



The Regular Meeting of the
Brian Head Town Council

Brian Head Town Hall – Council Chambers
56 North Highway 143 – Brian Head, UT 84719

www.Zoom.us ([Click Here](#))

Via Zoom Meeting ID# 883 3347 2058

TUESDAY, APRIL 22, 2025 @ 1:00 PM

AGENDA

- A. CALL TO ORDER**
- B. PLEDGE ALLEGIANCE**
- C. EMPLOYEE RECOGNITION:** Greg Sant, Planning & Zoning Administrator - 4-Way Certification; Cody Gregerson, Public Works-Water 1 Certification; Matt Baxter, Public Works-Water 1 Certification; Nick Wallis, Public Works Wastewater II Certification.
- D. DISCLOSURES**
- E. APPROVAL OF THE MINUTES:**
 - March 11, 2025 Meeting Minutes
 - March 25, 2025 Meeting Minutes
- F. REPORTS / PUBLIC INPUT ON NON-AGENDA ITEMS.** Public input is limited to three (3) minutes on non-agenda items.
- G. AGENDA ITEMS:**
 - 1. PUBLIC HEARING: LAND MANAGEMENT CODE AMENDMENT, CHAPTER 7, ACCESSORY DWELLING UNITS.** After a brief introduction, the Council will hold a public hearing to receive comments on a proposed amendment to the Land Management Code relating to Accessory Dwelling Units. Comments are limited to three minutes and written comments may be submitted to the Town Clerk no later than April 21, 2025, by 5PM (MST).
 - 2. NIGHTLY RENTAL CODE AMENDMENT DISCUSSION.** Nancy Leigh, Town Clerk. The Council will review proposed amendments to the Nightly Rental Code as it pertains to fractional/multiple ownership and occupancy requirements.
 - 3. LAND MANAGEMENT CODE DISCUSSION ON NIGHTLY RENTAL ZONING.** Bret Howser, Town Manager. The Council will discuss potential amendments to the Land Management Code addressing Nightly Rental zones.
 - 4. CONSTRUCTION MITIGATION ADMINISTRATIVE POLICY.** Greg Sant, Planning & Building Administrator. The Council will consider approval for a proposed administrative policy to mitigate and manage construction activities within the town.
 - 5. FUTURE AGENDA ITEMS.** Discussion on potential items for future Council agendas.
- H. ADJOURNMENT**

Date: April 17, 2024

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



CERTIFICATE OF POSTING

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

Nancy Leigh, Town Clerk



BRIAN HEAD

STAFF REPORT TO THE TOWN COUNCIL

ITEM: BUILDING AND PLANNING DEPARTMENT REPORT

AUTHOR: Greg Sant
DEPARTMENT: Building and Planning
DATE: April 8, 2025
TYPE OF ITEM: Informational

BUILDING REPORT:

2025 Building Permits Summary:	<u>March</u>	<u>2025</u>
Issued Permits by Category -		
Single Family Dwellings	0 Dwellings	
Townhomes	0 Dwellings	
Additions/Remodels/Accessory Unit	1	1
Minor Alterations	0	
Commercial	0	
Utilities (Electric and Gas)	0	<u>1</u>
Total	1	2

2025 Land Use Permits Summary:

Issued Permits by Category –		
Tree Removal	0	
Grading and Excavation	0	
Trenching/Encroachment	1	<u>1</u>
Total	1	1

2025 Land Use Submitted Applications:

By Category –		
Conditional Use Permits	0	
Lot Line Adjustment/Minor Plat Amendments	0	
Preliminary Plat	0	
Final Plat	1	1
Vacating ROW/Easement	0	
Zone Amendment	0	

2025 Summary of Fees Collected:

By Category -		
Building Permit Fees	\$ 124	354
Plan Check Fees	\$ 0	
Tree and Grading Permit Fees	\$ 0	
Land Use Permit Fees	<u>\$3,850</u>	<u>3,850</u>
Sub-Total	\$3974	4,204
<u>Impact Fees Collected</u>		
Total Fees Collected	\$ 0	

2025 Inspections Summary:	<u>March</u>	<u>2025</u>
Inspections by Permit Type –		
Single Family Homes and Cabins	13	58
Multi-Family (Townhomes)	15	33
Additions/Remodels/Minor Alterations	0	4
Commercial	0	0
Utilities	2	3
Fire Mitigation	2	2
<u>Grading</u>	<u>0</u>	<u>0</u>
Total	32	100



STAFF REPORT TO THE TOWN COUNCIL

ITEM: PUBLIC HEARING LMC AMENDMENT – ACCESSORY DWELLING UNITS

AUTHOR: Greg Sant
DEPARTMENT: Planning and Building
DATE: April 22, 2025
TYPE OF ITEM: Discussion

SUMMARY:

The Council will hold a public hearing to receive comments on a proposed amendment to the Land Management Code addressing Accessory Dwelling Units. This will be a public hearing only until the Planning Commission forwards a recommendation.

BACKGROUND:

The Planning Commission, after looking at communities that have addressed this issue, and after discussing this issue in the March 11th Planning Commission meeting. On April 15, 2025 the Planning Commission reviewed the proposed language below, however, they tabled this item until May 6, 2025.

An accessory dwelling unit (ADU) is a secondary living space on a property that shares a lot with the main house. ADUs can be a basement apartment, a garage conversion, or an addition to the house. They can also be stand-alone detached structures in the backyard.

Purpose

- **Additional living space:** For family members, guests, or young adults returning home
- **Rental income:** Can be rented out to generate income
- **Affordable housing:** Can help make housing more affordable for homeowners and tenants
- **Community:** Can help foster familial bonds and community

Types of ADUs

- **Detached:** Also called backyard cottages, granny flats, or laneway houses
- **Garage conversion:** A garage converted into living space
- **Addition:** Added onto the house, sharing walls and utilities
- **Basement conversion:** Also called basement apartments or in-law suites
- **Internal:** Part of the primary house converted to an ADU

Legality

ADUs are legally part of the same property as the main house and cannot be bought or sold separately.

Zoning

Cities and counties often have zoning regulations that permit ADUs in certain areas.

Our current Land Management Code (LMC) allows ADU's as follows:

In 9-7-1(C), Mother-in-law and guest houses are a conditional use and are addressed as follows: Mother-in-law / guest house is an accessory use on a lot that is **equal to or greater than one acre** and shall comply with accessory structure requirements in this title with a **maximum of one mother-in-law/guest house per property.** (ord. 18-006, 6-11-2018 amd. ord. 20-006, 7-14-2020)

Accessory Structures are defined in our LMC as follows: **Non-habitable accessory structures**, subordinate to and located on the same lot with a primary structure, the use of which is clearly incidental to that of the main building or to the use of the land, and which is not attached by any part of a common wall or common roof to the main structure may be permitted.

