

AGENDA

CITY COUNCIL WORK SESSION

May 6, 2019

**4:00 PM, City Council Chambers
130 S Galena Street, Aspen**



I. WORK SESSION

- I.A. Miscellaneous Land Use Code Amendments
- I.B. Flavored Tobacco
- I.C. City Offices Funding Summary



Memorandum

TO: Mayor and City Council

FROM: Phillip Supino, Principal Long-Range Planner

THRU: Jessica Garrow, Community Development Director

RE: Parking Code Amendments

MEETING DATE: May 6, 2019

REQUEST OF COUNCIL:

The purpose of this work session is for Council to provide direction regarding the scope of minor amendments to the Transportation and Parking Management (Parking) section of the Land Use Code. Council previously passed a policy resolution calling for amendments to this section. The proposed ordinance is focused on clean-ups and does not get into the policies described in the original policy resolution. This memo provides background information and outlines the scope of the proposed code amendments. Council may direct staff to return with an ordinance to amend the Land Use Code, which would be brought to Council for first reading at the May 13th Council meeting.

BACKGROUND:

Community Development staff began developing amendments to the Parking section of the Land Use Code with a Council work session in January 2018. In support of these code amendments, Council unanimously passed Policy Resolution 20, Series 2018. This policy resolution directed the Community Development Department to pursue amendments to the Land Use Code. For reference, it is included as Exhibit B.

The current Parking section of the Land Use Code was re-written during the 2016-2017 moratorium, combining Off Street Parking requirements with Transportation Mitigation requirements. Given the moratorium process combining these sections, minor amendments were anticipated to ensure the section is internally consistent. The proposed follow-up amendments to the Parking section ensure the code provides clear standards and processes for development and delivers on Council's policy goals. During the moratorium, staff contracted with Nelson-Nygaard and ReGeneration Development Strategies, both leaders in the parking and transportation field, to assist in development of new parking regulations. Since 2018, staff has continued working with ReGeneration on clarifications to the post-moratorium parking regulations.

Staff formed an expert steering committee of local designers and members of the development community to support the miscellaneous code amendment process, which has included reviewing the parking section of the Land Use Code. Staff and the focus group worked through early 2019 developing comprehensive re-writes of the Calculations & Measurements and Parking sections of the Land Use Code. While a majority of the work has been tabled due to 2019 work program constraints, it has provided the basis for the targeted clarification code amendments proposed in Ordinance 13.

DISCUSSION:

While the larger code amendment process was tabled in early 2019, a handful of issues have emerged on which staff believes Council may act to improve the interpretation and application of the code. The draft amendments included in Ordinance 13 are based on the work of staff, consultants and the focus group over the course of 18 months. The scope of the amendments for the Parking code is limited to:

- coordination of standards within a section, and
- clarification of language, and
- improvements to formatting.

No proposed amendment would alter calculations or methodologies, development rights, or review processes. The parking amendments would eliminate confusing terms and coordinate standards within the chapter. The attached draft ordinance is a first pass at these amendments. Staff will work internally, with the focus group, and at Council's direction to finalize the amendments as we move through the process. The more detailed amendments are scheduled to return to Council later in 2019.

PUBLIC OUTREACH:

Since November 2017, Planning staff has met with the 11-member focus group, including representatives from P&Z and HPC, to receive direction and technical support on the regulations originally proposed for amendment in 2018. The focus group's work concentrated on the parking and calculations and measurements standards in the Land Use Code.

While the scope of the work undertaken with the focus group was broader than the current, targeted parking amendments, the proposed amendments were addressed in the work of the focus group. In anticipation of this targeted amendment process, staff has reached out to the focus group to encourage their engagement and support. Staff will continue to provide the draft ordinances to the focus group for comment and will continue working with them as more substantive amendments move forward. Additionally, staff presented early work to the P&Z and HPC to gain feedback and assistance with the direction of the amendments and will return to those groups as the larger amendments move forward.

QUESTIONS FOR COUNCIL:

1. Does Council wish to proceed with amendments to the Parking section of the Land Use Code at this time?
2. Does Council support the time line for such code amendments outlined in this memo?

ATTACHMENTS:

Exhibit A: Draft Ord. 13, Series 2019 - Parking Amendments
Exhibit B: Parking Amendments Draft - Redline Version

Exhibit B: Resolution 20, Series 2018 – Policy Resolution

ORDINANCE No. 13
Series of 2019

**AN ORDINANCE OF THE ASPEN CITY COUNCIL ADOPTING CODE
AMENDMENTS TO LAND USE CODE CHAPTER 26.515, TRANSPORTATION AND
PARKING MANAGEMENT.**

WHEREAS, in accordance with Sections 26.208 and 26.310 of the City of Aspen Land Use Code, the City Council of the City of Aspen directed the Community Development Department to craft code amendments to related to transportation and parking management regulations; and,

WHEREAS, pursuant to Section 26.310.020(B)(1), beginning in 2017 the Community Development Department conducted Public Outreach with the Planning & Zoning Commission, City Council, and development community stakeholders regarding amendments to the transportation and parking management regulations; and,

WHEREAS, the Community Development Department contracted with ReGeneration Development Services for parking regulation consulting services in support of this code amendment; and,

WHEREAS, pursuant to Section 26.310.020(B)(2), during a duly noticed public hearing on February 26, 2018, the City Council approved Resolution No. 20, Series 2019, by a five to zero (5 – 0) vote, requesting code amendments to the Land Use Code; and,

WHEREAS, Aspen Area Community Plan policy III.1 (Transportation) calls for the reduction of vehicle trips by user groups; and,

WHEREAS, Aspen Area Community Plan policy III.2 (Transportation) requires that development minimize adverse impacts to transportation systems; and,

WHEREAS, the Community Development Director has recommended approval of the proposed amendments to the City of Aspen Land Use Code; and,

WHEREAS, the Aspen City Council finds that the amendments meet or exceed all applicable standards pursuant to Chapter 26.310 and that the approval of the amendments is consistent with the goals and elements of the Aspen Area Community Plan; and,

WHEREAS, the Aspen City Council finds that this Ordinance furthers and is necessary for the promotion of public health safety and welfare; and,

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASPEN COLORADO THAT:

Section 1: Chapter 26.515, Transportation and Parking Management, shall be deleted and replaced with the following:

Chapter 26.515
TRANSPORTATION AND PARKING MANAGEMENT

Sections:

26.515.010	Purpose and Definitions
26.515.020	Applicability
26.515.030	Transportation Mitigation
26.515.040	Parking Requirements
26.515.050	Meeting Parking Requirements
26.515.060	Procedures for Review
26.515.070	Off-Street Parking Requirements
26.515.080	Special Review Standards
26.515.090	Cash-in-lieu for Parking Requirements
26.525.100	Amendments
26.515.110	Appeals

26.515.010. Purpose

This Chapter establishes unified transportation and mobility standards to promote the city's policies relating to mobility, access to employment opportunities, and sustainability. This chapter implements policies from the Aspen Area Community Plan to:

- Limit vehicle trips into Aspen to 1993 levels, and reduce peak-hour vehicle-trips to at or below 1993 levels;
- Use Transportation Demand Management tools to accommodate additional person trips in the Aspen Area;
- Maintain the reliability and improve the convenience of City of Aspen transit services;
- Expand and improve bicycle parking and storage within the Urban Growth Boundary;
- Improve the convenience, safety, and quality of experience for bicyclists and pedestrians on streets and trails;
- Require development to mitigate its transportation impacts; and
- Develop a strategic parking plan that manages the supply of parking and reduces the adverse impacts of the automobile.

This Chapter establishes a variety of ways for property owners and developers to mitigate their impacts on the transportation network. As new development and growth occur, increased burdens on the transportation system can make it more difficult for the City to meet its transportation and air quality goals. To the extent that increased travel demand can shift away

from automobile dependence, development and growth can be compatible with, and even support, these goals.

To promote this shift in travel behavior, the City has transformed its approach to parking requirements to focus on the promotion and expansion of mobility options, including more walkable development patterns and a more efficient parking system, as well as the provision of public and development-based mobility resources. This will directly improve the travel experience and quality of life within growth areas, while helping to maintain the City's transportation-system and air-quality standards.

This is accomplished through a new integrated approach, which incorporates the City's Transportation Impact Analysis (TIA) Guidelines with Off-Street Parking Requirements. Where the TIA serves to evaluate the potential adverse effects of proposed projects on Aspen's transportation systems, the off-street parking regulations focus on on-site mitigation needs resulting from the provision of parking.

Applicants will use a simplified, two-tiered process that:

1. Determines the project's TIA applicability and calculates the project's resulting "parking requirement," and
2. Provides a Mobility Plan that includes the applicant's parking and mobility mitigation requirements, which includes the provision of parking, utilization of cash-in-lieu, and/or provision mobility options, including TIA mitigations if applicable.

The City then reviews the project's mitigations for parking and mobility together as part of the project's land use application.

A. Adoption of Transportation Impact Analysis (TIA) Guidelines

Pursuant to the powers and authority conferred by the Charter of the City, there is hereby adopted and incorporated herein by reference as fully set forth those standards contained in the City of Aspen's Transportation Impact Analysis Guidelines, as may be amended, updated and expanded from time to time by City Council Resolution (referred to in this Code as the "TIA Guidelines"). At least one (1) copy of the TIA Guidelines shall be available for public inspection at the Community Development, Engineering, and Transportation Departments.

B. Definitions. As used in this Section, the following terms shall be defined as follows:

Mobility Measures. Pre-approved mobility measures included in the Mobility Plan as part of a development application. These include the Transportation Demand Management (TDM) and/or Multimodal Level of Service (MMLOS) Mitigation Tools prescribed by the TIA, defined as follows:

- Transportation Demand Management (TDM) Tools, which are strategies and policies to reduce travel demand, particularly by single-occupancy vehicles, and

- Multi-Modal Level of Service (MMLOS) Tools, which are improvements to transportation service quality for travelers using a variety of modes including pedestrians, bicyclists, and transit passengers.

Mobility Plan. A complete mitigation plan for a proposed development's transportation and parking system impacts.

Parking Maximum. The maximum number of parking spaces provided on-site for a designated use before triggering compliance with shared parking requirements.

Parking Minimum. The minimum number of parking spaces required on-site for a designated use.

Parking Requirement. The sum of a project's required Parking Units, as provided in Section 26.515.020.C.2.

Parking Space, Accessory. A parking space that is managed to limit access to individuals engaged with on-site uses (residents, tenants, and their guests/customers), but are shared between all on-site land uses across different peaks in service throughout a 24-hour period.

Parking Space, Guest/Loading. A parking space that is managed to provide 24-hour access to a development for guests, deliveries and loading to the public, service providers, and other non-resident visitors to a development on a non-permanent basis.

Parking Space, Public. A parking space that is managed to provide at least 12 hours of public use in any 24-hour period, with approved signage to effectively identify these hours of public access.

Parking Space, Priced. A parking space – whether reserved, accessory, or public – that is priced comparable to market rates at all times of operation.

Parking Space, Municipal. A parking space that is provided within City of Aspen facilities, or directly managed by the City of Aspen, whether located in a private or City-owned parking facility.

Parking Space, Reserved. A parking space that is managed to limit access to specified individuals or specific on-site land uses.

Parking, Shared. Parking that is shared between multiple, distinct land uses, on the same site or between proximate sites, to make more efficient use of spaces and reduce overall supply needs. Shared parking is required on a development which exceeds its on-site parking provision maximum standard. Shared parking can be used to reduce a project's Parking Requirement. Shared parking may include off-site parking spaces and/or priced parking spaces.

Surplus Mobility Measures. Any additional mitigation credits remaining after TIA-subject projects have met the TIA requirements. TIA subject-projects may apply Surplus mobility measures towards mitigation of Transportation Unit Requirements.

Transportation Impact Analysis (TIA). Technical analysis guidelines for potential transportation impacts generated by development projects within the City of Aspen.

26.515.020. Applicability.

This Section applies to all development and redevelopment which meets the definition of Demolition, or any redevelopment which proposes to reduce on-site parking and/or mobility measures unless otherwise specifically exempted or limited.

A. Determination of Applicability.

The applicant may request a preliminary pre-application conference with staff from the Community Development Department to determine the applicability of the requirements of this Chapter for the proposed development. The following chart details the process for complying with the requirements of this Section through the creation of a mobility plan. The TIA Guidelines are available on the City of Aspen website and may be used to determine whether a project is subject to or exempt from the TIA.

