wholesale sales use on a short-term basis, including, but not limited to: produce stands; peddlers; solicitors; hawkers; itinerant merchants; and transient merchants, and excluding temporary promotions or sidewalk sales by permanent businesses on their own property. Temporary sales structure shall mean a structure for the purpose of storing or displaying goods for retail sale or for the purpose of conducting business for a short term outside of a pre-existing building or structure, including, but not limited to, long-term or recurrent yard or garage sales, produce stands, tents, fences, tables, display racks, canopies, vending carts, trailers and other vehicles." The code allows these temporary uses in the C-1, C-2, C-3, and C-4 commercial zoning districts. These are the commercial classifications from the old code and need to be updated to the current classifications- M1, M2, CO and RE. Additionally, staff recommends adding the M3- Mixed Use Regional district which is a newly created zone that exists in the code text but has yet to be added to the zoning map.	Article 050.030 – Temporary Sales and Structures 050.030.010 (d) – Permit Required Temporary use permits may be allowed in the C-1, C-2, C-3 and C-4 <u>M1, M2, M3, CO, and RE</u> zone districts only... Note: this amendment to Title 050 did not require Planning and Zoning Commission consideration or recommendation. The amendment simply updates to zoning district references to the current nomenclature.

1	070.010.070(d) Nonconformities-Nonconforming Structures	A structure on a nonconforming lot is considered a nonconforming structure. Expansions / additions are allowed as long as they are in conformance with the Maintenance and Repair section, 070.010.070(b)(3), and as long as the expansion is in full compliance with the Code. However, the maintenance and repair section of the Code expressly prohibits increasing building height or expanding the building footprint. The prior code allowed additions on nonconforming structures if all other zone district standards were met. Staff recommends deleting the reference to the Maintenance and Minor Repair section.	070.010.070 Nonconformities ... (d) Nonconforming Structures ... (1) A nonconforming structure may only be expanded pursuant to 070.010.070(b)(3), Maintenance and Minor Repair, and <u>provided that</u> any such expansion shall be in full compliance with this Code.
2	070.030.030(e)(9) Use Regulations-Short-term Rental	This correction fixes paragraphs that are not lettered correctly.	070.030.030 Use Regulations ... (e) Commercial Uses ... (9) Short-Term Rental ... a-e. Operation b-f. Permit Procedures
3	070.040.060(h)(3)a-Off-street Parking and Loading	Table 040.9 and Figure 040-10 provides a table and illustration of parking layout requirements (stall width & length, aisle width). A parking space and drive aisle layout is also included in the Engineering Standards but the dimensions are slightly different between the two tables. To avoid confusion, Staff recommends deleting the table and figure and instead reference the Engineering Standards.	070.040 Development Standards 070.040.060 Off-street Parking and Loading (h) Parking and Loading Area Use and Design (3) Parking Area Layout a. Parking Stall and Aisle Design Parking areas shall be designed according to Table 040.9: Parking Space and Drive Aisle Layout, and Figure 040-10: Parking Stall and Aisle Dimension Measurements <u>the Engineering Standards.</u>

4	070.040.070(e)(4)(b)3- Access and Circulation- Public Street Connectivity	For all off-street parking spaces, the Code requires unobstructed, direct and convenient access for vehicles to and from a public street. Access from any parking area to a public street shall be designed to allow vehicles to enter and exit in forward drive. This requirement is for all development from single family residences to commercial uses. The Engineering Standards also require that vehicles enter and exit in forward drive however, the standards expressly exempt single family and duplex residential uses located on local streets. Staff recommends deleting this requirement from the Development Code and simply referencing the Engineering Standards. Note: The Engineering Standards do not allow the City Engineer the ability to waive the requirement. Instead, applicants are required to go through a variance process which requires a hearing before the Planning and Zoning Commission and/or City Council, depending on the type of development. (Reference section 5.12 Design Variances, Engineering Standards).	070.040 – Development Standards 070.040.070 – Access and Circulation (e) Streets, Alleys, and Vehicular Circulation (4) Public Street Connectivity b. Public Street Connectivity ... 3. <u>Unobstructed, direct, and convenient access for vehicles to and from a public street shall be provided for all off-street parking spaces. Access from any parking area to a public street shall be designed to allow vehicles to enter and exit in forward drive</u> according to the Engineering Standards.
5	070.040.110(i) Signs – Summary of Permanent Sign Standards	<u>Issue #1:</u> Table 040.13 summarizes sign requirements and allowances for all permanent signs. Regarding Freestanding Monument signs the table indicates- <u>For residential applications in all sign districts : One freestanding monument sign per street frontage up to a total of two signs per subdivision or development access. However, the maximum sign area is 10 square feet.</u> Comment: This does not allow much signage especially for multi-family	070.040 – Development Standards 070.040.110 – Signs ... (i) Summary of Permanent Sign Standards (3) <u>Nonresidential Uses in Residential Zone Districts.</u> <u>Nonresidential uses shall be allowed signage subject to the requirements of a through d below. Home occupation signs shall not be considered nonresidential uses for purposes of this subsection.</u> a. <u>Number, Maximum. One attached or one freestanding sign shall be allowed.</u> b. <u>Sign Area, Maximum. Ten square feet.</u> c. <u>Sign Height, Maximum. 42 inches.</u> d. <u>Sign Location. Detached signs shall observe a minimum five- foot setback</u>

	developments in commercial areas, such as along the Highway 6 corridor. Alternatively, a multi-family development along Highway 6 would be allowed to install a 200 square foot pole sign. Recommendation: To encourage monument signs rather than pole signs, staff recommends changing the table to allow a residential development in a commercial zone district to have as much signage as would be allowed for commercial development. <u>Issue #2</u> According to Table 040:13, freestanding pole signs are allowed in certain sign districts. The boundaries of the sign districts are loosely defined in the sign code and they could be interpreted to include some residential neighborhoods: neighborhoods that allow a small handful of commercial uses. It would appear that a permitted commercial use in a residential neighborhood located within one of the named sign districts could install a 120 – 200 square foot pole sign. Recommendation: Staff recommends adding language in the code regarding <u>non-residential</u> uses in the RR, RL, RM1, RM2 and RH residential zone districts, similar to the old sign code which had this requirement: <i>For each nonresidential use or business tenancy in a residential zone district, there shall be allowed 1 detached or wall sign and 1 directional sign per vehicle entrance from a public right-of-way. Home occupation signs are not considered nonresidential uses for purposes of this subsection.</i> <i>Attributes. Detached and wall sign shall not exceed 10 square feet in area per sign face. Detached signs shall be setback at least 6 feet from the property line and the height shall not exceed 42 inches.</i>	<u>from any property line.</u> Table 040.13 Summary of Permanent Sign Standards <table><tr><th>Sign Type</th><th>Where allowed</th><th>Number</th><th>Sign Area</th><th>Height</th><th>Location</th></tr><tr><td rowspan="2">Freestanding monument</td><td>Residential applications in all sign districts</td><td>One freestanding sign per street frontage</td><td>10 square feet</td><td>Six feet</td><td>Setback five feet from property line</td></tr><tr><td>Mixed-use and nonresidential applications in all <u>All</u> sign districts</td><td>..</td><td>..</td><td>..</td><td>..</td></tr></table> The Planning & Zoning Commission recommended a 100 square foot maximum for residential uses in all commercial zoning districts for freestanding monument signs. Table 040.13 above is changed to the following: <table><tr><th>Sign Type</th><th>Where allowed</th><th>Number</th><th>Sign Area</th><th>Height</th><th>Location</th></tr><tr><td rowspan="2">Freestanding monument</td><td>Residential applications in <u>all-sign commercial zoning</u> districts</td><td>One freestanding sign per street frontage</td><td><u>10-100</u> square feet</td><td>Six feet</td><td>Setback five feet from property line</td></tr><tr><td>Mixed-use and nonresidential applications in all sign districts</td><td>..</td><td>..</td><td>..</td><td>..</td></tr></table>	Sign Type	Where allowed	Number	Sign Area	Height	Location	Freestanding monument	Residential applications in all sign districts	One freestanding sign per street frontage	10 square feet	Six feet	Setback five feet from property line	Mixed-use and nonresidential applications in all <u>All</u> sign districts	..	..	..	..	Sign Type	Where allowed	Number	Sign Area	Height	Location	Freestanding monument	Residential applications in <u>all-sign commercial zoning</u> districts	One freestanding sign per street frontage	<u>10-100</u> square feet	Six feet	Setback five feet from property line	Mixed-use and nonresidential applications in all sign districts	..	..	..	..
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		The RR, RL, RM1, RM2 and RH zones allow short term rental, bed and breakfast, small child day care, community garden, produce sales, golf course/country club, commercial outdoor recreation. These zones allow assembly uses, schools, civic buildings by special review. Additionally, the RH zone lists administrative/professional offices and banks as permitted uses, and indoor recreational facilities by special review. See Attachments 1 and 2 for a map of the sign districts and land use table.	
6	070.040.120(b)(1)d Affordable and Workforce Housing -Voluntary Provisions – Impact Fees	Ordinance 01, Series 2018 added parkland fees to the list of fees that could be waived for the creation of new, for-rent units that were deed-restricted through the City’s affordable and workforce housing program. This provision was inadvertently omitted from the new Code when it was adopted in August 2018. The affordable and workforce housing program is a voluntary program whereby owners of newly created for-rent units agree to lease their units for a price that does not exceed the maximum rents established by the Colorado Housing Finance Authority, for 120% of the Garfield County AMI. The average of all deed restricted units in the development cannot exceed 100% of the maximum rents. The deed restriction is a covenant running with the property for 30 years unless the owner terminates the agreement, at which point the owner pays the waived fees based on an amount amortized over 30 years.	070.040 Development Standards 070.040.120 Affordable and Workforce Housing ... (b) Voluntary Provisions (1) Deed-Restricted Development ... d. Impact Fees The deed restriction shall provide for a waiver of the following impact and improvement fees required by this Code according to the percentage of new for-rent units restricted thereby: 1. any water or sewer tap fee required under 080.040.010(c) or 080.030.010(c), respectively. 2. Any water or sewer system improvement fee required under Article 080.060. 3. Any school land dedication required under 070,040.030(g)(4), <i>School Land Dedication</i>. 4. Any fire and emergency service impact fees required under 070.040.030(g)(5), <i>Fire and Emergency Services Impact Fee</i>. 5. <u>Any parkland dedication fees required under 070.040.030(g)(2), Parkland Dedication.</u>