In addition, the accessory structures must meet the following requirements per 9-12-7(J):

1. Must have a minimum of ten feet (10') of clearance from other structures.
2. Structure cannot be located within the setback (notwithstanding, setback exceptions that apply to the primary structure as outlined in chapter 7 of this title, in the applicable zone, also apply to accessory structures).
3. Must meet snow load requirements.
4. Required to have footings or foundation for accessory structures over 450 square feet.
5. Structures being used as a garage for vehicle storage must meet all applicable International Building Code requirements.
6. Shipping containers, intermodal containers, or railroad boxes may not be used as accessory structures. (Ord. 21-006, 05-25-21)
7. No more than three (3) accessory structures are allowed on a single lot of up to one (1) acre. Additional accessory structures may be allowed on lots larger than one acre, not to exceed two (2) accessory structures per additional acre.
8. Except for a building accessory to an agricultural use, the footprint of an accessory structure must not exceed fifty percent (50%) of the footprint of the primary structure. In no case shall an accessory structure's footprint exceed three thousand (3,000 sq. ft.) in size. (amd. ord. 24-014, 10-8-24)
9. Maximum height of accessory structures shall be limited as follows:

Size Of Accessory Structure	Maximum Structure Height
a. 0 - 200 sq. ft.	15'
b. 201 - 400 sq. ft.	19'
c. 401 - 1,000 sq. ft.	24'
d. 1,001 - 1,500 sq. ft.	27'
e. >1,501 sq. ft.	As determined by the Land Use Authority and not to exceed 32'
- f. If the proposed accessory structure sits at a lower elevation than the primary structure, an addition of one foot (1') of height may be allowed for each one foot (1') of elevation difference up to five feet (5') of additional height following a determination of the Land Use Authority that the height of the accessory structure does not conflict with the Town's General Plan or detract from the intended character of the zone. (ord. 17-006, 8-8-2017, amd. ord. 24-014, 10-8-24)
- c. Under no circumstances shall an accessory structure exceed eighty percent (80%) of the height of the primary structure. (ord. 17-006, 8-8-2017).

PROPOSED LMC AMENDMENT LANGUAGE:

It is proposed that the current LMC Title 9, Chapter 7 Conditional Uses as described in paragraph 1 (§9-7-1) be changed as follows:

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

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

~~One detached accessory dwelling unit (ADU) on a lot of no less than 0.5 acres. Accessory Dwelling Units (ADUs) are defined as a secondary living space on a property that shares a lot and ownership with the primary residential structure. ADUs can be a basement apartment, a garage conversion, or an addition to the house (internal ADU). They can also be stand-alone structures on the lot (detached ADU). The following requirements/restrictions apply to this type of dwelling:~~

- ~~1. The purpose of allowing this type of use on an R-1 lot is to create more affordable housing. ADU's will not be permitted as Short-Term Rentals (STR).~~
- ~~2. The ADU is a secondary use to the primary residential structure on the lot and therefore one master meter shall be installed for utilities for metering all structures on the lot.~~
- ~~3. Detached ADUs will meet all the requirements of Accessory Structures in §9-12-7(I).~~
- ~~4. Off-street parking requirement of 1 per bedroom in the ADU, not to exceed 2 new spaces.~~
- ~~5. All detached accessory dwelling units must follow the design standards and guidelines as outlined in §9-12-7 and should substantially match the primary residential structure in design features.~~
- ~~6. ADUs are subject to the building codes (IRC), and design standards in place at the time of the application~~
- ~~7. Occupancy shall comply with the same definition for a single-family unit as it pertains to the number of unrelated occupants allowed to dwell in the unit (see definition for "Family").~~

STAFF RECOMMENDATION:

No recommendations at this time – Public Hearing only.

PROPOSED MOTION:

N/A – Public Hearing only.

ATTACHMENTS:

A – Public Comment: John Stark Email & Attachments

For Attachments, [CLICK HERE](#) – Total pages 83

B – Public Comment - Jim Vincent

April 15th - 2025 Public Hearing - ADU Land Use Changes



John Stark

Tue, Apr 15, 12:11 PM
(2 days ago)

to me, Greg, Bret, James

Nancy & Greg,

Good morning and thanks for the staff efforts in preparing the ADU Land Use Changes.

I'd like the following information to be presented at the Public Hearing at 1PM MST.

I plan to join the Zoom call to present the below finding and personal recommendations.

- Current Changes in ADUs policies for Utah began in 2021.
- The state standard minimum Lot Size is 6,000 sqft or 0.137 acre.
- Majority Utah Cities have opted for 8,000 sqft or .183 acre.
- Brian Head Planning has recommended 21,780 sqft or 0.50 acre.
- This is 2.7 times the average land size of the current majority of cities in Utah.
- Brian Head has 1480 - R1 Lots that are 10.0 to 0.12 acres
- The current town code allows 178 Lots - 12.0% to have ADUs.
- The Proposed Change will allow for another 525 Lots - Additionally 35.5%
- The current minimum lot to be subdivided is 17,424 sqft or 0.40 acre.
- With recommended policy changes we are Excluding 413 Lots - 27.9% to be excluded that meet minimum lot standards.
 - **John Stark recommends Outside / Internal ADU be allowed on Lots 0.40 acre and greater.**
- With recommended policy changes we are Excluding 349 Lots - 23.6.9% to be excluded that meet State and Majority City Standards.

- **John Stark recommends Internal ADU be allowed on Lots 0.39 to .18 acre.**
- John Stark as Owner, Investor and Developer currently own (8) Lots in Ski Haven Chalet
 - With staff recommendations (3) of my (8) are not eligible to have ADUs.
- **John Stark would also like to see Outside ADUs be located behind Primary Residential Structure.**
- **As a father of a special needs son with intellectual disabilities, we need an ADU for our retirement.**
- **Not every lot wants or needs the ability to have an ADU, town saturation will never be there of ADUs.**
- **Why limit the backyard potential for owners that want offset income.**
- **Reduce mountain commute traffic for first young adults with affordable housing.**

Respectfully

John Stark

James Vincent

Apr 15, 2025,
12:26 PM (2 days ago)

to Stark, me, Sant, Howser

Hello: This is Jim Vincent, I am supportive of John's recommendation.

Thank you, Jim Vincent

Sent from my iPhone



STAFF REPORT TO THE TOWN COUNCIL

ITEM: NIGHTLY RENTAL CODE AMENDMENT DISCUSSION

AUTHOR: Nancy Leigh, Town Clerk
DEPARTMENT: Administration
DATE: April 22, 2025
TYPE OF ITEM: Discussion

SUMMARY:

The council will hold a discussion and give staff input on proposed amendments to the Nightly Rental Code as it relates to Rental Management Companies, requiring nightly rentals to post their business license number on their advertising sites, fractional/multiple ownership and changing to a bedroom-based occupancy.

