



CITY OF IDAHO SPRINGS
1711 Miner Street
P.O. Box 907
Idaho Springs, CO 80452-0907
Telephone (303) 567-4421
FAX (303) 567-4955

NOTICE AND AGENDA
Idaho Springs Planning Commission
1711 Miner Street, City Hall
Wednesday, January 10, 2024 – 6:00 p.m.

**PLANNING COMMISSION
REGULAR MEETING
Wednesday, January 10th, 2024
6:00 PM**

- ❖ Call to Order
 - ❖ Roll Call
 - ❖ Agenda Approval
 - ❖ Approval of Minutes from December 06, 2023
 - ❖ Conflict of Interest
 - ❖ Public Comment (on non-agenda items)
 - ❖ Staff Update
 - ❖ New Business
- A) Consideration of Food Truck Ordinance
 - B) Consideration of Animal Regulation Ordinance
- ❖ Adjournment

**PLANNING COMMISSION
WORK SESSION
Wednesday, January 10th, 2024**

- ❖ Fee In Lieu Modification Discussion

**IN-PERSON AND REMOTE MEETING PUBLIC ATTENDANCE AND PARTICIPATION
INSTRUCTIONS**

The Public is able to view and hear this meeting remotely at the following address on the City's website:
<https://www.colorado.gov/pacific/idahosprings/city-council-live>

To provide public comment remotely please use the link below
<https://us02web.zoom.us/j/89171912558?pwd=cTNDRO8rL0NhQzdVcG4wZlo5clY5dz09>

For in-person Unscheduled Public Comment, please sign-in at the entrance to the Council Chambers.

Each individual that is providing public comment is limited to three (3) minutes.



**PLANNING COMMISSION
MINUTES
December 06, 2023**

CALL TO ORDER

Chair Cindy Olson called the meeting to order at 6:00 p.m.

ROLL CALL

Commissioners present were Cindy Olson, Kent Slaymaker, Chuck Howard, and Lisa Manifold. Commissioners Reimer and Cruzalegui were absent. Staff present were Assistant City Administrator Jon Cain, Community Development Planner Dylan Graves, Deputy City Clerk Wonder Martell, and Assistant City Attorney Nick Klein.

APPROVAL OF MINUTES

Commissioner Manifold moved to approve the minutes from November 01, 2023.

Commissioner Slaymaker seconded. The motion was carried by unanimous voice vote, motion carries.

PUBLIC COMMENT

Chair Olson asked the audience if there was any public comment regarding anything not on the agenda, and there was none.

NEW BUSINESS

1. Consideration of Boba Tea Shop Fee In Lieu Application

Assistant City Administrator Mr. Cain went over his staff report with the commission. The unit at 1639 Miner Street, intended for the new Boba Tea Shop, is undergoing a change of use from retail to restaurant. This transition necessitates compliance with the City's updated parking requirements (2018), which require that one parking space be provided on site for the new use.

The property has a small, unpaved parking area on its southeast corner, primarily used by residents and other tenants. The building's owner has not allocated the leasee a dedicated parking space in this lot for the tea shop.

Given that the applicant is leasing the unit and lacks the authority to modify the existing parking configuration, they are unable to meet the on-site parking requirement. This business will function as a small tea shop. It will generally have 1 employee eligible for an employee parking

permit. Given its small size and location, it is likely that it will attract mostly pedestrian traffic from Miner Street, with customers walking from nearby residential areas or City parking lots. This application appears to conform to 3 of the 5 criteria for approval of a Parking Fee-In Lieu Application. As such, City Staff recommends approval of this Fee in Lieu Application for the Boba Please Tea Shop to be located at 1639 Miner Street.

BOARD DISCUSSION

Chair Olson stated that this is the second fee-in-lieu application since the creation of the program, so that seems to state that this program is working. Commissioner Slaymaker stated that it seems that the city is moving toward keeping businesses and that the board would probably talk more about this in the work session.

Chair Olson brought up that this applicant is leasing the property, so what happens if this business leaves? What happens to the payment plan and the parking space that was purchased. Assistant City Attorney Nick Klien stated that if there was a change of use, whatever money had already been paid toward that space would go against the new businesses remaining balance for the required parking. Chair Olson asked staff that if this business pays the entire \$20,000.00 for the required spot and the close-up shop, do they get the money back? Assistant City Administrator Jon Cain advised the board that during the creation of this program there was discussion about potential partial refunds.

MOTION

Commissioner Manifold moved to approve the application for the Voluntary Fee-In-Lieu Parking Program for the Boba Please Tea Shop to be located at 1639 Miner Street. Commissioner Howard seconded followed by an all-in favor roll call vote. Motion carries.