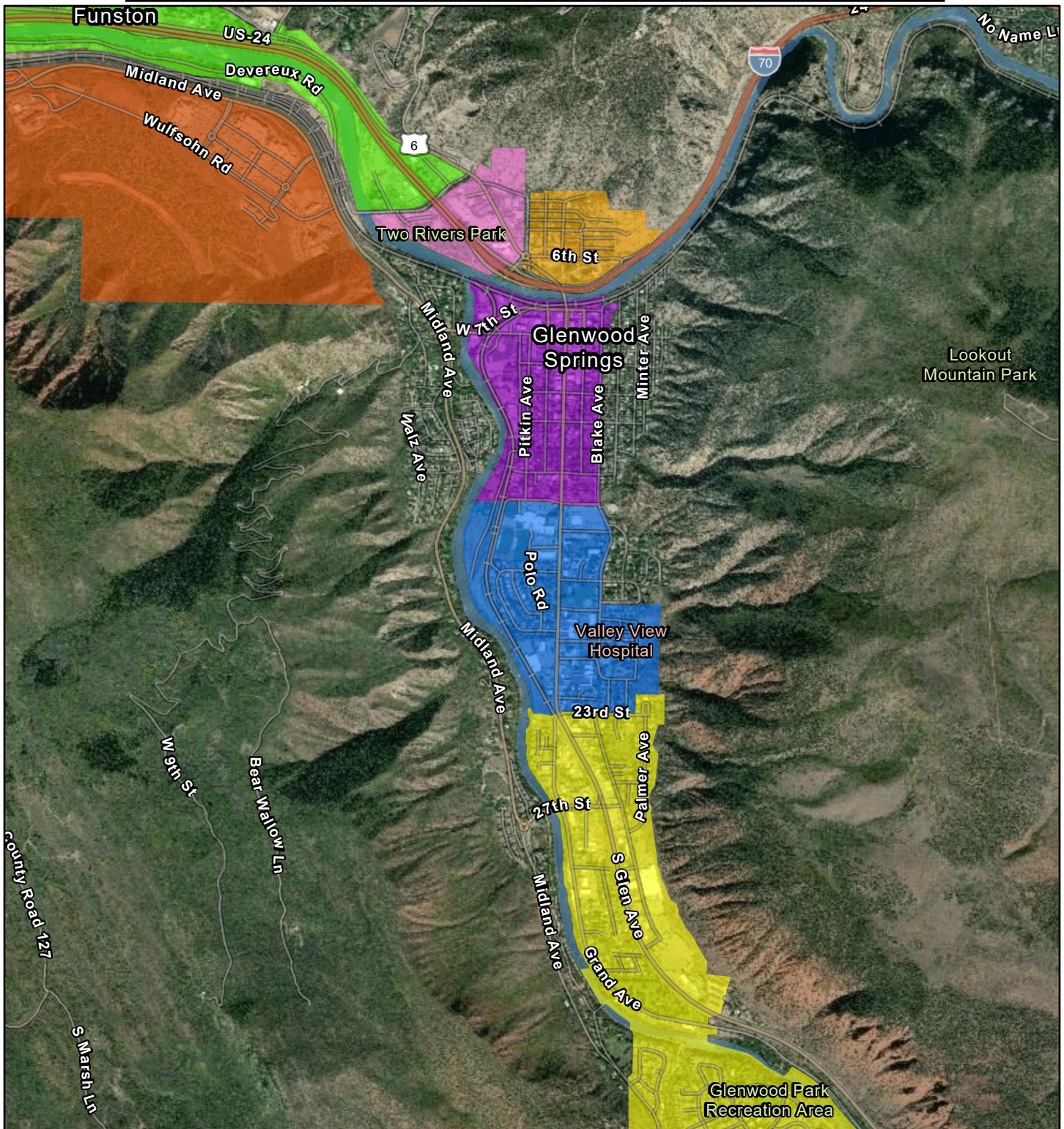
7	070.060.020 Administration and Procedures – Summary Table of Development Review Procedures Table 060:1	Table 060:1 is a summary of development review procedures. The headers include the following Public Noticing Categories: Published – Written – Posted Recommendation: In the text (reference 070.060.030(f)(3) Notice Format and Content) describing the details of noticing requirements, the categories are: Published – Mailed – Posted. Staff recommends changing the table from “Written” to “Mailed” to conform to the text.	070.060 Administration and Procedures 070.060.020 Summary Table of Development Review Procedures Table 060:1 <table><tr><th colspan="3">Notice</th></tr><tr><td>Published</td><td>Written Mailed</td><td>Posted</td></tr></table>	Notice			Published	Written Mailed	Posted					
Notice														
Published	Written Mailed	Posted												
8	070.060.020 Administration and Procedures – Summary Table of Development Review Procedures Table 060:1	According to section 070.060.050(c)(3)a), Construction Plan Reviews require a pre-application meeting. However, Table 060.1 which summarizes the review procedures for all land use applications, in advertently omitted the pre-application conference from construction plan review procedures.	070.060 Administration and Procedures 070.060.020 Summary Table of Development Review Procedures Table 060:1 <table><tr><td></td><td>Pre-Application Conference</td></tr><tr><td>Construction Plans</td><td><u>✓</u></td></tr></table>		Pre-Application Conference	Construction Plans	<u>✓</u>							
	Pre-Application Conference													
Construction Plans	<u>✓</u>													
9	070.060.020 – Summary Table of Development Review Procedures - Table 060:1 And 070.060.050(f) – Right-of-Way Encroachment License	According to procedural summary Table 060:1, a Right-of-Way Encroachment License requires a written [mailed] notice to property owners within 300 feet of the encroachment. The code text which details procedures for reviewing right-of-way encroachments (section 070.060.050(f)) includes a reference to a separate section of the code about noticing public hearings. According to the text, right-of-way encroachments require that notices be posted, mailed and published. Recommendation: Since encroachments are normally issues between the applicant and the city, not necessarily involving other property owners, staff recommends that the notification simply be a published notice.	070.060 Administration and Procedures 070.060.020 Summary Table of Development Review Procedures Table 060:1 <table><tr><th rowspan="2"></th><th colspan="3">Notice</th></tr><tr><th>Published</th><th>Written</th><th>Posted</th></tr><tr><td>ROW Encroachment License</td><td><u>✓</u></td><td>✓</td><td></td></tr></table> ... 070.060.050 Right-of-Way Encroachment License ... (f) ... (3) ... d. Scheduling and Notice of Public Hearings If required, the right-of-way encroachment license application shall be scheduled for a public hearing before the City Council <u>in accordance with 070.060.030(f),</u> and noticed in accordance with 070.060.030(f)(3)a2.		Notice			Published	Written	Posted	ROW Encroachment License	<u>✓</u>	✓	
	Notice													
	Published	Written	Posted											
ROW Encroachment License	<u>✓</u>	✓												

10	070.060.030(i)(2)b- Common Review Procedures – Post-Decision Actions and Limitations – Appeal And 070.060.070(c)- Appeal of Administrative Decision	The Common Review Procedures section of the Code (reference 070.060.030(i)(2)b) includes the process of filing appeals. The issue is the process of how an individual appeals a Planning and Zoning Commission decision. Currently 070.060.030(i)(2)b states: “A party aggrieved by other final decisions may appeal the decision in accordance with the procedures in <u>070.060.070(c)</u>.” However, the referenced 070.060.070(c) is the process of appealing an administrative decision. Recommendation: Staff recommends revising 070.060.070(c) to include appeals of Planning and Zoning Commission decisions.	070.060 Administration and Procedures ... 070.060.070 Flexibility and Relief Procedures ... (c) Appeal of Administrative Decision <u>Appeals</u> ... (1) Purpose The appeal procedure establishes an administrative <u>a</u> mechanism for persons claiming to have been aggrieved by a decision of the Director or other administrative official in <u>appealing decisions made by the Director, administration officials or the Planning Commission while</u> administering this Code to appeal that decision. (2) Applicability <u>Appeals may be made by any person aggrieved by the decision of any administrative officer or agency, based upon or made during the administration of or enforcement of this Code.</u> Any person may appeal a decision of an administrative office or agency made in the administration or enforcement of this Code. Appeals shall be made to the appropriate body as indicated in Table 060:1: Summary of Development Review Procedures, except that appeals of decisions by the City Council shall be made to the District Court in accordance with state law. Figure 060-18: Summary of Appeal Procedure <table><tr><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td><td>6</td></tr><tr><td>...</td><td>Application Submittal and Handling</td><td>...</td><td>...</td><td>...</td><td>...</td></tr><tr><td>...</td><td>Submit to Director within seven days of <u>the</u> decision <u>which is</u> being appealed</td><td>...</td><td>...</td><td>...</td><td>...</td></tr></table>	1	2	3	4	5	6	...	Application Submittal and Handling	...	...	...	...	...	Submit to Director within seven days of <u>the</u> decision <u>which is</u> being appealed	...	...	...	...
1	2	3	4	5	6																
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...	Submit to Director within seven days of <u>the</u> decision <u>which is</u> being appealed	...	...	...	...																

			(3) Appeal Procedure ... b. Application Submittal and Handling The appeal application shall be submitted, accepted, and revised, and may be withdrawn, in accordance with 070.060.030(d), with the following modifications: 2. Time Limit Appeals shall be made in writing and filed with the Director within seven days of the decision <u>which is</u> being appealed. 3. Stay of Proceedings An appeal stays all proceedings from further action on the subject decision unless the Planning Commission determines <u>officer from whom the appeal is taken certifies to the decision-making body, after the notice of appeal has been filed, that, by reason of facts stated in the certificate,</u> a stay would create adverse impacts to the health, safety, or welfare of the city or would cause imminent peril to life and property, <u>in which case proceeding shall not be stayed otherwise than by a restraining order which may be granted by the decision-making body hearing the appeal or a court of record on application, and on notice to the officer from whom the appeal is taken and on due cause shown.</u> Such determination shall be made only after written request to the Director and a public hearing by the Planning Commission. The public hearing shall be held within two business days of receipt of the request. Notice for such a hearing shall be provided on the City's website and shall be posted at City Hall. The Commission recommended changing references from “administration official, agency and officer” to “decision-making body or authority” and discussed clarifying paragraph 3, Stay of Proceedings. The Commission left the final text to the discretion of the City Attorney’s office.

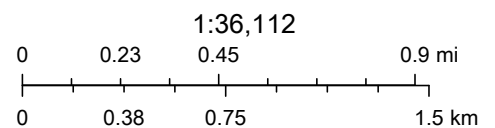
11	070.060.050(a)(2)c - Site/Architectural Plan Review – Referral and Call Up Procedures	New residential projects of 1 to 8 units are reviewed Administratively. The Planning Commission can call up projects involving 3 or more new residential units (reference (070.060.050(a)(2)c)). For plans that are called up by the Commission, the Code required that notice be given <u>by the Director</u> for those proposing 5 or more new residential units. Issue: It is unclear who is responsible for giving notification for those project that involve 3 and 4 units, the owner or the Director. Recommendation: Staff recommends that the Director provide notification for all applications that are called up to the Planning and Zoning Commission.	070.060-Administration and Procedures ... 070.060.050- Development Permits (a) Site/Architectural Plan Review ... (2) Applicability ... c. Referral and Call-Up Procedures 1. Administrative Site/Architectural Plans ... ii. Planning Commission Call-Up ... c. For plans that are called up by the Commission, the <u>The</u> Director shall provide public notice for those proposing five or more new residential units in accordance with 070.060.030(f).
12	070.060.050(b)(3) Master Plan Procedure	In paragraph g. 1. <i>Effect of Approval</i>, there is a missing word.	070.060 Administration and Procedures ... 070.060.050 – Development Permits ... (b) Master Plan ... (3) Master Plan Procedure ... g. Post-Decision Actions and Limitations 1. Effect of Approval Master plan approval authorizes the subsequent submittal of site/architectural plan applications for all development consistent with the approved master plan through the administrative site/architectural plan procedures according to 070.060.050(a)(3). Master plan approval does not itself authorize specific development activity. If the Director determines, in the consideration of a site/architectural plan application pursuant to this section, that such development is not consistent with the approved master plan, the <u>Director</u> shall process the application as a minor or major site/architectural plan, as applicable, based on the type of development proposed.

13	070.070.020(c)(13) Rules of Construction and Definitions-Vehicles and Equipment	Automotive Fuel Sales and Service Station is currently defined as: <i>An establishment primarily engaged in selling gasoline and lubricating oils and which may sell other convenience merchandise or perform minor repair work.</i> Staff recommends removing the words “primarily” and “minor” from the definition.	070.070 Rules of Construction and Definitions ... 070.070.020 Definitions of Use Categories and Specific Use Types ... (c) Commercial Uses ... (13) Vehicles and Equipment ... (a) An establishment primarily engaged in selling gasoline and lubricating oils which may sell other convenience merchandise or perform minor repair work. Prior to rendering a decision on this item, the Commission requested additional information regarding the nature of the issue with the current definition. This item was not included in the Commission’s approved amendments and has not been included in Ordinance 16.
14	070.070.030 Rules of Construction and Definitions – All Other Terms Defined	The sign code, 070.060.110, measures sign allowance by “building frontage”. The Code does not define “building frontage”. Staff recommends using the definition from the prior code which is: <i>...the horizontal, linear dimension of that side of a building that abuts a street, parking area, mall or other circulation area open to the general public and that has either a main window display of the business or a public entrance to the building.</i>	070.070 Rules of Construction and Definitions ... 070.070.030 All Other Terms Defined ... Building Form ... <u>Building Frontage</u> <u>The horizontal, linear dimension of that side of a building that abuts a street, parking area, mall or other circulation area open to the general public and that has either a main window display of the business or a public entrance to the building.</u>



4/10/2019 11:58:16 AM

- Sign District Boundaries
- Downtown North
 - Downtown South
 - Highway 6 West
 - Highway 82 South
 - Midtown
 - West Sixth Street
 - Rivers
 - Red Mountain



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



**Minutes
City of Glenwood Springs
Planning and Zoning Commission
Regular Meeting
April 23, 2019
Council Chambers, First Floor, City Hall
101 W. 8th Street
6:00 PM**

Chair Marco Dehm called the meeting to order at 6:03 PM.

**MOTION: To seat alternates Commissioner Cipperly and Commissioner Kinkel.
Motion carried by unanimous voice vote.**

1. Roll Call

Present at roll call were Commissioners: Marco Dehm, Amber Wissing, George Shaver, Sumner Schachter, Tim Malloy and Alternates Carolyn Cipperly and Dean Kinkel

Absent: Kathryn Grosscup and Ingrid Wussow

Also present were: Gretchen Ricehill, Assistant Director
Anna S. Itenberg, City Attorney's Office
Kathleen Michel, Admin. Assistant

2. Receipt of minutes of the February 26, 2019 regular meeting.

MOTION: Moved by Commissioner Shaver, seconded by Commissioner Schachter, to accept the minutes of the February 26, 2019 regular meeting. Commissioner Malloy abstained as he was not present. Motion carried by voice vote.

3. Comments from citizens appearing for items not on the agenda. No one appeared.

4. Item #03-19 – Consideration of amendment to Sections 070.030.030(e)(10) – (e)(11), 050.080.080(b)(2) and 050.090.090(b)(2) of the Glenwood Springs Municipal Code to extend the business hours for medical marijuana businesses and retail marijuana establishments to 9 p.m.

Commissioner Schachter commented that the applicant met with the neighbors who objected to expanded hours and determined that he would not pursue the change of hours. He thought it was a good outcome.

New Items

5. 14-19 –Consideration of various amendments to Municipal Code Title 070 to correct errors and omissions in the Glenwood Springs Development Code that was adopted August 2, 2018.

