

Interlaken Town Planning Commission Land Use Amendment Hearing Meeting Minutes

Entity: Interlaken Town

Body: Interlaken Planning Commission

Subject: Business

Notice Title: Interlaken Town Planning Commission – Land Use Hearing

Notice Type: Public Hearing

Event Start Date & Time: June 16, 2020 5:34 PM

Event End Date & Time: June 16, 2020 5:57 PM

Location: Meeting conducted via Zoom, with an anchor location for public attendance at the Smith Residence, 347 Luzern. Zoom Video Conferencing Software can be accessed at:

<https://us02web.zoom.us/j/5163379977?pwd=QIJNT3loV3J4Nm83TFJlOEdGVVU1dz09>

Zoom Meeting ID: 516 337 9977 Zoom Meeting Password: 84049

Description/Agenda:

1. **Call To Order.** Susanna Littell (S. Littell) Called the Public Hearing meeting to order at 5:34PM.
2. **Roll Call:** S. Littell, Planning Commission (PC) Chair present, Steve Wilson, PC Member, present.
3. **Approval of Agenda or Changes.** S. Littell motions to approve Land Use Amendment Public Hearing Agenda, S. Wilson Second this motion, with all members approving the motion unanimously.
4. **Presentations: Planning Commission to present the proposed Amended Land Use Ordinance, Titles 9 and 11. Specifically, changes are being proposed relating to the following matters:**
 - A. **Proposed Code Changes to Title 11.06.070, Regarding Accessory Building (requirements), establishing a maximum height limitations for accessory buildings, and delineating the conditions when Town Engineering Review/Building Permit may be required (for structures less than 200 square foot);**
 - B. **Proposed Code Changes for Title 9, Section 9.05.020 (B.)(3) and (4):**
 - B.3) Exemptions to building permit requirements for Accessory Buildings; and
 - B.4) Exemptions to building permit requirements for Landscaping and Gardening activities.
 - C. **Proposed Code Changes for Title 9, Section 9.05.060 (Addition of Subsection A.4.):**
Establishing Timeline Requirements to support forward Construction Progress Relating to Building Permits. S. Littell presented the Powerpoint Presentation found in Attachment A, Describing the drivers for proposed changes to the Land Use Code (Title 11) and Building & Construction Code (Title 9). The specific code changes proposed for Title 11 and Title 9 discussed in the hearing are provided in Attachment B.
5. **Public Comment:**

Speakers please limit your comments to a few minutes. The Commission cannot act on items not listed on the agenda, so it may not be able to respond. Total time for public comments will be 30 minutes, unless the Commission agrees to extend. S. Littell reviewed the public comments received., which included the comments listed below.

 - There should not be different building heights for main dwellings and accessory buildings.
 - The current maximum height for all buildings should be applied to accessory structures.
 - There should not be any language suggesting the accessory building be limited to the height of the primary residence.

- There should be no language suggesting the accessory building “should not” impede the primary view of existing residential structures. The use of “should not” is not legally defensible by the Town.
- The definition for Accessory building should be all inclusive, not limiting.
- The proposed limitation for the accessory building not exceed 50% of the area of the primary residence is not needed. There is already a limitation on the area of accessory buildings, and this should be adequate.
- The proposed limitations for roof overhands & cantilevered overhang for accessory buildings <200 square feet in area is too complex and should be streamlined.
- The current code needs better, more defined language so it is clear that square footage exemption for Title 9 – Building Permit Exemptions Section 9.05.020 B 3. (or in the appropriate definitions section of Title 9 & Title 11) also apply to construction activity projects without walls.
- The current building permit exemption code language in Title 9 Section 9.05.020 B 3. for “construction activities” < 200 square feet needs to be better defined regarding what is a “construction activity”.
- Plumbing should be allowed in accessory buildings, as long as it is made clear that the plumbing is not being installed/used for the accessory building to be used as a “dwelling”.

There were no comments or objection received regarding the Planning Commission’s proposed changes in Title 9, CHAPTER 9.05 SITE DISTURBANCE PERMIT, Section 9.05.020 When Required, B. 4) regarding the proposed increase of the applicable square footage of residential landscaping and gardening activities from 100 feet to 500 feet of land surface area (not be required to obtain a Site Disturbance Permit or Building Permit).