2. SMART HOTEL ORDINANCE

Assistant City Attorney Nick Klien reminded the Commission about the previous discussions on adding a definition/use of Unstaffed Hotels to the Idaho Springs Municipal Code. This new use/definition is only allowed in commercial zones and applies to properties that have at least 3 but no more than 8 guest rooms. Projects that have more than 8 guest rooms are considered Hotel/Motels and have a different licensing process/requirement.

Commissioner Howard asked that if a property has more than 8 rooms, then a front desk would be required. Staff advised Mr. Howard that yes, that was true. Chair Olson stated that this ordinance seems tight enough to not allow this use to be a Short-Term Rental (STR). Attorney Nick Klien replied yes that this type of use is only allowed in commercial zones, and STR's are only allowed in residential zones, that in itself keeps these Unstaffed Hotels from becoming Short Term Rentals. Assistant City Administrator Jon Cain advised the board that in the spring, staff would be bringing further discussions about licensing procedures/process for Hotel/Motels. Commissioner Manifold asked staff if this type of business would be allowed to apply for a fee-in-lieu. Mr. Cain advised that maybe, if they met the criteria for the fee-in-lieu program.

MOTION

Commissioner Manifold moved to recommend Ordinance #13, Series 2023 An Ordinance amending sections 21-15, 21-50, 21-93 and 21-127 of the Idaho Springs Municipal Code to Establish Unstaffed Hotels as a permitted use within the City. Commissioner Slaymaker seconded, followed by an all-in favor roll call vote. Motion Carries.

3. ORDINANCE RECOMMENDATION VIRGINIA CANYON ROAD ALIGNMENT

This Ordinance was brought to Planning Commission as it requires Planning Commission approval in order to go to Council for final approval. The City has undertaken an improvement project concerning a portion of Virginia Canyon Road within the City and through that process has engaged in discussions with stakeholders and interested parties, which discussions have led to a desire to formalize and memorialize the current location and boundaries of that portion of Virginia Canyon Road, such that the boundaries may be definitively known and relied upon going forward.

Assistant City Administrator Jon Cain advised the Commission that the current ROW on Virginia Canyon Road goes through people's homes, it does not reflect the actual placement of Virginia Canyon Road.

COMMISSION DISCUSSION

Chair Olson asked if there were any residents that had concerns about this change as it may affect their property lines. Mr. Cain replied that it would most likely help all of the residents as their property lines would be cleaner and that this was not a taking, this is to reflect how the road actually is, and not running thru Virginia Canyon Road homes and that the City had received no negative comments from residents on this.

MOTION

Commissioner Howard moved to recommend to council Ordinance #10, Series 2023 an Ordinance Accepting and Recognizing the Alignment of a Portion of Virginia Canyon Road. Commissioner Manifold seconded followed by an all-in favor roll call vote. Motion Carries.

ADJOURMENT

Chair Olson adjourned the meeting at 6:16 pm to go into work session.



City of Idaho Springs
1711 Miner Street
P.O. Box 907
Idaho Springs, CO, 80452-0907
303.567.4421 | (f) 303.567-4955
www.idahospringsco.com

Community Development Planner Communication

Meeting Date: January 10, 2024
To: Planning Commission Members
From: Dylan Graves, Community Development Planner
RE: Community Development Monthly Report

The Community Development Planner has been working on the following recent, current, and upcoming projects.

Development applications and pre-applications:

- CDOT Floyd Hill to Veterans Memorial Tunnels Project – Western Section – 1041 Review: This application has been in referral, which ended on December 29, 2023. It will be scheduled for a public hearing with the City Council on February 12. We will provide an update to PC at the February 7th PC meeting. The public notice will be published in the paper on January 11th.
- Indian Hot Springs Local Historic Designation Request: Applicant is petitioning for local designation.
- River Sounds – 1535 Miner St – Opera House Redevelopment: Applicant/owner will be applying for a COA with the HPRC and then will need an administratively reviewed FDP.
- Annexations:
 - I-70 Right-of-Way: The City is applying to annex ~100 acres of CDOT ROW so that it will clearly be part of the Police Department's jurisdiction. The project is currently in pre-application awaiting information from Clear Creek County. Timeline: staff anticipates PC meeting in February, Council likely in February or early March.
 - ARGO/VCMP PD: Owner is requesting that an additional four (4) parcels be annexed into the ARGO/VCMP planned development. Currently in pre-application. Timeline: staff anticipates a PC meeting in February, Council in February or March.
 - 839 CO 103: Pre-application stage, staff will soon be compiling materials to move this application forward. Senior housing could be possible at this location, once annexed.