Applicant: City of Glenwood Springs
Location: City wide
Zone: Various

Ms. Ricehill reviewed the recommended amendments to the Development Code in accordance with the staff report. The Commission discussed the amendments and provided direction and comment on the following:

- Sign Code Revisions, spreadsheet entry #5: For freestanding monument signs, the Commission recommended setting a maximum sign area of 100 square feet. This would apply to residential applications in commercial zoning districts. Currently the Code allows 10 square feet of signage. The Commission discussed revisiting sign allowances for all uses at some point in the future.
- Appeals, spreadsheet entry #10: The Commission discussed changing the current references to “administration official”, “agency” and “officer” to “decision-making body or authority” and clarifying paragraph 3, Stay of Proceedings. The Commission left the final text to the discretion of the City Attorney’s office.
- Automotive Fuel Sales and Service Station, spreadsheet entry #13: The Commission requested additional information regarding the issue and need for changing the definition prior to rendering a decision.

Public Comment: None.

Commissioner Malloy moved that the Planning Commission recommend approval of the amendments to Municipal Code Title 070 presented in pages 4 through 13 the April 23, 2019 staff report, with changes to items 5 and 10 and excluding item 13. Commissioner Shaver seconded the motion.

Discussion: None

The motion carried unanimously.

Discussion Item

Ms. Ricehill discussed the current Code requirements and standards for Sensitive Area Protection Standards. In implementing the new requirements, certain issues or questions have arisen with regards to applicability, setback and limits of disturbance, and maximum lot coverage for which she requested Planning and Zoning Commission direction.

The Commission discussed each provision but due to the interconnected nature of all the provisions, the Commission requested further information before providing direction. Further information included –

- Understanding the original intent of eliminating the Downtown Core from having to establish limits of disturbance;
- Looking at examples of how the current standards apply to flat, moderately and steeply sloped downtown lots, and the repercussions of eliminating the Downtown Core exemption;
- How application of zone district setbacks impact establishment of limits of disturbance

Commissioner Comments

Commissioner Malloy informed the Commission about last evening's BOCC regarding the RMR mine expansion proposal. The County Commissioners required that the mine comply with the provisions of its existing permit.

Commissioner Malloy asked about the sidewalk fee-in-lieu provision in the new Code. Anna Itenberg stated that Jenn Ooton was drafting some changes for Commission consideration. The changes will address creating a dedicated fund and removing the option to apply for a variance.

Director Comments

Gretchen Ricehill informed the Commission about the following:

- In the near future Council will be meeting with all boards and commissions. Jenn Ooton requested that the Commission start thinking about the Commission's top two or three priorities that are within its purview. An example would be creating a long-range plan of the Highway 6 corridor. Email ideas to Gretchen and/or Jenn. Staff will combine all ideas then bring back to the full Commission for further discussion and prioritization.
- This year the city will go through the process of amending the zoning map to clean up the several parcels with split zoning and to consider amending zoning designations in the 6th Street area, per recommendations made in the 6th Street Corridor Plan.

Adjournment

The meeting adjourned at 8:44 PM.

Glenwood Springs – Main Office

201 14th Street, Suite 200
P. O. Drawer 2030
Glenwood Springs, CO 81602

Aspen

323 W. Main Street
Suite 301
Aspen, CO 81611

Montrose

1544 Oxbow Drive
Suite 224
Montrose, CO 81402

Office: 970.945.2261

Fax: 970.945.7336

**Direct Mail to Glenwood Springs*

DATE: July 24, 2019
TO: Glenwood Springs Mayor and Council
FROM: Karp Neu Hanlon, P.C.
RE: Tobacco Licensing and Tax

The draft ordinance and resolution in your packet reflects the direction given at the June 27, 2019 City Council meeting where tobacco matters were discussed.

The ordinance contains recitals and references to Exhibits A and B, which contain the necessary amendments to the Municipal Code. Exhibit A contains a new Code section enacting a licensing regime. Some features of this scheme are: 1-year license term, no tobacco product sales to individuals under 21 years of age, no flavored tobacco product sales, and the requirement of a physical location – which effectively prohibits internet sales. Exhibit B contains an amendment to the Code's criminal sanctions on sales to and attempts to purchase or possess tobacco products by under-age individuals, and raises the minimum age to 21. There were also some non-criminal provisions contained in that section that are more appropriately located in the new licensing scheme – now found in Exhibit A.

The resolution refers a tax question for the November 5, 2019 election. The tax would be for \$4 per pack of cigarettes (\$0.20 per cigarette) or 40% for other tobacco products. Staff is continuing to work on projected first year revenues to be included in the question. The destination of revenues can be addressed in the implementing legislation if the question passes. The question is structured similarly to other jurisdictions that have enacted tobacco taxes.



City Council
STAFF REPORT
City of Glenwood Springs
August 1, 2019

Agenda Item: Youth Smoking Prevention

Action Requested: See attached memo

Department: Attorney

Presented By:

Background Info: See attached memo

Issues:

Staff Recommendation:

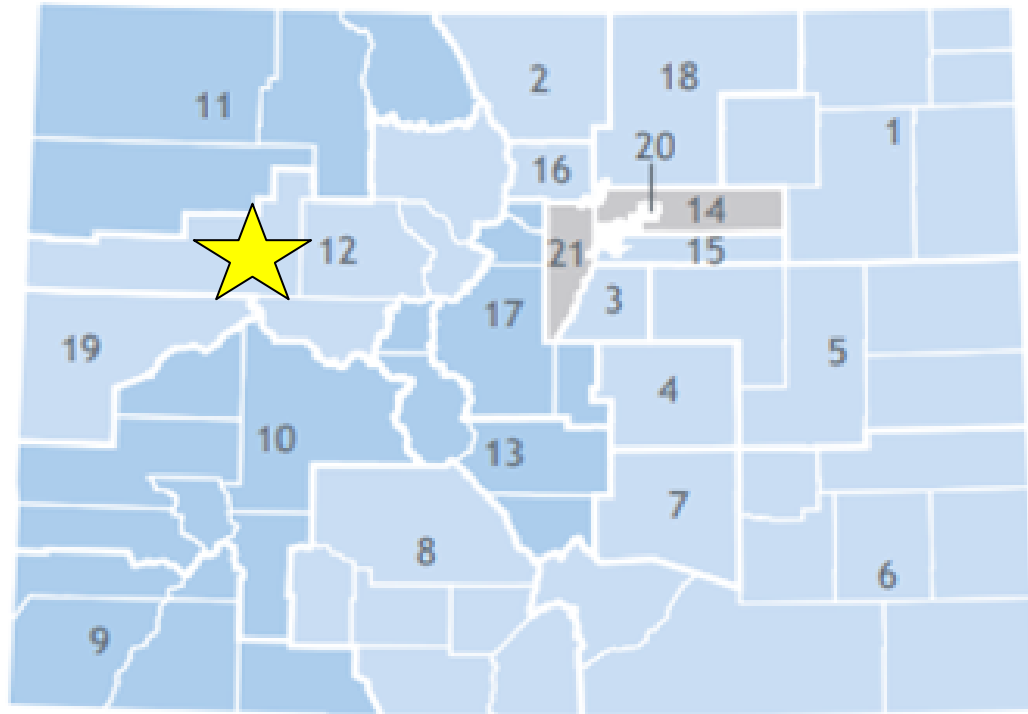
Harnessing Opportunity



Building Comprehensive Tobacco Control Policy

**Glenwood Springs City Council
August 1, 2019**

CIGARETTE

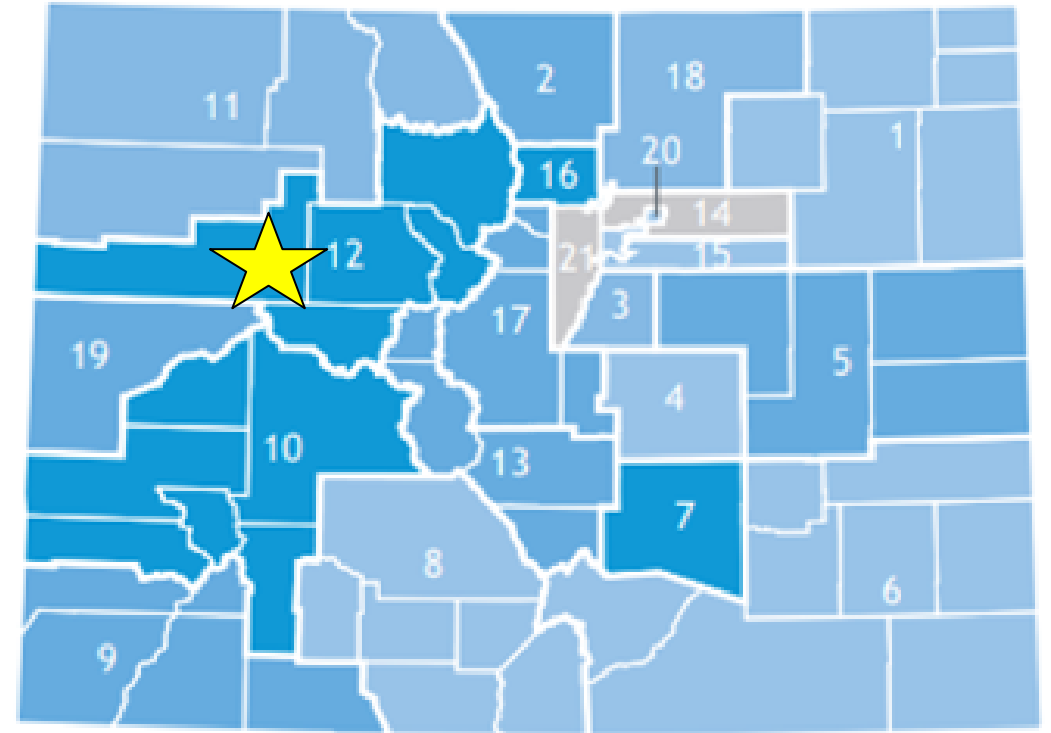


Colorado ranks

#1

in US for youth vaping

E-CIGARETTE



Colorado rates are

2x

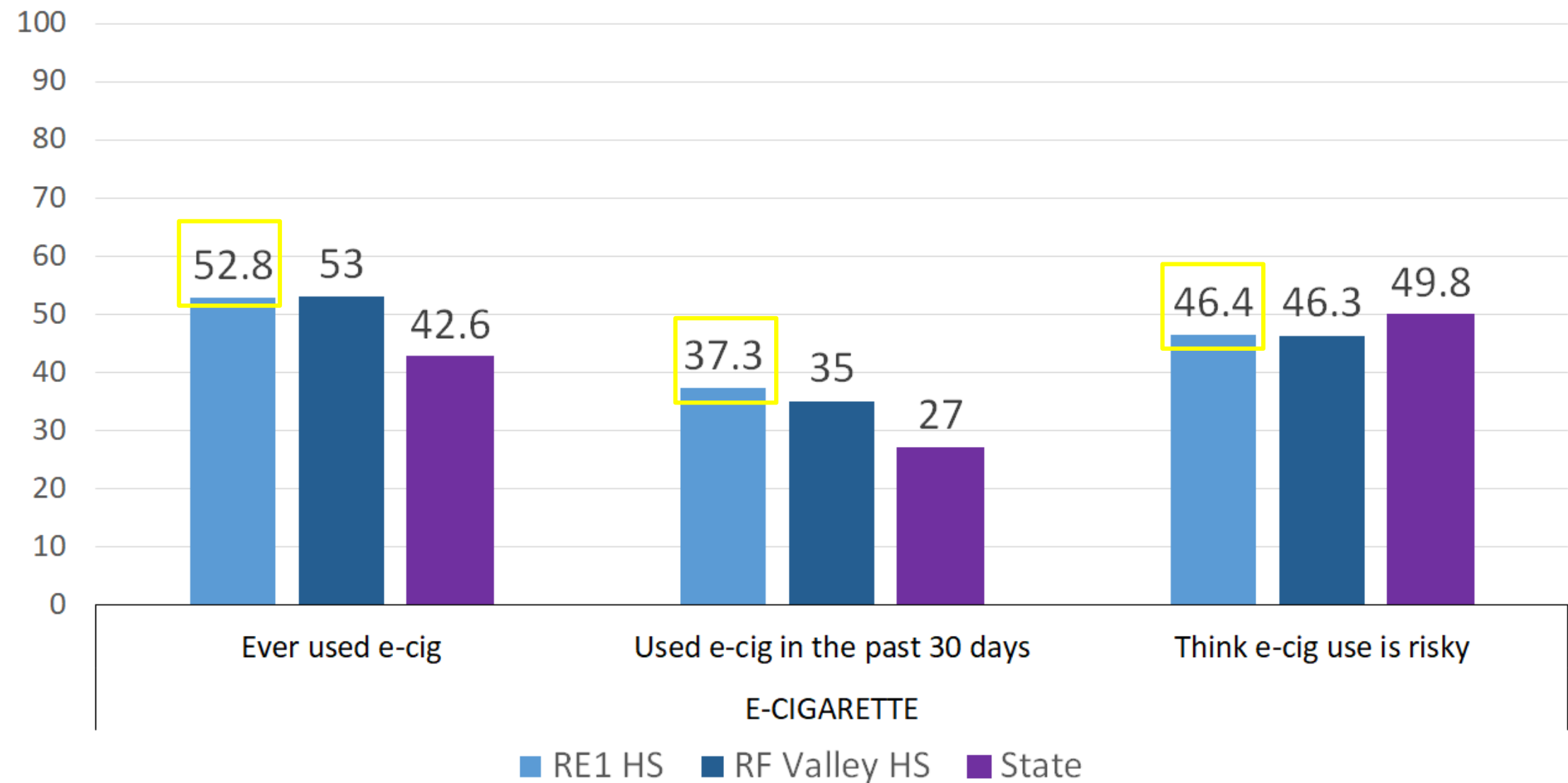
US average

Of HS students
Aspen-Parachute

53%

had tried vaping, 2017

High School E-cigarette Use & Perception (HKCS, 2017)