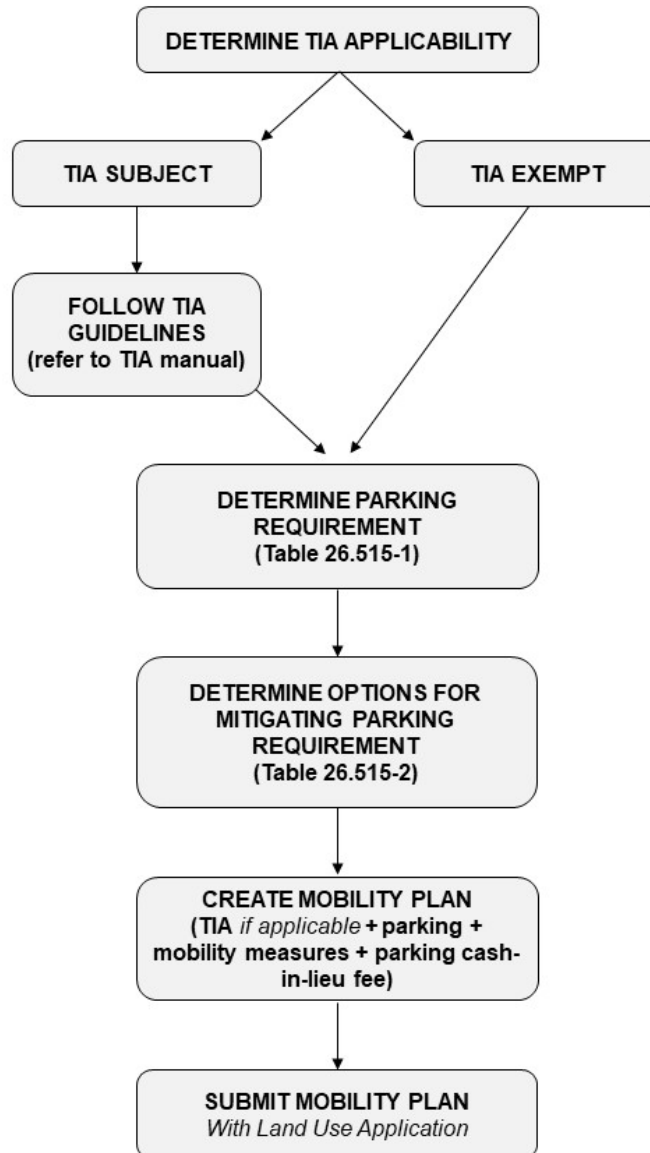


Figure 1: Applicability chart illustrating how to create a Mobility Plan.

C. Requirements. This Chapter requires all applicable development to submit a Mobility Plan, which addresses the following:

- TIA applicability, and
- TIA compliance (as applicable), and
- The provision of parking, and
- Cash-in-lieu of parking (as applicable), and
- Surplus mobility measures (as applicable).

The City then reviews the project's proposed TIA and Mobility Plan together as part of the project's Land Use Application.

26.515.030 Transportation Mitigation.

A. General Requirements. All applicable development shall mitigate its projected transportation impacts as provided in this Chapter. Refer to the Transportation Impact Analysis (TIA) for project applicability. Mobility requirements shall be satisfied through use of the following approaches, either alone or in combination

1. **Mobility Measures.** Applicable development must provide Transportation Demand Management (TDM) and Multi-Modal Level of Service (MMLOS) measures as provided for in the Transportation Impact Analysis (TIA) Guidelines. These measures shall be maintained for the life of the development. All requirements shall be incorporated in the project's Development Agreement, pursuant to Chapter 26.490, *Development Documents*.
2. **Surplus Mobility Measures.** Upon satisfaction of TIA requirements, a development's Mobility Plan may include surplus mobility measures, where credit is provided over the minimum TIA requirements and applied towards Parking Requirements outlined in Table 26.515-1. The proportion of surplus mobility measures permitted for a development is outlined in Table 26.515-2.

26.515.040 Parking Requirements.

A. General requirements. All applicable development shall accommodate its projected parking impacts as provided in this Chapter. Parking Requirements shall be satisfied through use of the following either alone or in combination.

1. **Parking Requirement Calculation.** Parking Requirements shall be calculated for each use within a development according to Table 26.515-1.
2. **Parking Provision Minimum.** Applicable development shall satisfy the minimum Parking Provision Requirement, as calculated in Table 26.515-1. Minimum parking provisions may be reduced in combination with mobility measures and transportation system impact fees in accordance with the standards in Table 26.515-2.
3. **Parking Provision Maximum.** To create appropriate site planning and provision of parking, applicable development shall not provide on-site parking in excess of 125% of the Parking Provision Maximum requirement in the form of Reserved Parking Spaces or Accessory Parking Spaces, unless the total number of on-site spaces in excess of 125% of the Parking Provision Maximum are provided as Shared Public Parking Spaces.

Table 26.515-1 Parking Impact Requirement Calculations			
Use	Aspen Infill Area		All Other Areas Parking Requirement (in units)
	<i>Parking Requirement (in units)</i>	<i>Parking Maximum (in units)</i>	
Commercial⁽¹⁾	1 unit /1,000 sf Net Leasable Space	1.25 units / 1,000 sf NLA	3 units per 1,000 sf NLA ⁽²⁾
Residential – Single-Family and Duplex⁽⁴⁾	Lesser of 1 unit per bedroom or 2 units per Dwelling Unit	Greater of 1.25 units per bedroom or 2.5 units per dwelling unit	Lesser of 1 unit per bedroom or 2 per unit
Residential – Accessory Dwelling Units and Carriage Houses^{(3) (4)}	1 unit per unit	1.25 units per unit	1 unit per unit ⁽³⁾
Residential – Multi-Family (as a single use)	1 unit per Dwelling Unit	1.25 units per dwelling unit	Lesser of 1 unit per bedroom or two units per Dwelling Unit
Residential – Multi-Family within a mixed-use building	1 unit per Dwelling Unit	1.25 units per dwelling unit	1 per Dwelling Unit ⁽²⁾
Hotel/Lodge	0.5 units per Key	0.7 units per Key	0.7 units per Key ⁽²⁾
All Other Uses (civic, cultural, public uses, essential public facilities, child care centers, etc.)	Established by Special Review according to the review criteria of Section 26.515.080.	N/A	Established by Special Review according to the review criteria of Section 26.515.080.

Key to Table 26.515-1:

- ⁽¹⁾ = Up to 100% of Parking Requirement, may be provided through cash-in-lieu.
- ⁽²⁾ = A reduction in Parking Requirement may be approved, pursuant to Chapter 26.430, Special review and according to the review criteria of Section 26.515.080
- ⁽³⁾ = A reduction in Parking Requirements may be approved, pursuant to Chapter 26.520, Accessory dwelling units and carriage houses.
- ⁽⁴⁾ = All Single Family and Duplex dwelling units, as well as ADUs and Carriage Houses shall provide their Parking Requirement as off-street, on-site parking spaces.
- SF = Square feet
- NLA = Net leasable square feet of commercial space

B. Fractional Requirement Computed. When any calculation of Parking Requirements results in a fractional unit, that fractional unit may be paid through a cash-in-lieu payment or satisfied through one whole additional on-site parking or mobility commitment credit.

C. Removal of Existing Parking Spaces. When a redevelopment, change of use, or reconfiguration of existing parking does not trigger demolition but proposes the removal of one or more parking spaces present on the site, the project must mitigate for the reduction, pursuant to this chapter.

26.515.050. Meeting Parking Requirements.

A. General requirements. Parking Requirements shall be satisfied through the following provisions alone or in combination and described in a project's Mobility Plan:

- 1. Cash-in-lieu.** Cash-in-lieu payments may be made to satisfy Parking Requirements as outlined by zone district in Table 26.515-2, and according to Section 26.515.090.
- 2. Provision of Off-Street Parking:**
 - a. On-Site Parking.** Off-street parking may be provided on-site in applicable zone districts to satisfy Parking Requirements, with Reserved and Accessory spaces not to exceed the Parking Maximums outlined below in Table 26.515-1. Shared parking may be counted provided that a Shared Parking Agreement and a shared-parking analysis, as approved by the Community Development Director, is executed.
 - b. Off-Site Parking.** Off-street parking may be provided off-site in applicable zone districts to satisfy Parking Requirements, provided that a Shared Parking Agreement and a shared-parking analysis, as approved by the Community Development Director, is executed. Off-site parking is subject to Special Review per Chapter 26.430 and Section 26.515.080.
 - c. Reserved and Accessory Spaces.** For both On-Site Parking and Off-Site Parking, Reserved and Accessory spaces in excess of the Parking Provision Maximums outlined below in Table 26.515-1 are subject to the Shared Parking standards in Section 26.515.040.A.3.
- 3. Shared Parking Spaces.** For both On-Site Parking and Off-Site parking, shared parking spaces may be provided contingent upon a shared parking analysis being completed and a Shared Parking Agreement being executed, as approved by the Community Development Director.
- 4. Mobility Measures.** Mobility Measures, as defined in Section 26.515.010.B, may be provided, as follows:
 - a.** Where projects are TIA exempt, Mobility Measures may be provided to satisfy Parking Requirements as outlined by zone district in Table 26.515-2.

- b. Where projects are subject to the TIA, Surplus Mobility Measures (after the minimum TIA mitigation requirements have been met) may be provided to satisfy Parking Requirements as outlined by zone district in Table 26.515-2.

The extent to which a project may satisfy its Parking Requirements with Mobility Commitments, On-Site Parking provision, and Cash-in-Lieu will vary by location, according to Table 26.515-2 below.

Table 26.515-2 - Parking Requirements by Zone District				
Location	Options for Meeting Parking Requirements			
	<i>Additional TIA Credits (Projects Subject to TIA)</i>	<i>Mobility Commitments (Projects Exempt from TIA)</i>	<i>On-Site Parking Provision</i>	<i>Cash-In-Lieu of Parking Fee Payment</i>
Commercial Core (CC) and Commercial-1 (C-1) zones	Up to 2 Additional TIA Credits	Up to 2 Mobility Commitments	* Up to 20% of the Requirement. Up to 100% of the requirement if subgrade.	Up to 100% of the Requirement
Remaining Commercial, Lodging, and Lodging Overlay Zones	1 Additional TIA Credit (equal to 1 Parking Unit)	1 Mobility Commitment (equal to 1 Parking Unit)	At least 60% and up to 100% of the Requirement	Up to 40% of the Requirement
Remaining Infill Area	1 Additional TIA Credit (equal to 1 Parking Unit)	1 Mobility Commitment (equal to 1 Parking Unit)	Up to 100% of the Requirement	Up to 100% of the Requirement
All other Areas	1 Additional TIA Credit (equal to 1 Parking Unit)	1 Mobility Commitment (equal to 1 Parking Unit)	At least 60% and up to 100% of the Requirement	Up to 40% of the Requirement

Parking Requirements are subject to the following standards:

1. If the Parking Requirement is subject to establishment by adoption of a Planned Development final development plan, review is subject to Chapter 26.445, Planned Development.
2. If the Parking Requirement is established through a special review, the standards and procedures of Section 26.515.080, Special Review Standards apply.
3. If the Parking Requirement is met via cash-in-lieu, the standards and procedures set forth at Section 26.515.090, Cash-in-Lieu of Parking apply.

4. For properties listed on the Aspen Inventory of Historic Landmark Sites and Structures, a waiver of the Parking Requirement may be approved, pursuant to Chapter 26.430, Special Review, and according to the review criteria set forth below.
5. For lodging projects with flexible unit configurations, also known as “lock-off units,” each separate “key,” or rentable division, shall constitute a unit for the purposes of this section.
6. The Parking Requirement for projects with multiple, distinct land uses (residential, commercial, lodging, or other) may be lowered, if the applicant submits a shared-parking analysis, approved by the Community Development Director, which results in a peak-parking-demand measure that is less than the Parking Requirement established by Table 26.515-1. The application for a shared parking analysis shall be reviewed by The Transportation, Parking, Engineering, and Community Development Departments and approved by the Planning and Zoning Commission as a Special Review (Section 26.430).
- *7. Off-street parking provision on a parcel that abuts an Aspen Pedestrian Mall may only be provided in an on-site, subgrade parking structure. Alternatively, parcels abutting an Aspen Pedestrian Mall may provide all Parking Requirements through the payment of Cash-in-Lieu (Section 26.515.090).

