

The Regular Meeting of the  
Brian Head Town Council  
[www.zoom.us](http://www.zoom.us) (link)  
Via Zoom Meeting ID# 847 4193 8295

**TUESDAY, OCTOBER 27, 2020 @ 1:00 PM**

# AGENDA

- A. CALL TO ORDER**
- B. PLEDGE ALLEGIANCE**
- C. DISCLOSURES**
- D. APPROVAL OF THE MINUTES: October 13, 2020, Town Council Meeting**
- E. REPORTS / PUBLIC INPUT ON NON-AGENDA ITEMS. Public input is limited to three (3) minutes.**
- F. AGENDA ITEMS**
  - 1. PUBLIC ART PIECE SURVEY RESULTS & DISCUSSION.** Bret Howser, Town Manager. The Council will review a survey for a public art piece for Brian Head Town.
  - 2. FOOD TRUCK DISCUSSION.** Bret Howser, Town Manager. The Council will hold a discussion on food trucks in Brian Head.
  - 3. CODE ENFORCEMENT DISCUSSION ON CONTRACTORS & PROPERTY OWNERS BUILDING/WORKING WITHOUT A PERMIT.** Wendy Dowland, Public Works. The Council will discuss enforcement options for contractors and property owners for building/working without the proper permits.
  - 4. DISCUSSION ON PROPOSED AMENDMENTS TO TITLE 8-3-3, WORKING WITHIN THE TOWN RIGHTS-OF-WAY EXEMPTION.** Aldo Biasi, Public Works Director. The Council will discuss a proposed amendment to the Town Code allowing an exemption to work within the Town rights-of-way after October 15<sup>th</sup>.
  - 5. POTENTIAL FUTURE AGENDA ITEMS.** The Council will discuss potential items for future agendas.
- G. ADJOURNMENT**

**Date: October 23, 2020**

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

## CERTIFICATE OF POSTING

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

Dated this 23<sup>rd</sup> day of October 2020.  
Nancy Leigh, Town Clerk



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 Via Zoom Meeting ID# 847 4193 8295  
**TUESDAY, OCTOBER 27, 2020 @ 1:00 PM**

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**Roll Call.**

**Members Present:** Mayor Clayton Calloway, Council Member Larry Freeberg, Council Member Kelly Marshall, Council Member Lynn Mulder, Council Member Shaun Kelly.

**Staff Present:** Bret Howser, Town Manager; Nancy Leigh, Town Clerk; Wendy Dowland, Public Works; Shane Williamson, Town Treasurer; Aldo Biasi, Public Works Director; Chief Dan Benson, Public Safety Director.

**A. CALL TO ORDER**

Mayor Calloway called the regular meeting of the Brian Head Town Council to order at 1:00 pm for October 27, 2020.

**B. PLEDGE ALLEGIANCE**

Mayor Calloway led the Council and others in the Pledge of Allegiance.

**C. AWARD PRESENTATION FOR MACH HATCH, PLANNING COMMISSION.**

Mayor Calloway explained that Mac Hatch has submitted his resignation to the Planning Commission and the Town wanted to thank Mac for his dedication and service as a Planning Commission Member for the past ten years, and thank him for his service to the community. Mayor Calloway stated that Mac has been a positive influence and has the respect of the Council and citizens of Brian Head. Mayor Calloway presented a plaque of appreciation to Mac Hatch for his service.

Carrie Dever, Planning Commission Vice-Chair, thanked Mac Hatch for his participation in the Planning Commission over the past ten years. Carrie presented a card and gift card on behalf of the Planning Commission to Mac in appreciation.

Mac thanked the Council and Planning Commission for their generosity and stated that he has retired from Brian Head Resort as the Mountain Manager. Mac explained he will continue to work with the Resort during the transition.

Bret Howser, Town Manager, thanked Mac for his dedication and service not only to the Town in the capacity of a Planning Commission Member but also with his continued support to the community.

**D. DISCLOSURES**

There were no conflicts of interest with today's agenda items. Mayor Calloway stated that the disclosure statements are on file in the Town Clerk's office and are available for public inspection during normal business hours.

**E. APPROVAL OF THE MINUTES:**

**October 13, 2020, Town Council Meeting**

**Motion:** Council Member Marshall moved to approve the October 13, 2020, Town Council minutes. Council Member Mulder seconded the motion.



1           **Action:**           **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes: Council Member Mulder,**  
 2                                   **Council Member Freeberg, Council Member Marshall, Council Member Kelly,**  
 3                                   **Mayor Calloway).**  
 4  
 5

6   **F.       REPORTS / PUBLIC INPUT ON NON-AGENDA ITEMS.   Public input is**  
 7   **limited to three (3) minutes.**  
 8

9   **Nancy Leigh, Town Clerk**

- 10   1. Reminded the Council to submit their Open Meeting training certificates as soon as possible.  
 11   2. There will be a ballot box for the General Election available in the Clerk's office.  
 12

13   **Mayor Calloway**

- 14   1. Reminded the public to get out and vote in the upcoming General Election.  
 15   2. Bristlecone Pond ground movement has been detected adjacent to the pond. Council  
 16   Member Kelly reported he noticed another crack on the other side of the pond. Council  
 17   Member Kelly will meet with the Public Works Director regarding the ground disturbance.  
 18   Mayor Calloway stated he wanted the Council to be aware of it.  
 19   Council Member Freeberg reported that town resident, Dan Phelan, is an engineer who  
 20   specializes in this type of ground disturbance which is occurring at the pond. Council  
 21   Member Freeberg commented he will have Mr. Phelan contact the Public Works Director.  
 22

23   **Council Member Marshall**

- 24   1. Inquired as to the status of when the state chipper will be chipping the slash piles that  
 25   property owners recently deposited in front of their properties. Chief Benson explained the  
 26   crew is waiting for more favorable weather to bring the chipper in to chip the slash piles.  
 27   Chief Benson reported he is working with the Public Works Director on alternative plans if  
 28   needed. Some of the slash piles can be burned over the winter since a fire restriction is  
 29   currently in place.  
 30   2. Inquired as to when the 2020 Census results will be published. Nancy Leigh, Town Clerk,  
 31   responded she is unsure of the date for the 2020 Census results at this time.  
 32

33   **Bret Howser, Town Manager,** reported staff has been working on correcting some of the lights  
 34   that violate the dark sky ordinance. Staff has been retrofitting the lighting on the Public Safety  
 35   building's flagpole. The floodlight located on the building has been turned off. Bret encouraged  
 36   the Council to contact him on any other lighting issues that need to be addressed.  
 37

38   **Wendy Dowland, Public Works,** reported the building department is starting to slow down, but  
 39   land use is increasing. The department has received several conditional use permit requests and  
 40   the Planning Commission will be reviewing those requests.  
 41