Nicotine & the Adolescent Brain

- Short & long term impacts on **attention & learning, impulse control, depressive symptoms.**
- Nicotine can also affect the brain's reward system - adolescent brains are **uniquely vulnerable to addiction**



The Issue with Tobacco & our Youth

- **High rates of e-cigarette use among youth**, starting young and crossing over most groups (ie athletes, racial/ethnic lines, gender, etc).
- Rates of tobacco use are now **higher than any other substance use** in RE-1.
- **Kids who use e-cigarettes are more likely to start using cigarettes.** Locally - seeing an increase in cigarette & other tobacco.
- The schools are implementing strong and critical programs. **Schools cannot protect our kids alone - it requires a whole community effort.**
- **Comprehensive policy in Glenwood Springs is critical, including raising the legal age, requiring a license for retailers, raising the price, and banning the sale of all flavored tobacco products.**

More... Facts & Updates

Lung Cancer - #1 Cause of Death in Colorado & US.

- Tobacco is a significant risk factor in **4 of the 7 leading causes of death** in Colorado

Nicotine is one of the most addictive substances known.

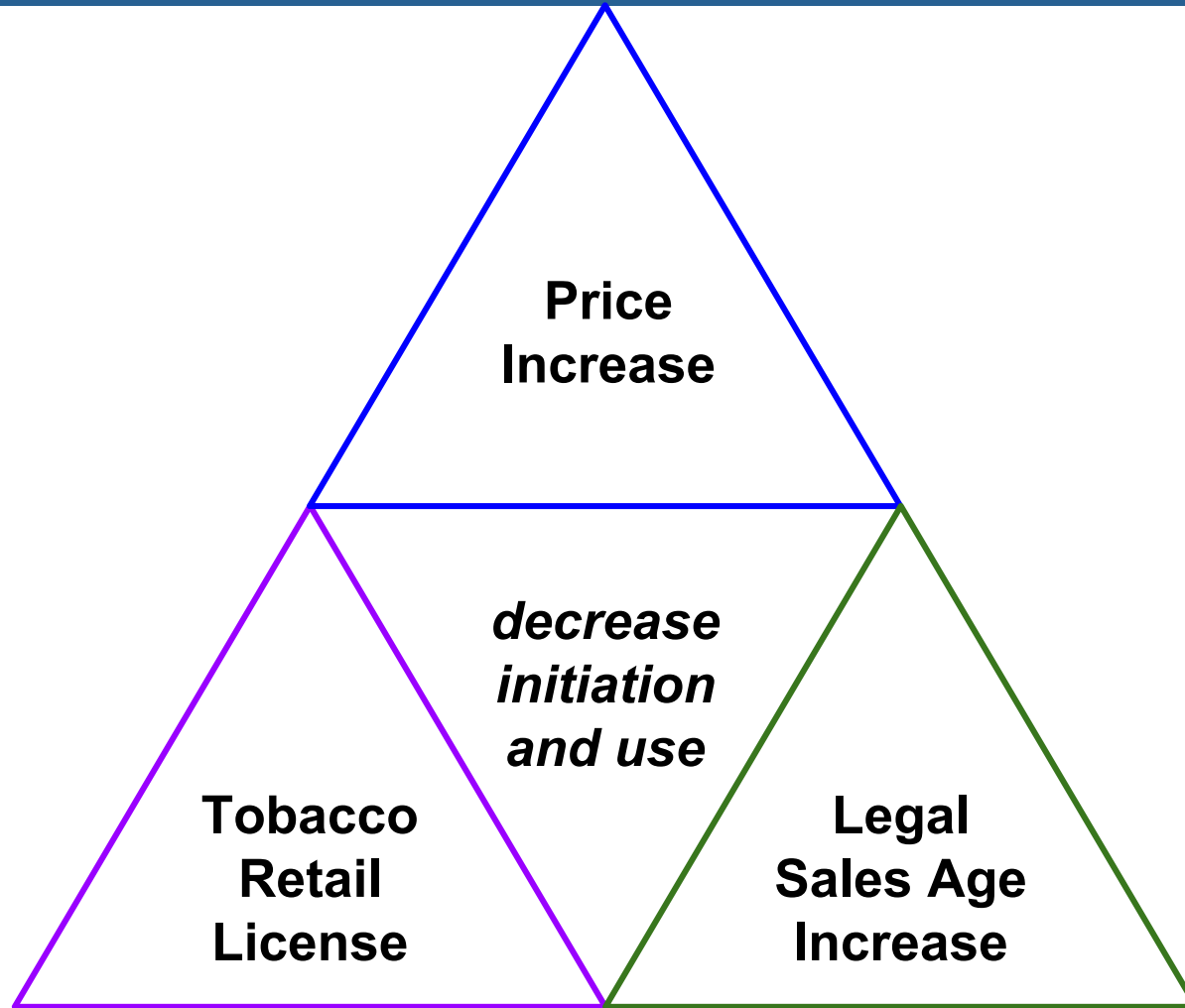
- **Kids are particularly vulnerable to addiction** & it re-wires their brain development.

E-cigarettes have particular dangers, even for adults

- **30% increase in heart disease, depression** (American College of Cardiology, 2019)

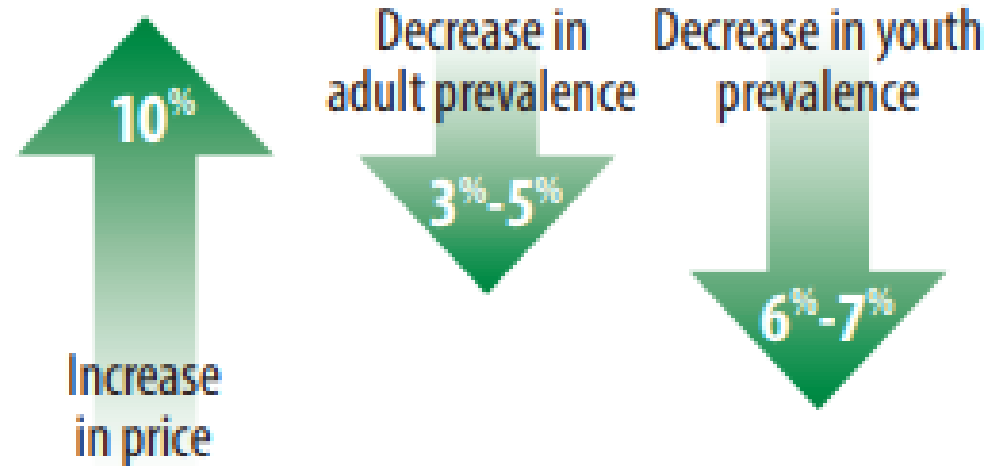
Marketing “burden” on low SES, youth

THE COMMUNITY-LEVEL SOLUTIONS



INCREASE PRICE

Effects of Cigarette Price Increases on Smoking Prevalence





**“If a man has never
smoked by age 18, the
odds are three-to-one he
never will. By age 24, the
odds are twenty-to-one.”**

*RJ Reynolds, “Estimated Change in Industry
Trend Following Federal Excise Tax Increase,”
September 10, 1982*

PERCEIVED ACCESS TO E-CIGARETTES, HS 2017

Who buys tobacco for you?

❖ 24% <18y buy their own e-cig

❖ 62.6% <18y buy their own cigarettes

not easy
39%

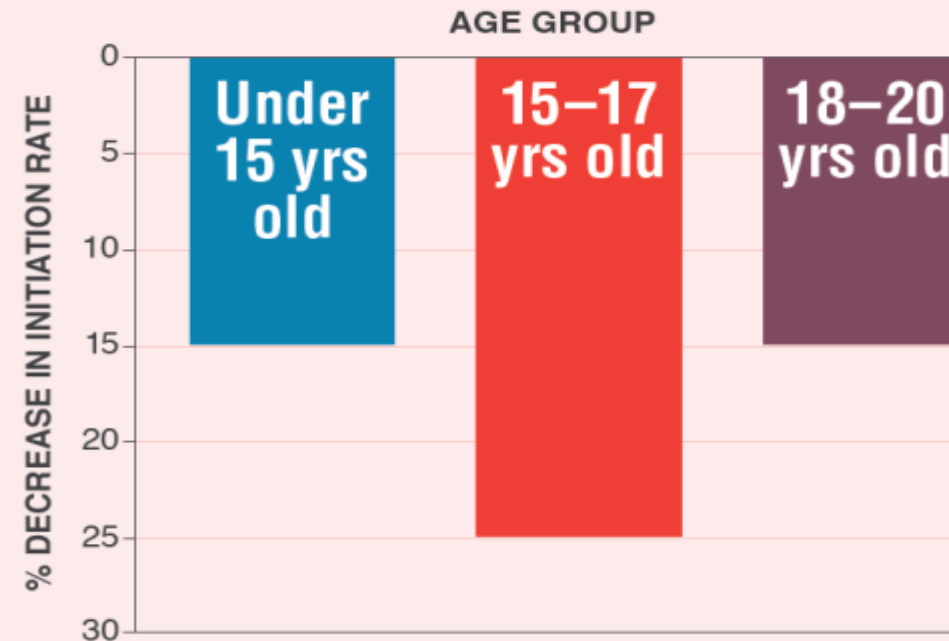
easy
access
61%



RAISE MINIMUM SALES AGE TO 21

Dramatic Impact on Initiation

○ A 360 page report by the National Academy of Sciences projected that if the entire country enacted Tobacco 21 legislation there would be a 25% drop in smoking initiation among high school students.



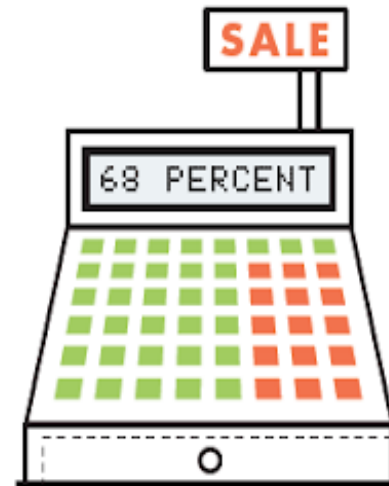
TOBACCO RETAIL LICENSE



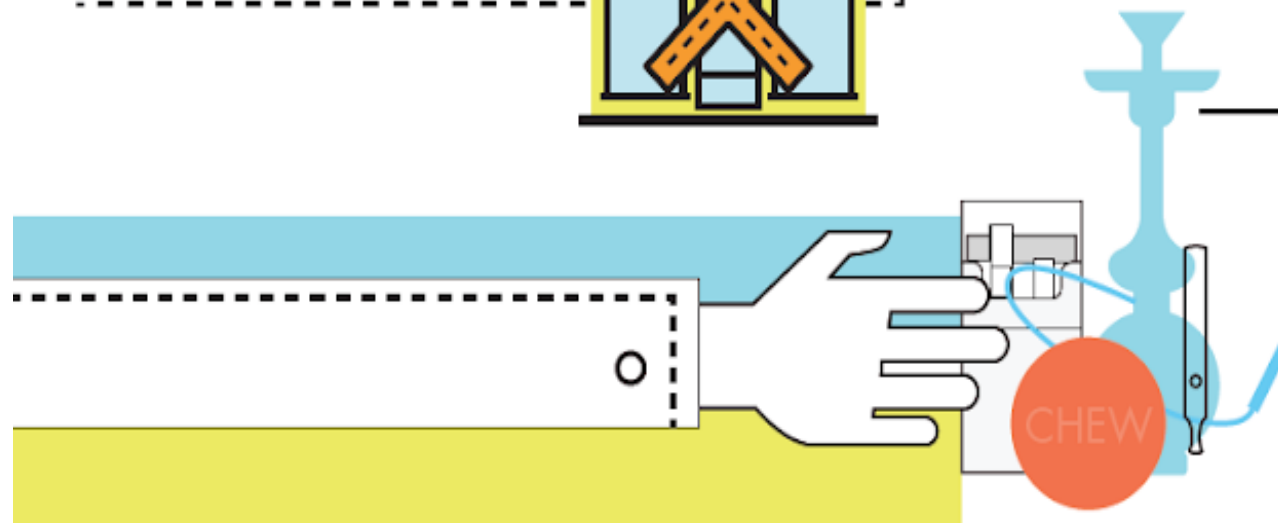
A tobacco retail licensing ordinance functions as an umbrella, under which violations of various tobacco control laws may be enforced. In a community with a licensing ordinance, if a retailer violates a state or local tobacco control law, the retailer also has violated the tobacco license.