26.515.060. Procedures for Review.

Development and redevelopment applications shall be reviewed pursuant to the following procedures, as well as standards and the Common Development Review Procedures set forth in Chapter 26.304.

A. Review Authority. All applications will be reviewed administratively for compliance with this Chapter and relevant guidelines in conjunction with a project’s land use application, unless otherwise specified. In all circumstances, the final land use review body shall approve the TIA, after considering a recommendation from the Engineering, Transportation, and Community Development Departments.

B. Review Process. For all applicable development, Mobility Plan review is completed in conjunction with required land use reviews. Pursuant to Section 26.304.020, Pre-application Conference, applicants are encouraged, although not required, to meet with a member of the Community Development Department to clarify requirements of this Section and to determine applicability.

1. For development only subject to administrative-level land use reviews, or for development meeting a threshold established in the TIA Guidelines but not subject to a land use review, the City Engineering and Transportation Departments may, on behalf of the City of Aspen,

determine that the project meets or exceeds the requirements set forth in this Chapter and the Transportation Impact Analysis Guidelines.

2. When development proposes to remove existing on-site parking or mobility measures, replacement mitigation pursuant to Section 26.515.050 shall be required as part of the land use review or building permit application, as applicable.
3. In all circumstances, the final land use review body shall approve the TIA, after considering a recommendation from the Engineering and Transportation Departments.

C. Review Criteria. All applicable projects are required to submit a Mobility Plan, which shall include and describe a project's mitigations for TIA and Parking Requirements. The Engineering, Transportation, and Community Development Department staff shall determine whether the project conforms to this Chapter requirements using the following standards:

1. Project TIA and the resulting mitigation program meets requirements for exempt, minor, or major project categories as outlined in the TIA Guidelines.
2. Project provides full mitigation for the Parking Requirements pursuant to Section 26.515.050.
3. If existing development is expanded, additional Parking Requirements shall be provided for that increment of the expansion.
4. If existing development is redeveloped, on-site parking deficits may not be maintained unless all parking, or at least 20 spaces are provided as Public Parking.

Projects failing to meet the requirements of this section may apply for a variation to the Planning and Zoning Commission through the Special Review process (Section 26.430 and Section 26.515.080).

26.515.070. Off-Street Parking Requirements.

A. Applicability. Where off-street parking spaces are provided as part of a Mobility Plan, the regulations in Sections 26.515.070.(B – I) apply.

B. General. Each off-street parking space shall consist of an open area measuring eight and one half (8½) feet wide by eighteen (18) feet long and seven (7) feet high with a maximum longitudinal slope of twelve percent (12%) and a maximum cross slope of five percent (5%). For developments providing more than 15 on-site parking spaces, 25% of the on-site spaces may be provided as Compact Parking in accordance with the requirements of the Engineering Design Standards. Each parking space, except those provided for detached residential dwellings and duplex dwellings, shall have an unobstructed access to a street or alley. Off-street parking provided for multi-family dwellings which do not share a common parking area may be exempted from the unobstructed access requirement subject to special review pursuant to Chapter 26.430, Special review and the standards set forth at Section 26.515.040, Special review standards, below.

Off-street parking must be paved with all-weather surfacing or be covered with gravel. For residential development, a grass ring or grass-paver-type surface may be used. All parking shall be maintained in a usable condition at all times. All development or redevelopment must be in conformance with, or bring existing parking into conformance with, Engineering Design Standards, including but not limited to the access requirements outlined in Chapter 4 Transportation Design.

C. Use of off-street parking. Parking spaces shall be used for the parking of vehicles and shall not be used for non-auto related uses such as storage units or trash containers. No off-street parking area shall be used for the sale, repair, dismantling or servicing of any vehicles, equipment, materials or supplies, nor shall any such activity adjacent to off-street parking spaces obstruct required access to off-street parking areas.

D. Location of off-street parking. Off-street parking, except shared parking, publicly accessible parking, or off-site parking as approved as part of a mobility plan, shall be located on the same parcel as the principal use or an adjacent parcel under the same ownership as the lot occupied by the principal use. For all uses, parking shall be accessed from an alley or secondary road where one exists unless otherwise established according to this Chapter.

E. Detached and duplex residential dwelling parking. Off-street parking provided for detached residential dwellings and duplex dwellings is not required to have unobstructed access to a street or alley, but shall not block access of emergency apparatus to the property or to structures located on the property. This allows for "stacking" of vehicles where a vehicle is parked directly behind another.

F. State Highway 82 off-street parking. All parking required for uses fronting State Highway 82 shall be accessed from the alley, if an alley exists, and shall not enter from or exit onto State Highway 82.

G. Surface parking. Surface parking is prohibited or requires conditional use review as a principal use of a lot or parcel in some Zone Districts (See Chapter 26-710). Where surface parking is permitted and eight (8) or more spaces are provided, the parking area shall include one (1) tree with a planter area of twenty (20) square feet for each four (4) parking spaces. Planter areas may be combined but shall be proximate to the parking spaces. The Planning and Zoning Commission may waive or modify this requirement on a per case basis. Parking within structures is exempt from this landscaping provision.

H. Restrictions on drainage, grading and traffic impact. Off-street parking spaces shall be graded to ensure drainage does not create any flooding or water quality impacts and shall be provided with entrances and exits so as to minimize traffic congestion and traffic hazards.

I. Restrictions on lighting. Lighting facilities for off-street parking spaces, if provided, shall be arranged and shielded so that lights neither unreasonably disturb occupants of adjacent residential dwellings nor interfere with driver vision. All outdoor lighting shall comply with the outdoor lighting regulations, Section 26.575.150.

26.515.080. Special Review Standards.

Whenever the transportation, mobility, and parking impacts of a proposed development are subject to special review, an application shall be processed as a special review in accordance with the common development review procedures set forth in Chapter 26.304 and be evaluated according to the following standards. Review is by the Planning and Zoning Commission.

If the project requires review by the Historic Preservation Commission and the Community Development Director has authorized consolidation pursuant to Subsection 26.304.060.B, the Historic Preservation Commission shall approve, approve with conditions or disapprove the special review application.

A special review for establishing, varying or waiving transportation, mobility, or off-street parking requirements may be approved, approved with conditions or denied based on its conformance with all of the following criteria:

1. The transportation, mobility, and off-street parking needs of the residents, customers, guests and employees of the project have been met, taking into account potential uses of the parcel, the projected traffic generation of the project, any shared parking opportunities, expected schedule of parking demands, the projected impacts on the on-street parking of the neighborhood, the proximity to mass transit routes and the downtown area and any special services, such as vans, provided for residents, guests and employees.
2. An on-site mitigation solution meeting the requirements and guidelines is practically difficult or results in an undesirable development scenario.
3. Existing or planned on-site or off-site facilities adequately serve the needs of the development, including the availability of street parking.

A. Commercial Parking Facilities. Special Review is required for a commercial parking facility. A special review to permit a commercial parking facility may be approved, approved with conditions or denied based on conformance with its adherence to Commercial Design Standards and the policy goal of provision of publicly-accessible parking in areas with high public parking demand (in order to reduce vehicle congestion and emissions due to vehicles circling for parking) is not offset by the proposed commercial parking facility's potential adverse impacts of the City's multi-modal transportation system. For properties in zone districts where Conditional Use Review is required for a Commercial Parking Facility, Conditional Use and Special Review shall be combined.

26.515.090. Cash-in-lieu Requirements.

A. General. The City conducted a parking facility analysis in the fall of 2016 and determined the costs associated with developing new parking facilities to serve the demands of development. While not all potential facilities represented the same potential expenditure,

facilities considered likely to be developed by the City required an expected thirty-eight thousand dollars (\$38,000) per space to develop in 2016 dollars.

B. Cash-in-lieu. Mobility improvements serving commercial and mixed-use development are a public amenity and serves the mobility needs of the general population. As such, the mobility needs of the general population can be improved through various means other than the provision of on-site parking spaces, including cash-in-lieu. A cash-in-lieu payment, for those types of development authorized to provide parking via cash-in-lieu, may be accepted by the Community Development Director to satisfy the Parking Requirement, as described in Section 26.515.040, above.

1. Time of payment. The payment-in-lieu of parking shall be due and payable at the time of issuance of a building permit. All funds shall be collected by the Community Development Director and transferred to the Finance Director for deposit in a separate interest bearing account.
2. Use of funds. Monies in the account shall be used solely for the construction of a public parking facility, transportation and mobility improvements, including vehicles or station improvements, transportation demand management facilities or programs, shared automobiles or programs and similar transportation or mobility-related facilities or programs as determined appropriate by the City.
3. Refunds. Fees collected pursuant to this Section may be returned to the then-present owner of the property for which a fee was paid, including any interest earned, if the fees have not been spent within seven (7) years from the date fees were paid, unless the Council shall have earmarked the funds for expenditure on a specific project, in which case the time period shall be extended by up to three (3) more years. To obtain a refund, the present owner must submit a petition to the Finance Director within one (1) year following the end of the seventh (7th) year from the date payment was received by the City.

For the purpose of this Section, payments collected shall be deemed spent on the basis of “the first payment in shall be the first payment out.” Any payment made for a project for which a building permit is revoked or cancelled, prior to construction, may be refunded if a petition for refund is submitted to the Finance Director within three (3) months of the date of the revocation or cancellation of the building permit. All petitions shall be accompanied by a notarized, sworn statement that the petitioner is the current owner of the property and that the development shall not commence without full compliance with this Chapter and by a copy of the dated receipt issued for payment of the fee.

4. Periodic review of rate. To ensure that the payment-in-lieu rate is fair and represents current cost levels, it shall be reviewed every two years. Any necessary amendments to this Section shall be initiated pursuant to Section 26.310.020, Procedure for amendment.

26.515.100. Amendments. Amendments to an approved Mobility and Parking Requirement review by the Community Development Director in coordination with the Engineering and Transportation Departments as needed.

A. Amendments to Trip Reduction Measures. Off-site MMLOS infrastructure measures that have been implemented may not be amended at any time. Off-site MMLOS infrastructure measures that have not been implemented, and any on-site TDM and MMLOS measures, may be amended as outlined below. Changes shall be reviewed by the Engineering, Transportation, and Community Development Departments to ensure the proposed change is appropriate given the site's context.

1. Insubstantial Amendment. Any amendment to TDM or MMLOS measures resulting in the same or more number of trips mitigated as the original approval may be approved administratively by the Community Development Department, after considering a recommendation from the Engineering and Transportation Departments. A land use application is required, pursuant to Chapter 26.304, *Common Development Review Procedures*. The applicant shall demonstrate how the new measure(s) is appropriate given current site conditions.
2. Substantial Amendment. Any amendment to TDM or MMLOS measures that reduces the number of trips mitigated shall be reviewed by City Council, after considering a recommendation from the Community Development, Engineering, and Transportation Departments. A land use application is required, pursuant to Chapter 26.304, *Common Development Review Procedures*, and the review shall be conducted in a duly noticed public hearing, pursuant to Section 26.304.060(E), *Public Notice*. City Council shall find the following standards are met:
 - a) The proposed change responds to changed site conditions or circumstances, including but not limited to changes to land uses, site topography, or site plan.
 - b) The proposed changes will not adversely impact the immediate vicinity.
 - c) The proposed change meets the original intent of the approved measures.
 - d) The proposed changes have been approved by the Community Development Director.

26.515.110 Appeals. An applicant may challenge a determination made by the City in their enforcement of the requirements of this Chapter by filing with the Community Development Director a written notice of appeal as provided in Section 26.316.030, Appeals procedures, with a full statement of the grounds for appeal. Appeals shall be reviewed by City Council, pursuant to Chapter 26.316, Appeals.

(Ord. No. 17-2005, §1; Ord. No. 32, 2016, §1; Ord. No. 23, 2017, §23)

Section 2: Any scrivener's errors contained in the code amendments herein, including but not limited to mislabeled subsections or titles, may be corrected administratively following adoption of the Ordinance.

Section 3: Effect Upon Existing Litigation.

This ordinance shall not affect any existing litigation and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the ordinances repealed or amended as herein provided, and the same shall be conducted and concluded under such prior ordinances.