42   **Aldo Biasi, Public Works Director**

- 43   1. Staff will continue to monitor the fault that occurred at the pond. Currently, the fault has not  
 44   moved and staff will investigate the other side of the pond on the reported fault.  
 45   2. Phase 2 of the Town Walking Trail Project is nearing completion. The project should be  
 46   completed in the spring of 2021.  
 47   3. The public works crew is working on a lot of ongoing projects. Aldo reported he will have  
 48   more information in his department update for the next Council meeting.  
 49

50   **Shane Williamson, Town Treasurer,** reported the sales tax revenue is trending upward with the  
 51   August 2020 revenues. Council Member Freeberg commented that during the budget session in  
 52   April, the Town decided to go with a contingency Plan B for the budget and inquired if the Town  
 53   will continue with the current Plan B budget since revenues are trending upward? Shane  
 54   responded the revenues are exceeding the normal budget by a significant amount, but staff will  
 55   continue with the Plan B budget until January. December revenues will be the first indicator of  
 56   the winter economy along with the property taxes.  
 57



1  
2 **G. AGENDA ITEMS**  
3

4 **1. PUBLIC ART PIECE SURVEY RESULTS & DISCUSSION.** A survey for a public art  
5 piece for Brian Head Town.  
6

7 Bret Howser, Town Manager, explained an action step was identified to send out a survey to  
8 get the public's opinion on a public art piece and determine whether to proceed with a  
9 request for proposals to commission an art piece for the Town. The purpose of an art piece  
10 is to give visitors a point of interest to go to for selfies advertising Brian Head.  
11

12 The survey that was sent out asked three simple questions: 1) Do you think Brian Head  
13 needs an art piece? 2) What location for the art piece? and 3) Any ideas for an art piece?  
14 (see attached).  
15

16 The survey results were presented to the Council with the following discussion:

- 17 a) The survey received 25 responses. The survey was sent to the residents, businesses,  
18 and property owners in Brian Head.  
19 b) Eighty-eight percent (88%) thought an art piece was a good idea. Twelve percent (12%)  
20 were against the idea.  
21 c) The Bristlecone Pond/Park was the most agreed upon location with other suggestions of  
22 multiple locations and/or moving the pieces around.  
23 d) Most of the Council liked the idea of an art piece.  
24 e) Burke Wilkerson, Brian Head Resort, stated he likes the idea of an art piece, and in  
25 touring other ski resorts in Colorado, most of them had some type of art. Burke  
26 suggested something that would represent the local area and to contact the Southern  
27 Utah University Art Department for possible suggestions.  
28 f) Carrie Dever, Planning Commission, suggested a baby bear on a lift chair.  
29

30 **Consensus of the Council:** Staff will proceed with a request for a proposal and will identify  
31 a process on how to identify the art piece. Bret suggested the Council keep an open mind  
32 and not settle for anything until there is a piece that is a fit for Brian Head.  
33  
34

35 **2. FOOD TRUCK DISCUSSION.** A discussion on food trucks in Brian Head.  
36

37 Bret Howser, Town Manager, explained this agenda item was presented to staff late Friday  
38 afternoon and did not allow enough time to complete a staff report. Bret reported staff will still  
39 need to continue to gather more information on this item.  
40

41 Bret reported the staff has been receiving requests from food truck companies inquiring about  
42 operating in Brian Head during the winter season. Bret explained that with the Covid-19  
43 pandemic and the limited dining spaces, it may be to the benefit of the Town to have some  
44 food trucks that could serve the visitors during the winter season.  
45

46 Bret reported the Town's current Mobile Food Vendor Code which is identified in the Licensing  
47 Code is restrictive. Currently, food trucks are allowed in construction sites and special events.  
48 They are prohibited from operating in the public right of way. In 2019 the State Legislature  
49 passed laws that deregulated regulations at a local level. One of the main items was that  
50 cities could not prohibit a food truck from locating within proximity to a brick-and-mortar  
51 restaurant.  
52

53 Staff has been researching the state law regulating food trucks along with contacting the Town  
54 Attorney. Staff will also contact the Utah League of Cities and Towns on food truck  
55 regulations. One item is the Town does not receive the sales taxes from the sale of food.



1 According to the State Tax Commission, the taxes go to where the food truck keeps their  
2 inventory/commissary. Bret explained that the Town's intent is to create an experience for the  
3 visitors to get food easily, the Town may have to forgo the sales taxes.  
4

5 Bret reported one option could be to identify a special event in which all vendors are required  
6 to get a temporary sales tax ID number from the State Tax Commission. This would allow the  
7 sales taxes to be identified for Brian Head.  
8

9 Burke Wilkerson, Brian Head Resort, commented he believes the food trucks are a good idea  
10 since the resort is limited on their dining spaces for the public; his only concern is if those who  
11 purchase food at the food truck want to come into the lodge to eat. The resort would need to  
12 regulate the number of people coming into the lodge. Burke explained that he would be  
13 against the idea of food trucks otherwise.  
14

15 Burke reported he contacted several food truck vendors for special events and many of them  
16 did not want to come to Brian Head due to going up and down the hill.  
17

18 Bret reported if a food truck locates on private property, the property owner has control of how  
19 long a food truck can operate on their property and the Town cannot request the food truck  
20 operator to provide proof of written permission from the property owner. The resort could  
21 allow food trucks to operate on their property and set the dates and times in which they can  
22 operate.  
23

24 Bret inquired if the Council is interested in considering temporarily allowing food trucks to  
25 operate in Brian Head by suspending some of the current restrictions due to the pandemic and  
26 restrictions on dining.  
27

28 Mayor Calloway stated the Council would need more facts and recommended staff research  
29 further and bring back an option for Council to consider.  
30

31 **Consensus of the Council:** Staff will present a resolution suspending portions of the Mobile  
32 Food Vendor Code due to the pandemic and limited dining seating and will further investigate  
33 the sales taxes for food vendors.  
34  
35

### 36 **3. CODE ENFORCEMENT DISCUSSION ON PENALIZING CONTRACTORS**

37 **WITHOUT A PERMIT.** A discussion on options for penalizing a contractor and/or property owner  
38 for building without the proper permits.  
39

40 Wendy Dowland, Public Works, reported she was asked to research whether a contractor  
41 could be held responsible for working without a permit. Wendy reported she contacted the  
42 Utah State Department of Professional and Occupational Licensing (DPOL) who reported that  
43 if the property owner hires a contractor, the contractor is responsible for obtaining the  
44 appropriate permits. If the owner is doing the work, then it is the owner's responsibility to  
45 acquire the proper permits. The Town can cite either the contractor and/or the property  
46 owner.  
47

48 The Council discussed the following:

- 49 a) The Town can submit a claim to DPOL regarding a violation, but in speaking with other  
50 communities DPOL's main concern is contractors being properly licensed.
- 51 b) Wendy recommended the Town's best action is to cite and/or issue a stop order to the  
52 contractor and/or property owner and address each instance on a case by case basis.
- 53 c) Cedar City does not cite the owner and/or contractor but sends them a "Do better letter".  
54 Cedar City takes an educational approach in working with contractors and/or property  
55 owners.