There were no comments or objection received regarding the Planning Commission’s proposed changes in Title 9, CHAPTER 9.05 SITE DISTURBANCE PERMIT, Section 9.05.060 A. Revocation or Suspension, 4. Failure of project progression within any contiguous six (6) month period.

6. Council Comment. None.

7. Other Business. None.

8. Adjournment. S. Littell motions to adjourn the Public Hearing Meeting at 5:57 PM, S. Wilson seconds motion. The motion was unanimously approved by all PC members.

ATTACHMENT A

**Powerpoint Presentation Presented by the Interlaken Planning Commission
during the 6/16/2020 Land Use Public Hearing**



**Interlaken Town Planning Commission
Public Hearing Presentation
6/16/2020**



**Proposed Charges to
Land Use (Title 11) and
Building & Construction Code (Title 9)**

Proposed Code Changes - Overview



- 1) Increasing the Maximum Landscaping & Gardening Area that Triggers the Need for a Permit/Plans Review
- 2) Establishing new Timeline Requirements for Construction Permits
- 3) Establishing Additional Provisions for Accessory Use Buildings & Structures

Drivers for Changes to Maximum Landscaping & Gardening Area



- ✓ Received many requests to increase the current 100 square-foot area that applies to Residential Landscaping and Gardening activities.
- ✓ Many Residents felt the current limit was too restrictive.

Proposed Title 9 Changes – Minimum Landscaping & Gardening Area Overview



- **Increasing the Maximum Area of Residential Landscaping and Gardening activities that can be performed under the Permit Requirement Exemption – from 100 to 500 square-feet.**

Drivers for Adding New Timeline Requirements for Construction Permits



- ✓ Received several complaints about some building construction projects continuing on unfinished for several years
- ✓ Impact intermittent ongoing construction activities poses to:
 - Town roads & ROW (due to heavy traffic),
 - Stormwater mitigation noncompliance,
 - Trash and debris containment noncompliance & impact to neighboring residents.

Proposed Title 9 Changes – Establishing New Timeline Requirements for Construction Permits



Adding to the current list of conditions for Site Disturbance Permit -Revocation or Suspension – to include:

- Failure of project progression within any contiguous six (6) month period (i.e. receiving an inspection).

When this Happens...:

- The permittee may submit a written request for a permit extension.
- This extension must be received by the Town Clerk w/in 30 days of first notification of term violation.
- Permit extension requests must contain a proposed project construction schedule for the following 6-month period.
- The Town Council must approve permit extension requests.
- If approval is not given by Town Council, then the permit will be revoked and all applicable, outstanding deposits will be remitted to permittee.
- For the project to resume, a new permit application and all applicable fees must be submitted by the permittee and approved by the Town Council pursuant to all applicable procedures described in Title 9.
- Construction activities must progress sufficiently to result in a minimum of one (1) inspection within that six (6) month period. Inspection need not be passed.



Drivers for Adding Additional Requirements for Accessory Use Buildings / Structures

✓ **Public Safety Concerns**

- Significant size Accessory Use Structures are being built in a manner that falls under the radar for requiring a Building Permit or Town Engineering Review.
- These include structures with a frame < 200 square-feet, but have roofs or overhangs that greatly exceed 200 sq-ft.
- These projects pose a wind hazard to the town- if not constructed properly

✓ **Inadequate Definitions** (how to apply the permit exemption requirements for construction activities disturbing < 200 square feet of land and surface area – to Accessory Use Structures)

✓ **Additional Requirements for Accessory Use Buildings & Structures the PC identified during our research of other town codes thought to be beneficial to our town**

✓ **Better Clarify Plumbing Requirements** for these projects

Proposed Title 9 & 11 Changes – Establishing Additional Requirements for Accessory Use Buildings/Structures – to Improve Public Safety Concerns



- **Clarifying in the Code that Accessory Uses include both accessory buildings and accessory structures**
- **Clarifying that for a project construction to qualify for the 200 square-foot building permit requirement exemption:**
 1. **the square footage calculation must include the area of the roof – less 3 foot of overhang (if the project has a roof)**
 2. **Roof area is not to exceed 175 percent of the accessory building footprint**
 3. **Cantilevered Roof overhangs may not exceed $\frac{1}{4}$ the length of the back span of that structural roof member**
 4. **Maximum Building Height is limited to 16 feet**