Section 4: Severability.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portions thereof.

Section 5: Effective Date.

In accordance with Section 4.9 of the City of Aspen Home Rule Charter, this ordinance shall become effective thirty (30) days following final passage.

Section 6: Public Notice

A public hearing on this ordinance shall be held on the 20th day of May, 2019, at a meeting of the Aspen City Council commencing at 5:00 p.m. in the City Council Chambers, Aspen City Hall, Aspen, Colorado, a minimum of fifteen days prior to which hearing a public notice of the same shall be published in a newspaper of general circulation within the City of Aspen.

INTRODUCED, READ, AND ORDERED PUBLISHED as provided by law, by the City Council of the City of Aspen on the 20th day of May, 2019.

Attest:

Linda Manning, City Clerk

Steven Skadron, Mayor

FINALLY, adopted, passed and approved this 20th day of May, 2019.

Attest:

Linda Manning, City Clerk

Steven Skadron, Mayor

Approved as to form:

James R. True, City Attorney

Chapter 26.515

TRANSPORTATION AND PARKING MANAGEMENT

Sections:

26.515.010	Purpose and Definitions
26.515.020	Applicability
26.515.030	Transportation Mitigation
26.515.040	Parking Requirements
26.515.050	Meeting Parking Requirements
26.515.060	Procedures for Review
26.515.070	Off-Street Parking Requirements
26.515.080	Special Review Standards
26.515.090	Cash-in-lieu for Parking Requirements
26.525.100	Amendments
26.515.110	Appeals

26.515.010. Purpose

This Chapter establishes unified transportation and mobility standards to promote the city's policies relating to mobility, access to employment opportunities, and sustainability. This chapter implements policies from the Aspen Area Community Plan to:

- Limit vehicle trips into Aspen to 1993 levels, and reduce peak-hour vehicle-trips to at or below 1993 levels;
- Use Transportation Demand Management tools to accommodate additional person trips in the Aspen Area;
- Maintain the reliability and improve the convenience of City of Aspen transit services;
- Expand and improve bicycle parking and storage within the Urban Growth Boundary;
- Improve the convenience, safety, and quality of experience for bicyclists and pedestrians on streets and trails;
- Require development to mitigate its transportation impacts; and
- Develop a strategic parking plan that manages the supply of parking and reduces the adverse impacts of the automobile.

This Chapter establishes a variety of ways for property owners and developers to mitigate their impacts on the transportation network. As new development and growth occur, increased burdens on the transportation system can make it more difficult for the City to meet its transportation and air quality goals. To the extent that increased travel demand can shift away from automobile dependence, development and growth can be compatible with, and even support, these goals.

To promote this shift in travel behavior, the City has transformed its approach to parking requirements to focus on the promotion and expansion of mobility options, including more walkable development patterns and a more efficient parking system, as well as the provision of public and development-based mobility resources. This will directly improve the travel experience and quality of life within growth areas, while helping to maintain the City's transportation-system and air-quality standards.

This is accomplished through a new integrated approach, which incorporates the City's Transportation Impact Analysis (TIA) Guidelines with Off-Street Parking Requirements. Where the TIA serves to evaluate the potential adverse effects of proposed projects on Aspen's transportation systems, the off-street parking regulations focus on on-site mitigation needs resulting from the provision of parking.

Applicants will use a simplified, two-tiered process that:

1. Determines the project's TIA applicability and calculates the project's resulting "parking requirement," and
2. Provides a Mobility Plan that includes the applicant's parking and mobility mitigation requirements, which includes the provision of parking, utilization of cash-in-lieu, and/or provision mobility options, including TIA mitigations if applicable.

The City then reviews the project's mitigations for parking and mobility together as part of the project's land use application.

A. Adoption of Transportation Impact Analysis (TIA) Guidelines

Pursuant to the powers and authority conferred by the Charter of the City, there is hereby adopted and incorporated herein by reference as fully set forth those standards contained in the City of Aspen's Transportation Impact Analysis Guidelines, as may be amended, updated and expanded from time to time by City Council Resolution (referred to in this Code as the "TIA Guidelines"). At least one (1) copy of the TIA Guidelines shall be available for public inspection at the Community Development, Engineering, and Transportation Departments.

B. Definitions. As used in this Section, the following terms shall be defined as follows:

Mobility Measures. Pre-approved mobility measures included in the Mobility Plan as part of a development application. These include the Transportation Demand Management (TDM) and/or Multimodal Level of Service (MMLOS) Mitigation Tools prescribed by the TIA, defined as follows:

- Transportation Demand Management (TDM) Tools, which are strategies and policies to reduce travel demand, particularly by single-occupancy vehicles, and
- Multi-Modal Level of Service (MMLOS) Tools, which are improvements to transportation service quality for travelers using a variety of modes including pedestrians, bicyclists, and transit passengers.

Mobility Plan. A complete mitigation plan for a proposed development’s transportation and parking system impacts.

Parking Maximum. The maximum number of parking spaces provided on-site for a designated use before triggering compliance with shared parking requirements.

Parking Minimum. The minimum number of parking spaces required on-site for a designated use.

Parking Requirement. The sum of a project’s required Parking Units, as provided in Section 26.515.020.C.2.

Parking Space, Accessory. A parking space that is managed to limit access to individuals engaged with on-site uses (residents, tenants, and their guests/customers), but are shared between all on-site land uses across different peaks in service throughout a 24-hour period.

Parking Space, Guest/Loading. A parking space that is managed to provide 24-hour access to a development for guests, deliveries and loading to the public, service providers, and other non-resident visitors to a development on a non-permanent basis.

Parking Space, Public. A parking space that is managed to provide at least 12 hours of public use in any 24-hour period, with approved signage to effectively identify these hours of public access.

Parking Space, Priced. A parking space – whether reserved, accessory, or public – that is priced comparable to market rates at all times of operation.

Parking Space, Municipal. A parking space that is provided within City of Aspen facilities, or directly managed by the City of Aspen, whether located in a private or City-owned parking facility.

Parking Space, Reserved. A parking space that is managed to limit access to specified individuals or specific on-site land uses.

Parking, Shared. Parking that is shared between multiple, distinct land uses, on the same site or between proximate sites, to make more efficient use of spaces and reduce overall supply needs. Shared parking is required on a development which exceeds its on-site parking provision maximum standard. Shared parking can be used to reduce a project’s Parking Requirement. Shared parking may include off-site parking spaces and/or priced parking spaces.

Surplus Mobility Measures. Any additional mitigation credits remaining after TIA-subject projects have met the TIA requirements. TIA subject-projects may apply Surplus mobility measures towards mitigation of Transportation Unit Requirements.

Transportation Impact Analysis (TIA). Technical analysis guidelines for potential transportation impacts generated by development projects within the City of Aspen.

26.515.020. Applicability.

This Section applies to all development and redevelopment which meets the definition of Demolition, or any redevelopment which proposes to reduce on-site parking and/or mobility measures unless otherwise specifically exempted or limited.

A. Determination of Applicability.

The applicant may request a preliminary pre-application conference with staff from the Community Development Department to determine the applicability of the requirements of this Chapter for the proposed development. The following chart details the process for complying with the requirements of this Section through the creation of a mobility plan. The TIA Guidelines are available on the City of Aspen website and may be used to determine whether a project is subject to or exempt from the TIA.

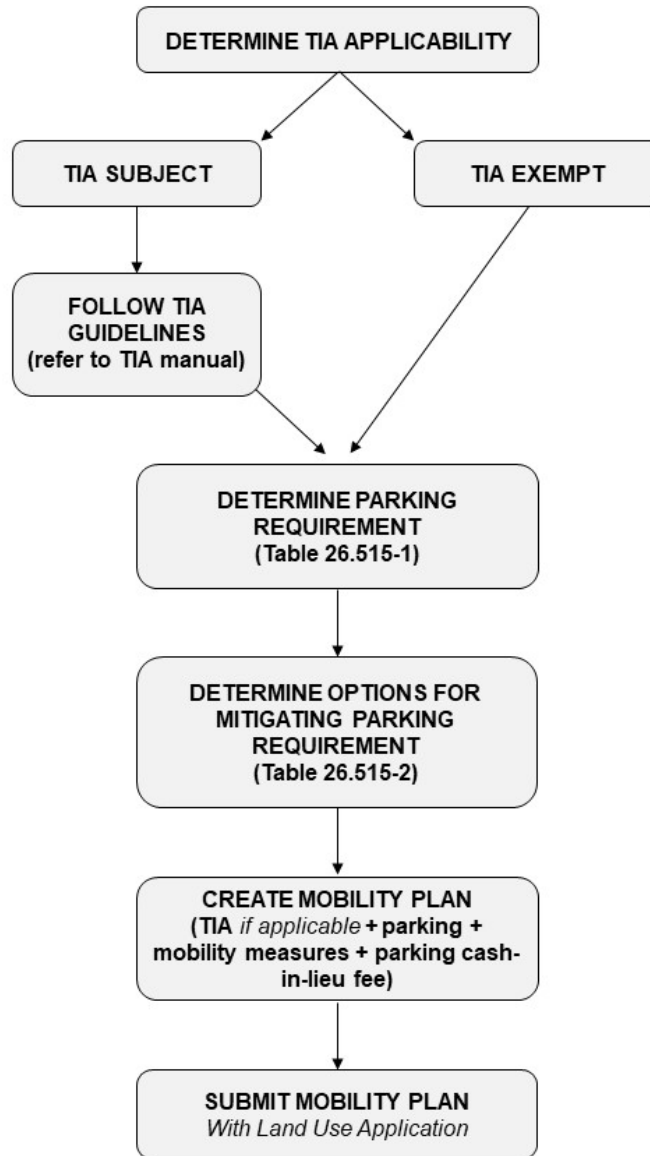


Figure 1: Applicability chart illustrating how to create a Mobility Plan.

C. Requirements. This Chapter requires all applicable development to submit a Mobility Plan, which addresses the following:

- TIA applicability, and
- TIA compliance (as applicable), and
- The provision of parking, and
- Cash-in-lieu of parking (as applicable), and
- Surplus mobility measures (as applicable).

The City then reviews the project's proposed TIA and Mobility Plan together as part of the project's Land Use Application.

26.515.030 Transportation Mitigation.

A. General Requirements. All applicable development shall mitigate its projected transportation impacts as provided in this Chapter. Refer to the Transportation Impact Analysis (TIA) for project applicability. Mobility requirements shall be satisfied through use of the following approaches, either alone or in combination

1. **Mobility Measures.** Applicable development must provide Transportation Demand Management (TDM) and Multi-Modal Level of Service (MMLOS) measures as provided for in the Transportation Impact Analysis (TIA) Guidelines. These measures shall be maintained for the life of the development. All requirements shall be incorporated in the project's Development Agreement, pursuant to Chapter 26.490, *Development Documents*.
2. **Surplus Mobility Measures.** Upon satisfaction of TIA requirements, a development's Mobility Plan may include surplus mobility measures, where credit is provided over the minimum TIA requirements and applied towards Parking Requirements outlined in Table 26.515-1. The proportion of surplus mobility measures permitted for a development is outlined in Table 26.515-2.

26.515.040 Parking Requirements.

A. General requirements. All applicable development shall accommodate its projected parking impacts as provided in this Chapter. Parking Requirements shall be satisfied through use of the following either alone or in combination.

1. **Parking Requirement Calculation.** Parking Requirements shall be calculated for each use within a development according to Table 26.515-1.
2. **Parking Provision Minimum.** Applicable development shall satisfy the minimum Parking Provision Requirement, as calculated in Table 26.515-1. Minimum parking provisions may be reduced in combination with mobility measures and transportation system impact fees in accordance with the standards in Table 26.515-2.
3. **Parking Provision Maximum.** To create appropriate site planning and provision of parking, applicable development shall not provide on-site parking in excess of 125% of the Parking Provision Maximum requirement in the form of Reserved Parking Spaces or Accessory Parking Spaces, unless the total number of on-site spaces in excess of 125% of the Parking Provision Maximum are provided as Shared Public Parking Spaces.