- 1 d) Council Member Freeberg reported that this item was originally brought up due to the  
 2 clear-cutting of lots. Council Member Freeberg suggested staff proceed with citing both  
 3 the contractor and/or property owners since word would get out and it would help educate  
 4 the contractors and property owners if they were cited.  
 5 e) Council Member Freeberg suggested staff present an educational course for contractors  
 6 since the Town is now seeing newer contractors working in Town. This could help prevent  
 7 problems and could get the word out to other contractors and/or property owners.  
 8 f) Bret reported staff conducted more code enforcement this summer and specifically looked  
 9 for grading and tree removal violations. On one instance, staff came across a contractor  
 10 working without a tree removal permit and the job was stopped until a permit was  
 11 obtained. The contractor stated they were hired by the property owner and was unaware  
 12 of the requirement to obtain a tree removal permit.  
 13 g) Staff has been utilizing the GIS system from Iron County and was able to write a citation to  
 14 some property owners who were cutting without a permit.  
 15 h) The penalty is a class B misdemeanor which carries a fine up to \$1,000, but since it goes  
 16 through the court system, the judge determines what the fine will be.  
 17 i) Another issue has been property owners and/or contractors applying for a tree removal  
 18 permit for fire mitigation and then cutting down live trees in the process. Approximately  
 19 80% of property owners obtain a tree removal permit and most are compliant with the  
 20 code.  
 21 j) The Planning Commission will be reviewing the grading permit process during its next  
 22 meeting.  
 23 k) Bret reported there will be legislation from the State to remove local authority for issues  
 24 such as these. It began last year with a proposed law that any land use violation would be  
 25 an infraction and not a misdemeanor, which the Town Code currently identifies  
 26 misdemeanors. Staff has been asked by the Utah League of Cities and Town to review  
 27 our current code and make the changes from misdemeanors to infractions.  
 28 l) Wendy proposed that the Town not allow for a tree removal or grading until a building  
 29 permit is pulled. Wendy reported that the staff's time is limited and difficult to keep up  
 30 with. Tree removal permits should only be issued for fire mitigation without a building  
 31 permit associated with it.  
 32 m) A possible penalty could be to triple the fee if tree removal were done without a building  
 33 permit.  
 34 n) Bret explained the solution is to develop a reputation and is unsure if citing someone after  
 35 the fact is getting to where the Town wants to be in preventing the issues.  
 36

37 **Consensus of the Council:** Staff will cite either the contractor if they are under an agreement  
 38 with the property owner or cite the property owner if they are doing an owner-build.  
 39  
 40

41 **4. DISCUSSION ON PROPOSED AMENDMENTS TO TITLE 8-3-3, WORKING WITHIN**  
 42 **THE TOWN'S RIGHTS-OF-WAY EXEMPTION.** A discussion on a proposed amendment to the  
 43 Town Code allowing an exemption to work within the Town's rights-of-way after October 15<sup>th</sup>.  
 44

45 Aldo Biasi, Public Works Director, presented proposed changes to the Town Code, Title 8-3-3,  
 46 Working within the Town's Rights-of-Way exemption (see attached).  
 47

48 Aldo reported he is proposing an amendment to the Code which would allow for an exception for  
 49 work within the Town's rights-of-way past the deadline depending on the weather. Currently, the  
 50 weather has been mild, and staff has received requests from contractors to extend past the  
 51 October 15<sup>th</sup> deadline for working within the right-of-way. It has been a general rule that it was  
 52 allowed if permitted by the Public Works Director, but the staff is requesting that it be identified in  
 53 the Town Code. Currently, the winter season is defined by October 15<sup>th</sup> through May 15<sup>th</sup>.  
 54

55 The proposed amendment would now be from October 1<sup>st</sup> through May 15<sup>th</sup>. Aldo reported  
 56 certain situations would allow work to be conducted beyond the October deadline, such as



1 emergency issues. Aldo reported the contractor would need to put in a request no later than  
2 September 30<sup>th</sup> and anything after October 1<sup>st</sup> would not be considered. The work is to be  
3 completed between October 1<sup>st</sup> through October 15<sup>th</sup> unless an extension has been authorized. If  
4 the seasonal weather sets in during the extension period, the Town can rush the project or shut it  
5 down for the winter season if needed.  
6

7 Aldo reported his intent is to have all construction work within the Town's right-of-way completed  
8 by September 30<sup>th</sup> and an extension would allow work until October 15<sup>th</sup>. Aldo explained staff  
9 has run into issues with contractors who wait until the last minute and do not finish the work  
10 properly and the town must come in and finish backfilling the project.  
11

12 The Council discussed the following:

- 13 a) Mayor Calloway commented this proposed amendment would shorten the building season  
14 and was not the intention he wanted.
- 15 b) Aldo explained his intention is to get the work completed before the winter season sets in  
16 because any open trench would jeopardize the town's infrastructure by freezing.
- 17 c) The contractor can continue to work on private property, but not within the right of way. Staff  
18 has had problems with getting the contractors to come back and repair the road.
- 19 d) Mayor Calloway commented that Dominion Energy sets their date in which they will not work  
20 in Brian Head as of October 15<sup>th</sup> and if an earlier date is identified such as October 1<sup>st</sup>, then  
21 they will not come to Brian Head after October 1<sup>st</sup> and they do not consider any extensions,  
22 making it more difficult on the contractor.
- 23 e) Mayor Calloway stated that as a contractor he is not in support of the proposed amendments  
24 shortening the construction season.
- 25 f) Council Member Kelly inquired as to why the dates are different for winter parking vs. working  
26 within the right of way. Council Member Kelly inquired if the ten feet (10') is from the right of  
27 way into a driveway, would a contractor be allowed to work after the deadline. Aldo  
28 responded that it would depend on the case, but that the Town would need to be notified  
29 since they may not know where the waterline is located. Bret responded staff will need to  
30 research the legality of this provision.
- 31 g) Bret explained that if someone works along the property line and the waterline is in the right-  
32 of-way, there is a risk of freezing the waterline which could cause damage. The staff wants  
33 to ensure the water and sewer lines stay the required depth underground without exposure to  
34 the winter freeze.
- 35 h) Winter season parking vs. working within the right of way. Bret explained the Town is trying  
36 to accomplish two different things. To protect the Town's infrastructure from freezing which is  
37 a temperature-based and parking is snow removal services which are not temperature based.
- 38 i) Aldo explained it was not the staff's intention to stop work, but was to push the contractor's  
39 along to get their project completed before the winter season sets in.
- 40 j) Council Member Kelly commented the current Town Code has several sections that address  
41 weather changes and the Town's ability to fill in the road and the contractor's responsibility to  
42 come back and re-dig and complete the project later. Council Member Kelly suggested that it  
43 be kept simple and allow the Public Works Director to decide if needed.
- 44 k) Mayor Calloway recommended the dates remain the same: October 15<sup>th</sup> through May 15<sup>th</sup>  
45 and allow for an extension if the contractor requested one by October 12<sup>th</sup>, they would have  
46 one week to complete. If the weather forecast identified a storm and the work was not  
47 completed, there should be something in the Consolidated Fee Schedule that would allow for  
48 the Town to complete the backfill and charge the contractor. The Town has the enforcement  
49 power to have the contractor complete the work.
- 50 l) Aldo explained he would want the contractors to approach the Town before October 12<sup>th</sup>  
51 since in past years the weather turns bad and moisture starts to saturate the ground. He  
52 would like to have the contractor approach the Town sooner than three days before the cutoff  
53 date of October 15<sup>th</sup>.
- 54 m) Mayor Calloway explained that if a contractor obtained a permit and bond to work within the  
55 right of way by September 15<sup>th</sup>, he would have a deadline of October 15<sup>th</sup> to finalize, and if by