(so if the project exceeds any of these thresholds, it will require Building Permit/Town Engineering Review)

Research Performed by PC Regarding Accessory Use Buildings/ Structures – Gathered from Other Town Codes



UT Town	Current Maximum Height Requirement (for Accessory Buildings)	Current Size (Area) Limitation for Accessory Buildings	Building Permit Required for Accessory Buildings?
Interlaken	35 feet limit (that applies to all buildings)	No Limitation	Yes, if > 200 sq-ft
Midway	35 feet limit (that applies to all buildings)	25% of the rear yard area.	Yes, if > 500 sq-ft
Wallsburg	No Requirement	No Requirement	Yes, if > 200 sq-ft
Riverton	20 feet (lots < 1 acre) 25 feet (lots > 1 acre)	Shall not exceed: <ul style="list-style-type: none"> • 30% of the entire lot area; and • 25% of the rear yard area. 	Yes, if > 200 sq-ft
S. Ogden City	19 feet (measured from finished floor to midway of roof); and Walls may exceed 10 feet (measured from finished floor).	No Requirement	Yes, if > 200 sq-ft
Enoch	20 feet	Shall not exceeds 20% of the land area	Yes, if > 200 sq-ft
Clinton	16 feet, 1 story.	No Requirement	Yes, if > 200 sq-ft

Proposed Title 9 & 11 Changes – Establishing Additional Requirements for Accessory Use Buildings/Structures (per the Information Gathered from other Town Codes and to address Plumbing Concerns)



- **Establishing a Maximum Height Limitation for Accessory Use Buildings & Structures -**
 - Applying a new maximum height of 28 feet. (This will accommodate a Class A RV Storage structure & a 2-story construction project).
 - May not exceed the height in elevation of the primary residence.
- **Proposed Additional Project Area Limitations:**
 - Project footprint may not exceed 50 percent of the size of the primary residence footprint,
 - Project footprint cannot exceed 720 square feet.
- **Project Placement Recommendation:**
 - An accessory building should not block the primary view of an existing primary residence.
- **Plumbing is prohibited in accessory buildings** (to support not using the structure as a living space)



Next Steps...

- Public Comment (Tonight)
- PC Consideration of Public Comments Received
- PC Reevaluating Proposed Draft Code Revisions
- PC Recommending Final Draft Language (at their next regular PC Meeting)
- Town Council Approval or Rejection of Final Draft Code Revision Recommendations by the PC

ATTACHMENT B

**The Specific Code Changes Proposed by the Planning Commission for Title 11
and Title 9 During the 6/16/2020 Land Use Public Hearing**

PROPOSED CHANGES TO TOWN OF INTERLAKEN MUNICIPAL CODE

TITLE 09 BUILDING AND CONSTRUCTION

CHAPTER 9.05 SITE DISTURBANCE PERMIT

Section 9.05.020 When Required

A. Permit Required. A Town of Interlaken Site Disturbance Permit is required before any person or entity may landscape, excavate, grub and clear, grade, or perform any type of construction activity that will disrupt or cause a change in the natural landscape or increase impervious surfaces upon any parcel of property located in the Town. No excavating shall be done further than is necessary to place the lot on grade or for building a dwelling and /or garage.

B. Exemptions. The following activities are exempt from the permit requirements of this Chapter:

1. Actions by a public utility, the Town, or any other governmental entity to remove or alleviate an emergency condition, including the restoration of utility service or the reopening of a public thoroughfare to traffic;
2. Actions by any other person when the Town determines, and documents in writing, that the actions are necessary to remove or alleviate an emergency condition;

3. Construction activities (which includes the construction of driveways, decks, carports, or accessory use buildings or accessory use structures) disturbing less than 200 square feet of land and surface area. The square footage area calculation for accessory use buildings or accessory use structures shall include the areas of the associated roof, excluding roof overhangs that extend 3 feet or less from the edge of the building wall or frame. This exemption does not apply to the following conditions (which does require obtaining a Building Permit or Town Engineer review and approval):

a) The construction of an accessory use building or accessory use structure with a proposed roof area that will exceed 175 percent of the associated building's or structure's footprint.