Table 26.515-1 Parking Impact Requirement Calculations			
Use	Aspen Infill Area		All Other Areas Parking Requirement (in units)
	<i>Parking Requirement (in units)</i>	<i>Parking Maximum (in units)</i>	
Commercial⁽¹⁾	1 unit / 1,000 sf Net Leasable Space	1.25 units / 1,000 sf NLA	3 units per 1,000 sf NLA ⁽²⁾
Residential – Single-Family and Duplex⁽⁴⁾	Lesser of 1 unit per bedroom or 2 units per Dwelling Unit	Greater of 1.25 units per bedroom or 2.5 units per dwelling unit	Lesser of 1 unit per bedroom or 2 per unit
Residential – Accessory Dwelling Units and Carriage Houses^{(3) (4)}	1 unit per unit	1.25 units per unit	1 unit per unit ⁽³⁾
Residential – Multi-Family (as a single use)	1 unit per Dwelling Unit	1.25 units per dwelling unit	Lesser of 1 unit per bedroom or two units per Dwelling Unit
Residential – Multi-Family within a mixed-use building	1 unit per Dwelling Unit	1.25 units per dwelling unit	1 per Dwelling Unit ⁽²⁾
Hotel/Lodge	0.5 units per Key	0.7 units per Key	0.7 units per Key ⁽²⁾
All Other Uses (civic, cultural, public uses, essential public facilities, child care centers, etc.)	Established by Special Review according to the review criteria of Section 26.515.080.	N/A	Established by Special Review according to the review criteria of Section 26.515.080.

Key to Table 26.515-1:

- ⁽¹⁾ = Up to 100% of Parking Requirement, may be provided through cash-in-lieu.
- ⁽²⁾ = A reduction in Parking Requirement may be approved, pursuant to Chapter 26.430, Special review and according to the review criteria of Section 26.515.080
- ⁽³⁾ = A reduction in Parking Requirements may be approved, pursuant to Chapter 26.520, Accessory dwelling units and carriage houses.
- ⁽⁴⁾ = All Single Family and Duplex dwelling units, as well as ADUs and Carriage Houses shall provide their Parking Requirement as off-street, on-site parking spaces.
- SF = Square feet
- NLA = Net leasable square feet of commercial space

B. Fractional Requirement Computed. When any calculation of Parking Requirements results in a fractional unit, that fractional unit may be paid through a cash-in-lieu payment or satisfied through one whole additional on-site parking or mobility commitment credit.

C. Removal of Existing Parking Spaces. When a redevelopment, change of use, or reconfiguration of existing parking does not trigger demolition but proposes the removal of one or more parking spaces present on the site, the project must mitigate for the reduction, pursuant to this chapter.

26.515.050. Meeting Parking Requirements.

A. General requirements. Parking Requirements shall be satisfied through the following provisions alone or in combination and described in a project's Mobility Plan:

- 1. Cash-in-lieu.** Cash-in-lieu payments may be made to satisfy Parking Requirements as outlined by zone district in Table 26.515-2, and according to Section 26.515.090.
- 2. Provision of Off-Street Parking:**
 - a. On-Site Parking.** Off-street parking may be provided on-site in applicable zone districts to satisfy Parking Requirements, with Reserved and Accessory spaces not to exceed the Parking Maximums outlined below in Table 26.515-1. Shared parking may be counted provided that a Shared Parking Agreement and a shared-parking analysis, as approved by the Community Development Director, is executed.
 - b. Off-Site Parking.** Off-street parking may be provided off-site in applicable zone districts to satisfy Parking Requirements, provided that a Shared Parking Agreement and a shared-parking analysis, as approved by the Community Development Director, is executed. Off-site parking is subject to Special Review per Chapter 26.430 and Section 26.515.080.
 - c. Reserved and Accessory Spaces.** For both On-Site Parking and Off-Site Parking, Reserved and Accessory spaces in excess of the Parking Provision Maximums outlined below in Table 26.515-1 are subject to the Shared Parking standards in Section 26.515.040.A.3.
- 3. Shared Parking Spaces.** For both On-Site Parking and Off-Site parking, shared parking spaces may be provided contingent upon a shared parking analysis being completed and a Shared Parking Agreement being executed, as approved by the Community Development Director.
- 4. Mobility Measures.** Mobility Measures, as defined in Section 26.515.010.B, may be provided, as follows:
 - a. Where projects are TIA exempt, Mobility Measures may be provided to satisfy Parking Requirements as outlined by zone district in Table 26.515-2.
 - b. Where projects are subject to the TIA, Surplus Mobility Measures (after the minimum TIA mitigation requirements have been met) may be provided to satisfy Parking Requirements as outlined by zone district in Table 26.515-2.

The extent to which a project may satisfy its Parking Requirements with Mobility Commitments, On-Site Parking provision, and Cash-in-Lieu will vary by location, according to Table 26.515-2 below.

Table 26.515-2 - Parking Requirements by Zone District				
Location	Options for Meeting Parking Requirements			
	<i>Additional TIA Credits (Projects Subject to TIA)</i>	<i>Mobility Commitments (Projects Exempt from TIA)</i>	<i>On-Site Parking Provision</i>	<i>Cash-In-Lieu of Parking Fee Payment</i>
Commercial Core (CC) and Commercial-1 (C-1) zones	Up to 2 Additional TIA Credits	Up to 2 Mobility Commitments	* Up to 20% of the Requirement. Up to 100% of the requirement if subgrade.	Up to 100% of the Requirement
Remaining Commercial, Lodging, and Lodging Overlay Zones	1 Additional TIA Credit (equal to 1 Parking Unit)	1 Mobility Commitment (equal to 1 Parking Unit)	At least 60% and up to 100% of the Requirement	Up to 40% of the Requirement
Remaining Infill Area	1 Additional TIA Credit (equal to 1 Parking Unit)	1 Mobility Commitment (equal to 1 Parking Unit)	Up to 100% of the Requirement	Up to 100% of the Requirement
All other Areas	1 Additional TIA Credit (equal to 1 Parking Unit)	1 Mobility Commitment (equal to 1 Parking Unit)	At least 60% and up to 100% of the Requirement	Up to 40% of the Requirement

Parking Requirements are subject to the following standards:

1. If the Parking Requirement is subject to establishment by adoption of a Planned Development final development plan, review is subject to Chapter 26.445, Planned Development.
2. If the Parking Requirement is established through a special review, the standards and procedures of Section 26.515.080, Special Review Standards apply.
3. If the Parking Requirement is met via cash-in-lieu, the standards and procedures set forth at Section 26.515.090, Cash-in-Lieu of Parking apply.

4. For properties listed on the Aspen Inventory of Historic Landmark Sites and Structures, a waiver of the Parking Requirement may be approved, pursuant to Chapter 26.430, Special Review, and according to the review criteria set forth below.
5. For lodging projects with flexible unit configurations, also known as “lock-off units,” each separate “key,” or rentable division, shall constitute a unit for the purposes of this section.
6. The Parking Requirement for projects with multiple, distinct land uses (residential, commercial, lodging, or other) may be lowered, if the applicant submits a shared-parking analysis, approved by the Community Development Director, which results in a peak-parking-demand measure that is less than the Parking Requirement established by Table 26.515-1. The application for a shared parking analysis shall be reviewed by The Transportation, Parking, Engineering, and Community Development Departments and approved by the Planning and Zoning Commission as a Special Review (Section 26.430).
- *7. Off-street parking provision on a parcel that abuts an Aspen Pedestrian Mall may only be provided in an on-site, subgrade parking structure. Alternatively, parcels abutting an Aspen Pedestrian Mall may provide all Parking Requirements through the payment of Cash-in-Lieu (Section 26.515.090).

26.515.060. Procedures for Review.

Development and redevelopment applications shall be reviewed pursuant to the following procedures, as well as standards and the Common Development Review Procedures set forth in Chapter 26.304.

A. Review Authority. All applications will be reviewed administratively for compliance with this Chapter and relevant guidelines in conjunction with a project’s land use application, unless otherwise specified. In all circumstances, the final land use review body shall approve the TIA, after considering a recommendation from the Engineering, Transportation, and Community Development Departments.

B. Review Process. For all applicable development, Mobility Plan review is completed in conjunction with required land use reviews. Pursuant to Section 26.304.020, Pre-application Conference, applicants are encouraged, although not required, to meet with a member of the Community Development Department to clarify requirements of this Section and to determine applicability.

1. For development only subject to administrative-level land use reviews, or for development meeting a threshold established in the TIA Guidelines but not subject to a land use review, the City Engineering and Transportation Departments may, on behalf of the City of Aspen, determine that the project meets or exceeds the requirements set forth in this Chapter and the Transportation Impact Analysis Guidelines.

2. When development proposes to remove existing on-site parking or mobility measures, replacement mitigation pursuant to Section 26.515.050 shall be required as part of the land use review or building permit application, as applicable..
3. In all circumstances, the final land use review body shall approve the TIA, after considering a recommendation from the Engineering and Transportation Departments.

C. Review Criteria. All applicable projects are required to submit a Mobility Plan, which shall include and describe a project's mitigations for TIA and Parking Requirements. The Engineering, Transportation, and Community Development Department staff shall determine whether the project conforms to this Chapter requirements using the following standards:

1. Project TIA and the resulting mitigation program meets requirements for exempt, minor, or major project categories as outlined in the TIA Guidelines.
2. Project provides full mitigation for the Parking Requirements pursuant to Section 26.515.050.
3. If existing development is expanded, additional Parking Requirements shall be provided for that increment of the expansion.
4. If existing development is redeveloped, on-site parking deficits may not be maintained unless all parking, or at least 20 spaces are provided as Public Parking.

Projects failing to meet the requirements of this section may apply for a variation to the Planning and Zoning Commission through the Special Review process (Section 26.430 and Section 26.515.080).

26.515.070. Off-Street Parking Requirements.

A. Applicability. Where off-street parking spaces are provided as part of a Mobility Plan, the regulations in Sections 26.515.070.(B – I) apply.

B. General. Each off-street parking space shall consist of an open area measuring eight and one half (8½) feet wide by eighteen (18) feet long and seven (7) feet high with a maximum longitudinal slope of twelve percent (12%) and a maximum cross slope of five percent (5%). For developments providing more than 15 on-site parking spaces, 25% of the on-site spaces may be provided as Compact Parking in accordance with the requirements of the Engineering Design Standards. Each parking space, except those provided for detached residential dwellings and duplex dwellings, shall have an unobstructed access to a street or alley. Off-street parking provided for multi-family dwellings which do not share a common parking area may be exempted from the unobstructed access requirement subject to special review pursuant to Chapter 26.430, Special review and the standards set forth at Section 26.515.040, Special review standards, below.

Off-street parking must be paved with all-weather surfacing or be covered with gravel. For residential development, a grass ring or grass-paver-type surface may be used. All parking shall be maintained in a usable condition at all times. All development or redevelopment must be in conformance with, or bring existing parking into conformance with, Engineering Design Standards, including but not limited to the access requirements outlined in Chapter 4 Transportation Design.

C. Use of off-street parking. Parking spaces shall be used for the parking of vehicles and shall not be used for non-auto related uses such as storage units or trash containers. No off-street parking area shall be used for the sale, repair, dismantling or servicing of any vehicles, equipment, materials or supplies, nor shall any such activity adjacent to off-street parking spaces obstruct required access to off-street parking areas.

D. Location of off-street parking. Off-street parking, except shared parking, publicly accessible parking, or off-site parking as approved as part of a mobility plan, shall be located on the same parcel as the principal use or an adjacent parcel under the same ownership as the lot occupied by the principal use. For all uses, parking shall be accessed from an alley or secondary road where one exists unless otherwise established according to this Chapter.

E. Detached and duplex residential dwelling parking. Off-street parking provided for detached residential dwellings and duplex dwellings is not required to have unobstructed access to a street or alley, but shall not block access of emergency apparatus to the property or to structures located on the property. This allows for "stacking" of vehicles where a vehicle is parked directly behind another.

F. State Highway 82 off-street parking. All parking required for uses fronting State Highway 82 shall be accessed from the alley, if an alley exists, and shall not enter from or exit onto State Highway 82.

G. Surface parking. Surface parking is prohibited or requires conditional use review as a principal use of a lot or parcel in some Zone Districts (See Chapter 26-710). Where surface parking is permitted and eight (8) or more spaces are provided, the parking area shall include one (1) tree with a planter area of twenty (20) square feet for each four (4) parking spaces. Planter areas may be combined but shall be proximate to the parking spaces. The Planning and Zoning Commission may waive or modify this requirement on a per case basis. Parking within structures is exempt from this landscaping provision.