BACKGROUND:

In 2008, the Nightly Rental Code was adopted and since that time there have been several changes to the Nightly Rental Code such as:

- Regulating noise / disturbances in nightly rentals.
- Parking requirements for R1 zones.
- Posting of Good Neighbor Policy / Overnight Parking Map requirement.

ANALYSIS:

Staff are proposing an amendment to the Nightly Rental Code with the following changes:

- Defining Nightly Rental Management Companies.
- Requirement of posting the business license number on short-term rental advertising platforms.
- Fractional/Multiple Ownership
- Occupancy calculation from a square footage to a bedroom-based occupancy calculation.

Nightly Rental Management Companies:

The definition of a Nightly Rental Management Company is defined as a company that handles the day-to-day business of a nightly rental property on behalf of an owner. It also identifies that there must be a minimum of six (6) units in order to qualify as a rental management company to receive the additional unit fee. An individual who owns 2-5 units would be required to pay the full licensing fee for each unit and each unit would have a separate license number identifying that specific unit. Individual owners would not qualify for the reduced rate for an additional unit and it would be reserved for the Rental Management Company.

We are starting to see more individual rental owners who are assisting others in licensing by identifying them under their license and receiving a reduced rate for the additional unit. Currently, the rate is \$151 for a new unit and \$122 for renewal for the first unit and each additional new unit is \$32 (new unit) and \$26 for a renewal unit. The reduced rate for additional units would apply only to Rental Management Companies that have six or more units. Rental Management Company could own up to 33% of the rental pool but requires that 66% must be owned by other individuals.

Business License Number Requirement on Advertising Platforms:

The 2025 Legislative Session passed House Bill 256 which will allow municipalities that regulate nightly rentals by using the advertising websites to determine if a nightly rental is operating as long as the municipality has additional information to support its position that an owner violated a municipal ordinance. The Bill also provides that a municipality may request a website to remove a listing or offering that violates business licensing or zoning requirements. This bill takes effect May 5, 2025.

The proposed amendment would require nightly rental businesses to post their business license number on their advertising platform website as part of their requirement to hold a valid business license with Brian Head Town. This would allow us to identify specific nightly rental businesses that are licensed with the Town and also ties in with the separate license number for each unit.

Fractional Ownership:

Staff are trying to be proactive in addressing fractional ownership and nightly rentals. Fractional ownership is where there are multiple owners of a single unit, some have up to eight (8) owners of a unit. This could cause some potential issues when licensing a nightly rental for the Town, in which one owner could apply for a nightly rental business license, but the other owners may not be aware their unit is used as a nightly rental.

The proposed amendment would require the approval of all owners of a unit to sign off for a nightly rental. We do this by requiring all owners of the unit to sign an Owner Affidavit which acknowledges they are aware of the Town's requirements for nightly rentals and their responsibility as owners. If the unit receives a strike against the license, all owners would be notified of the strike. We believe this would allow for transparency for all owners involved in a fractional/multiple ownership.

Bedroom-Based Occupancy:

Currently the Town applies the Fire Code for occupancy, which is one (1) person per 200 square feet. In order to verify the square footage, staff utilizes the County's Eagle program to determine what the square footage is for the unit. The proposed amendment would change to a bedroom-based occupancy in which all units would automatically have four (4) people, regardless if the unit is a studio or cabin. Occupancy would then increase by two (2) people per bedroom.

Some of the benefits of a bedroom-based occupancy are as follows:

1. An easier and simple system for the owners and guests to know what the occupancy is for the unit. The occupancy is identified on the business license.
2. It benefits the smaller properties that currently are unable to allow more than 2-3 people per unit.
3. Would save time for staff in verifying the square footage through the County's program
4. Officers currently do not check the square footage when conducting a fire inspection but could easily verify the number of bedrooms when the unit is inspected. The fire inspection would be updated to reflect the number of bedrooms.
5. Parking: It could have a potential impact in the R1 zones. If an occupancy is minimally reduced, the number of vehicles could also reduce. Parking is the number one violation for nightly rentals in the R1 zone.

Below are some examples of actual nightly rental units in Brian Head with both the square footage calculation and bedroom-based occupancy are as follows:

Cabin: 4,000 square feet – 6 bedrooms:

Square Footage calculation: 20 persons max occupancy

Bedroom-Based calculation: 16 persons max occupancy

Cabin: 2,500 square feet – 4 bedrooms

Square Footage calculation: 13 persons max occupancy

Bedroom-Based calculation: 12 persons max occupancy

Unplugged Tiny homes: 400 square feet – no bedrooms

Square Footage calculation: 2 persons max occupancy

Bedroom-Base calculation: 4 persons max occupancy

Condo: 1,000 square feet – 2 bedrooms

Square Footage calculation: 5 persons max occupancy

Bedroom-Based calculation: 8 persons max occupancy

Condo: 475 Square Feet – Studio

Square Footage calculation: 3 persons max occupancy

Bedroom-Base calculation: 4 persons max occupancy

The average number of bedrooms for condos is two (2) and the average number of bedrooms for cabins is four (4) bedrooms.

It is noted that currently the Town currently does not regulate occupancy or parking in HOA's, but we are aware that the majority of condos have well exceeded the maximum occupancy in their units and staff regularly receive complaints regarding the excessive occupancy. Staff is not looking to regulate occupancy nor parking in a condo unit but believe this may help some condo owners who try to stay within the Fire Code regulations for occupancy and feel that it is more of a realistic occupancy number for the smaller unit.

FINANCIAL IMPLICATIONS:

N/A

BOARD/COMMISSION RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff are seeking input from the Council on the potential amendments before a final draft is presented to the Council for approval.

PROPOSED MOTION:

N/A – Discussion item only.

ATTACHMENTS:

A – Nightly Rental Code Chapter 1 Definitions – Chapter 2A-21 Nightly Rental Code.

Title 3 BUSINESS AND LICENSE REGULATIONS

Chapter 1 DEFINITIONS

3-1-1: DEFINITIONS:

3-1-1: DEFINITIONS:

All words and phrases used in this title shall have the following meanings, unless a different meaning clearly appears from the context:

AGENT: Means any legally authorized entity acting on behalf of a property owner, including but not limited to a rental management company, property manager, an executor of the owner's estate, or other legal fiduciary. (Ord. 19-009, 7-8-2019)

BUSINESS: A distinct and separate "person" or entity "engaging in business", as those terms are defined in this section. A "business" may be distinguished from another business by separate state sales tax numbers, federal tax identification numbers (employer identification number), and/or separate ownership.

BUSINESS AND SPECIAL EVENTS NUISANCE: Any licensed premises where persons are permitted to use profanity, indecent, immoral, loud or boisterous language, or immoral, unruly, disorderly, lewd, obscene conduct is permitted, or carried on; or persons under the age of twenty one (21) are permitted to purchase or drink beer, alcoholic beverages or liquor; or city, county, state or federal laws or ordinances are violated by the licensee or his agents or patrons with the consent or knowledge, actual or constructive, of the licensee which tend to affect the public health, safety, peace or morals; or patrons are throwing litter or other objects within the licensed premises or from the licensed premises in a manner which tends to affect the public safety or health.

