



City of Ketchum

October 7, 2019

Mayor Bradshaw and City Councilors
City of Ketchum
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

**Recommendation to Review and Accept Public Comment and Act upon the Appeal by Melissa Levick
Regarding Administrative Conditions 4.f. and 8, as depicted in the Alpenglow Beer & Wine Bar
Vendor License Permit # 19-101**

Recommendation and Summary

Staff is recommending the council review and determine the appropriateness of Conditions 4.f. and 8 of Vendor License Permit # 19-101 and make a motion either affirming or modifying subject conditions.

Alternative 1 - Move to **affirm** Vendor License Permit #19-101 with conditions 1-13 as set forth in the permit dated 9/17/19

Alternative 2 –Move to **amend** Vendor License Permit #19-101, as set forth in the permit dated 9/17/19, by amending conditions 4.f. and 8 as follows: [provide details](#)

The reasons for the recommendation are as follows:

- The POD and subject license sites are being administered for the first time under Ketchum Municipal Code (KMC) §5.16 Off Site Vendors, as revised in 2018 to permit multiple vendors on a property.
- Staff interprets the prohibition of metal siding as applying to the storage container on The POD site, but not the vehicularly licensed food trucks (e.g., Nona’s Taco Truck) also approved at The POD.
- The Findings and Purpose of the Off Site Vendor Ordinance (see KMC §5.16.010) grants the City broad discretion to reasonably regulate vendors in order to, among other provisions, protect the public safety and welfare (subsection B), maintain and enhance the appearance and character of the City (subsection C), and balance expectations (subsection G).
- Aesthetic improvements to the metal container and linking operation of the beer and wine only business to the operation of at least one other food truck in The POD is consistent with KMC §5.16.010 and the general legislative 2018 history of the amended Off Site Vendor Ordinance. See **Attachment A** for a copy of KMC §5.16 and **Attachment B** for a copy of the Minutes from the Ketchum City Council (KCC) meetings where the updated Off Site Vendor Ordinance was reviewed and subsequently adopted.

History & Analysis

Ketchum’s Off Site Vendor Ordinance KMC §5.16 was amended in 2018. Few edits were made to the Architectural Quality subsection of the Ordinance, which prohibits metal siding in favor of stands of wood such as LeRoys and Irvings.

Deliberations of the Council in 2018 clearly envisioned the allowance of food trucks with up to six vendor license sites on a given property. Council deliberations did not, however, envision a beer and wine bar, like Alpenglow, as it was not until early-2019 that the Idaho Legislature passed legislation that permitted marketplace and plaza venues, such as The POD, to be eligible for an Idaho State Police approved license. (The following link is to House Bill 134, which includes the text, fiscal note, and history of consideration and passage of the March 14, 2019 legislation: <https://legislature.idaho.gov/sessioninfo/2019/legislation/H0134/>)

Staff has analyzed the legislative history and minutes from the Council's deliberations in 2018 (see KCC Minutes from 2018) and the specific language of the ordinance, as allowed by code, to restrict the Alpenglow Beer & Wine Vendor License. See **Attachment C** for a copy of the 9/17/19 Alpenglow Beer & Wine Bar Vendor License Permit # 19-101.

The Applicant, Melissa Levick, is appealing conditions 4.f. and 8 for the reasons set forth in her email dated 9/21/19. See **Attachment D**.

Additional public comment received on this application are set forth in **Attachment E**.

Financial Impact

None Identified.

Attachments

A – Copy of Off Site Vendor Ordinance KMC §5.16

B – Copy of 2018 KCC Minutes

C – Copy of Signed 9/17/19 Alpenglow Beer & Wine Bar Vendor License Permit # 19-101 (with 13 conditions)

D – Copy of Appeal Sent by the Applicant, Melissa Levick, dated 9/21/19.

E – Public Comment

A – Copy of Off Site Vendor Ordinance KMC §5.16

CHAPTER 5.16
OFF SITE VENDORS

SECTION:

5.16.010:	Findings And Purpose
5.16.020:	Definitions
5.16.030:	Prohibiting The Conduct Of Business On Public Ways
5.16.040:	Prohibiting The Conduct Of Business At An Off Site Location Without A Vendor's License
5.16.050:	Exemptions
5.16.060:	Application
5.16.070:	Term Of Vendor's License
5.16.080:	Fees
5.16.090:	Central Health District Certification
5.16.100:	Issuance Of A License
5.16.110:	Vendor's License Not Transferable
5.16.120:	License Site
5.16.130:	Hold Harmless And Indemnity Agreement And Liability Insurance
5.16.140:	Deposit
5.16.150:	Exhibition Of Vendor's License
5.16.160:	Restrictions Applicable To All Vendors
5.16.170:	Fire And Building Code Compliance
5.16.180:	Authority To Inspect
5.16.190:	Revocation Of License
5.16.200:	Appeals
5.16.210:	Renewals
5.16.220:	Penalties

5.16.010: **FINDINGS AND PURPOSE:** It is found and declared that:

- A. The primary purpose of the public streets, sidewalks and other public ways is for use by vehicular and pedestrian traffic.
- B. Reasonable regulation of vending on public ways and private property is necessary to protect the public health, safety and welfare.

- C. The economic base of the City is tourism and related services such as, but not limited to, vending, and that maintaining and enhancing the appearance, character and beauty of the City is necessary to protect and promote the economic base and the general welfare of the community.
- D. It is the policy of the City to promote the protection of the public health, safety and welfare by the regulation of off site vendors operating inside the City.
- E. Reasonable regulation of off site vendors is necessary to ensure that any stand, food truck, or structure design and construction for purpose of off site vending is safe, orderly and harmonious with the appearance and character of the neighborhood and the City, and provides for safe and adequate pedestrian and vehicular traffic.
- F. Reasonable regulation of off site vendors is necessary to protect and conserve the economic base of the community, including property values, the promotion of new businesses, and on-going viability of existing business investment in permanent structures and sites.
- G. Regulating the number of off site vendors on public and private property requires balancing community and visitor expectations, service demands, and the promotion of community vibrancy in appropriate locations throughout the City.
- H. The regulations contained in this chapter are not intended to prohibit or hamper speech which is protected by the First Amendment, but merely to regulate specific activities which are commercial in nature. (Ord. 1183, 2018)

5.16.020: DEFINITIONS: As used in this chapter:

ADMINISTRATOR:	The Planning and Zoning Administrator of the City of Ketchum, Idaho.
BUILDING INSPECTOR:	The building inspector of the City of Ketchum, Idaho.
CITY:	The City of Ketchum, Idaho.
CITY CLERK:	The duly appointed City Clerk of the City of Ketchum, Idaho.

CITY COUNCIL:	The duly elected City Council of the City of Ketchum, Idaho.
ENGAGE IN OR CONDUCT BUSINESS:	The selling, soliciting, advertising or offering for sale any service or any item of personal property or real property, or any interest in such property.
FIRE CHIEF:	The Fire Chief of the City of Ketchum, Idaho.
LICENSE SITE:	Refers to the location of the site to be assigned in the vendor's license.
MAYOR:	The duly elected Mayor of the City of Ketchum, Idaho.
OFF SITE LOCATION:	To engage in or conduct business outside of any permanent building and/or deck or courtyard accessory to a permanent building. Subject buildings and/or accessory decks and courtyards shall not include any public way within the City of Ketchum, Idaho. "Off site location" includes vacant land. "Off-site location" shall include, but not be limited to, trailers, stands, booths, on foot or from any vehicle, bike or any other type of conveyance.
PERSON:	Any individual, corporation, partnership, joint venture, limited partnership or any other business entity.
PUBLIC WAY:	All areas legally open to public use such as public streets, sidewalks, roadways, highways, parkways, alleys, parks, public rights-of-way, and parking lots, as well as the interior and areas surrounding public buildings or other places owned in fee by the City of Ketchum, Idaho, or in, on or over which an easement exists in the name of or held by the City of Ketchum, Idaho, or which exists for the benefit and use of the public.
SITE:	A single parcel of property within the City of Ketchum, Idaho.

5.16.020

5.16.030

SPECIAL EVENT: An occasion including, but not limited to, fairs, shows, exhibitions, Citywide celebrations and festivals, within a specifically defined area of the City of Ketchum for a period of time not to exceed four (4) consecutive days in one year.

STAND: Any newsstand, table, bench, booth, rack, handcart, tent, pushcart, food trailer, food truck or any other fixture or device which is used for the display, storage or transportation of articles offered for sale by a vendor.

VACANT LAND: Includes parcels of property within the City of Ketchum without a permanent building.

VENDING: The selling, soliciting, advertising or offering for sale any service or goods, such as, but not limited to, any items of food, beverages, personal property or real property or any interest in such property.

