

Jackson Town Council Workshop

April 15, 2019

3:00 PM

Town Council Chambers

NOTICE: THE VIDEO AND AUDIO FOR THIS MEETING ARE STREAMED TO THE PUBLIC VIA THE INTERNET AND MOBILE DEVICES WITH VIEWS THAT ENCOMPASS ALL AREAS, PARTICIPANTS AND AUDIENCE MEMBERS. **PLEASE SILENCE ALL ELECTRONIC DEVICES DURING THE MEETING**

I. CALL TO ORDER AND ROLL CALL

II. WORKSHOP ITEMS

- A. Snow King Bike Path Extension (Brian Schilling, 30 minutes)
- B. Liquor Code Update (Sandy Birdyshaw, 45 minutes)
- C. Matters Related to Sagebrush Apartment Project: (45 minutes)
 - 1. Affordable Housing Deed Restriction (April Norton & Audrey Cohen-Davis)
 - 2. Floodway Areas (Paul Anthony)

III. PROPOSED ITEMS FOR FUTURE WORKSHOPS

- A. 5/20 CenturyLink Franchise Agreement (Audrey Cohen-Davis)

IV. ADJOURN

- A. Adjourn meeting to executive session to consider matters concerning litigation to which the governing body is a party or proposed litigation to which the governing body may be a party in accordance with Wyoming Statute 16-4-405(a)(iii) and to discuss personnel matters in accordance with Wyoming Statute 16-4-405(a)(ii).

Please note that at any point during the meeting, the Mayor and Council may change the order of items listed on this agenda. In order to ensure that you are present at the time your item of interest is discussed, please join the meeting at the beginning to hear any changes to the schedule or agenda.



TOWN OF JACKSON

WORKSHOP DOCUMENTATION

SUBMITTING DEPARTMENT: Pathways

PRESENTER: Brian Schilling

WORKSHOP DATE: April 15, 2019

SUBJECT: Snow King Bike Lane Extension

PURPOSE OF WORKSHOP ITEM

To consider extending the seasonal protected bike lanes on Snow King Ave. an additional two blocks from Millward St. to Cache St.

DESIRED OUTCOME

Staff will provide an overview of the proposed layout for extending the protected bike lanes from Millward St. to Cache St., impacts to current street operations and parking, and associated fiscal and staff impacts. Council will provide direction to staff whether to proceed with extending the lanes and will address any recommended alterations to the layout.

BACKGROUND/ALTERNATIVES

2018 Snow King Protected Bike Lane Project

In 2018, the Town of Jackson installed temporary protected bike lanes on Snow King Ave. from Millward to Scott Lane as a test project to evaluate the effectiveness of a protected lane vs. a striped bicycle lane on cyclist numbers and the comfort, safety, and usability of Snow King as the primary bicycle connection across town. The motor vehicle lanes were striped at 10' wide and the bike lanes were delineated by dual paint lines with 3' tall flexible plastic bollards placed at 20' spacing in the center of a 1.5' buffer between the car and bike lanes. At intersections the bike lanes were highlighted with green paint striping and rubber lane markers placed to help guide cyclists and make them more visible and predictable through the intersections. The layout of the Snow King/Scott Lane intersection was intended to replicate elements of a "protected intersection" but this proved to be difficult to do with the temporary measures available for a test project.

Feedback on the bike lanes, and specifically the bollards, was mixed from motor vehicle drivers. Many drivers did not like the bollards or the width of the travel lanes, and commented that the street felt narrow and that it required extra attention or was difficult to drive down Snow King without hitting bollards. Some drivers commented that they actually liked the effect of the bollards in slowing people down and that drivers had to pay more attention, which helped make driving on Snow King overall less stressful. Drivers of wider vehicles (notably buses) and vehicles with trailers seemed to have the most complaints about the bollards and struggled with hitting bollards, although some larger vehicle/trailer drivers commented that they were able to navigate Snow King without any problems, and that all that was required to successfully avoid hitting bollards was to slow down and pay attention.

Cyclists, on the other hand, seemed overwhelmingly in favor of the protected lanes, with most commenting that they felt safer with the bollards and greatly appreciated having the separation from large, faster moving vehicles. Many even commented that they now felt comfortable riding with kids (or letting their kids ride alone) on Snow King, whereas previously they had not. Many cyclists noted that drivers were forced to be less distracted and drove slower. There was some confusion from cyclists on the flow of traffic at the Snow King/Scott Lane intersection. It was challenge to implement the concept of a protected intersection effectively, primarily due to the temporary nature of the positioning guides and striping, but staff feels that the intersection could be improved with structural, more permanent changes. Staff plans to test additional temporary designs this summer and explore some permanent options as well.

Overall, bike use between May and September increased 18% from 2017 to 2018 (from 588 trips per day to 696 trips per day). Vehicular speed data collection (based on a somewhat limited before/after study—more data should be collected in the future) showed a slight overall decrease of travel speeds. The percentage of vehicles exceeding the speed limit decreased 12% with the bollards in place. Anecdotally, many observers noted that the bollards seemed to reduce the amount of speeding on Snow King. Feedback from cyclists also showed overwhelmingly that the perceived safety and comfort of riding on Snow King improved substantially.

Extension from Millward St. to Cache St.

The 2018 pilot project did not include the segment from Millward St. to Cache St. While this two-block stretch was originally included as part of the project proposal, it was removed from implementation due to concerns about loss of seasonal on-street parking and potential impacts to neighbors. One of the key reasons to include this additional segment to Cache St. is that it would allow people to safely access the base of Snow King, which is the site of numerous events and recreational destinations during the summer, including the weekly People's Market, JH Live events, Phil Baux Park, summer camps for kids, athletic events, and Snow King Mountain. Based on this added benefit and input from people who use Snow King for bicycle access, Council directed staff to explore extending the protected lanes the two blocks to Cache St.

The protected bike lanes from Millward to Cache are proposed to be similar to the existing layout west of Millward. Snow King from Millward to Cache is 35' wide from asphalt edge to edge, except for a 100' stretch just east of Glenwood where the curb line on the north side of the street jogs in approximately 6' to accommodate several large trees. The vehicular travel lanes would be striped at 10' wide with a 1.5' buffer, leaving approximately 6' for the bike lanes. The lanes would be separated by flexible plastic delineators at approximately 20' spacing installed from May through October (approximately) and removed during the winter. For west bound cyclists on the north side of Snow King, the bike lane would transition from a protected lane to a shared lane (with motor vehicles) at the "tree jog" just east of Glenwood. This shared lane would carry across the Glenwood intersection and then transition back to a protected lane west of the ADA parking space on the other side of the intersection. See the aerial layout and cross sections for concept alignment and layout.

There are approximately 27 on-street parking spaces that would become seasonal parking spaces (inactive during the summer while the bike lanes are in place, and reinstalled during the winter months). Parking demand in this area is not at full capacity—i.e. the surrounding streets could easily accommodate the existing demand, although some destinations (mid-block residences) would be as far as 200 feet from the nearest on-street parking space on an adjacent cross street. There is an ADA parking space on the north side of the street just west of Glenwood that would remain in place year round.

- Proposed layout – General goals and parameters
 - Maintain consistent centerline (avoid jogging back and forth if possible)
 - 10' travel lanes (same as existing Snow King)
 - 1.5' bollard buffer
 - 6' bike lanes generally (may vary a little, but curblane is quite consistent)
 - Preserve ADA parking spot in current location
 - Will have to do a shared-lane along the tree bulbout and ADA segments, as there's not enough room to do a dedicated bike lane
 - Delineate shared lane with green paint/sharrows
 - Aim for a consistent bike lane treatment on the south side, but north side will jog
 - 20-30' bollard spacing
 - Numerous driveways will provide natural gaps in bollard spacing, so will probably want to go with a tighter spacing (20') where possible

COMPREHENSIVE PLAN ALIGNMENT

This project was conceived to support the realization of the vision contained in Section 7 of the Comprehensive Plan, Specifically:

- Principle 7.1 - Meet future transportation demand through the use of alternative modes.
 - Policy 7.1.c: Increase the capacity for the use of alternative transportation modes
 - Policy 7.1.d: Discourage the use of single occupancy motor vehicles
- Principle 7.2 - Create a safe, efficient, interconnected multi-modal transportation network.
 - Policy 7.2.a: Create a transportation network based on "complete streets" and "context sensitive" solutions

Implementation of the project will affect the community broadly. The creation of the network of pathways in Teton County has been a significant undertaking and has provided significant results. However, the pathway network in the Town is disconnected. To improve connectivity, and to act on the above principles and policies, some town streets require change. Snow King Avenue is the major route that connects the pathway network, serving the south and west portion of the valley, to heavily visited recreation facilities at Snow King and to the center of Town.

Improving the bike lanes on the Snow King corridor will encourage mode shift from automobiles to bicycles, but may also affect individuals who live adjacent to or near the blocks where parking is proposed to be reduced. Such impacts may be minor due to the amount of parking available on adjacent side streets or nearby areas and could be offset by improved bicycle connectivity to their properties.

STAKEHOLDER ANALYSIS

Staff has coordinated project planning with START Bus, Fire/EMS, Town of Jackson Police Department, and the Town Public Works Department and Streets division. Following up from last year's pilot project, staff met with each department to discuss project components that worked well and things that could be improved, and will make changes to the implementation this year to accommodate some of the concerns raised. Staff will continue to work with pertinent departments to refine the layout in order to accommodate the needs of all users.

For the extension to Cache St., additional stakeholders include the residents along Snow King Ave. between Millward and Cache, the operators of the People's Market and JH Live, and Snow King Mountain. Staff delivered public outreach notices on April 8th to all residences and businesses along Snow King between Millward and Cache (see attached). Staff and/or project partners have reached out to the People's Market and JH Live to discuss operational concerns for their events, and will continue to work with these and other stakeholders.

FISCAL IMPACT

The bike lane extension is estimated to have a one-year cost of approximately \$8,400 (based on expenses from the 2018 pilot project for bollard purchase and installation, striping, intersection markings, and signs) and ongoing annual costs of approximately \$2,500 for striping and intersection marking.

STAFF IMPACT

Staff impact to implement the two block extension will be moderate—approximately 5 days total time for the Pathways Coordinator and 2-4 hours for four or five other staff members. The Pathways Coordinator will spend time preparing and reviewing the layout with the Police Chief, Transit Director, Fire Chief, Public Works Director, and Streets Manager. Field setup, including marking the lanes for striping, marking bollard locations, installing the bollards with epoxy, and installing signage will require 1-2 days by the Pathways Coordinator plus review by the Streets Manager. The Pathways Coordinator has already spent approximately 8 hours on preliminary layout prep, field work, and public outreach.

LEGAL ISSUES

There are not any known legal issues.

ATTACHMENTS

1. Aerial concept layout
2. Typical cross sections
3. Snow King protected bike lane 2018 photos
4. Public outreach flyer

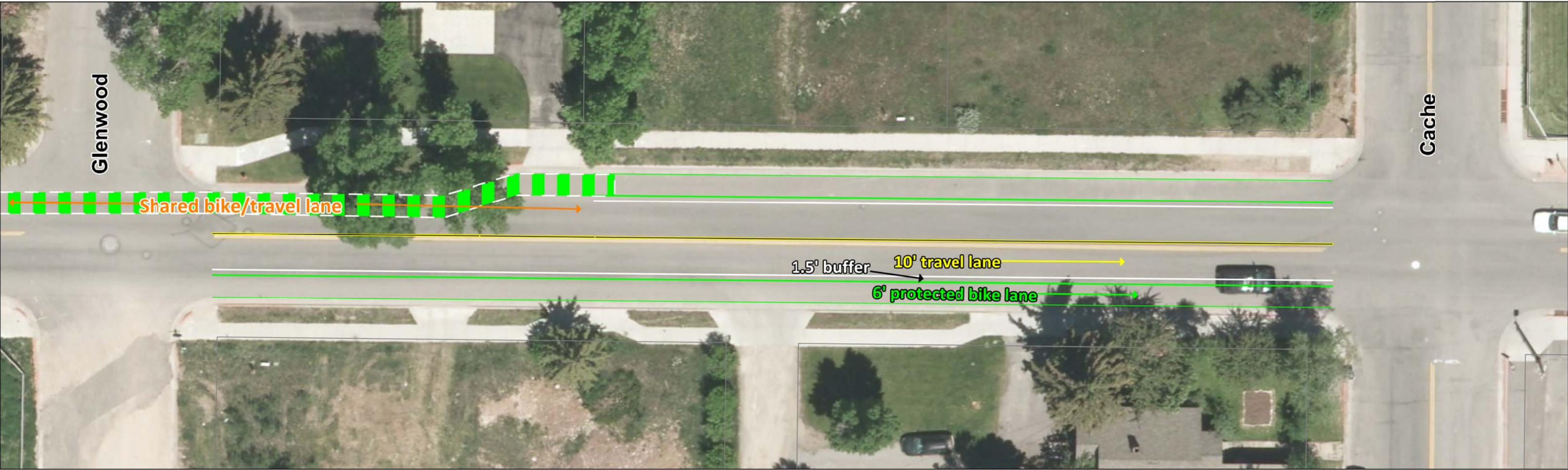
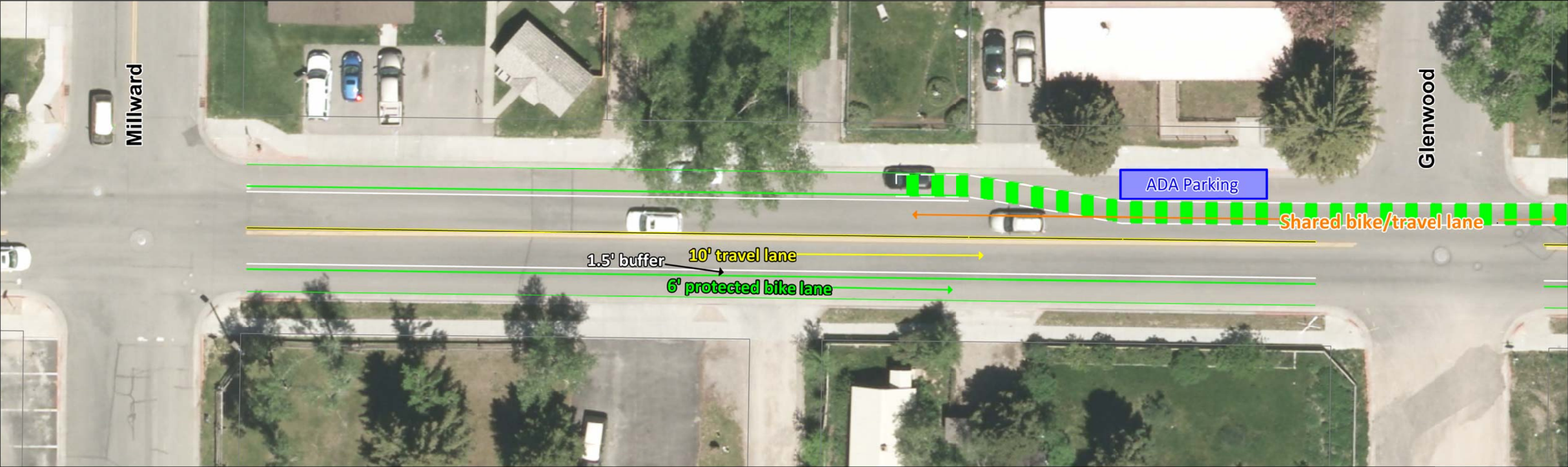
RECOMMENDATION

Staff recommends approval of extending the bike lanes from Millward to Cache, with coordination with other Town departments as needed.

SUGGESTED MOTION

I move to approve the extension of the Snow King Avenue protected bike lanes from Millward St. to Cache St. and to direct staff to coordinate with Town of Jackson departments as needed to implement the project.

Snow King Ave - Millward to Cache bike lane extension - draft layout



Snow King Ave Bike Lanes – Millward to Cache Extension

Proposed (Draft) Cross Sections

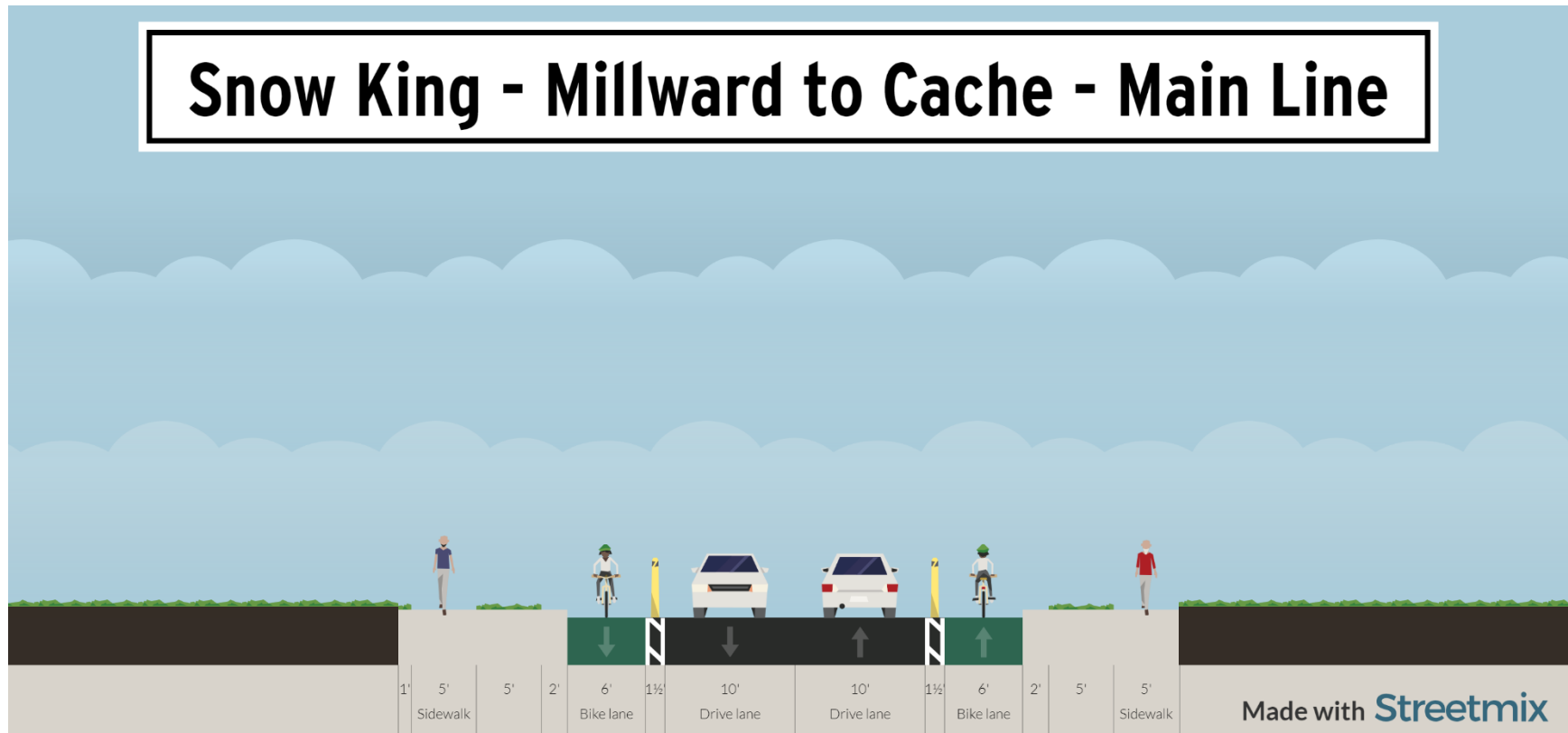


Figure 1 –Main Line (Proposed Typical Section)