Other Activities:

- Building 103 Elementary School Project: Staff has approved their initial parking plan for the elementary school use and has determined that the Early Childhood Education use would have adequate parking, as well. An updated parking plan will be needed for the CCCAE arts uses before they are established. Staff sent a letter notifying Superintendent Gass that the

elementary school and early childhood education had satisfied their initial parking requirements on December 19, 2023. Their Earth Disturbance Permit was issued on December 21, 2023.

- Block 57 / Four Points Project: The deed for the park was recorded on December 27, 2023, to put the park property into City ownership. Building permit is pending based on completion of several items that are nearing completion.
- HPRC: They will likely see two requests soon – the Indian Hot Springs Local Designation request and the River Sounds (1535 Miner St) COA.
- Variance Board: There are no active variance cases currently.
- Inquiries: Staff continues to respond to a variety of planning and zoning inquiries from the public.

CITY OF IDAHO SPRINGS
Clear Creek County, Colorado

Ordinance No. __, Series 2024

AN ORDINANCE ADOPTING A NEW ARTICLE XIV OF CHAPTER 9 OF THE IDAHO SPRINGS MUNICIPAL CODE TO ESTBALISH A MOBILE FOOD TRUCK LICENSING PROGRAM

WHEREAS, the City of Idaho Springs, Colorado (the “City”), is a Colorado statutory municipality, duly organized and existing under the laws of the state of Colorado; and

WHEREAS, pursuant to C.R.S. § 31-15-501, the City, acting through its City Council (the “Council”), is authorized to regulate and license all lawful businesses and occupations; and

WHEREAS, pursuant to such authority, the Council previously adopted various business licensing regulations, codified as Chapter 9 of the Idaho Springs Municipal Code (“Code”); and

WHEREAS, advances in the food service industry have led to the popularity of mobile food trucks, which provide meals outside of the traditional brick and mortar restaurant setting; and

WHEREAS, the Council finds that it is desirable to regulate and license these mobile food trucks to ensure the continued wellbeing of the City’s mobile food truck patrons.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IDAHO SPRINGS, COLORADO, THAT:

Section 1. Chapter 9 of the Code, concerning licenses, permits, and miscellaneous business regulations, is amended by the addition of a new Article XIV to read as follows:

Sec. 9-211. - Purpose and Applicability.

(A) The purpose of this article is to promote the health, safety, comfort, convenience, prosperity, and general welfare of the citizens of the city by establishing reasonable guidelines and regulations for the operation of mobile food trucks within the city.

(B) It shall be unlawful for any person to operate a mobile food truck business unless such person has obtained a mobile food truck license from the City Administrator.

Sec. 9-212. - Definitions.

As used in this article:

City Administrator means the Idaho Springs City Administrator or his or her designee.

Mobile food truck means a motorized or towed wheeled vehicle that must be registered with the Department of Motor Vehicles and is equipped and used to prepare, or serve, and sell food at a transitory or static location, and is not located in a permanent structure as an accessory to a business located in the structure for purposes of primarily serving patrons of the business.

License means a mobile food truck license issued pursuant to this article.

Licensee means a person issued a mobile food truck license pursuant to this article.

Sec. 9-213 - Mobile Food Truck Licenses; License Application.

(A) License applicants shall submit a license application to the City Administrator. The application shall contain all information relevant and necessary to determine whether a license may be issued, including, but not necessarily limited to:

- (1) The applicant's full name, current address, telephone number, mailing address and proof of identity.
- (2) A brief description of the nature, character, and quality of foods to be offered for sale.
- (3) Site plan showing proposed location in compliance with the location requirements outlined in Section 9-214.
- (4) If applicable, written express consent of the property owner to operate a mobile food truck business on the property.
- (5) A copy of a current State of Colorado Health Department Inspection Certificate for the subject vehicle.
- (6) Make, year, model, color, and license number of the mobile food truck to which the license shall apply.
- (7) A signed statement that the applicant shall hold harmless the city and its officers and employees, and shall indemnify the city, its officers, and employees for any claims of property damage or injury to persons which may be occasioned by any activity carried out under the terms of the license.
- (8) If the applicant will be operating on city property or rights of way, the applicant shall also furnish and maintain such public liability, food products liability, and property damage insurance as will protect licensee, property owners, and the city from all claims for damage to property or bodily injury, including death, which may arise from the operations under the license or in connection

therewith. Such insurance shall provide coverage of not less than four hundred thousand dollars (\$400,000.00) per person and one million dollars (\$1,000,000.00) per accident or occurrence. The policy shall further provide that it shall not be cancelled except upon thirty (30) days written notice served upon the City of Idaho Springs, City Administrator, 1711 Miner St, Idaho Springs, Colorado 80452. A license shall be invalid at any time the insurance required herein is not maintained and evidence of continuing coverage is not filed with the City Administrator. Proof of insurance must be shown for each mobile food vehicle in operation.