VENDOR: Any person, including an employee or agent of a group of persons, partnership or corporation, or any other business entity, who sells or offers to sell goods or services. (Ord. 1183, 2018)

5.16.030: PROHIBITING THE CONDUCT OF BUSINESS ON PUBLIC WAYS:

- A. It is unlawful for any person to engage in or conduct any business in, on, over or upon a public way within the City, or employ any person to engage in or conduct any business in, on, over or upon a public way within the City.
- B. It is unlawful for any person to distribute to the public or place on any vehicle in the public way or place any cards, circulars, handbills, samples of merchandise or any advertising matter whatsoever on any public way within the City, or to employ any person to do the same in, on, over or upon any public way within the City. (Ord. 642 § 3, 1994)

5.16.040: PROHIBITING THE CONDUCT OF BUSINESS AT AN OFF SITE LOCATION WITHOUT A VENDOR'S LICENSE: It is unlawful for any person to engage in or conduct business at any off site location within the City without having first obtained a vendor's license to do so as provided in this chapter, or to employ any person to engage in or conduct any business at an off site location within the City without such person having first obtained a vendor's license to do so as provided in this chapter. (Ord. 642 § 4, 1994)

5.16.050: EXEMPTIONS:

- A. The provisions of section 5.16.030 of this chapter shall not apply to:
1. Those persons engaging in or conducting business in, on, over or upon a public way within the City in accordance with procedures as the City may provide for in an ordinance concerning special events; or
 2. A City owned concession stand located at Atkinson Park.
 3. A stand located at Town Plaza (Lots 7 and 8, block 24, Ketchum Townsite) to be operated by a nonprofit organization(s), subject to an off site vendor's permit and reasonable regulations established by the Planning and Zoning Department.
- B. The provisions of section 5.16.040 of this chapter shall not apply to:
1. Any person selling or distributing newspapers or magazines or distributing free samples from his or her person;
 2. Any person conducting a sale under court order;
 3. A bona fide auction sale;
 4. Traveling salespersons, commercial travelers or the like who exclusively or primarily sell to or solicit orders for future delivery to local retailers, local businesses, local governments, local schools or local wholesale firms and catering services or the sale of prepared foodstuffs, entering private property with permission of occupants, for sale or distribution to such occupants;
 5. Any person operating a vehicle for hire;

6. Contribution solicitation where the person being solicited to contribute personally knows the identity of the person soliciting the contribution, the name of the group or organization he/she represents, and the nature of the services performed or offered by the group or organization;

7. The sale of tickets by local school students to a function of their school or similar fundraising activities; or fundraising sales by local service clubs or groups such as, but not limited to, Elks, Kiwanis, Lions, Boy Scouts or Girl Scouts;

8. Any political group soliciting funds or membership;

9. Garage, yard or similar sales by persons at their residence not exceeding twice in one calendar year, not to exceed two (2) days each, which sales shall not include business inventory or items that have been purchased for the purpose of resale at another garage sale;

10. Any solicitation of information for a telephone book or a City directory by a company representative;

11. All nonprofit organizations, governmental agencies, including school districts, and any organization exempt from taxation as provided by 26 USC 501 and meeting all the requirements for the exemption provided by 26 USC 503. This exemption is limited to two (2) times in one calendar year, not to exceed three (3) consecutive days each; or one time in one calendar year, not to exceed fourteen (14) consecutive days. In addition, this exemption is limited to those off site locations within the Community Core District (CC), Tourist District (T), Tourist - 3000 Zoning District (T-3000) and the Tourist - 4000 Zoning District (T-4000);

12. A sale made pursuant to prior negotiations between the parties at a business establishment at a fixed location in the City where goods or services are offered or exhibited for sale;

13. The handing out of business cards by a person upon request of the receiving party;

14. Advertising materials displayed inside buses and taxis;

15. The selling, distributing or offering for sale only, periodicals from a coin operated machine; or

16. A City owned concession stand located at Atkinson Park. (Ord. 1041 § 1, 2008)

5.16.060: APPLICATION:

- A. Any person who desires to engage in or conduct business at an off site location shall make application to and receive a vendor's license from the Administrator prior to engaging in or conducting business.
- B. Applicants for vendors' licenses shall file a complete application for vendors' licenses with the Administrator not less than thirty (30) calendar days prior to the date such person desires to engage in or conduct business. The application shall be furnished by the City and shall contain all information relevant and necessary to determine whether a particular vendor's license may be issued including, but not limited to, the following information:
1. Full name, date of birth and social security number and/or driver's license number of the applicant;
 2. The names and social security numbers and/or driver's license numbers of employees or agents who will be assisting the applicant in the proposed business;
 3. Home address and telephone number, permanent business address and telephone number (if any), and local address and telephone number (if any) of the applicant;
 4. One current, two inch by two inch (2" x 2"), full face photograph of the applicant, showing the head and shoulders of the applicant in a clear and distinguishable manner;
 5. If applying for use of the Town Plaza site; name and description of the nonprofit organization(s), proof of nonprofit status;
 6. A brief description of the nature, character and quality of the goods or services to be offered for sale or delivered, and method of distributing products. In the case of products of farm or orchard, where such products were produced or grown;
 7. Proof that applicant possesses a Federal taxpayer identification number;

8. Proof that applicant possesses a State of Idaho Sales Tax identification number;

9. The nature of the proposed advertising to be done for the business at the proposed location;

10. If a motor vehicle is to be used in the vending business, a description of the vehicle together with the motor vehicle registration number and the license number;

11. The property description of each site where the applicant proposes to engage in or conduct business;

12. Written and notarized permission of the owner(s) of the real property reflecting applicant's authority to engage in or conduct business at the specific location(s) identified in the application. Should any question exist as to the owner of real property, it shall be the duty of the applicant, as part of the application, to satisfactorily establish the same;

13. The specific dates and times requested to engage in or conduct business;

14. Proof that the applicant possesses all licenses, permits or tax identification numbers required by City ordinances and the State for the operation of the proposed business;

15. A complete listing of any other licenses or permits issued to the applicant by the City within the past five (5) years; and

16. Whether a permit or license issued to the applicant for the purpose of vending has been revoked during the past five (5) years, and if so, where and when.

- C. A separate vendor's license shall be required for each separate vending stand, such as, but not limited to, each separate tent, cart or other form of stand. (Ord. 1041 § 1, 2008)

5.16.070: TERM OF VENDOR'S LICENSE:

- A. A vendor's license is valid for the following time period:

1. Annual Vendor's License: An annual vendor's license shall be valid for a period of one year from the date of issuance.

2. **Seasonal Vendor's License:** A summer seasonal vendor's license is valid for the consecutive six (6) month time period of May 1 to October 31. A winter seasonal vendor's license is valid for the consecutive six (6) month time period of November 1 to April 30.

- B. Each vendor's license shall expire at twelve o'clock (12:00) midnight on the last day for which such license is issued. (Ord. 642 § 7, 1994)

5.16.080: FEES:

- A. The license fee shall be paid in advance at the time of filing the application, and the fee for such license shall be established by resolution approved by the Council.
- B. The fees established in this section shall not be prorated and are not refundable.
- C. A separate license fee, as identified in this section, shall be required for each separate vending stand, such as, but not limited to, each separate tent, cart or other form of stand. (Ord. 1183, 2018)

5.16.090: CENTRAL HEALTH DISTRICT CERTIFICATION: The application of any vendor engaged in the sale of any food or product for human consumption shall obtain certification from the Central Health District prior to issuance of a vendor's license. (Ord. 642 § 9, 1994)

5.16.100: ISSUANCE OF A LICENSE:

- A. **Investigation:** When an application for vendor's license has been filed with the Administrator in proper form, the Administrator shall cause an investigation to determine the validity and completeness of the information presented in the application. In addition, the Administrator shall provide written notice of such application to the owners of property immediately adjacent to the proposed off site vending site. Such notice shall inform adjacent property owners they may comment on the application during a period of not less than ten (10) days after mailing of the notice and prior to final action on such application.
- B. **Design Review Required:** The Administrator is empowered to review all applications which propose that some form of stand will be used

in furtherance of off site vending. The Administrator shall review each proposed stand and approve or deny the same according to the evaluation standards set forth in this section.

1. Materials And Information: The following materials and information, together with the application, shall constitute a complete application for design review, and shall be filed by the applicant with the Administrator:

- a. Photograph or drawing of proposed stand with dimensions.
- b. Site utilization map in sufficient detail depicting the following:
 - (1) Exterior property lines of proposed license site(s), together with dimensions drawn to scale;
 - (2) Location(s) of the proposed stand and existing stands and other structures with dimensions showing the setback of each stand from the nearest property line;
 - (3) Location and dimensions of the adjacent streets and public ways, together with the location of any proposed street or other public way;
 - (4) Location of public queuing and circulation resulting from the off site vending business;
 - (5) Location of any existing stands on adjoining properties;
 - (6) Location of dumpster and/or garbage can storage areas including the dimensions and proposed screening, and plan for removal of garbage;
 - (7) Location and dimensions of easements, private and public, within and adjacent to the proposed project, together with the purpose of such easements;
 - (8) Location of public restrooms if greater than five hundred feet (500') from an existing public restroom facility or, alternatively, a screened porta-potty and separate handwashing facility;
 - (9) Location of City water and service connection, including details on service metering, if greater than one license is proposed on a given site;

(10) Identification of measures to control smoke and fumes from emanating from the vending stand; and

(11) Indication of snow storage areas and direction of snow slide and drip line from roof of stand.