Snow King - Millward to Cache - Tree Bulbout

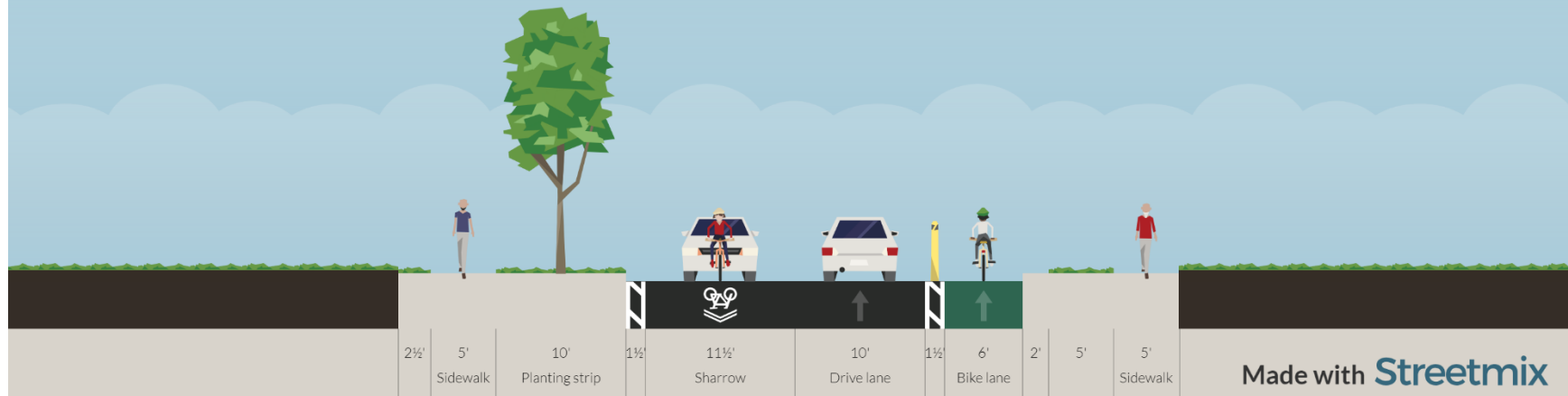


Figure 2 - Tree Bulbout Segment (Proposed Typical Section)

Snow King - Millward to Cache - ADA Parking

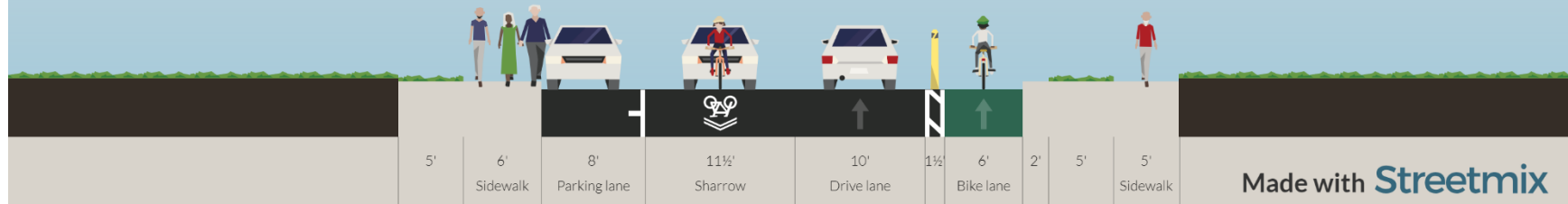


Figure 3 - ADA Parking Segment (Proposed Typical Section)

Snow King Ave. Protected Bike Lanes – 2018 photos









Town of Jackson Public Notice

Snow King Ave. Bike Lane Extension Millward St. to Cache St.



This notice is to inform residents on Snow King Ave. that the Jackson Town Council is considering extending the seasonal protected bike lanes on Snow King Ave. from Millward St. to Cache St.

The protected bike lanes are proposed to be similar to the lanes further west on Snow King Ave. that were implemented in 2018 and currently end at Millward St. The lanes will be approximately 6 feet wide and separated from the motor vehicle travel lanes by a 1.5-foot buffer space protected with flexible delineators that are installed from approximately May through October and removed during the winter.

Approximately 27 on-street motor vehicle parking spaces along Snow King Ave. would become seasonal parking spaces, inactive during the summer while the bike lanes are in place, and reinstalled during the winter months. The ADA parking spot on Snow King near Glenwood St. would remain in place year round.

The Town Council will be holding a workshop at Town Hall (150 E. Pearl) on Monday, April 15th at 3:00 PM to discuss this item. Public input may be provided by emailing the Town Council at council@jacksonwy.gov.

For project questions, please contact Brian Schilling at the Town of Jackson at 732-8573 or bschilling@jacksonwy.gov



Snow King Avenue Protected Bike Lanes



TOWN OF JACKSON

WORKSHOP DOCUMENTATION

SUBMITTING DEPARTMENT: Administration

PRESENTERS: Sandy Birdyshaw

WORKSHOP DATE: April 15, 2019

SUBJECT: Proposed Revision to Municipal Code Title 6 – Liquor Licenses & Permits

PURPOSE OF WORKSHOP ITEM

The Town Council authorizes any changes made to the Jackson Municipal Code (JMC). The purpose of this item is to concentrate on specific updates to the liquor code that were introduced during the March 18 workshop. The Town Council is granted ample authority by Wyoming State Statutes 12-1-101(ix) and 12-4-101(a) to issue, control, administer, and regulate the sale of alcoholic and malt beverages within its jurisdiction, as the local licensing authority.

DESIRED OUTCOME

The desired outcome would be for the Council to provide direction to staff on the proposed revisions and to bring back a proposed ordinance for adoption.

BACKGROUND/ALTERNATIVES

At the March 18 workshop, three levels of revisions to the municipal liquor code were introduced; those that removed language which duplicated state statute, those that were minor and considered as housekeeping, and those marked for Council's consideration and direction. The Council provided direction to staff to bring back revisions including mandatory server training, eliminating the application fee for Events for Persons Under 21, to include Off-Premises Open Container Sales, to discuss the suspension section further, and to possibly look at the license fees.

This staff report focuses on areas for Council discussion and are listed in order of their municipal code section.

1. 6.20.050 Application Fees. At the March workshop, interest was expressed in reviewing these fees. Wyoming Statutes provide a range of fee amounts that local licensing authorities may charge for an annual license. Four license types are at the maximum fee allowed and there are four license types where the Council could consider fee increases. While the fees are provided here for Council consideration, staff makes no recommendation.

<u>Type of License</u>	<u>Fee / Allocated-Issued</u>	<u>Fee Range</u>	<u>Jackson's Fee</u>
Retail	max'd / 21-19	\$100 – 1,500	\$1,500 since 1935
Limited Retail (Club)	could increase / 3	\$100 – 1,500	\$500 since 1995
Resort	could increase / 4	\$500 – 3,000	\$1,500 since 1995
Restaurant	could increase / 44	\$500 – 3,000	\$1,500 since 1995
Bar & Grill	could increase / 6-6	\$1,500 – 10,500	\$1,500 since 2006
Microbrewery	max'd / 5	\$300 – 500	\$500 since 1993
Satellite Winery	max'd / 1	\$100	\$100 since 2003
Winery	max'd / 0	\$300 – 500	proposed to be \$500 (new)

The number of licenses allocated and issued above is determined 1) by the population formula in Wyoming Statute or 2) by criteria for a specific type of license, or 3) is unlimited.

Temporary, twenty-four (24) hour permit fees:

Catering	\$10 – 100	ToJ fee set at \$100 in 2002, changed to \$20 in 2006
Malt Beverage	\$10 – 100	ToJ fee set at \$10 in 1965, changed to \$100 in 2002

2. **6.30.010 B. Events for Persons Under 21 at a Retail Liquor Licensed Establishment.** At the March workshop, the Council was comfortable with removing the \$25 application fee for these events as an incentive for retail licensees to hold events geared toward youths.

Normally, minors are restricted from establishments holding a retail liquor license without a parent. This section provides an opportunity for retail liquor licensees such as The Rose, Glorietta, Bin 22, (only to name a few) to hold an event including minors without being accompanied by an adult. These events are supported by W.S. §12-5-201(k) and have been included in JMC since 2007. Retail liquor licensees may host these events as long as there is no liquor available or consumed on the premises during the event – by adults or minors. The Licensee may apply to the Town for such a permit.

If Council moves forward with removing the application fee for these events, staff recommends removing this section since removing the fee makes it duplicative of state statute.

~~Events for persons under 21.~~

~~The holder of a retail liquor license may be issued a permit authorizing the holding of an event at which persons under the age of twenty-one (21) are permitted on the premises if:~~

- ~~1. Application is made with the Town Clerk and a fee of twenty-five (\$25.00) dollars is paid.~~
- ~~2. No alcoholic liquor or malt beverages are sold, served, consumed or possessed by any person attending the event.~~
- ~~3. No alcoholic liquor or malt beverages are accessible to persons attending the event.~~

3. **6.40.045 Off-Premises Open Container Sales.** At the March workshop, Council was comfortable with adding this section. In December 2018, Teton County adopted rules for liquor licenses, including rules for selling alcoholic beverages in an open container. This new section would similarly match the county rules allowing retail licensees to choose the type of seal they use for open containers and require signage to remind the public of open container laws. Proposed language:

6.40.045 Off-Premises Open Container Sales.

- A. Retail liquor licensees selling alcoholic beverages that are not in the original package or are in reused original packages (sloshies, growlers and the like) for off-premise consumption shall seal the container in a fashion so that it is obvious as to whether the seal has been broken and so that it is not possible to consume any of the beverage as long as the seal is in place. The type of seal shall be at the discretion of the Licensee.
- B. Every Licensee selling alcoholic beverages in an open container shall post a sign visible to patrons stating “Alcoholic beverages are to remain secure and not accessible by Driver or Passengers while the vehicle is in motion – W.S. §31-5-235.”

4. **6.40.055 Alcohol Server Training Required.** At the March workshop, Council was comfortable with requiring Licensees to have their employees who serve alcoholic and malt beverages trained and to maintain those training records. The grace period to get trained was briefly discussed as related to Jackson’s fairly short seasonal turnover. Most municipalities allow three months from the date of employment, one allowed two months. Staff’s

proposed language allows forty-five (45) days from the employee's hire date to attend a training session. There are approved online courses available on the Wyoming Liquor Division website, so an employee could achieve this quickly if a local in-person training session was not available. Proposed language:

6.40.055 Alcohol Server Training Required.

- A. All persons employed at any business operating with a liquor license issued by the Town of Jackson, who are engaged in the selling or serving of alcoholic and malt beverages, or the managing thereof (hereinafter referred to as "alcohol server staff"), shall successfully complete an alcohol server training program as approved by Wyoming Statute § 12-2-402, within forty-five (45) days of the start of their employment, or the effective date of this rule, whichever is later.
- B. Certificates for the successful completion of Alcohol Server Training shall be valid for three (3) years within the Town of Jackson's jurisdiction. Alcohol server staff shall complete renewal training prior to the three-year expiration and place the new certificate on file with their employer.
- C. Every Licensee shall maintain a training record for their alcohol server staff, including their date of hire, proof of successful completion of alcohol server training as required by this Section, and any renewals to maintain their certification. Every Licensee shall keep the training records available for inspection by a law enforcement officer or an official of the Town of Jackson at any time that the licensed establishment is open.
- D. The Licensee or manager of the establishment may be cited for any violation of this Section, shall be considered in Section 6.60.010 as grounds for denial of the annual renewal of the license, and may be in addition to other penalties set forth in Title 12 of Wyoming State Statute or the Jackson Municipal Code.

5. **6.60.010 Grounds for Denying Renewal of License of Permit.** With the inclusion of required alcohol server training, #4 of this Section was revised and is proposed as follows.

6.60.010 Grounds for Denying Renewal of License or Permit.

- B. The following, whether one (1) or more, may constitute a basis for nonrenewal of a license or permit:
 - 1. Failure of the Licensee to comply with any provision(s) of state liquor law or this Title.
 - 2. Failure of the Licensee to comply with building occupancy limits, after being advised of excess occupancy by law enforcement or any code compliance officer.
 - 3. A pattern of failing to report incidents of illegal acts upon the licensed premises which results in injury to persons or property and which the Licensee knew or should have known about. A "pattern" for purposes of this section is defined as three (3) or more incidents in any twelve (12) month period.
 - 4. ~~Failure to provide education materials to its employees on Wyoming liquor laws and the duties associated with the prevention of service of alcohol to minors. The business shall have the ability to provide this educational information in any format~~

~~they wish.~~ Now that server training is required, replace #4 with: Failure to comply with Section 6.40.055 Alcohol Server Training Required.

5. Failure of initial, consecutive, or cumulative compliance checks conducted by law enforcement pursuant to W.S. § 12-6-103, as amended.
6. Failure to comply with the Plan of Operations set forth in the license application.

6. **6.60.020 Grounds for Suspension and/or Revocation.** At the March workshop, Council expressed interest in “stepped penalties” and clear language. Proposed language:

6.60.020 Grounds for Suspension and/or Revocation.

A. The following actions, whether one (1) or more, shall require the suspension of a liquor license, with or without, the initiation of revocation proceedings. Revocation proceedings will be in accordance with W.S. § 12-7-201, as amended.

1. Failure by any Licensee, or an agent or employee thereof, of three (3) compliance checks conducted by law enforcement pursuant to W.S. § 12-6-103, as amended, within a twelve (12) month period. A suspension will be carried out within the current liquor license year and be for ten (10) consecutive calendar days, and/or the Town Council may initiate revocation proceedings.
2. Failure by any Licensee, or an agent or employee thereof, of five (5) compliance checks conducted by law enforcement pursuant to W.S. § 12-6-103, as amended, within a twenty-four (24) month period. A suspension will be carried out within the current liquor license year and be for thirty (30) consecutive calendar days, and/or the Town Council may initiate revocation proceedings.
3. A pattern of excessive drinking and/or disorderly conduct on the licensed premises. A “pattern” for purposes of this section is defined as three (3) or more police reports in any twelve (12) month period. A suspension will be carried out within the current liquor license year and be for thirty (30) consecutive calendar days, and/or the Town Council may initiate revocation proceedings.
4. The making of materially false statements on, or the submission of materially false documents in the State of Wyoming liquor license application and/or Town of Jackson liquor license application packet. A suspension will be carried out within the current liquor license year and be for thirty (30) consecutive calendar days, and/or the Town Council may initiate revocation proceedings.
5. Three (3) or more substantiated violations of any provision(s) of Title 12 of the Wyoming State Statutes, as amended, or the Jackson Municipal Code in any twelve (12) month period. A suspension will be carried out within the current liquor license year and be for thirty (30) consecutive calendar days, and/or the Town Council may initiate revocation proceedings.
6. Any substantiated single incident of noncompliance with any provision of Title 12 of the Wyoming State Statutes, as amended, or the Jackson Municipal Code. A suspension will be carried out within the current liquor license year until the Licensee comes back into compliance with the specified provision.

B. In the event a suspension occurs:

1. The Town Clerk shall send a suspension notice to the Licensee by electronic-mail and postal mail to the address on file, with a copy to the Wyoming Liquor Division and Chief of Police.
2. The Licensee shall either remove all of the alcoholic liquor and malt beverages from the licensed premises or secure the alcoholic liquor or malt beverages in a manner approved in writing by the Chief of Police or his/her designee. The method of securing this inventory shall be approved at least 72-hours before the suspension begins, when a suspension is set to begin on a certain date in the future.
3. The Town Clerk shall post one (1) suspension notice on the licensed premises on or about the first day the suspension is to be carried out. The sale, offering to sell, distribution, or traffic of alcoholic liquor or malt beverages is unlawful during the suspension.

7. **6.90 Penalty for Violations.** Currently, the penalty for failing a first compliance check is that the employee who unlawfully served the alcohol must attend server training within thirty (30) days of the failed check. For failing a second compliance check, all employees who serve alcohol must attend training within forty (45) days of the failed second check. The penalty for failing three (3) or more compliance checks is suspension of the license and is addressed in Chapter 6.60.

In an effort to hold the Licensee accountable along with the server, the proposed language in 6.90.020 includes that a member of the Licensee, or an officer or director thereof who is listed on the liquor license application, attend training with the employee(s). The window period to attend training was increased from thirty (30) to forty-five (45) days.

6.90.010 General Penalty for Violations.

- A. Any person who violates any provisions of this Title for which violation no specific penalty is provided is guilty of a misdemeanor and upon conviction thereof shall be punished according to Section 1.12.010 of this code.
- B. The provisions of this Title are cumulative and shall not be construed as preventing the Town of Jackson or the Wyoming Liquor Division from suspending or revoking a liquor license in any case authorized by law.

6.90.020 Compliance Check Failures.

- A. On the first compliance check failure, a member of the Licensee, or an officer or director thereof who is listed on the liquor license application, is required to attend alcohol server training with the employee who failed the compliance check within forty-five (45) days of the failed check.
 1. The alcohol server training must be one of the programs approved by the Wyoming Liquor Division and Jackson Police Department.
 2. Licensee must provide the Jackson Police Department with the certificate of successful completion within one (1) week of completion of the alcohol beverage server training.

- B. On the second consecutive compliance check failure, or a second compliance check failure within a twelve (12) month period, the Licensee is required to do the following within the associated time limits:
1. Within two (2) calendar days of the failed compliance check, provide the Jackson Police Department with the names of all employees who sell or serve alcoholic beverages; and
 2. Within forty-five (45) calendar days of the failed compliance check, ensure that a member of the Licensee, or an officer or director thereof who is listed on the liquor license application, and all the employees, in accordance with Section 6.90.020(B)(1) above, attend an alcohol server training as approved by the Wyoming Liquor Division and Jackson Police Department; and
 3. Provide the Jackson Police Department with the certificate of successful completion in accordance with Section 6.90.020(B)(1) above, within one (1) week of completion of the alcohol beverage server training.

COMPREHENSIVE PLAN ALIGNMENT

Aligns with Comprehensive Plan Policy 8.1.a. for the delivery and quality of desired levels of service to the community and the decisions related to liquor licensing have a direct correlation to the health, safety, and welfare of the community as discussed in Section 8.

Liquor licensed establishments may have a positive or negative impact on its neighborhood, and the Town Council must balance the needs of a licensee with the needs of those who live or work in the vicinity. In Section 4 of the Comprehensive Plan relating to Town as the Heart of the Region and Complete Neighborhoods it discusses mixed uses, economic centers, and retail areas and the Council's decisions on new licenses, transfers and renewals have an impact in these areas.

The Town Council could also have a high-level strategic discussion about the goals of regulating alcohol sales within Town limits and how they would measure success in reaching those goals prior to considering specific changes in the Municipal Code.

STAKEHOLDER ANALYSIS

Stakeholders include the Town Council as the final decision makers and local licensing authority; each liquor license holder; the Police Department and Town staff as related to compliance with liquor laws; and the residents and guests of the community expecting adequate and safe provision of alcohol to those legally entitled to partake.

FISCAL IMPACT

There are significant indirect positive and negative fiscal impacts associated liquor licenses in the community related to social issues, compliance, enforcement, and adjudication of alcohol related laws and crimes, sales tax generated by the sale of alcohol, tourism generation, etc.

STAFF IMPACT

It takes a significant amount of time to stay up-to-date with state and local liquor laws, to thoroughly review and process applications, and to accurately respond to public questions. It also takes a significant amount of time to enforce liquor license laws by the Police Department, Town Clerk, and Legal Department.

LEGAL ISSUES

Ongoing.

ATTACHMENTS

Jackson Municipal Code Title 6:

1. Working copy with prior minor changes accepted and today's questions in redline.
2. Code currently in place.

RECOMMENDATION

For the Town Council to discuss proposed changes to the Municipal Code related to liquor licensing and continue this item to another workshop for discussion or to direct staff to bring back an ordinance.

SUGGESTED MOTION

Should Council desire to further discussion:

I move to continue Liquor Code Updates to a future Council workshop.

Should Council be ready to move forward:

I move to direct staff to bring back a draft Ordinance including revisions made today to a regular Council meeting for first reading.

As a matter of convenience, the following was copied from the March 18 staff report which summarized the revisions at that time:

Revisions applicable to every chapter:

Eliminate language that duplicates Wyoming Statute.

Other revisions made to each chapter which follows:

- Bullet points indicate: ■ A HOUSEKEEPING ITEM WITH LITTLE OR NO EFFECT
➤ FOR COUNCIL DISCUSSION, AS ITEM IS MORE COMPLEX

6.10 Definitions

- Preserves “Hotel” definition as it is not defined in statutes.
- “Licensee” defined. By adding this definition, language throughout Title 6 is reduced from “licensee or permittee” to just “licensee”.
- Preserves “Restaurant” definition and Town’s position on the definition of a full service restaurant.