H. Restrictions on drainage, grading and traffic impact. Off-street parking spaces shall be graded to ensure drainage does not create any flooding or water quality impacts and shall be provided with entrances and exits so as to minimize traffic congestion and traffic hazards.

I. Restrictions on lighting. Lighting facilities for off-street parking spaces, if provided, shall be arranged and shielded so that lights neither unreasonably disturb occupants of adjacent residential dwellings nor interfere with driver vision. All outdoor lighting shall comply with the outdoor lighting regulations, Section 26.575.150.

26.515.080. Special Review Standards.

Whenever the transportation, mobility, and parking impacts of a proposed development are subject to special review, an application shall be processed as a special review in accordance with the common development review procedures set forth in Chapter 26.304 and be evaluated according to the following standards. Review is by the Planning and Zoning Commission.

If the project requires review by the Historic Preservation Commission and the Community Development Director has authorized consolidation pursuant to Subsection 26.304.060.B, the Historic Preservation Commission shall approve, approve with conditions or disapprove the special review application.

A special review for establishing, varying or waiving transportation, mobility, or off-street parking requirements may be approved, approved with conditions or denied based on its conformance with all of the following criteria:

1. The transportation, mobility, and off-street parking needs of the residents, customers, guests and employees of the project have been met, taking into account potential uses of the parcel, the projected traffic generation of the project, any shared parking opportunities, expected schedule of parking demands, the projected impacts on the on-street parking of the neighborhood, the proximity to mass transit routes and the downtown area and any special services, such as vans, provided for residents, guests and employees.
2. An on-site mitigation solution meeting the requirements and guidelines is practically difficult or results in an undesirable development scenario.
3. Existing or planned on-site or off-site facilities adequately serve the needs of the development, including the availability of street parking.

A. Commercial Parking Facilities. Special Review is required for a commercial parking facility. A special review to permit a commercial parking facility may be approved, approved with conditions or denied based on conformance with its adherence to Commercial Design Standards and the policy goal of provision of publicly-accessible parking in areas with high public parking demand (in order to reduce vehicle congestion and emissions due to vehicles circling for parking) is not offset by the proposed commercial parking facility's potential adverse impacts of the City's multi-modal transportation system. For properties in zone districts where Conditional Use Review is required for a Commercial Parking Facility, Conditional Use and Special Review shall be combined.

26.515.090. Cash-in-lieu Requirements.

A. General. The City conducted a parking facility analysis in the fall of 2016 and determined the costs associated with developing new parking facilities to serve the demands of development. While not all potential facilities represented the same potential expenditure, facilities considered likely to be developed by the City required an expected thirty-eight thousand dollars (\$38,000) per space to develop in 2016 dollars.

B. Cash-in-lieu. Mobility improvements serving commercial and mixed-use development are a public amenity and serves the mobility needs of the general population. As such, the mobility needs of the general population can be improved through various means other than the provision of on-site parking spaces, including cash-in-lieu. A cash-in-lieu payment, for those types of development authorized to provide parking via cash-in-lieu, may be accepted by the

Community Development Director to satisfy the Parking Requirement, as described in Section 26.515.040, above.

1. Time of payment. The payment-in-lieu of parking shall be due and payable at the time of issuance of a building permit. All funds shall be collected by the Community Development Director and transferred to the Finance Director for deposit in a separate interest bearing account.
2. Use of funds. Monies in the account shall be used solely for the construction of a public parking facility, transportation and mobility improvements, including vehicles or station improvements, transportation demand management facilities or programs, shared automobiles or programs and similar transportation or mobility-related facilities or programs as determined appropriate by the City.
3. Refunds. Fees collected pursuant to this Section may be returned to the then-present owner of the property for which a fee was paid, including any interest earned, if the fees have not been spent within seven (7) years from the date fees were paid, unless the Council shall have earmarked the funds for expenditure on a specific project, in which case the time period shall be extended by up to three (3) more years. To obtain a refund, the present owner must submit a petition to the Finance Director within one (1) year following the end of the seventh (7th) year from the date payment was received by the City.

For the purpose of this Section, payments collected shall be deemed spent on the basis of “the first payment in shall be the first payment out.” Any payment made for a project for which a building permit is revoked or cancelled, prior to construction, may be refunded if a petition for refund is submitted to the Finance Director within three (3) months of the date of the revocation or cancellation of the building permit. All petitions shall be accompanied by a notarized, sworn statement that the petitioner is the current owner of the property and that the development shall not commence without full compliance with this Chapter and by a copy of the dated receipt issued for payment of the fee.

4. Periodic review of rate. To ensure that the payment-in-lieu rate is fair and represents current cost levels, it shall be reviewed every two years. Any necessary amendments to this Section shall be initiated pursuant to Section 26.310.020, Procedure for amendment.

26.515.100. Amendments. Amendments to an approved Mobility and Parking Requirement review by the Community Development Director in coordination with the Engineering and Transportation Departments as needed.

A. Amendments to Trip Reduction Measures. Off-site MMLOS infrastructure measures that have been implemented may not be amended at any time. Off-site MMLOS infrastructure measures that have not been implemented, and any on-site TDM and MMLOS measures, may be amended as outlined below. Changes shall be reviewed by the Engineering, Transportation, and Community Development Departments to ensure the proposed change is appropriate given the site’s context.

1. Insubstantial Amendment. Any amendment to TDM or MMLOS measures resulting in the same or more number of trips mitigated as the original approval may be approved administratively by the Community Development Department, after considering a recommendation from the Engineering and Transportation Departments. A land use application is required, pursuant to Chapter 26.304, *Common Development Review Procedures*. The applicant shall demonstrate how the new measure(s) is appropriate given current site conditions.
2. Substantial Amendment. Any amendment to TDM or MMLOS measures that reduces the number of trips mitigated shall be reviewed by City Council, after considering a recommendation from the Community Development, Engineering, and Transportation Departments. A land use application is required, pursuant to Chapter 26.304, *Common Development Review Procedures*, and the review shall be conducted in a duly noticed public hearing, pursuant to Section 26.304.060(E), *Public Notice*. City Council shall find the following standards are met:
 - a) The proposed change responds to changed site conditions or circumstances, including but not limited to changes to land uses, site topography, or site plan.
 - b) The proposed changes will not adversely impact the immediate vicinity.
 - c) The proposed change meets the original intent of the approved measures.
 - d) The proposed changes have been approved by the Community Development Director.

26.515.110 Appeals. An applicant may challenge a determination made by the City in their enforcement of the requirements of this Chapter by filing with the Community Development Director a written notice of appeal as provided in Section 26.316.030, Appeals procedures, with a full statement of the grounds for appeal. Appeals shall be reviewed by City Council, pursuant to Chapter 26.316, Appeals.

(Ord. No. 17-2005, §1; Ord. No. 32, 2016, §1; Ord. No. 23, 2017, §23)



MEMORANDUM

TO: Mayor and City Council

FROM: CJ Oliver, Environmental Health and Sustainability Director

THROUGH: Jessica Garrow, Community Development Director

MEETING DATE: May 6, 2019, 4PM

RE: Local Restriction of Flavored Tobacco and Nicotine Products

REQUEST OF COUNCIL: Staff is requesting direction from Aspen City Council on which of three options to move forward with regarding a ban on flavored nicotine products in Aspen. The options for consideration are:

1. An ordinance that bans the sale of all flavored tobacco products in the City of Aspen
2. An ordinance that bans the sale of flavored vaping liquids in the City of Aspen
3. Not pursuing a ban of any sort at this time

If City Council provides direction to options 1 or 2, staff will bring an Ordinance reflecting the direction for 1st Reading on May 13th and 2nd Reading on May 20th.

SUMMARY: Youth tobacco and e-cigarette users are particularly attracted to flavored nicotine products. From the packaging and marketing of the products to the flavors themselves, they are geared towards youth and adolescents and they are the preferred product among younger users. Candy and fruit flavored cigarettes were banned by the Family Smoking Prevention and Tobacco Control Act in 2009 but menthol cigarettes, flavored chewing tobacco and e-cigarette cartridges/pods were not included in the ban and are available for purchase today. Restricting the sale of flavored nicotine products in Aspen would create an additional barrier for all users trying to obtain these products and could play a preventative role in youth picking up a tobacco or vaping habit. Aspen's existing regulations, particularly raising the age to purchase tobacco/nicotine products to 21, along with a significant tax on tobacco and nicotine are also significant measures to decrease local accessibility to these items to our youth.

BACKGROUND: During the March 12th, 2019 work session with Aspen City Council, direction was provided to craft an ordinance that banned the sale of all flavored nicotine products in Aspen including vaping liquids, flavored cigarettes and cigars as well as flavored chewing tobacco. Additionally, Council directed staff to reach out to flavored tobacco retailers to let them know about the proposed ban on flavored products.

DISCUSSION: Outreach to flavored nicotine product retailers about a ban on all flavored products was met with significant resistance. One retailer has already pulled vaping liquids and devices from their shelves in an effort to protect youth. They saw implementing a full flavor ban as an unnecessary step in protecting youth health as they didn't experience underage customers attempting to purchase other flavored tobacco products, such as flavored tobacco or menthol cigarettes. They did note that these other flavored tobacco products make up a significant portion of their sales to adult customers which they did not believe to be the intent of passing such an ordinance. A second retailer who still sells vaping liquids noted that sales of these products has slowed significantly since the passing of Tobacco 21 in Aspen and their stringent ID policy for younger looking customers. That retailer also noted a significant portion of adult tobacco sales being attributed to flavored tobacco products, particularly menthol cigarettes. Both of these retailers commented that they felt like the recently implemented Tobacco 21 and extra tax on tobacco products had been successful in preventing youth from purchasing tobacco and nicotine products in Aspen.

Public health officials at the county and state levels encourage implementing a ban on all flavored nicotine products as it would provide the greatest level of public health protection. Officials from both Pitkin County and CDPHE have indicated that they do not support moving forward with a partial ban that only covers flavored vaping liquids. Written comments from various interested parties who support a full ban on flavored nicotine products are provided as attachments to this memo.

In brief, the information available on youth usage rates for e-cigarettes and tobacco use in the Aspen area show a concerning trend, and public health professionals want to take steps to get in front of this trend as soon as possible. Anecdotally, the change to Tobacco 21 has resulted in far fewer youths purchasing tobacco products in Aspen stores. This was a change that will have lasting positive results for the community, particularly youth. Additional actions that could also make a difference is to restrict the sale of the items that are most desirable to youth consumers, the products that a significant majority of youth and young adult tobacco users report was their first tobacco or e-cigarette product - flavored tobacco and nicotine. Given some of the feedback on this issue from retailers, staff suggests Council should consider how best to balance the very real health impacts of these products with the fact that the retailers indicate youth do not purchase menthol cigarettes or flavored chew products.

FINANCIAL/BUDGET IMPACTS: A full ban on all flavored tobacco products (Option 1) would likely have a significant impact on tobacco sales at the retail level as described by the retailers that staff spoke with. That would also have a likely impact on tobacco sales tax dollars collected in Aspen, which will be used to help fund efforts for substance use and cessation programs along with mental health systems.

Targeting only flavored vaping liquid (Option 2) in an ordinance would likely have a much lower financial impact, as sales of these items in Aspen are currently low. This is due to certain retailers not selling the products, and the existing Tobacco 21 regulations which have resulted in vaping

product sales at existing outlets accounting for a small portion of overall tobacco sales due in part to existing regulations.

Electing to not move forward with an ordinance to address the sale of flavored nicotine products would not have a financial impact on existing conditions. (Option 3)

NEXT STEPS: Depending on direction from Council, staff is prepared to return to City Council later in May with an Ordinance. Additionally, staff will return to council in the Summer of 2019 to present recommendations for the best uses for the tobacco tax dollars that have been collected through the City tax on tobacco and nicotine products. The recommendations will fit into the buckets that Aspen City Council identified as targets for these dollars when the local tax was passed. Those buckets include substance use prevention and cessation, as well as mental health.

ATTACHMENTS:

Attachment A- Flavor Danger (Provided by Pitkin County Public Health)

Attachment B-Written comments from Dr. Kim Scheuer

Attachment C- Resolution on Flavored Tobacco Ban, Aspen Valley Hospital District

Attachment D- Colorado School of Public Health Letter

Attachment E- Public Health Partners Letter

FLAVOR DANGER

Today, tobacco products come in hundreds of fruit flavors such as little cigars, chewing tobacco, hookah tobacco, or liquids for e-cigarettes. Flavors do not reduce the harm of tobacco products. In fact, flavors can mask the harsh taste of tobacco, making it easier to get hooked on nicotine.