2. **Criteria And Standards:** The following list of design review criteria must be considered and addressed by each applicant seeking design review approval of a vendor stand. The Administrator will use this list of design criteria as a basis to determine whether an application is to be approved or denied. The Administrator may suggest changes and/or place conditions of approval based upon these design criteria if found necessary to maintain the public health, safety and welfare.

a. **Evaluation Standards:**

(1) **Compatibility:**

(A) The stand's materials, colors and signing shall be compatible with the Townscape and adjoining structures.

(B) The stand shall be set back no less than five feet (5') from any and all property lines of the site.

(2) **Architectural Quality:**

(A) There shall be continuity of materials, colors and signing within the project (neon and fluorescent colors are prohibited).

(B) Exterior lighting shall be downlit and shall not have an adverse impact upon other properties and/or public ways.

(C) Stand design shall include weather protection which prevents water from dripping or snow from sliding onto areas where pedestrians gather and circulate or onto adjacent properties.

(D) Exterior siding materials shall be of natural wood or masonry origin or similar quality (metal siding is prohibited).

(E) Garbage storage shall be screened from public view and City trash cans shall not be the primary receptacle(s) for rubbish disposal.

(3) **Circulation Design:** Public queuing and circulation resulting from the off site vending business shall be contained on private property.

(4) **Snow Storage:** Snow storage areas shall not be less than thirty percent (30%) of the improved pedestrian circulation area.

(5) **Essential Services:**

(A) A public restroom is available within five hundred feet (500') or a screened porta-potty and separate handwashing station is provided on-site.

(B) Water and sewer services, including grease traps for food services, shall be provided at owner's expense and subject to City approval.

C. **Consideration Of Application:** The Administrator shall have thirty (30) days to consider and approve or deny an application pursuant to this chapter. The time for action upon an application may be extended by the Administrator in cases where the complexity of the project or changes made by the applicant during the review process require additional time to properly review and consider the application. Following expiration of the comment period identified in subsection A of this section, and upon a finding by the Administrator that the application conforms to the requirements of this chapter, the Administrator shall issue a license to the applicant unless the Administrator finds one or more of the following to be true:

1. The applicant is under eighteen (18) years of age;
2. The applicant is overdue in his/her payment to the City of taxes, fees, fines or penalties assessed against or imposed upon the applicant;
3. The applicant has failed to answer or falsely answered a question or request for information on the vendor's license application form provided;
4. The applicant has failed to provide proof of a license or permit required by this chapter or by the laws of the State for the operation of the proposed business;

5. The applicant, his/her employees and agents, individually or cumulatively, have been convicted of two (2) violations of this chapter, other than the offense of operating a business without a license, within the two (2) years immediately preceding the application. A plea of guilty or no contest in any court of law constitutes a conviction for purposes of this section. The fact that a conviction is being appealed shall have no effect;

6. The required license fee has not been paid;

7. The applicant has failed to comply with the terms of this chapter;

8. The applicant has failed to comply with or the proposed business will violate an applicable law, ordinance or regulation of the City;

9. The applicant's vending business or method of vending will interfere with traffic flow on public ways or interfere with the public health, safety and welfare; or

10. The applicant's proposed stand fails to comply with design review standards.

- D. Denial Of Application: If the Administrator finds that one or more of the items listed in subsection C of this section are true, the Administrator shall deny the application and send to the applicant by certified mail, return receipt requested, a written statement setting forth the reasons for the denial and notifying the applicant of his/her right to appeal pursuant to section 5.16.200 of this chapter. (Ord. 1183, 2018)

5.16.110: VENDOR'S LICENSE NOT TRANSFERABLE: A vendor's license issued pursuant to the provisions of this chapter shall not be transferable. (Ord. 642 § 11, 1994)

5.16.120: LICENSE SITE:

- A. The location of a license vendor as permitted by this section shall be determined by the Administrator based upon the availability of space, the congestion which may result and other factors related to the public health, safety and welfare.
- B. The location of the site(s) to be assigned in the vendor's license shall be limited to locations within the Community Core District (CC),

Tourist District (T), Tourist - 3000 Zoning District (T-3000) and the Tourist - 4000 Zoning District (T-4000).

- C. Only one stand shall be allowed on each license site.
- D. Only one stand shall be allowed on the entire Town Plaza site.
- E. In the CC, vacant land may have up to one licensed food truck or food trailer vendor for every eight hundred (800) square feet with a maximum of six (6) vendor licenses for every site or combination of sites, including double lots that are vacant regardless of common ownership between the adjoining lots. (Ord. 1183, 2018)

5.16.130: HOLD HARMLESS AND INDEMNITY AGREEMENT AND LIABILITY INSURANCE:

- A. **Hold Harmless And Indemnity Agreement:** Prior to the approval of the vending license, the applicant must provide a hold harmless and indemnity agreement to the City, in a form acceptable to the City.
- B. **Liability Insurance:** Prior to the approval of the vending license, the applicant must provide public liability insurance naming the City as an additional insured in an amount not less than five hundred thousand dollars (\$500,000.00) for property damage and injuries, including injury resulting in death, caused by the operation of the applicant's vending business. The applicant shall furnish the City with a certificate of public liability insurance, in a form acceptable to the City, from an insurer approved by the City. The certificate of insurance shall be for at least the term of the vendor's license and shall not be subject to cancellation without thirty (30) days' actual notice to the City. (Ord. 642 § 13, 1994)

5.16.140: DEPOSIT: Before a vendor's license shall be issued under the provisions of this chapter:

- A. Every applicant, except those applicants exempt from the City Sales Tax ordinance, shall file with the City Clerk a deposit in the form of cash or letter of credit from a sound financial institution, or a combination of both cash and a letter of credit or other financial guarantee acceptable to the City, in the amount of five hundred dollars (\$500.00) to the City to be applied towards satisfaction of the applicant's City Sales Tax obligations.

- B. The deposit amount shall be placed in an interest bearing account, whereupon, conditioned upon the satisfaction of applicant's City Sales Tax obligations, the City Clerk shall return the principal and accrued interest to the applicant within sixty (60) days after the date the applicant provides the City with evidence of the applicant's compliance with the City Sales Tax procedures during the entire term of the applicant's vendor's license.
- C. After being licensed for two (2) years, with full compliance with the City Sales Tax procedures, the deposit requirement stated in this section may be waived. (Ord. 642 § 14, 1994)

5.16.150: **EXHIBITION OF VENDOR'S LICENSE:** The license issued to a vendor shall be displayed in such a way that the license may be easily read by the public while a vendor is doing business. If the vendor sells food or beverages, the necessary health permit must also be displayed. (Ord. 642 § 15, 1994)

5.16.160: **RESTRICTIONS APPLICABLE TO ALL VENDORS:**

- A. **Stands:** Vendor stands shall not impede access to the entrance or driveway of any adjacent building or adjacent property.
- B. **Handicapped Areas:** No vendor shall obstruct handicap access by conducting business within fifteen feet (15') of any handicapped parking space or access ramp.
- C. **Removal Of Trash:** All trash or debris accumulating within twenty feet (20') of any vending stand shall be collected by the vendor and deposited in a trash container on a daily basis. All vendors selling food or beverages must provide trash receptacles adjacent to or as a part of their stands.
- D. **Prohibited Areas:** Vendors' stands are prohibited within fifteen feet (15') of a fire hydrant, fire escape, bus stop, loading zone or driveway of a fire station or police station.
- E. **Noise:** No vendor may sound any device which produces a loud and raucous noise, or use or operate any loudspeaker, public address system, radio, sound amplifier or similar device to attract public attention which renders the enjoyment of life or property uncomfortable or interferes with the public peace and comfort.