CHARITABLE ORGANIZATION: Any organization recognized by the internal revenue service (IRS) as a 501(c)(3) charitable organization, such as, but not limited, to a religious organization, or any social or welfare organization recognized and dedicated to the relief of the poor, care of the sick or elderly, or aid to victims of disaster, catastrophe or personal tragedy.

COMMERCIAL VEHICLES AND TRAILERS: Motor vehicles that are utilized in the normal course of business, including, but not limited to, delivery trucking, commercial hauling, snow removal services, transportation of goods or other cargo rental vehicles, concrete trucks and dump trucks. "Commercial vehicles and trailers" do not include those that transport people to, from and within Brian Head Town for a fee.

CONDUCTING BUSINESS: Includes the sale or offering for sale of any goods or merchandise, or the offering or performing of any service for valuable consideration of any kind.

CORPORATE SPONSOR: Any business or combination of businesses which provide funding for any special event for a substantial amount of the funds necessary to promote the event or account for substantial amount of the event's operating expenditure budget.

DESIGNEE: A Brian Head Town staff member authorized by the town Licensing Officer to process liquor related and business license applications and renewals.

ENGAGING IN BUSINESS: Includes all activities engaged in within the corporate limits of Brian Head Town carried on for the purpose of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term business unless otherwise specifically prescribed. "Engaging in business" includes, but is not limited to, the sale or rental of tangible personal or real property at retail or wholesale, the manufacturing of goods or property and the rendering of services for others for a consideration, except the rendering of services by an employee to his employer under any contract of employment.

FIREWORKS PERMIT: A permit issued by the town fire marshal for aerial or concession fireworks, pursuant to current fire codes.

FOOD CART: A cart that is not motorized and that a vendor, standing outside the frame of the cart, uses to prepare, sell, or serve food or beverages for immediate human consumption. (22-012, 11-8-22)

FOOD TRUCK: A fully encased food service establishment on a motor vehicle or on a trailer that a motor vehicle pulls to transport, and from which a vendor standing within the frame of the vehicle, prepares, cooks, sells, or serves food or beverages for immediate human consumption; or a food cart, or an ice cream truck. (ord. 22-012, 11-8-22)

FOOD TRUCK BUSINESS: A person who operates a food truck or, under the same businesses, multiple food trucks. (ord. 22-012, 11-8-22)

HEARING OFFICER: The Town Manager of Brian Head Town is designated as the hearing officer for Brian Head Town.

ICE CREAM TRUCK: A fully encased food service establishment:

- A. On a motor vehicle or on a trailer that a motor vehicle pulls to transport;
 - B. From which a vendor, from within the frame of the vehicle, serves ice cream;
 - C. That attracts patrons by traveling through a residential area and signaling the truck's presence in the area, including by playing music; and
 - D. That may stop to serve ice cream at the signal of a patron.
- (ord. 22-012, 11-8-2023)

LICENSE FEE: Includes the administrative fee as defined by the consolidated fee schedule.

LICENSED PREMISES: Any room, building, structure or place, whether permanent or temporary, occupied by any person licensed to conduct business within the town boundaries.

LICENSEE: Person to whom a license has been issued pursuant to the provisions of this Title, including individual person, partnership, joint ventures, associations, clubs, trusts, corporations or any other entities qualified by law to carry on any business referred to herein. The term Licensee as used herein shall include all of the above and shall be either the applicant or licensee. (amd. Ord. 19-009, 7-8-2019)

LICENSING OFFICER: The Town Clerk, or his or her designee, responsible for receiving from an applicant the completed application and either granting, suspending, or denying the application.

MOBILE VENDOR: Any business which sells food, flowers, agricultural products, ice cream, candy, popcorn or other goods or merchandise from tents/canopies, push carts, mobile wagons, trailers, or motor vehicles. Includes Food Trucks. (ord. 22-012, 11-8-22)

NIGHTLY RENTAL FACILITY: Also called "short-term rental". Any place providing temporary sleeping accommodations to the public for a period less than thirty (30) days, including, without limitation, a hotel, motel, lodge, condominium project, single-family residence, bed and breakfast, boarding house, inn, resort, rooming house, recreational lodging unit, private campground, or timeshare project. amd. Ord. 19-009, 7-8-2019

NIGHTLY RENTAL MANAGEMENT COMPANY: A business that handles the day-to-day operations of a nightly rental property, like a vacation rental on behalf of the property owner. Rental Management Companies must have a minimum of six (6) units to be considered a Nightly Rental Management Company. The Nightly Rental Management Company may own up to 33% of their rental properties with 66% of the rental properties owned by other individuals.

NIGHTLY RENTAL WEBSITE: Means a website or other digital platform that: 1) allows a person to offer a nightly rental to one or more prospective renters; and 2) facilitates the renting of, and payment for a nightly rental.

NONPROFIT CORPORATION: A corporation or company which is not conducted or maintained for the purpose of making a profit and/or no part of the income of which is distributable to its members, trustees or officers, or a nonprofit cooperative association.

PERMIT: Permits may be issued by the Licensing Officer, or his or her designee, to any business, individual or special events that are identified in subsection [3-2A-5B](#) of this title, as a permit holder in lieu of a license. Permits are considered temporary in nature unless otherwise identified.

PERSON: Any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, partnership, joint venture, club, company, business trust, corporation, association, organization, society, or other group of individuals acting as a unit, whether mutual, cooperative, fraternal, for profit, nonprofit, or otherwise.

PLACE OF BUSINESS: Each separate location maintained or operated by the licensee within Brian Head Town from which business activity is conducted or transacted. A location shall be identified by street address or by building name if a street address has not been assigned. "Place of business" means cafes, restaurants, public dining rooms, cafeterias, taverns, cabarets, and any other place where the general public is invited or admitted for business purposes, including any patios, balconies, decks or similar areas, and also means private clubs, corporations and associations operating under charter or otherwise wherein only the members, guest members

and their visitors are invited. Occupied hotel, motel rooms, condominiums and cabins that are not open to the public shall not be "places of business" as herein defined.

RESTAURANT: A place of business where a variety of food is prepared and/or cooked and complete meals are served to the general public and is engaged primarily in serving meals to the general public.

ROUTE DELIVERY: Any delivery made to customers of a business which makes repeated door to door deliveries to the same households along designated routes with an established time interval in between delivery visits. The majority of such deliveries must be to fulfill orders previously made by the customer. Such businesses will include, but not be limited to, dairies and sellers of bulk meats or produce.

SALE/SELL OR TO SELL: Any transaction, exchange or barter whereby, for any consideration, or by any means or any pretext promised or obtained, whether done by a person as a principal, proprietor, or as an agent, servant or employee, unless otherwise defined in this title.