6.20 Application for Licenses

- 6.20.025 State laws apply unless otherwise specified in JMC
- 6.20.050 Fees for all licenses are listed in one place. Wyoming Statutes provides a range of fee amounts that local licensing authorities may charge for an annual license. The Council may change local fees by ordinance.

<u>Where Located</u>	<u>Type of License</u>	<u>Fee Range</u>	<u>Jackson’s Fee</u>
§ 12-4-201(h)	Retail	\$100 – 1,500	\$1,500 since 1935
§ 12-4-301(a)	Limited Retail (Club)	\$100 – 1,500	\$500 since 1995
§ 12-4-405	Resort	\$500 – 3,000	\$1,500 since 1995
§12-4-411	Restaurant	\$500 – 3,000	\$1,500 since 1995
§12-4-413(f)	Bar & Grill	\$1,500 – 10,500	\$1,500 since 2006
§12-4-412(b)(viii)	Microbrewery	\$300 – 500	\$500 since 1993
§12-4-412(d)	Satellite Winery	\$100	\$100 since 2003
§12-4-412(b)(viii)	Winery	\$300 – 500	proposed to be \$500 (new)
Temporary, twenty-four (24) hour permit fees:			
§12-4-502(e)	Catering	\$10 – 100	ToJ fee set at \$100 in 2002, changed to \$20 in 2006
	Malt Beverage	\$10 – 100	ToJ fee set at \$10 in 1965, changed to \$100 in 2002

- 6.20.010 Clarifies purpose of Affidavit and adds a statement which affirms information in application packet is true and correct
- 6.20.012 Requires a written Plan of Operation with all new or transfer applications – this Plan aids staff review of service areas, zoned allowed uses, and need of any additional permits
- The Town does not currently require alcohol beverage server training. Council could consider mandatory training and direct staff to bring back proposed language. Should Council impose mandatory training, they could also consider revisiting the penalties for failing a first and second compliance check to include imposing fines.

6.30 Annual Licenses and Permits

- Currently, the Town requires grocery stores to maintain an age-restricted area for liquor. 6.30.010 A. “Establishments holding a retail liquor license that operate primarily for sales for off-premise consumption (i.e. a grocery store) shall maintain a separate area for alcoholic or malt beverages that shall restrict entry to persons over the age of twenty-one (21) years of age.” Reason for discussion: *THIS REQUEST WAS WITHDRAWN*. A public request has been made to lift this requirement. In July 2017, the State repealed the dispensing room requirement for all license types except a restaurant. Because this requirement was lifted for retail licensees, Liquor Division agents provided suggested ordinance language that would require grocery stores with a retail liquor license to have a separate age-restricted area to display alcoholic and malt beverages.

In August 2017, the Council adopted an update to municipal code including the State’s suggested language as stated above. Customers may take their selection from the age-restricted area to any cash register where their ID would be checked and their purchase made.

- o Council could remove this from municipal code which would allow grocery and convenience stores with a retail liquor license (Creekside, KJ’s, Smith’s, Jackson Whole Grocer, and Lucky’s) to stock alcoholic and malt beverages anywhere within their licensed building.

If the restriction is removed, the following Wyoming Statute addresses minors in such an establishment, so that the entire store would not have to be age-restricted. §12-6-101(c) “Except as otherwise provided in this title, no person under the age of twenty-one (21) years shall: (vi) Enter or remain in an establishment that is primarily for off premise sales of alcoholic liquor or malt beverages unless accompanied by a parent, spouse or legal guardian who is twenty one (21) years of age or older.” Key: a grocery store is not an establishment primarily for liquor sales, it is primarily for food sales. The Chief of Police voiced concern that potential consequences of lifting this restriction could be increased shoplifting and providing easier access to alcohol for minors.

Council could keep the language and the requirement to stock alcoholic and malt beverages in an age-restricted area for grocery and convenience stores at status quo.

- o Or, Council could revise the language.

➤ 6.30.010 B. Events for Persons Under 21 at a Retail Liquor Licensed Establishment.

Reason for discussion: Does Council wish to change application fee?

Normally, minors are restricted from establishments holding a retail liquor license without a parent. This section provides an opportunity for retail liquor licensees such as The Rose, Glorietta, Bin 22, (only to name a few) to hold an event including minors without being accompanied by an adult. These events are supported by W.S. §12-5-201 (k) and included in JMC since 2007. Retail liquor licensees may host these events as long as there is no liquor available or consumed on the premises during the event – by adults or minors. The Licensee may apply to the Town for such a permit. Wyoming Statute does not provide a fee range for this permit, so Council may set any application fee amount. It is currently \$25.00.

- 6.30.010 C. Sales by Drugstores - deleted. Wyoming Statutes Title 12 does not specifically address liquor licenses held by a drugstore. Any application by a true drugstore would be held to the requirements for the type of liquor license they are applying for.
- 6.30.020 A. Preserves Town’s position on W.S. 12-4-410 (d) Prohibiting Certain Activities by a restaurant liquor license holder.

6.40 Restrictions Upon License and Permit Holders

- 6.40.030 Retains current code: Hours of 6am – 2am, long liquor days, and clearing the licensed building or dispensing room 30 minutes after 2am. The shaded paragraph #D., restricts minors from a licensed premises primarily for the sale of alcohol for off-premises consumption and was moved from its current location in section 6.40.060 B. as it is appropriate for this section dealing with Unlawful Acts.

➤ 6.40.055 Off-Premises Open Container Sales.

Reason for discussion: Does Council wish to adopt this new section?

In December 2018, Teton County adopted rules for liquor licenses, including selling alcoholic beverages in an open container. This new section would similarly match the county rules allowing retail licensees to choose the type of seal they use for open containers and require signage to remind the public of open container laws.

Proposed language:

6.40.055 A. “Retail liquor licensees selling alcoholic beverages that are not in the original package or are in reused original packages (sloshies, growlers and the like) for off-premise consumption shall seal the container in a fashion so that it is obvious as to whether the seal has been broken and so that it is not possible to consume any of the beverage as long as the seal is in place. The type of seal shall be at the discretion of the licensee.”

6.40.055 B. “Every liquor licensee selling alcoholic beverages in an open container shall post a sign visible to patrons stating “Alcoholic beverages shall remain secured and not accessed by Driver or Passengers while vehicle is in motion – W.S. §31-5-235.”

- 6.40.060 Overserving Alcoholic Beverages. This revision shortens the section title from Minor, Habitual and Common Drunkards and Incompetents: Restrictions to Overserving of Alcoholic Beverages; Restrictions. The original paragraph A was separated to clearly state that it is unlawful to furnish alcoholic beverages to an excessively intoxicated person, and then defines excessively intoxicated.

6.50 Special Twenty-Four (24) Hour Permits

- Duplicative language removed

6.60 Nonrenewal, Suspension and Revocation of Licenses and Permits

- “Nonrenewal” was added to the section title as this section deals with nonrenewal
- 6.60.010 B. provides basis for considering nonrenewal. The list was condensed and clarified to 7 reasons for nonrenewal and moved the penalty (shaded in gray) for failing compliance checks to section 6.90 Penalty for Violations (with no substantial change to the penalty language).
- 6.60.020 Grounds for Suspension or Revocation. Language related to delinquent sales tax was removed, as W.S. §12-7-103 gives the Town authority to suspend for this reason through a specified process.

➤ 6.60.020 A. Grounds for Suspension and/or Revocation.

Reason for discussion: Does Council wish to ① keep the current code requiring mandatory suspension with only clarifying revisions, or ② consider language allowing discretionary suspension with a maximum time period versus a minimum time period?

① Current code as mandatory with minimum time period. 6.60.020 A. “The following actions, whether one (1) or more, shall be a basis for the Town Council to suspend a liquor license and/or for the Town Council to initiate revocation proceedings:

1. Failure by any licensee, or an agent or employee thereof, of three (3) consecutive or cumulative compliance checks in a twelve (12) month period. The suspension must occur within the liquor license year and be for a minimum of one hundred twenty (120) days.
2. Failure by any licensee, or an agent or employee thereof, of five (5) compliance checks in a twenty-four (24) month period. The suspension must occur within the liquor license year and be for a minimum of one hundred fifty (150) days.
3. A pattern of excessive drinking and/or disorderly conduct on the licensed premises. A “pattern” for purposes of this section is defined as three (3) or more police reports in any twelve (12) month period.
4. False information or false facts submitted as true and correct in an application packet for any license.
5. Three (3) or more substantiated violations with any provision(s) of Title 12 of the Wyoming State Statutes, as amended, or the Jackson Municipal Code in any twelve (12) month period.
6. Any substantiated incident of noncompliance with any provision of Title 12 of the Wyoming State Statutes, as amended, or the Jackson Municipal Code, until the licensee comes back into compliance with the provision.”

#1 and #2 clarifies intent of a suspension for failed compliance checks with the same minimum number of days

#3 keeps current code with revised language

#4 keeps current code with revised language

#5 is additional language requested by Chief of Police that calls for suspension when a recurring violation, or a variety of violations are substantiated.

#6 is additional language requested by Clerk for a temporary non-compliance issue, such as a suspended food permit for restaurant or bar & grill licensees

Upon further review of W.S. § 12-7-102, a suspension cannot cross over liquor license years.

- Council could keep reasons for a mandatory suspension.
- Council could keep reasons for a discretionary suspension by changing “shall” to “may” in paragraph A.
- Council could consider a maximum, or “up to”, time period for suspension versus a minimum time period.
- Council could consider different language for #1 and #2 to provide the flexibility to consider each case independently, taking into consideration the establishment’s business model, primary function, evidence, etc.

6.70 Violations

- Repealed

6.90 Penalty for Violations

- Provides the training penalties of failing a 1st or 2nd compliance check (moved from 6.60.010)
- Provides a requirement that training certificates are provided to the Town as a method of tracking the training for failed compliance checks

Title 6 Liquor Licenses and Permits

Chapters:

- 6.10 DEFINITIONS**
- 6.20 APPLICATION FOR LICENSES AND PERMITS**
- 6.30 ANNUAL LICENSES AND PERMITS**
- 6.40 RESTRICTIONS UPON LICENSE AND PERMIT HOLDERS**
- 6.50 SPECIAL TWENTY-FOUR (24) HOUR PERMITS**
- 6.60 SUSPENSION AND REVOCATION OF LICENSES AND PERMITS**
- 6.70 VIOLATIONS** (Repealed Ord. ,2019).
- 6.90 PENALTY FOR VIOLATIONS**

Chapter 6.10
DEFINITIONS

Sections:

6.10.010 Definitions.

6.10.010 Definitions.

As used in this Title:

- A. **"Hotel"** means a suitable building kept, used, maintained, advertised, and held out to the public to be a place where sleeping accommodations are offered for pay to transient guests. Such sleeping accommodations shall be in the same building and such sleeping accommodations shall be so equipped and serviced that the Town Council shall be satisfied that the chief source of revenue to be derived from the operation of the hotel shall be from sleeping accommodations and not from the sale of alcoholic or malt beverages. No cottage, tourist camp, or rooming house shall be considered a hotel.
- B. **"Licensee"** means a person holding any permit or license in accordance with this Title or Title 12 of the Wyoming State Statutes, as amended.
- C. **"Restaurant"** means space in a building maintained, advertised and held out to the public as a place where individually priced meals are prepared and served primarily for on-premises consumption and where the primary source of revenue from the operation is from the sale of food and not from the sale of alcoholic or malt beverages. The building shall have a dining room or rooms, a kitchen, and the number and kinds of employees necessary for the preparing, cooking and serving of meals in order to satisfy the licensing authority that the space is intended for use as a full service restaurant.
 - 1. **"Full service restaurant"** means a restaurant at which waiters and waitresses deliver food and drink offered from a printed food menu to patrons at tables or booths.
 - 2. Food menu shall contain a minimum of five (5) qualifying selections. The service of only fry orders or such food and victuals as sandwiches, hamburgers or salads shall not be deemed a restaurant for the purposes of this section.
 - 3. Kitchen shall be an area with cooking appliances required to prepare plated meals.
 - 4. Dispensing Room means an enclosed and partitioned space within a restaurant large enough for a person to enter, but not a cabinet. Wall partitions may contain cut-out windows and doorways, but partitions shall extend from floor to ceiling.

(Ord. __, 2019; Ord. 1185 § 1, 2017; Ord. 998 § 1, 2011; Ord. 853 § 3, 2007; Ord. 389 § 1, 1989; Ord. 90 § 1, 1965.)

Chapter 6.20
APPLICATION FOR LICENSES AND PERMITS

Sections:

6.20.025 State Laws Applicable.

6.20.050 Application Form and Fees.

6.20.010 Affidavit and of Authorization and Understanding.

6.20.012 Plan of Operations, All Licenses and Permits.

6.20.015 Affidavit of Understanding. (Repealed. Ord.1185 § 1, 2017)

6.20.020 Notice publication--Protests. (Repealed Ord., 2019)

6.30.030 Term - Exception. (Repealed Ord., 2019)

6.20.025 State Laws Applicable

All licenses issued pursuant to this Title, and all use, possession, sales, and purchases of alcoholic beverages shall be subject to all requirements, regulations and limitations prescribed by Wyo. Stat. Ann. Title 12, *et seq.*, and are adopted by reference and amendments thereto except as is otherwise expressly set forth in this Title. If this Title is silent, then state statute is applicable. If there is a conflict between the state statute and this Title, then the stricter will apply.

6.20.050 Application Form and Fees

- A. A person desiring any liquor license under this Title shall apply to the Town Clerk on forms prepared by the Attorney General of the state of Wyoming, as and in accordance with the statutes of the State of Wyoming.
- B. The Town, upon application, state certification and public hearing, may issue a liquor license or permit pursuant to this Title and Title 12 of the Wyoming State Statutes, as amended.
- C. The fee paid annually for each license is as follows, said fees may be amended from time to time by ordinance of the Town Council; however, in no case shall the sum be greater than the amount authorized by applicable statutes of the State of Wyoming, and no application will be processed, nor any license issued, until payment in full has been made:
 - 1. Retail Liquor License: The fee is one thousand and five hundred dollars (\$1,500.00).
 - 2. Limited Retail (Club) Liquor License: The fee is five hundred dollars (\$500.00).
 - 3. Resort Liquor License: The fee is one thousand and five hundred dollars (\$1,500.00).
 - 4. Restaurant Liquor License: The fee is one thousand and five hundred dollars (\$1,500.00).
 - 5. Bar and Grill License: The fee is one thousand and five hundred dollars (\$1,500.00).
 - 6. Microbrewery Permit: The fee is five hundred dollars (\$500.00).
 - 7. Winery Permit: The fee is five hundred dollars (\$500.00).
 - 8. Satellite Winery Permit: The fee is one hundred dollars (\$100.00).
- D. The fee to be paid for each twenty-four (24) hour permit is as follows, which fees may be amended from time to time by ordinance of the Town Council; however, in no case shall the sum be greater than the amount authorized by applicable statutes of the State of Wyoming, and no permit will be issued until payment in full has been made:
 - 1. Catering Permit: The fee is twenty dollars (\$20.00).
 - 2. Malt Beverage Permit: The fee is one hundred dollars (\$100.00).

(Ord., 2019)

6.20.010 Affidavit of Authorization and Understanding.

- A. All persons filing applications for new licenses and permits, renewals or for transfer of ownership, unless otherwise noted in this title, shall submit a signed Affidavit of Authorization form as provided by the Town Clerk, which includes the applicant's full legal name, signature, social security number, driver's license number, and date of birth to assist with application processing by the Town Clerk and Chief of Police. By signing the Affidavit of Authorization and Understanding, all persons filing applications agree to a background check conducted by the Chief of Police or their designee.
- B. The applicant understands that it shall be the duty of the applicant to seek any additional required reviews, authorizations, permits, and approvals from any Town or County department or elected bodies.
- C. Each application submitted is affirmed as being true and correct to the best of the applicant's knowledge.
- D. Procedures for reviewing applications will be established by the Town Clerk, Chief of Police and Risk Manager.

(Ord. __, 2019; Ord. 1185 § 1, 2017; Ord. 969 § 1, 2010; Ord. 853 § 4, 2007)

6.20.012 Plan of Operations, All Licenses and Permits.

- A. All new and transfer applications must include a Plan of Operations that at minimum sets forth in detail:
 - 1. The areas proposed for service of alcoholic and malt beverages;
 - 2. The plans for outdoor service of food and alcoholic and malt beverages; and
 - 3. The Restaurant Liquor Licensee's dispensing room(s) operations.
- B. Licensees must provide the Town Clerk a revised Plan of Operations anytime a Licensee changes the Plan of Operations (whether the original or a revised Plan) on file with the Town.

(Ord. __, 2019)

6.20.015 Affidavit of Understanding. Repealed.

(Ord. 1185 § 1, 2017; Ord. 969 § 1, 2010)

6.20.020 Notice publication--Protests. Repealed.

6.20.030 Term - Exception. Repealed.

(Ord. __, 2019; Ord. 1185 § 1, 2017; Ord. 1076 § 1, 2014; Ord. 853 § 4, 2007; Ord. 90 § 6, 1965.)

Chapter 6.30
ANNUAL LICENSES AND PERMITS

Sections:

6.30.010 Retail Liquor Licenses.

6.30.020 Resort or Restaurant Liquor Licenses.

6.30.030 Bar & Grill Liquor Licenses. (Repealed Ord. __, 2019)

6.30.040 Microbrewery Permits, Authorization and Application. (Repealed Ord. __, 2019)

6.30.050 Satellite Winery Permits, Application. (Repealed Ord. __, 2019)

6.30.060 Satellite Manufacturer's Permits, Authorization and Application. (Repealed Ord. __, 2019)

6.30.010 Retail Liquor Licenses.

- A. Establishments holding a retail liquor license that operate primarily for sales for off-premise consumption (i.e. a grocery store) shall maintain a separate area for alcoholic or malt beverages that shall restrict entry to persons over the age of twenty-one (21) years of age.

~~B. Events for persons under 21.~~

~~The holder of a retail liquor license may be issued a permit authorizing the holding of an event at which persons under the age of twenty-one (21) are permitted on the premises if:~~

- ~~1. Application is made with the Town Clerk and a fee of twenty-five (\$25.00) dollars is paid.~~
- ~~2. No alcoholic liquor or malt beverages are sold, served, consumed or possessed by any person attending the event.~~
- ~~3. No alcoholic liquor or malt beverages are accessible to persons attending the event.~~

(Ord. __, 2019; Ord. 1185 § 1, 2017; Ord. 853 § 5, 2007; Ord. 569 § 1, 1996. Ord. 504 § 7, 1995; Ord. 503 § 3, 1995; Ord. 90 § 3, 1965.)

6.30.020 Restaurant Liquor Licenses.

- A. A restaurant liquor Licensee shall not promote the restaurant as a bar or lounge, nor shall the Licensee compete with a retail liquor Licensee in activities other than dining functions.

1. A Restaurant Liquor License does not allow:
 - a. Providing liquor service at dances, receptions, or other social gatherings.
 - b. Advertising as a bar or saloon in publications or signage.
 - c. Having a separate name for any room or area that denotes the availability of alcoholic or malt beverages.
 - d. Advertising special prices or promotions for sale of alcoholic beverages separate from meals, "happy hour", unless the special price or promotion includes a qualifying restaurant meal.
 - e. Selling alcoholic or malt beverages to customers seated at a bar or counter unless they have been given a printed food menu.

Minor changes accepted - 4/15 Questions in Redline

- f. Collecting a “cover charge” that includes the cost of any entertainment, live or television, unless such cover charge is part of and not separated from a package price which includes payment for a restaurant meal.
(Ord. __, 2019; Ord. 1185 § 1, 2017; Ord. 853 § 5, 2007; Ord. 605 § 1, 1997; Ord. 388 § 1, 1989.)

6.30.030 Bar & Grill Liquor Licenses. Repealed.

(Ord. __, 2019; Ord. 1185 § 1, 2017; Ord. 853 § 5, 2007; Ord. 828 § 1, 2006.)