- F. **Air Pollution:** Best practices and required manufacturers and Health Department exhaust systems shall be used to control smoke and fumes emanating from the vending stand.
- G. **Utility Services:** In the event a site has more than one vendor license for a food truck or food trailer, each vendor shall be supplied with electricity, water and access to wastewater. Extension of utility services is applicant's expense, including payment of applicable impact and inspection fees.
- H. **Licensure:** No vendor may operate without a business license, Sales Tax permit, and required Health Department certification. (Ord. 1183, 2018)

5.16.170: FIRE AND BUILDING CODE COMPLIANCE: Applicant's compliance with all requirements of the International Fire Code, other fire related ordinances and the International Building Code to the satisfaction of the Fire Chief and building inspector shall be required at all times. (Ord. 642 § 17, 1994)

5.16.180: AUTHORITY TO INSPECT: The Administrator or the Administrator's designee may, pursuant to the right of entry provisions of chapter 1.32 of this Code, inspect a vending business operating under this chapter to determine whether the vendor is complying with the provisions of this chapter, regulations established under this chapter or other applicable law. (Ord. 785 § 18, 1999: Ord. 642 § 18, 1994)

5.16.190: REVOCATION OF LICENSE:

- A. A vendor's license shall be revoked if, after notice and hearing before the City Council, the City Council determines that any of the following causes exist:
 1. The vendor, or his/her employee or agent, individually or cumulatively, has been convicted in any court of two (2) violations of this chapter or any other law concerning the sale or distribution of goods or services within a twelve (12) month period. The fact that a conviction is being appealed shall have no effect;

2. The vendor has given false or misleading information or has withheld vital information in the material submitted to the Administrator during the application process;
 3. The vendor has given false or misleading information or has withheld vital information in the course of engaging in or conducting the business of vending;
 4. Any violation of this chapter;
 5. Cancellation of Central Health District certification for a food or beverage vending permit due to uncorrected health or sanitation violations;
 6. Conducting the business of vending in an unlawful manner or in such a manner as to constitute a breach of the peace or a detriment to the health, safety or general welfare of the public; or
 7. The vendor or his/her employee or agent has intentionally or knowingly impeded a lawful inspection by the Administrator, the Administrator's authorized representative or any representative of another department of the City who has the authority to inspect the vendor and his/her vending procedure.
- B. If the Administrator finds that one or more of the causes listed in this section exist, the Administrator shall send to the vendor by certified mail, return receipt requested, notice of the hearing for revocation of the vendor's license containing a written statement setting forth the reasons for the revocation and the time and the place of the hearing. Such notice shall be mailed, postage prepaid, to the vendor at the vendor's last known address at least fifteen (15) days prior to the date set for the hearing.
- C. The City Council shall hold a hearing to determine whether any one of the causes listed in this section exists. The City Council shall enter its decision within twenty (20) days after such hearing, which shall include the City Council's written findings of fact and conclusions of law separately stated. The time for entering of the City Council's decision may be extended by the City Council in cases where the complexity of the case requires additional time for proper review and consideration by the City Council. The City Council shall transmit a copy of the decision to the vendor.
- D. If a vendor's license is revoked, the fee already paid for the vendor's license shall be forfeited. A vendor whose license has been revoked

under this section may not apply for a new vendor's license for a period of one year from the date the revocation took effect. (Ord. 642 § 19, 1994)

5.16.200: APPEALS:

- A. An applicant or adjacent property owner aggrieved by the action of the Administrator in granting or denying the issuance of a vendor's license to the applicant shall have the right to appeal such action to the City Council.
- B. Such appeal shall be taken by filing with the City Planning and Zoning Department, within fifteen (15) days after written notice of such Administrator's decision has been mailed to the vendor's last known address, a written statement setting forth fully the grounds for the appeal. The City Council shall set a time and place for a hearing on such appeal, and notice of such hearing shall be given to the appellant and vendor in the same manner as provided in section 5.16.190 of this chapter for notice of hearing to the vendor regarding revocation.
- C. The filing of an appeal stays the action of the Administrator.
- D. The City Council shall hold a hearing to determine whether any one of the causes listed in subsection 5.16.100C of this chapter exists. The City Council shall enter its written decision within twenty (20) days after such hearing. The time for entering of the City Council's decision may be extended by the City Council in cases where the complexity of the case requires additional time for proper review and consideration by the City Council. The City Council shall transmit a copy of the decision to the appellant and vendor. (Ord. 642 § 20, 1994)

5.16.210: RENEWALS: Licenses may be renewed, provided an application for renewal and license fees is received by the City no later than the expiration day of the current vendor's license. Applications received after that date shall be processed as new applications. The Administrator shall review each application for renewal to determine if the applicant is in full compliance with the provisions of this chapter. If the Administrator finds that the application meets the above requirements, the Administrator shall issue a new license. (Ord. 642 § 21, 1994)

5.16.220: PENALTIES:

- A. **Misdemeanor:** Any person who shall violate any provision of this chapter shall be guilty of a misdemeanor and, upon conviction, subject to a fine of not more than three hundred dollars (\$300.00) or imprisonment for a period not to exceed six (6) months, or both such fine and imprisonment. Each day a violation continues shall be considered a separate offense, punishable as described in this section.

- B. **Civil Enforcement:** Appropriate actions and proceedings may be taken at law or in equity to prevent any violation of the provisions stated in this chapter to prevent unlawful construction, to recover damages, to restrain, correct or abate a violation and to prevent illegal occupancy of a stand or an off site location. These remedies shall be in addition to the penalties described in this section. (Ord. 642 § 22, 1994)

B – Copy of 2018 KCC Minutes

KCC 3/19/18 Minutes – see item c.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Amanda Breen, Councilor
SECONDER:	Michael David, Council President
AYES:	Michael David, Jim Slanetz, Amanda Breen, Courtney Hamilton

b. Recommendation to approve Resolution 18-010 approving second option for the Purchase and Sale Agreement for 5th Street

Mayor Neil Bradshaw asked for comments from the public on the purchase and sale agreement on the 5th street building.

Gary Hoffman, Ketchum resident advised that he has been following this subject for 2 years. He thanked Mayor and Council for the public meetings and talked about his support of the purchase of the building. Mr. Hoffman stated that there are no other alternatives that are viable.

Jim Hungelmann would like to see a one-page document outlining the purchase. He talked about the budget. He understands the City wants to do the right thing but said that it is difficult being part of the public.

Councilor Courtney Hamilton asked if the information from the open house is on the website. City Administrator Suzanne Frick advised it will be posted in the morning.

Gary Lipton, Ketchum resident, advised that he thinks the city has been very transparent. It's up to the public to do their homework.

Councilor Amanda Breen advised that she has had questions from the public regarding space for the Police Department in the new building. Mayor Neil Bradshaw advised that the building has a great place for the police and the citizens. The biggest problem is storage of police vehicles and take-home vehicles was presented. Police Chief Dave Kassner believes the new building will meet the Police Department's needs. He said there would be 3 to 5 vehicles on site at one time and there is sufficient parking for that. Mayor Bradshaw added that there has been talk of under grounding power lines and removing a tree that would give more parking spots.

Emergency Operations center was discussed. City Administrator Suzanne Frick advised it would be in the Council chambers until a new location for the fire facility is established.

Council President Michael David advised that the City has received the appraisal. Mayor Bradshaw talked about the current rental rates and how that affected the appraisal value. Councilor Jim Slanetz talked about the purchase price of \$3.1 M and the fact that we still need to do a remodel. Mayor Bradshaw talked about the additional costs and the revenues that will continue to come in during the build of the fire station. Councilor Jim Slanetz talked about the positives of this plan as well.

Motion to adopt resolution 18-010 to exercise the second option outlined in Contract 20071.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Courtney Hamilton, Councilor
SECONDER:	Michael David, Council President
AYES:	Michael David, Jim Slanetz, Amanda Breen, Courtney Hamilton

c. Council direction on amending outdoor vending regulations

Mayor Neil Bradshaw asked for comments from the public.

George Kirk, resident of Blaine County, talked about a previous survey that was done. He is anxious to hear Micah Austin's staff report.

Mayor Neil Bradshaw talked about the importance of entry level housing as well as entry level businesses. Councilor Courtney Hamilton asked about the distinction of food trucks at events rather than a seasonal basis. Director of Planning & Building Micah Austin advised that these vending regulations and special event regulations are two separate policies. Courtney Hamilton asked if there are any requirements for parking or restrooms. Micah Austin explained what staff currently looks at and advised that currently we only allow one vendor per site. She questioned the health and safety aspect of the food trucks. Micah Austin explained that is a separate process that the city is not involved in.

Councilor Amanda Breen talked about the ordinance being created in 1994 and the fact that it has not since been updated. She feels it is very worthwhile to talk about this discussion and hopes at the next meeting there will be more restaurant owners and food truck owners present to give their opinions. Councilor Jim Slanetz agreed and talked about finding the balance between bricks and mortar and what the public wants.

Mayor Neil Bradshaw asked if there should be more public outreach prior to a rewrite. Councilor Courtney Hamilton was in favor of an open house. Council President Michael David asked if this is just for food trucks. Director of Planning & Building Micah Austin explained that it is any type of vending such as souvenirs, tee shirts etc. Mayor Neil Bradshaw would like more community input. Michael David talked about the tourist economy and the need for late night vending. How many vendors allowed per lot verses the actual physical size of the space was discussed. Michael David is in favor of the open house. Amanda Breen agreed and advised that she would like this resolved before June 1, 2018. This will be put on one of the April agendas and an open house will be scheduled prior to that.

- d. **City-initiated text amendment amending development standards for properties located in the Avalanche District and creating standards for Neighborhood and Commercial Snow Storage Facilities. Amendments apply to Title 17, Ketchum Municipal Code, Chapter 17.08, Chapter 17.12, Chapter 17.92, Chapter 17.124, and Section 17.92.010 and Title 16, Ketchum Municipal Code, Section 16.04.040**

Senior Planner Brittany Skelton pointed out two important facts. The first one being inconsistencies to the way in which the ordinance is written and the second being snow storage operations.

Mayor Neil Bradshaw asked for public comment. There was none.