SEASONAL BUSINESS: A business engaging in business for more than thirty (30) days in a given year, but not exceeding more than six (6) months in the same year.

SEXUALLY ORIENTED BUSINESS: A "business" as defined in [chapter 5](#) of this title, "Sexually Oriented Businesses".

SOLICITED DELIVERY: A delivery of previously ordered goods or services or the United States mail. "Solicited delivery" includes, but is not limited to, the delivery of newspapers or publications pursuant to a subscription, the United States mail, parcel delivery services, businesses engaging in route delivery or persons delivering previously ordered goods or services on behalf of an established retailer of those goods or services.

SPECIAL EVENT: Any event, public or private, with either public or private venues, requiring town licensing beyond the scope of normal business and/or liquor regulations, as defined by this code; or any event held on public or private property in which the general public is invited, with or without charge, and which creates significant public impacts through any of the following:

- A. The attraction of large crowds;
- B. Necessity for street closures on any arterial street necessary for the safe and efficient flow of traffic in Brian Head Town;
- C. Use of public property;
- D. Use of town transportation services;
- E. Use of off-site parking facility;
- F. Use of amplified music in or adjacent to a residential neighborhood;
- G. Use of town personnel;
- H. Impacts via disturbance to adjacent residents;

- I. Disruption of the normal routine of the community or affected neighborhood; or
- J. Necessitates special event temporary beer or liquor licensing in conjunction with the public impacts.

SPONSOR: A person, group or business which has contracted to provide financial or logistical support to any special event or festival. Such agreement may provide for advertising rights, product promotion, logo promotion, exclusivity of rights, products or logos.

STREET CLOSURE: The deliberate blockage of any public street or town owned parking facility to prohibit the flow of traffic or access of vehicles. Any non-construction street closure shall require a special event license.

UNIT: Any separately rented portion of a hotel, motel, condominium, single-family residence, duplex, triplex or other residential dwelling without limitation.

UNSOLICITED DELIVERY: Delivery that is not a solicited delivery, including the delivery of any unsolicited newspaper or publication, sample product or advertising material. Unsolicited newspapers or publications, sample products or advertising material shall include, but not be limited to, handbills describing or offering goods or services for sale, any goods or products that were not previously ordered by the homeowner or occupant, any newspaper or publication delivered without a subscription by the owner or occupant, and any coupons or rebate offers for goods and services.

VENDOR: Any person, group or business that transacts business within the town limits on a temporary basis, such as special events. (amd. ord. 22-012, 11-8-22)

VENUE: The location or locations upon which a special event or festival is held, as well as the ingress and egress route when included in the special event license. (Ord. 08-017, 8-26-2008)

BRIAN HEAD TOWN CODE,

TITLE 3, CHAPTER 2A – LICENSING IN GENERAL

3-2A-21-3: NIGHTLY RENTAL FACILITIES:

No person shall operate or engage in any nightly rental activity within the town without first obtaining and maintaining a valid business license as required by this chapter. (amd. Ord. 19-009, 7-8-2019)

- A. License Issuance: The business license for nightly lodging facilities will be issued by the Town upon payment of necessary fees and upon a finding by the Licensing Officer or designee that the review criteria established below have been satisfied.
- B. Licensee: The applicant and licensee for nightly lodging facilities under this section shall be the owner of the property which will be used as a nightly rental or the operator of the nightly rental (such as a rental management company) with the written consent of the property owner. (amd. Ord. 19-009, 7-8-2019).
- C. Application Procedure: In addition to the information required by section [3-2A-4](#) of this article, all new and renewal license applications for nightly rental facilities must contain the name of the property owner and the property rental manager, if any, a sales tax collection number, the physical address of each nightly rental unit being operated by the licensee, the address and telephone number of the owner and/or property rental manager who is available by telephone, the number of on-site parking spaces at each nightly rental unit, and all other information requested on the application forms. It is the licensee's duty to promptly supplement all forms as information changes or as units change from one owner or manager to another. (amd. Ord. 19-009, 7-8-2019).
- D. Multiple Ownership or Fractional Ownership: In instances where multiple parties hold ownership of a unit, all owners must sign the Town's Owner Affidavit for a nightly rental acknowledging that the unit is intended to be used as a nightly rental unit.
- ~~DE.~~ Minimum Standards For Licensing: The minimum standards required to obtain and maintain a nightly rental business license with the Town: (amd. Ord. 19-009, 7-8-2019)
 - 1. All nightly rentals must meet all applicable building, health, fire codes and town ordinances for the intended use. (Ord. 19-009, 7-8-2019)
 - 2. Maximum overnight occupancy is a bedroom-based occupancy based on the number of designated bedrooms. A limit of two occupants per bedroom plus four additional persons per unit. Designated bedrooms must meet all Town. Building, and safety code standards.
 - 3. Maximum occupancy ~~as allowed by fire code~~ shall be posted in plain view near the main entry of all single family residential nightly rentals. (Ord. 19-009, 7-8-2019)

4. Business License Numbers are to be posted on all Nightly Rental websites advertising the nightly rental.
5. Snow Removal For Access: Snow removal during winter months to a level that allows safe access to the nightly rental facility over the normal pedestrian access to the unit. (amd. Ord. 19-009, 7-8-2019)
6. Off Street Parking Maintenance: Snow removal service to and from off-street parking facilities associated with the nightly rental facility must be maintained so that off street parking is at all times available for use of the occupants. (amd. Ord. 19-009, 7-8-2019)
7. Parking: Parking must be in compliance with the Town parking ordinance including limitation on on-street parking and other state laws and regulations. Nightly rentals shall be limited to a maximum number of vehicles parked on-site based on the total available developed off-street parking spaces on premises. Single family residential nightly rental shall post the maximum on-site parking in plain view near the main entry along with a declaration prohibiting on-street parking between November 1st and April 30th as well as a map of available overflow public parking (amd. Ord. 19-009, 7-8-2019)
8. Structural Maintenance: Structural maintenance to sure building, health, safety, and fire code compliance.
9. Yard Maintenance: Summer yard maintenance, including landscaping, to a level that is consistent with the level of landscaping and maintenance on adjoining and nearby properties.
10. Inspections: Each unit will be inspected for safety issues such as fire extinguisher, smoke detectors, maximum occupancy limits, appropriate egress, etc. Units will be inspected at the time the license is granted and will be re-inspected at least biennially. Inspection and re-inspections will be at the cost of the licensee. (amd. Ord. 19-009, 7-8-2019).
11. Good Neighbor Policy: Licensees are required to distribute a copy of a town-approved Good Neighbor Policy to all guests/renters at the licensee's expense and to keep a copy of the Good Neighbor Policy in a conspicuous place within the unit. (Ord. 19-009, 7-8-2019)
12. Response to Complaints: Failure of the licensee to respond in a timely manner to Town complaints or concerns may result in a violation and possible fines to the owner and/or rental management company or revocation of the business license. (Ord. 19-009, 7-8-2019).
13. Insurance: Property and casualty insurance must be maintained on the nightly rental facility at all times. Licensee must provide proof of such insurance at the time of application and upon request by the Town. (Ord. 19-009, 7-8-2019)
14. Commercial Uses Prohibited: Nightly rental facilities may not be used for commercial uses not otherwise permitted in the zone. Nightly rental facilities may not be converted to corporate sponsor or business houses which are used primarily to distribute retail products or personal services to invitees for marketing or similar purposes, regardless of whether such products or services are charged for. (amd. Ord. 19-009,7-8-2019)