- 1 chance he falls behind, he would need to contact the Town by October 7<sup>th</sup> and ask for an  
 2 exception if he plans to go beyond October 15<sup>th</sup>.  
 3 n) Mayor Calloway inquired as to the last water leak in front of Apple Annie's and if staff took  
 4 pictures and identified it for the Town's GIS system since there were difficulties in locating the  
 5 waterline. Aldo responded he took pictures but has not downloaded them onto the GIS  
 6 system yet.

7  
 8 **Consensus of the Council:** The winter dates will be from October 15<sup>th</sup> through May 15<sup>th</sup> and  
 9 staff will identify another mechanism to allow for an extension. Staff will bring back another  
 10 proposed amendment for Council's consideration.

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 12  
 13 **5. POTENTIAL FUTURE AGENDA ITEMS.** The Council will discuss potential items for future  
 14 agendas.

15  
 16 Tentative agenda items for November 10, 2020, Town Council meeting:

- 17 a) Grading discussion. The Planning Commission will be reviewing the grading permit process  
 18 and will forward a recommendation to the Council.  
 19 b) Working within the Town's right-of-way code amendment.  
 20 c) Food truck resolution.

21  
 22 Wendy reported the Planning Commission will be reviewing a list of items for Land Management  
 23 Code amendments. Wendy inquired if the Council would like to discuss the proposed  
 24 amendments first before the public hearing is scheduled.

25  
 26 Mayor Calloway suggested staff submit the Planning Commission minutes. Bret reported he will  
 27 be doing an administration department update and will include a combination of the Planning  
 28 Commission minutes and an abbreviated summary of the Planning Commission meeting. Bret  
 29 reported he will begin doing a monthly administration department report for the Council.

30  
 31 **John Grissinger Dedication**

32 Mayor Calloway reported that he has been working on a dedication piece to John Grissinger and  
 33 apologized for not involving the Council sooner. A swing will be dedicated to John that will be  
 34 located at the pond near the zig/zag fence with a view to the ski runs as a thank you for his  
 35 contribution to the community. Mayor Calloway presented a picture of the swing being  
 36 constructed (see attached).

37  
 38  
 39 **H. ADJOURNMENT**

40  
 41 **Motion:** Council Member Kelly moved to adjourn the regular meeting of the Brian Head  
 42 Town Council for October 27, 2020. Council Member Mulder seconded the  
 43 motion.

44 **Action:** **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes:** Council Member  
 45 Freeberg, Council Member Kelly, Council Member Marshall, Council Member  
 46 Mulder, Mayor Calloway.

47  
 48  
 49 The regular meeting of the Brian Head Town Council was adjourned at 3:40 pm for October 27, 2020.

50  
 51 November 10, 2020

52 Date Approved

53  
 54  
 55 \_\_\_\_\_  
 56 Nancy Leigh, Town Clerk







# STAFF REPORT TO THE TOWN COUNCIL

**SUBJECT:** Public Art Piece Survey Results & Discussion  
**AUTHOR:** Nancy Leigh, Town Clerk  
**DEPARTMENT:** Administration  
**DATE:** October 27, 2020  
**TYPE OF ITEM:** Discussion

## SUMMARY:

Staff will present results from a recent survey asking the residents their thoughts on a public art piece located somewhere in Town that would draw visitors to Brian Head. The Council will discuss whether to direct staff to move forward with a request for proposals for an art piece for Brian Head.

## BACKGROUND:

During the Fiscal Year 2020 Strategic Planning Retreat, Council identified an action step to solicit the public for ideas for a public art piece for the Town. This was an effort to boost the local economy. Another action step was identified to issue a request for proposals (RFP) for the art piece.

## ANALYSIS:

Staff created a survey that was sent to the residents, property owners, and business owners asking them three questions:

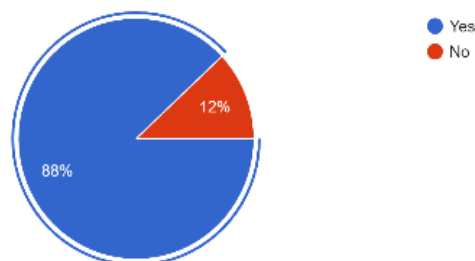
1. Do you feel Brian Head's local economy might benefit from a public art piece or program?
2. Where should a public art piece be located? We identified two locations: Bristlecone Pond/Park and the meadow south of Town Hall along with an option for other locations.
3. What do you see the art piece looking like? What are your creative suggestions for a unique public art piece or program for Brian Head? This is where we let the public submit their suggestions.



Below are the survey results as of Thursday, October 22, 2020. Staff will update the Council with any new survey information during Tuesday's Council meeting.

### Question 1:

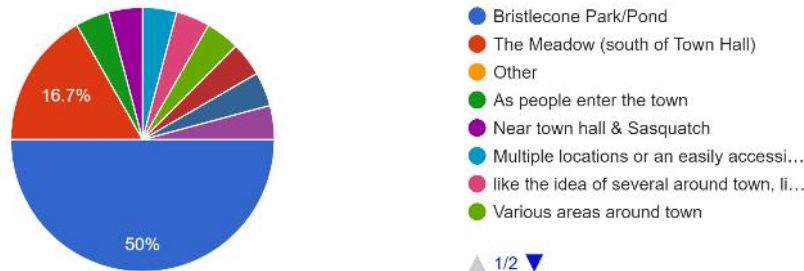
Do you feel Brian Head's local economy might benefit from an iconic public art piece or program?  
25 responses



## Question 2:

Where should a public art piece be located?

24 responses



## Question 3:

What do you see the art piece looking like? What are your creative suggestions for a unique public art piece or program for Brian Head?