b)-The construction of an accessory use building or an accessory use structure with a proposed roof overhang (with or without support) or a cantilevered overhang that exceeds ~~over~~ 3 feet from the exterior frame or wall.

c) the proposed construction of an accessory use building or accessory use structure with a height that exceeds 16 feet;

4. Residential landscaping and gardening activities disturbing less ~~500~~**100** square feet of land surface area and does not conflict with Section A of 09.05.020;

Section 9.05.060 Site Disturbance Permit – Revocation or Suspension

A. Revocation or Suspension. A Site Disturbance Permit may be revoked or suspended by the Town upon the occurrence of any one of the following events:

1. Failure of a Permittee to comply with the Plan or any condition of the Permit; or
2. Failure of a Permittee to comply with any provision of this Chapter or any other applicable law, ordinance, rule or regulation related to site disturbance; or
3. A determination by the Town that the site disturbance measures implemented by a Permittee pursuant to the Plan are inadequate to prevent or minimize, to the maximum extent practicable, the discharge of sediment, dust, debris or other pollutants from the construction site by storm water or wind-; or;

4. Failure of project progression within any contiguous six (6) month period.

Any project that has not received an inspection for a six (6) month period will be determined to have not progressed within that period.

The permittee may submit a written request for a permit extension. This extension must be received by the Town Clerk within thirty (30) days of first notification of term violation.

Permit extension requests must contain a proposed project construction schedule for the following (6) six month period. Construction activities must progress sufficiently to result in a minimum of one (1) inspection within that six (6) month period. Inspection need not be passed.

The Town Council must approve permit extension requests.

If approval is not given by Town Council, then the permit will be revoked and all applicable, outstanding deposits will be remitted to permittee.

For the project to resume, a new permit application and all applicable fees must be submitted by the permittee and approved by the Town Council pursuant to all applicable procedures described in Title 9.

PROPOSED CHANGES TO TOWN OF INTERLAKEN MUNICIPAL CODE

TITLE 11 LAND USE

CHAPTER 11.02 DEFINITIONS

For the purpose of this Title, the following words and phrases shall, unless defined differently in a particular section, have the meanings respectively ascribed to them:

1. **Building.** Any structure built for the support, shelter, or enclosure of persons, animals, or property of any kind.

a. **Main building.** The principal building upon a lot.

b. **Setback line requirement.** A line requirement designating the minimum distance which buildings must be set back from a street or lot line.

c. **Building, accessory.** A subordinate building **or structure**, the use of which is incidental to that of the main building. **Examples may include, garages, carports, covered patios, greenhouses, gazebos, sheds and other uses.**

~~CHAPTER 11.06 SUPPLEMENTARY REQUIREMENTS IN ZONES~~

~~Section 11.06.030 Area, and other General Limitations for Accessory Buildings and Accessory Use Structures-~~

~~1. Accessory buildings in any residential zone shall not cover more than 25 percent of the rear yard.~~

~~2. An accessory building footprint may not exceed 50 percent of the size of the primary residence footprint.~~

~~3. Plumbing that is intended to support the use of an accessory building/structures as a dwelling or plumbing fixtures and/or drains that can be used to discharge spilled chemicals, fuels, other wastes or stormwater to the sanitary sewer system is prohibited."~~

~~Section 11.06.070 Maximum Height Provisions for all Buildings~~

~~The height of any the main building shall not exceed 35 feet. The height of accessory building and/or accessory use structure shall not exceed 28 feet (for buildings/structures greater than 200 square feet in area), and shall not exceed 16 feet (for buildings/structures equal to or less than 200 square feet in area being proposed to be constructed without Town Engineer or Building Permit review and approval).~~

~~D.-Accessory buildings and accessory use structures are not to exceed 28 feet in height and may not exceed the height in elevation of the primary residence. Accessory buildings and accessory use structures with a project footprint area equal to or less than 200 square feet and being proposed to be constructed without Town Engineer or Building Permit review and approval are limited to a maximum height of 16 feet.~~