15. Collection of Applicable Taxes and Fees: Failure of the licensee to collect and deposit sales tax or the Brian Head Enhanced Service Business License Fee is a violation of the license and grounds for revocation. (Ord. 19-009, 7-8-2019)

E. Noise, Nuisance, and Occupancy Control: (amd. Ord. 20-008, 8-11-2020)

1. The licensee of any rental unit located in a single-family residential zone (R-1) is responsible for regulating the occupancy of the unit and noise and nuisance created by the occupants of the unit. Violation of the Town Nuisance Ordinance (§44), violation of maximum occupancies, failure to use designated off-street parking, criminal conduct, or any other abuse which violates any law regarding use or occupancy of the premises, is grounds for revocation under §3-2B-1 of this Title. (Ord. 20-008, 8-11-2020)
2. Licensees of rental units located in multi-family residential zones (R-3) or commercial zones, in concert with any existing owner's association, shall use their best efforts to reduce/limit noise and nuisance created by the occupants of the units. (Ord. 20-008, 8-11-2020)

F. Review Criteria: In determining whether or not a business license for a nightly rental facility shall be issued, the application shall be reviewed to see if, in addition to the minimum standards for nightly rentals set forth in 3-2A-21-3(D) and the standards and conditions applicable to issuance of all business licenses, the following conditions and standards are met: (amd. Ord. 19-009, 7-8-2019)

1. The unit is located within a zone designated as allowing rentals or nightly rental facilities for the period for which the license is applied. (amd. Ord. 19-009, 2019)
2. The Building Department and Public Safety Department has reviewed the business license application for compliance with all building, health, and fire codes. Inspection of the unit shall be required under section [3-2A-7](#) of this article. The applicant shall bear the cost of any such inspection and any re-inspection which may be required. The cost shall be determined by the prevailing hourly rate of the building department and/or public safety department. (amd. Ord. 19-009, 7-8-2019)
3. The application must bear a sales tax collection and accounting number for the nightly rental facility. This number may be the sales tax accounting number used by the property management company or owner responsible for that unit, or may be specific to the unit, but no license will be effective until the sales tax number is provided. (Ord. 08-017, 8-26-2008) (amd. Ord. 19-009, 7-8-2019)



ITEM: NIGHTLY RENTAL LMC DISCUSSION

AUTHOR: Bret Howser
DEPARTMENT: Administration
DATE: April 22, 2025
TYPE OF ITEM: Discussion

SUMMARY:

The Town Council will discuss possible changes to the Land Management Code with respect to regulations on nightly rentals primarily in single family residential zones.

BACKGROUND:

The Council asked the staff to revisit nightly rental regulations as an action step on the FY 2025 Strategic Plan. Staff gathered with Mayor Calloway, who had specific proposals in mind for these alterations. The following analysis represents those proposed changes.

The Planning Commission held an initial discussion with regard to changing the status of nightly rentals as an allowed use in residential and commercial zones on March 18, 2025, and advised staff that they see no call to move forward with such changes. This initial discussion was intended to give staff some direction in drafting a proposed ordinance prior to holding the requisite public hearings to alter the LMC. However, with the Commission indicating that they would not vote to recommend any such changes, staff is unsure how to move forward.

So we are now seeking a preliminary discussion with the Town Council to determine if it merits additional time and research to develop the following concepts into a draft ordinance, with the understanding that the Planning Commission is likely to vote not to recommend it.

ANALYSIS:

Potential Nightly Rental LMC Changes:

- 1) R-2 and R-3 Zones: nightly rentals allowed (with HOA approval where there is HOA)
- 2) R-1 Zone:
 - a. Subdivisions with HOA, nightly rentals allowed by HOA approval
 - b. Subdivisions w/o HOA
 - i. cap on total units by "Neighborhood Group" (NG)
 1. NG-A: Timbercrest, Cedar Breaks Mountain Homesites Unit B
 2. NG-B: Ski Haven Chalets Units A, B & C, Cedar Breaks Mountain Homesites, Cedar Breaks Mountain Homesites Unit A & C, Ski Haven Estates Unit A
 3. NG-C: Brian Head Unit 1, Cedar Breaks Mountain Estates Units A, B & C, Sunset Mountain
 4. NG-D: Navajo Ridge, Brian Head Unit 3, Mountair Evergreens, Ski View Estates

5. NG-E: Woodbridge, Ridge View Estates, Red Rock View, Aspen View, Brooke Hill, Ridgeline Estates, Eagles Roost
6. Unsubdivided areas and single-family lots subdivided by meets and bounds will be included in a contiguous Neighborhood Group as determined by the Planning & Zoning Administrator.
 - ii. Units must be at least XYZ ft apart (Mayor suggests 200 ft)
 - iii. Cap is XY% of built units (Mayor suggests 40%)
- 3) Any neighborhoods where no cap applies? Anywhere no nightly rentals allowed at all? (or let HOAs handle that?)

The Planning Commission is not charged with making recommendations on changes to other parts of the Town Code (outside of the LMC), but for informational purposes the following regulations may also be considered by the Town Council with respect to nightly rentals.

Proposed Nightly Rental Licensing Changes:

- 1) Maximum occupancy shift from square footage to per room calculation
- 2) Fractional ownership, require all owners to sign off on nightly rental license
- 3) Fees for fire inspection, tiered up for repeat inspections
- 4) Consider increasing the Disproportionate Cost of Service Fee for public safety officer
- 5) Create a nightly rental affordable housing fee (staff investigating the legality)

FINANCIAL IMPLICATIONS:

Limiting nightly rentals in residential zones may have longer term economic impacts, but staff does not anticipate this will result in measurable financial implications for the Town in the near term.

BOARD/COMMISSION RECOMMENDATION:

No official recommendation from the Planning Commission as yet, but they have indicated (unanimously) that they are not interested in capping nightly rentals in residential zones.