6.30.040 Microbrewery Permits, Authorization and Application. Repealed.

(Ord. __, 2019; Ord. 1185 § 1, 2017; Ord. 853 § 5, 2007; Ord. 456 § 1, 1993.)

6.30.050 Satellite Winery Permits, Application. Repealed.

(Ord. __, 2019; Ord. 853 § 5, 2007; Ord. 723 § 1, 2003.)

6.30.060 Satellite Manufacturer’s Permits, Authorization and Application. Repealed.

(Ord. __, 2019; Ord. 1185 § 1, 2017; Ord. 1069 § 1, 2014)

Chapter 6.40

RESTRICTIONS UPON LICENSE AND PERMIT HOLDERS

Sections:

6.40.010 License: Transfer, Renewal. (Repealed Ord. __, 2019)

6.40.020 License: Contents, Signing, Attestation and Display. (Repealed Ord. __, 2019)

6.40.030 Hours of Sale: Unlawful Acts Designated.

6.40.040 Place of Sale: Location, Regulation, and Restrictions.

6.40.045 Off-Premises Open Container.

6.40.050 Places for Consumption or Possession in Open Containers Prohibited.

6.40.055 Alcohol Server Training Required.

6.40.060 Minor, Habitual and Common Drunkards and Incompetent: Restrictions.

6.40.010 License: Transfer, Renewal. Repealed.

(Ord. __, 2019; Ord. 1185 § 1, 2017; Ord. 960 § 1, 2010; Ord. 853 § 6, 2007; Ord. 90 § 6, 1965.)

6.40.020 License: Contents, Signing, Attestation and Display. Repealed.

(Ord. __, 2019; Ord. 853 § 6, 2007; Ord. 90 § 12, 1965.)

6.40.030 Hours of Sale: Unlawful Acts Designated.

- A. All persons licensed under this Title except clubs holding a limited retail license shall close the dispensing room and cease the sale of both alcoholic and malt liquors promptly at the hour of two (2) a.m. each day and keep the same closed until six (6) a.m. the same day.
- B. The Town Council may designate the dates during any city or county fairs, rodeos, pageants, jubilees or similar public gatherings when all licensees may operate without restriction as to closing hours, such unrestricted operation shall not exceed a total of four (4) full days in any one (1) calendar year.
- C. It is unlawful for any owner, manager, or employee of any establishment licensed under this Title, except clubs holding a limited retail license, to allow anyone other than an employee of the licensed establishment to be, or remain in the licensed room, or building, from and after thirty (30) minutes after the time designated by ordinance for closing of the dispensing room and ceasing the sale of both alcoholic and malt liquors. In cases of food service operations for which an additional dispensing room license has been obtained pursuant to this Title, the food service facilities may remain open to the public, but it shall be unlawful to allow the consumption of alcoholic beverages therein from and after thirty (30) minutes after the time established by ordinance for the closing of the dispensing room and the ceasing of sale of alcoholic and malt liquors.
- D. It is unlawful for any holder of a license or permit issued under the provisions of this Title or the statutes of the State of Wyoming, or his or its servants, agents or employees to permit any person under the age of twenty-one (21) years to enter or remain in a licensed building or an establishment that is primarily for off-premise sales of alcoholic liquor or malt beverages unless subject to an exemption under Wyo. Stat. Ann. § 12-6-101, as amended.

Minor changes accepted - 4/15 Questions in Redline

(Ord. __, 2019; Ord. 853 § 6, 2007; Ord. 544 § 1, 1996; Ord. 227 § 1--2, 1977; Ord. 90A § 1, 1973; Ord. 90 § 8, 1965.)

6.40.040 Place of Sale: Location, Regulation, and Restrictions.

The place in which alcoholic and malt beverages are sold under a retail liquor license shall be located in the licensed building for which the license is approved and issued. Alcoholic beverages secured by a server may be served only in the licensed building and in an immediately adjacent fenced or enclosed area as approved by the licensing authority. The adjacent area shall not be located in another building. The licensing authority which issued the license shall as often as may be deemed necessary inspect the licensed building and adjoining areas where alcoholic beverages are served to determine compliance with sanitation, fire hazard, local permitting, and other applicable laws.

(Ord. 1185 § 1, 2017; Ord. 853 § 6, 2007; Ord. 90 § 9, 1965; Ord 516 § 1, 1995.)

6.40.045 Off-Premises Open Container.

A. Retail liquor licensees selling alcoholic beverages that are not in the original package or are in reused original packages (sloshies, growlers and the like) for off-premise consumption shall seal the container in a fashion so that it is obvious as to whether the seal has been broken and so that it is not possible to consume any of the beverage as long as the seal is in place. The type of seal shall be at the discretion of the Licensee.

B. Every Licensee selling alcoholic beverages in an open container shall post a sign visible to patrons stating “Alcoholic beverages are to remain secure and not accessible by Driver or Passengers while the vehicle is in motion – W.S. § 31-5-235.”

(Ord. __, 2019.)

6.40.050 Places for Consumption or Possession in Open Containers Prohibited.

A. No alcoholic or malt beverage shall be consumed or carried by any person in open containers of any type on any street, sidewalk or curb or any other public property whatsoever within the Town of Jackson, except in dedicated Town of Jackson parks maintained by Jackson/Teton County Parks & Recreation, athletic fields, and the rodeo grounds.

B. No alcoholic or malt beverages shall be consumed or carried by any person in open containers of any type within:

1. The grandstands, or adjacent to, or on any baseball field during any game sanctioned by Little League Baseball Incorporated; or
2. The Town Square which is bounded by East Broadway Street, North Cache Street, East Deloney Street and North Center Street.

(Ord. __, 2019; Ord. 1185 § 1, 2017; Ord. 853 § 6, 2007; Ord. 172 § 1, 1974.)

6.40.055 Alcohol Server Training Required.

A. All persons employed at any business operating with a liquor license issued by the Town of Jackson, who are engaged in the selling or serving of alcoholic and malt beverages, or the managing thereof (hereinafter referred to as “alcohol server staff”), shall successfully complete an alcohol server training program as approved by Wyoming Statute § 12-2-402,

Minor changes accepted - 4/15 Questions in Redline

within forty-five (45) days of the start of their employment, or the effective date of this rule, whichever is later.

- B. Certificates for the successful completion of Alcohol Server Training shall be valid for three (3) years within the Town of Jackson's jurisdiction. Alcohol server staff shall complete renewal training prior to the three-year expiration and place the new certificate on file with their employer.
- C. Every Licensee shall maintain a training record for their alcohol server staff, including their date of hire, proof of successful completion of alcohol server training as required by this Section, and any renewals to maintain their certification. Every Licensee shall keep the training records available for inspection by a law enforcement officer or an official of the Town of Jackson at any time that the licensed establishment is open.
- D. The Licensee or manager of the establishment may be cited for any violation of this Section, shall be considered in Section 6.60.010 as grounds for denial of the annual renewal of the license, and may be in addition to other penalties set forth in Title 12 of Wyoming State Statute or the Jackson Municipal Code.

6.40.060 Overserving of Alcoholic Beverages; Restrictions.

- A. It is it is a violation of the liquor license issued under this Title for a licensee and/or any agent or employee thereof, to sell, furnish, give or deliver or cause to be sold, furnished, given or delivered alcoholic or malt beverages to any excessively intoxicated person. This violation is in addition to and not in lieu of any other criminal penalties under the Jackson Municipal Code and Wyoming State Statutes that may accrue for unlawful alcohol service.
 - B. For purposes of this section, "excessively intoxicated" means intoxicated to the extent that a person's mental and/or physical faculties are severely impaired, the impairment(s) would be obvious to a reasonable person, and the impairment is shown by any or all of the following: severe uncoordinated physical action, or severe diminished mental capacity, or severe physical or mental dysfunction.
 - C. Under Section 9.64.020 of the Jackson Municipal Code it is unlawful for any person under the age of twenty-one (21) years to have any alcoholic or malt beverage in his possession or to be under the influence of any intoxicating liquor or malt beverage, within the Town of Jackson, unless an exemption stated under Wyoming State Statute § 12-6-101 is applicable, which includes possession by a person under the age of twenty-one (21) years making the delivery of such alcoholic beverage pursuant to his employment.
 - D. It is unlawful for any person under the age of twenty-one (21) years to be in, or attempt to be in, or remain in any place where intoxicating or malt liquors are sold or dispensed, or for any person to falsify any identification or use any false identification in order to be or remain in such place of business or to obtain intoxicating liquor or malt beverages unless an exemption stated under W.S. § 12-6-101 is applicable.
- (Ord. __, 2019; Ord. 1185 § 1, 2017; Ord. 1072 § 1, 2014; Ord. 1063 § 1, 2014; Ord. 987 § 1, 2011; Ord. 853 § 6, 2007; Ord. 577 § 1, 1997; Ord. 375 § 1, 1988; Ord. 90A § 3, 1973; Ord. 90 § 13, 1965.)

Chapter 6.50

SPECIAL TWENTY-FOUR (24) HOUR PERMITS

Sections:

6.50.010 Catering Permits.

6.50.020 Malt Beverage Permits. (Repealed Ord. __, 2019)

6.50.010 Catering Permits.

- A. It is the duty and obligation of the resort or retail liquor Licensee under which the catering permittee is acting to ensure compliance with all State and Town alcohol laws and regulations and any violations thereof shall be attributed to the resort or retail liquor Licensee.

(Ord. __, 2019; Ord. 1185 § 1, 2017; Ord. 1118, §1, 2016; Ord. 853 §7, 2007; Ord. 823 §1, 2006; Ord. 714 § 1, 2002)

6.50.020 Malt Beverage Permits. Repealed.

(Ord. __, 2019; Ord. 1185 § 1, 2017; Ord. 969 § 2, 2010; Ord. 853 § 7, 2007; Ord. 697 § 1, 2002; Ord. 90 § 4, 1965.)

Chapter 6.60
NONRENEWAL, SUSPENSION, AND REVOCATION
OF LICENSES AND PERMITS

Sections:

6.60.010 Grounds for Denying Renewal of License or Permit.

6.60.020 Grounds for Suspension and/or Revocation.

6.60.010 Grounds for Denying Renewal of License or Permit.

- A. A license or permit shall not be renewed or transferred if such renewal or transfer violates Title 12 of the Wyoming State Statutes, as amended, or the Jackson Municipal Code..
- B. The following, whether one (1) or more, may constitute a basis for nonrenewal of a license or permit:
1. Failure of the Licensee to comply with any provision(s) of state liquor law or this Title;
 2. Failure of the Licensee to comply with building occupancy limits after being advised of excess occupancy by a law enforcement or any code compliance officer;
 3. A pattern of failing to report incidents of illegal acts upon the licensed premises which results in injury to persons or property and which the Licensee knew or should have known about. A “pattern” for purposes of this section is defined as three (3) or more incidents in any twelve (12) month period;
 4. ~~Failure to provide education materials to its employees on Wyoming liquor laws and the duties associated with the prevention of service of alcohol to minors. The business shall have the ability to provide this educational information in any format they wish.~~ Failure to comply with Section 6.40.055 Alcohol Server Training Required.
 5. Failure of initial, consecutive, and/or cumulative compliance checks conducted by law enforcement pursuant to W.S. 12-6-103, as amended.
 6. Failure to comply with the Plan of Operations set forth in the license application.
- (Ord. __, 2019; Ord. 1185 § 1, 2017; Ord. 1173 § 1, 2017; Ord. 853 § 8, 2007.)

6.60.020 Grounds for Suspension and/or Revocation.

- A. The following actions, whether one (1) or more, shall require the suspension of a liquor license, with or without, the initiation of revocation proceedings. ~~be a basis for the Town Council to suspend a liquor license and/or for the Town Council to initiate revocation proceedings.~~ Revocation proceedings will be in accordance with W.S. § 12-7-201, as amended.
1. Failure by any licensee, or an agent or employee thereof, of three (3) compliance checks conducted by law enforcement pursuant to W.S. § 12-6-103, as amended, within a twelve (12) month period. A suspension will be carried out within the current liquor license year and be for ten (10) consecutive calendar days, and/or the Town Council may initiate revocation proceedings ~~consecutive or cumulative compliance~~

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~~checks in a twelve (12) month period. The suspension must occur within the liquor license year and be for a minimum of one hundred twenty (120) days.~~

2. Failure by any licensee, or an agent or employee thereof, of five (5) compliance checks conducted by law enforcement pursuant to W.S. § 12-6-103, as amended, within a twenty-four (24) month period. A suspension will be carried out within the current liquor license year and be for thirty (30) consecutive calendar days, and/or the Town Council may initiate revocation proceedings~~in a twenty-four (24) month period. The suspension must occur within the liquor license year and be for a minimum of one hundred fifty (150) days.~~
3. A pattern of excessive drinking and/or disorderly conduct on the licensed premises. A “pattern” for purposes of this section is defined as three (3) or more police reports in any twelve (12) month period. A suspension will be carried out within the current liquor license year and be for thirty (30) consecutive calendar days, and/or the Town Council may initiate revocation proceedings
4. The making of materially false statements on, or the submission of materially false documents in the State of Wyoming liquor license application and/or Town of Jackson liquor license application packet. A suspension will be carried out within the current liquor license year and be for thirty (30) consecutive calendar days, and/or the Town Council may initiate revocation proceedings.~~False information or false facts submitted as true and correct in an application packet for any license.~~
5. Three (3) or more substantiated violations with any provision(s) of Title 12 of the Wyoming State Statutes, as amended, or the Jackson Municipal Code in any twelve (12) month period. A suspension will be carried out within the current liquor license year and be for thirty (30) consecutive calendar days, and/or the Town Council may initiate revocation proceedings
6. Any substantiated incident of noncompliance with any provision of Title 12 of the Wyoming State Statutes, as amended, or the Jackson Municipal Code, a suspension will be carried out within the current liquor license year until the Licensee comes back into compliance with the provision.

B. In the event a suspension occurs:

1. The Town Clerk shall send a suspension notice to the Licensee by electronic-mail and postal mail to the address on file, with a copy to ~~by certified mail one copy of each of the suspension notices to the last known address of the license of permit holder and to the Director of~~ the Wyoming Liquor Division of the State of Wyoming and Chief of Police.
- ~~1.2.~~ The Licensee shall either remove all of the alcoholic liquor and malt beverages from the licensed premises or secure the alcoholic liquor or malt beverages in a manner approved in writing by the Chief of Police or his/her designee. The method of securing this inventory shall be approved at least 72-hours before the suspension begins, when

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a suspension is set to begin on a certain date in the future. ~~The Town Clerk shall post one (1) copy of the suspension notice on the licensed or permitted premises;~~

2.3. The Town Clerk shall post one (1) suspension notice on the licensed premises on or about the first day the suspension is to be carried out. The sale, offering to sell, distribution, or traffic of alcoholic liquor or malt beverages is unlawful during the suspension. ~~The licensee or permittee shall either remove all of the alcoholic liquor and malt beverages from the licensed premises or secure the alcoholic liquor or malt beverages in a manner approved in writing by the Chief of Police or his/her designee.~~

(Ord. __, 2019; Ord. 1185 § 1, 2017; Ord. 1173 § 1, 2017; Ord. 853 § 8, 2007.)

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Chapter 6.70 VIOLATIONS

Sections:

6.70.010 Violations. (Repealed Ord. __, 2019)

6.70.010 Violations. Repealed
(Ord. __, 2019; Ord. 853 § 9, 2007.)

Chapter 6.90
PENALTY FOR VIOLATIONS

Sections:

6.90.010 General Penalty for Violations.

6.90.020 Compliance Check Failures.

6.90.010 General Penalty for Violations

- A. Any person who violates any provisions of this title for which violation no specific penalty is provided is guilty of a misdemeanor and upon conviction thereof shall be punished according to Section 1.12.010 of this code.
- B. The provisions of this Chapter are cumulative and shall not be construed as preventing the Town of Jackson or the Wyoming Liquor Division from suspending or revoking a liquor license in any case authorized by law.

6.90.020 Compliance Check Failures

~~A. On the first compliance check failure, the licensee is required to have the employee failing the compliance check attend alcohol beverage server training as approved by the Jackson Police Department or the Wyoming Liquor Division, within thirty (30) calendar days of the failed compliance check, and thereafter must provide the Jackson Police Department with proof of compliance.~~ On the first compliance check failure, a member of the Licensee, or an officer or director thereof who is listed on the liquor license application, is required to attend alcohol server training with the employee who failed the compliance check within forty-five (45) days of the failed check.

1. The alcohol server training must be one of the programs approved by the Wyoming Liquor Division and Jackson Police Department.

~~1.~~ 2. Licensee must provide the Jackson Police Department with the certificate of successful completion within one (1) week of completion of the alcohol beverage server training.

B. On a second consecutive compliance check failure, or a second compliance check failure within a twelve (12) month period, the licensee is required to do the following within the associated time limits:

- 1. Within two (2) calendar days of the failed compliance check, provide the Jackson Police Department with the names of all employees who serve alcoholic beverages; and
- 2. Within forty-five (45) calendar days of the failed compliance check, ensure that a member of the Licensee, or an officer or director thereof who is listed on the liquor license application, and all the employees, in accordance with Section

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6.90.020(B)(1) above, attend an alcohol server training as approved by the Wyoming Liquor Division and Jackson Police Department; and

3. Provide the Jackson Police Department with the certificate of successful completion in accordance with Section 6.90.020(B)(1) above, within one (1) week of completion of the alcohol beverage server training.

(Ord. __, 2019; Ord. 853 § 10, 2007; Ord. 90 § 14, 1965.)

Title 6 Liquor Licenses and Permits

Chapters:

- 6.10 DEFINITIONS**
- 6.20 APPLICATION FOR LICENSES AND PERMITS**
- 6.30 ANNUAL LICENSES AND PERMITS**
- 6.40 RESTRICTIONS UPON LICENSE AND PERMIT HOLDERS**
- 6.50 SPECIAL TWENTY-FOUR (24) HOUR PERMITS**
- 6.60 SUSPENSION AND REVOCATION OF LICENSES AND PERMITS**
- 6.70 VIOLATIONS**
- 6.90 PENALTY FOR VIOLATIONS**

Chapter 6.10 DEFINITIONS

Sections:

6.10.010 Definitions.

6.10.010 Definitions.

In the interpretation of this chapter, unless the context indicates a different meaning:

- A. **"Alcoholic beverage permit"** means the authority under which the sale of alcoholic beverages is authorized as to hospitals, religious organizations, physicians, and dentists.
- B. **"Alcoholic liquor"** means any spirituous and/or fermented fluid intended for beverage purposes which contains at least one-half of one percent (.5%) of alcohol by volume, including alcohol, brandy, whiskey, rum, gin, and wine, liquids and compounds.
- C. **"Club"** means a fraternal organization, not including college fraternities, labor unions, or associations organized for commercial purposes or profit, which is a member of, and holds a charter from, a national organization, and which owns or leases a building or space in a building for the use and accommodation of its members and guests.
- D. **"Drugstore"** means a suitable space in a building kept, used, maintained, advertised, and held out to the public to be a place where drugs and medicines are sold and prescriptions compounded and where a registered pharmacist is regularly employed.
- E. **"Hotel"** means a suitable building kept, used, maintained, advertised, and held out to the public to be a place where sleeping accommodations are offered for pay to transient guests. Such sleeping accommodations shall be in the same building and such sleeping accommodations shall be so equipped and serviced that the Town Council shall be satisfied that the chief source of revenue to be derived from the operation of the hotel shall be from sleeping accommodations and not from the sale of alcoholic or malt beverages. No cottage, tourist camp, or rooming house shall be considered a hotel.
- F. **"Intoxicating liquor," "alcoholic liquor," "alcoholic beverage,"** and **"spirituous liquor"** shall be construed as synonymous in meaning and definition.
- G. **"Licensed Building"** means the physical licensed building for which the license is issued and as approved by the licensing authority; which may include an immediately adjacent fenced or enclosed area as approved by the licensing authority. This term does not apply to restaurant liquor licenses.
- H. **"Licensing Authority"** means the governing body of an incorporated city, town, or county in Wyoming with the responsibility to issue, control, and administer a particular license.
- I. **"Limited retail liquor license"** means the authority under which clubs as defined in this section shall be permitted to sell alcoholic and/or malt beverages.
- J. **"Malt beverage"** means any fluid of any name or description manufactured from malt, wholly or in part, or from any substitute therefore, containing more than one percent of alcohol by volume.
- K. **"Malt beverage permit"** means the authority under which the sale of malt beverages is authorized for specifically limited periods or as hereinafter otherwise provided.
- L. **"Original package"** means any bottle, flask, jug, cask, barrel, hogshead, or other receptacle or container used, which is corked or capped, and sealed or labeled by the manufacturer of alcoholic beverages, containing any alcoholic beverage.