This question received 24 responses in which we have summarized:

1. Animals such as sculptures, painted and made from recycled materials located at multiple locations.
2. Recreation pieces such as large skis, snowboards, and wagons that could be interactive for the public and in multiple locations.
3. Signage that lets people know that Brian Head is a year-round resort town.
4. Sculptures that are made from recycled materials or breath fire and/or erupt fire at certain times.
5. Giant cuckoo clocks using a local bird instead of the traditional bid. An interactive clock tower.
6. Chair lift with four chairs representing the four seasons of recreation.
7. A giant snowflake windmill that produces electric power.
8. Ski – Snowboard trees with chair lifts by each.
9. Arch made of old skis.
10. Historic backdrop with old school ski lifts to sit on.
11. Chairs/benches with skis as backrests made from cast and each chair highlight one of Brian Head's unique recreational features.
12. The old steam engine from Steam Engine Meadows subdivision.
13. Statutes of a hiker, skier,
14. Some do not believe we need anything or the money to be spent on more important projects.

The entire survey is attached if you would like to read all of the comments.

## FINANCIAL IMPLICATIONS:

N/A

**BOARD/COMMISSION RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

Staff recommends the Council direct staff to issue an RFP for an art piece. Council will need to determine what type of art piece they would like to see.

**PROPOSED MOTION:**

No motion necessary. Direction to staff for an RFP.

**ATTACHMENTS:**

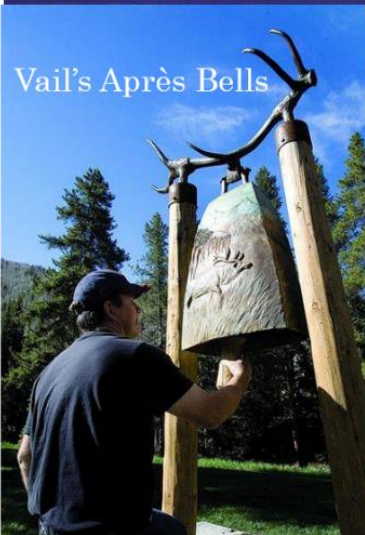
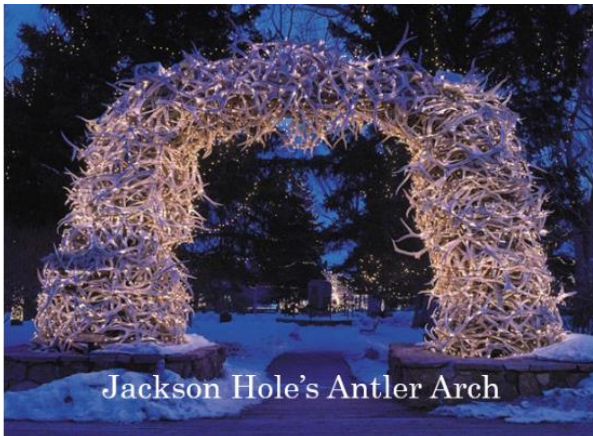
A – Public Art Piece Survey Results

# Help us Sculpt a More Scenic Brian Head

The Brian Head Town Council recently reviewed several potential economic development initiatives the Town might consider to make the area more attractive for visitors. One such idea was to commission a public art piece that would be iconic in nature – something that inspire selfies that will be splashed all over social media and make people think, “I’ve got to go to Brian Head and see that...”

Some of examples would include: A prime example would be Jackson Hole’s Antler Arch – a staple on postcards and selfies for many decades. But other examples are more interactive, such as Vail’s Après Bells – which are spread out over town and are tied to a tradition of ringing in après ski each afternoon in the ski season. Park City’s “Moose on the Loose” involves several moose sculptures all over town (some dressed up, some with murals painted on them, and some of which change locations from time to time).

This survey is to help us determine if some kind of public art effort might work in Brian Head. We’re looking for creative ideas for an iconic art piece that would make Brian Head unique from other cities and resorts, something that will draw the visitors to visit Brian Head. To get some creative juices flowing, we listed some examples of what other cities/resorts have done, but don’t let that stop you from coming up with something altogether different. We’re looking for all types of ideas:



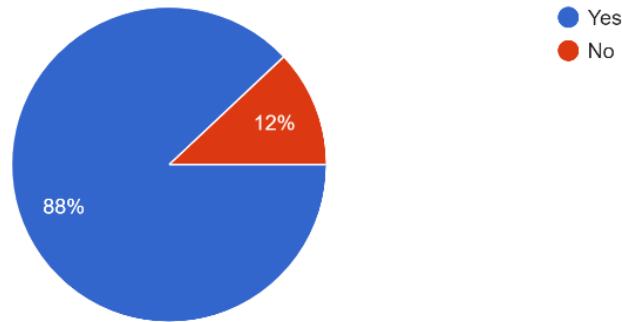
Now that we have your attention, we would love for you to share some of your ideas with us to help us come up with an iconic artwork that is uniquely Brian Head.

Survey Questions:

### Question 1:

Do you feel Brian Head's local economy might benefit from an iconic public art piece or program?

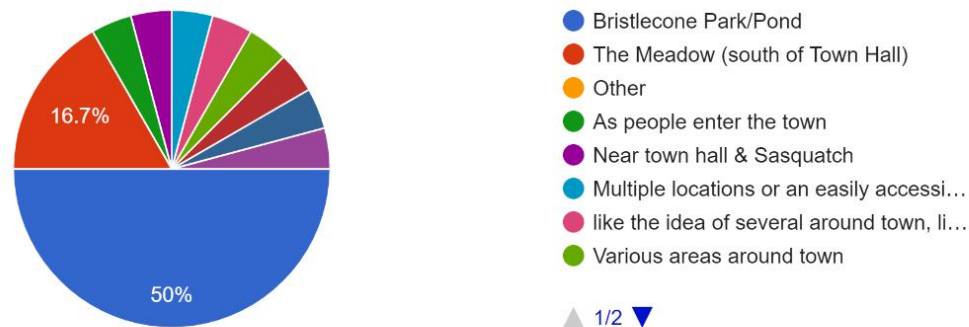
25 responses



### Question 2:

Where should a public art piece be located?

24 responses



### Question 3:

What do you see the art piece looking like? What are your creative suggestions for a unique public art piece or program for Brian Head?

24 responses

- Deers? Moose? Bears? A local animal?
- Many towns have large painted animals. For example, West Yellowstone has painted buffalos throughout the town. Others have painted horses. In Oregon, they have painted seals. Everyone here loves our foxes so what if we had different painted fox sculptures around town. One at the pond, one at giant steps, one at Navajo?
- I suggest we do something related to the night sky - out of all the things "Brianhead", Cedar Breaks and the crystal-clear night sky are unique in the world - thanks for asking...
- a sculpture which represents biking, skiing, and hiking
- A single piece won't do anything, but many pieces will provide another reason to visit
- A large bald eagle soaring over Brian Head Peak looking down over the quaint family centered town of Brian Head
- Sheep, sheep farming is a historic part of the mountain so something to do with sheep.