(9) The application fee as adopted by resolution from time to time by the City Council. Application fees are non-refundable.

(B) The City Administrator shall review each application and upon determining that the applicant is in full compliance with the provisions of this article and with every other applicable requirement of this Code, shall issue a license..A license applicant shall be notified in writing by the City Administrator of the city's decision to issue or deny the license application.

(C) Each license shall show the name and address of the licensee, the nature of the food to be sold, the date of issuance, the date of expiration, and a brief description of the mobile food truck.

(D) An issued license shall be carried with the licensee whenever they are engaged in activities regulated under the license and conspicuously displayed on the mobile food truck.

(E) An issued license shall expire annually at 11:59 p.m. on December 31st. A license may be renewed, provided an application for renewal and license fees are submitted prior to the expiration date of the active license. Any application received after the license expiration date shall be processed as a new application. The City Administrator shall review each application for renewal, and upon determining that the applicant is in full compliance with the provisions of this article and with every other applicable requirement of this Code, shall issue a new license.

(F) The denial of an initial or renewal application may be appealed in the same manner as a suspension or revocation under Section 9-215 hereof.

Sec. 9-214. - Mobile Food Truck Operating Requirements.

(A) All mobile food trucks shall adhere to the following operational requirements:

(1) Mobile food trucks shall be permitted in locations on public property/public right of way as designated on the food truck

location map kept and maintained by the City Administrator. The food truck location map may be amended from time to time at the City Administrator's sole discretion.

(2) Mobile food trucks shall be permitted on developed private property with an existing primary use in areas of the city with underlying commercial and industrial zoning with written owner permission and a City approved parking plan.

(3) Mobile food trucks shall not be permitted on undeveloped property lacking a primary use in any zoning district.

(4) No mobile food truck shall be permitted to operate in areas not previously designated on the food truck location map kept and maintained by the City Administrator.

(5) A licensee shall provide for adequate solid waste receptacles of its own (not City-owned and provided receptacles) and shall be responsible for the cleanliness and neat appearance of the sidewalks, roadways, and other spaces in proximity to their mobile food truck locations by keeping them clean and free of paper, peelings, and refuse of any kind generated from the operation of their business.

(6) No person or entity authorized to engage in the business of mobile food vending under these regulations shall be permitted to do any of the following:

(a) Unduly obstruct pedestrian or motor vehicle traffic.

(b) Obstruct traffic signals or signs.

(c) Stop, stand, or park any mobile food vehicle upon any street or public way for the purpose of selling unless that area has been designated a food zone by the city.

(d) Operate any mobile food vehicle that when fully loaded and operating cannot be easily moved and maintained under control by the licensee, his employee or an attendant.

(e) Sound any device that produces a loud and raucous noise or operate any loudspeaker, public address system, radio, sound amplifier, or similar device to attract public attention.

(f) Conduct his/her business in any way that would restrict or interfere with the ingress or egress of the abutting property owner or tenant, create a nuisance, increase traffic congestion or delay on any public street or travelled way, constitute a hazard to traffic, life or property, or obstruct adequate access to emergency and sanitation vehicles.

(g) Install or erect any free-standing signage.

(h) Run hoses, electric cords, gas lines, or other apparatus to the mobile food truck in any manner that presents an unsafe condition to pedestrians or the motoring public.

(i) Use electrical lighting other than that reasonably necessary to illuminate the interior of the mobile food truck.

(j) Violate any other section of this Code.

(7) A mobile food truck is subject to all regulations established by the health department.

(8) Mobile food trucks located within a public street shall serve food only from the side of a vehicle that is parked abutting and parallel to the curb or edge of travelled way.

(8) Mobile food trucks shall not operate between the hours of 1:00 a.m. and 9:00 a.m.

Sec. 9-215. - Suspension and Revocation of Mobile Food Truck License

(A) Any license issued pursuant to this article may be suspended or revoked for any of the following reasons:

(1) Fraud, misrepresentation or knowingly providing a false statement in a license application.

(2) A violation of any requirement or provision of this Article or other applicable requirement or provision of this Code.

(3) Cancellation of health department authorization unit due to uncorrected health or sanitation violations.

(4) The licensee is in default on any payments owed to the city.

(B) The City Clerk shall provide written notice of the proposed suspension or revocation in a brief statement setting forth the complaint and the grounds for suspension or revocation. Such notice shall be mailed to the address shown on the licensee's license application by certified mail, return receipt requested.

(1) A decision of revocation or suspension by the City Administrator may be appealed to the City Administrator by filing a written notice of appeal with the City Administrator within ten (10) days of the date of the decision being appealed. The City Clerk shall promptly schedule the appeal before the City Administrator. Any decision rendered by the City Administrator, and any suspension or revocation rendered by the City Clerk which is not timely appealed in accordance with this Section, shall constitute the City's final decision on the matter.