ONLY 1/2

of known tobacco retailers
are checked every year by
state enforcement.



68% of youth
who attempt to buy
tobacco products are
sold tobacco illegally.¹



57% of Colorado high
school students report tobacco
is easy or very easy to get.²

► YOUTH WHO THINK TOBACCO IS EASY TO GET ARE MORE LIKELY TO BECOME REGULAR USERS.³ ◀



FLAVOR RESTRICTION

- **Flavored tobacco products = “starter product”**. Aid in the establishment of smoking patterns for youth and can lead to a long-term addiction.
- **Masks the harshness of tobacco** making it easier to start
- Conveys **message of less danger/harm**
- **Attractive to kids:**
 - E-cigarettes are sold in over **7,700 flavors**
 - **Flavored cigars** make up more than half the U.S. cigar market
 - Flavors like gummy bear, cotton candy, cherry crush, banana smash clearly appeal to kids.



Flavor Restriction



TOBACCO USE IS NOT AN EQUAL OPPORTUNITY KILLER.
SMOKING DISPROPORTIONATELY AFFECTS THOSE MOST IN NEED SUCH AS THE POOR,
THE HOMELESS, RACIAL MINORITIES, LGBTQ PERSONS AND THOSE SUFFERING FROM
MENTAL ILLNESS AND SUBSTANCE USE DISORDERS.



THERE ARE UP TO 10X MORE TOBACCO ADS IN BLACK NEIGHBORHOODS THAN IN OTHER NEIGHBORHOODS.

SEIDENBURG AB, CAUGHEY RW, REES VW, CONOLLY GN. STOREFRONT CIGARETTE ADVERTISING
DIFFERS BY COMMUNITY DEMOGRAPHIC PROFILE. AM J HEALTH PROMOT. 2010; 24(6): E26-E31.
(2-5X INCREASE)

MORELAND-RUSSELL S, HARRIS J., SNIDER D, WALSH H., CYR J, BARNOYA J. DISPARITIES AND
MENTHOL MARKETING : ADDITIONAL EVIDENCE IN SUPPORT OF POINT OF SALE POLICIES. INT J.
ENVIRON. RES PUBLIC HEALTH. 2013; 10:4571-4583. (10X INCREASE)

J. CANTRELL ET AL. MARKETING LITTLE CIGARS AND CIGARILLOS: ADVERTISING, PRICE, AND
ASSOCIATIONS WITH NEIGHBORHOOD DEMOGRAPHICS. AMERICAN JOURNAL OF PUBLIC HEALTH.
OCTOBER 2013, VOL. 103, NO. 10, PP. 1902-1909.



T21

TRL

Enforce
-ment

Price

- **Carbondale** - adding all areas
- **New Castle** - Price, *maybe T21, TRL*
- **All Eagle municipalities** - considering T21, TRL, price

Avon



\$3 / 40%

Snowmass



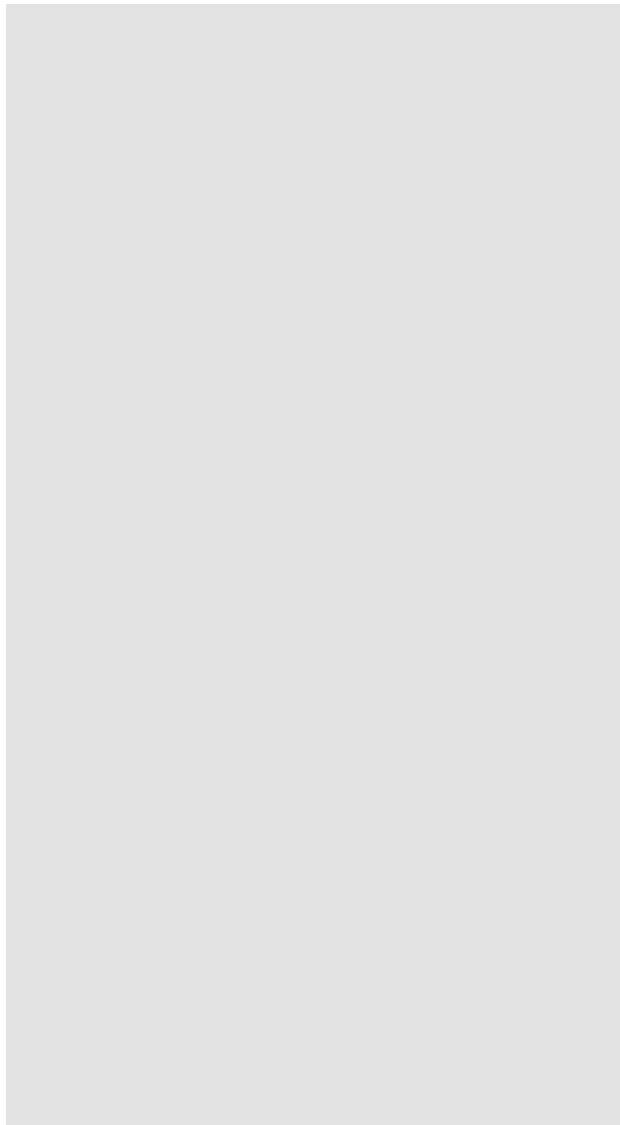
Eagle



Pitkin







The Dilemma – How do we decrease youth vaping?

- FACT: It is currently unlawful for juveniles in Colorado to purchase or attempt to purchase tobacco products; this includes e-cigarettes, vape pens, nicotine gels and smokeless tobacco products.
- FACT: Title 25 of the Colorado Revised Statutes explicitly states that, *“The board of education of each school district shall adopt appropriate policies and rules that mandate a prohibition against the use of all tobacco products and all retail marijuana or retail marijuana products on all school property by students, teachers, staff, and visitors and that provide for the enforcement of such policies and rules.”*
- FACT: The percentage of Roaring Fork Valley juveniles who have experimented with or who are regularly using nicotine e-cigarettes is among the highest in the nation. And, in comparison with other states, Colorado’s rates of experimentation and regular usage of e-cigarettes by juveniles is also among the highest in the nation.
- Herein lies the dilemma... Colorado has enacted legislation aimed to prevent minors from purchasing and possessing these products. And, these laws also provide school districts with the authority to adopt and enforce regulations banning tobacco and marijuana products from campuses.
- Despite these laws, however, our youth are using e-cigarettes and other tobacco products (both in and out of school) at rates that are increasing. WHY?**

Current Key Community Strategies

- ☞ Research strongly indicates that young people benefit from conversations with their parents and other trusted adults. Fact-based conversations can be very productive, and actually change teens' minds about the risk of vaping.
- ☞ This data clearly puts parents, teachers, coaches and mentors on the forefront of this community-wide effort to connect with our youth and engage in conversation about the risks and detriments of e-cigarettes and other tobacco products. It is the collective impact of many conversations and engagements that will make a difference with our youth.
- ☞ Screening and assessment = the right services at the right time
- ☞ Collecting data about current interventions is a priority in order to effectively respond to vaping

YouthZone Strategies

- ☞ **YouthZone consists of a team of professional optimists who have been meeting youth and their families with patience, compassion and respect since 1976. We possess the experience and knowledge to serve as another positive voice in the conversation about tobacco and e-cigarettes.**
- ☞ Currently, 50% of the referrals to YouthZone come directly from schools and parents; a 20% increase since 2017.
- ☞ **SCREENING AND ASSESSMENT:** identify root causes
- ☞ **PARENTING SUPPORT:** one on one support and coaching
- ☞ **RESTORATIVE JUSTICE:** Youth are given the opportunity to sit in circle and hear from others how vaping is impactful to their school, the community and the youth's family. Creates meaningful dialog, builds trusting relationships and provides appropriate consequences
- ☞ **SUBSTANCE COUNSELING (Including tobacco):** education, individual counseling and group counseling

The Missing Link

A comprehensive approach

Community resources *and* local Policies

- ☞ Policies that help create a set of norms that support non use.
- ☞ Policies that recognize the responsibility to decrease youth vaping lies on all community adults including the store owners.
- ☞ Policies that work in conjunction with community efforts to create a culture where we address substance use as serious and support kids to get the help they need.
- ☞ Policies that address access and availability of these so easy to use “entry” substances.

For more than 40 years, YouthZone has intervened in support of youth who are at risk in many areas, including use of tobacco, marijuana, alcohol, and other substances.

At YouthZone, **we know youth**

We know what works in supporting youth toward changing risky behaviors.

We continue to be ideally positioned to work collaboratively with the community to change the impact and culture of vaping.

And together, we will create a better community for our youth.

RESOLUTION NO. 32

Series of 2019

A RESOLUTION OF THE CITY OF GLENWOOD SPRINGS SETTING THE TITLE AND CONTENT OF A BALLOT ISSUE FOR A TAX INCREASE TO BE SUBMITTED AT THE ELECTION TO BE HELD ON NOVEMBER 5, 2019.

WHEREAS, the City of Glenwood Springs, Colorado (the "City"), is a municipal corporation duly organized and operating as a home-rule City under its City Charter and the Constitution and laws of the State of Colorado; and

WHEREAS, by House Bill 1033 the Colorado General Assembly removed various restrictions and penalties on local governments imposing a tax on tobacco products; and

WHEREAS, the Council hereby finds that tobacco and nicotine addiction is a leading cause of preventable death, that people should be deterred from starting the use of tobacco and nicotine products and encouraged to quit the use of tobacco and nicotine products, and that taxes on the sale of tobacco and nicotine products are effective at preventing and reducing tobacco and nicotine use; and

WHEREAS, Section 11.1 of the City Charter authorizes the levy of taxes on cigarettes and tobacco for municipal purposes subject to approval by a majority of the electorate; and

WHEREAS, Article X, Section 20 of the Colorado Constitution ("TABOR") requires voter approval for any increase in taxes; and

WHEREAS, TABOR requires the City to submit ballot issues (as defined in TABOR) to the City's electorate on limited election days before action can be taken on such ballot issues; and

WHEREAS, November 5, 2019, is one of the election dates at which ballot issues may be submitted to the electorate of the City pursuant to TABOR; and

WHEREAS, the City Council of the City (the "City Council") desires to submit the ballot issue set forth in this Resolution to the eligible electors of the City at the November 5, 2019 election for the purpose of imposing a four dollar per cigarette pack or forty percent for sales of tobacco products tax; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF CITY OF GLENWOOD SPRINGS, COLORADO:

Section 1. Form of Ballot Issue. At the election to be held on Tuesday, November 5, 2019, there shall be submitted to the eligible electors of the City a ballot issue which shall be in substantially the following form:

Ballot Issue ____ Tax Increase on the Sale of Cigarettes and Tobacco Products

SHALL THE CITY OF GLENWOOD SPRINGS TAXES BE INCREASED BY UP TO \$_____ ANNUALLY (WHICH AMOUNT REPRESENTS ESTIMATED REVENUES IN 2020, THE FIRST FULL FISCAL YEAR OF COLLECTION) AND BY WHATEVER AMOUNT IS GENERATED THEREAFTER THROUGH THE IMPOSITION OF NEW TAXES AS FOLLOWS:

BEGINNING JANUARY 1, 2020, THERE SHALL BE A NEW SALES TAX OF TWENTY CENTS PER CIGARETTE OR FOUR DOLLARS PER PACK OF TWENTY CIGARETTES SOLD;

BEGINNING JANUARY 1, 2020, THERE SHALL BE A NEW SALES TAX OF 40% ON THE SALES PRICE OF ALL OTHER TOBACCO PRODUCTS;

THE TERMS "CIGARETTE" AND "TOBACCO PRODUCT" SHALL HAVE THE SAME MEANINGS AS IN SECTION 050.110.020 OF THE GLENWOOD SPRINGS MUNICIPAL CODE;

AND THAT THE CITY MAY COLLECT, RETAIN AND EXPEND ALL OF THE REVENUES OF SUCH TAXES AND THE EARNINGS THEREON, NOTWITHSTANDING THE LIMITATION OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

Section 2. **Setting Ballot Title and Content.** For purposes of C.R.S. § 1-11-203.5, this Resolution shall serve to set the title and content of the ballot issues as set forth in Section 1 of this Resolution.

Section 3. **Ballot Results.** If a majority of the votes cast on the ballot issue set forth in Section 1 hereof shall be for approval of the ballot issue, the City Council shall take the necessary legislative action to amend the City Code consistent with the language of the ballot issue, and the authorized tax rate increase shall commence on January 1, 2020 and continue to be imposed until midnight on December 31, 2040.

Section 4. **Effective Date.** This Resolution shall be effective immediately upon its passage.

INTRODUCED, READ AND PASSED THIS ____ DAY OF _____ 2020.