- M. **"Person"** includes an individual person, partnership, corporation, limited liability company or any other or association or entity, public or private.
- N. **"Restaurant"** means space in a building maintained, advertised and held out to the public as a place where individually priced meals are prepared and served primarily for on-premises consumption and where the primary source of revenue from the operation is from the sale of food and not from the sale of alcoholic or malt beverages. The building shall have a dining room or rooms, a kitchen, and the number and kinds of employees necessary for the preparing, cooking and serving of meals in order to satisfy the licensing authority that the space is intended for use as a full service restaurant.
1. **"Full service restaurant"** means a restaurant at which waiters and waitresses deliver food and drink offered from a printed food menu to patrons at tables or booths.
 2. Food menu shall contain a minimum of five (5) qualifying selections. The service of only fry orders or such food and victuals as sandwiches, hamburgers or salads shall not be deemed a restaurant for the purposes of this section.
 3. Kitchen shall be an area with cooking appliances required to prepare plated meals.
 4. Dispensing Room means an enclosed and partitioned space within a restaurant large enough for a person to enter, but not a cabinet. Wall partitions may contain cut-out windows and doorways, but partitions shall extend from floor to ceiling.
- O. **"Retailer"** means a person who sells or offers for sale any alcoholic or malt beverage for use or consumption and not for resale.
- P. **"Retail liquor license"** means the authority under which a retailer shall be permitted to sell alcoholic and/or malt beverages for use or consumption but not for resale.
- Q. **"Sell"** or **"sale"** includes offering for sale, trafficking in, bartering, delivering for value, exchange for goods, or in any way other than purely gratuitously. Any delivery of any alcoholic and/or malt beverage made otherwise than by gift shall constitute a sale.
- (Ord. 1185 § 1, 2017; Ord. 998 § 1, 2011; Ord. 853 § 3, 2007; Ord. 389 § 1, 1989; Ord. 90 § 1, 1965.)

Chapter 6.20
APPLICATION FOR LICENSES AND PERMITS

Sections:

6.20.010 Affidavit and of Authorization and Understanding.

6.20.015 Affidavit of Understanding. (Repealed. Ord.1185 § 1, 2017)

6.20.020 Notice publication--Protests.

6.30.030 Term - Exception.

6.20.010 Affidavit of Authorization and Understanding.

All persons filing applications for new licenses and permits, renewals or for transfer of ownership, unless otherwise noted in this title, shall submit a signed Affidavit of Authorization form as provided by the Town Clerk, which includes the applicant's full legal name, signature, social security number, driver's license number, and date of birth to assist with application processing by the Town Clerk and Chief of Police. By signing, all persons filing applications shall agree to a background check, including criminal information, conducted by the Chief of Police or his designee and that the applicant understands that it shall be the duty of the applicant to seek any additional required reviews, authorizations, permits, and approvals from any Town or County department or elected bodies. Procedures for reviewing applications will be established by the Town Clerk, Chief of Police and Risk Manager.

(Ord. 1185 § 1, 2017; Ord. 969 § 1, 2010; Ord. 853 § 4, 2007)

6.20.015 Affidavit of Understanding. Repealed.

(Ord.1185 § 1, 2017; Ord. 969 § 1, 2010)

6.20.020 Notice publication--Protests.

When an application has been filed in the office of the Town Clerk, it shall be the duty of such Town Clerk to promptly publish, post on the official website of the town and display conspicuously on the premises in which the applicant desires to use as the place of sale a notice pursuant to Section § 12-4-104 of the Wyoming State Statutes which may be amended from time to time that such applicant has made application for a license and that protests against the issuance of a license to the applicant will be heard at a time stated in the notice, which shall be at a special or a regular meeting of the Town Council, and all such licenses shall be issued in accordance with the requirements of the statutes of the state of Wyoming, and all such licenses, when issued, shall be made and executed in accordance with the laws of the state and Town of Jackson. Each applicant shall pay an amount sufficient to cover the costs of publishing the notice, as determined by the Town Clerk.

(Ord. 1185 § 1, 2017; Ord.1076 § 1, 2014; Ord. 853 § 4, 2007; Ord. 90 § 5, 1965.)

6.20.030 Term - Exception.

A license or permit shall be a personal privilege, good for one (1) year unless sooner revoked or if issued by the licensing authority for less than one (1) year to coincide with the annual date of renewal, or if issued as a twenty-four (24) hour permit.

A. Exception. When a valid license or permit is determined to be part of the estate of a deceased licensee, the executor or administrator of the estate of any deceased licensee, when such

estate consists in whole or in part of the business of selling alcoholic and/or malt beverages under a license, may exercise the privilege of the deceased under such license or licenses or permit until the expiration of the same; and provided further, that upon approval of the Town Council, the license may be renewed on different premises on the same basis as an original application, except for the payment of the license fee, which renewed license shall expire as of the date of the original license; and provided further, that the owner of such license, or the executor or administrator of the estate of any deceased licensee, by an actual bona fide sale to be made in good faith, may, if proceedings are not pending to suspend, revoke, or otherwise penalize under this title or the provisions of the laws of the state of Wyoming, the license holder, assign and transfer such license and the assignee or transferee thereof, subject to the condition and approval hereinafter stated, may exercise the privilege of continuing the business authorized by such license, without the payment of any additional license fee, until the expiration of the same, upon the express condition, however, that such assignee or transferee shall first make and file a sworn application showing the qualifications of such person or assignee or transferee to take and hold a retail liquor license as required by this title and the laws of the state of Wyoming, and all subject to the approval of the Town Council.

(Ord. 1185 § 1, 2017; Ord. 853 § 4, 2007; Ord. 90 § 6, 1965.)

Chapter 6.30
ANNUAL LICENSES AND PERMITS

Sections:

6.30.010 Retail or Limited Retail (Club) Liquor Licenses.

6.30.020 Resort or Restaurant Liquor Licenses.

6.30.030 Bar & Grill Liquor Licenses.

6.30.040 Microbrewery Permits, Authorization and Application.

6.30.050 Satellite Winery Permits, Application.

6.30.060 Satellite Manufacturer's Permits, Authorization and Application.

6.30.010 Retail or Limited Retail (Club) Liquor Licenses.

Any person desiring a limited or retail liquor license under this title shall apply to the Town Clerk for the same on forms prepared by the Attorney General of the state of Wyoming, as and in accordance with the statutes of the state of Wyoming, in such case made and provided, and not otherwise. The amount or fee to be paid for such retail liquor license shall be, and is fixed at, the sum of one thousand five hundred (\$1,500.00) per year, and the amount or fee to be paid for limited retail (club) liquor licenses shall be five hundred (\$500.00) per year, all such fees shall be payable in full in advance, and no such retail or limited retail (club) liquor license shall issue to the applicant until payment in full has been made.

Establishments holding a retail liquor license that operate primarily for sales for off-premise consumption (i.e. a grocery store) shall maintain a separate area for alcoholic or malt beverages that shall restrict entry to persons over the age of twenty-one (21) years of age.
(Ord. 1185 § 1, 2017; Ord. 853 § 5, 2007; Ord. 503 § 3, 1995; Ord. 90 § 3, 1965.)

A. Events for persons under 21

The holder of a retail liquor license may be issued a permit authorizing the holding of an event at which persons under the age of twenty-one (21) are permitted on the premises if:

1. Application is made with the Town Clerk and a fee of twenty-five (\$25.00) dollars is paid.
2. No alcoholic liquor or malt beverages are sold, served, consumed or possessed by any person attending the event.
3. No alcoholic liquor or malt beverages are accessible to persons attending the event.
(Ord. 1185 § 1, 2017; Ord. 853 § 5, 2007; Ord. 569 § 1, 1996.)

B. Drive-in liquor stores.

A drive-in area adjacent or contiguous to the licensed building may be used by the holder of a retail liquor license for taking orders, making delivery of, and receiving payments for alcoholic and/or malt beverages under the following conditions and safeguards:

1. The holder of the retail liquor license shall own the area or hold a written lease for the period for which the license was issued;
2. The area shall be well lighted and subject to inspection by the Town Council at any and all times;

3. No walls or screens shall interfere with observing and checking the part of the area used for orders, delivery, and payment;
4. No orders shall be received from or delivery made to a person under the age of twenty-one (21) or an obviously intoxicated person in the area;
5. No part of a sidewalk, highway, street, or alley shall be used for orders, sales, or deliveries;
6. Alcoholic and/or malt beverages shall be sold and delivered in the area only in the original, unopened package, and consumption of alcoholic and/or malt beverages in the drive-in area shall not be permitted.

It shall be the duty of the members of the Town Council and the agents and officers of the Town of Jackson to determine whether traffic conditions or the difficulty of checking sales and delivery or violations of safeguards should require a decision for bidding or restricting sales and delivery in any drive-in area, and if by resolution the right to use such drive-in areas is forbidden or restricted that resolution shall be complied with by the licensee. (Ord. 1185 § 1, 2017; Ord. 853 § 5, 2007; Ord. 90 § 10, 1965.)

C. Sales by drugstores.

All sales of alcoholic and/or malt liquor by drugstores holding a retail liquor license under the provisions of this title shall be sold only in the container received by the druggist in the original package and no such container or original package shall be opened upon the premises where the same is sold, or in any room or building in connection with the drugstore, and any such sale shall be made only by a licensed pharmacist or by a clerk over the age of nineteen (19) years.

(Ord. 853 § 5, 2007; Ord. 90A § 2, 1973; Ord. 90 § 11, 1965.)

D. Sales by fraternal clubs.

Bona fide fraternal clubs with national organizations shall be licensed under a limited retail liquor license for which they shall pay a license fee of five hundred dollars (\$500.00) annually in advance, which license fee shall be paid to the Town treasury. A club holding such a license may sell alcoholic or malt beverages for consumption anywhere on the licensed premises leased or owned by said club for the use of its members and guests. It shall be the duty and obligation of said club to so check and regulate sale to members and guests that any and all alcoholic or malt beverages sold by it shall be consumed on such licensed premises.

(Ord. 1185 § 1, 2017; Ord. 853 § 5, 2007; Ord. 504 § 7, 1995; Ord. 90 § 7, 1965.)

6.30.020 Resort or Restaurant Liquor Licenses.

- A. Any person desiring a resort or restaurant liquor license under this title, as such licenses may be available from time to time pursuant to the applicable statutes of the state, shall apply to the Town Clerk for the same on forms prepared by the Attorney General of the state, as and in accordance with the said statutes of the state in such case made and provided and not otherwise. The fee for a resort or restaurant license shall be fifteen hundred dollars (\$1,500.00), which amount may be amended from time to time by resolution of the Town Council, provided that in no case shall the sum be less than or greater than the amount authorized by applicable statutes of the state. All such fees shall be payable in full in advance

and no such license shall be issued to the applicant until payment in full has been made. The term of an initial issue license may be prorated and the fee therefore prorated so that the license shall expire on March 31st of each year.

- B. All applications for restaurant licenses shall be accompanied by a plan of operations setting forth in detail the areas proposed for service of alcoholic and malt beverages, plans for service of alcoholic and malt beverages and dispensing rooms.
- C. No restaurant liquor licensee shall promote the restaurant as a bar or lounge, nor shall the licensee compete with a retail liquor license in activities other than dining functions.
 - 1. A Restaurant Liquor License does not allow:
 - a. Providing liquor service at dances, receptions, or other social gatherings.
 - b. Advertising as a bar or saloon in publications or signage.
 - c. Having a separate name for any room or area that denotes the availability of alcoholic or malt beverages.
 - d. Advertising special prices or promotions for sale of alcoholic beverages separate from meals, “happy hour”, unless the special price or promotion includes a qualifying restaurant meal.
 - e. Selling alcoholic or malt beverages to customers seated at a bar or counter unless they have been given a printed food menu.
 - f. Collecting a “cover charge” that includes the cost of any entertainment, live or television, unless such cover charge is part of and not separated from a package price which includes payment for a restaurant meal.
 - 2. All sales of alcoholic and malt beverages authorized by a restaurant liquor license shall cease at the time food sales and services cease.
- D. The provisions of this section shall not apply to validly existing restaurant liquor licenses issued prior to May 1, 1989, unless application for relocation of the dispensing room shall have been made, in which event all of the requirements of this sections shall apply.
(Ord. 1185 § 1, 2017; Ord. 853 § 5, 2007; Ord. 605 § 1, 1997; Ord. 388 § 1, 1989.)

6.30.030 Bar & Grill Liquor Licenses.

- A. The Town, upon application and after public hearing, may authorize the issuance of a Bar and Grill License to a restaurant pursuant to Section § 12-4-413(a) of Wyoming Statutes.
- B. Any person desiring a Bar and Grill Liquor License shall file with the Town Clerk an application with the required supporting documentation and payment of the applicable fee. The fee for a Bar and Grill License shall be fifteen hundred dollars (\$1,500.00), which amount may be amended from time to time by resolution of the Town Council without the necessity of amending the ordinance codified in this section; provided, however, that in no case shall the sum be greater than the amount authorized by applicable statutes of the State of Wyoming.
- C. A Bar and Grill Liquor License shall not be sold, transferred or assigned by the holder.

- D. Bar and Grill licensees shall not sell alcoholic or malt beverages for off-premises consumption.
 - E. Any Bar and Grill Liquor License issued shall be subject to the terms and conditions of Section § 12-4-413 of Wyoming Statutes, including § 12-4-408 and 12-4-410(c) as applicable to restaurant liquor licenses, and all other applicable state and local statutes and ordinances governing local licenses.
- (Ord. 1185 § 1, 2017; Ord. 853 § 5, 2007; Ord. 828 § 1, 2006.)

6.30.040 Microbrewery Permits, Authorization and Application.

Any person desiring a permit for the operation of a micro-brewery defined as a commercial enterprise at a single location producing malt beverage in quantities not to exceed fifty (50,000) thousand barrels per year and not less than fifty (50) barrels per year in accordance with the requirements of Section § 12-4-412 of Wyoming Statutes, shall apply to the Town Clerk for the same on forms prepared by the Attorney General of the state as and in accordance with the applicable statutes of the state of Wyoming in such case made and provided and not otherwise. The amount of the fee to be paid for such micro-brewery permit shall be five hundred dollars (\$500.00) and the said amount may be amended from time to time by resolution of the Town Council without the necessity of amending the ordinance codified in this section; provided, however, that in no case shall the sum be less than or greater than the amount authorized by applicable statutes of the state of Wyoming. All such fees shall be payable in full, in advance, and no such license shall issue to the applicant until payment in full has been made. The term of an initial issue license may be prorated and the fee therefore prorated so that the license shall expire on March 31st of each year.

The permittee shall comply in all particulars with the applicable statutes of the State of Wyoming and the issuance of a permit by the Town shall entitle the permittee to:

- (i.) Sell other malt beverages for on-premises consumption only when obtained through licensed wholesale malt beverage distributors;
- (ii.) Sell its product on-site only, for off-premises personal consumption, not for retail sale, in packaging of bottles, cans or packs of an aggregate volume not to exceed two thousand (2,000) ounces per sale.

The number of microbrewery permits available shall be limited in accordance with the provisions of Wyoming Statutes § 12-4-201(d). A dual microbrewery permit may be issued to an applicant in addition to and even though such applicant may be the holder of a retail liquor license, a restaurant license or a resort license, as provided by applicable statutes, without payment or assessment of an additional fee over and above that charged for the original retail, restaurant, or resort license.

(Ord. 1185 § 1, 2017; Ord. 853 § 5, 2007; Ord. 456 § 1, 1993.)

6.30.050 Satellite Winery Permits, Application.

- A. The Town, upon application and after public hearing, may authorize the issuance of a satellite winery permit to a holder of a winery permit pursuant to Section § 12-4-412(d) of Wyoming Statutes as such section may be amended from time to time. A satellite winery permit allows

a permittee to sell its manufactured wine at up to three (3) satellite locations within Wyoming separate from its licensed manufacturing site.

- B. Any person desiring a satellite winery permit shall file with the Town Clerk and application with the required supporting documentation and payment of the applicable fee. The fee for a satellite winery permit shall be one hundred dollars (\$100.00), which amount may be amended from time to time by resolution of the Town Council without the necessity of amending the ordinance codified in this section; provided, however, that in no case shall the sum be greater than the amount authorized by applicable statutes of the state of Wyoming.
- C. Any satellite winery permit issued shall be subject to the terms and conditions of Section § 12-4-412 of Wyoming Statutes and all other applicable state and local statutes and ordinances governing local licenses.

(Ord. 853 § 5, 2007; Ord. 723 § 1, 2003.)

6.30.060 Satellite Manufacturer's Permits, Authorization and Application.

- A. Pursuant to Section § 12-2-203(g) of Wyoming State Statutes as such section may be amended from time to time, the Town, upon application and after public hearing, may authorize the issuance of one (1) satellite manufacturer's permit to the holder of a Wyoming Liquor Division manufacturer's license and who is a federally licensed distiller or rectifier.
- B. Any person desiring a satellite manufacturer's permit shall file with the Town Clerk an application with the required supporting documentation and payment of the applicable fee. The fee for a satellite manufacturer's permit shall be one hundred dollars (\$100.00), which amount may be amended from time to time by resolution of the Town Council without the necessity of amending the ordinance codified in this section; provided, however, that in no case shall the sum be greater than the amount authorized by applicable statutes of the State of Wyoming.
- C. Any satellite manufacturer's permit issued shall be subject to the terms and conditions of Section § 12-2-203 of Wyoming State Statutes and all other applicable state and local statutes and ordinances governing local liquor licenses.

(Ord. 1185 § 1, 2017; Ord. 1069 § 1, 2014)

Chapter 6.40**RESTRICTIONS UPON LICENSE AND PERMIT HOLDERS****Sections:****6.40.010 License: Transfer, Renewal.****6.40.020 License: Contents, Signing, Attestation and Display.****6.40.030 Hours of Sale: Unlawful Acts Designated.****6.40.040 Place of Sale: Location, Regulation, and Restrictions.****6.40.050 Places for Consumption or Possession in Open Containers Prohibited.****6.40.060 Minor, Habitual and Common Drunkards and Incompetent: Restrictions.****6.40.010 License: Transfer, Renewal.**

Upon the expiration of any license, the owner thereof shall have a preference right to a new license or renewal of license if such license may be granted under this title or the laws of the State of Wyoming. Except as above provided in Section 6.20.030 of this title, no liquor shall be dispensed in any place not described in the license at the time of issuance, nor shall it be subject to attachment, garnishment, or execution. Retail, limited retail, and microbrewery licenses may be transferred or renewed on different premises on the same basis as the original application only after public hearing and with the approval of the Town Council. Restaurant, bar and grill, and resort licenses may not be transferred to a new location.

There shall be no refund of all or any part of any license fee. The fee for the transfer of a liquor license or permit shall be one hundred dollars (\$100.00).
(Ord. 1185 § 1, 2017; Ord.960 § 1, 2010; Ord. 853 § 6, 2007; Ord. 90 § 6, 1965.)

6.40.020 License: Contents, Signing, Attestation and Display.

Each license issued by the Town shall be signed by the Mayor and attested by the Clerk. The following shall be shown in each license:

- A. The name of the licensee;
 - B. A description of the place in which alcohol and/or malt beverages may be sold;
 - C. The date of issuance;
 - D. The amount of the fee and that the same has been paid;
 - E. Each licensee shall display the license in a conspicuous place in the licensed room.
- (Ord. 853 § 6, 2007; Ord. 90 § 12, 1965.)