Once-Secret Tobacco Industry Documents Reveal Youth Are Targeted With Flavors

- "It's a well known fact that teenagers like sweet products..."¹
- "New users of smokeless tobacco ... are most likely to begin with products that are milder tasting, more flavored..."²
- "Menthol brands have been said to be good starter products because new smokers appear to know that menthol covers up some of the tobacco taste and they already know what menthol tastes like, vis-à-vis candy"³

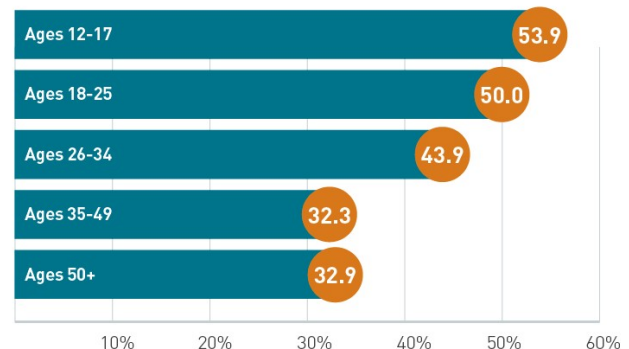
Flavored Tobacco Products Attracting (and Addicting) Youth and Young Adults

- At least two-thirds of youth tobacco users report using tobacco products "because they come in flavors I like ." ⁴
- Of teens and young adults who ever used tobacco, 81% of teens and 86% of young adults reported that their first product was flavored.⁴

Current Youth Use of Flavored Tobacco

- **More than two-thirds of high school e-cigarette users are using flavored e-cigarettes.**⁵
- **51% of youth e-cigarette use is mint or menthol.**⁵
- **81% of youth who ever tried tobacco chose flavored tobacco as their first tobacco product.**⁵

Menthol cigarette use among current smokers in the U.S. by age, 2012-2014



Source: Tobacco control

Local E-Cigarette Use

- Regular use of e-cigarettes among high school students has more than doubled from 21% to 45%.⁶
- More than 2/3 of high school seniors and 1/5 of 8th graders have tried e-cigarettes.⁶
- Colorado has the highest rates of e-cigarette use among youth in the nation, and the Roaring Fork Valley has some of the highest rates in the state.^{6 7}
- Youth who use e-cigarettes are 4x more likely to pick up cigarettes. Aspen HAS seen an increase in cigarette use among high school students from 2015 to 2017.^{6 8}

Federal Law on Flavored Tobacco

Candy and fruit-flavored cigarettes were banned under the *Family Smoking Prevention and Tobacco Control Act* in 2009. **However, all of the products shown below, including menthol cigarettes, non-cigarette smoked tobacco products and smokeless products, were not included in the ban.**



Impact of Flavored Tobacco Restrictions

- The 2009 Family Smoking Prevention and Tobacco Control Act ban on flavored cigarettes was associated with a 17% reduction in the probability of middle and high school youth becoming smokers and a 58% reduction in cigarettes smoked by current youth smokers.⁹
- In 2009, New York City passed a law restricting the sale of most flavored tobacco. By 2013, product sales decreased by 87%.¹⁰

Communities with Flavored Tobacco Restrictions

Two states and over 180 communities have passed restrictions on the sale of flavored tobacco products (laws differ according to product and store type).¹¹

What the City of Aspen Can Do

Pass a comprehensive policy restricting the sale of all flavored tobacco products.

- Restrict all flavors, including mint and menthol, for all types of tobacco products, including e-cigarettes
- Restrict at all access points, including general stores and adult-only retailers.

For more information contact Risa Turetsky Pitkin County Public Health (970) 618-1781

Citations and References

- 1: SWAT (Students Working Against Tobacco) Florida Tobacco Industry Quotes and Facts Related to Flavor Tobacco <http://swatflorida.com/uploads/fightresource/Flavored%20Tobacco%20Industry%20Quotes%20and%20Facts.pdf>
- 2: SWAT (Students Working Against Tobacco) Florida Tobacco Industry Quotes and Facts Related to Flavor Tobacco <http://swatflorida.com/uploads/fightresource/Flavored%20Tobacco%20Industry%20Quotes%20and%20Facts.pdf>
- 3: Tobacco Control, January 2011, Menthol cigarettes and smoking initiation: a tobacco industry perspective https://tobaccocontrol.bmj.com/content/tobaccocontrol/20/Suppl_2/ii12.full.pdf
- 4: Ambrose, BK, et al., "Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014," JAMA. 2015;314(17):1871-1873.
- 5: National Youth Tobacco Survey, 2018.
- 6: Healthy Kids Colorado Survey, 2017.
- 7: U.S. Food and Drug Administration (FDA) 2018 NYTS Data: A Startling Rise in Youth E-cigarette Use <https://www.fda.gov/TobaccoProducts/PublicHealthEducation/ProtectingKidsfromTobacco/ucm625887.htm>
- 8: Healthy Kids Colorado Survey, 2015.
- 9: Flavored Tobacco Products, Counter Tobacco <https://countertobacco.org/resources-tools/evidence-summaries/flavored-tobacco-products/>
- 10: Farley SM, Johns M. New York City flavoured tobacco product sales ban evaluation. Tobacco Control 2017;26:78-84.
- 11: States and Localities with Flavored Tobacco Restrictions, Campaign for Tobacco-Free Kids, 2019.

April 30, 2019

To: CJ Oliver
City Council
cjoliver@cityofaspen.com

Regarding: Banning Flavored Tobacco Products

Dear CJ Oliver and the Members of the City Council,

I was asked to write you about any comments I may have on the proposal to ban flavored tobacco products in the City Of Aspen. As you may be aware, flavored tobacco products are marketed towards children to get them addicted at a young age. Unfortunately, children are particularly susceptible to the damages of tobacco; cancers including lung, tongue, mouth, throat, esophagus, pancreas, in addition to hypertension, strokes, heart disease, emphysema, chronic bronchitis, frequent colds, cavities etc. Children are also more vulnerable to the current marketing strategies used to sell products.

Flavors do not mask the harms of tobacco but rather make the products less harsh so they can become easier to use more frequently. In fact, research shows, many children would not use nicotine products if it weren't for the availability of tobacco in flavors they liked.

Unfortunately, the children of The Roaring Fork Valley and Aspen are not immune to this and we have seen a significant increase in tobacco users over the last several years. This includes tobacco in the forms of vaping and of cigarette use.

This is a health issue that is influenced by greed and disregard of public health. And it targets our most vulnerable citizens. Other cities have successfully banned flavored tobacco products resulting in a decrease in use among youth. Aspen should too.

Sincerely yours,

Kim Scheuer, MD
Board Certified Family Practice,
Board Certified Lifestyle Medicine,
www.dokslifestylemedicine.com
970 309 8528

**ASPEN VALLEY HOSPITAL DISTRICT
RESOLUTION NO. 2019 – 04A
A RESOLUTION IN SUPPORT OF THE CITY OF ASPEN'S ORDINANCE
TO BAN ALL FLAVORED TOBACCO SALES**

WHEREAS, At least two-thirds of youth tobacco users report using tobacco products "because they come in flavors I like; and

WHEREAS, Of teens and young adults who ever used tobacco, 81% of teens and 86% of young adults reported that their first product was flavored; and

WHEREAS, Regular use of e-cigarettes among high school students has more than doubled from 21% to 45%; and

WHEREAS, Colorado has the highest rates of e-cigarette use among youth in the nation, and the Roaring Fork Valley has some of the highest rates in in the state; and

WHEREAS, Aspen has seen an increase in cigarette use among high school students from 2015 to 2017; and

WHEREAS, The 2009 Family Smoking Prevention and Tobacco Control Act ban on flavored cigarettes was associated with a 17% reduction in the probability of middle and high school youth becoming smokers and a 58% reduction in cigarettes smoked by current youth smokers, and

WHEREAS, Local governments are afforded broad discretion in implementing reasonable regulations to protect the public health, safety, and welfare of its community.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Aspen Valley Hospital District that:

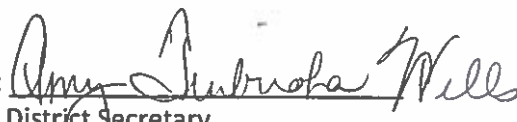
1. It supports the City of Aspen's Ordinance proposed, which hopes to:
 - Pass a comprehensive policy restricting the sale of all flavored tobacco products.
 - Restrict all flavors, including mint and menthol, for all types of tobacco products, including e-cigarettes.
2. Recitals. The provisions of the Recitals set forth in this Resolution are hereby incorporated herein by this reference as if fully set forth.
3. Effective Date. This Resolution shall take effect and be enforced immediately upon its approval by the Board of Directors of the District.

The foregoing Resolution was approved and adopted this 8 day of April.

ASPEN VALLEY HOSPITAL DISTRICT

By: 
Melinda Nagle, MD, Chair

ATTEST:

By: 
District Secretary

May 1, 2019

Dear Aspen City Council:

Thank you for considering legislation that will provide further protections for Aspen youth from the harms of tobacco use and for, once again, providing a model policy for the rest of Colorado. The vaping epidemic seen across our state has drawn attention to the issue of flavored tobacco products and how flavors are used to hook kids on nicotine and create lifetime nicotine addicts and customers.

Below we have provided information that we believe is compelling enough for the Aspen City Council to accept nothing less than a full ban on all flavored tobacco products. There is simply no other way to protect all youth from this dangerous and deadly addiction.

Vaping

- More than two-thirds (67.8 percent) of high school e-cigarette users are using flavored e-cigarettes.¹
- JUUL says it is committed to preventing youth use of its products but the company's 80-plus lobbyists in 50 states are fighting proposals to ban flavored e-cigarette pods, which are big draws for teenagers; pushing legislation that includes provisions denying local governments the right to adopt strict vaping controls; and working to make sure that bills to discourage youth vaping do not have stringent enforcement measures.²
- Colorado has the highest e-cigarette use in the country and Health Region 12 (which includes Aspen) is among the top in the state.^{3,4}

Menthol Cigarettes

- Cigarette smoking causes more than 480,000 deaths each year in the United States. This is nearly one in five deaths.⁵
- It is estimated that 91,000 kids now under 18 and alive in Colorado will ultimately die prematurely from smoking.⁶
- Federal law prohibits the use of characterizing flavorings in cigarettes, **except for menthol**.

¹ FDA 2018

² NYTimes.com: In Washington, Juul Vows to Curb Youth Vaping. Its Lobbying in States Runs Counter to That Pledge.<https://nyti.ms/2V27I26>

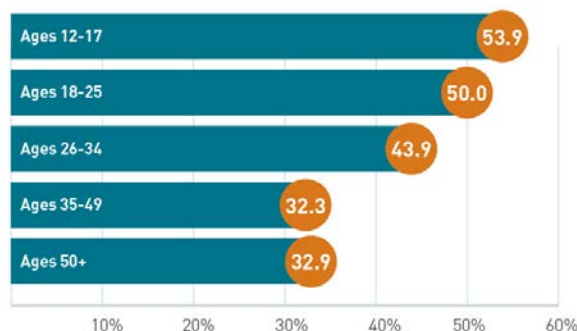
³U.S. Food and Drug Administration (FDA) 2018 NYTS Data: A Startling Rise in Youth E-cigarette Use <https://www.fda.gov/TobaccoProducts/PublicHealthEducation/ProtectingKidsfromTobacco/ucm625887.htm>

⁴ Healthy Kids Colorado Survey, 2015

⁵ https://www.cdc.gov/tobacco/data_statistics/fact_sheets/health_effects/effects_cig_smoking/index.htm

⁶ The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General, 2014

**Menthol cigarette use among current smokers
in the U.S. by age, 2012-2014**



Source: Tobacco control

- Menthol cigarette smoking is more prevalent among smokers who are young⁷, female⁸, part of a sexual minority⁹, or part of a racial or ethnic minority¹⁰. There is also significant menthol use among smokers with mental illness.¹¹
- African-American smokers predominantly use menthol cigarettes. Nearly 9 in 10 African-American smokers (88.5 percent) aged 12 and older use menthol.⁶
- Tobacco companies have long known of menthol's ability to mask the harshness associated with cigarette smoke, increase the ease of smoking, and provide a cooling sensation that appeals to many smokers, particularly new smokers.¹²
- Older industry marketing documents openly discuss the use of flavoring agents in cigarettes to attract the interest of young smokers.¹²

⁷ Giovino GA, Villanti AC, Mowery PD, et al. Differential trends in cigarette smoking in the USA: is menthol slowing progress? Tobacco control. 2015;24(1):28-37.