CITY OF GLENWOOD SPRINGS, COLORADO

Mayor

ATTEST:

City Clerk



City Council
STAFF REPORT
City of Glenwood Springs
August 1, 2019

Agenda Item: Ordinance No 21, Series of 2019; An Ordinance of the City of Glenwood Springs, Colorado, Establishing License Twenty-One Years of Age, Further Regulating the Sale of Tobacco Products, and Amending Titles 050 and 120 of the Glenwood Springs Municipal Code (FIRST READING)

Action Requested: Approve or reject Ordinance

Department: Attorney

Presented By: Glenwood Springs Legal, Legal

Background Info: N/A

Issues: None

Staff Recommendation: Staff defers to Council

ORDINANCE NO. 21

Series of 2019

AN ORDINANCE OF THE CITY OF GLENWOOD SPRINGS, COLORADO, ESTABLISHING LICENSING REQUIREMENTS FOR THE RETAIL SALE OF TOBACCO PRODUCTS, RAISING THE MINIMUM AGE OF TOBACCO PRODUCT PURCHASE TO TWENTY-ONE YEARS OF AGE, FURTHER REGULATING THE SALE OF TOBACCO PRODUCTS, AND AMENDING TITLES 050 AND 120 OF THE GLENWOOD SPRINGS MUNICIPAL CODE.

WHEREAS, the City of Glenwood Springs (“Glenwood Springs” or the “City”) is a home-rule municipality organized under Article XX of the Colorado Constitution and with the authority of the Glenwood Springs Home Rule Charter; and

WHEREAS, tobacco use in the U.S. has declined substantially since the Surgeon General’s 1964 report, from 42 percent smoking to now about 14 percent for adults; and

WHEREAS, despite such declines, tobacco use remains one of the greatest public health challenges in the United States where almost 500,000 Americans still die prematurely each year from diseases related to cigarette smoking, comprising 85 percent of lung cancer deaths, which in Colorado is the number one cause of preventable death and accounts for 5,100 deaths per year; and

WHEREAS, it is estimated that smoking directly causes \$1.89 billion in annual health care costs in Colorado; and

WHEREAS, 90% of adult smokers started smoking before the age of 18 and each day more than 3,000 adolescents in the U.S. try their first cigarette; and

WHEREAS, youth use of electronic cigarettes (e-cigarettes), flavored tobacco, and similar products – many of which are procured by internet sales – is associated with future cigarette use; and

WHEREAS, the Centers for Disease Control and Prevention reports that there were 1.5 million more current youth e-cigarette users and 38.3 percent more tobacco use among high school students in 2018 than 2017; and

WHEREAS, research shows that youths acquire tobacco products from their peers and that 90% of the “social sources” (friends and family) of tobacco for 12-18 year old users are 18-21 year old persons; and

WHEREAS, research shows that youth typically do not make the additional effort to travel to neighboring localities to acquire tobacco when if the age to purchase tobacco has increased to 21 in their locality; and

WHEREAS, over 225 U.S. local governments and the states of California and Hawaii have enacted into law regulations prohibiting the sale of tobacco products to individuals under the age of 21 and research has shown such regulations are effective in decreasing high school tobacco use by up to 50%; and

WHEREAS, in 2019 the Colorado General Assembly enacted House Bill 19-1033 which removed restrictions and penalties on local government regulation of tobacco products; and

WHEREAS, City Council finds and declares that the amendments to the Municipal Code regarding the tobacco retail licensing requirements, raising the minimum tobacco purchase age, prohibitions on flavored tobacco and internet sales set forth herein are proper in light of the needs and desires of the City and in the promotion of the public health, safety and welfare of the City's residents and visitors.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GLENWOOD SPRINGS, COLORADO, ORDAINS:

Section 1. The foregoing recitals are incorporated herein as if set forth in full.

Section 2. A new Article 110 of Title 050 of the Glenwood Springs Municipal Code is hereby adopted as set forth in **Exhibit A** attached hereto.

Section 3. Title 120 is hereby amended as set forth in **Exhibit B** attached hereto.

INTRODUCED, READ ON FIRST READING, PASSED AND ORDERED
PUBLISHED BY TITLE ONLY THIS ____ DAY OF _____ 2019.

CITY OF GLENWOOD SPRINGS, COLORADO

Jonathan Godes, Mayor

ATTEST:

Catherine Mythen Fletcher, City Clerk

INTRODUCED, READ ON SECOND READING, AND ORDERED PUBLISHED BY
TITLE ONLY TO BE EFFECTIVE TEN DAYS FOLLOWING THE DATE OF SECOND
PUBLICATION THIS ____ DAY OF _____ 2019.

CITY OF GLENWOOD SPRINGS, COLORADO

Jonathan Godes, Mayor

ATTEST:

Catherine Mythen Fletcher, City Clerk

Exhibit A

ARTICLE 050.110 - TOBACCO PRODUCT RETAIL LICENSE

050.110.010. - Purpose and Applicability.

- (a) The purpose of this Article is to establish License requirements for Tobacco Product and Tobacco Paraphernalia Retailers and to set forth the requirements for the sale of Tobacco Products and Tobacco Paraphernalia to persons under twenty one years of age to protect the health, safety and welfare of individuals in the City, to encourage responsible Tobacco and Tobacco Paraphernalia retailing and to reduce illegal sales of said products in Glenwood Springs, Colorado.
- (b) This Article applies to Tobacco Product and Tobacco Paraphernalia Retailers, as defined herein

050.110.020.- Definitions.

The following words and phrases, as used in this Article, shall have the following meanings:

Accessory means any product that is intended or reasonably expected to be used with or for the human consumption of a Tobacco Product; does not contain tobacco and is not made or derived from tobacco; and meets either of the following: (1) is not intended or reasonably expected to affect or alter the performance, composition, Constituents, or characteristics of a Tobacco Product; or (2) is intended or reasonably expected to affect or maintain the performance, composition, Constituents, or characteristics of a Tobacco Product but (a) solely controls moisture and/or temperature of a stored Tobacco Product; or (b) solely provides an external heat source to initiate but not maintain combustion of a Tobacco Product. Accessory includes, but is not limited to, carrying cases, lanyards and holsters.

Adult-Only Establishment means a facility where the operator ensures or has a reasonable basis to believe, such as by checking the identification of any person appearing to be under the age of thirty (30), that no person under the Legal Age is permitted entrance.

Characterizing Flavor means a Distinguishable taste or aroma or both, other than the taste or aroma of tobacco, imparted either prior to or during consumption of a Tobacco Product or any byproduct produced by the Tobacco Product. Characterizing flavors include, but are not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb, spice; provided, however, that a Tobacco Product shall not be determined to have a characterizing flavor solely because of the use of additives or flavorings or the provision of ingredient information. Rather, it is the presence of a Distinguishable taste or aroma or both, as described in the first sentence of this definition that constitutes a characterizing flavor.

Cigarette means any product that contains tobacco or nicotine, that is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

- (1) any roll of tobacco wrapped in paper or in any substance not containing tobacco;

- (2) tobacco in any form that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging or labeling, is likely to be offered to, or purchased by consumers as a cigarette; or
- (3) roll of tobacco wrapped in any substance containing tobacco that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (1)(a) above.
- (4) the term includes all “roll-your-own,” i.e., any tobacco that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by consumers as tobacco for making cigarettes.

Component or Part means any software or assembly of materials intended or reasonably expected:

- (1) to alter or affect the Tobacco Product's performance, composition, Constituents, or characteristics; or (2) to be used with or for the human consumption of a Tobacco Product or Electronic Smoking Device. Component or Part excludes anything that is an Accessory, and includes, but is not limited to e-liquids, cartridges, certain batteries, heating coils, programmable software and flavorings for Electronic Smoking Device.

Distinguishable means perceivable by either the sense of smell or taste.

Electronic Smoking Device means an electronic device that, when activated, emits a vapor, aerosol, fume or smoke that may be inhaled or absorbed by the user, including, but not limited to, an a-cigarette, e-cigar, e-pipe, vape pen, e-hookah and similar devices. Electronic smoking device includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance, with or without nicotine, intended to be aerosolized, vaporized or produces a fume or smoke during the use of the device intended for human consumption.

Flavored Tobacco Product means any Tobacco Product that imparts a Characterizing Flavor.

Hearing Officer means the person appointed by the City Manager.

Licensee means the owner or holder of a Tobacco Product Retailer License.

License refers to the Tobacco Product Retailer license.

Licensing Administrator means the person(s) within the City government designated with responsibilities by the City Manager for license issuance, renewal and collection of fees.

Minimum Legal Sales Age means twenty-one (21) years of age or older.

Mobile Vending means any sales other than at a fixed location.

Person means natural person, a joint venture, joint-stock company, partnership, association, firm, club, company, corporation, business, trust or organization, or the manager, lessee, agent, servant, officer or employee of any of them.

Self-Service Display means the open display or storage of Tobacco Products in a manner that is physically accessible in any way to the general public without the assistance of the retailer or employee of the retailer and a direct person-to-person

transfer between the purchaser and the retailer or employee of the retailer. A vending machine is a form of self- service display.

Tobacco Paraphernalia means any item designed for the consumption, use or preparation of Tobacco Products.

Tobacco Product means 1) any product which contains, is made or derived from tobacco or used to deliver nicotine or other substances intended for human consumption, whether heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed or ingested by any other means, including, but not limited to Cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, bidis, snus, mints, hand gels; or 2) electronic smoking device. Notwithstanding any provision of subsections 1) and 2) to the contrary, "tobacco product" includes any component, part, accessory or associated tobacco paraphernalia of a tobacco product whether or not sold separately. The term "Tobacco Product" does not include: (i) any product that contains marijuana; or (ii) any product made from or derived from tobacco and approved by the Food and Drug Administration (FDA) for use in connection with cessation of smoking.

Tobacco Product Retail Location or Retail Location means any premises where Tobacco Products are sold or distributed to a consumer including, but not limited to, hookah bar, lounge or cafe, any grounds occupied by a retailer, any store, stand, outlet, vehicle, cart, location, vending machine or structure where Tobacco Products are sold.

Tobacco Product Retailer means any Person who sells, offers for sale, or does or offers to exchange for any form of consideration, Tobacco Products, or Tobacco Paraphernalia. "Tobacco Retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of Tobacco Products or Tobacco Paraphernalia sold, offered for sale, exchanged, or offered for exchange.

Tobacco Product Retailing means the selling, offering for sale, or exchanging for any form of consideration a Tobacco Product, including internet or e-commerce sale or delivery.

Vending Machine shall mean any mechanical, electrical, or electronic self-service device which, upon insertion of money, tokens, or any other form of payment dispenses product.

050.110.030. - Minimum legal sales age.

Tobacco Products shall not be sold to any person younger than the Minimum Legal Sales Age.

050.110.040. – License required.

- (a) On or after _____, 20__, it shall be unlawful for any person to act as a Tobacco Product Retailer in the City unless he or she has obtained a License and maintains the same in full force and effect pursuant to this Article for each location where Tobacco Product Retailing occurs.
- (b) No license shall be issued to authorize Tobacco Product retailing anywhere other than at a fixed location within the City that is designated in the License application and approved by the Licensing Administrator. Tobacco Product Retailing by persons on foot, from vehicles, through Mobile Vending, or internet or e-commerce is prohibited.

- (c) No Licenses within 500 feet of schools. No Licenses shall be issued to retailers located within 500 feet from any public or parochial school as determined by the Licensing Administrator. This restriction shall not apply to an existing Retail Location within 500 feet of a school.
- (d) No Licenses shall be issued to applicants under the Minimum Legal Sales Age.
- (e) Tobacco Retailing without a valid License is a violation of the Article.

050.110.050. - Conditions of the Tobacco Product Retail License.

- (a) Display of License. Each License shall be prominently displayed in a publicly visible location at the licensed Tobacco Product Retail Location.
- (b) Display of Minimum Legal Sales Age Requirements. The requirement of the Minimum Legal Sale Age for the purchase of Tobacco Retail Product shall be prominently displayed in the entrance (or other clearly visible location) of the Tobacco Product Retail Location and contain at minimum the following:

WARNING
IT IS ILLEGAL FOR ANY PERSON UNDER
TWENTY-ONE YEARS OF AGE TO PURCHASE
CIGARETTES AND TOBACCO PRODUCTS
AND, UPON CONVICTION, A FINE
MAY BE IMPOSED.

- (c) Locations. A Tobacco Product Retail Location may only have one active License at one time. Every License is separate and distinct and specific to a designated location.
- (d) Minimum age for persons handling Tobacco Products. No Person who is younger than the Minimum Legal Sales Age shall, while employed at a Tobacco Product Retail Location, sell, stock, retrieve, or otherwise handle Tobacco Products or Tobacco Paraphernalia.
- (e) Prohibition of Self-Service Displays. Licensees shall stock and display all Tobacco Products and Tobacco Paraphernalia in a manner so as to make all such products inaccessible to customers without the assistance of a retail clerk, thereby requiring a direct face-to-face exchange of the Tobacco Product or Tobacco Paraphernalia from an employee of the business to the customer except in an Adult-Only Establishment.
- (f) Prohibition on Flavored Tobacco Sales. Licensees shall not sell, offer for sale or possess with the intent to sell any Flavored Tobacco Product(s).
- (g) Requirements of positive identification. No person engaged in Tobacco Product Retailing shall sell or transfer a Tobacco Product or Tobacco Paraphernalia to another person who appears to be under the age of forty (40) years without first examining the identification of the recipient to confirm that the recipient is at least the Minimum Legal Sales Age.