(C) The city may choose, at its sole discretion, to offer the licensee the opportunity to pay a fine in lieu of license suspension or revocation. In that event, the licensee shall be subject to a fine of up to five hundred dollars (\$500.00) per violation. Each violation shall constitute a separate and distinct offense. Each day shall be considered a separate offense.

(D) If the City Administrator revokes a license, the fee already paid for the license shall be forfeited. A person whose license has been revoked under this section may not apply for a new license for a period of one (1) year from the date that the revocation took effect.

Sec. 9-216. Violations; Penalties.

(A) It is unlawful to operate a food truck within the City without a valid City food truck license issued pursuant to this Article.

(B) It is unlawful to operate a food truck within the City in violation of any of the requirements of this Article or this Code.

(C) A violation of this Section constitutes a civil offense and, upon conviction thereof, a violator may be fined up to two thousand six hundred fifty dollars (\$2,650.00) per violation in accordance with Subsection 1-8(C) of this Code. With respect to continuing violations, a separate offense shall be deemed committed for each day the violation occurs or continues.

Section 2. Should any one or more sections or provisions of this Ordinance or of any Code provision enacted hereby be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance or of such Code provision, the intention being that the various sections and provisions are severable.

Section 3. Any and all Ordinances or Codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however,

that the repeal of any such Ordinance or Code provision or part thereof shall not revive any other section or part of any Ordinance or Code provision heretofore repealed or superseded.

INTRODUCED, READ AND ORDERED PUBLISHED at a Regular Meeting of the City Council of the City of Idaho Springs, Colorado, held on the ____ day of _____, 2024.

Chuck Harmon, Mayor

ATTESTED AND CERTIFIED:

Diane Breece, City Clerk

PASSED, ADOPTED AND APPROVED at a Regular Meeting of the City Council of the City of Idaho Springs, Colorado, held on the ____ day of _____, 2024.

Chuck Harmon, Mayor

ATTESTED AND CERTIFIED:

Diane Breece, City Clerk

CITY OF IDAHO SPRINGS
Clear Creek County, Colorado

Ordinance No. __, Series 2024

AN ORDINANCE AMENDING CHAPTER 10 OF THE IDAHO SPRINGS MUNICIPAL CODE TO AMEND EXISTING ANIMAL REGULATIONS AND ESTABLISH ADDITIONAL ANIMAL REGULATIONS

WHEREAS, the City of Idaho Springs, Colorado (the “City”), is a Colorado statutory municipality, duly organized and existing under the laws of the state of Colorado; and

WHEREAS, pursuant to C.R.S. § 31-15-401, the City, acting through its City Council (the “Council”), is authorized to adopt ordinances regulating the keeping of animals, including the prohibition and punishment for cruelty to animals; and

WHEREAS, pursuant to such authority, the Council previously various animal regulations, codified as Chapter 10 of the Idaho Springs Municipal Code (“Code”); and

WHEREAS, Staff recommends amendments and additions to the Code to better regulate animal uses within the City; and

WHEREAS, the Council finds that it is desirable to update the animal Code to better reflect the City’s current animal uses.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IDAHO SPRINGS, COLORADO, THAT:

Section 1. Section 10-1 of the Code, concerning animal definitions, is amended as follows:

Sec. 10-1. - Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Aggressive animal. Any animal that, without provocation, harasses persons by encroaching onto public property or the property of another from a vehicle or from the owner's or custodian's yard through or over a fence, or attacks, injures or kills another animal while off the owner's or custodian's property.

Animal. Any of a kingdom (*Animalia*) of living beings typically differing from plants in capacity or spontaneous movement and rapid motor response to stimulation; consistent therewith, any one (1) of the lower animals distinguished from man.

Animal owner. Any person who owns, keeps, harbors, possesses or otherwise has custody or control of any animal in the City, whether such person is a resident or nonresident of the City.

Animal owner's authorized agent or custodian. Any person who acts for or in the place of the animal owner by authority from the animal owner.

Cat. Any domesticated animal of the species *Felis domestica*.

Chicken coop. An enclosed and secured facility for housing fowl.

Dog. Any domesticated animal of the species *Canis familiaris* or other species of the family *Canis*.

Domesticated animal. Dogs, cats, rodents, birds, reptiles, fish, pot-bellied pigs weighing less than seventy (70) pounds and any other species of animal which is sold or retained as a household pet, but does not include skunks, nonhuman primates and other species of wild, exotic or carnivorous animals that may be further restricted in this Chapter.

Fowl. Any domesticated, feathered animal.