- My kids would love to see a giant Sasquatch that's made entirely out of recycled material. If not a Sasquatch, they said whatever is made should be constructed from recycled material. What a fun project for the city
- how about a huge pair of skis standing 50 ft high. They would be crisscrossed. People could stand under them and take photos. Ok maybe 30 FT.
- Something that promotes the fact that we are at such a high altitude. That's something people would post on social media. Like possibly something that says "highest xxx in the xxx". Then "ski-ride-hike-bike-camp-paddle-fish-EXPLORE! So people know we are year round and there's something for everyone to do. That's just a simple (and very affordable) sign idea. For art, I think something similar to what they have in Cedar City and Parowan, where they have things like the wagons and other settler type pieces would be cool and keeping in the spirit of the local area. Make them big and something people can climb up on and get inside of. Let them be in multiple places throughout town and have each one lead to another and let there be a story that gets told as you move from piece to piece. Have them lit up at night so they glow and attract attention even in the evening. Maybe the lights create shadows that spell something out. Maybe the story is of a local Indian tribe instead and there is a big tee pee without the material and a giant animal they may have worshipped (or eaten) at the next stop, then a huge horse or weapon...you get the point. Or, maybe go the energy route and have some type of energy centering sculpture or a make a wish medallion you lay in or burn the paper with your worries on it eternal flame - all large. Maybe do all 3 in different places. It's about creating an identity and campaign we can market and then having the art pieces play into that. Are we a settlers or Indian town or an energy force town (think Taos) or something else. What's our identity? What would attract people? Our resources are the stuff listed above - our altitude and the plethora of activities that we offer YEAR ROUND. Maybe focus on how Brian Head allows for amazing ACTION based activities and we market it like ACTIVATE , ELEVATE, REJUVENATE yourself in Brian Head, Utah! Activities for everyone, year round! Get out! Get activated! in Brian Head, UT. Focus your energy on fun! Create our identity as THE ENERGY CENTER OF UTAH! Use those all as the tag lines for the City over the course of a 10 year marketing campaign. Always listing the numerous activities we offer (beyond just seasonal skiing) so people see or hear it in every ad. Maybe the pieces are interactive sculptures that are themed around activate, elevate, and rejuvenate. Like the activate one is some type of energy themed sculpture where it looks like you're holding a lightening bolt when you take the picture at certain times of the day based on where the sun is (but always looks great), and the elevate one makes you look like you're sitting on a huge cliff just from the camera angle, and the rejuvenate is...I'm out of ideas for that one, but again, you get the picture. All with the city's name and marketing. Maybe the three words get symbols assigned and those are part of the logo for the City. The art pieces and the City identity that is created by them should be something that attracts people from all over. Like because of the highest peak we have a special ENERGY in Brian Head where you find your natural self through activities, family time, and relaxation. Focus a lot on family time as that's something we have over larger places like Park City or Vegas (the closets competitors for the families expendable income). People never get quality family time in those locales because there is never any down time. A stand alone piece that would be a huge hit is large sculpture of something that breathes fire or erupts fire at certain times of the day/week but also looks cool when it's not. Maybe it shoots out lasers instead of fire (downside to lasers is they are only fun at night). Maybe lasers at night and fire during the day to save on cost. Like the giant fire breathing praying mantis that is at the entrance to Downtown Container Park in Las Vegas. It gets ENORMOUS social media posts. Tony Hsieh re-developed that part of Downtown Las Vegas and brought the fire breathing sculpture from Burning Man. He has just relocated to Park City, UT buying up a bunch of businesses and over \$100 million in real estate there. It will be fun to see what his impact is on Park City, creatively and commerce wise. Make sure the sculptures or whatever the pieces that are eventually created are able to be mobile (like disconnected and moved on a trailer if need be, even if a crane is needed) just in case a new location is chosen for them eventually. \*\*\*As a side note, can someone work on some type of activity or show plan for 4th of July now, so that if fireworks get cancelled people still come up the mountain to celebrate? It's such a huge weekend for Brian Head but commerce gets impacted when fireworks get cancelled. People will stop making Brian Head a family 4th of July destination each year if there isn't something special happening to allow kids and adults to celebrate somehow without fireworks. Think along the lines of a large glow parade using glow sticks. Or hire the legitimate laser company out of Salt Lake City to create a laser show each year (a better effort than the last attempt). Multiple ski resorts already hire the company for 4th of July laser shows. Or even something simple like colored spotlights on the mountain creating a show. Or lit up drones from a drone show company. Or a glow parade night ride on the chairlifts for a few hours where the chair lifts are all light up glowing. Even something like "the worlds biggest 4th of July BBQ would help, and would raise money. With judging of the different BBQ trucks or vendors. Like a 4th of July food truck fest even that culminates in a concert of patriotic songs only at 9pm. Even if people can't see the concert they'll be able to hear the music throughout town. Heck why not just do a small fair entry 4th with small rides and stuff? We have the numbers of people coming up the mountain that day, why not let the City make a bunch of money off of it? Just anything to make the evening of the 4th have ANY kind of

special event culmination as a community in the event fireworks are cancelled. Cut the exceptionally long fireworks show in half (everyone' would still be really happy and would get used to it after the first year) to fund the backup activity. All just random thoughts that were train of thought and written down as quickly as they came. Thank you all SO much for what you do for our town!

- Something interactive
- Bronze Snowboarder, Biker, and Hiker
- A giant clock, possibly a giant cuckoo clock (maybe using a local bird like the clarks nutcracker) that is mechanized like the ones they have in Europe. It becomes a spectacle at certain times of the day that people will travel far to see. See <https://theculturetrip.com/europe/germany/articles/the-most-famous-cuckoo-clocks-in-germany/> <https://www.greatvaluevacations.com/travel-inspiration/famous-clocks-of-europe>
- Interactive art Like a clock tower you can climb to top and take selfies of the views. Or Art that will be interesting in winter or summer like a snowflake windmill that produces Electric power.
- a short chair lift with 4 chairs with representatives of the 4 seasons; i.e. Mtn. bikers, skiers, hikers, fishermen etc.
- something local, like red rocks, bristlecone, aspen or sheep
- Ski -snowboard trees (shape like pine/Xmas tree) maybe with lift chairs by each for photos
- A GIANT old-fashioned chair lift (branded with Brian Head) 2) An arch made of a variety of old skis (similar to Jackson Hole's antler arch) 3) A number of stag statues — each one different, painted by local Utah artists — placed throughout town.
- Unique historic backdrop with old school ski lift to sit on for pictures
- I don't think we need one
- I think the money could be spent for more important projects
- Chairs and/or benches with skis as a backrest, these should be cast and not wood. Each chair should highlight one of Brian Head's unique features (skiing, hiking, fishing, hunting, snowboarding, etc.)
- We need more shops :/ something for the non-sporty... coffee shop, boutiques, more restaurants. Everyone is always asking for these things. I LOVE what you guys did with the pond and the trail around it, it's wonderful Thank you
- How is this artwork being paid for? Has someone donated money for the project or are we (the taxpayers) the ones footing the bill?
- Maybe a Huge chairlift that folks could sit on and take photos. Something like "Edith-Ann" from the Lily Tomlin days



## STAFF REPORT TO THE TOWN COUNCIL

**SUBJECT:** Code Enforcement Discussion – Owner vs Contractor  
**AUTHOR:** Wendy Dowland  
**DEPARTMENT:** Building / Administration  
**DATE:** October 27, 2020  
**TYPE OF ITEM:** Discussion

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### **SUMMARY:**

The Town Council will discuss procedures regarding owners and/or contractors doing work without a required permit.