Councilor Courtney Hamilton questioned the City being exempt of these standards and how that works. Senior Planner Brittany Skelton explained the city is not exempt to the flood plain area. Commercial snow storage was discussed. Courtney Hamilton asked about the enforcement policy for the rental restrictions. Brittany Skelton advised that she does not know what that would look like, but this has been in the ordinance since it was written. Director of Planning & Building Micah Austin does not believe it has ever been enforced. Councilor Michael David talked about traffic concerns and asked if this change addressed this. Brittany Skelton talked about the Administrator's ability to step in and address these concerns. Micah Austin talked about enforcement issues and about written public comment that came forward and advised that since we now have CSO's this may now be enforced. Brainstorming was done.

Motion to approve the first reading by title only, of Ordinance No. 1181 finding the text amendments are in accordance with the Comprehensive Plan, Zoning Ordinance, and Subdivision Ordinance.

KCC 4/2/18 Minutes – see item d.

Sun Valley but said he would be happy to talk with them to see if that would work. Michael David thinks it is worth it to spend the money and get as many people riding it as possible.

Councilor Amanda Breen asked for clarification on the funding. Mayor Neil Bradshaw advised that we are pulling from unallocated LOT funds and outlined what other areas these funds could be spent.

Mayor Neil Bradshaw talked about the budgeting process and results of the collected data. Councilor Amanda Breen voiced her support of consistency of 7 nights a week all summer. Councilor Jim Slanetz would like to start in the winter and go all 7 nights. Council President Michael David is in support of winter but is ready to start collecting data in the summer. Councilor Courtney Hamilton agrees with Jim Slanetz. Michael David advised that these are ADA Vehicles and it gives opportunity for people with disabilities as well.

Mayor Neil Bradshaw advised staff to come back with a budget request at a future meeting and council will then make a decision.

b. SVED 4th Quarter updated

Executive Director, Harry Griffith, presented the 1st quarter of 2018 and the results they had. He talked about business retention and about businesses downtown and suggested having the retailers stay open later. There is a forum coming up on April 26th - Ecommerce in Blaine County - 5pm at the Limelight.

Harry Griffith talked about what SVED is doing in regards to Community Development and talked about the multi sports center - multi sport athletic facility they are working on. He advised that the land is owned by the City of Ketchum and leased to the YMCA. He outlined the plans they are proposing. It would act as a hub. The location of the structure on the lot was discussed.

SVED's budget is in the packet

Mayor Neil Bradshaw asked council for questions. Councilor Courtney Hamilton asked how SVED is working with KIC. Harry Griffith talked about the 3 programs they will be offering after KIC's move is complete and advised that they will continue to consult with companies that were part of the KIC.

c. Direction on naming Atkinson Park Recreation Center after Terry Tracy—Mayor Neil Bradshaw

Mayor Neil Bradshaw asked for public comment. There was none.

Mayor Bradshaw explained to the council that he is looking at renaming Atkinsons Park Recreation Center after Terry Tracy who is a deceased employee who was fundamentally involved in the development of the center. He talked about all the positive activities occurring at the park. He would like to honor and remember Terry Tracy. He is asking council if they are in support of him giving direction to make this change. All of council is in support. Mayor Bradshaw advised that after he schedules a time for a vote on this, her family will be invited.

d. Discussion on the approach to vending on private and public properties—Mayor Neil Bradshaw

Mayor Neil Bradshaw talked about vending and food trucks on private land as opposed to vending and food trucks on public property. He would like these topics talked about separately.

Mayor opened to public comment

Gary Lipton talked about the art gallery he used to have and about the food truck and the smells that floated into his gallery that forced him to close the galleries at certain times because of the smells. He made a comparison to the cars idling and the fees the city charges for that.

William Glenn talked about the conditional use permit for Grumpy's that was just approved. He talked about exhaust from cooking hamburgers as opposed to pollution from trucks. He encouraged the council look at the pollutants.

Councilor Courtney Hamilton clarified that public comment will be heard on both sides. There will also be an open house in May for the public. Mayor Neil Bradshaw talked about what will be addressed in the Open House.

- e. **Second reading of the city-initiated text amendment amending development standards for properties located in the Avalanche District and creating standards for Neighborhood and Commercial Snow Storage Facilities. Amendments apply to Title 17, Ketchum Municipal Code, Chapter 17.08, Chapter 17.12, Chapter 17.92, Chapter 17.124, and Section 17.92.010 and Title 16, Ketchum Municipal Code, Section 16.04.040—Senior Planner Brittney Skelton**

Mayor Neil Bradshaw opened the meeting for public comment.

William Glenn does agree that there is an avalanche concern. Whatever avalanche exists on his property he has accepted that. He agreed with the way in which the city enforced this zone for the past 40 years. He does not understand why the city is now regulating those property's going forward. He talked about his concerns with the changes that are coming forth and voiced concerns about the rental portion of the text amendment and how that effects the rental property. He suggested putting efforts towards noticing.

Mayor Neil Bradshaw asked council for questions on the second reading. Council President Michael David asked if this is outside of the scope and voiced his concerns with the comments made. Rentals are a great concern especially with the housing issues in the long term.

City Administrator Suzanne Frick explained the main purpose of the change is for subdivisions in the avalanche zone. This amendment is to correct the inconsistency that is out there. The other provisions have been in the ordinance since the enactment of the ordinance. She talked about how to move forward and explained those requirements have always been there. Suzanne Frick talked about the enforcement and advised that it is enforced when it is brought to the cities attention. Council President Michael David questioned the sign off procedure. Suzanne Frick explained when engineering would be required.

Director of Planning & Building John Gaeddert explained that the language has always been the requirement. Additions to structures would trigger this to be looked at and enforced. Mayor Neil Bradshaw asked if we could change the code to allow people to make additions. Attorney Matt Johnson explained that the city could decide they don't want to enforce anything in the avalanche zone. It's a life and safety issue that the city does not have to control.

William Glenn talked about the last rewrite and how it affects single family homes.

Motion to approve the second reading of Ordinance No. 1181 finding the text amendment are in accordance with the Comprehensive Plan, Zoning Ordinance, and Subdivision Ordinance and to read by title only.

KCC 5/1/18 Minutes – see item c.

Councilor Amanda Breen disagrees with some of Courtney Hamilton's points. She advised, as a visitor, it's hard to get around town. She talked about consistency and the need to go 7 days a week or wait until winter. She does not think we can get the ridership in the summer unless we do 7 days a week.

Mayor Neil Bradshaw talked about the positives of having the 7 day a week route and getting the data. We have the funds now to try to figure out if we should invest more money in the future or not.

Councilor Amanda Breen talked about the overage in the LOT funds and what the other plans are if we don't support this. Mayor Neil Bradshaw talked about the positives of the city putting the bus out there to possibly eliminate 30 to 40 cars from the road. Councilor Jim Slanetz suggested a shorter period.

Director of Finance and Internal Services Grant Gager explained the schedule that was selected and talked about staffing and the printed schedule and the inability to do the trial for a shorter period.

Councilor Amanda Breen is in support of going all in for \$23,000 or waiting until winter. She explained that she heard a lot during her campaign that the public would like a jitney.

Mountain Rides Executive Director Wally Morgus advised that he does not have anything to add regarding the services. He said that the summer circulator is an opportunity to collect data. We could hire a consultant, but this is a better way of doing the test.

Councilor Jim Slanetz talked about the ridership during the day in the winter and about tourists not taking the evening bus because they won't think of it. He thinks this is the wrong time to launch this route. Councilor Amanda Breen talked about the different months and how it effects ridership. Mayor Neil Bradshaw advised that he is in support of the summer route. We don't have a crystal ball, but we should take the risk. Councilor Courtney Hamilton is willing to give it a go but is not positive it will be a success.

Motion to authorize staff to provide additional funding in the amount of \$23,200 to Mountain Rides Transportation Authority for provision of enhanced summer circulator service.

RESULT:	ADOPTED [3 TO 1]
MOVER:	Amanda Breen, Councilor
SECONDER:	Amanda Breen, Courtney Hamilton
NAYS:	Jim Slanetz
ABSTAIN:	Michael David

c. Direction to staff to prepare amendments to KMC Chapter 5.16, Off Site Vending—Director of Planning and Building John Gaeddert

Mayor Neil Bradshaw advised we are only talking about offsite vending on private land. Currently there is only 1 vendor allowed per private parcel. Staff is looking for direction to continue working on a text amendment or should this be tabled. Should staff work on 1 vendor per a certain sq. footage.

Director of Planning & Building John Gaeddert clarified that staff is looking for direction on purpose and which zones? How to address brick and mortar operations should be looked at and advised that this is a sensitive issue. There are also a couple of clean up items regarding fees.

Council President Michael David questioned if there is a possibility to limit a certain number of vendors in a certain zone as its been done in other resort towns. Director of Planning & Building John Gaeddert agreed this could be done. Mayor Neil Bradshaw is in support of the concept and is asking council if they support the concept and if they want staff to continue to work on this.

Mayor Neil Bradshaw opened the meeting for public comment.