STAFF RECOMMENDATION:

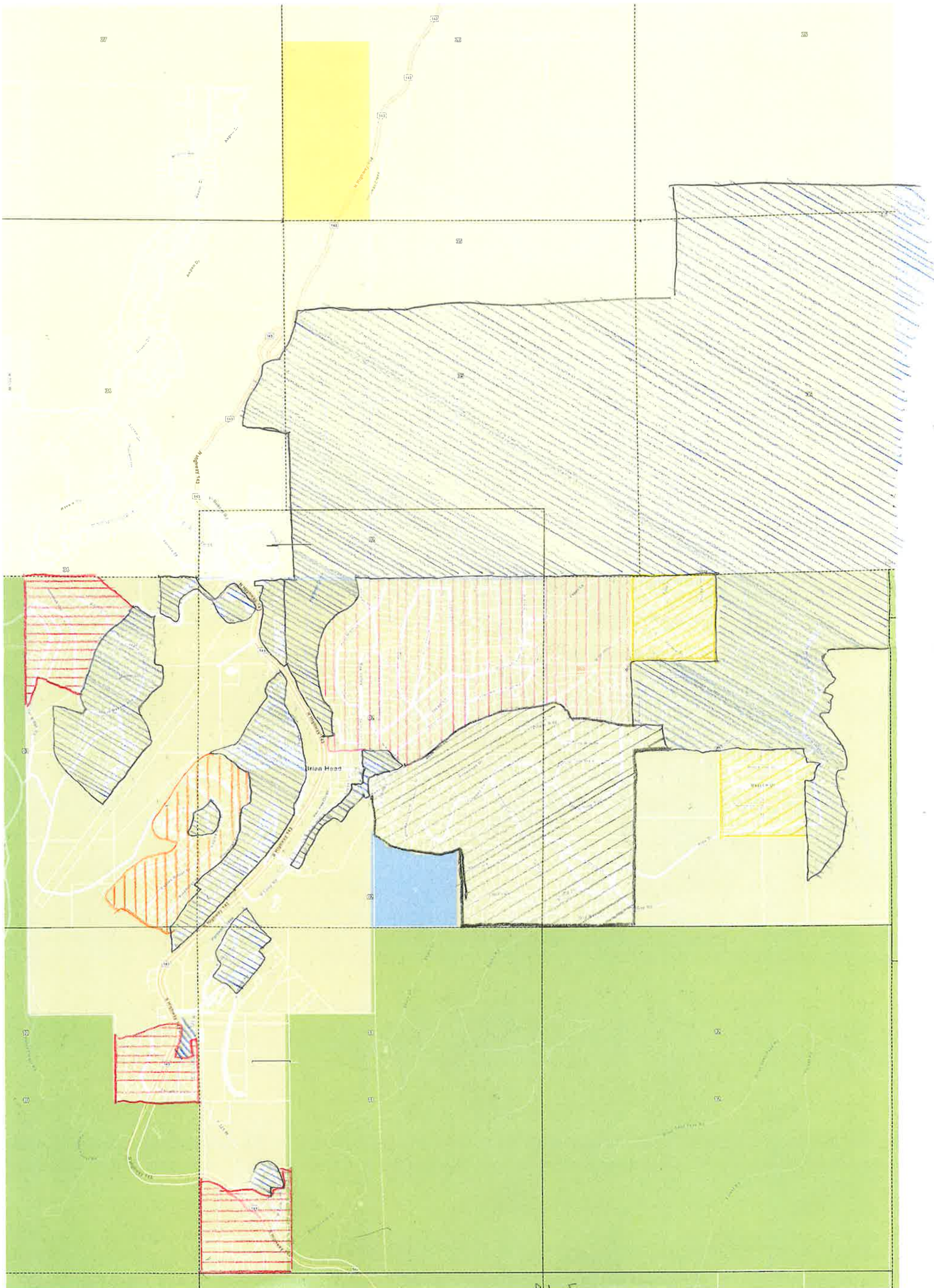
This is a policy decision for the Council, with Planning Commission recommendation. Staff has no administrative input at this point.

PROPOSED MOTION:

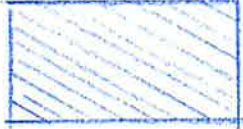
No motion necessary, item is discussion/informational only

ATTACHMENTS:

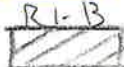
A – Neighborhood Group map



HOAA



RI-A



RI-B

RI-C



RI-D

RI-E





AUTHOR: Greg Sant
DEPARTMENT: Planning and Building
DATE: April 22, 2025
TYPE OF ITEM: Administrative
Direction

SUMMARY:

After 4 months of discussion, the Council will now act to resolve a persistent problem in town regarding the storage of materials and parking of vehicles on town roads and in R.O.W.'s during construction. The proposed Administrative Policy will address this problem for both summer and winter conditions.

BACKGROUND:

Since the first time this issue came before the Town Council, Jon, Amanda and I have met with representatives from Jacobs Construction and Choice Builders. The following proposed Administrative Policy is the result of these meetings.

ANALYSIS:

The Town Code has the following mention of Construction Mitigation/Clean-up –

9-12-8: CONSTRUCTION DEBRIS REMOVAL: All building/construction sites shall provide debris removal sufficient to facilitate the regular cleanup and removal of construction debris from the site. The debris container or containment area must prevent debris from being blown off the property and screen the debris/garbage from public view or maintain the material in a neat orderly manner. It may not become a fire hazard or nuisance to the public or attract vermin. Failure to comply with this section may result in the suspension of building permits, fines, or other such appropriate penalties. (ord. 08-016, 8-12-2008)

The Town Standard Specifications for Public Works Construction addresses the Work Site Traffic Control in Chapter 9. However, there is nowhere in either the Code or the Standards that address how Contractors can use the R.O.W. and what they need on there site to keep them in compliance with the Building Code (IRC) and the Town's expectations.

PROPOSED POLICY:

Construction Mitigation Plan (CMP)

It is proposed that a new Administrative Policy be adopted to incorporate CMP's as follows:

1. A ***separate*** site plan will be submitted with the permit that would show the following (See attached Example):
 - A. Limits of Disturbance (LOD) and the Undisturbed areas are well defined.
 - B. Potential locations for vehicle parking, material storage/staging, dumpsters, toilet facilities, wash-out areas, dirt and snow storage areas. Some of these locations may be in the R.O.W. shoulder.
 - C. The CMP should be reviewed by Planning/Building as well as Public Safety and Public Works.
2. Enforcement, penalties and fines are added to our Consolidated Fee Schedule as follows:
 - A. All violations will result in a flag being placed on the violators' permit, and no inspections will be conducted on their property until the violation has been resolved and the fine is paid.