### **BACKGROUND:**

Staff was asked to research whether or not the property owner should be held responsible and cited for working without a permit or if the contractor should be the one responsible and cited for working without a permit.

### **ANALYSIS:**

Staff contacted Cedar City, Iron County and St. George regarding how they address someone working without a permit. In all cases, the jurisdiction places a stop work order on the property and the owner or contractor is charged 2x the fee (or more) when the proper permit is obtained. Work may not resume until a permit is issued.

According to Utah state law, *if there is a contractor on the job, it is his or her responsibility to obtain the proper permits and handle any inspections.* It is important to understand that if an owner hires a contractor and obtains the permit themselves, the owner is liable for the work being done and not the contractor. If an owner hires a contractor, he should ensure that the proper permits and inspections are being done in order to avoid delayed consequences (insurance claim denial, resell disclosure, or additional taxes imposed by assessor). If anything is built that does not comply with zoning ordinances or building codes, the Town can order that the work be demolished or levy a fine on the project.

If a contractor is caught working without the proper licensing, a claim should be filed with the Department of Occupational Licensing (DOPL) for investigation and disciplinary action.

### **FINANCIAL IMPLICATIONS:**

N/A

### **BOARD/COMMISSION RECOMMENDATION:**

N/A

### **STAFF RECOMMENDATION:**

Discussion Item

### **PROPOSED MOTION:**

No motion necessary, discussion item.

### **ATTACHMENTS:**

None





## STAFF REPORT TO THE TOWN COUNCIL

**SUBJECT:** Discussion on Code Amendment to Title 8-3-3 Building Development – Working within the Rights-of-Way  
**AUTHOR:** Aldo Biasi, Public Works Director  
**DEPARTMENT:** Public Works  
**DATE:** October 27, 2020  
**TYPE OF ITEM:** Discussion

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### SUMMARY:

The Council will discuss proposed changes to the Town Code, Title 8, Building and Development Regulations, Chapter 3, Excavations, Encroachments, and Structures within Rights of Way. Section 8-3-3 (listed under attachments) which defines the winter season for the construction of underground utilities inside the Town Right of Way. Staff is recommending changes to this section of the code for clarification purposes and flexibility for both staff and contractors.

### BACKGROUND:

Due to the extent of the mild weather (which is changing quickly), the staff has been approached by contractors asking if they could be permitted to extend their work season in Town's rights-of-way past the current cutoff date of October 15<sup>th</sup>. In the past, due to this section, the staff has not granted any extensions of digging in the rights-of-way past the cutoff date unless deemed an emergency. Although, it has been generally understood that the Public Works Director or his/her designee would be able to override this code and allow digging depending on weather or other circumstances. The following section of Town Code Title 8-3-3 states:

*No permits for road excavations or other excavations within ten feet (10') of the edge of the Town road shall be issued during the winter season, except in emergency situations. For the purposes of this section, "winter season" begins October 15 of each year and ends on May 15 of the succeeding year*

### ANALYSIS:

Due to the increase of construction on the mountain, staff recommends making the following changes to the Code:

No permits for road excavations or other excavations within ten feet (10') of the edge of the Town ~~road~~ rights-of-way shall be issued during the winter season (October 1st to May 15<sup>th</sup> succeeding year), except in the following situations

- Emergency situations that are threatening life or destruction of property.
- Approval of an extension by the Public Work Director or his/her designee. Extensions will be made on a case by case basis, which will include requirements that the contractor must adhere to (such as a schedule of work).
- All permits must be submitted and approved no later than September 30<sup>th</sup> if a contractor wishes to extend work into the winter season.
- All extended work must be completed no later than October 15<sup>th</sup> unless approval has been granted to continue past the cutoff date.

- All permits (normal and extensions) can be revoked if deemed necessary by the Public Works Director or his/her designee with a 24-hour notice to the contractor.

These proposed changes to the Town Code will give staff the flexibility to work with contractors on years such as this one where there has been a good run of mild weather and would also give staff a way to stop work easier if the weather is changing earlier than September 30<sup>th</sup>. By changing the dates and requiring extension applications to be submitted by September 30<sup>th</sup> it will remind Contractors that they have work to finish on the Mountain before winter. All normal permits that are working in the Town's rights-of-way will be required to be completed by September 30<sup>th</sup>.

**FINANCIAL IMPLICATIONS:**

N/A

**BOARD/COMMISSION RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

Staff recommends Council direct staff to make the following changes to the Town Code listed above and bring back an ordinance for adoption.

**PROPOSED MOTION:**

Discussion item only.

**ATTACHMENTS:**

A - Town Code Title 8-8-3: (current)

# **Title 8 – Building & Development Regulations**

## **Chapter 3**

### **EXCAVATIONS, ENCROACHMENTS AND STRUCTURES WITHIN RIGHTS OF WAY**

#### **8-3-1: COMPLIANCE, PERMIT REQUIRED:**

#### **8-3-2: EXCEPTION FOR EMERGENCY CONDITIONS:**

#### **8-3-3: WINTER SEASON:**

#### **8-3-4: APPLICATION FOR PERMIT:**

#### **8-3-5: TERM OF PERMIT:**

#### **8-3-6: FEES:**

#### **8-3-7: COMPLETION BOND:**

#### **8-3-8: ENGINEERING STANDARDS AND REQUIREMENTS:**

#### **8-3-9: SUPERVISION AND INSPECTION:**

#### **8-3-10: FAILURE TO COMPLY:**

#### **8-3-11: PENALTY:**

#### **8-3-1: COMPLIANCE, PERMIT REQUIRED:**

- A. It shall be unlawful for any person, firm, public utility or corporation to place, make, enlarge or change any excavation, driveway, encroachment or structure within the right of way of any town road without complying with the provisions of these regulations and obtaining a permit as provided for herein.
- B. It shall be unlawful, and punishable as provided for herein, to make any excavation or to place any encroachment or structure in any town right of way not described in the approved permit application or which exceeds in size the dimensions, or which does not conform to the conditions described in said application. (Ord. 07-014, 11-13-2007)