Peter G Prekeges is pretty pleased with the current ordinance. He talked about season and vendors coming in and the problems that occur including vendors paying their fair share and bathroom issues. He talked about servicing food after hours and about the specifics that need to be addressed.

Christina Cook talked about food vendor trucks and advised that she is ok with trucks, but they don't pay enough fees. She advised that small businesses help the market and we don't want trucks open from 9am to 10pm. She would like the city to consider the small businesses in Ketchum and suggested limiting hours and increasing the vending fees.

Steve Cook thinks this ordinance is pretty well written. He agrees with Christina Cook and said the city needs to protect the businesses but should not be against the vendors. He talked about the challenge of protecting the bricks and mortar. He talked about putting limitations on the vendors and voiced concern over it becoming more like a marketplace and it starting to compete with the businesses. Steve Cook suggested the need to scrutinize the number of units and the districts. The difference between an offsite vendor business and transition to a restaurant are like night and day. He thinks it's a matter of density.

Mayor Neil Bradshaw closed public comment closed.

Mayor Neil Bradshaw would like to create vibrancy. This has been successful in other cities. He would like Council to instruct staff to work on this.

Councilor Courtney Hamilton likes Council President Michael David's ideas of limiting vending in a certain zone. Councilor Amanda Breen agrees and would like staff to present a couple of models to help decide. Councilor Jim Slanetz does not think the current ordinance is that far off and just needs some tweaking but not a rewrite.

Staff was directed to look at density balance and number of days of operation and amenities. This topic will come back on June 4th with a text amendment. Mayor Neil Bradshaw invited the public back to attend the meeting on the 4th.

d. ACTION: Direction to staff authorizing funding for the design of undergrounding power in the alley between Washington Ave and Warm Springs Road, 7th Street to 9th Street—City Administrator Suzanne Frick

Mayor Neil Bradshaw talked about the undergrounding initiatives. He is in favor of approving the funds for the initial phase and is encouraging others to apply.

Mayor opened the meeting for public comment. No comments.

Councilor Amanda Breen advised that the application needs the contact information updated.

City Administrator Suzanne Frick advised that this is the first application and talked about the policy that was previously enacted. The city would cover 25%. When it gets into the undergrounding work the funding is based on the priorities. The timeline was discussed. Councilor Jim Slanetz asked what this area is zoned? City Administrator Suzanne Frick advised it is Light Industrial and Community Core. Councilor Courtney Hamilton asked if this has any negative effects on property and where the line and the utility box lands. The preliminary plan shows there may be 3 or 4 utility boxes which we will know after the study.

KCC 6/18/18 Minutes – see item b.

City Administrator Suzanne Frick advised that as part of the proposal they have to present how many units/bedrooms and what the rent will be. Councilor Amanda Breen advised there is enough of a difference between this RFP and the last that it is worth doing it again. Councilor Courtney Hamilton questioned the land swap? Mayor Neil Bradshaw advised that they could offer a different piece of land for the building in exchange for that piece of land. He does not want to rule that out.

Mayor and Council gave direction is to go forward with the RFP.

b. ACTION: First Reading of Off-Site Vendor Ketchum Municipal Code Amendment – Ordinance 1183

Karen Martin owner of Whiskey Jacques talked about garbage at the side of her building that has been there for weeks. She read her comments aloud explaining that there have been food trucks next to her building for years, they stole her water and they never paid her back. They have no bathrooms, water, or garbage and are not consistent with their operation. They are not the kind of businesses that should be on Main St. in Ketchum. The vision of Ketchum should be clean and neat. She talked about the safety of the propane tanks and questioned health inspections. They also don't pay property taxes. She asked Council to take this off the table.

Gary Lipton, citizen, talked about the parking guide the city passes out and about the no idling ordinance and questioned how the emissions are different between those emissions and the food trucks emissions. He gave reference to the smells.

Steve Cook, Architect, praised the workshop put on by John Gaeddert. He talked about seeking solutions to pending problems and about the restaurant industry. He talked about a radical change to an ordinance that is in place and working and advised keeping it in place and enforce just as it is. He suggested only allowing one vendor per lot and talked about regulation and enforcing what they put in place. The current ordinance is hard enough to enforce. This ordinance is not broken so don't fix it.

Mr. Witmar is in support of the food trucks as long as they follow the same rules as the restaurants do. They need bathrooms and a place to wash their hands.

Michel Rudigoz talked about employing locals and the donations they give. He talked about all that restaurants give and what is required of them. He asked Mayor and Council to think very deeply.

George Kirk talked about having another niche in town and an experience that has been successful in thriving communities in America. He talked about what the appropriate number of food trucks is and about the research that has been done in other mountain towns.

Mayor Neil Bradshaw closed public comment.

Councilor Amanda Breen questioned what the square footage is. Mayor Bradshaw advised that he is looking at the 6 to 8 range for density. He advised that this is opening up a new avenue for the next generation and talked about the pictures presented and the need for enforcement.

Councilor Courtney Hamilton talked about writing the ordinance around one lot on Main Street. She wants to create an ordinance because it's the right thing for the city. There was a discussion about the commercial core, square footage and not limiting it to Main Street. Councilor Amanda Breen questioned what the advantages are to have more than less food trucks. Mayor Neil Bradshaw advised that people who go to food trucks and go to restaurants are looking for different experiences. He talked about the benefits of the businesses and bars with the food trucks. Courtney Hamilton talked about the niche that is missing which is late night dining and grab and dash. She talked about the opportunities for young people when they can start with food trucks. The location of restrooms and density was discussed.

Council President Michael David talked about giving variety and about the public comment that was expressed today. He agrees that Ketchum's restaurants are great however, not everybody can afford

those restaurants and does not think food trucks will affect them. He likes the 500 ft. bathroom requirement and 800 sq. ft spots. Irving's lot is only 500 sq. ft. from a restroom.

Councilor Jim Slanetz agrees it has to be somewhat of a level playing field and talked about having closer restrooms and enforcing like restaurants are required to.

Mr. Witmer talked about density and health and safety of food trucks and them having to have the same enforcement as restaurants. He talked about the benefits of food trucks and said that George Kirk would need to put a restroom on his property to make an even playing field.

Councilor Courtney Hamilton talked about grease traps and trucks being inspected. Council President Michael David questioned beer and wine licenses.

Steve Cook questioned the goal the of council as well as the true objective. He questioned if the city is opening up pandora's box.

Councilor Amanda Breen respects the restaurant owner's concerns. Ordinances need to be enforced. She believes they should provide restrooms and water and only be allowed in the community core but not restricted to Main St. The pros and cons of porta potys was discussed.

Mayor Neil Bradshaw reiterated council's thoughts as needing Electricity, sewer and water, 1 food truck to 800sq. ft, bathroom within 500 sq. ft., in the commercial core, not restricted to Main St. He suggested today they make the first reading with changes and hold another public hearing at the second reading.

Director of Planning & Building John Gaeddert asked for further clarification of the size and would like to give an inventory of property's that this would affect. Maximum per lot and double lot sizes were discussed.

Attorney Matt Johnson explained how to move forward. The public hearing for this topic is optional.

Motion to approve the direction to staff as presented on the record.

RESULT:	ADOPTED [3 TO 1]
MOVER:	Amanda Breen, Councilor
SECONDER:	Michael David, Council President
AYES:	Michael David, Amanda Breen, Courtney Hamilton
NAYS:	Jim Slanetz

c. ACTION: Second Reading of Ordinance 1184 - Short Term Rental Amendment

Opened public comment - none

Mayor Neil Bradshaw asked for council comment.

Motion to read by title only finding the text amendments are in accordance with Idaho's Short Term Rentals and Vacation Rental Act.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Amanda Breen, Councilor
SECONDER:	Courtney Hamilton, Councilor
AYES:	Michael David, Jim Slanetz, Amanda Breen, Courtney Hamilton

Motion to approve the ordinance as presented.

KCC 7/2/18 Minutes – see item b.

Attorney Matt Johnson read the title.

b. ACTION: Second Reading of Off-Site Vendor Ketchum Municipal Code Amendment – Ordinance 1183

Mayor Neil Bradshaw asked for public comment. There was none.

Mayor Neil Bradshaw advised he had a great meeting with the restaurant owners and advised that off-site vending adds a level of vibrancy while not affecting the bricks and mortars. This Ordinance has great potential for future restaurant owners. The Mayor advised that it is on private land and we are trying to manage in a respectful manner. Currently we are looking at 1 food truck per 800 sq. ft. If there is more than 1 food truck on the land than, toilets, water and electricity will need to be provided.

Councilor Amanda Breen asked what the cutoff is for 1 truck as opposed to 2 trucks and talked about the map of the community core and questioned if there should be snow removal requirements. Director of Planning & Building John Gaeddert said that a snow storage standard could be added. The site plan and what would be required was discussed. Councilor Amanda Breen talked about businesses and what they have to do to endure during slack time. Mayor Neil Bradshaw talked about what he is envisioning. Councilor Courtney Hamilton questioned business licenses and the requirements for businesses and food trucks are the same? John Gaeddert advised that the vendor license fees are already in the resolution and will probably need to be amended. Council President Michael David said he sees this as a bit of a release valve regarding the crowded restaurants. He believes it is worth a shot and would like to see this go forward.