Guard dog. A dog disciplined, through special training, to protect persons or property by attacking or threatening to attack any person found within the area authorized to be patrolled by the dog.

Harboring. The activity of the occupant of any premises on which an animal is kept or to which an animal customarily returns daily for food and care which contributes to the animal's habit or tendency to stay at or return to such premises for care and sustenance.

Humane trap. A box-type live trap, which does not cause bodily harm to the animal intended to be captured or any other animal or person coming in contact with such trap.

Leash. A substantial chain, rope, cord or similar device sufficient to hold an animal in restraint and which is not more than six (6) feet in length.

Ordinance Control Officer. Any officer or employee of the City designated by the Police Chief or by his or her authorized representative to enforce the animal control provisions of this Chapter.

Rabies inoculation. The inoculation of an animal with a rabies vaccine approved by the Colorado Department of Public Health and Environment and administered by a licensed veterinarian.

Run. An enclosed and secured area, attached to a chicken coop, in which fowl are allowed to run around and peck.

Running at large. Any animal, unless specifically excepted by this Chapter, not under the direct and competent control of the owner or the owner's authorized agent by means of a leash, except an animal on or within the owner's premises or the owner's motor vehicle; provided that, when such vehicle is parked, the animal shall be within the enclosed portion of such motor vehicle or tethered so as to restrain the animal within the confines of the motor vehicle.

Veterinarian. A person licensed by the State to practice veterinary medicine.

Vicious animal. Any animal that, without provocation, bites, snaps at or attacks humans or other domesticated animals on public or private property or in a terrorizing manner approaches any person in an apparent attitude of attack; provided, however, that an animal shall not be deemed a *vicious animal* by reason of having bitten or attacked the following:

- (1) Any person engaged in the unlawful entry into or upon the animal owner's property where such animal is kept.
- (2) Any person engaged in the unlawful entry into or upon the animal owner's automobile or other vehicle wherein such animal is confined, or which is parked on the street immediately adjacent to the owner's property.
- (3) Any person engaged in attacking or molesting another person.
- (4) Any person engaged in attempting to stop an altercation between such animal and another animal.
- (5) Any person who deliberately and wantonly provokes such animal to bite or to attack such person, another person or another animal.
- (6) A fowl not on the fowl owner's property.

Section 2. Section 10-3 of the Code, concerning cruelty to animals, is amended as follows:

Sec. 10-3. - Cruelty to animals.

(A) In this Section, unless the context otherwise requires:

Abandon includes the leaving of an animal by its owner or other person responsible for its care or custody without making effective provisions for its proper care.

Mistreatment includes every act or omission which causes, or unreasonably permits the continuation of, unnecessary or unjustifiable pain or suffering.

Neglect includes failure to provide food, water, protection from the elements, opportunity for exercise or other care normal, usual and proper for an animal's health and well-being.

- (B) A person commits cruelty to animals if, except as authorized by law, he or she knowingly or with criminal negligence overdrives, overloads, overworks, tortures, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, needlessly mutilates, needlessly kills, carries in or upon any vehicles in a cruel manner, or otherwise mistreats or neglects any animal or causes or procures it to be done, or, having the charge and custody of any animal, fails to provide it with proper food, drink or protection from the weather or abandons it.
- (C) Cruelty to animals is a misdemeanor. In the case of any person incurring a second or subsequent conviction under the provisions of Subsection (B) above, a sentence of imprisonment within the minimum and maximum terms and a fine of three hundred dollars (\$300.00) shall be mandatory and shall not be subject to suspension, nor shall such person be eligible for probation or parole for any part of such period. A plea of nolo contendere accepted by the Court shall be considered a conviction for the purposes of this Section.
- (D) Nothing in this Section shall be construed to prohibit any conduct authorized or permitted in Title 33, C.R.S., as amended.
- (E) It shall be the duty of the Ordinance Control Officer or any duly authorized police officer of the City to take up and impound any such animal that is found to be subject to cruel and inhumane treatment as defined in this Section.
- (F) It is no defense to prosecution under this Section that the defendant was, at the time of the offense, the owner of the animal, nor that the offense was committed upon private property.

Section 3. Section 10-4 of the Code, concerning the poisoning of animals, is amended as follows:

Sec. 10-4. - Poisoning animals prohibited.

It is unlawful for any person to poison any animal or fowl or to distribute poison in any manner whatever with the intent or for the purpose of poisoning any animal or fowl. The distribution or setting out of any poison, toxicant or poisoned meat or food, other than those specifically for insect, bat, rat, mouse or other rodent poisoning, shall be presumptive evidence of violation of this section. The poisoning of insects, bats, rats, mice and other rodents shall conform with all applicable state and federal laws.