#### **8-3-2: EXCEPTION FOR EMERGENCY CONDITIONS:**

Emergency excavations and encroachments may be commenced without prior permit if the reason for the excavation or encroachment is to prevent loss of life or damage to property which appears to be imminent if the action is delayed by waiting to secure said permits. In such emergency situations, those making the excavation or encroachment must contact the Public Works Director's office and/or the town engineer's office at the earliest possible time, but in no case later than the first working day following the emergency work in order to secure a formal

permit. None of the provisions of these specifications are waived for emergency situations except for the prior permit requirement. (Ord. 07-014, 11-13-2007)

### **8-3-3: WINTER SEASON:**

No permits for road excavations or other excavations within ten feet (10') of the edge of a town road shall be issued during the winter season, except in emergency situations. For the purposes of this section, "winter season" begins October 15 each year and ends May 15 of the succeeding year. (Ord. 07-014, 11-13-2007)

### **8-3-4: APPLICATION FOR PERMIT:**

Applications for all permits shall be made by the person, firm, public utility or corporation actually doing the work. Applications for all permits shall be made to the Public Works Director's office as provided, and shall describe the excavation, encroachment, structure or driveway, and shall have a drawing of the location of the intended excavation, encroachment, structure or driveway, the pertinent dimensions thereof, the purpose therefor, the person, firm, public utility or corporation doing the actual work, and the name of the person, firm, public utility or corporation for whom or by which the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws of the town and the state relating to the work to be done. A traffic control plan, conforming to the manual of uniform traffic control devices (MUTCD), shall be submitted with all applications which involve excavations within a town road right of way. The application shall also provide for an agreement that the applicant shall indemnify the town for any loss, liability or damage that may result from or because of the making, placement, existence or manner of guarding or constructing any such excavation, encroachment, structure or driveway. (Ord. 07-014, 11-13-2007)

### **8-3-5: TERM OF PERMIT:**

All permits issued pursuant to these regulations shall be valid for a period of sixty (60) days from issuance, except that no permit shall extend into the winter season as outlined in section [8-3-3](#) of this chapter. A copy of the permit issued shall be made available by the applicant at all times when work is under way. (Ord. 07-014, 11-13-2007)

### **8-3-6: FEES:**

A review fee, in the current amount as identified in the consolidated fee schedule, shall accompany each application for a permit, unless other fee payment arrangements have been approved by the town. (Ord. 07-014, 11-13-2007)

### **8-3-7: COMPLETION BOND:**

- A. Required: Applicants shall provide a completion bond to the town in the amount as identified in the consolidated fee schedule at the time the permit is approved. This may be cash, a letter of credit from an FDIC insured financial institution, or a corporate surety bond. The bond shall be valid for a period of two (2) years from the date of the construction inspection to guarantee that the condition of any permit, together with any restorative works, is completed properly (the "guarantee period"). The bond will be released upon recommendation of the town engineer and/or the Public Works Director.
- B. Continual Annual Bond: Applicants for permits may secure a continual annual bond in lieu of separate bonds for each excavation. Applications for continual bonds shall be made before December 31 of each year and shall be valid for the next calendar year and be valid for a period of two (2) years.
- C. Exception: Those public entities which are regulated by the state public service commission are exempt from the bonding requirements of this section, but shall still be required to obtain a permit prior to making any excavation. (Ord. 07-014, 11-13-2007)

### **8-3-8: ENGINEERING STANDARDS AND REQUIREMENTS:**

Specific engineering standards and requirements for the enforcement of these regulations are attached to ordinance 07-014 and on file in the town office. (Ord. 07-014, 11-13-2007; amd. 2010 Code)

### **8-3-9: SUPERVISION AND INSPECTION:**

- A. Required: The Public Works Director, or his designee, shall from time to time inspect, or cause to be inspected, all work done pursuant to permits to ensure compliance with the provisions of these regulations. Notification shall be given to the Public Works Director, or his designee, at least twenty four (24) hours prior to the commencement of any work. The completion bond shall not be released until an inspection shows compliance with all applicable provisions of these regulations.
- B. Driveway Encroachments: Driveway encroachments require the following inspections to ensure compliance with the standards set out in these regulations:
  - 1. Staking Inspection: A stake or marker shall be placed at each corner of the encroachment as it intersects the road or street, and at each intersection of the driveway as it crosses the right of way or easement line. The front property corners shall also be set and marked with survey markers. This inspection is required prior to the encroachment permit being approved. The Public Works Director's office must receive at least twenty four (24) hours' notice prior to requested inspection.
  - 2. Rough Grade Inspection: An inspection of the rough grade driveway is required prior to receiving a footing inspection by the building department. The driveway must be graded

to a point that the inspector can determine compliance with these regulations and the land management code. The footing elevation/garage floor elevation must be established prior to requesting an inspection. The Public Works Director's office must receive at least twenty four (24) hours' notice prior to requested inspections.

3. Pre-surfacing Inspection: An inspection of the driveway is required prior to surfacing (soft or hard) the driveway to determine compliance with these regulations and the land management code. In no case can a certificate of occupancy be issued without the pre-surfacing inspection, and the driveway being in compliance with this chapter and the land management code. (Ord. 07-014, 11-13-2007)

### **8-3-10: FAILURE TO COMPLY:**

In the event of failure on the part of any person, firm, public utility or corporation to comply fully with the provisions of these regulations, law enforcement authorities and/or the Public Works Director are authorized to:

- A. Initiate action by citation or information under section [8-3-11](#) of this chapter and/or proceed to forfeit the bond; or
- B. Remove such encroachment, driveway or structure from the right of way or require such person, firm or corporation to remove the same; or
- C. Give written notice to such person, firm, public utility or corporation to remove such encroachment, driveway or structure from the right of way. Such notice may be served either by personal service or by mailing the notice to the person, firm, public utility or corporation by registered mail and posting a copy thereof on such encroachment, driveway or structure for a period of ten (10) days. If such encroachment, driveway or structure is not removed within ten (10) days after the notice is complete, said authorities may remove the same at the expense of the person, firm or corporation and recover costs and expenses, and also the sum of one hundred dollars (\$100.00) for each day the same remained within the right of way after notice was complete, in an action for that purpose; or
- D. If such person, firm, public utility or corporation disputes or denies the existence of such encroachment, driveway or structure, or refuses to remove or permit its removal, said authorities may bring an action to abate the same as a nuisance, and if judgment is recovered by said authorities, there shall also be recovered, in addition to having the same abated, the costs of action and the sum of one hundred dollars (\$100.00) for every day such nuisance remained within the right of way after notice was given for its removal in the manner provided in subsection B of this Section; or
- E. Revoke, suspend, terminate, impose conditions on, or modify, in whole or in part, any permit issued to such person, firm, public utility or corporation. (Ord. 07-014, 11-13-2007)

### **8-3-11: PENALTY:**

Any person who violates the provisions of this chapter is guilty of a class C misdemeanor and a one hundred dollar (\$100.00) fine per day. Each day of a continuing violation shall be deemed a separate offense. (Ord. 07-014, 11-13-2007)