Motion to approve the second reading of Ordinance #1183 and to read by title only and to add the snow storage amendment for the 3rd reading.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Courtney Hamilton, Councilor
SECONDER:	Michael David, Council President
AYES:	Bradshaw, David, Slanetz, Breen, Hamilton

Councilor Courtney Hamilton read the title aloud.

c. ACTION: First Reading of the Sub-District Amendment – Ordinance 1187

Mayor Neil Bradshaw asked for public comment.

Bob Crosby had questions regarding the proposed changes in the Ordinance.

Mayor Neil Bradshaw closed public Comment.

Director of Planning & Building John Gaeddert explained the changes and the matrix was discussed.

Councilor Courtney Hamilton questioned if property owners have been notified and Director of Planning & Building John Gaeddert explained that they have been met. Courtney Hamilton requested a broader range of noticing be done than what is required. Public input was discussed, and John Gaeddert advised there could be a larger mailing prior to the next meeting.

Recusing Jim Slanetz was discussed; however, it was decided there was not a conflict.

Motion to approve the first reading of Ordinance #1187 finding the text amendments are in accordance with the Comprehensive Plan, Zoning Ordinance, and Subdivision Ordinance.

KCC 7/16/18 Minutes – see item c.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Michael David, Council President
SECONDER:	Courtney Hamilton, Councilor
AYES:	Michael David, Jim Slanetz, Amanda Breen, Courtney Hamilton

Motion to adopt Ordinance 1186.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Amanda Breen, Councilor
SECONDER:	Courtney Hamilton, Councilor
AYES:	Michael David, Jim Slanetz, Amanda Breen, Courtney Hamilton

- c. **ACTION: Third Reading of Off-Site Vendor Ketchum Municipal Code Amendment – Ordinance 1183 – Director of Planning & Building John Gaeddert**

Mayor Neil Bradshaw opened the meeting for public comment. There was none.

No comments from council.

Motion to approve the 3rd and final reading of Ordinance #1183.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Courtney Hamilton, Councilor
SECONDER:	Amanda Breen, Councilor
AYES:	Michael David, Jim Slanetz, Amanda Breen, Courtney Hamilton

Council President Michael David read by Title only.

- d. **ACTION: Second Reading of the Sub-District Amendment Ordinance 1187 – Director of Planning & Building John Gaeddert**

Mayor Neil Bradshaw asked for public comment. There was none.

Director of Planning & Building John Gaeddert advised that notices were sent specifically to subdistricts c and d and 100 were noticed.

Motion to approve 2nd reading and to read by title only.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Courtney Hamilton, Councilor
SECONDER:	Michael David, Council President
AYES:	Michael David, Jim Slanetz, Amanda Breen, Courtney Hamilton

Councilor Courtney Hamilton read the title.

- e. **ACTION: Recommendation to Adopt Resolution 18-021 approving the proposed budget for FY 2018-19 Director of Finance and Internal Services Grant Gager**

C – Copy of Signed 9/17/19 Alpenglow Beer & Wine Bar Vendor License Permit # 19-101



City of Ketchum

September 17, 2019

Melissa Leuck
4231 N. Hardtail Lane
Garden City, ID 83714
Melissa.leuck@gmail.com
(718) 913-6441

Subject: Vendor License Permit #19-101 / Alpenglow Beer & Wine Bar @ 271 N. Main Street (The POD)

Dear Melissa,

In accordance with Ketchum Municipal Code (KMC) §5.16 et. seq. your vendor license at 271 N. Main Street is approved with conditions as follows.

1. In accordance with KMC §5.16.020 Alpenglow Beer & Wine Bar qualifies as a “stand” for the purpose of “display, storage or transportation of articles offered for sale by a vendor.”
2. In accordance with KMC §5.16.060.B and §5.16.130 all provisions of your vendors license application, including, among other provisions, providing appropriate taxpayer identification numbers and insurance are material and incorporated into permit issuance.
3. In accordance with KMC §5.16.090 certification from the Health District is required prior your engaging in the sale of any food or product for human consumption and retention of this certification is required during the duration of vendor operations.
4. In accordance with KMC §5.16.100.B, Alpenglow is subject to and must comply with the following design review standards, including:
 - a. a dumpster and/or garbage can storage including screening and regular removal of garbage from The POD property is required and city trash cans shall not be the primary receptacle(s) for rubbish disposal;
 - b. a screened porta-potty and separate handwashing facility is required on The POD premises;
 - c. water and sewer service connection with metering and a grease trap is required;
 - d. the stand shall be setback no less than 5’ from any and all property lines of the site;
 - e. exterior lighting shall be downlit and comply with city standards; and
 - f. modifications to the exterior of the metal storage container is required.

Please note that because the Alpenglow is not an operable vehicle but a metal storage container, the existing exterior consisting almost entirely of metal siding is prohibited. As set forth in KMC §5.16.100.B.2.a.D, “[e]xterior siding material shall be of natural wood or masonry origin or similar quality (metal siding is prohibited).”

5. In accordance with KMC §5.16.120.E and the site plan provided with your application, Alpenglow is designated in Sites 2 and 4 and occupies 2-of-the-6 allowed vendor sites allowed @ 271 N. Main St.

6. All signs associated with subject vendors' license permit are subject to separate approval consistent with KMC sign code provisions.
7. The vendor license shall comply with all state and local liquor law requirements, which among other provisions of city and state code, includes the following:
 - a. prohibition of alcohol sales to minors;
 - b. open container restrictions (e.g., beers poured or opened on-premises may not be consumed off-site or on public sidewalks); and
 - c. approval of a beer and wine license by the Ketchum City Council.
8. In accordance with KMC §5.16.120.A, the Administrator may also place conditions of approval on the license site to promote the public health, safety and welfare. Accordingly, beer and wine sales by Alpenglow shall occur only when the food trucks in license sites 1, 3, 5 and 6 of The POD are open for business. Further, the consumption of alcohol on The POD shall cease within 30 minutes of the last food truck closing on license sites 1, 3, 5 and 6 of The POD and, in no instance, later than 2:30AM.
9. The restrictions set forth by KMC §5.16.160 apply. Among other provisions, this vendor license is subject to compliance with rules of the city related to trash removal, noise restrictions, utility services and limits on air pollution.
10. Conditions that may dictate the re-appraisal and/or revocation of your permit include, without limitation, issues with documented violations of Idaho Code pertaining to alcohol violations, improperly mitigated smoke and fumes emanating from the vending stand, non-compliance with city fire and building codes, as well as other provisions set forth in KMC §5.16.190.
11. The vendor license is subject to City Sales Tax requirements as adopted by the City of Ketchum.
12. Subject vendor license shall be displayed on the premises.
13. Subject vendor license shall expire on September 18, 2020 and may be renewed pursuant to KMC §5.16.210.

An applicant or adjacent property owner aggrieved by the action of this administrative vendor's license permit issuance, as conditioned herein, shall have the right to appeal such action to the Ketchum City Council in accordance with KMC §5.16.200.

If you should have any questions, please let me know.

Sincerely,



John D. Gaeddert, PhD
Planning & Building Director

Cc: George Kirk
Warde Foundation, Inc
San Antonio Center, LLC
DQ Properties, LLC
Mountain Path Invest, LLC
Karin Martin
Judith Ferries

D – Copy of Appeal Sent by the Applicant, Melissa Levick, dated 9/21/19

Subject: Re: FW: Alpenglow vendor license permit attached
Date: Friday, September 20, 2019 at 2:15:45 PM Mountain Daylight Time
From: Melissa Levick
To: John Gaeddert
CC: Maureen Puddicombe
Attachments: Alpenglow Determination Letter Response.pdf, Gmail - Beer_Wine Vending.pdf, IMG_0432.jpeg

John and Maureen,

Thank you for your time on the phone today. Attached is my formal appeal letter, as well as other backup information. Please let me know what day I am on the agenda for City Council. I look forward to discussing further!

Best,
Melissa

On Thu, Sep 19, 2019 at 11:10 AM Maureen Puddicombe <mpuddicombe@ketchumidaho.org> wrote:

Hi Melissa,

Here is your vendor license approval.

Please refer to John's letter below.

-Maureen

MAUREEN PUDDICOMBE | CITY OF KETCHUM

Planning Technician

P.O. Box 2315 | 480 East Ave. N. | Ketchum, ID 83340

Office: 208.726-7801

mpuddicombe@ketchumidaho.org | www.ketchumidaho.org

From: John Gaeddert <JGaeddert@ketchumidaho.org>

Sent: Thursday, September 19, 2019 10:46 AM

To: Melissa.leuck@gmail.com

Cc: Grant Gager <ggager@ketchumidaho.org>; Maureen Puddicombe <mpuddicombe@ketchumidaho.org>; Kathleen Schwartzenberger <KSchwartzenberger@ketchumidaho.org>; Suzanne Frick <sfrick@ketchumidaho.org>; Neil Bradshaw <NBradshaw@ketchumidaho.org>

Subject: Alpenglow vendor license permit attached

Hi Melissa,

Attached is your vendor license approval. A hard copy is in the mail. Please note there are pending conditions of approval that will delay opening of Alpenglow until at least October 7th when I believe the Ketchum City Council is scheduled to review your beer and wine license.