050.110.060. - Application procedure.

- (a) An application for a License shall be submitted and signed by an individual authorized by the person or entity making application for the License. It is the responsibility of each applicant and/or Licensee to be informed regarding all laws applicable to tobacco retailing, including those laws affecting the issuance of said License. No applicant and/or Licensee may rely on the issuance of a License as a determination by the City that the proprietor has complied with all applicable tobacco retailing laws.
- (b) All applications shall be submitted on a form supplied by the Licensing Administrator.
- (c) A licensed Tobacco Product Retailer shall inform the Licensing Administrator in writing of any change in the information submitted on an application for a License within thirty (30) business days of a change.
- (d) All License applications shall be accompanied by the payment in full of all fees as required.

050.110.070. Issuance of a Tobacco Product License.

Upon the receipt of a completed application for a License as required by this Article, the Licensing Administrator shall sign and issue a License within thirty (30) days which period may be extended by the Licensing Administrator for good cause unless substantial evidence demonstrates that one or more of the following bases for denial exists:

- (a) The information presented in the application is incomplete, inaccurate, or false;
- (b) The applicant seeks authorization for a License at a location where this Article prohibits the issuance of a License;
- (c) The applicant seeks a License for a location that is not appropriately zoned for the use;
- (d) The applicant seeks authorization for a License and the applicant's current License is suspended or revoked;
- (e) The applicant is not qualified to hold the requested License under the provisions of this Article;
- (f) The applicant and/or retail location is not in compliance with all City, state or federal laws;
- (g) The applicant is indebted to, or obligated in any manner to the City for unpaid taxes, liens or other monies; or
- (h) The payment of the licensing fee in the full amount chargeable for such License does not accompany such License application.

050.110.080. - Denial of Tobacco Product License.

- (a) If the Licensing Administrator denies the issuance of the License, the Licensing Administrator shall notify the applicant in writing by regular mail postage prepaid on the address shown in the application. The notice shall include the grounds for denial. Notice is deemed to have been properly given upon mailing.
- (b) An applicant has the right to appeal the Licensing Administrator's denial of an application to the Hearing Officer that shall be appointed by the City Manager. Such an

appeal shall be initiated by filing a written request with the Licensing Administrator within twenty (20) days of the date of the notice of denial of the issuance of a License.

- (c) The applicant's failure to timely appeal the decision of the Licensing Administrator is a waiver of the applicant's right to contest the denial of the issuance of the License.
- (d) The appeal, including any right to further appeals, shall be conducted and controlled by the provisions of Rule 106(a)(4) of the Colorado Rules of Civil Procedure. The standard of proof at such appeal shall be a preponderance of the evidence and the burden of proof shall be upon the applicant. The Licensee's failure to timely appeal the decision is a waiver of the Licensee's right to contest the suspension or revocation of the License.

050.110.090. - License term, renewal and expiration.

- (a) Term. All Licenses issued under this Code shall be for the period of one (1) year.
- (b) Renewal of License. A Licensee shall apply for the renewal of the License and submit the renewal License fee no later than thirty (30) days prior to expiration of the existing term. The Licensing Administrator shall renew the License prior to the end of the term, provided that the renewal application and fee were timely submitted and the Licensing Administrator is not aware of any fact that would have prevented issuance of the original License or issuance of the renewal.
- (c) Expiration of License. A License that is not timely renewed shall expire at the end of its term. The failure to timely obtain a renewal of a License requires submission of a new application. There shall be no sale of any Tobacco Products after the License expiration date and before the new License is issued.

050.110.100. - License non-transferable.

- (a) A License shall not be transferred from one (1) person to another or from one location to another.
- (b) When a License has been issued to a husband and wife, or to general or limited partners, the death of a spouse or partner shall not require the surviving spouse or partner to obtain a new License for the remainder of the term of that License. All rights and privileges granted under the original License shall continue in full force and effect as to such survivors for the balance of the term of the License.

050.110.110. - Compliance monitoring.

- (a) Compliance monitoring of this Article shall be by the Glenwood Springs Police Department, as the Glenwood Springs Police Department (or designee) deems appropriate.
- (b) The Glenwood Springs Police Department shall have discretion to consider previous compliance check history or prior violations of a Licensee in determining how frequently to conduct compliance checks of the Licensee with respect to individual Licensees.

- (c) The Glenwood Springs Police Department shall inspect each Tobacco Product Retailer at least two (2) times per twelve (12) month period. Nothing in this paragraph shall create a right of action in any Licensee or other Person against the City or its agents.
- (d) Compliance checks shall be conducted as the Glenwood Springs Police Department deems appropriate, including the use of decoys, so as to allow the Glenwood Springs Police Department to determine, at a minimum, if the Tobacco Product Retailer is conducting business in a manner that complies with laws regulating access to Tobacco Products. When the Glenwood Springs Police Department deems appropriate, the compliance checks shall determine compliance with other laws applicable to Tobacco Products.

050.110.130. Suspension or Revocation of License.

- (a) The following shall be grounds for suspension or revocation of the Licensee's License:

- (1) A violation by a Licensee or Licensee's officers, agents, or employees of any of the provisions of this Article, or any laws of the United States, the State of Colorado or ordinances of the City relating to the sale or furnishing of Tobacco Products or Cigarettes to minors, or the storage or display of Cigarettes or Tobacco Products.
- (2) Violations of any conditions imposed by the Licensing Administrator or Hearing Officer in connection with the issuance or renewal of a License.
- (3) Failure to pay State or local taxes that are related to the operation of the business associated with the License.
- (4) Loss of right to possession of the licensed premises.
- (5) Fraud, misrepresentation, or a false statement of material fact contained in the original or renewal license application;

- (b) The City Manager shall appoint a Hearing Officer to hear all actions relating to the suspension or revocation of Licenses pursuant to this Article. The Hearing Officer shall have the authority to suspend, revoke, or impose remedial sanctions for violations.

- (c) The Licensing Administrator shall commence suspension or revocation proceedings by petitioning the Hearings Officer to issue an order to the Licensee to show cause why the Licensee's License(s) should not be suspended or revoked. The Hearing Officer shall issue such an order to show cause if the petition demonstrates that probable cause exists to determine that one or more grounds exist pursuant to subsection (a) to suspend or revoke the Licensee's License. The order to show cause shall set the matter for a public hearing before the Hearing Officer.

- (d) Notice of the order to show cause order and hearing date shall be mailed to Licensee by regular mail, postage prepaid, at the address shown on the License no later than thirty (30) days prior to the hearing date. Notice is deemed to have been properly given upon mailing.

- (e) In determining whether a License should be suspended or revoked, and in determining whether to impose conditions in the event of a suspension, the Hearing Officer shall consider the following factors:

- (1) The nature and circumstances of the violation;
- (2) Corrective action, if any taken by the Licensee;

- (3) Prior violations, if any by the Licensee;
- (4) The likelihood of recurrence of the violation;
- (5) Whether the violation was willful; and
- (6) Previous sanctions, if any, imposed on the Licensee.

050.110.140. Penalty.

It shall be unlawful for any person or business to violate a provision of this Article. Violators shall be subject to the penalties provided in Section 010.020.080 of this Code and may be subject to any civil remedies available. A separate offense shall be deemed committed upon each day such business or person is in violation of this article.

050.110.150 - Effective date.

This Article shall become effective as of January 1, 2020 and enforceable on and after that date. Any Tobacco Product Retailer without a License after the effective date will be in violation of this Article.

Exhibit B

New language is double underlined

~~Strike through language is deleted~~

120.030.092 - Possession of tobacco products by ~~minor~~ underage persons and furnishing or selling cigarettes or tobacco products to ~~minors~~ underage persons prohibited.

- (a) ~~Except as provided in Subsection (f) below, a~~Any person who knowingly furnishes to any person who is under twenty-one (21) ~~eighteen (18)~~ years of age, by gift, sale or any other means, any cigarettes or tobacco products, commits a misdemeanor; and, upon conviction thereof, shall be punished as set forth in Section 010.020.080. It shall be an affirmative defense to a prosecution under this section that the person furnishing the tobacco product was presented and reasonably relied upon a document which identified the person receiving the tobacco product as being twenty-one (21) ~~eighteen (18)~~ years of age or older.
 - (b) Any person who is under twenty-one (21) ~~eighteen (18)~~ years of age and who possesses, purchases, or acquires, or attempts to purchase any cigarettes or tobacco products commits a misdemeanor; and, upon conviction thereof, shall be punished as set forth in Section 010.020.080, or the court shall allow such person to perform community service and be granted credit against the fine and court costs.
 - (c) For purposes of this section, the term tobacco product has the same meaning as set forth in section 050.110.020. ~~means any product that contains nicotine or tobacco or is derived from tobacco and is intended to be ingested or inhaled by or applied to the skin of an individual or any electronic device that can be used to deliver nicotine to the person inhaling from the device, including but not limited to an electronic cigarette, cigars, cigarillo or pipe.~~
 - (d) Any person who sells or offers to sell any cigarettes or tobacco products, as defined above, over the counter or by use of a vending machine or other coin-operated machine commits a misdemeanor; and, upon conviction thereof, shall be punished as set forth in Section 010.020.080; except that cigarettes tobacco products may be sold at retail as permitted by Title 050, Article 120 of this Code ~~through vending machines only in:~~
 - (1) ~~Factories, businesses, offices or other places not open to the general public;~~
 - (2) ~~Places to which persons under the age of eighteen (18) years are not permitted access; or~~
 - (3) ~~Places where the vending machine is under the direct supervision of the owner of the establishment or an adult employee of the owner, including but not limited to, establishments holding a valid liquor license issued pursuant to C.R.S. Article 47 of Title 12. As used in this section, under direct supervision means the vending machine shall be in plain vision of the employee or owner during regular business hours.~~
- It shall be an affirmative defense to a prosecution under this subsection that the person selling or offering to sell the tobacco product was presented with and reasonably relied upon a document which identified the person purchasing the tobacco product as being eighteen (18) years of age or older.

- ~~(e) Any person who sells or offers to sell any cigarettes or tobacco products shall display a warning sign as specified in this subsection. Any person who fails to display said warning sign commits a misdemeanor and, upon conviction thereof, shall be punished as set forth in Section 010.020.080. Said warning sign shall be displayed in a prominent place in the building and on such machine at all times and shall have a minimum height of three (3) inches and a width of six (6) inches, and shall read as follows:~~

~~WARNING
IT IS ILLEGAL FOR ANY PERSON UNDER
EIGHTEEN YEARS OF AGE TO PURCHASE
CIGARETTES AND TOBACCO PRODUCTS
AND, UPON CONVICTION, A FINE
MAY BE IMPOSED.~~

~~Any violation of the provisions of this subsection shall not constitute a violation of any other provisions of this section.~~

- ~~(f) It shall be an affirmative defense to the offense described in Subsection (b) above that the cigarettes or tobacco products were possessed or consumed by a person under eighteen (18) years of age under the following circumstances:~~
- ~~(1) While such person was legally upon private property with the knowledge and consent of the owner or legal possessor of such private property and the cigarettes or tobacco products were possessed with the consent of his/her parent or legal guardian who was present during such possession.~~
- ~~(2) For purposes of this subsection, private property shall mean any dwelling and its curtilage which is being used by a natural person or natural persons for habitation and which is not open to the public and privately real property which is not open to the public. Private property shall not include:~~
- ~~a. Any establishment which sells cigarettes or tobacco products or upon which cigarettes or tobacco products are sold; or~~
- ~~b. Any establishment which leases, rents or provides accommodations to members of the public generally.~~



City Council
STAFF REPORT
City of Glenwood Springs
August 1, 2019

Agenda Item: Local Preference

Action Requested: Determine Glenwood's position providing local firms with an advantage when submitting responses for bids and proposals.

Department: Finance

Presented By: Ricky Smith, Purchasing Agent

Background Info: Contractors choose whether to bid on a particular project for many factors. One consideration is their assessment of the likelihood of getting the award. When contractors that do not meet local preference requirements believe the advantage to local firms is substantial it discourages their participation.

Issues: Staff believes the City will receive more competitive bids on projects if contractors have a level playing field. Local preference was added in 2010 by Council in part to address a slow economy in an effort to protect local businesses. A stronger economy means firms have more work available to bid which reduces the need to bid on other projects. Fewer bids received reduces competition and therefore increases the price of the bids that are submitted.

Staff Recommendation: Given the need to increase competition in our bidding process staff believes that eliminating local preference will encourage to submit bids on projects they would not if they believe their chances of winning are reduced. All other factors being equal, a local firm has a certain advantage even without a formal preference in having relationships with local suppliers and subcontractors, less expense in transporting and housing out-of-area employees and generally being more familiar with the local business environment.