⁸ Caraballo RS, Asman K. Epidemiology of menthol cigarette use in the United States. Tobacco induced diseases. 2011;9 Suppl 1:S1.

⁹ Fallin A, Goodin AJ, King BA. Menthol cigarette smoking among lesbian, gay, bisexual, and transgender adults. American journal of preventive medicine. 2015;48(1):93-97

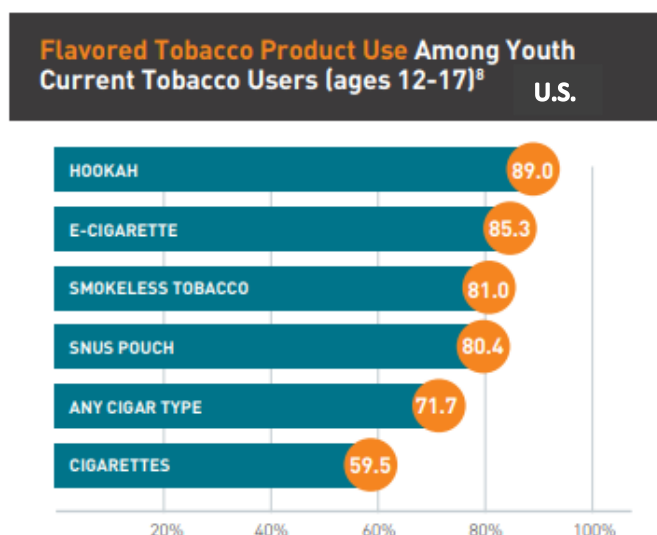
¹⁰ Rock VJ, Davis SP, Thorne SL, Asman KJ, Caraballo RS. Menthol cigarette use among racial and ethnic groups in the United States, 2004-2008. Nicotine & tobacco research : official journal of the Society for Research on Nicotine and Tobacco. 2010;12 Suppl 2:S117-124.

¹¹ Hickman NJ, 3rd, Delucchi KL, Prochaska JJ. Menthol use among smokers with psychological distress: findings from the 2008 and 2009 National Survey on Drug Use and Health. Tobacco control. 2014;23(1):7-13.

¹² US Surgeon General's Report, March 8, 2012

Other Flavored Tobacco Products

- Nearly 81 percent of youth ages 12 to 17 who had ever used a tobacco product reported that the first product they used was flavored.¹³
- Four of out five youth who were current tobacco product users reported they used a flavored tobacco product.¹²
- Youth use of flavored hookah products is even higher than youth use of flavored e-cigarettes.¹⁴ Older industry marketing documents openly discuss the use of flavoring agents in cigarettes to attract the interest of young smokers
- FDA has proposed some restrictions on flavored tobacco products but they are not comprehensive (e.g. exclude menthol) and will likely take years to implement. Therefore local policy is critical for protecting youth.



Based on the information above, only a comprehensive flavor ban (that includes all tobacco products) would protect all youth from the predatory practices of big tobacco and e-cigarette manufacturers and their youth-friendly products.

¹³ <https://truthinitiative.org/news/hookah-most-popular-flavored-tobacco-product-among-youth>

¹⁴ Source: Ambrose BK, Day HR, Rostron B, et al. Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014. Jama. 2015;314(17):1871-1873.

Thank you again for taking this important step to protect Colorado's youth. For more information, please contact the Colorado School of Public Health's Tobacco Program at 303-724-4236.

Sincerely,



Jonathan M. Samet, MD, MS
Dean and Professor
Colorado School of Public Health



Cerise Hunt, PhD, MSW
Director
Center for Public Health Practice
Colorado School of Public Health



Tracy Doyle, MPH
Technical Assistance Coordinator
Center for Public Health Practice
Colorado School of Public Health



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**American
Heart
Association®**

April 29, 2019

Mayor Skadron & Aspen Councilmembers,

Thank you for leading the way in protecting Colorado's kids by considering legislation to ban the sale of flavored tobacco in Aspen. Prohibiting the sale of flavored tobacco, including menthol cigarettes, is an important step in protecting Aspen's children from the unrelenting efforts of the tobacco industry to hook them to a deadly addiction. As you are aware, Aspen is the first community in Colorado to consider such legislation. The policy you adopt has the potential to be modeled across the state and therefore carries a great deal of weight. I ask that you consider the policy implications for all of Colorado as you debate the provisions of a flavor ban in Aspen.

Nationally, more than two states and 180 communities have passed restrictions on the sale of flavored tobacco. San Francisco banned the sale of all flavored tobacco products with no retailer exemptions, in 2018. Sacramento is on the verge of doing the same. This is the policy that we support and recommend Aspen adopts for the following reasons:

- In recent years, there has been an explosion of sweet-flavored tobacco products, especially e-cigarettes and cigars. These products are available in a wide assortment of flavors that seem like they belong in a candy store or ice cream parlor – like gummy bear, cotton candy, wild berry and lemonade.
- The tobacco industry has a long history of using menthol cigarettes and other flavored products as “starter” product to attract new users, almost all of whom are under 18. Flavors improve the taste and reduce the harshness of tobacco products, making them more appealing and easier for beginners.
- A government study found that 81 percent of kids who have ever used tobacco products started with a flavored product.
- In Colorado, more than a quarter of high school students use e-cigarettes, one of the highest rates in the country. According to national data, 97 percent of high school e-cigarette users have used a flavored e-cigarette in the past month.

- Among youth who smoke, more than half are smoking menthol cigarettes.
- Tobacco industry marketing, advertising, and promotional strategies for menthol cigarettes are often directed at low-income and minority communities, in addition to youth.

The tobacco industry spends \$140 million annually in Colorado to market its products. We must stay vigilant in protecting Colorado's kids from the tobacco industry's outreach and efforts to addict them. This policy will have a positive impact on public health and will save lives.

Our organization works within the United States and around the world to advocate for public policies proven to prevent kids from using tobacco, help tobacco users quit and protect everyone from secondhand smoke. A ban on flavored tobacco products is just such a policy that will protect kids and save lives. For more information about our policy priorities, please visit our website, www.tobaccofreekids.org.

If you have any questions, please feel free to contact me directly.

Thank you again for your leadership and partnership to protect Aspen's kids.

Respectfully,

Jodi L. Radke
Regional Director
Campaign for Tobacco-Free Kids
970-214-4808
jradke@tobaccofreekids.org

Rebecca Dubroff
State Government Relations Director
American Heart Association
1777 S. Harrison St. | Denver | CO | 80210
M 303.880.7788

MEMORANDUM

TO: City Council
FROM: Pete Strecker, Finance Director
MEETING DATE: May 6, 2019
RE: City Offices Funding Summary

REQUEST OF COUNCIL: Staff seeks Council’s general direction on three matters related to the financing of new city offices. This general direction will be used to prepare legislation to be considered at the May 13 regular City Council meeting. Specifically, these items are:

- 1) discussion regarding the necessary amendments to the 2019 Budget to reflect the voter selected location and the proposed guaranteed maximum price (GMP)
- 2) discussion regarding owner’s contingency funding level, and
- 3) discussion regarding owner’s contingency administration expectations

Staff has been negotiating a guaranteed maximum price (GMP) contract from Shaw Construction to be able to further the process with the new municipal administrative building on Rio Grande Place with the Council. The GMP contract is near finalization and staff felt that it would be valuable to share some of the financial information from the new pricing, along with the context of the current budget, in a worksession setting, to allow Council ample time for a Q & A type process before being asked to consider the contract on May 13.

BACKGROUND: In recognition of the uncertainty around the site for new municipal offices until voter direction could be provided, staff incorporated the higher cost 517 Hopkins / 204 Galena option as the most conservative placeholder to long-range financial plans, including the 2019 Budget. Below outlines what was reflected in the financial plan for these spaces at the time of the adoption of the 2019 Budget.

Project	2018	2019	2020	2021	Total
City Offices - 517 / 204	\$3,500,000	\$6,500,000	\$26,644,000	\$0	\$36,644,000
City Offices – Armory	\$0	\$0	\$2,500,000	\$10,000,000	\$12,500,000
Total City Offices Project	\$3,500,000	\$6,500,000	\$29,144,000	\$10,000,000	\$49,144,000

Ballot Question 2D in November 2018 subsequently asked voters which site they preferred: Option A – Hopkins / Galena: Option B – Rio Grande Place. In addition to this single question on location, the City also published for voters a fact sheet around each site and the estimated cost for both. Voters ultimately voted in favor of Option B which had an estimated cost of \$46M - \$49M.

DISCUSSION AREA #1: Actions that are still needed include amending the budget to reflect the revised direction provided by voters to proceed with the Rio Grande Place site, and then approval of the GMP contract to proceed with hard construction. The current budget assumes a cashflow / appropriation pattern that no longer applies to the voter approved direction, so a revised spending plan has been incorporated into the Spring Supplemental. This, however, it did not include the GMP figures, but rather the best estimate at the time of first reading. Second reading is scheduled for May 13th and can be revised.

The following table reflects what is currently worked into the Spring Supplemental (Initial Estimate), the additional amount needed to match the GMP (Change to GMP), and then actions taken on Feb 11 for demolition and utilities work in the area, plus the pending Council action on the GMP contract. Note, actions to date and actions that are pending only relate to the Rio Grande Place site and utilities work in the area – there is no request for direction on the Armory remodel project at this time, but it is shown in the following table for completeness of the overall city offices solution that has been discussed to date.

Project	Initial Estimate	Change to GMP	Revised Need	Feb 11 (Res #16)	Pending Council	Remaining
425/455 Rio Grande	\$31,793,960	\$1,046,300	\$32,840,260	(\$2,373,300)	(\$24,793,770)	\$5,673,190
Armory	\$13,911,660		\$13,911,660			\$13,911,660
Total City Offices	\$45,705,620	\$1,046,300	\$46,751,920	(\$2,373,300)	(\$24,793,770)	\$19,584,850
Utilities Work	\$777,680		\$777,680	(\$777,680)		\$0
With Utilities	\$46,483,300	\$1,046,300	\$47,529,600	(\$3,150,980)	(\$24,793,770)	\$19,584,850

FINANCIAL IMPACTS: Below are the figures that were considered when the 2019 Spring Supplemental was presented to Council during first reading – these figures mirror the first column in the chart above. The \$30,890,340 would need to increase by \$1,046,300 to reflect the new guaranteed maximum pricing (GMP) and would be incorporated into the second reading of the 2019 spring supplemental budget requests.

Project	2019	2020	2021	Total
425/455 Rio Grande	\$30,890,340	\$903,620	\$0	\$31,793,960
Armory	\$1,450,000	\$740,000	\$11,721,660	\$13,911,660
Total City Offices	\$32,340,340	\$1,643,620	\$11,721,660	\$45,705,620

DISCUSSION AREA #2: The current project contingency budget is \$1,500,000 and is less than 5% of the total project for Rio Grande Place. This is a minimal level of contingency to carry on a project with this level of complexity. Staff recommends that the Council consider increasing this amount given the engagement that is still happening with citizens on this project. While there is not an immediate need for this approval, some level of increase is recommended (a 10% contingency is more common as a minimum carry), and at a minimum, staff felt it was important to highlight this point early in the process if something was not done at this time.

FINANCIAL IMPACTS: A 10% project contingency adds approximately \$1.4M to the project budget and would require appropriation authority in the Spring Supplemental.

DISCUSSION AREA #3: During construction of the Aspen Police Station, City Council authorized allowing the city manager to manage the owner’s contingency, with monthly reporting of the purpose of any approved uses of contingency funds. Staff seeks Council’s input if this administration model can be maintained for the new city offices. The rationale for this authority rest in timing issues. Some logistical constraints of a construction project are that many change order approvals may be on the critical path that do not coincide with the City Council’s meeting schedule.

STAFF RECOMMENDATION: Staff seeks Council direction in the three areas. We are open to next steps.