To the extent you, George or neighbors take exception with any of the conditions of approval and/or vendor license issuance through an appeal of this decision, subject appeal will need to be scheduled with the Ketchum City Council. Any such appeal may impact your requested opening before Trailing of the Sheep.

Please let us know if questions.

Thanks, John

JOHN GAEDDERT, PhD | CITY OF KETCHUM

Director of Planning and Building

P.O. Box 2315 | 480 East Ave. N. | Ketchum, ID 83340

o: 208.726.7801 | f: 208.726.7812

jgaeddert@ketchumidaho.org | www.ketchumidaho.org

--

Melissa Levick
718-913-6441

Dear John,

Thank you for the determination letter that you sent over yesterday. I am replying to formally appeal the conditions that were set forth in the letter. After reading the Ketchum City Code for Off Site Vendors, I have the following comments/questions/responses:

Metal Siding

Your letter said:

1. In accordance with KMC §5.16.020 Alpenglow Beer & Wine Bar qualifies as a "stand" for the purpose of "display, storage or transportation of articles offered for sale by a vendor."
 - a. modifications to the exterior of the metal storage container is required.
 - i. Please note that because the Alpenglow is not an operable vehicle but a metal storage container, the existing exterior consisting almost entirely of metal siding is prohibited. As set forth in KMC §5.16.100.B.2.a.D, "[e]xterior siding material shall be of natural wood or masonry origin or similar quality (metal siding is prohibited)."

My response:

First, there is no mention in the Off Site Vendor KMC that says that food trucks have to be "operational vehicles" to receive an exemption, therefore because Alpenglow is portable (just as a food truck is), it should be subject to the same exemption from the metal siding provision as Nona's was granted this week. The role of Planning and Zoning is to enforce code, but not to change code to allow for exceptions for some businesses but not others.

Additionally, the exterior paint I already added is a modification in and of itself -- the paint is beautiful, hand-painted mural of a Sun Valley winter sunset. It adds to the beauty of Main Street like the large mural at Hotel Ketchum. I also added a chalkboard to cover the sign on the side of the container, per Maureen's request to fit sign code (see attached photo). Both are modifications in and of themselves.

Finally, if we are going to split hairs over exemptions, the shipping container is actually made of steel, not metal. Steel, being an alloy and therefore not a pure element, is technically not metal, so we don't have metal siding. We have steel siding.

Because of all of the points above, I believe we fall squarely in code as Alpenglow stands currently.

Contingent Business

Your letter said:

2. In accordance with KMC §5.16.120.A, the Administrator may also place conditions of approval on the license site to promote the public health, safety and welfare. Accordingly, beer and wine sales by Alpenglow shall occur only when the food trucks in license sites 1, 3, 5 and 6 of The POD are open for business. Further, the consumption of alcohol on The POD shall cease within 30 minutes of the last food truck closing on license sites 1, 3, 5 and 6 of The POD and, in no instance, later than 2:30AM.

My response:

I believe the intent behind this condition is to attempt to have food sold at the same time as alcohol. The State of Idaho ABC, however, approved Alpenglow under State Statute (23-944) as a "Plaza" (see below):

State Statute (23-944): (3) In any baseball park, sports arena, convention center, multipurpose arena, theater, or **plaza** that is presenting live performances or fairgrounds, notwithstanding that such premises or any portion thereof may be licensed for the sale of liquor by the drink, wine or beer for consumption on the premises or that such products are dispensed and served and consumed therein; provided, that the person under the age of twenty-one (21) years is attending a lawful activity, show, exhibition, performance or event on the premises or is required to be present as a condition of his employment. It is lawful for persons under the age of twenty-one (21) years to enter and remain in a baseball park, sports arena, convention center, multipurpose arena, theater that is presenting live performances or fairgrounds as long as the activity, show, exhibition, performance or event is lawful and the person does not violate section 23-949, Idaho Code;

The plaza provision does not require food to be served alongside alcohol sales.

I also have an email from Grant Gager on August 22, 2019 that says "there appears to be no local prohibitions on beer or wine vending from the type of establishment that we discussed" (see attached).

Finally, the Health, Safety, & Welfare code that was cited only has to do with the location of the stand, not the hours. There is no mention in Ketchum City Code that the city may dictate the hours of a business, and neither can a landlord. It is unreasonable to expect that I can run my business contingent upon Food Trucks being open. The Food Trucks may choose to be open only 1 day a week, or could choose to close last minute for any reason (illness, unexpected circumstances, lack of supplies) that would be completely out of my control and unreasonable to expect that I could have a successful business when required to operate upon this contingency.

I understand the concern of not wanting our customers to become intoxicated. However, that is a concern for every single bar and restaurant in America. There is no reason to single Alpenglow out and treat me differently considering that I am following the same statutes as other licensed alcohol venues in the state, including operating on private property and monitoring consumption. Using public health, safety, and welfare sets a poor precedent that appears to me as a convenient excuse to protect existing businesses from a new business coming in, and not allowing for free market competition to take place, which is part of the core values of our country. If allowing drink without food violates the Health, Safety, and Welfare of the public, how are all the other bars open?

We will follow every law regarding the sale of alcohol and recognize it is our responsibility to ensure no one leaves intoxicated.

Thank you again for your consideration. I look forward to discussing further at the City Council meeting.

Best,
Melissa Levick





Melissa Levick <melissa.levick@gmail.com>

Beer/Wine Vending

Grant Gager <ggager@ketchumidaho.org>
To: "melissa.levick@gmail.com" <melissa.levick@gmail.com>
Cc: "jonathan.vance@isp.idaho.gov" <jonathan.vance@isp.idaho.gov>

Thu, Aug 22, 2019 at 3:47 PM

Good Afternoon Melissa,

In follow-up to your visit to City Hall today, there appears to be no local prohibitions on beer or wine vending from the type of establishment that we discussed.

If you would like to pursue the venture, the next step is submission of the off-site vendor permit application to our planning and zoning department, as we discussed. Chapter 5.16 of our ordinances (https://www.sterlingcodifiers.com/codebook/index.php?book_id=344) contains the details on that permit and process. I believe we gave you a paper copy but, if not, here is the link: <https://ketchumidaho.org/administration/page/offsite-vendor-permit>.

Best of luck. Please let me know if you have any questions.

GRANT GAGER | CITY OF KETCHUM

Director of Finance & Internal Services

P.O. Box 2315 | [480 East Ave.](#) N. | Ketchum, ID 83340

o: 208.727.5073 | m: 917.453.2518

ggager@ketchumidaho.org | www.ketchumidaho.org

E – Public Comment

From: Karin Martin <talktokarin@yahoo.com>
Sent: Monday, September 09, 2019 3:07 PM
To: Participate <participate@ketchumidaho.org>
Subject: The Pod

It is my understanding that it is illegal to have beer/wine/cocktails out in the streets. I am concerned as to how the city intends to prevent customers of the Alpenglow beer and wine bar from taking their beverages outside of the pod. At Whiskey Jacques we do not allow customers to leave the building with cocktails as we have been informed it is illegal to leave the building with alcoholic beverages. If it is found that Alpenglow is not complying what will it take to revoke their permit. Also, how is anyone going to regulate the sale to minors when someone who is 21+ years of age could easily purchase a beverage and pass it off to someone near the pod. Will they be required to provide security/bouncers to monitor underage sales?

Sincerely,
Karin T. Martin

Subject: Re: Alpenglow // Pod Bar Opening // City Council Support
Date: Friday, September 13, 2019 at 5:10:41 PM Mountain Daylight Time
From: Neil Bradshaw
To: raquel barrett
CC: Jim Slanetz, Michael David, Amanda Breen, Courtney Hamilton, Robin Crotty, Suzanne Frick, John Gaeddert

Thanks Raquel
Your comments will be placed in the public record for council deliberation
I appreciate you participating in this process
Cheers
Neil

NEIL BRADSHAW | CITY OF KETCHUM

Mayor

P.O. Box 2315 | [480 East Ave. N.](#) | Ketchum, ID 83340
o: 208.727.5087 | m: [208.721.2162](#)
nbradshaw@ketchumidaho.org | www.ketchumidaho.org

On Sep 13, 2019, at 4:16 PM, raquel barrett <raquel.m.barrett@gmail.com> wrote:

Hi Ketchum City Council,

I hope this email finds you all well. I understand that you will be determining the fate of the Alpenglow Pod Bar Opening this Monday and I wanted to write in with my support of the project. I believe this is a great opportunity to cater and engage a younger demographic while simultaneously creating a beautiful space outdoors.

Thank you so much!
Raquel Barrett