Section 4. Chapter 10, Article I of the Code, concerning animals, is amended by the addition of new Sections 10-6, 10-7, 10-8, and 10-9 to read in their respective entireties as follows:

Sec. 10-6. - Livestock and Fowl.

The keeping of any fowl within the Town is prohibited, other than as specifically set forth and allowed herein:

(A) The following requirements, restrictions, and standards shall apply to backyard fowl uses:

1. The footprint of a chicken coop and enclosed run shall not exceed one hundred twenty (120) square feet. The maximum height of the chicken coop shall be six (6) feet high. Chicken coops and runs shall be completely enclosed with wire or other material to contain the fowl and prevent intrusion from wildlife and domesticated animals.
2. The chicken coop shall be of sound construction, be covered, predator resistant, properly ventilated, designed to be easily accessed, cleaned and maintained. Dilapidated, unsightly, or dangerous chicken coops or runs shall be removed or repaired when so ordered by the city.
3. Chicken coops and runs shall be maintained in a clean fashion and regularly cleaned to control dust, odor and waste so as to not constitute a nuisance, safety hazard, or health problem to surrounding properties. Odors and dust shall not be perceptible beyond the boundaries of the parcel.
4. The chicken coop and run must provide adequate ventilation and adequate sun and shade, and must be impermeable to rodents, wild birds and predators, including dogs and cats.
5. The chicken coop must consist of at least four (4) square feet for each fowl housed therein.
6. Except when provided to chickens for consumption, chicken feed shall be kept within the residence or garage so that it can be secured from rodents and other wildlife.
7. During daylight hours, fowl shall have access to both the chicken coop and run. During non-daylight hours, fowl shall be secured within the chicken coop.

8. Fowl manure shall be removed and stored in a sealed container or removed from the property daily. Spillage and leftover feed must be removed daily to prevent rodent propagation and odors.
9. Slaughtering or display of slaughtered fowl is prohibited except for religious purposes.
10. It is the sole responsibility of the fowl keeper to ensure their fowl do not leave their property. The keeper of any fowl which is found to be off the property of the keeper shall be subject to the provisions of, and applicable penalties provided herein.
11. Fowl may be kept in a secure enclosure with a maximum of twelve fowl per two thousand five hundred (2,500) square feet of property provided that no more than thirty-six (36) fowl shall be kept on any single property or contiguous properties held in common ownership.

(B) Permit required. All backyard fowl uses and facilities shall require a permit from the city clerk's office prior to allowance of any fowl on the property. The permit shall be valid only for the person and location to which it is issued and is nontransferable. This permit shall only be issued after the backyard fowl application has been approved in accordance with this Section and shall specify any terms or conditions of the permit. The applicant shall submit the application on the form provided by the city clerk and shall pay the application fee as set by city council resolution. The city clerk may require submittal of such additional information as is deemed necessary to demonstrate compliance with the requirements of this section. Any pre-existing keeping of fowl is illegal, and therefore must comply with this section or be removed.

(C) Revocation of permit. A backyard fowl permit may be revoked upon the conviction of the permit holder of a violation of any provision in this Chapter.

(D) In addition to revocation of a permit, any violation of this chicken ordinance may result in a charge or charges under this section and issued by any police officer and filed in the municipal court.

Sec. 10-7. - Accumulation of Animals.

The accumulation of animals substantially increases the likelihood of the mistreatment of animals, including starvation, neglect, cruelty and abandonment, as well as the noxious odors, health hazards and unsanitary condition of premises often accompanying such actions, as addressed in this chapter. Therefore:

- (A) No person or household shall own or have custody of more than six (6) dogs and cats, in any combination, more than four (4) months of age. State of Colorado licensed kennel facilities are excluded from this Section.

- (B) No person or household shall own or have custody of more than two (2) pot-bellied pigs more than four (4) months of age.
- (C) In addition to the limits set forth above, no person or household shall own or have custody of more than fifteen (15) small animals such as rabbits, guinea pigs, hamsters or the like more than four (4) months of age, in any combination.
- (D) From the date of passage of this ordinance, any person or household that has over the limit of animals set forth in this Section, shall be required to contact the city clerk advising him or her of the total number of animals and a description of each animal. The person or household shall not increase the total number of animals beyond that total. Once the person or household reduces animals to the limit allowed, they shall not go over the limit again.

Sec. 10-8. - Traps.

It shall be unlawful for any person to set or cause to be set within the city any steel jaw leghold trap, snare or any trap other than a humane trap, for the purpose of capturing any animal, whether wild or domestic.

Sec. 10-9. - Promotion of Fights.