Staff supports removing the local preference.

Local Preference Options:

1. Eliminate the current local preference option

Disadvantages of a formal, legally-binding local preference law:

- 1) Preference costs the taxpayers more money by reducing competition when a contractor chooses not to bid from the belief that a local company will win.
- 2) Defining who is local and who is not can be complicated by factors including geography, ownership and management.
- 3) Difficult to estimate how much of the “local” dollars actually stay local. How many of the local employees actually live and spend within the City?
- 4) A preference alienates other jurisdictions and has led to the development of reciprocal preferences. This can hurt larger contractors that are competing for broader markets outside of our community.
- 5) Preference complicates the administrative process: both financial preferences and reciprocal preferences add steps to the process of conducting bids and ultimately cost the taxpayer more money.

2. Reduce the limit for local preference adopted prior to 2010 to allow for additional competition in larger bids, see below:

The City of Glenwood Springs grants a five percent (5%) preference to qualified local businesses in considering award of contracts over \$50,000.00 (was \$25,000.00) but not to exceed \$200,000.00 (was opened ended). Local businesses are generally those businesses located and primarily doing business in Garfield, Eagle, or Pitkin Counties and employing residents of those counties. Any Contractor, subcontractor or supplier wishing to obtain local business designation shall apply for such designation by submitting sufficient written documentation supporting such request to the City Manager no later than 5:00 p.m. (local time), <DATE>. Copies of the Local Business Preference Ordinance may be obtained by contacting the Purchasing Department, City Hall, 101 West 8th Street, Glenwood Springs, Colorado, 81601 (970-384-6445).

3. Change the geographical preference boundary

Council can choose to qualify firms for local preference by defining a geographical boundary by County, State, a portion of the state (example: Western Slope) or by a number of miles from the City.

4. Remain the same, current local preference attached

National Organizations' Position on Local Preference

The National Institute of Government Purchasing (NIGP) is public procurement's largest trade group. In 1987 it adopted Resolution No. 1016 which states that "*the NIGP is opposed to all types of preference law and practice and views it as an impediment to cost effective procurement of goods, services, and construction in a free enterprise system.*" This resolution was reviewed and ratified again in 1995.

Several other major professional organizations that deal with governmental purchasing and procurement have analyzed the pros and cons of local preference and have taken the position that preferences are not cost-effective. These organizations include: The International City and County Managers Association; The Government Finance Officers Association; The Council of State Governments; and the Colorado Contractors Association.

CURRENT LOCAL PREFERENCE

LOCAL PREFERENCE:

(a) Legislative intent. It is the intention of the City Council whenever possible to use, without significant additional cost to the taxpayers or ratepayers, local businesses and/or subcontractors for construction services or procurement of goods and supplies (excluding sole source procurement, emergency procurements, small purchase procurement, used supplies procurement or professional service procurement and any procurement made with external funding source requirements that preclude application of local preference) in those instances when awarding contracts in the amount of twenty-five thousand dollars (\$25,000.00) or more, pursuant to competitive procurement, with City funds. The City Council intends to give local businesses an advantage in the bidding process so that monies received from such contracts will be spent by the employees of local businesses in the local economy. Local business preference may be used as one (1) factor in determining the award of a bid over twenty-five thousand dollars (\$25,000.00). This local preference will only be available to responsible and responsive bidders and/or subcontractors that meet all applicable bid evaluation criteria.

(b) Definition of local business.

(1) When applied to construction contracts, *Local Business* shall mean a business and/or a subcontractor individually applying for Local Business designation which meets the criteria in either Subsections a. and c. or Subsections b. and c. as listed below:

a. The business headquarters must be located and primarily doing business within a forty-five (45) mile radius of the intersection of 8th Street and Grand Avenue in Glenwood Springs. In the event the business is incorporated or otherwise registered, it must be incorporated or otherwise registered in Colorado.

b. At least seventy-five percent (75%) of the business work force, at the time of the application, must reside within a forty-five (45) mile radius of the intersection of 8th Street and Grand Avenue in Glenwood Springs.

c. The business shall have at least seventy-five percent (75%) of business vehicles registered at the time of the application, with the government agency having jurisdiction over areas within a forty-five (45) mile radius of the intersection of 8th Street and Grand Avenue in Glenwood Springs.

(2) When applied to procurement of goods, supplies, construction equipment and other vehicles, *Local Business* shall mean a business that is located and primarily doing business in the corporate limits of the City. In the event the business is incorporated or otherwise registered, it must be incorporated or otherwise registered in Colorado.

(c) Local Business Designation. Prior to submitting a bid, any business and/or subcontractor wishing to obtain the Local Business Designation shall apply for such designation by submitting sufficient written documentation to the City Manager which supports a request for such designation. The owner of the business and/or subcontractor seeking Local Business Designation shall submit a signed, sworn affidavit

affirming the truthfulness of all information supplied to the City with the application for Local Business Designation. To receive Local Business Designation of any subcontractor amounts included in its bid, a business must certify the accuracy of the contents of the subcontractor's Local Business Designation application submitted pursuant to this Section. The City Manager may grant a Local Business Designation to a business and/or subcontractor if such business and/or subcontractor has satisfied the criteria set forth in Subsection (b). In the event the City Manager does not grant a Local Business Designation upon request, such business and/or subcontractor may appeal the decision by providing a written explanation of the basis of the appeal to the City Council within five (5) business days of receiving the City Manager's decision. A decision by a majority of the City Council present shall be made at the time of the award of the contract for which the appeal is made.

(d) Local Business preference. In the event that a determination is made that a submitted bid is from a responsible and responsive bidder and that the business submitting the bid and/or a subcontractor included in the bid has a Local Business Designation, the bid comparison and award shall be made after taking any applicable local preference into consideration.

All portions of the submitted bid attributable to a Local Business shall be aggregated for application of the local preference as follows: if the aggregate Local Business portion of the submitted bid contract amount is equal to or less than Two Hundred Thousand Dollars (\$200,000.00), the Local Business preference will be five percent (5%); if the aggregate Local Business portion of the submitted bid contract amount is more than Two Hundred Thousand Dollars (\$200,000.00), the Local Business preference will be Ten Thousand Dollars (\$10,000.00) plus two and one-half percent (2.5%) of the aggregate Local Business portion in excess of Two Hundred Thousand Dollars (\$200,000.00); **no Local Business preference, in any event, shall exceed One Hundred Thirty-Five Thousand Dollars (\$135,000.00).** Determination of the lowest responsible and responsive bidder shall be made after any appropriate Local Business preference amount is applied to the submitted full bid contract amount.

(e) Notice. Every bid shall contain notification of this Section setting forth this Local Business preference and shall require a bidder to submit, at a time to be specified, the manner in which, if at all, such business and/or subcontractor may qualify for Local Business Designation under this Local Business preference policy.

(f) Timing. No Local Business Designation shall be allowed unless such designation has been given in writing prior to the award of bid.

(g) Challenge. In the event any person wishes to challenge the Local Business Designation of a business and/or subcontractor which has received such designation, such challenge shall be submitted in writing to the City Manager. The written documentation supporting such challenge must set forth, with specificity, the reasons supporting the allegation that the business and/or subcontractor should not continue to receive the Local Business Designation. The City Manager, at his/her discretion, shall investigate such allegations and may seek the imposition of the remedies set forth in this Section.

(h) Civil penalty. In the event a business and/or subcontractor has been given the Local Business Designation and the City Manager determines that such designation is erroneous, such business shall be

penalized in the same monetary amount as the Local Business preference advantage which was applied to the bid from such business when it was awarded the contract. In addition, such business and subcontractor shall be subject to debarment for a period of three (3) years.

(i) False affidavit. It shall be unlawful for any person to make a false statement in the affidavit or to provide false information supporting application for the Local Business Designation.

(j) Violations. In addition to the other remedies provided in Subsection (h) (Civil Penalty), any person violating Subsection (i) (False Affidavit) shall be deemed guilty, per occurrence, of a misdemeanor and, upon conviction of the same, shall be punished, per occurrence, in accordance with the provisions of Section 010.020.080 in the Municipal Court. Violations of any provision shall be deemed to be a strict liability offense as defined in Subsection 120.010.010. Culpable mental state is not required with respect to any material element of a violation of this Subsection.



City Council
STAFF REPORT
City of Glenwood Springs
August 1, 2019

Agenda Item: DDA and Tourism Partnership for the 2020 Budget

Action Requested: Direction related to the 2020 budget.

Department: City Administration

Presented By: Debra Figueroa, City Manager

Background Info: Recent downtown maintenance costs:
2019 111,018 (Year to Date)
2018 217,131
2017 120,682

Issues: None

Staff Recommendation: Staff defers to Council.

CITY OF GLENWOOD SPRINGS, COLORADO
COMPARATIVE SCHEDULE OF ACCOMMODATIONS TAX
EARNED - BY MONTH
FOR FISCAL YEARS 2015 to 2019

Accommodations Tax Rate: 2.5%

% INCREASE/
(DECREASE)
2019
OVER 2018

By Month	2015	2016	2017	2018	2019	
January	55,127	61,184	59,961	62,540	74,701	19.44
February	50,030	54,901	57,461	61,511	69,979	13.77
March	79,612	84,766	94,658	101,036	110,472	9.34
April	49,466	53,338	54,821	55,460	62,798	13.23
May	69,673	73,959	77,701	86,005	86,375	0.43
June	111,932	116,461	128,960	139,101		(100.00)
July	144,413	155,154	158,092	169,527		(100.00)
August	122,989	125,847	126,028	141,244		(100.00)
September	103,558	114,071	113,090	128,866		(100.00)
October	73,624	78,999	72,801	81,748		(100.00)
November	43,554	49,133	49,262	52,729		(100.00)
December	62,288	65,339	74,858	73,445		(100.00)
	<u>966,265</u>	<u>1,033,152</u>	<u>1,067,693</u>	<u>1,153,213</u>	<u>404,325</u>	

Cumulative:

January	55,127	61,184	59,961	62,540	74,701	19.44
February	105,157	116,085	117,422	124,051	144,680	16.63
March	184,769	200,850	212,080	225,087	255,152	13.36
April	234,235	254,189	266,901	280,547	317,950	13.33
May	303,908	328,148	344,601	366,553	404,325	10.30
June	415,840	444,609	473,561	505,654		
July	560,253	599,763	631,653	675,181		
August	683,242	725,609	757,681	816,426		
September	786,800	839,680	870,771	945,292		
October	860,424	918,679	943,572	1,027,039		
November	903,977	967,812	992,835	1,079,768		
December	966,265	1,033,152	1,067,693	1,153,213		

Insert organization/individual letterhead

August 6, 2019

The Honorable Elaine Chao
Secretary
U.S. Department of Transportation
1200 New Jersey Ave, SE
Washington, DC 20590

Honorable Secretary Chao:

On behalf of **insert organization/individual name**, we are writing to express our support for the application submitted by the Colorado Department of Transportation (CDOT) under the title of, Innovative Transit Technology Demonstration for Colorado's Mountain Corridor. We support this project for funding under the Federal Transit Administration (FTA), U.S. DOT's Integrated Mobility Innovation (IMI) Demonstration Program.

The I-70 Mountain Corridor experiences some of the greatest volume of daily traffic by those traveling within and through Colorado, with more than 50,000 cars passing through the Eisenhower Tunnel every day. A report by the Denver Metro Chamber of Commerce in 2007 estimated a potential annual loss of \$25 million in business revenue and \$85 billion in personal time lost caused by congestion delays on I-70, among other governmental and tourism losses as well ([Denver Council of Governments, 2007](#)). With more than 290 fatalities in 2019 thus, CDOT recognizes the dire need to improve safety on the state's most populated corridors.

Advanced driver assistance systems (ADAS) offer great promise in lessening the severity of crashes or preventing them from occurring in the first place. CDOT's co-applicant in the proposal, Colorado State University (CSU) brings unique experience to evaluate the human factors components of driver perception and behavior, trust of the system, and driver over- and under-reliance of the system.

CDOT's proposal uniquely features the demonstration and evaluation of ADAS technology in transit automation, which remains largely untouched in the vehicle automation-testing environment. Furthermore, a focus in the I-70 Mountain Corridor offers tremendous insight to the challenges, opportunities, and the safety benefits ADAS may offer in mountainous terrains featuring steep slopes and downgrades. The opportunity to explore the benefits of ADAS on I-70 is extremely valuable to the State of Colorado and the US economy as this corridor is vital to the movement of people and freight. The Innovative Transit Technology Demonstration for Colorado's Mountain Corridor project uniquely pairs together the opportunity to greatly increase safety to the traveling public on one of the nation's (and Colorado's) most challenged and dangerous corridors, while simultaneously contributing real-world demonstration research and evaluation in technology that can greatly advance transit vehicle autonomy. It is for this reason that we are pleased to offer our assistance, support, and commitment to this project.

Sincerely,

Signature
first name Last name
Organization