6.40.030 Hours of Sale: Unlawful Acts Designated.

- A. All persons licensed under this title except clubs holding a limited retail license shall close the dispensing room and cease the sale of both alcoholic and malt liquors promptly at the hour of two (2) a.m. each day and keep the same closed until six (6) a.m. the same day. The Town Council may meet in January of each year to designate the dates during any city or county fairs, rodeos, pageants, jubilees or similar public gatherings when all licensees may operate without restriction as to closing hours, such unrestricted operation shall not exceed a total of four (4) full days in any one (1) calendar year.

- B. It is unlawful for any owner, manager or employee of any business licensed under this title, except clubs holding a limited retail license, to allow anyone other than an employee of the licensed business or organization to be or remain in the licensed room from and after thirty minutes after the time designated by statute or ordinance for closing of the dispensing room and ceasing the sale of both alcoholic and malt liquors; provided, that in cases of food service operations for which an additional dispensing room license has been obtained pursuant to this chapter, the food service facilities may remain open to the public, but it shall be unlawful to allow the consumption of alcoholic beverages therein from and after thirty (30) minutes after the time established by statute or ordinance for the closing of the dispensing room and the ceasing of sale of alcoholic and malt liquors.

(Ord. 853 § 6, 2007; Ord. 544 § 1, 1996; Ord. 227 § 1--2, 1977; Ord. 90A § 1, 1973; Ord. 90 § 8, 1965.)

6.40.040 Place of Sale: Location, Regulation, and Restrictions.

The place in which alcoholic and malt beverages are sold under a retail liquor license shall be located in the licensed building for which the license is approved and issued. Alcoholic beverages secured by a server may be served only in the licensed building and in an immediately adjacent fenced or enclosed area as approved by the licensing authority. The adjacent area shall not be located in another building. The licensing authority which issued the license shall as often as may be deemed necessary inspect the licensed building and adjoining areas where alcoholic beverages are served to determine compliance with sanitation, fire hazard, local permitting, and other applicable laws.

(Ord. 1185 § 1, 2017; Ord. 853 § 6, 2007; Ord. 90 § 9, 1965; Ord 516 § 1, 1995.)

6.40.050 Places for Consumption or Possession in Open Containers Prohibited.

No alcoholic or malt beverage shall be consumed or carried by any person in open containers of any type on any street, sidewalk or curb or any other public property whatsoever within the town, except in dedicated town parks maintained by Jackson/Teton County Parks & Recreation, athletic fields, and the rodeo grounds.

No alcoholic or malt beverages shall be consumed or carried by any person in open containers of any type within:

- A. The grandstands, or adjacent to, or on any baseball field during any game sanctioned by Little League Baseball Incorporated; or
- B. The Town Square which is bounded by East Broadway Street, North Cache Street, East Deloney Street and North Center Street.

(Ord. 1185 § 1, 2017; Ord. 853 § 6, 2007; Ord. 172 § 1, 1974.)

6.40.060 Minor, Habitual and Common Drunkards and Incompetents: Restrictions.

- A. It is unlawful for any holder of a license or permit issued under the provisions of this title or the statutes of the State of Wyoming, or the servant or employee of such holder to sell, furnish, give or deliver or cause to be sold, furnished, given or delivered alcoholic or malt beverages to any habitual or common drunkard or to any disorderly or obviously intoxicated person; or for any person, firm or corporation or its agents, to sell alcoholic or malt beverages to any habitual or common drunkard or any incompetent person. In the case of habitual or common

drunkards the licensee must be notified in writing, by the Chief of Police or his/her designee of such habitual or common drunkenness. For purposes of this section, “obviously intoxicated” means inebriated to the extent that a person’s physical faculties are substantially impaired and the impairment is shown by significantly uncoordinated physical action or significant physical dysfunction that would have been obvious to a reasonable person. (Ord. 1072 § 1, 2014)

- B. It is unlawful for any holder of a license or permit issued under the provisions of this title or the statutes of the State of Wyoming, or his or its servants, agents or employees to permit any person under the age of twenty-one (21) years to enter or remain in an establishment that is primarily for off-premise sales of alcoholic liquor or malt beverages unless accompanied by a parent, spouse, or legal guardian who is twenty-one (21) years of age or older.

1. Exception: Minors may be allowed, if accompanied by a parent, spouse, or legal guardian who is twenty-one (21) years of age or older:
 - a) In a dining or waiting area not later than 10:00 p.m.;
 - b) In drugstores, in which intoxicating or malt liquors are sold or dispensed; or
 - c) In an establishment, or in a separate area designated within that establishment, that is primarily for off-premise sales of alcohol or malt beverages.

(Ord. 1185 § 1, 2017; Ord. 1072 § 1, 2014; Ord. 987 § 1, 2011; Ord. 853 § 6, 2007; Ord. 577 § 1, 1997; Ord. 375 § 1, 1988; Ord. 90A § 3, 1973; Ord. 90 § 13, 1965.)

- C. It is unlawful for any person to sell, furnish, give or cause to be sold, furnished or given any alcoholic or malt beverage to any person under the age of twenty-one (21) years, who is not his legal ward, medical patient, or member of his own immediate family, unless otherwise excepted under W.S. 12-6-101(d) or (e), as amended.
(Ord. 1072 § 1, 2014; Ord. 987 § 1, 2011; Ord. 853 § 6, 2007; Ord. 577 § 1, 1997; Ord. 375 § 1, 1988; Ord. 90A § 3, 1973; Ord. 90 § 13, 1965.)

- D. Under Section 9.64.020 of the Jackson Municipal Code it is unlawful for any person under the age of twenty-one (21) years to have any alcoholic or malt beverage in his possession or to be under the influence of any intoxicating liquor or malt beverage, within the Town of Jackson, unless an exemption stated under Wyoming State Statute § 12-6-101 is applicable, which includes possession by a person under the age of twenty-one (21) years making the delivery of such alcoholic beverage pursuant to his employment.
(Ord. 1063 § 1, 2014; Ord. 853 § 6, 2007; Ord. 577 § 1, 1997; Ord. 375 § 1, 1988; Ord. 90A § 3, 1973; Ord. 90 § 13, 1965.)

- E. It is unlawful for any person under the age of twenty-one (21) years to be in, or attempt to be in, or remain in any place where intoxicating or malt liquors are sold or dispensed, or for any person to falsify any identification or use any false identification in order to be or remain in such place of business or to obtain intoxicating liquor or malt beverages unless an exemption stated under W.S. § 12-6-101 is applicable.
(Ord. 1185 § 1, 2017; Ord. 853 § 6, 2007; Ord. 577 § 1, 1997; Ord. 375 § 1, 1988; Ord. 90A § 3, 1973; Ord. 90 § 13, 1965.)

Chapter 6.50
SPECIAL TWENTY-FOUR (24) HOUR PERMITS

Sections:

6.50.010 Catering Permits.

6.50.020 Malt Beverage Permits.

6.50.010 Catering Permits.

- A. A catering permit authorizing the sale of alcoholic and malt beverages may be issued by the Town to any person or organization holding a retail or resort retail liquor license authorizing the off-premises sale of both alcoholic and malt beverages, for sales at meetings, conventions, private parties and dinners or at other similar gatherings not capable, or desirable to be held within the licensee's licensed premises. No licensee holding a catering permit shall sell or permit consumption of any alcoholic or malt beverage off the premises described in the permit. Notwithstanding any other provision of this subsection, closed-container items sold at auction for the benefit of a nonprofit organization may be taken off-premises.
- B. The permits authorized by this section shall be issued for one (1) twenty four (24) hour period, subject to the schedule of operating hours provided in Section 6.40.030 of this Code. No person or organization shall receive more than a total of thirty-six (36) catering permits for sales at the same premises in any one (1) year.
(Ord. 1185 § 1, 2017; Ord. 1118, §1, 2016; Ord. 853 §7, 2007; Ord. 823 §1, 2006; Ord. 714 § 1, 2002)
- C. The catering permit shall be issued on application to the Town without public notice or hearing. An application for a catering permit shall be accompanied by a designation of the event for which the application is sought specifying the type of event and the name of the sponsor. Any applicant applying for a permit authorized by this section and having licensed premises located outside of the Town shall secure the written approval of the licensing authority of Teton County or other applicable jurisdiction, prior to filing an application for a permit.
- D. The fee for the catering permit shall be twenty dollars (\$20.00) per each twenty-four (24) hour period.
- E. It shall be the duty and obligation of the permit holder to ensure that no sales are made to any person under the age of twenty-one (21) years.
(Ord. 1185 § 1, 2017; Ord. 853 § 7, 2007; Ord. 823 §1, 2006; Ord. 714 § 1, 2002)

6.50.020 Malt Beverage Permits.

- A. A malt beverage permit may be issued to any responsible person or organization, qualified by W.S. 12-4-103 (a)(vii), for the sale of malt beverages only at a picnic, bazaar, fair, rodeo, special holiday or similar public gathering. No person or organization holding the special permit shall sell any alcoholic liquor other than malt beverages on the premises described on the permit, nor shall any malt beverages be sold or consumed off the premises authorized by the permit.

- B. It shall be the duty and obligation of the permit holder to ensure that no sales are made to any person under the age of twenty-one (21) years.
- C. The permits authorized by this section shall be issued for one (1) twenty-four (24) hour period, subject to the schedule of operating hours provided in Section 6.40.030 of this Code. No person or organization shall receive more than a total of twelve (12) malt beverage permits for sales at the same premises in any one (1) year, except that this limitation shall not be applicable to malt beverage permits issued for sales at any fair, rodeo, pari-mutuel event or other similar public event conducted by a public entity upon public premises.
- D. The permit shall be issued by the Town Council without notice of application on forms prepared by the Town of Jackson. The fee for a malt beverage permit, shall be one hundred dollars (\$100.00) per twenty-four (24) hour period.

(Ord. 1185 § 1, 2017; Ord. 969 § 2, 2010; Ord. 853 § 7, 2007; Ord. 697 § 1, 2002; Ord. 90 § 4, 1965.)

Chapter 6.60
SUSPENSION AND REVOCATION OF LICENSES AND PERMITS

Sections:

6.60.010 Grounds for Denying Renewal of License or Permit.

6.60.020 Grounds for Suspension or Revocation.

6.60.010 Grounds for Denying Renewal of License or Permit.

- A. A license or permit shall not be renewed or transferred if the governing body finds from evidence presented at the hearing required under Wyoming Statutes § 12-4-104, as amended, any of the conditions found under Wyoming Statutes § 12-4-104(b) or violations of subsection C of this section.
- B. The holder of an expired annual license, or one due for expiration, has a preference right to a renewal of that license for the same location, but such preference exists only to the extent explicitly authorized under Wyoming Statutes § 12-4-104(c), as amended. No other preference rights are authorized or recognized by the Town. The preference right granted under this section shall expire thirty (30) days after the expiration date shown on the most recently issued license or permit.
- C. The following actions, whether one (1) or more, may constitute a basis for nonrenewal of a license or permit:
 - 1. Failure of the license holder to comply with any provisions of this chapter;
 - 2. Three (3) or more convictions by the license holder and its employees in any calendar year for sale of alcohol to underage persons;
 - 3. Failure of the license holder to comply with building occupancy limits after being advised of excess occupancy by a law enforcement or code compliance officer;
 - 4. A pattern (i.e. three (3) or more in one (1) calendar year) of failing to report incidents of assault and battery, disorderly conduct, sexual assault, discharge of firearms, or any other illegal act upon the premises which results in injury to persons or property, and which the license holder knew or should have known about;
 - 5. Conviction of any nonprocedural violation of state or local liquor laws.
 - 6. Failure to provide education materials to its employees on Wyoming liquor laws and the duties associated with the prevention of service of alcohol to minors. The business shall have the ability to provide this educational information in any format they wish.
 - 7. Initial, consecutive, and cumulative compliance check failures. Should a business fail an initial, consecutive, or cumulative compliance check as outlined below and conducted by law enforcement for the purposes of checking compliance with Wyoming liquor laws, in addition to constituting a basis for nonrenewal;
 - a. On the first compliance check failure, the business shall be required to have the employee failing the compliance check attend a four (4) hours TIPS (Training for Intervention Procedures) or RBST (Responsible Beverage Server Training approved by the Jackson Police Department or the Wyoming Liquor Division) training within thirty (30) days of failing the compliance check.

- b. On the second consecutive compliance check failure or a second compliance check failure within a twelve (12) month period, the business shall be required to have all of its employees who serve alcohol attend a four (4) hours TIPS/RBST (approved by Jackson Police Department or Wyoming Liquor Division) training within forty-five (45) days of failing the compliance check.
 - 8. Failure to comply with the Plan of Operations set forth in the license application shall be grounds for non-renewal of the license by the Town Council.
- (Ord. 1185 § 1, 2017; Ord. 1173 § 1, 2017; Ord. 853 § 8, 2007.)

6.60.020 Grounds for Suspension or Revocation.

- A. Wyoming Statute § 12-7-103 authorizes the Town to suspend a liquor license or permit if the licensee has not paid sales taxes. The determination that a licensee has not paid sales taxes will be determined by the State Liquor Division, with the Wyoming Department of Revenue.
- B. After receiving a certified order from the Liquor Division that a licensee or permittee owes sales taxes to the state, the Town Clerk will notify the licensee or permittee by certified mail if the Town intends to hold a hearing on whether the license or permit should be suspended.
- C. The suspension hearing will be conducted under rules adopted by the Town. The Liquor Division's order of delinquency and all evidence presented at the Liquor Division's hearing will be admitted and considered prima facie evidence of licensee's or permittee's tax delinquency.
- D. In the event a license or permit is suspended in accordance with this section, the holder of the license or permit may appeal the suspension in accordance with the provisions of Wyoming Statute § 12-7-103, as amended.
- E. The suspension of the license or permit shall remain in effect until either the governing body lifts the suspension, a court of competent jurisdiction lifts the suspension, or the Town Clerk receives certified notice from the state that the sales tax liability has been satisfied.
- F. In the event a suspension occurs:
 - 1. The Town Clerk shall send by certified mail one copy of each of the suspension notices to the last known address of the licensee or permit holder and to the Director of the Wyoming Liquor Division of the State of Wyoming;
 - 2. The Town Clerk shall post one (1) copy of the suspension notice on the licensed or permitted premises;
 - 3. Immediately upon the posting of the suspension notice, the sale, offering to sell, distribution, or traffic of alcoholic liquor or malt beverages is unlawful; and,
 - 4. The licensee or permittee shall either remove all of the alcoholic liquor and malt beverages from the licensed premises or secure the alcoholic liquor or malt beverages in a manner approved in writing by the Chief of Police or his/her designee.

- G. When a liquor license holder has acted in violation of this chapter, the Town may take action pursuant to Wyoming Statute § 12-7-201, as amended, seeking suspension or revocation of the license or permit. Any revocation procedures of a license or permit will be in accordance with Wyoming Statute § 12-7-101 through § 12-7-201. Such action shall be in addition to any other penalties which may accrue to the license holder for violation of Chapter 6.70 of this title.
- H. In addition to the penalty provided by this code or state law, excessive drinking or disorderly conduct, or consecutive and cumulative compliance check failures as outlined below may be cause for the initiation of suspension and/or revocation procedures.
1. If a business fails a third consecutive compliance check or a third compliance check in a twelve (12) month period, the business shall be subject to suspension for a minimum of one hundred twenty (120) days and shall be subject to revocation proceedings.
 2. If a business fails five (5) compliance checks in a twenty-four (24) month period, the business shall be subject to suspension for a minimum of one hundred fifty (150) days and shall be subject to revocation proceedings.
- I. It is unlawful for any person to knowingly submit false information or false facts as true, on an application for any license or permit authorized by this chapter. Each application submitted shall be affirmed as being true and correct to the best of the applicant's knowledge.
1. If, in the opinion of the Town Attorney, a licensee or permittee has violated subsection (A) above, the Town Attorney may request the governing body to take action pursuant to Wyoming Statute § 12-7-101, § 12-7-102 or § 12-7-201 to suspend or revoke the applicable license or permit.

(Ord. 1185 § 1, 2017; Ord. 1173 § 1, 2017; Ord. 853 § 8, 2007.)

**Chapter 6.70
VIOLATIONS**

Sections:

6.70.010 Violations.

6.70.010 Violations.

- A. The governing body shall not issue a license or permit to any person or organization violating this title.
- B. Excessive drinking of alcoholic liquor and malt beverages in any place licensed under this title shall not be permitted by the licensee.

(Ord. 853 § 9, 2007.)

Chapter 6.90
PENALTY FOR VIOLATIONS

Sections:

6.90.010 General Penalty for Violations.

6.90.010 General Penalty for Violations

Any person who violates any provisions of this title for which violation no specific penalty is provided is guilty of a misdemeanor and upon conviction thereof shall be punished according to Section 1.12.010 of this code.

(Ord. 853 § 10, 2007; Ord. 90 § 14, 1965.)



TOWN OF JACKSON AGENDA DOCUMENTATION

SUBMITTING DEPARTMENTS: Planning

PRESENTERS: Paul Anthony/Audrey Cohen Davis/April Norton

MEETING DATE: April 15, 2019

SUBJECT: (P19-065) Sagebrush Apartments request to amend Housing Rental Deed Restriction and transfer Flat Creek floodway parcel to Town

STATEMENT/PURPOSE

The purpose of this item is for Council to consider the following two requests from Sagebrush Investors for changes to the approved PUD for the 90-unit Sagebrush Apartment project:

1. For the Town to accept the HUD Rider to the Special Restriction for Workforce Rental Housing with conditions (P19-065A), and
2. For the Town to accept ownership of a new parcel to be divided from the existing Sagebrush Apartment property that includes the floodway area of Flat Creek (P19-065B).

Both requested changes are unforeseen technical changes that can be processed as Minor Deviations to the approved PUD. While Minor Deviations are approved at the staff level, these two requests require prior consent from the Council.

DESIRED OUTCOME

The intent is to have the Council consider the applicant's two requests, ask any questions of the applicant or staff necessary to clarify issues, and provide whatever direction to the applicant it can (possibly an approval/denial). If the Council needs additional information to fully consider either request, then the applicant and/or staff will provide that information at a future meeting.

BACKGROUND/ALTERNATIVES

The Sketch Plan for 90-unit Sagebrush Apartment Planned Unit Development (PUD) project, located at 550 West Broadway, was approved by the Council on June 27, 2017. Final approval was provided by the Planning Director through a Development Option Plan on April 20, 2018. To help enable the apartment project, the applicant previously obtained approval of two LDR amendments on March, 3, 2017 (the amendments (1) exempted apartment buildings of 20 units or more from affordable mitigation requirements, and (2) provided a 10% FAR bonus to exempt interior corridors in certain apartment buildings).

The project required 32 units to have a Workforce Rental Deed Restriction that limited the occupancy of the residents to local workers but without any income restrictions. These units were required in exchange for approval of three different types of FAR bonuses.

Most recently, the applicant submitted a building permit for the apartment building. The building permit was denied by staff for a variety of reasons and so the applicant is now in the process of resubmitting the building permit. During this process the applicant became aware that the HUD Section 221(D)(4) mortgage insurance they plan to use to finance the project requires two changes (listed above) to the approved project. The applicant has

represented to staff that the project cannot move forward without approval of both changes. They have further represented that time is of the essence and so quick action by the Town is necessary. It is for this reason that staff has expedited this item to this workshop with the Council.

STAFF ANALYSIS

HUD Rider: In summary, the request is to remove the subordination clause in the Town's approved deed restriction that essentially states that in the event of a foreclosure by the applicant that the deed restriction will remain in effect regardless of any bankruptcy process. Put another way, the request is to make the deed restriction subordinate to the mortgage loan. Please see the application for a more detailed description of the request.

The Town Attorney, Audrey Cohen Davis, and the Housing Department Director, April Norton, have taken the lead on reviewing this request, with support from the Planning Department. Please see their comments attached.

Planning Department Comments: The Planning staff do not have any comments specific to the details of the subordination clause or HUD Rider. However, from an LDR compliance perspective, any decision that would reduce the effectiveness or existence of the deed restrictions on the project would result in a project that no longer complies with the LDRs because the deed-restrictions were required in order to allow additional density and height/stories on the project.