It shall be unlawful for any person to cause or encourage any animal to fight with another of its own species or with another of a different species. It shall be unlawful to maintain any place where animals are permitted to fight for exhibition, for wager or for sport. For the purposes of this section, a person encourages a fight between animals for the purpose of monetary gain if he or she is knowingly present at such a fight; possesses equipment used to train or condition animals for fighting; or knowingly allows any such fight to occur on any property owned or controlled by him or her. In addition to the penalties provided by this Code, any police officer may impound any animal from public or private property for the animal's well-being.

Section 5. Chapter 10, Article II of the Code, concerning animal owner responsibilities, is amended by the addition of a new Section 10-21 to read as follows:

Sec. 10-21. - Animal scattering trash.

It is unlawful for any person owning or having charge of any animal to fail to prevent the animal from scavenging, scattering, tearing at or rummaging through trash, garbage or rubbish, whether such is in a receptacle or not, or from scattering or littering such trash, garbage or rubbish on or around any public or private property; provided, however, that it is a specific defense to a charge of violating this Section that the owner or person having charge of the animal immediately removed or cleaned up the trash, garbage or rubbish and disposed of

it securely in a receptacle ordinarily used for trash, garbage or rubbish or in an otherwise lawful manner.

Section 6. Should any one or more sections or provisions of this Ordinance or of any Code provision enacted hereby be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance or of such Code provision, the intention being that the various sections and provisions are severable.

Section 7. Any and all Ordinances or Codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such Ordinance or Code provision or part thereof shall not revive any other section or part of any Ordinance or Code provision heretofore repealed or superseded.

INTRODUCED, READ AND ORDERED PUBLISHED at a Regular Meeting of the City Council of the City of Idaho Springs, Colorado, held on the ____ day of _____, 2024.

Chuck Harmon, Mayor

ATTESTED AND CERTIFIED:

Diane Breece, City Clerk

PASSED, ADOPTED AND APPROVED at a Regular Meeting of the City Council of the City of Idaho Springs, Colorado, held on the ____ day of _____, 2024.

Chuck Harmon, Mayor

ATTESTED AND CERTIFIED:

Diane Breece, City Clerk

TO: Planning Commission
CC: City Administrator Andrew Marsh
FROM: Jonathan Cain, Assistant City Administrator
DATE: January 10, 2024
SUBJECT: Parking Fee In Lieu Program Change Alternatives
ATTACHMENTS: None



In the December 2023 meeting, the Planning Commission discussed revising the City's Fee in Lieu Ordinance, following direction by City Council. Staff has since explored various alternatives and developed recommendations to enhance the program's effectiveness, reflecting both the Commission's and City Council's directives.

REQUEST FOR DIRECTION

Staff seeks direction regarding the integration of four recommendations into the City's Fee-In-Lieu Ordinance.

BACKGROUND

Established in 2023, the Fee in Lieu Program offers businesses in the Downtown Historic District an alternative to fulfilling the City's parking requirements. The program's fee structure is designed to reflect the development impacts on parking needs. This review seeks to address limitations in the program's scope and cost recovery mechanisms for parking impacts.

PROPOSED CHANGES

Staff recommends the following four key changes:

1. **Citywide Expansion:** Extending the program to encompass the entire city will address similar parking challenges beyond the Historic District. This expansion would align the program with broader city planning objectives.
2. **Loading Space Inclusion:** Many city areas cannot feasibly accommodate the required loading spaces per Sec. 21-130. Incorporating loading spaces into the Fee In Lieu Ordinance will offer practical solutions while maintaining city planning standards.
3. **Use-Based Parking Multiplier:** Different businesses impact city parking facilities in varying degrees. A newly developed calculator can assess this impact, leading to a more equitable and precise fee structure for parking space requirements based on usage intensity.
4. **After-Hour Parking Requirements for Events:** The impact on parking facilities for events outside paid parking hours (Sec. 21-128) is likely lower. Adjusting these requirements could reflect the actual usage and reduce unnecessary burdens on event organizers. Requirements may include a different or temporary "fee" to hold events, and/or different parking requirements for events happening "after hours".

Additionally, Staff recommends one of the following alternatives:

1. **Use-Based Parking Multiplier:** Different businesses impact city parking facilities in varying degrees. A newly developed calculator can assess this impact, leading to a more equitable and precise fee structure for parking space requirements based on usage intensity.
2. **Simple "Parking Fee":** The City could set a fee for in-lieu parking in the City Fee Schedule (ie, \$200 a month) and charge that per space based fee for any space required by a business on City

Property. This fee could be updated from time to time with the rest of the City Fee Schedule (typically updated annually).

NEXT STEPS

Staff will draft an ordinance for the City Council's review on January 29th. The draft will be shared with the Planning Commission on February 7th. The City Council process to modify the ordinance will begin in February.