

Ordinance No. 21

Series of 2020

AN ORDINANCE OF THE CITY OF GLENWOOD SPRINGS, COLORADO, AMENDING SECTION 070.010.070 OF THE GLENWOOD SPRINGS MUNICIPAL CODE REGARDING NONCONFORMING USE REGULATIONS AND SECTION 070.040.020(d)(24) OF THE MUNICIPAL CODE RELATING TO RIPARIAN SETBACKS.

WHEREAS, the City of Glenwood Springs (the “City”) is a Colorado home rule municipality organized pursuant to Article XX of the Colorado Constitution and with the authority of the Glenwood Springs Home Rule Charter; and

WHEREAS, Section 070.040.020(d)(24) of the Glenwood Springs Development Code regulates development in waterways and areas of special flood hazard and prohibits development and construction within a 30-foot setback area from the high water mark of any river or live stream, subject to certain exceptions such as bridges, irrigation structures, paths for non-motorized use, and erosion protection devices; and

WHEREAS, the River Commission has recommended that the Development Code be revised to require a 50-foot setback from the ordinary high water mark of a river or stream with a provision for a 10% disturbance area within the setback; and

WHEREAS, the Planning and Zoning Commission considered text amendments to Section 070.040.020(d)(24) at its regular meetings on July 23, 2019 and September 24, 2019 and, after receiving extensive public comments from the River Commission, conservation groups, and property owners, the Commission directed staff to collect additional mapping and surveying information to analyze the impacts of increased riparian setbacks on various properties within the City; and

WHEREAS, the Planning and Zoning Commission considered the data collected by staff as well as additional comments from the public at its regular meeting on February 25, 2020; and

WHEREAS, the Planning and Zoning Commission recommended amending Section 070.040.020(d)(24) to require a 35-foot setback from the ordinary high water mark with a permitted disturbance area therein of 50% and to clarify the types of construction activities and improvements that are permitted within the setback; and

WHEREAS, at its regular meeting on May 26, 2020, the Planning and Zoning Commission also recommended amending Section 070.010.070(b)(3)b (requiring that repairs and maintenance within a waterway or areas of special flood hazard comply with Section 070.040.020(d)), to specifically address temporary disturbances created by minor repairs to a nonconforming structure located within a riparian setback; and

WHEREAS, the Planning and Zoning Commission found that the recommended amendments satisfy the Code Amendment Approval Criteria set forth in Section 070.060.040(c)(3)d.3.; and

WHEREAS, City Council desires to adopt the amendments to Sections 070.010.070(b)(3)b and 070.040.020(d)(24) of the Development Code recommended by the Planning and Zoning Commission and finds and declares that the amendments satisfy the Code amendment approval criteria set forth in Section 070.060.040(c)(3)d.3. in that the amendments are consistent with the Comprehensive Plan and other City policies; do not conflict with other provisions of the Municipal Code; are necessary to address a demonstrated community need; are necessary to respond to substantial changes in conditions and/or policy; and are consistent with the general purpose and intent of the Municipal Code.

NOW THEREFORE, IT IS ORDAINED BY THE CITY COUNCIL OF THE CITY OF GLENWOOD SPRINGS, COLORADO, THAT:

Section 1. The recitals hereinabove are hereby adopted as findings and incorporated herein.

Section 2. Section 070.010.070(b)(3)b of the Glenwood Springs Municipal Code is hereby amended as follows, with double underlined text added and ~~strike through language deleted~~:

Section 070.010.070 - Nonconformities

b. Repairs and maintenance within a waterway or area of special food hazard shall comply with Subsection 070.040.020(d). Temporary disturbance to make minor repairs of a nonconforming structure within the riparian setback required by 070.040.020(d)(24) shall be limited to fifteen feet around the structure. The temporary disturbed area shall be returned to the previous vegetation or with appropriate riparian plant species. However, vegetation listed on the Garfield County noxious weed list shall not be replanted.

Section 3. Section 070.040.020(d)(24) is hereby repealed and replaced entirely with the following:

Section 070.040.020 – Sensitive Area Protection.

(24) *Conservation of Waterways.* It is the purpose of this subsection to conserve and promote the health of the City’s riparian ecosystems, water quality, and protect human drinking water by maintaining a functional natural buffer adjacent to waterways.

a. *Applicability.* All new improvements, buildings, additions, structures, excavations, grading, dumping, clearing of native vegetation, or backfill shall be subject to the requirements of 070.040.020(d)(24)b. *Standards* unless the applicant demonstrates to the City Engineer and the Director by clear and convincing evidence that one or more of the following conditions is met:

1. The removal of native vegetation, not to exceed 50 percent of the setback area defined below, to allow a property owner private access to and personal enjoyment of the waterway. This shall not be

interpreted to allow for permanent structures of any kind within said area.

2. The construction of bridges, public utilities, public paths for non-motorized use, public open space areas and boat ramps, wildfire mitigation activities, irrigation structures, flood control and erosion protection devices that do not result in increased water quality degradation, stream bank erosion, or a reduction in the function and quality of a riparian area or wetland.
3. Removal of vegetation listed on the Garfield County noxious weed list, Chinese Elm, or Siberian Elm in compliance with applicable regulations. Vegetation shall be replaced with appropriate riparian plant species to limit erosion.
4. Applicant demonstrates one or more of the following:
 - i. The area does not contain significant riparian plant species or functions;
 - ii. The area is impacted by previous earth disturbing activities; and/or
 - iii. The proposed improvement (including but not limited to the trimming of vegetation, construction of access path or steps, hot springs pools) does not result in increased water quality degradation, stream bank erosion, or a reduction in the function and quality of a riparian area or wetland.

b. Standards.

1. No improvement, building, structure, excavation, grading, dumping, clearing of native vegetation, or backfill shall be placed, built, undertaken or approved within thirty-five feet of the ordinary high-water mark (as defined by the US Army Corp of Engineers), measured horizontally, of any river or live perennial stream.
2. No chemical treatments, including but not limited to fertilizers, pesticides, and/or herbicides, are permitted within said thirty-five-foot setback area.

INTRODUCED, READ ON FIRST READING, PASSED AND ORDERED
PUBLISHED BY TITLE ONLY THIS 16TH DAY OF JULY 2020.

CITY OF GLENWOOD SPRINGS, COLORADO

Jonathan Godes, Mayor

ATTEST:

Catherine Mythen Fletcher, City Clerk

INTRODUCED, READ ON SECOND READING, PASSED AND ORDERED PUBLISHED BY
TITLE ONLY TO BE EFFECTIVE TEN DAYS FOLLOWING THE DATE OF SECOND
PUBLICATION THIS ____ DAY OF _____, 2020.

CITY OF GLENWOOD SPRINGS, COLORADO

Jonathan Godes, Mayor

ATTEST:

Catherine Mythen Fletcher, City Clerk