Housing Department Comments: The Housing Director outlines some significant concerns and identifies the following two key issues (please see attached comments for full details) with the HUD Rider:

1. Does the Housing Authority want to assume the loan and eventually own the project in the event of foreclosure?

The Housing Department has requested additional information from the applicant to clarify the amount of the loan to better understand the risk to the Town of assuming the loan (with a side agreement) in the event of a default. As of this writing, this information has not been submitted. To address this issue, staff recommends that the Housing Authority receive approval from HUD to assume the debt, but that there should be no requirement that the Housing Authority assume the debt — but the Housing Authority can assume the debt voluntarily if it wants to do so.

2. What is the risk of foreclosure on the project vs. reward of gaining 90 rental units?

The general conclusion is that, even if the deed restrictions were to be removed from the 31 units, the remaining 90 unrestricted apartments would still primarily serve as workforce housing even if some of the units became occupied for other purposes (e.g., seasonal "crash pad"). As such, the "staff believes the addition of 90 rental units outweighs the risk of potentially losing 32 Workforce Rental units to foreclosure." The Housing Department recommends the following conditions:

- Applicant shall provide staff with loan amount and equity investment in the project.
- Applicant shall provide staff with all mortgage documents at least 48-hours prior to closing on the loan.
- The Housing Authority must be pre-approved by HUD to assume the debt.

Legal Department Comments: The Town Attorney has provided two conditions of approval (see attached comments) in the event the Council approves of the Housing Authority owning the project upon default by the applicant. The first condition outlines the requirements for a side agreement that would protect the Town's interests and the second condition (similar to the Housing Department) requires the applicant to provide more detail on the loan amount to better assess the level of risk to the Town.\

Floodway Parcel Transfer: The second request is for the applicant to transfer a .23-acre parcel of land composed of the entire floodway of Flat Creek that currently exists on the applicant's property. According to the applicant, HUD will not finance the project if the project site contains any FEMA floodway. (NOTE: floodway is the active channel portion of a waterway and adjacent areas necessary to carry flood flow, which is a subset of the larger area that includes the 100-year floodplain). No floodplain (FEMA Zone AE) is included in the proposed transfer parcel.

Planning staff has informed the applicant that the process for approving the parcel transfer is to a) obtain approval from the Council to transfer the parcel; b) process the approved transfer according to LDR Section 8.5.4: Exempt Land Division (i.e., transfers of land from private ownership to the Town are exempt from state subdivision standards), and c) then to apply for a Minor Deviation to the approved Sagebrush PUD to reincorporate the transfer parcel back into the PUD so that the total site area of the PUD remains the same and the PUD maintains compliance with all LDR requirements, such as FAR, LSR, etc.

Planning Department Comments: From an LDR compliance perspective, Planning staff has no objection to the Council approving the parcel transfer provided it is followed up with applications for an Exempt Land Division and a Minor Deviation. That said, we share some of the same concerns expressed by the Town Attorney and Town Engineer regarding what, if any, additional liability the Town is taking on if we accept the floodway parcel (i.e., if "our" floodway" floods and damages "their" project, does HUD have any claim against the Town?). The applicant will need to address this concern with additional information before planning staff is comfortable recommending approval. We also think that consideration should be given to expanding the transfer parcel to include upland areas adjacent to the floodway so that the Town can access its parcel without need for a separate easement across the Sagebrush Project (see Town Engineer comments).

Town Engineer Comments: The Town Engineer, who is also the Floodplain Administrator for the Town, has provided detailed comments that address issues of liability, the accuracy of the submitted parcel maps, the appropriate size of the transfer parcel, access to the creek, and other related matters. (Please see attached comments).

Legal Department Comments: The Town Attorney's comments provide four conditions of approval that address the following topics: 1) A need to see the HUD guidelines; 2) an explanation for why HUD does not allow floodways in their projects; 3) an explanation for why the risk/liability is being shifted to the Town; and 4) whether Sagebrush is willing to indemnify the Town for any flooding damage. (Please see attached comments).

COMPREHENSIVE PLAN ALIGNMENT

The two requests do not fundamentally change the analysis for compliance with the Comprehensive Plan contained in the original approval of the PUD. Staff will not repeat that analysis here but we do note that any decision that would reduce the effectiveness or existence of the deed restrictions on the project would result in a project that likely longer meets the goals of the Comprehensive Plan in terms of providing a variety of housing options, including deed-restricted housing.

STAKEHOLDER ANALYSIS

This project has many stakeholders including the Town government, the landowner, the surrounding landowners, and the future residents of Sagebrush Apartments.

FISCAL IMPACT

The fiscal impact to the Town cannot be quantified at this time but would include any additional costs to maintain the new floodway property, as well as any additional financial liability from ownership of the new parcel.

STAFF IMPACT

The long-term impact to staff would be limited to any additional responsibilities associated with the ownership and maintenance of the transfer parcel.

LEGAL REVIEW

The Town Attorney has reviewed this item and provided (attached) comments.

ATTACHMENTS

1. Applicant submittal
2. Departmental reviews

RECOMMENDATIONS

Staff does not have a final recommendation at this time but we do have significant concerns and suggested conditions of approval that we hope the Council will consider before making a final decision. Once all necessary information is gathered and the Council is prepared to make a final decision, staff asks that our recommendations/conditions of approval be incorporated as Council sees fit.

SUGGESTED MOTIONS

Staff recommends that Council make a separate motion for each requested item. The Council may either make a final motion to approve/deny the requests or to continue either or both items to a future meeting for further consideration.

Item A: I move to approve the applicant's request (P19-065A) to accept the HUD Rider to the Special Restriction for Workforce Rental Housing with conditions, subject to the Departmental reviews and the following conditions:

Item B: I move to approve the applicant's request (P19-065B) for the Town to accept ownership of a new .23-acre parcel to be transferred from the existing Sagebrush Apartment property to the Town that includes the floodway area of Flat Creek, subject to the Departmental reviews and the following conditions:

NAVIGATE

WORKFORCE HOUSING SOLUTIONS

April 1, 2019

Town of Jackson Planning Department
Paul Anthony, Principal Planner
P.O. Box 1687
Jackson, WY 83001

**RE: Sagebrush Apartments
HUD insured financing**

Dear Paul Anthony,

Thank you for scheduling a workshop with the Town Council to discuss two items that are impacting the ability to secure HUD insured construction and long-term debt financing for the Sagebrush Apartments project.

We are asking the Town of Jackson to consider the following:

1. Accept the HUD Rider to Special Restrictions for Workforce Rental Housing with conditions; and
2. Agree to the creation of a new parcel owned by the Town of Jackson that contains the Floodway, which is currently a part of the Sagebrush Apartments parcel.

These two requests are to enable the use of HUD Section 221(D)(4) mortgage insurance, which is a federal incentive program to facilitate the new construction of multifamily rental housing for moderate-income families. This federally insured mortgage program is key to enabling the development of Sagebrush Apartments, a 90-unit apartment building designed to house working residents and meaningfully address the critical shortage of rental housing in Jackson.

Our team appreciates the time that town and housing department staff have dedicated to helping move the Sagebrush Apartments project forward. Please contact me with any questions.

Sincerely,



Christine Walker
Navigate, LLC

Attachments: Sagebrush Apartments – Narrative, Town Council Workshop 4/15/19
HUD Rider to Special Restriction for Workforce Housing
Floodplain Development Permit – Site Plan
Sagebrush Apartments Parcel Transfer Exhibit

Sagebrush Apartments - Narrative

Town Council Workshop 4/15/19

Sagebrush Apartments Background

Sagebrush Apartments is a private sector response to the critical shortage of rental housing for local workers in Jackson. The town approved project contains 90 rental units, all of which are designed for occupancy by employees working in the town or county. Over a third of the units will also have a deed restriction that limits occupancy to qualified households, that among other things, requires at least one member of the household to work a specified number of hours for a local business. In addition, none of the units are allowed to be leased short-term or rented for less than 30 days.

The process to develop the first moderately sized, rental apartment building in over 25 years that is financially viable without public funding or the incorporation of high-end market units has been a multi-year process that has required overcoming several regulatory and financing barriers.

Throughout this process our team has worked closely with the town staff (planning, legal, public works, administration and housing) to help identify and reduce barriers to the development of multifamily units, which the Jackson/Teton County Comprehensive Plan identifies as a desired housing type to help meet the community's housing goal because it is more affordable for the local workforce than other housing options (Policy 5.2.a.).

In order to design and obtain the rights to build an apartment building for the local workforce without public funding, our team utilized existing land development regulation (LDR) incentives and obtained two LDR text amendments to reduce barriers to the construction of rental workforce housing.

Over the last year, our team has been working diligently to meet conditions of approval, obtain building permits, and secure HUD insured financing. We have addressed the bulk of the challenges and are on the verge of another construction season. However, we have two barriers related to securing HUD insured construction and long-term debt financing:

- HUD Rider to Special Restriction for Rental Workforce Housing
- Floodway on the parcel

We are seeking assistance from the Town of Jackson to address these challenges and enable construction to start on Sagebrush Apartments this spring. The specifics of our request are explained below with supporting documents attached. It should be noted that the below requests would come at no costs to the Town and are in accordance with Town development regulations.

HUD Insured Financing

A key aspect of making Sagebrush Apartments financially viable and keeping rental rates low is lowering the cost of long-term debt. The Sagebrush team is relying on a federal incentive that is offered through the Department of Housing and Urban Development (HUD) to facilitate the new

construction of multifamily rental housing for moderate-income families. This is called the HUD Section 221(d)(4) Multifamily Loan Program. This federal loan insurance program is designed to attract and encourage developers to build apartments by offering favorable loan terms to projects that meet strict and comprehensive eligibility criteria and is accessed through HUD qualified lenders.

The Sagebrush Team is using Love Funding, a leading HUD lender, to access this federal incentive program that offers the following terms compared to non-federally insured loan programs:

- Higher loan to value so a lower equity level is needed
- Lower interest rate
- Nonrecourse debt
- Longer term (40 years fully amortized plus construction period)
- Combined construction and permanent financing with interest rate lock at time of construction

HUD Rider to the Special Restriction for Rental Workforce Housing

In November of 2018, subordination language was added to the Form Special Restriction for Workforce Housing. This threatened Sagebrush's access to the HUD insured mortgage program through Love Funding. As a result, the HUD Rider to the Special Restriction for Rental Workforce Housing became a requirement and is now requested to be approved by the Town of Jackson, see attached HUD Rider. This document essentially makes the deed restriction subordinate to the mortgage loan and in the unlikely event of foreclosure the deed restriction terminates.

Although foreclosure is unlikely given Sagebrush's cash investment in the acquisition and the large equity requirement being made on the loan, the extremely high demand for rental workforce housing due to the prevalent and worsening housing shortage. Further, the Sagebrush team is a highly qualified, experienced, well-capitalized and qualified builder of national projects which has never defaulted on a loan obligation. The Sagebrush team and Love Funding understand the Town of Jackson's need to protect its interests without increasing the barriers to developing multifamily housing. Therefore, Love Funding has agreed to execute a side agreement to provide the Town of Jackson notice of delinquency and default under the loan, the option to cure, and an extended period during which HUD would agree to hold the loan prior to assigning the defaulted loan to HUD.

A more conventional funding option would also require loan subordination and would simply increase the long-term cost of construction and long-term debt, making the project less viable while creating an additional barrier to developing multifamily projects to help address the workforce housing challenge.

In addition, all of the deed restrictions and ground leases recorded on existing workforce housing program units have deed restriction clauses or riders that subordinate the restrictive covenants (deed restrictions) in the event of foreclosure, provide notice of default and an option to cure. This is not a new concept and has been in practice since the affordable housing program was established to facilitate financing while protecting the interests of the town and county.

Our team has had several discussions with housing department staff and town legal staff to discuss how to best protect the Town's interest while meeting the HUD guidelines. This proposal

was also presented to the Housing Supply Board at its March meeting. What the side agreement with Love Funding does is provide the Town with an opportunity, in the event of default, to assume the existing debt on the project, secure alternative funding and eventually own the entire project.

The Sagebrush team requests that the Town Council accept the HUD Rider with the condition that Love Funding agrees to provide to the Town of Jackson in a form that is approved by town staff notice of delinquency and default under the loan, the option to cure, and an extended period during which HUD would agree to hold the loan prior to assigning the defaulted loan to HUD.

Floodway/Floodplain

The Sagebrush parcel is located adjacent to Flat Creek and has two small areas of 100-year floodplain on the northeast and southwest portions of the site, shown in blue on the attached Floodplain Development Permit – Site Plan. In order to access the HUD insured mortgage program and develop in the 100-year floodplain, a CLOMR-F (Conditional Letter of Map Revision – Fill) was accepted and approved by FEMA for the proposed minor disturbance in the Floodplain. We were informed by Love Funding, who was informed by HUD that this action would be acceptable. However, in late December 2018 we learned that there was another, separate HUD guideline that requires the removal of the Floodway from the property to develop in the Floodplain.

The Sagebrush team discussed several options to address this Floodway issue with town staff, and the resulting preferred option is to use Section 8.5.4.D of the land development regulations (LDR) to create a new parcel running along Flat Creek that contains the Floodway and transfer this new parcel to the Town of Jackson, see attached Sagebrush Apartments Parcel Transfer Exhibit Map. The creation of this small parcel in the Town LDR is an exemption from the subdivision standards as allowed by Wyo. Stat. § 18-5-303 and requires an application that would need to provide a completed map of survey and signed certificates of acknowledgement per Sec. 8.5.4.D as part of that submittal package.

The Floodway is not in the developable footprint and its removal will have no impact on the project scope, such as number of units approved by the Town. The distinct new parcel addresses the Floodplain issue and allows for the conveyance of the Floodway to the Town and equal amount of square footage to be reincorporated into the Sagebrush Planned Unit Development (PUD) through a Minor Deviation process so that the PUD's site area could stay the same and not impact the FAR, LSR, etc.

The Sagebrush Team requests that the Town Council approve the transfer of land from Sagebrush Apartments to the Town of Jackson that runs along Flat Creek containing the Floodway and shown on the "Sagebrush Apartments Parcel Transfer Exhibit", conditioned upon meeting the criteria established in Section 8.5.4.D of the Land Development Regulations.

HUD RIDER TO SPECIAL RESTRICTIONS FOR WORKFORCE RENTAL HOUSING

This RIDER TO SPECIAL RESTRICTIONS FOR WORKFORCE RENTAL HOUSING is made as of _____, 2019, by SAGEBRUSH INVESTORS, LLC (“Borrower”) and TOWN OF JACKSON WYOMING (“Town”).

WHEREAS, Borrower has obtained financing from Love Funding Corporation (“Lender”) for the benefit of the project known as Sagebrush Apartments, HUD Project No. 109-35099 (“Project”), which loan is secured by a Multifamily Mortgage, Assignment of Leases and Rents and Security Agreement (“Security Instrument”) dated as of _____, 2019 and to be recorded in the land records Teton County, Wyoming (“Records”), and is insured by the United States Department of Housing and Urban Development (“HUD”);

WHEREAS, Borrower has received a density bonus from the Town, which Town is requiring certain restrictions be recorded against the Project; and

WHEREAS Borrower and the Town are entering into that certain Special Restrictions for Workforce Rental Housing (“Restrictive Covenants”) with respect to the Project, as more particularly described in Exhibit A attached to the Restrictive Covenants, dated as of _____, 2019 and to be recorded in the Records and to which this Rider is attached and made a part of;

WHEREAS, HUD requires as a condition of its insuring Lender’s financing to the Project, that the lien and covenants of the Restrictive Covenants be subordinated to the lien, covenants, and enforcement of the Security Instrument; and

WHEREAS, the Town has agreed to subordinate the Restrictive Covenants to the lien of the Mortgage Loan in accordance with the terms of this Rider.

NOW, THEREFORE, in consideration of the foregoing and for other consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

(a) In the event of any conflict between any provision contained elsewhere in the Restrictive Covenants and any provision contained in this Rider, the provision contained in this Rider shall govern and be controlling in all respects as set forth more fully herein.

(b) The following terms shall have the following definitions:

"HUD" means the United States Department of Housing and Urban Development.

"HUD Regulatory Agreement" means the Regulatory Agreement between Borrower and HUD with respect to the Project, as the same may be supplemented, amended or modified from time to time.

“Lender” means Love Funding Corporation, its successors and assigns.

“Mortgage Loan” means the mortgage loan made by Lender to the Borrower pursuant to the Mortgage Loan Documents with respect to the Project.

“Mortgage Loan Documents” means the Security Instrument, the HUD Regulatory Agreement and all other documents required by HUD or Lender in connection with the Mortgage Loan.

“National Housing Act” means the National Housing Act of 1934, as amended.

“Program Obligations” has the meaning set forth in the Security Instrument.

“Residual Receipts” has the meaning specified in the HUD Regulatory Agreement.

“Security Instrument” means the mortgage or deed of trust from Borrower in favor of Lender, as the same may be supplemented, amended or modified.

“Surplus Cash” has the meaning specified in the HUD Regulatory Agreement.

(c) Notwithstanding anything in the Restrictive Covenants to the contrary, the provisions hereof are expressly subordinate to (i) the Mortgage Loan Documents, including without limitation, the Security Instrument, and (ii) Program Obligations (the Mortgage Loan Documents and Program Obligations are collectively referred to herein as the “HUD Requirements”). Borrower covenants that it will not take or permit any action that would result in a violation of the Code, HUD Requirements or Restrictive Covenants. In the event of any conflict between the provisions of the Restrictive Covenants and the provisions of the HUD Requirements, HUD shall be and remains entitled to enforce the HUD Requirements. Notwithstanding the foregoing, nothing herein limits the Town’s ability to enforce the terms of the Restrictive Covenants, provided such terms do not conflict with statutory provisions of the National Housing Act or the regulations related thereto. The Borrower represents and warrants that to the best of Borrower’s knowledge the Restrictive Covenants impose no terms or requirements that conflict with the National Housing Act and related regulations.

(d) In the event of foreclosure (or deed in lieu of foreclosure), the Restrictive Covenants (including without limitation, any and all land use covenants and/or restrictions contained herein) shall automatically terminate.

(e) Borrower and the Town acknowledge that Borrower’s failure to comply with the covenants provided in the Restrictive Covenants does not and shall not serve as a basis for default under the HUD Requirements, unless a default also arises under the HUD Requirements.

(f) Except for the Town's reporting requirement, in enforcing the Restrictive Covenants the Town will not file any claim against the Project, the Mortgage Loan proceeds, any reserve or deposit required by HUD in connection with the Security Instrument or HUD Regulatory Agreement, or the rents or other income from the property other than a claim against:

- i. Available surplus cash, if the Borrower is a for-profit entity;
- ii. Available distributions of surplus cash and residual receipts authorized for release by HUD, if the Borrower is a limited distribution entity; or
- iii. Available residual receipts authorized by HUD, if the Borrower is a non-profit entity.

(g) For so long as the Mortgage Loan is outstanding, Borrower and Town shall not further amend the Restrictive Covenants, with the exception of clerical errors or administrative correction of non-substantive matters, without HUD's prior written consent.

(h) Subject to the HUD Regulatory Agreement, the Town may require the Borrower to indemnify and hold the Town harmless from all loss, cost, damage and expense arising from any claim or proceeding instituted against Town relating to the subordination and covenants set forth in the Restrictive Covenants, provided, however, that Borrower's obligation to indemnify and hold the Town harmless shall be limited to available surplus cash and/or residual receipts of the Borrower.