- B. 1st Violation – No Charge with a deadline to be fixed within 5 days.
- 2nd Violation - \$500 with a deadline to be fixed within 5 days.
- 3rd + Violations - \$1,000 with a deadline to be fixed within 5 days.
- C. Egregious Violations can be given a Class A misdemeanor Citation by Public Safety and the fine will be determined by the Court.
- 3. It is the intention of this policy to maintain a minimum 20 foot roadway allowing 2 way traffic at all times.
- 4. As part of **all** permit processing, the Applicant will be Notified of the following Acknowledgements:

Proposed Acknowledgement for All Permits

As a Builder, Developer or Owner I acknowledge the following:

- 1. A temporary Limits of Disturbance (LOD) fence is required to be installed around the limits of the disturbance area to protect the proposed undisturbed land on the property.
- 2. A construction sign is required for all projects with the following info (See attached Example):
 - A. Contractor Name with permit address of the building site as well as the contractor phone number.
 - B. Sign will be 24"X36" in size and placed so that it is visible and readable from the street and the sign characters must contrast with its background.
 - C. The sign will not remain on the property for more than 12 months following the completion of the project (issuance of the CO).
- 3. The shoulder of the Right-of-Way (R.O.W.) in front of the subject lot can be used for parking construction vehicles, trash dumpsters and material staging areas. These areas must be identified on the CMP Site Plan. Rebar is never allowed in the R.O.W. Roadways and Cul-d-sacs must always remain clear for emergency vehicles.
- 4. Toilet facilities, wash-out areas, excess dirt and site snow must be kept onsite. Toilets must be staked so they do not blow over. Each site must have a lined designated wash-out area for concrete, stucco, drywall mud and paint that has a sign denoting it as such.
- 5. A building lot or site must always be maintained in a clean and safe condition.
- 6. Furthermore, all activities that will block 1 or more lanes of the road for 60 minutes or more will be required to apply for a R.O.W. permit with the Town and provide a traffic control plan for the date and time of closure.
- 7. Brian Head Town is not responsible for or liable for any damage to vehicles, materials or equipment stored or left in the R.O.W.

Proposed Acknowledgement for Winter R.O.W. Construction Permits

- 1. All the acknowledgements above.
- 2. If Builder, Developer or Owner will be building during the winter season (11/1 to 4/30), they must apply for a Winter R.O.W. Construction Permit for their project. The permit is paid one time for the duration of the project on a specific lot/site no matter how many winters the project is active.
- 3. The proposed Winter ROW Construction Permit fee is \$1,500.
- 4. Property Corners in front of the lot need to be in place and always marked with Snow Posts. Furthermore, all equipment parking and material storage areas must be marked with Snow Posts.
- 5. The contractor is responsible for all snow clearing on the subject lot as well as the R.O.W. that will be used for material storage and parking. Said snow cannot be put into the roadway.



BRIAN HEAD

STAFF REPORT TO THE TOWN COUNCIL

ITEM:

CONSTRUCTION MITIGATION

FINANCIAL IMPLICATIONS:

It is hopeful that this will generate funds to offset the cost of damage done to Town equipment from items being stored in the R.O.W.

STAFF RECOMMENDATION:

Staff recommend that the Council directs staff to implement the Construction Mitigation Plan.

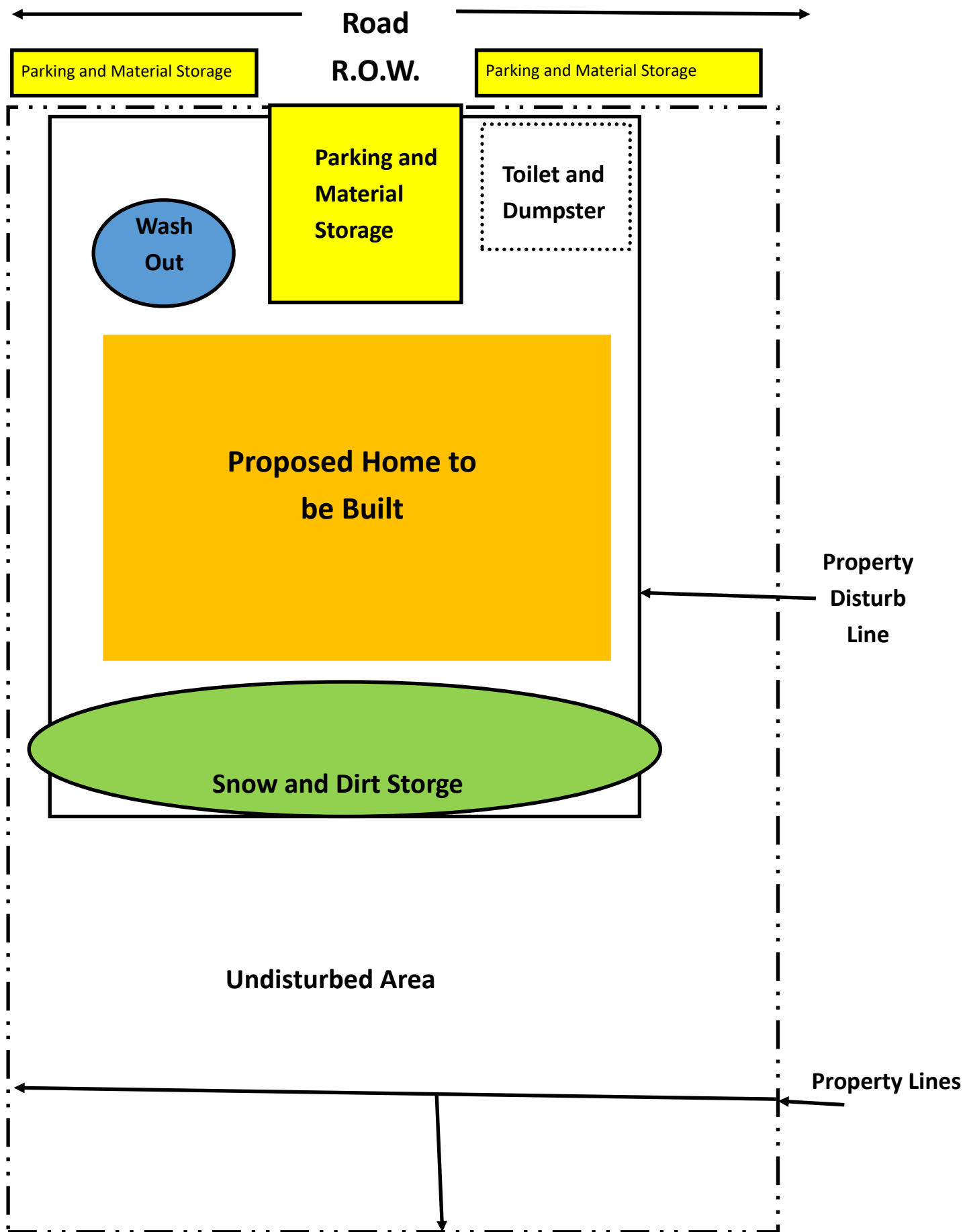
PROPOSED MOTION:

I propose that the Town Council direct staff to implement the Construction Mitigation Plan Policy as outlined in this staff report.

ATTACHMENTS:

1. Example Site Plan
2. Example Signage Layout

Site Plan Example



Building Site Address

Contractor Name
and Phone Number

Client Name, Bank Info, Etc. if desired