SIGNATURE PAGE TO HUD RIDER
TO SPECIAL RESTRICTIONS FOR WORKFORCE RENTAL HOUSING

BORROWER:

SAGEBRUSH INVESTORS, LLC
a Delaware limited liability company

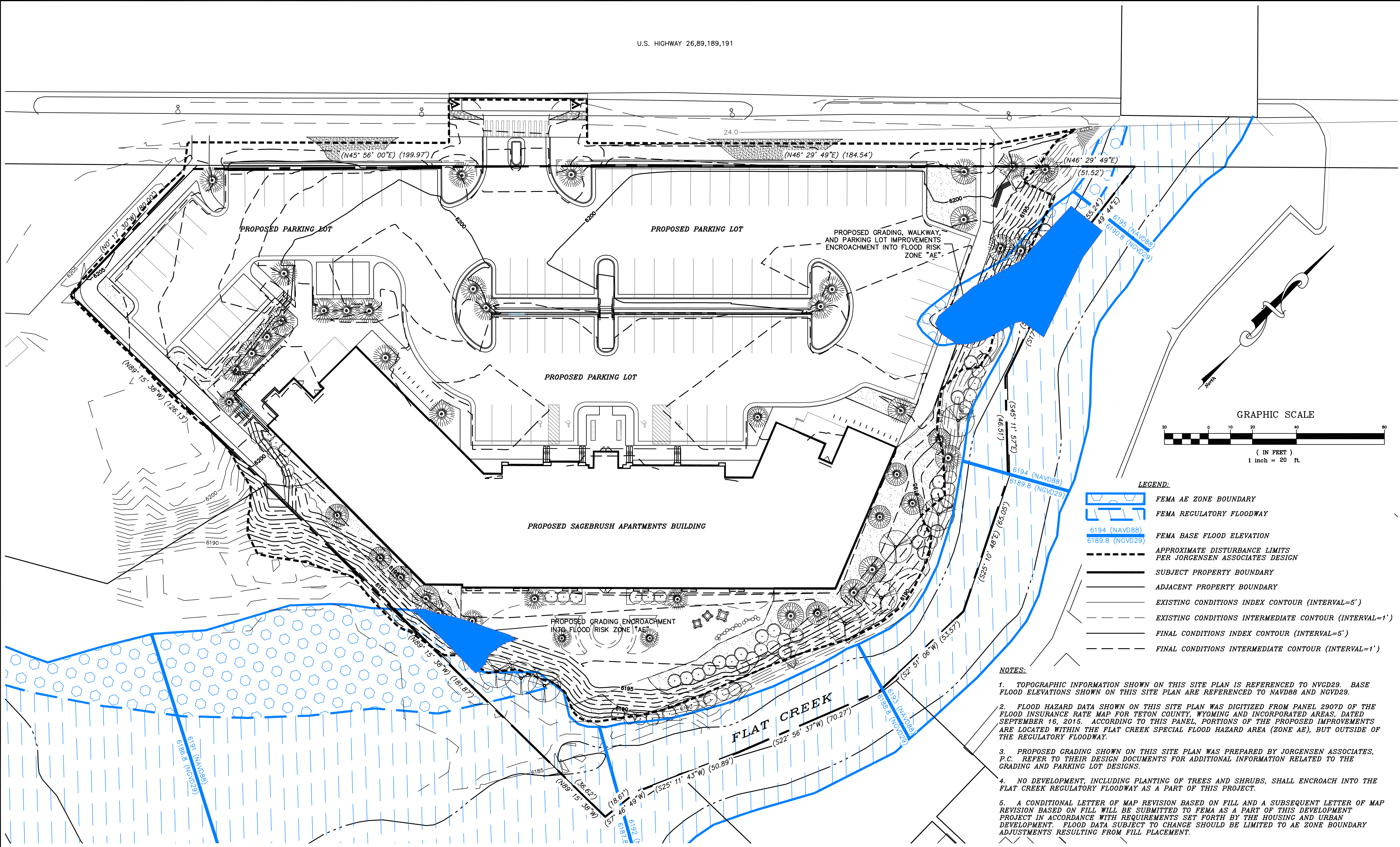
By: Trident Partners, LLC
a Delaware limited liability company
Manager

By: _____
John P. Shelton, Jr.
Chief Executive Officer:

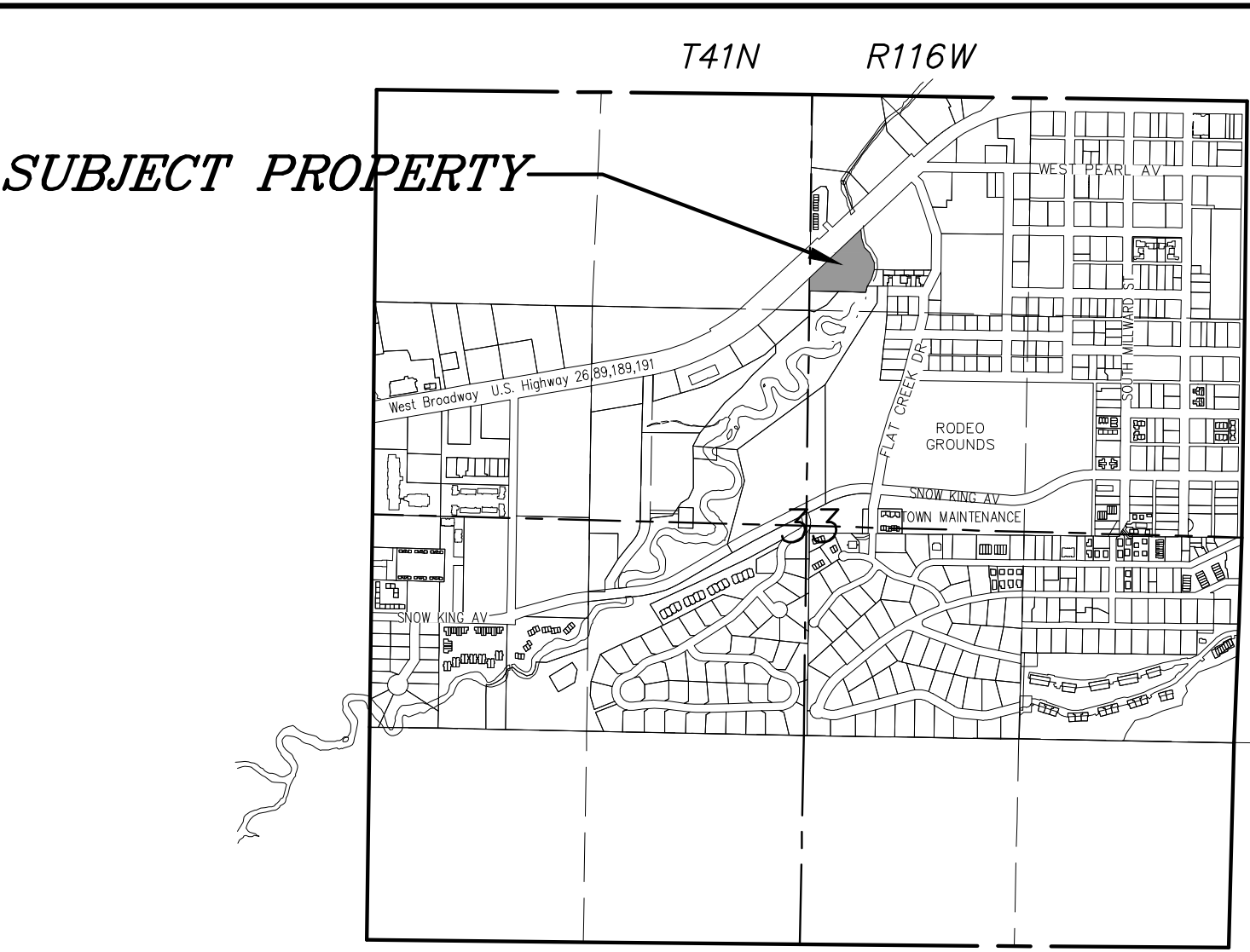
SIGNATURE PAGE TO HUD RIDER
TO SPECIAL RESTRICTIONS FOR WORKFORCE RENTAL HOUSING

TOWN OF JACKSON, WYOMING:

By: _____
Pete Muldoon
Mayor



VERIFY SCALE: THESE PRINTS MAY BE REDUCED. LINE BELOW MEASURES ONE INCH ON ORIGINAL DRAWING. MODIFY SCALE ACCORDINGLY!		REVISIONS <table><tr><td>NO.1</td><td>Revised disturbance limits to avoid floodway encroachment near BFE = 6192</td><td>DKS</td><td>4-11-18</td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr></table>				NO.1	Revised disturbance limits to avoid floodway encroachment near BFE = 6192	DKS	4-11-18													Morrison Maierle engineers • surveyors • planners • scientists 690 S. Hwy 89, Suite 200 Jackson, WY 83001 307.739.0500 www.m-m.net Professional Engineer 6562 Kurt E. Maierle Date April 11, 2018 WYOMING DRAWN BY: DKS DSGN. BY: - APPR. BY: DKS DATE: 12/8/17 Q.C. REVIEW BY: - DATE: - JACKSON WYOMING FLOODPLAIN DEVELOPMENT PERMIT - SITE PLAN PROJECT NUMBER 6096.001 SHEET NUMBER 1 DRAWING NUMBER 1			
NO.1	Revised disturbance limits to avoid floodway encroachment near BFE = 6192	DKS	4-11-18																						
C:\LAND PROJECTS 2009\6096.001\DWG\SAGEBRUSH APARTMENTS FPR SITE PLAN (LOCAL CONTROL) 20180411.DWG PLOTTED BY: MMI ON APRIL 11, 2018																									



VICINITY MAP
SCALE 1"=1000'

LEGEND

- iron pipe with 3-1/4" diameter brass cap inscribed "RLS 164"
- reinforcing steel bar with 2" diameter aluminum cap inscribed "PLS 3831"
- reinforcing steel bar with 2" diameter aluminum cap inscribed "PE & LS 2612"
- ◆ T-stake with chromed cap inscribed "PE & LS 2612"
- ◇ T-stake with chromed cap inscribed "RLS 164"
- sectional subdivision line
- boundary, subject property
- boundary/are, proposed property division to Town of Jackson
- boundary, adjoining property
- boundary/area, Regulatory Floodway FEMA LOMR effective March 8, 2018

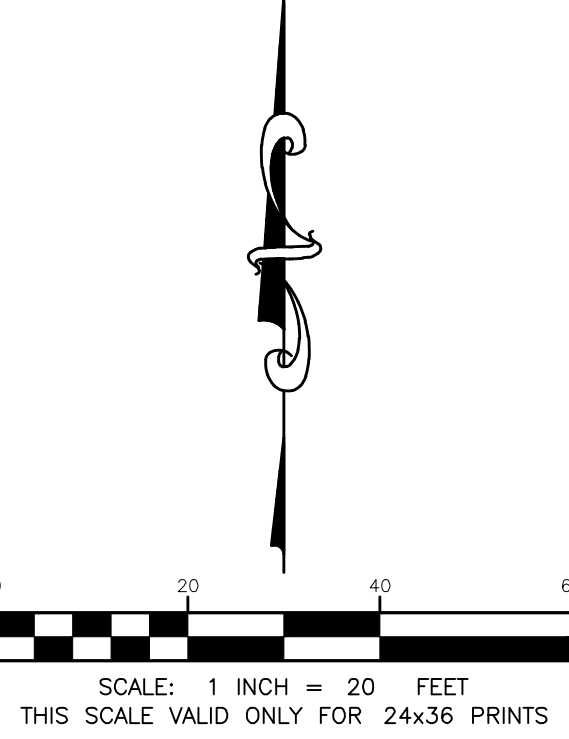


EXHIBIT
MAP
Sagebrush Investors, LLC
and
Town of Jackson

LOCATED WITHIN
NW1/4NE1/4 Section 33
Township 41 North, Range 116 West, 6th P.M.
Town of Jackson
Teton County, Wyoming

PLANNING

Project Number P19-065
Project Name Minor Deviation - Sagebrush Apts. revision to deed
Type MINOR RESTRICTION
Subtype STAFF REVIEW
Status STAFF REVIEW

Applied 4/1/2019
Approved
Closed
Expired
Status

Applicant Navigate
Owner SAGEBRUSH INVESTORS, LLC

Site Address 550 W BROADWAY AVENUE
City JACKSON
State WY
Zip 83001

Subdivision
Parcel No 22411633100015
General Plan

Type of Review	Status	Dates			Remarks
		Sent	Due	Received	
Contact Notes Joint Housing Dept Stacy Stoker The applicant states that subordination language was added to the Form Special Restriction for Workforce Housing in November 2018 and that this additional language threatened Sagebrush's access to the 221(d)(4) funding. The applicant asks that the Town approve the HUD Rider to the Special Restrictions for Rental Workforce Housing. This document makes the deed restriction subordinate to the mortgage loan and in the event of foreclosure the deed restrictions will terminate.		4/9/2019	4/10/2019		

The applicant states that "all of the deed restrictions and ground leases recorded on existing workforce housing program units have deed restriction clauses or riders that subordinate the restrictive covenants (deed restrictions) in the event of foreclosure, provide notice of default and an option to cure. This is not a new concept" This statement is not true. Ownership units do have this provision but are easily purchased and resold. Rental units do not have this provision. There are approximately 400 rental units that have restrictions without this provision. The concept that is new is a 90-unit apartment complex with 1/3 of the units restricted as Workforce rentals. These are the same as market rentals other than the requirement that they be rented to households working in Teton County. There are no income limits or rent restrictions. They are not at all like other low-income rentals either locally or nationally.

The applicant states that "foreclosure is unlikely given Sagebrush's cash investment in the acquisition and the large equity requirement being made on the loan, the extremely high demand for rental workforce housing due to the prevalent and worsening housing shortage."

Key Issue: Does the Housing Authority want to assume the loan and eventually own the project in the event of foreclosure? Staff requested more information about the investor equity in the project and at the time these comments were due, had not received that information. The applicant does state that with aside agreement with Love Funding, the Town and/or Housing Authority could assume the existing debt on the project, secure alternative funding and eventually own the entire project. Without knowing what the loan amount is, it's hard for staff to fully determine the financial implications of a potential foreclosure.

Staff recommends that the Housing Authority receive approval from HUD to assume the debt, but that there should be no requirement that the Housing Authority assume the debt. In the event of foreclosure, a decision can be made based on the financial implications at the time of foreclosure, as to whether the Housing Authority chooses to assume the debt and pursues ownership of the property.

Key Issue: What is the risk of foreclosure on the project vs. reward of gaining 90 rental units? The Workforce Rental program is the least restrictive rental program. It requires that the occupants earn 75% of their income from a local business and work full-time. There are no rent caps and staff expects the units to serve a similar demographic to the market units, at least in the near-term. Should the project be lost in foreclosure and all restrictions stripped, staff believes the rentals are likely to still primarily serve the workforce, at least initially. Over the longer-term it is likely that at least some units will serve non-working households. But, given the reduced requirements of the Workforce Rental Program and the demographic that is most likely to be served, staff believes the addition of 90 rental units outweighs the risk of potentially losing 32 Workforce Rental units to foreclosure.

Suggested conditions of approval (in addition to all conditions suggested by Town Legal):

- Provide staff with loan amount and equity investment in the project.
- Provide staff with all mortgage documents at least 48-hours prior to closing on the loan.
- The Housing Authority must be pre-approved by HUD to assume the debt.

Project Reviews

Report By: Tiffany Stolte

Type of Review Contact Notes	Status	Dates			Remarks
		Sent	Due	Received	
Legal A Cohen-Davis (4/11/2019 8:54 AM STOL) HUD Rider for HUD Insured Financing:	APPROVED W/COND	4/9/2019	4/10/2019	4/11/2019	

Per the Sagebrush application, the Town does need assurances in order to protect the 32 deed restricted units governed by the Town/County Housing Program rules and regulations and program that are a part of the multi-family 90-unit apartment building. As of now, we have no assurances from HUD regarding many issues Town staff has discussed with the applicant.

Conditions of approval, assuming the Town Council is amendable to the rider and the potential outcome of the Jackson/Teton County Housing Authority eventually owning the entire project or curing default are:

HUD Rider for HUD Insured Financing:

1. A side agreement, subject to approval by the Town Attorney and Staff, as mentioned in the Sagebrush application providing the Town with immediate notice of delinquency and default under the loan, the option to cure within a specified period of time and an extended period during which HUD would agree to hold the loan prior to assigning the defaulted loan to HUD. The side agreement must be signed by and enforceable against the lender (and any successor) and HUD.
 - a. A letter from HUD must confirm the extended period of time it will provide for the Town to secure alternative financing and/or pre-authorization of the Jackson/Teton County Housing Authority as a qualified entity for HUD financing if exercise right to assume debt of Love Lending.
 - b. The side agreement also needs explicitly state that the Jackson/Teton County Housing Authority has the right to assume the debt of Love Lending in the event of default.
 - c. The side agreement also needs to state that neither the rider nor the agreement adversely affects the Town's rights to regulate zoning or enforce this property under the Land Development Regulations.
2. Loan details must be provided to the Town in order for the Town Council to make its decision, e.g. the dollar value and term of the loan, and loan to value ration so the Town can assess its risk if agree to rider and side agreement.

Floodway/Floodplain:

1. Applicant must provide HUD guideline so staff can review.
2. Applicant must provide information from HUD as to why HUD requires removal of the Floodway from the property in order for Sagebrush to get financing for development in the Floodplain.
3. Why is risk/liability being shifted from Sagebrush to the Town?
4. Is Sagebrush willing to indemnify and hold harmless the town for any flooding that may occur as a result of assumption of Flat Creek/Floodway."

Planning Paul Anthony (4/11/2019 10:59 AM PA) Please see Staff Report for this item.	4/9/2019	4/10/2019		
Public Works Brian Lenz	4/9/2019	4/10/2019	4/10/2019	See Comments

Type of Review	Status	Dates			Remarks
		Sent	Due	Received	
Contact					
Notes					
(4/10/2019 2:59 PM BTL)					
Minor Deviation – Reviewed with Comments					
P19-065					
ADDRESS: 550 W. Broadway					
OWNER: Sagebrush Investors LLC					
APPLICANT: Navigate, Christine Walker					
April 10, 2019					
Brian Lenz, 733-3079					
DATE OF SUBMITTAL: April 2, 2019					
DATE OF MATERIALS: Letter, April 1, 2019; Maps, March 27, 2019 and December 8, 2017					
REVISION NO.: 00					

The engineering division has reviewed your application for a MINOR DEVIATION to Development Option Plan P17-244 submitted on and with application materials as dated above.

COMMENTS ON THE MINOR DEVIATION

The following comments are being provided on the application and are not expected to be addressed in writing before the council meeting but should be addressed prior to any further discussion regarding the transfer of the property.

1. The bearings and distances shown for the eastern boundary of the property shown on the Floodplain Development Permit map do not correspond with those shown on the exhibit map. Both boundaries should be reviewed and clarified as to which boundary is correct.
 - a. Provide exhibits with the correct boundary.
2. In general, the proposed lot for transfer follows or is coincident with the recorded floodway.
 - a. Given the nature of floodway determination, explain why a buffer to the floodway is not necessary.
 - b. Provide a statement that future changes in the floodway will not impact future financing.
3. The Town of Jackson has a sewer trunk line located in the bank of Flat Creek along this section of Flat Creek and it is located within a 20-foot wide easement. The easement does not extend to the creek in all areas that would leave a small section of land between the transfer parcel and the easement. Staff recommends adjusting the transfer parcel to meet the edge of the easement or preferably include the sewer easement. Including the sewer easement may have development plan impacts that would need to be considered.
4. In a September 13, 2017 email from Christine Walker to Larry Pardee she states, “that John Shelton and Joe Rice, the Sagebrush developers, are willing to consider applying the original \$20,000 offer to upgrade the sewer line on-site toward the design of a sewer line realignment along West Broadway. This monetary commitment would be tied to a time commitment on behalf of the city to complete the realignment within 5 years.”
 - a. Provide confirmation that this offer is still legitimate.
 - b. If approved, this agreement shall be formalized in a written agreement and or escrow account as determined by the Town Attorney.
5. Provide an exhibit showing the existing sewer easement and line relative to the proposed transfer lot.
6. Provide an exhibit or include an exhibit that shows the special flood hazard AE area in addition to the floodway with the proposed transfer lot.
7. Provide an exhibit and discussion as to what degree the lot transfer includes the existing bank and access to the creek, specifically, would residents of the development be accessing the creek via the town owned transfer lot or the development.
8. Developer should consult with the Flat Creek Watershed ISD and confirm that this is not an area of winter flooding concern.
9. The town currently owns other sections of the creek that are similar to this section of Flat Creek, including the section of creek directly downstream of this parcel.